

IN THE CIRCUIT COURT OF THE EIGHTEETH JUDICIAL CIRCUIT  
IN AND FOR BREVARD COUNTY, FLORIDA

**STANDING DISCOVERY ORDER - DIVISION: B** (July 2025)

IN RE: ALL PENDING CIVIL CASES  
ASSIGNED TO DIVISION B

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In light of the recent amendments to the *Florida Rules of Civil Procedure* pursuant to the Supreme Court's opinions: SC2023-0962 *Amended December 5, 2024, Corrected Opinion January 23, 2025*; and SC2024-0662 *Amended December 5, 2024*, which became effective on January 1, 2025, the Court enters this Order for all Division B cases and the procedures contained herein which are designed to help the parties and the Court implement the amendments while minimizing disputes, disagreements, and delay, along with the time and expense of motion practice and hearing time associated with civil discovery.

In order to effectively implement these Rule changes along with this Court's procedures, the **parties should take note of two important points: First**, this Court gives great weight to the content and cited authority of the *Florida Handbook On Civil Discovery Practice* (the current version of which is available on the Court's website at Document 06); and **Second**, at every hearing to compel discovery, the Court is **required to award the expenses** of the motion (which may include fees) to the movant, if the motion is granted; or to the non-movant, if the motion is denied. Therefore, when a motion is required to resolve a discovery dispute, *someone will have to pay*. The Court encourages the parties to take these factors into consideration while satisfying the "conferral" requirement of the Rules and this Court's Procedures.

## **I. GENERAL DISCOVERY**

### **A. RULE 1.280(a) Initial Discovery Disclosure**

This provision is effective for all (non-exempt) cases **filed on or after January 1, 2025**.

A party must make the Initial Disclosure without waiting for a discovery request from any other party. Each party **must** make their initial disclosure **within 60 days after service of complaint on each defendant** or joinder of an additional party, unless a different time is set by court order. The Initial Disclosure must contain the information specified in 1.208(a)(1)(A), (B), (C) and (D). The parties are directed to certify compliance with the Initial Disclosure by filing a Certificate of Compliance with the court within five (5) days of making the disclosure. A sample Certificate of Compliance with Initial Disclosure is attached hereto as (“**Exhibit A**”).

*The parties should take note that pursuant to Rule 1.280(f)(1),* **A party cannot seek discovery from any source until that party has satisfied its initial disclosure obligations. Additionally, failure to comply with the Initial Disclosure (1.280(a)); or the Duty to Supplement (1.280(g)), will subject the parties to the sanctions outlined in 1.380(d).**

The initial disclosure must be made on information reasonably available to it. A party is not excused from this obligation because they have not fully investigated the case or because another party has not complied with their disclosure obligation.

### **B. RULE 1.280(f)(2) – Discovery Sequence**

This provision applies to **all cases on January 1, 2025**.

Except for expert discovery, discovery can be used in any sequence. The fact that one party is conducting discovery (by deposition or otherwise) must not delay any other party’s discovery.

**C. RULE 1.280(g) Duty to Supplement**

This provision applies to **all cases on January 1, 2025**.

A party that has made an initial disclosure under this rule, *or has previously responded* to an interrogatory, a request for production or a request for admission, must supplement or correct its disclosure or response if the additional or corrective information has not been made known to the other parties during the discovery process.

**D. RULE 1.208(k) Signing Disclosures & Discovery Requests/Responses/Objections**

This provision applies to **all cases on January 1, 2025**.

Every Disclosure, and every Discovery Request, Response and Objection must be signed by at least 1 attorney of record (or self-represented litigant). This court interprets the language of this rule to require a separate signature in accordance with *Rule of General Practice and Procedure 2.515* (and not just the signature on the certificate of service pursuant to *Rule of General Practice and Procedure 2.516*).

