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“Tip of the Month”

The New Proportional and Automatic Discovery (“PAD”) Rules

Civil litigation is governed by rules of procedure in each jurisdiction. New Hampshire courts have recently taken steps to modernize their rules of civil procedure. Designed to make the civil litigation process more efficient and affordable, a civil rules pilot program began in 2010 in Strafford and Carroll County Superior Courts. On October 1, 2012, the pilot project expanded into Hillsborough County Superior Courts North (Manchester) and South (Nashua), now known as the Proportional and Automatic Discovery (“PAD”) Rules.

The new PAD rules abolish the old Writ of Summons and Return Date. Instead, each claimant (plaintiff) will now file a Complaint in court to start a civil (lawsuit) or equity (injunction) case and then serve the Complaint on the defendant. Previously, we had served process first, and then filed our Writ with the court.

The defendant must file an Appearance and an Answer to the Complaint within 30 days from the date of service. The Answer is responsive to each allegation in the Complaint, admitting the allegation, denying it, or indicating that the defendant does not have enough information to determine whether to admit or deny the allegation. The Answer also explains the defendant’s side of the story, and the defendant can include Counterclaims.

The big difference with the PAD rules is in the discovery phase of litigation. The old rules required the parties to pry out the case information from one another through costly discovery procedures. Now the parties have to hand it all over up front. If a party wants to use something at trial, the party must disclose it. Discovery is now almost like “open file.”

Each party must disclose its witnesses and a summary of what each witness will say. Parties must produce copies of all documents that will be used as exhibits. Plaintiff must provide discovery within 30 days of the defendant’s Answer, including Plaintiff’s computation of damages. Defendants must disclose discovery within 60 days of the Answer, including their insurance coverage. Each party has a duty to supplement “promptly” any new information.

If you need help with a civil court case, whether you are the plaintiff or defendant in a lawsuit, please do not hesitate to give us a call at 668-1971 or contact us by e-mail at *mailbox @ biz-patlaw.com*.

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