



# HARRIS LAW & CO.

Protecting Families & Businesses Through All of Life's Journeys

## HOW TO GET EVIDENCE: UNDERSTANDING THE DISCOVERY PROCESS

Discovery is a possibility in every legal case and family law is no exception. Family Law discovery can be especially invasive, which adds to an already overwhelming process. So what is "discovery" and why should you care?

### *What is Discovery?*

Discovery is a part of any legal proceeding that mandates the disclosure of relevant documents that the other party has the right to obtain to build their case. You also have the right to submit questions and requests for documents to build your case. Discovery is used to pre-empt surprises at a potential trial or to avoid trial altogether.

### *What does Discovery look like?*

Discovery can be formal or informal, but regardless of formality it comes about when one party asks the other party to disclose information and documents relevant to building a case. Formal discovery is served upon you either personally or through your attorney with the general label "First Set of Request for Production of Documents and Interrogatories." These questions should be answered truthfully and are often under oath with the penalty of perjury.



### *Do I have to give them everything they're asking for?*

That depends. Discovery relates to any document that is likely to provide relevant information to the action. You can object to each question for a variety of reasons: relevance to the case, mutual possession of documents, overly burdensome, lack of custody/control over the documents, and many more. Essentially, if you don't have the documents in your possession or you think the question they're asking is too over-reaching. You can object to questions while still providing the answer or you can object to questions and not provide the answer. If you do not provide the answer you may be compelled to do so by the judge presiding over your case.

## HOW IS CHILD SUPPORT MODIFIED?

Child support can be modified after three years or after a substantial change in circumstances. Modification can be done through your child support case through the Department of Child Support or through a custody or divorce proceeding.



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This is a decision that your attorney should help you make to avoid costly missteps and contempt orders.

*What does discovery usually include for family law?*

Depending on your case, many documents are discoverable from both parties, such as: tax returns, retirement accounts, bank statements, text communications, copies of emails, infidelity occurrences, the condition of your home, and values of property and other assets. This is just the tip of the iceberg in the family law discovery process.

*What different types of Discovery are there?*

1. Requests for Production: These are used to obtain physical assets such as documents.
2. Interrogatories: These are used to get questions answered that one party has knowledge on.
3. Deposition: Depositions can be used to procure testimony before trial or used to give testimony in lieu of trial.

*What is a Motion to Compel?*

The party asked to complete discovery has 30 days to respond. If the party fails to respond in 30 days the other side requesting discovery can ask the court to make you answer. The formal term for this is a Motion to Compel.

This article just brushes the surface of what discovery is and how it is used. It is imperative that you have a focused family law attorney assist you with any discovery requests as there is no “undo” button and some answers may lead to legal ramifications beyond your knowledge.

*\*This article is only intended to give general information and not specific legal advice. Consult with an attorney on your situation before taking any legal action.*