Discovery: Gather Information for Your Case

Discovery is a formal legal process through which parties to a case gather information and evidence from each other. This can be the most important step in a case because it allows the parties to obtain the information and evidence needed to present their arguments; to determine what evidence the other side plans to present at trial; and helps the parties focus their cases on the issues that are truly in dispute, which saves time and money at trial. In some cases, the information and evidence obtained during discovery points out strengths in your case, or weaknesses in the opposing party's case, which can lead to settlement offers.

Discovery procedures take place outside of court. Parties are expected to work with each other to obtain discovery and resolve disputes. Court intervention is only allowed after the parties have attempted to resolve disputes on their own.

California law places strict limits on the numbers, types, and timing of discovery requests. Because of this, developing a discovery plan is crucial to most litigants, to ensure that they are able to obtain the information they need for trial.

Discovery Methods

Litigants have several discovery methods available to them in a civil case. The methods used will depend on what information and documents are needed in the case.

Requests for Admission

Requests for admissions are used to ask another party to admit that certain facts are true, or that certain documents are authentic, so that these facts do not need to be proven or documents authenticated at trial. Requests for admissions are generally not used to obtain new information, but instead to simplify a case by eliminating the facts that must be proven at trial. Ideally, requests for admissions are used to establish all the facts needed to prove a cause of action or

an affirmative defense.

For more information:

Propounding Requests for Admissions (https://www.saclaw.org/resource_library/discovery-requests-for-admission/)
A Step-by-Step guide from the Sacramento County Public Law Library.

Introduction to Discovery – Part 2: Propounding Requests for Admissions
(https://www.saclaw.org/video-library/discovery-2-request-for-admissions/)
Part 2 of this video series from the Sacramento County Public Law Library's Civil Self Help Center will help you understand what Requests for Admissions are, and how to propound these types of requests.

Responding to Requests for Admissions (https://www.saclaw.org/resource_library/discovery-responding-to-requests-for-admissions/)
A Step-by-Step guide from the Sacramento County Public Law Library.

Introduction to Discovery – Part 3: Responding to Requests for Admissions
(https://www.saclaw.org/resource_library/discovery-responding-to-requests-for-admissions/) Part 3 of this video series from the Sacramento County Public Law Library's Civil Self Help Center will help you understand how to respond to Requests for Admissions.

Form Interrogatories

Interrogatories are useful for obtaining new information. Interrogatories allow litigants to ask who, what, where, when and why questions, which the opposing party must answer in writing and under oath. Form interrogatories are an easy way for parties to ask common questions by simply checking the boxes for the questions they wish to ask.

For more information:

Propounding Form Interrogatories
(https://www.saclaw.org/video-library/discovery-4-form-interrogatories/) A Step-by-Step guide from the Sacramento County Public Law Library.

Responding to Interrogatories
(https://www.saclaw.org/resource_library/discovery-responding-to-interrogatories/) A Step-by-Step guide from the Sacramento County Public Law Library.

Introduction to Discovery – Part 4: Propounding Form Interrogatories
(https://www.saclaw.org/video-library/discovery-4-form-interrogatories/) Part 4 of this video series from the Sacramento County Public Law Library's Civil Self Help Center will help you understand what Form Interrogatories are, and how to propound these types of requests.

Introduction to Discovery – Part 5: Responding to Form Interrogatories
(https://www.saclaw.org/video-library/discovery-5-form-interrogatories/) Part 5 of this video series from the Sacramento County Public Law Library's Civil Self Help Center will help you understand how to respond to Form Interrogatories.

Special Interrogatories

Special interrogatories, like form interrogatories, are useful for obtaining new information, and for asking who, what, where, when and why questions. Special interrogatories are used to ask questions that are not included in the form interrogatories. The parties write their own questions, tailored to obtain facts needed to prove their case or disprove a point the other side must establish to win theirs.

For more information:

Propounding Special Interrogatories
(https://www.saclaw.org/resource_library/discovery-special-interrogatories/) A Step-by-Step guide from the Sacramento County Public Law Library.

Responding to Interrogatories
(https://www.saclaw.org/resource_library/discovery-responding-to-interrogatories/) A Step-by-Step guide from the Sacramento County Public Law Library.

Introduction to Discovery – Part 6: Propounding Special Interrogatories
(https://www.saclaw.org/video-library/discovery-6-special-interrogatories/) Part 6 of this video series from the Sacramento County Public Law Library's Civil Self Help Center will help you understand what Special Interrogatories are, and how to propound these types of requests.

