Public Counsel prepared these Guides, Forms, and Samples to provide pro se litigants in federal court a practical and informative resource for understanding and engaging in the discovery process.

This packet includes the following Guides, Forms, and Samples:

- Guide to Discovery Basics
- Guide to Initial Discovery Obligations
- Guide to Request for Production
- Guide to Request for Admissions
- Guide to Interrogatories
- Sample Joint Rule 26(f) Report
- Form for Plaintiff’s Initial Disclosures
- Form for Defendant’s Initial Disclosures

If you have questions or need assistance, please visit Public Counsel’s Federal Pro Se Clinic.

Federal Pro Se Clinic
U.S. Courthouse
312 N. Spring Street
Main Street Floor, Room G-19
Los Angeles, CA 90012

The Clinic is open on Mondays, Wednesdays, and Fridays, 9:30 a.m. to 12 noon, and 2:00 p.m. to 4:00 p.m. Visitors to the Clinic are seen on a first-come, first-served basis.
Public Counsel’s
Guides and Forms:
Discovery

2015 Edition

Section 1

Guide to
Discovery Basics

Federal Pro Se Clinic
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

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What is Discovery?

Discovery is the formal process of obtaining facts, documents, and evidence in your lawsuit in order to evaluate and prepare your case. The general framework for discovery is provided by Federal Rules of Civil Procedure 16, 26-37, and 45. In addition, the Court’s Local Rules and orders by the judge in your case may provide further guidance about discovery.

You can obtain evidence by using several tools of discovery, including interrogatories, requests for production, requests for admissions, depositions, and subpoenas. This guide will explain what discovery tools are available to you.

Why is Discovery Important?

The discovery process is one way you can gather the facts, documents, and evidence to support your claims and defenses. For example, if you have filed an employment discrimination case, you may need employment records or business agreements to prove your claims. Discovery is the formal way of obtaining those documents from another party or even from a person or entity that is not a party to the case.

What Can Be Discovered?

Generally, you can use discovery to obtain information that pertains to any of the claims or defenses in your lawsuit as long as the information is not legally protected under the attorney-client privilege or any other law. Some discoverable information, however, may be subject to privacy concerns or special privileges and will require a protective order before disclosure. The following are examples of facts, documents, and evidence you may be able to obtain through discovery:

- Business records related to the dispute in your case
- Names of parties and potential witnesses
- Government agency records
From Whom Can You Obtain Discovery?

The discovery process can be used not only to obtain information and documents from other parties to your lawsuit but also from people and entities not involved in your case ("non-parties"). The process for obtaining documents and information from parties and non-parties differs. The chart below illustrates these different methods.

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<tr>
<th>What kind of evidence are you trying to obtain?</th>
<th>What discovery tool should you use to obtain the evidence from a party?</th>
<th>What discovery tool should you use to obtain the evidence from a non-party?</th>
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<td>A document or thing</td>
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<td>See FRCP 30 and 45</td>
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When Does Discovery Begin?

The discovery process begins only after you have held the “conference of the parties” with your opposing counsel (or your unrepresented opponent(s)). Please see Public Counsel’s Guide to Initial Discovery Obligations for an explanation of the conference of the parties required by Federal Rule of Civil Procedure 26. Either the plaintiff or defendant can initiate this conference at any time after the defendant responds to the complaint. However, we strongly recommend that you take the initiative and schedule the conference of the parties.

When Does Discovery End?

The Court will likely impose a date for the end of discovery. You may find this deadline in the Court’s standing order, scheduling order or any other order related to your scheduling conference. Although some of these orders are not necessarily related to discovery, they may discuss discovery procedures and cutoff deadlines that differ from the Local Rules of the Central District of California. It is important to read everything on your docket and your judges’ webpages so that you will know whether any discovery deadlines exist in your case.

**WARNING!** You have an ongoing duty to supplement or amend any of your discovery responses or disclosures. (for example, in response to an Interrogatory, Request for Production, Request for Admission, or in an initial disclosure) if you learn that the information you have already provided is incomplete or incorrect. See Federal Rule of Civil Procedure 26(e) for more information.
Guide to Discovery:

- Initial Discovery Obligations

During the discovery period there are several steps you must take to fulfill your discovery obligations. Although some of these steps are not actively supervised by the Court, you must still know what Federal Rules of Civil Procedure and Local Rules of the Central District of California apply to you and when you must take these steps. This guide will explain these initial discovery steps in detail.

**Step 1  **Determine the Scheduling Conference Date or Read the Scheduling Order

To begin meeting your discovery obligations, determine when a “scheduling conference” has been set in your case or if the Court has issued a “scheduling order” instead.

A. **If the Court has set a Scheduling Conference:**

The scheduling conference is a hearing involving the parties in a lawsuit and the judge assigned to the case. The scheduling conference usually occurs after an answer or motion to dismiss has been filed with the Court. If the Court sets a scheduling conference, it will send you an order with the date and time. The order will also appear as an entry on your case docket. See Federal Rule of Civil Procedure 16 for more information.

