

1 **PRODUCTION OF DOCUMENTS AND THINGS AND ENTRY**
2 **UPON LAND FOR INSPECTION AND OTHER PURPOSES**

3 **RULE 43**

4 * * * * *

5 **B Procedure.**

6 **B(1)** A party may serve *[the]* a request on the plaintiff after commencement of the
7 action and on any other party with or after service of the summons on that party. The request
8 shall *[set out the]* **identify any items requested for inspection, copying, or related acts**
9 *[that the requesting party desires to inspect either]* by individual item or by category *[and]*
10 described *[each item and category]* with reasonable particularity*[,]*, **designate any land or**
11 **other property upon which entry is requested, and** *[The request]* shall specify a reasonable
12 *[time,]* place*[,]* and manner for *[making]* the inspection, **copying, entry,** and *[performing the]*
13 related acts.

14 **B(2)** A request shall not require a defendant to produce or allow inspection, **copying,**
15 **entry,** or other related acts before the expiration of 45 days after service of summons, unless
16 the court specifies a shorter time. **Otherwise, within 30 days after service of a request in**
17 **accordance with subsection B(1) of this rule, or such other time as the court may order**
18 **or the parties may agree upon in writing.** *[The]* a party *[that receives service of a request]*
19 shall *[comply with the request unless that party objects to the request, with a statement of*
20 *reasons for each objection, before the time specified in the request for allowing the inspection*
21 *and performing the related acts.]* **serve a response that includes the following:**

22 **B(2)(a)** **a statement that, except as specifically objected to, any requested item**
23 **within the party's possession or custody is provided, or will be provided or made**
24 **available within the time allowed and at the place and in the manner specified in the**
25 **request, which items shall be organized and labeled to correspond with the categories in**
26 **the request;**

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3 | **ORCP 43 B**

4 | **B. Procedure. B(1)** A party may serve ~~the a~~ request on the plaintiff after
5 | commencement of the action and on any other party with or after service of the summons on
6 | that party. The request shall ~~set out the~~ **identify any items requested for inspection,**
7 | **copying, or related acts** ~~that the requesting party desires to inspect either~~ by individual item
8 | or by category and ~~described each item and category with reasonable particularity~~; **designate**
9 | **any land or other property upon which entry is requested, and** shall specify a reasonable
10 | ~~time, place, and manner for making the inspection,~~ **copying, entry** and ~~the~~ related acts.

11 | **B(2)** **Within 30 days after service of a request in accordance with subsection B(1)**
12 | **of this rule, or such other time as the court may order or the parties may agree upon in**
13 | **writing, but not less than 45 days after service of the summons if the request is served on**
14 | **a defendant,** ~~A request shall not require a defendant to produce or allow inspection,~~ **copying,**
15 | **entry,** or other related acts before the expiration of 45 days after service of summons, unless
16 | ~~the court specifies a shorter time. The a party that receives service of a request shall~~ **serve a**
17 | **response that includes the following:**

- 18 | (a) a statement that, except as specifically objected to, any requested item within the
19 | party's possession or custody is provided, or will be provided or made available within
20 | the time allowed and at the place and in the manner specified in the request, which items
21 | shall be organized and labeled to correspond with the categories in the request;
22 | (b) as to any requested item not in the party's possession or custody, a statement that
23 | reasonable effort has been made to obtain it, unless specifically objected to, or that no
24 | such item is within the party's control;
25 | (c) as to any land or other property, a statement that entry will be permitted as requested
6 | unless specifically objected to; and
(d) any objection to a request or a part thereof and the reason for each objection. ~~comply~~

1 with the request unless that party objects to the request, with a statement of reasons for each
2 objection, before the time specified in the request for allowing the inspection and performing
3 the related acts.

