

**Rule 7026-1**  
**Discovery – General**

**Certification of Noncompliance.** If either party fails to perform as required in Fed. R. Civ. P. 26 the aggrieved party must file an affidavit stating the facts which constitute the failure to cooperate. Upon consideration of a certification of noncompliance and any response thereto, the court may order that the adversary proceeding continue as a defaulted matter as follows:

- (1) If the plaintiff is in default regarding the holding of the Fed. R. Civ. P. 26(f) conference, the filing of the discovery plan, or any of the requirements specified in that rule, the court may dismiss the matter for want of diligent prosecution. The plaintiff may have the matter reinstated only upon the filing of a motion showing special circumstances within fourteen (14) days of the dismissal.
  
- (2) If the defendant is in default regarding the holding of the Fed. R. Civ. P. 26(f) conference, the filing of the discovery plan, or any of the requirements specified in that rule, the defendant may not be allowed to present its defense at trial, except by leave of court, for cause shown.