

Rule 34. Production of documents, electronically stored information, and things; entry upon land for inspection and other purposes.

(a) Scope. – Any party may serve on any other party a request (i) to produce and permit the party making the request, or someone acting on that party's behalf, to inspect and copy, test, or sample any designated documents, electronically stored information, or tangible things which constitute or contain matters within the scope of Rule 26(b) and which are in the possession, custody or control of the party upon whom the request is served; or (ii) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, within the scope of Rule 26(b).

(b) Procedure. – The request may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the summons and complaint upon that party. The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts. The request may specify the form or forms in which electronically stored information is to be produced.

The party upon whom the request is served shall serve a written response within 30 days after the service of the request, except that a defendant may serve a response within 45 days after service of the summons and complaint upon that defendant. The court may allow a shorter or longer time. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. In addition to other bases for objection, the response may state an objection to production of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost. The response may also state an objection to a requested form for producing electronically stored information. If the responding party objects to a requested form, or if no form is specified in the request, the party must state the form or forms it intends to use. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

Unless otherwise stipulated by the parties or ordered by the court, the following procedures apply to producing documents or electronically stored information:

- (1) A party must produce documents as they are kept in the usual course of business or must organize and label them to correspond to the categories in the request;
- (2) If a request does not specify a form for producing the electronically stored information, a party must produce it in a reasonably usable form or forms; and
- (3) A party need not produce the same electronically stored information in more than one form.

(b1) Form of response. – There shall be sufficient space following each request in which the respondent may state the response. The respondent shall: (1) state the response in the space provided, using additional pages if necessary; or (2) restate the request to be followed by the response. An objection to a request shall be made by stating the objection and the reason therefor either in the space following the request or following the restated request.

(c) Persons not parties. – This rule does not preclude an independent action against a person not a party for production of documents and things and permission to enter upon land.

(1967, c. 954, s. 1; 1969, c. 895, s. 8; 1973, c. 923, s. 1; 1975, c. 762, s. 2; 1987, c. 613, s. 2; 2011-199, s. 4.)