
From: Honey B Blues

Sent: Sunday, October 4, 2026 5:23 PM

To: RulesCommittee Secretary

Subject: Re: Suggestion for civil procedure rule review — litigation costs and proportional discovery

To: RulesCommittee_Secretary@ao.uscourts.gov

Subject: RE: Suggestion for civil procedure rule review — litigation costs and proportional discovery

Dear Rules Committee Secretary,

Thank you for your September 30 response. Below are the specific federal rules and proposed amendments for consideration by the Advisory Committee on Civil Rules. Although my original email referred to Florida's rules, this submission concerns the Federal Rules of Civil Procedure.

My concern is that unnecessary litigation costs can impair a party's ability to pursue a legitimate claim or defense before the merits are fairly decided. I propose two focused additions: express consideration of discovery costs during early planning and a prompt procedure for requesting judicial review of burdensome litigation activity.

Relevant existing rules

Rule 26(b)(1) establishes discovery proportionality, including consideration of the parties' resources, relative access to information, and anticipated burden or expense.

Rule 26(b)(2)(C) requires courts to limit unreasonably cumulative or duplicative discovery, including when information is available through a less burdensome or less expensive source.

Rule 26(c)(1) permits protective orders for good cause, including limitations on discovery and allocation of discovery expenses.

Rules 26(f)(3)(B), (E), and (F) address phased discovery, discovery limitations, and proposed protective or case-management orders.

Rules 16(a)(2)–(3), 16(b)(3)(B)(v), and 16(c)(2)(F) and (P) support continuing case management, discouraging wasteful activity, controlling discovery, and conferences before discovery motions.

Rule 26(g) addresses discovery conducted for improper purposes or imposing unreasonable burdens. Rule 37 provides related enforcement mechanisms.

Proposed amendment to Rule 26(f)(3)

Add subsection (G), with conforming punctuation changes:

“(G) reasonably anticipated discovery costs, any identified risk that those costs will materially impair a party’s ability to present a claim or defense, and proposed measures to address that risk, including phased discovery, less burdensome sources or methods, avoidance of unnecessary duplication, and appropriate allocation of discovery expenses under Rule 26(c).”

Proposed addition to Rule 16

“(g) REVIEW OF LITIGATION-COST BURDENS.

“(1) Request. A party may file and serve a request for a case-management conference or other appropriate relief identifying litigation activity whose anticipated or incurred costs materially threaten the party’s ability to present a claim or defense. The request must state specific supporting facts, identify the relief sought, and certify a good-faith effort to resolve the concern with affected parties, unless the court excuses that effort for good cause.

“(2) Prompt Consideration. Within 14 days after filing, the court must schedule a conference or issue an order addressing the request, unless it states good cause for additional time. The court may expedite consideration when an impending deadline or expense warrants earlier action. Before granting relief affecting another party, the court must provide notice and a reasonable opportunity to respond.

“(3) Available Relief. Consistent with these rules, the court may modify scheduling, phase discovery, limit unnecessary or duplicative litigation activity, prescribe less burdensome discovery methods, or allocate discovery expenses under Rule 26(c). Filing a request does not itself suspend any deadline or obligation.”

Proposed explanatory committee note

“These additions promote early identification and timely management of litigation-cost burdens. The fourteen-day provision requires an initial procedural response; it does not require final resolution within that period.

“Financial disparity alone does not establish entitlement to relief. The court should consider the needs of the case and preserve access to discovery permitted by Rule 26(b)(1). Preventive case-management relief does not require proof of an opponent’s improper purpose; sanctions remain subject to existing standards.

“Any required financial disclosure should be limited to information reasonably necessary to evaluate the request, with appropriate protection for confidential information and preservation of privilege and work-product protections.

“The provisions apply equally to plaintiffs and defendants. They preserve substantive rights, burdens of proof, judicial neutrality, and voluntary settlement. They do not require equal spending, impose a flat cap on private legal expenses, or establish a right to publicly funded representation.”

These amendments represent the procedural portion of my Fair Trial Cost & Litigation Equality Act (FTLEA) proposal. Its core purpose is to prevent unnecessary costs and delay from financially exhausting either party before fair adjudication. Legal-assistance funding and other substantive measures remain separate legislative questions.

I respectfully request consideration of these proposed additions by the Advisory Committee on Civil Rules.

Thank you for your time and consideration.

Taylor Annette Brewer