

CCP 2031.280(a): New Document Production Obligations in California Civil Litigation

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Effective as of January 1, 2020, all civil litigants in California will have additional discovery burdens. The California Code of Civil Procedure now requires “[a]ny documents or category of documents produced in response to a demand for inspection, copying, testing, or sampling shall be identified with the specific request number to which the documents respond.” [Cal. Civ. Pro. § 2031.280\(a\)](#). This is a major departure from the prior rule. Responsive documents can no longer be produced as they were “kept in the usual course of business.” This new requirement applies to all pending cases in California, regardless of whether a case commenced prior to the amendment’s effective date of January 1, 2020.

According to the [California Senate Judiciary Committee](#), the change “will provide more streamlined and responsive document production, if at the slight expense of the producing parties.” But it takes time and money to “clearly articulate the connections between each document, or category of documents, and the relevant demands,” as described by the California Senate Judiciary Committee. These expenditures are especially germane for class-action litigation and any large commercial case. Responsive documents in these types of litigation can number in the hundreds of thousands, if not millions.

Conversely, reviewing documents produced by the other side will likely become more efficient. As the [Assembly Committee on Judiciary](#) recognized, “making sense of an unorderly production is an inefficient use of time and effort by litigants.” It reasoned the amendment “will serve as a great tool to help people clarify whether documents were in fact produced in response to each category.” The amendment will also enable parties to hone in on important documents. As reported by the Consumer Attorneys of California and California Defense Counsel to the California Legislature, “[o]ften responsive discovery simply hands over reams of documents without specifying the specific demands they are responsive to, leaving the requesting party to make the connections.”

Parties will need to grapple with procedural unknowns, in addition to the aforementioned financial ones. It is unclear how courts will harmonize the amended version of § 2031.280(a) with other provisions of the California Code of Civil Procedure. For example, will the courts take the position that other provisions, such as [Cal. Civ. Pro. § 2023.010\(c\)](#), which protects parties from impermissibly burdensome or expensive discovery procedures, trumps the new identification requirement? Additionally, Legislators did not specify how parties should (1) identify documents that are responsive to multiple requests or (2) update or supplement their original labeling of responsive documents.

The milestone amendment will likely transform the normal course of discovery in California. Enlarged schedules could become commonplace as parties need more time to link responsive documents to their accompanying request numbers. Parties may also be financially-incentivized to object to document requests on a more frequent basis (instead of devoting additional resources to label document productions), thereby shifting the economic burden onto the requesting party.

Until then, civil litigants in California should monitor developing case law and double check any applicable standing orders to make sure they are in compliance. Failure to comply with discovery obligations can lead to various monetary and evidentiary sanctions pursuant to [Cal. Civ. Pro. §§ 2023.010-2023.040](#).

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