

MASSACHUSETTS RULES OF CIVIL PROCEDURE

RULE 34

Producing Documents, Electronically Stored Information, and Tangible Things, or Entering Onto Land, for Inspection and Other Purposes

(a) In General. A party may serve on any other party a request within the scope of Rule 26(b):

(1) to produce and permit the requesting party or its representative to inspect, copy, test, or sample the following items in the responding party's possession, custody, or control:

(A) any designated documents or electronically stored information--including writings, drawings, graphs, charts, photographs, sound recordings, images and other data or data compilations--stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form; or

(B) any designated tangible things; or

(2) to permit entry onto designated land or other property possessed or controlled by the responding party, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

(b) Procedure.

(1) *Contents of the Request.* The request may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the summons and complaint upon that party. The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts, and it may specify the form in which electronically stored information is to be produced.

(2) *Responses and Objections.*

(A) *In General.* The party upon whom the request is served shall serve a written response within 30 days after the service of the request, except that a defendant may serve a response within 45 days after service of the summons and complaint upon that defendant.

The court may allow a shorter or longer time. The response shall state, with respect to each

item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

(B) *Responding to a request for production of electronically stored information.* The response may state an objection to a requested form for producing electronically stored information. If the responding party objects to a requested form--or if no form was specified in the request--the party shall state the form or forms it intends to use.

(C) *Producing the documents or electronically stored information.* Unless otherwise stipulated or ordered by the court, these procedures apply to producing documents or electronically stored information:

(i) A party shall produce documents as they are kept in the usual course of business or shall organize and label them to correspond to the categories in the request;

~~(ii)~~ The producing party may produce copies of the documents, including by electronic means, provided that, if requested, the producing party affords all parties a fair opportunity to verify the copies by comparison with the originals.

(iii) If a request does not specify a form for producing electronically stored information, a party shall produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms; and

~~(iv)~~ A party need not produce the same electronically stored information in more than one form.

(c) Persons Not Parties.

(1) 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 land.

(2) As provided in Rule 45, a nonparty may be compelled to produce documents and tangible things or to permit an inspection.