

## **Discovery tiers — Effect of not designating a discovery tier**

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**Question:** What if a party fails to designate a specified tier as required by Rule 26(c)(3), but pleads a claim for specified damages and unspecified damages in an amount to be determined at trial? For example, what if a party pleads \$20,000 in economic damages and for such non-economic damages in an amount to be determined at trial?

**Answer:** Parties should anticipate the value of all their claims for relief and damage calculations, and plead in to the appropriate tier. In the above example, if a party claims economic and non-economic damages and seeks an award of \$50,000 or more, she should designate an appropriate tier or specify the damages sought for economic and non-economic damages.