B. **If the Court has issued a Scheduling Order:**

After the scheduling conference, the Court should issue a scheduling order. However, sometimes the Court will issue the scheduling order without holding a scheduling conference. If the Court has not held a scheduling conference within 120 days after the plaintiff has served any defendant with the complaint, you should assume that you will only receive a scheduling order from the judge and proceed with the conference of the parties and the filing of your Joint Discovery Plan (most commonly referred to as a “Joint 26(f) Report”) as noted below.

**Step 2  **Initiate the Conference of the Parties

Federal Rule of Civil Procedure 26 requires all parties that have appeared in the case to hold a “conference of the parties” to discuss and initiate the discovery process. This meeting can be held over the phone or in person. **You cannot ask for discovery from the other party until you have completed this step.** We suggest that you take the initiative and call your opposing counsel or unrepresented party to schedule this conference.

**Content**

Local Rule 26-1 and Federal Rule of Civil Procedure 26 specify the topics the parties must discuss at the conference of the parties. These include:

- a. The nature and basis of the claims and defenses in the case;
- b. Possibilities for settling or resolving the case;
- c. Issues related to preserving discoverable information;
- d. A Joint 26(f) Report;
- e. A proposed trial date and estimate of length of trial;
- f. The likelihood of joining additional defendants or plaintiffs to the case; and
- g. A date and time for the exchange of initial disclosures required by Rule 26(a)(1).
**Timing**

The parties generally must hold the conference of the parties no later than 21 days before the scheduling conference. The exceptions are as follows:

a. If no scheduling conference has been set by the Court, you may set the conference of the parties after the defendant has responded to the complaint. If no scheduling conference has been set by the Court, you must complete the conference of the parties no later than 21 days before the deadline for your judge to issue the scheduling order. This deadline is explained in Federal Rule of Civil Procedure 16(b)(2).

b. The Court may choose to relieve the parties of their obligation to participate in a conference of the parties. Check any orders from the judge in your case to see whether the judge has addressed this issue.

**Step 3  Provide the Other Side with your Initial Disclosures**

Federal Rule of Civil Procedure 26(a)(1) requires that each party provide “initial disclosures” to the other parties in writing without waiting for a formal request. These initial disclosures provide a description of the evidence you currently have in your possession to support your claims, including a list of your potential witnesses and a list of documents that support your claims and defenses. An initial disclosure template is included with this guide.

**Content**

Identify witnesses and documents (including electronically stored information) you “may use to support [your] claims or defenses.” In addition, if you are the plaintiff, provide the defendant with a detailed estimate and computation of how much money you believe you are owed. If you are the defendant, identify any insurance policies that may cover your liability. Note: You do not need to provide copies of any documents with this report. You only need to let the opposing parties know that you have these documents in your possession or control. It is the other side’s responsibility to make a formal Request for Production to obtain them.

**Timing**

Send your initial disclosures to opposing counsel (or your unrepresented opponent(s)) within 14 days after your conference of the parties, unless the Court’s scheduling order provides a different deadline. See Federal Rule of Civil Procedure 26 for more information.

**Service**

Do not file your initial disclosures with the Court. Send them to opposing counsel (or your unrepresented opponent(s)) with a certificate of service and keep a copy for yourself. You can send them by first class mail or, if you want proof of mailing, send them by return receipt, certified mail.

**WARNING!**

You must provide your initial disclosures to the other side. The failure to provide your initial disclosures may result in your inability to introduce the information at trial. Although you may agree with the other side not to make such disclosures, we recommend that you make the disclosures and that you insist that the other parties in your case comply with the initial disclosure rules as well.
Step 4  Draft and File a Joint Discovery Plan (Joint 26(f) Report)

Following a conference of the parties, the parties are required to jointly file a document titled “Joint Discovery Plan” (most commonly referred to as a “Joint 26(f) Report”) with the Court within 14 days. This report helps the judge decide when to schedule your trial, your discovery cut-off date, and other important dates in your case. A sample Joint 26(f) Report is included with this guide.

Content
The Joint 26(f) Report should contain the parties’ views and proposals on:

a. Changes to the timing, form, or even the requirement to exchange initial disclosures;
b. Potential types of discovery each party will seek from the other side;
c. When discovery should be completed;
d. Whether discovery should be conducted in phases or limited to particular issues;
e. Any issues about the discovery of electronic information, including how the electronic information should be produced;
f. Issues related to claims of privilege or protection of trial-preparation materials;
g. Potential changes to the limitations on discovery required by the Federal Rules of Civil Procedure or the Local Rules of the Central District of California;
h. Other orders the Court should issue under the Federal Rules of Civil Procedure; and
i. Any other information the judge in your case specifically requests in a “standing order” or any other orders. These orders can be found by looking at your docket or the judge’s webpage.

If you are the plaintiff in the case, you should take the initiative and prepare the first draft of the Joint 26(f) Report and send it to your opposing counsel (or unrepresented opponent(s)). Your opponents should make any additions or corrections and return it to you for your approval. Once you all agree on the Joint 26(f) Report, one of you should file it with the Court by the deadline. Typically, an attorney with e-filing privileges will file the document for the group, but you should be prepared to file it yourself.