By signing the same, the signer certifies that to best of that person's knowledge, information and belief, *formed after reasonable inquiry*; that: 1) the Disclosure is complete and correct; and 2) the Discovery Request, Response and Objection is: consistent with these rules and warranted by existing law; not interposed for any improper purpose; not unreasonable given the needs of the case, the discovery already had, the amount in controversy and importance of the issues at stake.

No party has a duty to act on an unsigned disclosure, request, response or objection until it is signed.

If the certification violates this rule without *substantial* justification, the court *must* impose an appropriate sanction on the signer, or the party on whose behalf it was signed, or both.

## II. **DISCOVERY OBJECTIONS**

These provisions apply to **all cases on January 1, 2025.**

### A. **RULE 1.340(8) Interrogatories**

Any grounds for objecting to interrogatory must be stated with *specificity, including the reasons*. Any ground not stated in a timely objection is waived, unless court excuses.

### B. **RULE 1.350(4)(5)(6) Production of Documents**

For each item or category, the response must state that the inspection and related activities will be permitted as requested; or state with *specificity* the grounds for objecting, *including the reasons*.

Any Objection must state if responsive materials are being withheld on basis of the objection.

If an objection is made to part of an item or category, the objection must state which part of the item or category is being objected to, and state with *specificity* the grounds for objecting, *including the reasons*; whether responsive materials are being withheld on basis of the objection; **and permit inspection of the rest of the item or category.**

### C. **EXAMPLES of Past Objection Practice**

- **Boilerplate or General Objections**

The parties shall not make nonspecific, boilerplate objections. The parties also shall not make General Objections that are not tied to a particular discovery request. Such objections will be summarily overruled.

- **Vague, Overly Broad/Unduly Burdensome/Disproportional**

Objections that simply state that a discovery request is "vague, overly broad, or unduly burdensome" will be overruled by this Court. If a party believes that a request or a term is vague, the party shall attempt to obtain clarification from opposing counsel. In the event an agreement is not reached, the objecting party shall specify which terms are unclear and why more specificity is required to respond.

If a party believes a discovery request seeks irrelevant information is unduly burdensome, or disproportional (given the importance of the issues at stake; the amount in controversy; the parties' relative access to information; the parties' resources; the importance of the discovery in resolving the issues; whether the burden or expense outweighs its likely benefit *See* Rule 1.280(c)(1)) that party shall confer in good faith with opposing counsel to narrow the scope of the request before asserting these objections. In the event an agreement is not reached, the objecting party shall specify which portion(s) of the request are overbroad, unduly burdensome, or disproportional, and state the reasons supporting each area of objection. The objecting party nevertheless shall respond as to those matters for which the scope or burden is not contested. For example, if there is an objection based upon the scope of the request, such as time frame or geographic location, discovery should be provided as to the time period or locations that are not disputed, and the response should clearly state such. Thus, if discovery is sought nationwide for a ten-year period, and the responding party objects on the grounds that only a five-year period limited to activities in the State of Florida is appropriate, the responding party shall provide responsive discovery falling within the five-year period as to the State of Florida and state such with its objection to the remainder.

A party objecting on any of these grounds must explain the specific and particular way in which a request is vague, seeks irrelevant information or is unduly burdensome. *See, Topp Telecom, Inc. v. Atkins*, 763 So. 2d 1197, 1199 (Fla. 4<sup>th</sup> DCA 2000) (an affidavit must be provided stating the factual basis for the assertion of undue burden).

- **Formulaic Objections Followed by an Answer**

A party shall not recite a formulaic objection followed by an answer to the request. It has become common practice for a party to object to a discovery request, and then state that "notwithstanding the above," the party will respond to the discovery request, subject to or without waiving such objection. Such a response will be deemed to preserve nothing. Further, it leaves the requesting party uncertain as to whether the discovery request (as propounded) has actually been fully answered, whether the response relates only to the request as unilaterally narrowed by the responding party, and whether the responding party is withholding any responsive materials.

The proper practice is to state (1) whether documents are being provided in response to the request and identify those documents by sequential number or category, and (2) whether any responsive documents are being withheld, and if so the specific legal basis for that objection.

