

Fed R. Civ. P. Amendments

Electronically Stored Information
Conferences. eDiscovery. Proportionality.

Effective December 1, 2015

RULE 16. PRETRIAL CONFERENCES; SCHEDULING; MANAGEMENT



Meet. Confer. Cooperate.

Scheduling orders will likely contain language as to require conferences, before a discovery motion is filed.

26(b)(1) Proportionality Factors.

- Issue Hierarchy
- Amount in Controversy
- Access to Relevant Information
- Parties' Resources
- Discovery can Resolve Issues
- Cost - Benefit Analysis



RULE 26. DUTY TO DISCLOSE; GENERAL PROVISIONS GOVERNING DISCOVERY

RULE 34. PRODUCING DOCUMENTS, [ESI], AND TANGIBLE THINGS

Party Conferencing
+ eDiscovery Coordination
+ ESI Production Plan
= Extended Response Deadlines



You Cannot *Provide*
What You Do Not *Preserve*



Parties' duties to preserve during, or in anticipation-of, litigation are being examined more than ever, regarding ESI and its formats for production.

RULE 37. FAILURE TO MAKE DISCLOSURES OR TO COOPERATE IN DISCOVERY; SANCTIONS