Filing and Serving Your Joint 26(f) Report
If you have taken responsibility for filing the Joint 26(f) Report with the Court, file 1 original and 2 copies of the Joint 26(f) Report with Civil Intake. In addition, send 1 copy of the Joint 26(f) Report to your opposing counsel (or unrepresented opponent(s)) by mail on the same day that you file.

You may file your Joint 26(f) Report with the Court in person or by mail. Keep in mind that mailing the Joint 26(f) Report to the Court may delay the official date on which it is filed.

The addresses of the Civil Intake Divisions for the Central District of California courthouses are as follows:

**LOS ANGELES**
United States Courthouse  
Central District of California  
Western Division  
312 N. Spring St., Rm. G-8,  
Civil Intake  
Los Angeles, CA 90012

**SANTA ANA**
United States Courthouse  
Central District of California  
Southern Division  
411 West Fourth St., Ste. 1053  
Santa Ana, CA 92701-4516

**RIVERSIDE**
United States Courthouse  
Central District of California  
Eastern Division  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501
Step 5 Read the Court’s Scheduling Order

After you have filed the Joint 26(f) Report, you will receive a document from the Court called a “Scheduling Order.” This document is extremely important because it lists many deadlines for your case, including discovery deadlines, motion deadlines, and deadlines for required pre-trial documents. Be sure to read the scheduling order carefully because it will often change the deadlines originally set by the Federal Rules of Civil Procedure. Make a note of each important date in your calendar and review those dates frequently so that you do not forget them.

Also make sure you understand exactly what your judge means by the term “discovery cut-off” – does it include only discovery, like interrogatories and depositions, or does it also include motions to compel the opposing party to comply with his or her obligation to respond to discovery requests? Different judges may have different approaches to this issue.

What if you have not received a Scheduling Order?

If you have not received a scheduling order within 120 days after any defendant has been served or within 90 days after any defendant has appeared in your case and you have filed a Joint 26(f) Report, consider filing a “Request for Status Conference” with the Court.
Section 3

Guide to
Request for Production
What is a Request for Production?

A Request for Production (RFP) is a discovery tool that permits you to request documents or electronically stored information in the opposing side’s “possession, custody or control.” An RFP can also allow you to inspect, copy, test, or sample “tangible things” in the opposing side’s “possession, custody or control.” RFPs are governed by Federal Rule of Civil Procedure 34(a) and the corresponding Local Rules of the Central District of California.

Prepare to write your RFPs by carefully reading the entire complaint and the answer in your case. Make a discovery plan by creating a chart. List the legal elements of your claim or defense in the first column. In the second column, list the facts you think prove each element. In the third column, list what physical things you need to prove each element. The items in the last column will help you decide what to include in your RFPs. A template of this chart is included with this guide.

Content of Requests for Production

1. State that you are requesting documents or things under Federal Rule of Civil Procedure 34(a). State that the production of documents is due within 30 days after you serve the requests.

2. Request a reasonable, yet specific, time, place, and manner of production and inspection. The following phrase contains sample wording:

   “Defendant is required to produce the following documents for inspection or copying at 9:00 a.m. on the 7th of July, 2004, at 211 North Madison Avenue, Los Angeles, CA 90021. In lieu of making a personal appearance on the production date, Defendant may append copies of the requested documents to its response to Plaintiff’s Request for Production of Documents.”

3. Define the terms you will use in your request. Title this section “Definitions.” Terms like “document,” “contract,” and “deed of trust” should be defined as they relate to your case. For example, if you are asking for a police report of an incident, make sure to define the word “incident”:

[Guide to Discovery: Request for Production]

Guide prepared by Public Counsel.
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“Incident” includes the circumstances and events surrounding the alleged wrongful conduct, injury, or other occurrences giving rise to this lawsuit as alleged in the complaint filed on January 19, 2013.

4. Next, state your Requests for Production. Title this section “Requests for Production.” Each request should be in a separate paragraph and numbered sequentially. (Note: if you send more than one set of RFPs to a party, number each request sequentially without repeating the numbers you used on any prior set of RFPs.)

5. Request the production of documents and things with clarity. Provide enough description of the document or thing so the opposing party will know what you are requesting and in what form it should be produced. The more you can be specific with your request, the less likely the other side will object to it.

6. Although there are no limits on how many documents or things you may request in your RFPs, limit the content of your RFPs to documents or things that pertain to the claims or defenses in your case. The following are some kinds of documents and things you can ask for in your RFPs:

   - Administrative records
   - Employment records
   - Business contracts
   - Police reports
   - Audio or video recordings

7. If you are requesting electronically stored information, you can specify the form of production. For example, you can ask the other party to produce the information in Word and/or PDF format.

