









FAQs

(1) Expert discovery — Timing of disclosures, elections and extensions.

Question: If parties want to stipulate (or move) to extend the 28 days for expert discovery, does the stipulation (or motion) have to be filed “before the close of standard discovery and after reaching the limits of standard discovery,” as provided in [Rule 26\(c\)\(6\)](#) and [Rule 29](#)?

Answer: No. There are limits on the discovery of expert witnesses, but stipulations and motions to extend those limits are not bound by the same time frame for extraordinary discovery. See [Rule 26\(c\)\(5\)](#), which expressly excludes expert disclosure and discovery. The required timing for stipulations and motions for extraordinary fact discovery, found in [Rule 26\(c\)\(6\)](#) and in [Rule 29](#), does not apply. Stipulations and motions to modify the limits of expert discovery can be filed after the close of fact discovery.

(2) Expert discovery — Rebuttal experts.

Question: How does the designation of rebuttal experts work?

Answer: The disclosure of rebuttal experts and the election of reports by them or depositions of them use the same procedures and time frames as for experts generally. An amendment effective April 1 will expressly state that.

(3) Expert discovery — Payment for expert’s report.

Question: Does the requesting party have to pay for the report from the opposing expert witness?

Answer: No. Under [Rule 26\(a\)\(4\)\(B\)](#) the party deposing an expert offered by another party pays for the cost of a deposition, and the party offering the expert pays the cost for preparing a report.

(4) Expert discovery — Data relied upon by an expert.

Question: In disclosing an expert, [Rule 26\(a\)\(4\)\(A\)](#) says to provide, among other things “a brief summary of the opinions to which the witness is expected to testify [and] all data and other information that will be relied upon by the witness in forming those opinions....” Does this mean the party must produce actual records? Or does it mean just a summary list, such as “my training, my education, my 30 years of experience, the plaintiff’s medical records”?

Answer: The disclosure should include a concise, yet thorough, summary of the expert’s opinions in the same way that a summary of the expected testimony of fact witnesses is to be disclosed in initial disclosures. The disclosure does not have to include the actual records relied upon in forming those opinions, but it should identify

