

## **Expert discovery — Designation of experts on affirmative defenses.**

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**Question:** Does a defendant need to designate experts within seven days after the close of fact discovery, if the defendant is claiming comparative fault or anything else on which it has the burden of proof?

**Answer:** Yes. Under Rule 26(a)(4)(C), the deadline for designation of experts is determined by who bears the burden of proof on the issue for which the expert is being offered, not the status of the party as plaintiff or defendant. Thus, if a defendant has an expert on an issue for which it has the burden of proof, such as an affirmative defense, the defendant must designate that expert within seven days after the close of fact discovery and before its "contravening" experts.