

## **Alabama Rules for Expedited Civil Actions**

### **Rule D. Discovery.**

Under the Expedited Scheduling and Discovery Order (Form 1), all discovery shall be commenced so as to be completed within 120 days following the filing of the defendant's answer to the complaint. If there are multiple defendants, the 120 days shall begin to run upon the filing of the last timely answer.

A party shall not propound more than 50 written discovery requests (inclusive of all interrogatories, requests for production, and requests for admissions) to any other party without leave of court. Upon motion, and for good cause shown, the court may increase the number of written discovery requests that a party may serve upon another party. For purposes of this limitation, (1) any subpart or separable question (whether or not separately numbered, lettered, or paragraphed) shall be considered a separate discovery request, and (2) the word "party" includes all parties represented by the same lawyer or law firm. There is no limitation to the number of subpoenas a party may issue to nonparties for the production or inspection of designated books, documents, electronically stored information, or tangible things under Rule 45, Ala. R. Civ. P.

Each party shall be allowed to take the deposition of one fact witness in addition to the depositions of the parties to the litigation. For purposes of this limitation, the word "party" includes all parties represented by the same lawyer or law firm. Upon motion, and for good cause shown, the circuit court may increase the number of fact-witness depositions a party may take. This limitation shall not apply to expert witnesses, including retained experts and treating physicians.

[Effective 1-1-2017.]

### **Comments**

Discovery, absent leave of court, is to be completed within 120 days from the filing of the last answer. Written discovery is limited to a total of 50 requests, which include interrogatories, requests for production, and requests for admissions. No limitation is placed on the number of nonparty subpoenas that may be served. Depositions may be taken of all parties and one nonparty fact witness. Depositions of experts is dealt with in Rule E. The circuit court may grant leave, upon good cause shown, to conduct additional discovery, and the showing necessary is similar to the good-cause showing required under Rule 33, Ala. R. Civ. P. The discovery limitations contemplate only claims by a plaintiff without any claims asserted by a defendant. If counterclaims, cross-claims, or third-party claims are filed, the circuit court should consider those claims in setting the discovery schedule.

**Note from the reporter of decisions:** The order adopting the Alabama Rules for Expedited Civil Actions effective January 1, 2017, including Justice Murdock's and Justice Shaw's special writings dissenting to that order, is published in that volume of *Alabama Reporter* that contains Alabama cases from \_\_\_\_ So. 3d.