8. Lastly, sign and date the last page of your RFPs.

Serving Requests for Production

Do not file the RFPs with the Court; send a copy to opposing counsel (or your unrepresented opponent) with a certificate of service and keep the original for yourself. Remember to send the RFPs long before your discovery cut-off date to give the other party the full 30 days to respond. In fact, consider sending your RFPs at least 60 days before your discovery deadline in case the other side fails to respond adequately to your discovery request and you need additional time to file a motion to compel.

What if the opposing party gives you too much information?
In rare instances, a party may respond to an RFP by producing a large amount of un-reviewed or unsorted documents. This violates Federal Rule of Civil Procedure 34(b), which requires the producing party to sort or label documents to correspond with your request, or to produce them as they are maintained in the party’s usual course of business. If the producing party violates this rule, you may make a motion to compel discovery under Federal Rule of Civil Procedure 37(d) and the corresponding Local Rules of the Central District of California.
Responding to Requests for Production

The other party is also entitled to request the production of documents and things in your possession or control. You will have 30 days after being served with the RFPs to respond to the requests by doing one or more of the following: (1) produce the documents or things requested, (2) provide access to the documents or things for review if delivery is too burdensome, or (3) object to the production. The time to respond can be increased or decreased by agreement of the parties or if the Court orders a different response deadline.

1. The opening paragraph below the title caption should include the identity of the party who requested the discovery, the identity of the responding party, and the set number of the discovery.

2. Format your response by copying the request exactly as it is written in the RFPs, immediately above your response.

3. If you intend to produce the documents or things requested in the RFPs, state that inspection and related activities will be permitted as requested. Produce the documents or things as they are kept in the usual course of business or organize and label them to correspond to the categories in the request.

4. If you object to a specific RFP, state your reason for objecting in a separate paragraph. The following (if applicable) are some possible grounds for objecting to a request:
   - The request is vague or overbroad.
   - The requested document or thing is protected by attorney-client privilege.
   - The request is not reasonably calculated to lead to the discovery of relevant or admissible information.
   - The request seeks confidential information regarding individuals not named as parties to the action, which, if disclosed, may constitute an unwarranted invasion of privacy.
   - The request is unduly burdensome. (Note: This objection cannot be used simply because it will take a long time to respond to the request.)

5. There are some circumstances under which you may not be able to produce a document or thing. For example, the item may not exist. Or, the item may have been destroyed or stolen. Or, the item may no longer be in your possession, custody, or control. You may use the following formula to respond to an RFP in these situations, as long as you have made a diligent effort to locate the item:

“A diligent search and reasonable inquiry has been made in an effort to locate the item requested. [Plaintiff or Defendant] is unable to comply with this discovery request because [explain why you are not able to comply with the request].”
6. If you believe the other side is abusing the discovery process or if you need to preserve the confidentiality of some of your documents, you may file a motion for a protective order. Refer to Federal Rule of Civil Procedure 26(c) for more information about when and under what conditions you may seek a protective order.

7. Don’t forget to sign and date the last page of your response to the RFPs. **Do not** file your response with the Court; send a copy to opposing counsel (or your unrepresented opponent) with a certificate of service and keep a copy for yourself.

**Do you need more time to respond to an RFP?**

If you need more time to answer or object to an RFP, first contact the opposing counsel (or your unrepresented opponent) and ask him or her to agree to an extension of time. Make sure you receive some form of written confirmation of the extension, even if it is just in an email. If the other side refuses, you may file a “Request for Extension of Time to Respond to a Request for Production” with the Court.

**What can happen if you fail to respond to an RFP?**

If you do not respond to an RFP in a **timely** manner you will waive any objections to it, including objections based on relevance and privilege. If you do not respond to an RFP in an **adequate** manner, the requesting party may file a “motion to compel” your response and the Court may impose sanctions on you, which may include having to pay the requesting party’s attorney’s fees and costs incurred in bringing the motion.
Guide to Discovery:
Discovery Worksheet

Claim or Defense:

<table>
<thead>
<tr>
<th>State each <strong>element</strong> of your claim or defense</th>
<th>State each of the <strong>facts</strong> that will prove this element</th>
<th>List the <strong>evidence</strong> you will need to support the facts that prove this element</th>
<th>Formulate your discovery request (RFP, RFA, or Interrogatory)</th>
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Public Counsel's
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Discovery
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Section 4

Guide to
Request for Admissions
What is a Request for Admission?

A Request for Admission (RFA) is a written request to admit the truth of facts that one party in a lawsuit sends to another party in the lawsuit. Each request is written as a statement. The responding party must either admit the truth of the statement, deny the truth of the statement, or explain in detail why the party can neither admit nor deny it. RFAs are governed by Federal Rule of Civil Procedure 36 and the corresponding Local Rules of the Central District of California.

One purpose of an RFA is to narrow the issues that are in dispute in your case and make it easier to present those issues to the Court at trial or in a motion for summary judgment. RFAs are thus commonly used to find out what facts are disputed in a case.

Prepare to write your RFAs by carefully reading the entire complaint and the answer. Make a discovery plan by creating a chart. List the legal elements of your claim or defense in the first column. List the facts that you think prove the element in the second column. The facts listed in the second column will help you decide what to include in your RFAs. A template of this chart is included with this guide.

