

Rule Change #2000(1)

COLORADO RULES OF CIVIL PROCEDURE
CHAPTER 4. DISCLOSURE AND DISCOVERY

Rule 26.3 LIMITED MONETARY CLAIM ACTIONS

STATEMENT OF PURPOSE

THE PURPOSE OF THIS RULE IS TO PROVIDE FOR DISCLOSURE, ALTERNATIVE DISPUTE RESOLUTION, DISCOVERY AND TRIAL PROCEDURES FOR THOSE DISTRICT COURT CIVIL ACTIONS IN WHICH THE CLAIMANT SEEKS MONETARY DAMAGES NOT EXCEEDING \$50,000, EXCLUSIVE OF COSTS AND INTEREST. THESE CASES SHALL BE KNOWN AS LIMITED MONETARY CLAIM ACTIONS, AND SHALL BE GOVERNED BY THIS RULE.

(a) DEFINITION

A LIMITED MONETARY CLAIM ACTION IS A CIVIL ACTION IN WHICH NO CLAIMANT SEEKS MONEY DAMAGES OF MORE THAN \$50,000, EXCLUSIVE OF COSTS AND INTEREST, FROM ONE PARTY. IN THE EVENT THIRD PARTY CLAIMS, CROSS-CLAIMS OR COUNTER-CLAIMS ALSO SEEK MONEY DAMAGES, THE CLAIMS OF EACH PARTY MUST BE \$50,000 OR LESS FOR THE ACTION TO BE GOVERNED BY THIS RULE. IF SUCH A CERTIFICATION IS MADE, THEN THE MATTER SHALL BE GOVERNED BY THE PROVISIONS OF THIS RULE.

(b) OPTIONAL CERTIFICATION

AT THE TIME OF THE FILING OF THE COMPLAINT THE PLAINTIFF MAY CERTIFY THAT THE MONEY DAMAGES BEING SOUGHT BY PLAINTIFF ARE \$50,000 OR LESS, EXCLUSIVE OF COSTS AND INTEREST, AGAINST ANY ONE PARTY. SUCH CERTIFICATION IS NOT REQUIRED. THIS CERTIFICATION SHALL LIMIT PLAINTIFF'S RIGHT TO RECOVER MONEY DAMAGES TO A MAXIMUM OF \$50,000, EXCLUSIVE OF COSTS AND INTEREST. UPON THE FILING OF THIS CERTIFICATION, THE CASE SHALL BE GOVERNED BY THIS RULE UNLESS ANY PARTY FILING A THIRD PARTY CLAIM, CROSS-CLAIM OR COUNTER-CLAIM CERTIFIES THAT ANY SUCH CLAIM FOR MONEY DAMAGES IS IN EXCESS OF \$50,000, EXCLUSIVE OF COSTS AND INTEREST. WHEN SUCH A CERTIFICATION IS FILED BY A PARTY PRESENTING A THIRD PARTY CLAIM, A CROSS-CLAIM, OR A COUNTER-CLAIM, THE ACTION SHALL NOT BE GOVERNED BY THIS RULE. SUCH CERTIFICATION BY EITHER PARTY MAY NOT BE USED FOR ANY PURPOSE OTHER THAN TO BRING THE CIVIL ACTION UNDER

THIS RULE. ALL CERTIFICATIONS ARE SUBJECT TO C.R.C.P. 11. CERTIFICATION MAY ONLY BE WITHDRAWN BY ORDER OF THE COURT UPON A SHOWING OF CHANGED CIRCUMSTANCES.

(c) DISCLOSURES

IN A CASE GOVERNED BY THIS RULE THE DISCLOSURE RULES OF C.R.C.P. 26(A) SHALL APPLY WITH THE FOLLOWING EXCEPTIONS: THE PARTIES SHALL MAKE THEIR DISCLOSURES REQUIRED BY C.R.C.P. 26(A)(1) AND 16(B) NO LATER THAN 21 DAYS AFTER THE CASE IS AT ISSUE. IN PERSONAL INJURY CASES, THE PLAINTIFF SHALL DISCLOSE ALL HEALTH CARE PROVIDERS AND EMPLOYERS FOR THE PAST TEN YEARS, AND THE DEFENDANT SHALL DISCLOSE THE PRESENT CLAIM CASE FILE, INCLUDING ANY EVIDENCE SUPPORTING AFFIRMATIVE DEFENSES AND PROVIDE A COPY OF ALL INSURANCE POLICIES INCLUDING EACH DECLARATION PAGE.

(d) DISCOVERY SCOPE AND LIMITS

(1) IN GENERAL. DISCOVERY IN A CASE GOVERNED BY THIS RULE SHALL BE PURSUANT TO THE PROVISIONS OF C.R.C.P. 26(B) SUBJECT TO THE FOLLOWING ADDITIONAL PROVISIONS AND LIMITATIONS.

(A) PRIOR TO THE ADR REQUIRED BY SUBSECTION (E), THE ONLY DEPOSITION A PARTY MAY TAKE IS THAT OF THE ADVERSE PARTY;

(B) ALL FORMS OF DISCOVERY MAY BE HAD IMMEDIATELY AFTER THE CASE IS AT ISSUE AND WITHOUT COMPLETION OF THE CASE MANAGEMENT ORDER.

(2) POST-ADR. IF A CASE GOVERNED BY THIS RULE HAS NOT SETTLED PRIOR TO OR AT THE TIME OF THE ADR REQUIRED BY SUBSECTION (e), DISCOVERY SHALL BE AS PERMITTED BY C.R.C.P. 26(B), AND A CASE MANAGEMENT ORDER SHALL BE FILED 15 DAYS FOLLOWING THE ADR SESSION.

(e) ADR

THE PARTIES IN A CASE GOVERNED BY THIS RULE SHALL ATTEND A NON-BINDING ADR PURSUANT TO THE COLO. DISP. RES. ACT, C.R.S. SECTION 13-22-301 ET SEQ., WITHIN 120 DAYS OF THE DATE THE CASE IS AT ISSUE. THE PARTIES MAY AGREE TO A BINDING FORM OF ADR. THIS TIME MAY NOT BE EXTENDED EXCEPT BY ORDER OF THE COURT, AND NO EXTENSION SHALL BE GRANTED

ABSENT EXTREME HARDSHIP. EACH PARTY SHALL BEAR ITS OWN COSTS FOR THE ADR. THE PARTIES SHALL CERTIFY TO THE COURT THAT ADR HAS OCCURRED.

(f) COSTS

NO PARTY IN A CASE GOVERNED BY THIS RULE MAY RECEIVE AN ORDER FOR COSTS IN EXCESS OF \$5,000.

(g) TRIAL PROCEDURES

USE OF EXPERT DEPOSITIONS. A DEPOSITION OF AN EXPERT MAY BE USED AT THE TRIAL WITHOUT A SHOWING OF UNAVAILABILITY.

(H) JUDGMENT

A PARTY PROCEEDING IN AN ACTION GOVERNED BY THIS RULE MAY NOT RECOVER MONEY DAMAGES IN EXCESS OF \$50,000, EXCLUSIVE OF COSTS AND INTEREST, AGAINST ANY ONE PARTY.

New Rule Adopted by the Court, En Banc, January 20, 2000, effective July 1, 2000.

Justices Hobbs, Bender and Rice would not adopt the rule.

BY THE COURT:

**Alex J. Martinez
Justice, Colorado Supreme Court**