

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 2039

Amending Criminal Rule 16(e)
concerning discovery violations.

IT IS ORDERED:

Criminal Rule 16(e) is amended to read as follows:

Rule 16. Discovery.

* * * *

(e) ***Failure to Comply with Discovery Rule or Order.***
Sanctions.

(1) ~~*Failure to Comply with Discovery Rule or Order.*~~ If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with an applicable discovery rule or an order governing discovery issued pursuant thereto, the court may ~~shall~~:

(A) order that party to permit the discovery or inspection; specify its time, place, and manner; and prescribe other just terms and conditions; ~~order such party to permit the discovery of material and information not previously disclosed~~

(B) schedule and hold a discovery hearing;

(C) prohibit that party from introducing the undisclosed evidence;

(D) grant a continuance;

(E) enter a mistrial at the request of the aggrieved party;

or

(F) enter ~~any such~~ other order as it deems just under the circumstances.

(2) ~~Willful Violations.~~ After notice and an opportunity to be heard, the The court may impose appropriate sanctions on any attorney who willfully violates the disclosure duties imposed by this rule; or ~~who willfully violates an applicable discovery order issued under this rule.~~

(3) Prior to making an order under paragraph (e)(1) or (e)(2) of this rule, the court shall consider

(A) the nature of the violation, including the reasonableness of the conduct and the materiality of the information that the party failed to disclose;

(B) the prejudice to the opposing party;

(C) the relationship between the information the party failed to disclose and the proposed sanction;

(D) whether a lesser sanction would adequately protect the opposing party and deter other discovery violations;

(E) whether a motion was filed under paragraph (d)(8) of this rule, if applicable; and

(F) other factors deemed appropriate by the court or required by law.

(f) **Omnibus Hearing.**

* * * *

DATED: June 11, 2025

EFFECTIVE DATE: October 15, 2025

/s/ _____
Chief Justice Carney

/s/ _____
Justice Borghesan

/s/ _____
Justice Henderson

/s/ _____
Justice Pate

/s/ _____
Justice Oravec