4 **B(3) Any objection not stated in accordance with subsection B(2) of this rule is**
5 **waived. Any objection to only a part of a request shall clearly state the part objected to.**
6 **An objection does not relieve the requested party of the duty to comply with any request**
7 **or part thereof not specifically objected to. An objection to part of an item or category of a**
8 **requested item shall specify the objectionable part.**

9 **B(4) A party served in accordance with subsection B(1) is under a continuing**
10 **duty during the pendency of the action to produce promptly of this rule shall promptly**
11 **produce any item responsive to the request and not objected to which comes into the**
12 **party's possession, or custody, or contro during the pendency of the action.** ~~The duty to~~
13 ~~comply with the request is a continuing duty during the pendency of the action.~~

14 ~~Notwithstanding any other response or objection, a party that subsequently discovers any~~
15 ~~document or thing that the request identifies shall produce or allow inspection of the item, or~~
16 ~~object in the manner described in this paragraph, within a reasonable time after discovering the~~
17 ~~item.~~

18 **B(5) A party who moves for an order under Rule 46A(2) regarding any objection or**
19 **other failure to respond or to permit inspection, copying, entry, or related acts as**
20 **requested, shall do so within a reasonable time. The party submitting the request may move**
21 **for an order under Rule 46 A with respect to any objection to or other failure to respond to the**
22 **request or any part thereof, or any failure to permit inspection as requested.**

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24 **Commentary: The trial court has inherent authority to require a party to produce a**
25 **privilege log.**

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ORCP 43 B Version A Redline

~~**B-Procedure.** B(1) A party may serve the a request on the plaintiff after commencement of the action and on any other party with or after service of the summons on that party. The request shall set out the **identify any items requested for inspection, copying, entry, and related acts.** that the requesting party desires to inspect 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 for making the inspection and performing the related acts. A request shall not require a defendant to produce or allow inspection or other related acts before the expiration of 45 days after service of summons, unless the court specifies a shorter time. The party that receives service of a request shall comply with the request unless that party objects to the request, with a statement of reasons for each objection, before the time specified in the request for allowing the inspection and performing the related acts. An objection to part of an item or category of a requested item shall specify the objectionable part. The duty to comply with the request is a continuing duty during the pendency of the action. Notwithstanding any other response or objection, a party that subsequently discovers any document or thing that the request identifies shall produce or allow inspection of the item, or object in the manner described in this paragraph, within a reasonable time after discovering the item. The party submitting the request may move for an order under Rule 46 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(2) Within 30 days after service of a request in accordance with subsection B(1) of this rule, or such other time as the court may order or the parties may agree upon in writing, a party shall serve a response, which shall include:(a) a statement that, except as specifically objected to, any requested item within the party's possession or custody is provided, or will be provided or made available within the time allowed and at the place and in the manner specified in the request, which items shall be organized and labeled to correspond with the categories in the request;

1 (b) as to any requested item not in the party's possession or custody, a statement that
2 reasonable effort has been made to obtain it, unless specifically objected to, or that no such
3 item is within the party's control;

4 (c) as to any land or other property, a statement that entry will be permitted as requested
5 unless specifically objected to; and

6 (d) any objection to a request or a part thereof and the reason for each objection.

7 B(3) Any objection not stated in accordance with subsection B(2) of this rule is
8 waived. Any objection to only a part of a request shall clearly state the part objected to. An
9 objection does not relieve the requested party of the duty to comply with any request or part
10 thereof not specifically objected to.

11 B(4) A party served in accordance with subsection B(1) of this rule shall promptly
12 produce any item responsive to the request and not objected to which comes into the party's
13 possession or custody during the pendency of the action.

14 B(5) A party who moves for an order under Rule 46A(2) regarding any objection or
15 other failure to respond or to permit inspection, copying, entry, or related acts as requested,
16 shall do so within a reasonable time.

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19 **Commentary: The trial court has inherent authority to require a party to produce a
20 privilege log.**
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3 **ORCP 43 B**

4 **B(1) Procedure.** A party may serve ~~the a~~ request on the plaintiff after
5 commencement of the action and on any other party with or after service of the summons on
6 that party. The request shall ~~set out the~~ **identify any items requested for inspection,**
7 **copying, or related acts** that the requesting party desires to inspect either by individual item
8 or by category and described each item and category with reasonable particularity-, **designate**
9 **any land or other property upon which entry is requested, and shall specify a reasonable**
10 **time, place, and manner for the inspection, copying, entry and related acts.** The request
11 shall specify a reasonable time, place, and manner for making the inspection and performing
12 the related acts. A request shall not require a defendant to produce or allow inspection or other
13 related acts before the expiration of 45 days after service of summons, unless the court
14 specifies a shorter time. The party that receives service of a request shall comply with the
15 request unless that party objects to the request, with a statement of reasons for each objection,
16 before the time specified in the request for allowing the inspection and performing the related
17 acts. An objection to part of an item or category of a requested item shall specify the
18 objectionable part. The duty to comply with the request is a continuing duty during the
19 pendency of the action. Notwithstanding any other response or objection, a party that
20 subsequently discovers any document or thing that the request identifies shall produce or
21 allow inspection of the item, or object in the manner described in this paragraph, within a
22 reasonable time after discovering the item. The party submitting the request may move for an
23 order under Rule 46 A with respect to any objection to or other failure to respond to the
24 request or any part thereof, or any failure to permit inspection as requested.

