

Rule 4:103. Case Management

4:103-1. Initial Disclosures

(a) Required Disclosures. Except as otherwise stipulated or ordered by the court, a party must, without awaiting a discovery request, provide to the other parties:

(1) the name and, if known, the address and telephone number of each individual likely to have discoverable information – along with the subjects of that information – that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment;

(2) a copy – or a description by category and location – of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment;

(3) a computation of each category of damages claimed by the disclosing party – who must also make available for inspection and copying as under Rules 4:18 and 4:104-5(a) the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered; and

(4) for inspection and copying as under Rules 4:18 and 4:104-5(a), any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

(b) Time for Initial Disclosures.

(1) In General. A party must make the initial disclosures at or within 14 days after the parties' R. 4:103-2 conference unless a different time is set by stipulation or court order, or unless a party objects during the conference that initial disclosures are not appropriate in this action and states the objection in the proposed discovery plan. In ruling on the objection, the court must determine what disclosures, if any, are to be made and must set the time for disclosure.

(2) For Parties Served or Joined Later. A party that is first served or otherwise joined after the R. 4:103-2 conference must make the initial disclosures within 30 days after being served or joined, unless a different time is set by stipulation or court order.

(c) Basis for Initial Disclosure; Unacceptable Excuses. A party must make its initial disclosures based on the information then reasonably available to it. A party is not excused from making its disclosures because it has not fully investigated the case or

because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures.

(d) **Format of Initial Disclosures.** Unless the court orders otherwise, all initial disclosures under this rule must be in writing, signed, and served. The requirements of R. 4:104-8 shall apply to initial disclosures. The failure to provide compliant initial disclosures may lead to sanctions in the court's discretion.

Note: Adopted July 27, 2018 to be effective September 1, 2018.

4:103-2. Initial Conference of the Parties

(a) **Conference Timing.** Except in a proceeding exempted from initial disclosure under R. 4:103-1(b)(1) or when the court orders otherwise, the parties must confer as soon as practicable – and in any event at least 21 days before a scheduling conference is to be held or a scheduling order is due under R. 4:103-3(a). Such conference shall take place notwithstanding any dispositive motion that may be pending.

(b) **Conference Content; Parties' Responsibilities.** In conferring, the parties must (1) consider the nature and basis of their claims and defenses and the possibilities for promptly settling or resolving the case; (2) make or arrange for the disclosures required by R. 4:103-1(a)(1); (3) discuss any issues about preserving discoverable information; and (4) develop a proposed discovery plan. The attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for arranging the conference, for attempting in good faith to agree on the proposed discovery plan, and for submitting to the court within 14 days after the conference a written report outlining the plan. The court may order the parties or attorneys to attend the conference in person.

(c) **Discovery Plan.** A discovery plan must state the parties' views and proposals on:

(1) what changes should be made in the timing, form, or requirement for disclosures under R. 4:103-1(a), including a statement of when initial disclosures were made or will be made;

(2) the subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused on particular issues;

(3) any issues about disclosure, discovery, or preservation of electronically stored information, including the form or forms in which it should be produced;

(4) any issues about claims of privilege or of protection as trial preparation materials, including – if the parties agree on a procedure to assert these

claims after production – whether to ask the court to include their agreement in an order under R. 4:10-2(c);

(5) what changes should be made in the limitations on discovery imposed under these rules, and what other limitations should be imposed; and

(6) any other orders that the court should issue under R. 4:10-3 or under R. 4:103-3(b) and (c).

Note: Adopted July 27, 2018 to be effective September 1, 2018; paragraph (a) amended July 31, 2020 to be effective September 1, 2020.

4:103-3. Case Management Conferences and Scheduling Orders

(a) Initial Case Management Conference and Scheduling Order.

(1) An initial case management conference must be convened with the parties' attorneys and any unrepresented parties, and thereafter a scheduling order must be issued.

(2) The scheduling order must be issued as soon as practicable, but absent good cause for delay, within the earlier of 90 days after any defendant has been served with the complaint or 60 days after any defendant has appeared.

(3) The scheduling order must limit the time to join other parties, amend the pleadings, complete discovery, and file motions. R. 4:9-1 shall not apply to cases in the CBLP.

(4) The scheduling order may (i) modify the timing of disclosures under R. 4:103-1(a), (ii) modify the extent of discovery, (iii) provide for disclosure, discovery, or preservation of electronically stored information; (iv) include any agreements the parties reach for asserting claims of privilege or of protection as trial-preparation material after information is produced, including agreements reached under R. 4:10-2(c); (v) direct that before moving for an order related to discovery, the movant must request a conference with the court; (vi) set dates for case management conferences, the final pretrial conference and for trial; and (vii) include other appropriate matters.

(5) The parties may agree to set and/or modify interim deadlines without court approval, provided any such change will not have an impact on the discovery end date.

(b) Additional Case Management Conferences. The court in its discretion may convene additional case management conferences at any time. In connection with any case management, scheduling, or status conference, other than the final pretrial conference discussed in R. 4:25, the parties shall abide by the requirements of this rule.

(c) Attendance and Matters for Consideration at a Case Management Conference.

(1) Attendance. A represented party must authorize at least one of its attorneys to make stipulations and admissions about all matters that can reasonably be anticipated for discussion at a case management conference. If appropriate, the court may require that a party or its representative be present or reasonably available by other means to consider possible settlement.

(2) Matters for Consideration at a Case Management Conference. At any case management conference, in addition to the matters set forth in R. 4:25, the court may consider and take appropriate action on the following matters:

(A) formulating and simplifying the issues, and eliminating frivolous claims or defenses;

(B) amending the pleadings if necessary or desirable;

(C) obtaining admissions and stipulations about facts and documents to avoid unnecessary proof, and ruling in advance on the admissibility of evidence;

(D) avoiding unnecessary proof and cumulative evidence, and limiting the use of testimony under N.J.R.E. 702;

(E) determining the appropriateness and timing of summary adjudication under R. 4:56;

(F) controlling and scheduling discovery, including orders affecting disclosures and discovery under Rules 4:10 through 4:19 and 4:22;

(G) identifying witnesses and documents, scheduling the filing and exchange of any pretrial briefs, and setting dates for further conferences and for trial;

(H) referring matters to a master;

(I) settling the case and using special procedures to assist in resolving the dispute when authorized by statute or rule;

(J) determining the form and content of the pretrial order;

(K) disposing of pending motions;

(L) adopting special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems;

(M) ordering a separate trial under R. 4:38-2 of a claim, crossclaim, counterclaim, third-party action, or separate issue;

(N) ordering the presentation of evidence early in the trial on a manageable issue that might, on the evidence, be the basis for a judgment as a matter of law under R. 4:40-1;

(O) establishing a reasonable limit on the time allowed to present evidence; and

(P) facilitating in other ways the just, speedy, and inexpensive disposition of the action.

(d) Final Pretrial Conference and Orders. All CBLP actions shall be pretried and the requirements of R. 4:25 shall apply to the final pretrial conference, which should lead to the formulation of a trial plan, including a plan to facilitate the admission of evidence. The conference must be held as close to the start of trial as is reasonable, and must be attended by at least one attorney who will conduct the trial for each party and by any unrepresented party. The court may modify the order issued after a final pretrial conference only to prevent manifest injustice.

Note: Adopted July 27, 2018 to be effective September 1, 2018.