Content of Requests for Admission

1) State that you are making requests for admission under Federal Rule of Civil Procedure 36.

2) Define the terms you will use in your requests. Title this section “Definitions.” Terms like “document” or “contract” should be defined as they relate to your case. For example, if you are asking for an admission related to an incident, make sure to define the “incident”:

   “Incident” includes the circumstances and events surrounding the alleged wrongful conduct, injury, or other occurrences giving rise to this lawsuit, as alleged in the complaint filed on January 19, 2012.

3) Next, state your requests for admission. Title this section “Requests for Admission.” Each request should be in a separate paragraph and numbered sequentially. (Note: if you send more than one set of RFAs to a party, number each request sequentially without repeating the numbers you used on any prior set of RFAs.)
4) Although there are no limits on how many requests you can include in an RFA they must pertain to the claims or defenses in your lawsuit. Consider limiting the content of your RFAs to:

- Whether a fact is true or false.
- How a law or legal principle applies to the facts of your case.
- The genuineness of any documents you describe in your request. (Note: include a copy of the document as an exhibit if you are using the RFA for this purpose, unless it has already been made available to the responding party.)

5) Last, sign and date the last page of your RFAs.

**Serving the Requests for Admission**

Do not file the RFAs with the Court; send a copy to opposing counsel (or your unrepresented opponent) with a certificate of service and keep the original for yourself. Remember to send the RFAs long before your discovery cut-off date to give the other party the full 30 days to respond. In fact, consider sending your RFAs at least 60 days before your discovery deadline in case the other side fails to respond adequately to your discovery request and you need additional time to file a motion to compel.

**Responding to Requests for Admission**

The other party in your case is also entitled to send you Requests for Admission. Within 30 days after being served with the RFAs, you must admit or deny the facts requested and/or object to them. The time to respond can be increased or decreased by agreement of the parties or if your judge orders a different deadline for responding.

1. The opening paragraph below the title caption should include the identity of the party who requested the discovery, the identity of the responding party, and the set number of the discovery.

2. Format your response by copying the request exactly as it is written in the RFAs, immediately above your response.

3. If you object to a specific RFA, identify and state your grounds for an objection to that request. The following (if applicable) are some grounds for objecting to a request for admission:

- The request is vague or overbroad.
- Attorney-client privilege.
- The request is not reasonably calculated to lead to the discovery of relevant or admissible information.
The request seeks confidential information regarding individuals not named as parties to the action, which, if disclosed, may constitute an unwarranted invasion of privacy.

The request is improperly worded as an interrogatory.

4. You may admit to part of the request and explain or deny the rest of the request.

5. Sign and date the last page of your response to the RFAs. Do not file your response to the RFAs with the Court; send a copy to opposing counsel (or your unrepresented opponent) with a certificate of service and keep a copy for yourself.

6. If you admit to a fact, but later want to withdraw or change the admission, you must file a motion with the Court. Refer to Federal Rule of Civil Procedure 36(b) for more information.

Do you need more time to answer RFAs?

If you need more time to answer or object to an RFA, first contact the opposing counsel (or your unrepresented opponent(s)) and ask him or her to agree to an extension of time. Make sure you receive some form of written confirmation of the extension, even if it is just in an email. If the other side refuses, you may file a “Request for Extension of Time to File a Response to the Requests for Admission” with the Court.

What can happen if you fail to respond to the RFAs?

RFAs are automatically considered admitted if you do not timely respond or object to them. The Court may also consider RFAs admitted if you respond in an evasive, incomplete, or non-responsive manner. In addition, the requesting party may file a “motion to compel” the answers to the RFAs and the Court may impose sanctions on you, which may include having to pay the requesting party’s attorney’s fees and costs incurred in bringing the motion. It is therefore important that you properly respond to RFAs in a timely manner.
Guide to Discovery:
Discovery Worksheet

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Section 5

Guide to Interrogatories
What are Interrogatories?

Interrogatories are a list of questions sent by one party in a lawsuit to another party in the lawsuit. Interrogatories are governed by Federal Rule of Civil Procedure 33 and the corresponding Local Rules of the Central District of California. They are best used to get answers to the following questions in your case:

- **Who?** (did something, had possession of something, had knowledge of an event, etc.)
- **Where?** (is something or someone)
- **When?** (did an event happen, did someone first learn about that event, etc.)
- **What?** (does a term mean, are the procedures for certain situations, etc.)

Prepare to write your interrogatories by carefully reading the entire complaint and answer. Your interrogatories will depend heavily on the specific facts of your case and what information you need to obtain from the opposing party. Make a discovery plan before you draft your interrogatories. Create a chart that lists the legal elements of your claim or defense in the first column. List the facts you think prove each element in the second column. The items in the second column will help you decide what interrogatories to ask. A template of this chart is included with this guide.

