

DISCOVERY PROCEDURES FOR *PRO SE* CIVIL CASES

MAGISTRATE JUDGE S. KATO CREWS

**UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO**

**Byron G. Rogers Courthouse
1929 Stout Street
Denver, CO 80294**

**Courtroom 204
Chambers C253**

**(303) 335-2124
Crews_Chambers@cod.uscourts.gov**

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I. Discovery Overview

“Discovery” is the process of exchanging information about a case with either the person on the other side of the case who is representing him or herself, or the attorney who represents the person or company on the other side. A person on the other side of the case who is representing himself is called the “*pro se* litigant.” An attorney who represents a person on the other side of the case is called the “opposing counsel.” **If the person on the other side of the case is represented by an attorney, you must communicate directly with the attorney, not with the person.** The rules of the Court require that the *pro se* litigant and opposing counsel cooperate with one another and treat each other with respect. Failure to do this would be a violation of the rules and may result in adverse consequences imposed by the court.

The discovery process begins with the *pro se* litigant or opposing counsel disclosing to one another certain information at the beginning of the case. This information is called “initial Rule 26(a)(1) Disclosures.” These disclosures are required under the Federal Rules of Civil Procedure and include the names and contact information for witnesses who have information that support a party’s claims or defenses; a copy or description of all documents, including electronic, that support a party’s claims or defenses; and for the plaintiff, a computation of damages. The rules also require disclosure of any insurance contract that might apply to the dispute.

II. Discovery Tools

There are four basic tools for discovery in a civil case: (1) written questions (“interrogatories”), (2) written requests for documents (“requests for production of documents”), (3) written requests that the other side admit certain facts (“requests for admission”) and (4) depositions. A deposition is a formal question-and-answer process in which a witness is placed under oath by a court reporter who makes a transcript of everything that is said at the deposition.

There are other discovery tools that you may use as well. If a *pro se* litigant has questions about how to conduct discovery in a case, please make an appointment with the Federal Pro Se Clinic (303-380-8786).

III. Discovery Disputes

Once the parties begin discovery in a case, there may be disagreements between the *pro se* litigant and opposing counsel about the information you are asking for. If the *pro se* litigant and opposing counsel have a disagreement about discovery, they MUST follow the steps below in the order listed:

¹ In an effort to make the process for addressing discovery disputes uniform for *pro se* litigants, all magistrate judges in this district have adopted these procedures.

- A. **Step 1:** Contact the *pro se* litigant or opposing counsel by telephone or in writing, and explain what you disagree about and why you disagree. Listen to what the *pro se* litigant or opposing counsel says and try to reach an agreement that resolves the dispute.
- B. **Step 2:** If the *pro se* litigant and opposing counsel are unable to reach an agreement that resolves the dispute under Step 1 above, the *pro se* litigant and opposing counsel shall agree on a time when they can make a **joint call** to Judge Crews' Chambers (303.335.2124) to explain the disagreement to the Court and seek resolution. **Judge Crews' Chambers will not take your call unless both the *pro se* litigant and opposing counsel are on the phone at the same time (in other words, a conference call). Judge Crews' Chambers may have to set another time to discuss the issue with the parties.**
- C. **Step 3:** ONLY if the *pro se* litigant or opposing counsel will not agree to call Judge Crews' Chambers about the discovery dispute, shall a party then file a written Motion for Discovery Hearing which: (1) explains how you contacted the *pro se* litigant or opposing counsel and what he or she said, and (2) tells the Court what your dispute is about. After a party files a written Motion for Discovery Hearing, all parties will receive additional instructions directly from the Court.

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