25 **B(2) A request shall not require a defendant to produce or allow inspection,**
26 **copying entry, or other related acts before the expiration of 45 days after service of**

1 summons, unless the court specifies a shorter time. The party who receives service of a
2 request shall serve a response that includes the following:

3 (a) a statement that, except as specifically objected to, any requested item within the
4 party's possession or custody is provided, or will be provided or made available within
5 the time allowed and at the place and in the manner specified in the request, which
6 items shall be organized and labeled to correspond with the categories in the request;

7 (b) as to any requested item not in the party's possession or custody, a statement that
8 reasonable effort has been made to obtain it, unless specifically objected to, or that no
9 such item is within the party's control;

10 (c) as to any land or other property, a statement that entry will be permitted as
11 requested unless specifically objected to; and

12 (d) any objection to a request or a part thereof and the reason for each objection.

13 B(3) Any objection not stated in accordance with subsection B(2) of this rule is
14 waived. Any objection to only a part of a request shall clearly state the part objected to.
15 An objection does not relieve the requested party of the duty to comply with any request
16 or part thereof not specifically objected to.

17 B(4) A party served in accordance with subsection B(1) of this rule shall
18 promptly produce any item responsive to the request and not objected to which comes
19 into the party's possession or custody during the pendency of the action.

20 B(5) A party who moves for an order under Rule 46A(2) regarding any objection
21 or other failure to respond or to permit inspection, copying, entry, or related acts as
22 requested, shall do so within a reasonable time.

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24 **Commentary: The trial court has inherent authority to require a party to produce a
25 privilege log.**
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1 **ORCP 43 B**

2 B(1) A party may serve a request on the plaintiff after commencement of the action
3 and on any other party with or after service of the summons on that party. The request shall identify
4 any items requested for inspection, copying, or related acts by individual item or by category
5 described
6 with reasonable particularity, designate any land or other property upon which entry is
7 requested,
8 and shall specify a reasonable place and manner for the inspection, copying, entry, and related acts.

9 B(2) Within 30 days after service of a request in accordance with subsection B(1) of this
10 rule, or such other time as the court may order or the parties may agree upon in writing, a party shall
11 serve a response, which shall include:

12 (a) a statement that, except as specifically objected to, any requested item within the party's
13 possession or custody is provided, or will be provided or made available within the time allowed and
14 at the place and in the
15 manner specified in the request, which items shall be organized and labeled to correspond with the
16 categories in the request;

17 (b) as to any requested item not in the party's possession or custody, a statement that reasonable
18 effort has been
19 made to obtain it, unless specifically objected to, or that no such item is within the party's control;

20 (c) as to any land or other property, a statement that entry will be permitted as requested unless
21 specifically objected to; and

22 (d) any objection to a request or a part thereof and the reason for each objection.

23 B(3) Any objection not stated in accordance with subsection B(2) of this rule is waived. Any
24 objection to only a part of a request shall clearly state the part objected to. An objection does not
25 relieve the requested party of the duty to comply with any request or part thereof not specifically
26 objected to.

1 B(4) A party served in accordance with subsection B(1) of this rule shall promptly produce
2 any item responsive to the request and not objected to which comes into the party's possession or
3 custody during the pendency of the action.

4 B(5) A party who moves for an order under Rule 46A(2) regarding any objection or other
5 failure to respond or to permit inspection, copying, entry, or related acts as requested, shall do so
6 within a reasonable time.

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8 Commentary: The trial court has inherent authority to require a party to produce a privilege log.

