

**SUGGESTED AMENDMENT TO
SUPERIOR COURT CIVIL RULES (CR)**

CR 26 – GENERAL PROVISIONS GOVERNING DISCOVERY

(a) - (e) [Unchanged]

(f) Discovery Conference.

(1) *Timing of Initial Discovery Conference.* Not later than 14 days after all mandatory pleadings have been filed and served, and except in a case exempted from the initial discovery conference requirement as listed in rule 3.1, or when the court orders otherwise, the plaintiff or petitioner shall schedule and conduct an initial in-person or telephonic discovery conference for all parties that have appeared in the case. Each party or each party's attorney shall reasonably cooperate in scheduling and conducting the initial discovery conference.

(2) *Subjects to Be Discussed at Initial Discovery Conference.* At the initial discovery conference, the parties shall consider the following:

- (A) *Joinder of additional parties and amendments to pleadings;*
- (B) *Amendments to the Initial Case Schedule;*
- (C) *Possibilities for promptly resolving the case;*
- (D) *Scheduling of an early mediation session as required by rule ____;*
- (E) *Admissions and stipulations about facts;*
- (F) *Agreements as to what discovery may be conducted and in what order,*

and any limitations to be placed on discovery;

(G) *Preservation and production of discoverable information, including documents and electronically stored information;*

(H) *Agreements for asserting privilege regarding materials to be produced or protective orders regarding the same;*

(I) *Other ways to facilitate the just, speedy, and inexpensive disposition of the action.*

(3) *Joint Status Report.* Not later than 14 days after the initial discovery conference, the plaintiff or petitioner shall file and serve a joint status report, stating the parties' positions

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and proposals on the subjects set forth in CR 26(f)(2). The joint status report shall be signed by all parties or their counsel and shall certify that the parties reasonably cooperated to reach agreement on the matters set forth in the joint status report.

~~(f)~~ (4) *Discovery Conference With the Court*. At any time after commencement of an action the court may direct the attorneys for the parties to appear before it for a conference on the subject of discovery. The court shall do so upon motion by the attorney for any party if the motion includes:

- ~~(1)~~ (A) A statement of the issues as they then appear;
- ~~(2)~~ (B) A proposed plan and schedule of discovery;
- ~~(3)~~ (C) Any limitations proposed to be placed on discovery;
- ~~(4)~~ (D) Any other proposed orders with respect to discovery; and
- ~~(5)~~ (E) A statement showing that the attorney making the motion has cooperated reasonably to reach agreement with opposing parties or their attorneys on the matters set forth in the motion.

(5) *Duty to Reasonably Cooperate*. Each party and each party's attorney ~~are under a duty to participate in good faith~~ shall reasonably cooperate in the framing of a discovery plan if a plan is proposed by the attorney for any party.

(6) *Notice of Discovery Conference*. Notice of the motion shall be served on all parties. Objections or additions to matters set forth in the motion shall be served not later than 10 days after service of the motion.

(7) *Order on Discovery Conference*. Following ~~the~~ any discovery conference with the court, the court shall enter an order tentatively identifying the issues for discovery purposes, establishing a plan and schedule for discovery, setting limitations on discovery, if any, and determining such other matters, including the allocation of expenses, as are necessary for the

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proper management of discovery in the action. An order may be altered or amended whenever justice so requires.

(8) *Pretrial Conference.* Subject to the right of a party who properly moves for a discovery conference to prompt convening of the conference, the court may combine the discovery conference with a pretrial conference authorized by rule 16.

(g)-(j) [Unchanged]

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