## Content of Interrogatories

1. State that you are requesting answers to the interrogatories under Federal Rule of Civil Procedure 33.

2. Define the terms you will use in your interrogatories. Title this section “Definitions.” Important terms like “document” and “contract” should be defined as they relate to your case. For example, if you are asking about when a police report was taken after a specific incident, make sure to define the “incident.” For example:

   “Incident” includes the circumstances and events surrounding the alleged wrongful conduct, injury, or other occurrences giving rise to this lawsuit, as alleged in the complaint filed on January 19, 2012.

3. State your interrogatories. Each interrogatory should be in a separate paragraph and numbered sequentially.
(Note: if you send more than one set of interrogatories to a party, number each interrogatory sequentially without repeating the numbers you used on any prior set of interrogatories.)

4. Draft interrogatories that are narrowly tailored to the facts of your case. This will help you obtain relevant information and avoid objections by the opposing party.

5. Be sure to include an interrogatory about the identity (name, address, position, etc.) of the person responding to the interrogatories. This will make it easier to introduce the responses to the interrogatories at trial.

6. “Contention Interrogatories” are questions that ask for the evidence supporting the opposing party’s claims or defenses. This kind of interrogatory may help you prove that the other side lacks supporting evidence and can be especially useful when drafting a dispositive motion like a motion for summary judgment. Here is a sample contention interrogatory in an employment discrimination case:

“State all the facts you rely upon to support the allegation in paragraph 15 of the complaint that Plaintiff adequately and completely performed all of the functions, duties, and responsibilities of his employment with Defendant ABC Company.”

7. Last, sign and date the last page of your interrogatories.

How Many Interrogatories are Allowed?

A. Each party is entitled to ask a total of 25 interrogatories of each other party.
   You must ask the Court for permission if you want to serve another party with more than 25 interrogatories. Draft your interrogatories wisely because your 25-interrogatory limit includes even interrogatories to which your opponent objects.

B. Each interrogatory must contain one question.
   If you include sub-parts to an interrogatory, they must relate to the primary question or be of a common theme with the primary question. The sub-part will otherwise be counted as a separate interrogatory. The following is an example of one interrogatory with proper sub-parts:

   “Was Plaintiff given any disciplinary warning during her employment with Defendant? If so, identify each warning by date of incident, a brief description of the incidents, and the person who administered the warning by name, gender, position and address.”

INTERROGATORY TIP:
The 25-interrogatory limit should encourage you to be strategic about the interrogatories you draft and when you serve them. Consider serving only a few interrogatories in an initial set and then sending another set after you have received responses to the initial set. Doing this will allow you to follow up on any new facts you obtain in your first set of discovery requests.
In contrast, the following questions will be considered more than one interrogatory because each sub-part is a distinct question that is unrelated to a primary question:

“When did Plaintiff begin employment with Defendant? Was Plaintiff given any disciplinary warning during her employment with Defendant? On what date did Plaintiff’s employment terminate?”

Combining distinct and separate questions into one interrogatory will likely result in an objection by the responding party. If the Court believes doing so amounts to an “abuse of discovery,” you may also be subject to discovery sanctions (i.e., a penalty by the Court).

Serving Interrogatories

Do not file interrogatories with the Court; send a copy to opposing counsel (or your unrepresented opponent) with a certificate of service and keep the original for yourself. Remember to send interrogatories long before your discovery cut-off date to give the other party the full 30 days to respond. In fact, consider sending your interrogatories at least 60 days before your discovery deadline in case the other side fails to respond adequately to your discovery request and you need additional time to file a motion to compel.

Responding to Interrogatories

The other party is also entitled to send you interrogatories. Within 30 days after being served with the interrogatories, you must answer the interrogatories truthfully and/or object to them under the penalty of perjury. The time to respond can be increased or decreased by agreement of the parties or if your judge orders a different deadline to respond.

1. The opening paragraph below the title caption should include the identity of the party who has requested the discovery, the identity of the responding party, and the set number of the discovery.

2. Copy the request exactly as it is written in the interrogatory, immediately above your response.

3. You must answer the interrogatory truthfully and/or state your grounds for an objection to the interrogatory. The following are some possible grounds (if applicable) for objecting to an interrogatory:

   - The interrogatory is overbroad.
   - The interrogatory is so ambiguous that the responding party would have to speculate if required to provide an answer.
The interrogatory contains improper subparts.

The interrogatory is unduly burdensome. (Note: This objection cannot be used simply because it will take a long time to respond to the request.)

The information requested is protected by attorney-client privilege.

The interrogatory is not reasonably calculated to lead to the discovery of relevant information.

The interrogatory seeks confidential information, which, if disclosed, may constitute an unwarranted invasion of privacy.

The request is improperly worded as a Request for Production or Request for Admission.

The party has exceeded the 25 interrogatories allotted under Federal Rule of Civil Procedure 33.

4. Include the following statement at the end of your response to the interrogatories, right above your signature:

“I declare under penalty of perjury that the foregoing responses are true and correct.”

5. Last, date and sign the last page of your response to the interrogatories.

6. Do not file your response to the interrogatories with the Court; send a copy to opposing counsel (or your unrepresented opponent) with a certificate of service and keep a copy for yourself.

