

Publisher's Note

An Update has Arrived in Your Library for:

Please circulate this notice to anyone in your office who may be interested in this publication. <i>Distribution List</i>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

CHOATE ON DISCOVERY, SECOND EDITION

**Cudmore
Release No. 4, May 2025**

This book provides practitioners with both a procedural and analytical framework for the discovery process, covering such areas as oral examination, documentary discovery and medical examinations, as well as less commonly used discovery tools such as interrogatories and inspection of property. Features include the discovery rules for all Canadian common law jurisdictions, Table of Concordance linking the discovery rules from all jurisdictions to facilitate use of case law, thematic organization so that knowledge of discovery rule number is not required by researchers, and case law summaries that are clear and concise, covering the meaningful judgments and orders that interpret the Discovery rules.

THOMSON REUTERS®

Customer Support

1-416-609-3800 (Toronto & International)

1-800-387-5164 (Toll Free Canada & U.S.)

E-mail CustomerSupport.LegalTaxCanada@TR.com

This publisher's note may be scanned electronically and photocopied for the purpose of circulating copies within your organization.

What's New in this Update:

This release, which updates the case law in Chapter 2—(Examination for Discovery), Chapter 3—(Discovery of Documents), Chapter 4—(Interrogatories), Chapter 5—(Physical Examinations), and Chapter 6—(Inspection and Preservation of Property) features 28 new case digests covering topics related to the discovery process.

Case Law Highlights:

- **Chapter 3—Discovery of Documents—Motion for a Better Affidavit**—Plaintiffs applied for cross-referencing of documents, namely determination as to which party should bear the onus and shoulder the obligation to determine and review records to determine if document disclosure was adequate. Plaintiffs said it is not their job to fulfill the defendants' obligations by identifying missing attachments and asking only for those. Defendants said they disclosed what they reasonably believed to be all relevant documents. The paralegal that undertook the task of the "spot audit" estimates submitted it would take 100 hours to mine the documents in the electronic format to find all attachments, and another 30 hours to cross-reference and/or mirror them to the parent email itself. Court was satisfied with the defendants' level of disclosure to date and was largely guided by the fact that this matter was ready to proceed to trial without this issue being resolved. Defendants ordered to deliver to plaintiffs particulars of such missing attachments, either by producing the attachment or identifying and cross-referencing where the document has been disclosed and, to the extent the email was not previously disclosed, to provide a further amended list of documents to properly list those missing documents: *Liang v. Barnard*, 2024 CarswellBC 3526, 2024 BCSC 2181 (B.C. S.C.).
- **Chapter 4—Interrogatories—Advantages of Interrogatories**—Interrogatories are not deliverable as of right and will only be answered with the consent of the parties or with leave of the court. Interrogatories can assist in keeping with the overall objective of the Rules, which includes encouraging parties to discuss resolution of such procedural issues prior to bringing an application. Interrogatories may be more useful when the question is one that requires some investigation for answering, which will be difficult to undertake on an examination for discovery: *James v. The Synod of the Diocese of New Westminster*, 2024 CarswellBC 3409, 2024 BCSC 2130 (B.C. S.C.).