



7 March 2011

Caroline Anderson  
Clerk to the Rules Committee  
Auckland High Court  
PO Box 60  
**Auckland 1010**

By email: [caroline.anderson@justice.govt.nz](mailto:caroline.anderson@justice.govt.nz)

Dear Caroline

**Proposals for reform of the law of discovery including electronic discovery and inspection**

The New Zealand Law Society (Society) welcomes the opportunity to comment on the Rules Committee Consultation Paper on *Proposals for reform of the law of discovery including electronic discovery and inspection*, 13 December 2010 (consultation paper).

The Society considers that the proposals reflect a good and pragmatic solution to the issues described in the consultation paper, and supports the draft High Court Amendment Rules (No 1) 2011.

The following comments, prepared with assistance from the Society's Civil Litigation and Tribunals Committee, are offered:

*Draft rule 8.22*

Draft rule 8.22(e) states that a Judge must make a non-standard discovery order in a proceeding where the number of documents to be discovered by the parties is reasonably anticipated to exceed 200.

The Committee considers that, if this rule is to be retained, a more realistic limit would be 2,000 documents.

*Draft rule 8.45*

It appears that there has been a drafting error, and that what is shown as 8.45(1)(c) should in fact be 8.45(2)(c).

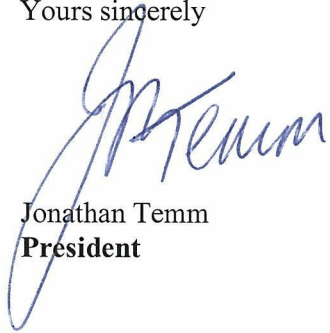
*Ongoing obligations*

The rules do not specify the continuing obligation to make discovery of documents up until the hearing. It would appear that there should be some statement of this in the rules, as well as how further discovery is to be treated in the electronic list of documents.

The Society hopes that the above comments are of assistance to the Rules Committee. If you wish to discuss any matters raised in this letter please contact the Civil Litigation and Tribunals

Committee convener, Andrew Beck, through the Civil litigation and Tribunals Committee secretary, Rhyn Visser (phone (04) 463 2962 or email [rhyn.visser@lawsociety.org.nz](mailto:rhyn.visser@lawsociety.org.nz)).

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Jonathan Temm', with a large, sweeping flourish extending downwards and to the left.

Jonathan Temm  
**President**