Do you need more time to respond to an Interrogatory?

If you need more time to answer or object to an interrogatory, first contact the opposing counsel (or your unrepresented opponent(s)) and ask him or her to agree to an extension of time. Make sure you receive some form of written confirmation of the extension, even if it is just in an email. If the other side refuses, you may file a “Request for Extension of Time to Respond to an Interrogatory” with the Court.

What can happen if you fail to respond to an Interrogatory?

If you do not answer or object to an interrogatory in a timely or satisfactory manner, the requesting party may file a “motion to compel” your response and the Court may impose sanctions on you, which may include having to pay the requesting party’s attorney’s fees and costs incurred in bringing the motion.
Guide to Discovery:
Discovery Worksheet

Claim or Defense:

<table>
<thead>
<tr>
<th>State each <strong>element</strong> of your claim or defense</th>
<th>State each of the <strong>facts</strong> that will prove this element</th>
<th>List the <strong>evidence</strong> you will need to support the facts that prove this element</th>
<th>Formulate your discovery request (RFP, RFA, or Interrogatory)</th>
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Section 6

Sample
Joint Rule 26(f) Report
Plaintiff John Smith and Defendant ABC Enterprises, Inc., respectfully submit the following Joint 26(f) Report.

Plaintiff and counsel for Defendant held a telephonic planning meeting on January 4, 2012.
JOINT RULE 26(F) REPORT:

A. Synopsis of the Case, Claims and Defenses.

Plaintiff’s Position:
Plaintiff seeks money damages and injunctive relief against Defendant for various act of employment discrimination, including racial discrimination, age-based discrimination, and retaliation for Plaintiff’s having filed an EEOC complaint against Defendant.

Defendant’s Position:
Defendant denies all of the allegations in Plaintiff’s complaint.

B. Synopsis of Principal Legal Issues in the Case.

Plaintiff’s Position:
Defendant discriminated against him by denying him a promotion based on his race and age. After Plaintiff filed an EEOC complaint, Defendant then retaliated against him by reducing his hours.

Defendant’s Position:
Defendant denies all of the allegations in Plaintiff’s complaint.

C. Additional Parties or Amendment of Pleadings.

Plaintiff’s Position:
Plaintiff may file an amended complaint after receiving information through discovery.

Defendant’s Position:
Defendant does not anticipate the amendment of pleadings for any reason.

D. Contemplated Law and Motion.

Plaintiff’s Position:
Plaintiff may file a motion for summary judgment.

Defendant’s Position:
Defendant intends to file a motion for summary judgment.

///
E. **Settlement Discussions.**

Plaintiff’s Position:

The parties have discussed settlement, but have not been able to reach any agreement. Plaintiff is willing to continue settlement discussions.

Defendant’s Position:

Defendant is willing to continue settlement discussions.

F. **Discovery and Experts.**

Plaintiff’s Position:

Plaintiff will provide initial disclosures pursuant to the Federal Rules of Civil Procedure and court orders.

Plaintiff anticipates serving Requests for Admission, Interrogatories, and Requests for Production.

Plaintiff does not anticipate using expert witnesses at this time.

Plaintiff does not believe that a formal discovery plan is necessary.

Defendant’s Position:

Defendant has provided disclosures under Federal Rule of Civil Procedure 26(a). Defendant intends to avail itself of Interrogatories, Requests for Admission, Requests for Production, Depositions, and any other methods of discovery available under the Federal Rules of Civil Procedure.

G. **Trial Estimate.**

Plaintiff’s Position:

Plaintiff estimates 4 days for a jury trial.

Defendant’s Position:

Defendant estimates 5 days for a jury trial.

H. **Complexity of Case.**

Plaintiff’s Position:

This is not a complex case.
Defendant’s Position:
Defendant agrees with Plaintiff’s assessment.

I. Severance, Bifurcation or Other Ordering of Proof.

Plaintiff’s Position:
Plaintiff does not propose severance, bifurcation, or other ordering of proof at this time.

Defendant’s Position:
Defendant agrees with Plaintiff’s position.

J. Other Issues Affecting Case Management.

Plaintiff’s Position:
None.

Defendant’s Position:
Defendant knows of no other issues affecting case management.

K. Proposed Pre-Trial and Trial Dates.

Plaintiff’s Position:
Discovery cutoff date: November 26, 2012.
Final day to file motions: January 28, 2013.
Pretrial conference date: April 29, 2013.
Trial date: May 14, 2013.

Defendant’s Position:
Discovery cutoff date: January 10, 2013.
Final day to file motions: March 1, 2013.
Pretrial conference date: May 5, 2013.
Trial date: June 14, 2013.

L. Recommended Settlement Procedure.

Plaintiff’s Position:
Plaintiff requests a settlement conference before the Magistrate Judge.
Plaintiff believes that a settlement conference before a Magistrate Judge is
warranted because Plaintiff’s status as a *pro se* litigant qualifies as an extraordinary circumstance.

**Defendant’s Position:**

Defendant requests settlement before a panel mediator.

