

BILL OF PARTICULARS – CIVIL RULE 26

Rule 26(a) When Required. In every claim or counterclaim based upon a debt for money due and owing which is brought in the Justice of the Peace Court, the defendant may elect, upon being served by process, to demand from the plaintiff a bill of particulars covering the subject matter of the claim, unless the plaintiff has already provided the information which would be contained in a proper bill of particulars at the time of filing the claim with the Court. Such demand by the defendant shall be made on the form designated by the Court. Unless otherwise provided by statute, no plaintiff shall be required to file a bill of particulars except upon defendant's demand pursuant to this rule. . . .

Rule 26(b) Content. A bill of particulars shall be in writing and shall state with particularity the basis for the plaintiff's suit and the manner in which the sum demanded was determined. If the action is based upon a contract or promise, whether express or implied, the bill of particulars shall state specifically the date, time and place the contract was agreed upon, the subject matter of the contract, what breach or violation of the contract occurred, the amount of damages suffered because of the breach or violation, and how those damages were determined. If the action is based upon a debt for money due and owing on a book account or other written instrument, a copy of any books of account or other written documents upon which the action is based shall be included in the bill of particulars. The bill of particulars shall include an affidavit of the plaintiff notarized by a notary public verifying that the information contained in the bill of particulars is true and correct to the best of the plaintiff's knowledge. If the plaintiff is a corporation, partnership or other artificial entity, it shall be verified by an officer of the entity as defined in Supreme Court Rule 57(a)(3) or any representative certified pursuant to Supreme Court Rule 57.

Rule 26(c). Procedure.

(1) Demand. The demand for a bill of particulars shall contain the current mailing address of the defendant, if different from the address provided in the complaint. The Court shall serve a copy of the defendant's demand on the plaintiff.

(2) Response. Upon receipt of the notice of the defendant's demand [J.P. Civ. Form No. 10A], the plaintiff shall serve the bill of particulars within 15 days [from the date J.P. Civ. Form No. 10A was mailed by the Court to the plaintiff] counting the date of mailing as the first day. The bill of particulars shall be served by mailing the original to the Court where the action is pending, along with a statement certifying how and when the bill of particulars was served on the defendant, and by mailing a copy to the defendant or the defendant's attorney of record.

(3) Continuance. If the demand for a bill of particulars is filed in close proximity to the date of the trial, the Court may, in the interest of justice, continue the trial either upon motion of a party or on its own motion.

(4) Motion to compel. If the plaintiff fails to comply with the demand for a bill of particulars, the defendant may move for an order compelling compliance with the demand. A motion to compel shall be filed with the Court within five (5) days after [the date the plaintiff was required to send the bill of particulars to the Court and the defendant], or at such other time as ordered by the Court.

Rule 26(d) Failure to comply with Rule. If it is brought to the attention of the Court that a party has failed to comply with this rule, the Court may order such party to file the bill of particulars, grant a continuance, dismiss the action with or without prejudice, or make such other order as it deems just under the circumstances. A dismissal shall not be granted when, in the Court's view, there has been substantial compliance with the requirements of this rule.

Rule 26(e) Enlargement. The court may enlarge the time of the demand for or service of a bill of particulars, consistent with Rule 6(b), when, in the Court's discretion, justice shall be best served by an enlargement of the time.