

6.01 | INTRO - DISCOVERY

Discovery is the exchange of information between opposing parties. Rules 26 through 37 of the Federal Rules of Civil Procedure provide for pretrial discovery. In addition, each judge has his or her own set of discovery procedures which are contained in pretrial instructions. The Local and Federal Rules are followed in every judge's court.

There are five devices for conducting discovery: (1) depositions: oral or by written questions (Federal Rules 27-32); (2) interrogatories to parties (Federal Rule 33); (3) production for inspection of documents and other tangibles (Federal Rule 34); (4) physical or mental examinations (Federal Rule 35); and (5) requests for admission (Federal Rule 36). The Federal Rules also define the scope of discovery, as well as set forth both the means for compelling the other side to turn over discovery material and protection from discovery that is too broad or too intrusive.

Federal Rule 26(b) states that the matter sought must be relevant to a claim or defense of any party or relevant to the subject matter involved in the pending action. However, the Federal Rules grant immunity from discovery to privileged information, i.e., communication between attorneys and clients, patient and physicians, information that may be self-incriminatory, information involving state or military secrets, etc. Discovery is also limited by the right of any person from whom discovery is sought to seek a court order protecting him or her from "annoyance, embarrassment, oppression, or undue burden or expense." (See Federal Rule 26(c).)

Note that relevancy for discovery purposes is much broader than relevancy for the purposes of admitting evidence at trial.

*(US District Court, New York, Western District // Buffalo, NY 14202
Pro Se Litigation Guidelines)*