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1 **ORCP 43 B (Draft Version B)**

2 B(1) A party may serve a request on the plaintiff after commencement of the action
3 and on any other party with or after service of the summons on that party. The request shall identify
4 any items requested for inspection, copying, or related acts by individual item or by category
5 described
6 with reasonable particularity, designate any land or other property upon which entry is
7 requested,
8 and shall specify a reasonable **time**, place, and manner for the inspection, copying, entry, and related
9 acts.

10 **B(2) A request shall not require a defendant to produce or allow inspection, copying**
11 **entry, or other related acts before the expiration of 45 days after service of summons, unless**
12 **the court specifies a shorter time. The party who receives service of a request shall serve a**
13 **response that includes** the following:

14 (a) a statement that, except as specifically objected to, any requested item within the party's
15 possession or custody is provided, or will be provided or made available within the time allowed
16 and at the place and in the
17 manner specified in the request, which items shall be organized and labeled to correspond with the
18 categories in the request;

19 (b) as to any requested item not in the party's possession or custody, a statement that reasonable
20 effort has been
21 made to obtain it, unless specifically objected to, or that no such item is within the party's control;

22 (c) as to any land or other property, a statement that entry will be permitted as requested unless
23 specifically objected to; and

24 (d) any objection to a request or a part thereof and the reason for each objection.

25 B(3) Any objection not stated in accordance with subsection B(2) of this rule is waived.
26 Any objection to only a part of a request shall clearly state the part objected to. An objection does

1 not relieve the requested party of the duty to comply with any request or part thereof not
2 specifically objected to.

3 B(4) A party served in accordance with subsection B(1) of this rule shall promptly produce
4 any item responsive to the request and not objected to which comes into the party's possession or
5 custody during the pendency of the action.

6 B(5) A party who moves for an order under Rule 46A(2) regarding any objection or other
7 failure to respond or to permit inspection, copying, entry, or related acts as requested, shall do so
8 within a reasonable time.

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10 Commentary: The trial court has inherent authority to require a party to produce a privilege log.

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12 *Additions, as compared to the other version, are in **bold**. Please note that there are also some
13 minor deletions, as compared to the other version, in order to make sentences grammatical.

ORCP 43

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3 B(1) A party may serve a request on the plaintiff after commencement of the action
4 and on any other party with or after service of the summons on that party. The request shall
5 identify any item requested for inspection, copying, or related acts by individual item or by
6 category described with reasonable particularity, and designate any land or other property upon
7 which entry is requested, and shall specify a reasonable place and manner for the inspection,
8 copying, or related acts.

9 B(2) Within no more than 30 days after being served with a request in accordance
10 with section B(1) of this rule a party shall serve a response including the following: (a) A
11 statement that, except as specifically objected to, any item then within the party's possession or
12 custody and requested for copying, inspection and related acts, is therewith provided, or will be
13 otherwise provided or made available for those purposes, at the time and place, and in the
14 manner specified in the request; (b) indication of the particular request to which any item
15 provided with the statement is responsive; (c) as to any requested item within the party's control,
16 but not provided with the statement or specifically objected to, a statement that reasonable effort
17 has been made to obtain it for the purpose of providing or making it available for inspection,
18 copying and related acts; (d) as to any land or other property entry upon which is
19 requested a statement that entry will be permitted as requested unless the request
20 is specifically objected to, and (e) indication of any request as to which there is no
21 responsive item within that party's possession, custody or control.

22 B(3) Any objection to a request shall be stated specifically in the statement required
23 by subsection B(2) of this rule and shall include any reason therefor. Any
24 objection not so stated is thereby waived. Any objection to only a part of a request
25 shall clearly state the part objected to. An objection does not relieve the
26 requested party of the duty to comply with any request or part thereof not specifically

1 objected to.

2 B(4) A party served in accordance with subsection B(1) of this rule is under a duty
3 throughout the pendency of the action promptly to produce in the manner specified in
4 the request any item responsive to the request and not objected to that is discovered
5 subsequently to service of the statement required by subsection B(2) of this rule.

6 B(5) The party submitting the request shall move within a reasonable time for an order
7 under Rule 46A(2) with respect to any objection or other failure to respond to the request
8 or any part thereof or any failure to permit inspection as requested.