

1 **Rule 26.2 Disclosures in personal injury actions.**

2 (a) **Scope.** This rule applies to all actions seeking damages arising out of personal
3 physical injuries or physical sickness.

4 (b) **Plaintiff's additional initial disclosures.** Except to the extent that plaintiff
5 moves for a protective order, plaintiff's Rule 26(a) disclosures shall also include:

6 (b)(1) A list of all health care providers who have treated or examined the plaintiff
7 for the injury at issue, including the name, address, approximate dates of treatment,
8 and a general description of the reason for the treatment.

9 (b)(2) A list of all other health care providers who treated or examined the plaintiff
10 for any reason in the 5 years before the event giving rise to the claim, including the
11 name, address, approximate dates of treatment, and a general description of the
12 reason for the treatment.

13 (b)(3) Plaintiff's Social Security number ([SSN](#)) or Medicare health insurance
14 claim number (HICN), full name, and date of birth. [The SSN and HICN may be used](#)
15 [only for the purposes of the action, including compliance with the Medicare,](#)
16 [Medicaid, and SCHIP Extension Act of 2007, unless otherwise ordered by the court.](#)

17 (b)(4) A description of all disability or income-replacement benefits received if
18 loss of wages or loss of earning capacity is claimed, including the amounts, payor's
19 name and address, and the duration of the benefits.

20 (b)(5) A list of plaintiff's employers for the 5 years preceding the event giving rise
21 to the claim if loss of wages or loss of earning capacity is claimed, including the
22 employer's name and address and plaintiff's job description, wage, and benefits.

23 (b)(6) Copies of all bills, statements, or receipts for medical care, prescriptions, or
24 other out-of-pocket expenses incurred as a result of the injury at issue.

25 (b)(7) Copies of all investigative reports prepared by any public official or agency
26 and in the possession of plaintiff or counsel that describe the event giving rise to the
27 claim.

28 (b)(8) Except as protected by Rule 26(b)(5), copies of all written or recorded
29 statements of individuals, in the possession of plaintiff or counsel, regarding the
30 event giving rise to the claim or the nature or extent of the injury.

31 (c) **Defendant's additional disclosures.** Defendant's Rule 26(a) disclosures shall
32 also include:

33 (c)(1) A statement of the amount of insurance coverage applicable to the claim,
34 including any potential excess coverage, and any deductible, self-insured retention,
35 or reservations of rights, giving the name and address of the insurer.

36 (c)(2) Unless the plaintiff makes a written request for a copy of an entire
37 insurance policy to be disclosed under Rule 26(a)(1)(D), it is sufficient for the
38 defendant to disclose a copy of the declaration page or coverage sheet for any
39 policy covering the claim.

40 (c)(3) Copies of all investigative reports, prepared by any public official or agency
41 and in the possession of defendant, defendant's insurers, or counsel, that describe
42 the event giving rise to the claim.

43 (c)(4) Except as protected by Rule 26(b)(5), copies of all written or recorded
44 statements of individuals, in the possession of defendant, defendant's insurers, or
45 counsel, regarding the event giving rise to the claim or the nature or extent of the
46 injury.

47 (c)(5) The information required by Rule 9(l).

48 ~~(d) All non-public information disclosed under this rule shall be used only for the~~
49 ~~purposes of the action, unless otherwise ordered by the court.~~

50 **Advisory Committee Note**

51 This rule requires disclosure of the key fact elements that are typically requested in
52 initial interrogatories in personal injury actions. The Medicare information disclosure,
53 including Social Security numbers, is designed to facilitate compliance with the
54 requirements for insurers under 42 U.S.C. § 1395y(b)(8)(C). See, *Hackley v. Garofano*,
55 2010 WL 3025597 (Conn.Super.) and *Seeger v. Tank Connection*, 2010 WL 1665253
56 (D.Neb.).

57 The committee anticipates full disclosures in most cases as a matter of course.
58 However, there may be rare circumstances warranting a protective order in which a
59 party would otherwise have to disclose particularly sensitive information wholly
60 unrelated to the injury at issue, such as a particularly sensitive healthcare procedure or

61 treatment. Information and documents not included in the application for a protective
62 order must be provided within the timeframe of this rule.

63 This rule is intended to apply to actions based on personal injury and personal
64 sickness using the broad definitions under 26 U.S.C. Sec. 104(a)(2). This includes
65 wrongful death actions, in which case the disclosures will usually be of the decedent's
66 records rather than of the plaintiff's, and emotional distress accompanied by physical
67 injury or physical sickness.

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