

1 **1-034. Production of documents and things and entry upon land for inspection and**  
2 **other purposes.**

3 A. **Scope.** Any party may serve on any other party a request:

4 (1) to produce and permit the party making the request, or someone acting  
5 on the requestor's behalf, to inspect, [~~and~~] copy, test or sample any designated documents  
6 , electronically stored information [~~-(including writings, drawings, graphs, charts,~~  
7 ~~photographs, phono records and other data compilations from which information can be~~  
8 ~~obtained, translated, if necessary, by the respondent through detection devices into~~  
9 ~~reasonable usable form);] or [to inspect and copy, test or sample] any tangible things which  
10 constitute or contain matters within the scope of Rule 1-026 NMRA and which are in the  
11 possession, custody or control of the party upon whom the request is served; or~~

12 (2) to permit entry upon designated land or other property in the  
13 possession or control of the party upon whom the request is served for the purpose of  
14 inspecting and measuring, surveying, photographing, testing or sampling the property or any  
15 designated object or operation thereon, within the scope of Rule 1-026 NMRA.

16 B. **Procedure.** The request may, without leave of court, be served upon the  
17 plaintiff after commencement of the action and upon any other party with or after service of  
18 the summons and complaint upon that party. The request shall set forth the items to be  
19 inspected either by individual item or by category and describe each item and category with  
20 reasonable particularity. The request shall specify a reasonable time, place and manner of  
21 making the inspection and performing the related acts. The request may specify the form  
22 or forms in which electronically stored information is to be produced.

1           The party upon whom the request is served shall serve a written response within  
2 thirty (30) days after the service of the request, except that a defendant may serve a response  
3 within forty-five (45) days after service of the summons and complaint upon that defendant.  
4 The court may allow a shorter or longer time. The response shall state, with respect to each  
5 item or category, that inspection and related activities will be permitted as requested, unless  
6 the request is objected to, including an objection to the requested form or forms for  
7 producing electronically stored information, stating [in which event] the reasons for  
8 objection [shall be stated]. If objection is made to part of an item or category, the part shall  
9 be specified. If objection is made to the requested form or forms for producing electronically  
10 stored information, or if no form was specified in the request, the responding party must state  
11 the form or forms it intends to use. The party submitting the request may move for an order  
12 under Rule 1-037 NMRA with respect to any objection to or other failure to respond to the  
13 request or any part thereof, or any failure to permit inspection as requested.

14           Unless the parties otherwise agree, or the court otherwise orders,

15           (1)    [A] a party who produces documents for inspection shall produce them  
16 as they are kept in the usual course of business or shall organize and label them to  
17 correspond with the categories in the request;

18           (2)    if a request does not specify the form or forms for producing  
19 electronically stored information, a responding party must produce the information in a form  
20 or forms in which it is ordinarily maintained or in a form or forms that are reasonably usable;  
21 and

22           (3)    a party need not produce the same electronically stored information

1 in more than one form.

2 C. **Persons not parties.** A person not a party to the action may be compelled  
3 to produce documents and things or to submit to an inspection as provided in Rule 1-045  
4 NMRA.

5 [As amended, effective January 1, 1998; as amended by Supreme Court Order No. 09-8300-  
6 007, effective May 15, 2009.]

7 **Committee Commentary for 2009 Amendments.**

8 See the 2009 Committee Commentary to Rule 1-026 NMRA for additional information.

9 [As amended by Supreme Court Order No. 09-8300-007, effective May 15, 2009.]