**Samples of proper objections include:**

Defendant is providing documents marked as Defense 1 - 250, as well as a USB drive containing emails for the following custodians in native format. Defendant has identified other documents which are responsive to the request as propounded, but Defendant asserts that those

additional documents are irrelevant to the claims and defenses in this matter because \_\_\_\_\_.

Plaintiff is providing documents marked as Plaintiff 1 - 100. Plaintiff has identified other documents which are responsive to the request as propounded, but Plaintiff asserts that production of those materials would be unduly burdensome and disproportionate to the needs of the case because the burden and expense of the proposed discovery outweighs its likely benefit for the following reasons: \_\_\_\_\_.

- **Production at an Indeterminate Time**

It has also become a common practice to respond to Requests for Production by saying that the party will either produce responsive materials, or make those materials available for inspection, at an indeterminate future date. **Such a response is not a response and only serves to delay the discovery process.** Production must be completed no later than the time for inspection specified in the request or another reasonable time specified in the response. Hence, unless all unobjectionable materials are being produced contemporaneously with the written response, the response must specify a date by which production will be completed; the respondent may adopt the date proposed in the request or may propose its own reasonable time, after consultation with opposing counsel.

The parties may agree to a longer period for production, without leave of Court. In the absence of agreement among the parties, if the production will not be completed within 30 days of the response deadline, a motion for enlargement of time should be filed by the responding party. The motion shall include a good cause explanation for why production cannot be completed within that time period, and a proposed schedule for completing the production.

- **Objections Based upon Privilege-Requests for Production and Interrogatories**

Generalized objections asserting attorney-client privilege or work product doctrine do not comply with the Rules. The Rules require that objections based upon privilege identify the specific nature of the privilege being asserted, as well as, *inter alia*, the nature and subject matter of the communication at issue and the sender and receiver of the communication and their relationship to each other. The production of non-privileged materials should not be delayed while a party is preparing a privilege log or seeking a ruling. The log shall be in accord with *TIG. Ins. Corp. v. Johnson*, 799 So. 2d 339, 341 (Fla. 4<sup>th</sup> DCA 2001).

Parties are directed to the *Div D Guidelines Regarding Privilege Logs and procedures for In Camera Review* available on the Court's website at Document 08.

- **Instructions to the Responding Party**

A party propounding discovery cannot impose legal obligations on the respondent through the use of Instructions. Discovery is governed by the rules of Court, which cannot be unilaterally supplemented by a party. Any Instruction that purports to impose a duty not otherwise mandated by

the Florida Rules of Civil Procedure has no legal effect.

#### **D. Non-Waiver of Objections**

Discovery is a dynamic process. What is relevant or proportionate or cumulative or unduly burdensome can change as a case moves forward. The Court recognizes that a party may be unwilling to compromise its position on a particular discovery request because of concern that the concession will be deemed to waive a future objection or a future demand for related discovery. To eliminate this concern, the Court evaluates all discovery requests and responses individually. Therefore, by responding, in whole or in part, to a discovery request, a party does not waive any objection to a future request. Likewise, by agreeing to limit a discovery demand, a party does not waive its right to seek additional discovery in the future. Parties need not serve a response or objection that specifically reserves their rights or disavows a waiver.

### **III. PROCEDURES FOR DISCOVERY DISPUTES**

These provisions apply to **all cases on January 1, 2025**

#### **A. RULE 1.202 Conferral Prior to Motions/Hearings.**

Prior to filing any motion related to discovery matters, the movant has a duty to “confer” with opposing counsel in a good-faith effort to resolve the matter prior to court intervention. The moving party must separately *certify compliance* with this rule in the motion in accordance with Rule 1.202(b). For clarity, this Court interprets the term “confer” to mean that counsel with full authority to resolve the matter have had a good-faith, substantive **conversation** to resolve the matter without court intervention. The term “confer” **does not** mean the exchange of ultimatums via fax, email or letter.