Introduction to Discovery – Part 7: Responding to Special Interrogatories
(https://www.saclaw.org/video-library/discovery-7-response-to-special-interrogatories/) Part 7 of this video series from the Sacramento County Public Law Library's Civil Self Help Center will help you understand how to respond to Special Interrogatories.

Requests for Production or Inspection

These requests may be used to inspect and copy documents or tangible items held by the other party. Requests for inspection can also be used to test, measure, photograph, etc., physical evidence in the other party's possession or control. Generally, a request for production asks the responding party to make available the original documents, but a requesting party may request that photocopies be sent instead, if inspection of the original document is not necessary.

For more information:

Propounding Requests for Production or Inspection
(https://www.saclaw.org/resource_library/discovery-request-for-production-of-documents-and-things/) A Step-by-Step guide from the Sacramento County Public Law Library.

Responding to Requests for Production or Inspection
(https://www.saclaw.org/resource_library/discovery-responding-to-requests-for-production-or-inspection/)
A Step-by-Step guide from the Sacramento County Public Law Library.

Introduction to Discovery – Part 8: Propounding Requests for Production
(https://www.saclaw.org/video-library/discovery-8-request-for-production-of-documents-and-things/) Part 8 of this video series from the Sacramento County Public Law Library's Civil Self Help Center will help you understand what Requests for Production are, and how to propound these types of requests.

Introduction to Discovery – Part 9: Responding to Requests for Production
(https://www.saclaw.org/video-library/discovery-9-response-to-request-for-production/) Part 9 of this video series from the Sacramento County Public Law Library's Civil Self Help Center will help you understand what Requests for Production are, and how to respond to these types of requests.

Depositions

A deposition is the taking of an oral statement of a witness or party under oath. The deposing party (the “asking” person) may ask the deponent (the “responding” person) questions to obtain information, discover what the party knows about a situation or event, and to determine what their testimony would be at trial. Depositions are taken in the presence of a court reporter, and the transcript may be used as evidence if the witness changes his or her story at trial. Depositions tend to be a very expensive method of discovery.

For more information:

Discovery: Depositions, a Step by Step Guide (https://www.saclaw.org/resource_library/discovery-depositions/) from the Sacramento County Public Law Library.

Subpoenas

A subpoena is court order issued at the request of a party that requires a witness to testify, either at a deposition or trial. Subpoenas may also be used to require someone who is not a party to the case to produce specified evidence, such as documents or business records. During the discovery process, deposition subpoenas are often used to get testimonial evidence or obtain documents and records prior to trial.

For more information:

How to Get Business Records for Litigation (https://www.saclaw.org/resource_library/discovery-business-records-subpoena/)
A Step-by-Step guide from the Sacramento County Public Law Library.

Disclosure of Expert Witnesses

Parties may demand a simultaneous exchange of expert witness information, including the name and address of any expert expected to testify, as well as any reports and other writings made by

the expert for this case. This exchange of information allows parties time to prepare to cross-examine witnesses who have specialized knowledge in some scientific or technical field.

For more information:

Exchange of Expert Witness Information (https://www.saclaw.org/resource_library/discovery-exchange-of-expert-witness-information/) A Step-by-Step guide from the Sacramento County Public Law Library.

Physical or Mental Examination

In cases where a party's physical or mental condition is in controversy, it may be possible to require that party to submit to a physical or mental examination. This is most common in personal injury cases, when the defendant may request a physical examination to verify the plaintiff's claimed injuries. This discovery method is usually very expensive.

Discovery Problems

During the discovery process, it is not uncommon to encounter problems. The most common problem is that the opposing side fails to respond to your formal discovery requests. If the opposing side fails to respond to a request for admissions, you may ask the court for an order to have the facts you sought to have the other side admit deemed true. If the opposing side fails to respond to your form or special interrogatories, or a request for production, you may file a motion seeking an order that the opposing party be compelled to respond. Another common problem occurs when the opposing party responds to your requests, but the responses are incomplete. In that situation, you may ask the court for an order compelling the opposing party to provide further responses.

The Law Library has guides on the most common of these types of motions. See these guides for background information and step-by-step instructions on each type of motion.

Motion to Compel Discovery Responses (https://www.saclaw.org/resource_library/motion-to-compel-discovery-responses/)

Motion to Deem Facts Admitted **(https://www.saclaw.org/resource_library/motion-to-deem-facts-admitted/)**

Relief from Admissions **(https://www.saclaw.org/resource_library/relief-from-admissions/)**