

Proposal 06-03 (P.R. 0149)

Amends Rule 214

Offered by the Illinois Judicial Conference Committee on Discovery Procedures

Rule 214. Discovery of Documents, Objects, and Tangible Things-Inspection of Real Estate

Any party may by written request direct any other party to produce for inspection, copying, reproduction photographing, testing or sampling specified documents, objects or tangible things, or to permit access to real estate for the purpose of making surface or subsurface inspections or surveys or photographs, or tests or taking samples, or to disclose information calculated to lead to the discovery of the whereabouts of any of these items, whenever the nature, contents, or condition of such documents, objects, tangible things, or real estate is relevant to the subject matter of the action. The request shall specify a reasonable time, which shall not be less than 28 days except by agreement or by order of court, and the place and manner of making the inspection and performing the related acts. One copy of the request shall be served on all other parties entitled to notice. A party served with the written request shall (1) produce the requested documents, including in printed form all retrievable information in computer storage, as they are kept in the usual course of business ~~or organized~~ and labeled to correspond with the specific categories in the request, ~~and all retrievable information in computer storage in printed form~~ or (2) serve upon the party so requesting written objections on the ground that the request is improper in whole or in part. If written objections to a part of the request are made, the remainder of the request shall be complied with. Any objection to the request or the refusal to respond shall be heard by the court upon prompt notice and motion of the party submitting the request. If the party claims that the item is not in his or her possession or control or that he or she does not have information calculated to lead to the discovery of its whereabouts, the party may be ordered to submit to examination in open court or by deposition regarding such claim. The party producing documents shall furnish an affidavit stating whether the production is complete in accordance with the request.

A party has a duty to seasonably supplement any prior response to the extent of documents, objects or tangible things which subsequently come into that party's possession or control or become known to that party.

This rule does not preclude an independent action against a person not a party for production of documents and things and permission to enter upon real estate.

Committee Comments

The 1995 amendment to the first paragraph allowed a party served with a written request, to produce the requested documents as they are kept in the usual course of business. It was unintended by that amendment that documents produced as kept in the usual course of business

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would not also be labeled to correspond with the specific categories in the request.

In order to eliminate any confusion created by the 1995 amendment regarding the obligation of the party producing documents to label those documents to correspondence with the specific categories in the request, the first paragraph is now revised to affirmatively require such labeling.

The required labeling of documents produced must be sufficient to allow the requesting party to be able to reasonably identify to which specific category in the request each produced document is responsive.