If a discovery dispute arises, counsel must actually speak to one another (in person, via telephone or video call) and engage in reasonable compromise in a genuine effort to resolve their discovery disputes before seeking Court intervention.

In addition to the forgoing, and as specified in the *Division B Policies and Procedures*, the parties are required conduct an additional mandatory “meet and confer” prior to setting the matter for hearing; and to certify such compliance in the Notice for Hearing. *See Division B Policies and Procedures, Section III.L.*

#### **IV. FAILURE TO MAKE DISCOVERY SANCTIONS**

These provisions apply to **all cases on January 1, 2025**

##### **A. RULE 1.380(a) – Motion to Compel**

A discovering party may move for and order compelling discovery for failure to make Initial Disclosure (1.280(a)); failure to answer interrogatory (1.340); failure to designate corporate representative (1.310(b)(6)); failure to permit inspection (1.350); failure to produce documents (1.350(b)).

For the purposes of a motion to compel, an evasive or incomplete answer is treated as a failure to answer (1.380(a)(3)). If the motion is granted: the court **must** require the party whose conduct necessitated the motion (or the party or counsel advising the conduct) to pay to the moving party reasonable expenses (may include attorney fees) incurred in obtaining the order (unless movant fails to certify conferral under Rule 1.202). If the motion is denied: the court **must** require the movant to pay to the party opposing the motion reasonable expenses (may include attorney fees) incurred in opposing the motion (1.380(a)(4)).

##### **B. RULE 1.380(b) – Failure to Comply with Order**

If a party fails to comply with an order on a motion to compel, the court may enter an order: that the matters regarding which the questions were asked will be taken as established in accordance with the claim of the party obtaining the order; prohibiting disobedient party from



opposing the claim or defense; striking pleadings (or parts), stay proceedings until the order is obeyed, dismissing the action (or parts), enter judgment; or instead of, or in addition, an order of contempt. Instead or in addition to the foregoing, the court must require the party failing to obey to pay the reasonable expenses (may include attorney fees) caused by the failure.

**C. RULE 1.380(d) Failure to Disclose or Supplement**

If a party fails to provide information or identify witness under 1.280(a) [Initial Disclosure] or (g) [Duty to Supplement], that party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at trial (unless failure was substantially justified or harmless).

**In addition to or instead of this sanction**, the court, on motion and after giving opportunity to be heard: 1) may order payment of expenses including attorney fees caused by failure; 2) may inform jury of the parties failure; 3) may impose other appropriate sanctions, including any listed in 1.380(b)(2)(A)-(b)(2)(D).

**DONE AND ORDERED** in Chambers, at Viera, Brevard County, Florida, this 1<sup>st</sup> day of July, 2025.

  
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KRISTEN SMITH-RODRIGUEZ  
CIRCUIT JUDGE

**“EXHIBIT A”**

**NOTICE OF COMPLIANCE WITH INITIAL DISCLOSURE UNDER RULE 1.280(a)**

COMES NOW, [*Plaintiff/Defendant*] and gives notice of its compliance with the Initial Discovery Disclosure obligation under *Florida Rule of Civil Procedure* 1.280(a) by providing [*Plaintiff/Defendant*] with the following disclosure:

**(A) Persons likely to have discoverable information:**

Name	Address	Phone	Email	Subject Matter

**(B) Documents/ESI/Tangible Things supporting the claims or defenses:**

If a copy was provided;

Bates Number	Author	Description by Category	Date

If not in possession, custody or control;

Description by Category	Location	Custodian	Contact information

**(C) Damage Computation and Supporting documents/evidentiary material:**

Economic Damages;

Damage Category	Computation	Supporting Documents

Non-Economic Damages;

Damage Category	Supporting Documents

**(D) Policy or Agreement for Insurance available to satisfy judgment:**

Bates Number	Author	Description by Category	Date

**CERTIFICATE OF SERVICE**

*Attorney Signature, Firm, Contact Information*