DATED: January 7, 2012

John Smith, Plaintiff in pro per

DATED: January 7, 2012

Jones & Miller, PC

By: James Miller
Attorneys for Defendant
ABC Enterprises, Inc.
Section 7

Form for
Plaintiff’s Initial Disclosures
Plaintiff in Pro Per

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

________________________, Plaintiff,
vs.

________________________, Defendant(s).

Case No.: _____________________

PLAINTIFF ____________________________’s

INITIAL DISCLOSURES
PURSUANT TO FEDERAL RULE
OF CIVIL PROCEDURE 26

TO DEFENDANT ____________________________

AND HIS/HER/ITS COUNSEL OF RECORD:

PLAINTIFF ____________________________, referred to below as the

‘disclosing party,” hereby submits the following disclosures in accordance with
Fed. R. Civ. P. 26 (“Rule 26”)

Form prepared by Public Counsel
All rights reserved
Revised: October 2013
**Rule 26(a)(1)(A)(i)** – The name and, if known, the address and telephone number of each individual likely to have discoverable information – along with the subjects of that information – that the disclosing party may use to support his or her claims or defenses, unless the use would be solely for impeachment:

<table>
<thead>
<tr>
<th>Name of Individual Likely to have Discoverable Information</th>
<th>Contact Information (Address and Telephone Number)</th>
<th>Subject Matter of Discoverable Information</th>
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**Rule 26(a)(1)(A)(ii)** – A copy – or a description by category and location – of all documents, electronically stored information, and tangible things that the disclosing party has in his or her possession, custody, or control and may use to support his or her claims or defenses, unless the use would be solely for impeachment. (Please note that the disclosing party may either produce the documents, electronically stored information, and tangible things or fill in the table below.)

<table>
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**Rule 26(a)(1)(A)(iii)** – A computation of each category of damages claimed by the disclosing party, who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material (unless privileged or protected from disclosure) on which each computation is based, including materials bearing on the nature and extent of injuries suffered:
Rule 26(a)(1)(A)(iv) – For inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment:

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Plaintiff's Initial Disclosures Pursuant to Fed. R. Civ. P. 26

DATED: __________________________

______________________________
(signature)

______________________________
(name)

Plaintiff in Pro Per
PROOF OF SERVICE

I, ___________________________ (name), declare as follows. I am over the age of 18 years. My address is:

____________________________________
____________________________________
____________________________________

On __________________ (date), I served the foregoing document described as:

Plaintiff ________________________’s Initial Disclosures Pursuant to FRCP 26

on all interested parties in this action by placing a true and correct copy thereof in a sealed envelope, with first-class postage prepaid thereon, and deposited said envelope in the United States mail in____________________________, addressed to:

____________________________________ (city, state)

____________________________________ (name)
____________________________________ (name)
____________________________________ (address)
____________________________________ (address)
____________________________________ (address)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on __________________ at ____________________________.

____________________________________ (signature)

____________________________________ (name)
Public Counsel’s
Guides and Forms:
Discovery

2015 Edition

Section 8

Form for
Defendant’s Initial Disclosures

Federal Pro Se Clinic
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

© 2014, 2015 Public Counsel. All rights reserved.
Defendant in Pro Per

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

________________________,
Plaintiff,

vs.

________________________
________________________
________________________,
Defendant(s).

Case No.: _____________________

DEFENDANT ________________________________’S

INITIAL DISCLOSURES
PURSUANT TO FEDERAL RULE
OF CIVIL PROCEDURE 26

TO PLAINTIFF ________________________________
AND HIS/HER/ITS COUNSEL OF RECORD:

DEFENDANT ________________________________, referred to below as the
(name)
“disclosing party,” hereby submits the following disclosures in accordance with
Fed. R. Civ. P. 26 (“Rule 26”):
**Rule 26(a)(1)(A)(i)** – The name and, if known, the address and telephone number of each individual likely to have discoverable information – along with the subjects of that information – that the disclosing party may use to support his or her claims or defenses, unless the use would be solely for impeachment:

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**Rule 26(a)(1)(A)(iv)** – For inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment:

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Defendant's Initial Disclosures Pursuant to Fed. R. Civ. P. 26

DATED: __________________________

______________________________
(signature)

______________________________
(name)

Defendant in Pro Per
PROOF OF SERVICE

I, ________________________________ (name), declare as follows. I am over the age of 18 years. My address is:

______________________________________
______________________________________
______________________________________

On ___________________ (date), I served the foregoing document described as:

Defendant ________________________’s Initial Disclosures Pursuant to FRCP 26

on all interested parties in this action by placing a true and correct copy thereof in a sealed envelope, with first-class postage prepaid thereon, and deposited said envelope in the United States mail in ______________________________, addressed to:

__________________________ (city, state)

__________________________ (name)  _____________________________ (name)

__________________________ (address)  _____________________________ (address)

__________________________ (address)  _____________________________ (address)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on ___________________ at ____________________________.

__________________________ (date)  _____________________________ (place of signing)

__________________________ (signature)

__________________________ (name)