

# Table of Contents

## CHAPTER 1. GENERAL PROVISIONS GOVERNING DISCOVERY

### I. INTRODUCTION

- § 1:1 In general
- § 1:3 Duty to preserve critical evidence before discovery request
- § 1:5 Discovery methods
- § 1:6 Discovery conference *[New]*

### II. SCOPE OF DISCOVERY

- § 1:11 In general
- § 1:12 Relevancy to subject matter
- § 1:13 Admissible or reasonably calculated to lead to discovery of admissible evidence
- § 1:14 Privileged information
- § 1:15 Privilege log
- § 1:16 Insurance agreements
- § 1:16.50 Third-party agreements *[New]*
- § 1:17 Work product doctrine—Origin and purpose of doctrine
- § 1:18 Work product doctrine—Statutory protection
- § 1:19 Work product doctrine—Distinguished from attorney-client privilege
- § 1:20 Work product doctrine—Documents or tangible items
- § 1:21 Work product doctrine—Prepared in anticipation of litigation
- § 1:22 Work product doctrine—Prepared by or for another party or by or for that other party's representative
- § 1:23 Work product doctrine—Other than tangible information
- § 1:24 Work product doctrine—Matters excluded
- § 1:26 Work product doctrine—Requiring disclosure
- § 1:27 Work product doctrine—Waiver
- § 1:28 Experts—In general
- § 1:29 Experts—Testifying experts
- § 1:30 Experts—Nontestifying experts
- § 1:31 Experts—Fees and expenses
- § 1:32 Information for use in impeachment
- § 1:33 Bad faith insurance claims *[New]*

### III. PROTECTIVE ORDERS

- § 1:41 In general
- § 1:42 Procedure for obtaining
- § 1:43 Terms and conditions of discovery—Generally *[Retitled]*

- § 1:44 Terms and conditions on discovery—Trade secrets and confidential information
- § 1:45 Terms and conditions on discovery—Production of voluminous records
- § 1:47 Terms and conditions on discovery—Sealing records or limiting public access to documents
- § 1:48 Terms and conditions on discovery—Deposing opposing counsel
- § 1:48.50 Terms and conditions on discovery—Order that deposition of high ranking official not be taken *[New]*
- § 1:49 Terms and conditions on discovery—Stay of discovery
- § 1:49.50 Terms and conditions on discovery—Blanket protective orders *[New]*
- § 1:50 Terms and conditions on discovery—Modification of protective orders

#### **IV. MISCELLANEOUS**

- § 1:61 Sequence and timing of discovery
- § 1:62 Supplementation of responses
- § 1:63.50 Inadvertent disclosure of information *[New]*
- § 1:64 Comparison with Federal Rules
- § 1:65 Specific limitations on discovery of electronically stored information *[New]*
- § 1:66 Recovering information inadvertently disclosed *[New]*

### **CHAPTER 3. PERPETUATION OF TESTIMONY BY DEPOSITION**

- § 3:1 In general
- § 3:2 Depositions before action—Generally
- § 3:3 Depositions before action—Petition
- § 3:5 Depositions before action—Order

### **CHAPTER 4. PERSONS BEFORE WHOM DEPOSITIONS MAY BE TAKEN**

- § 4:9.50 Remotely located individuals *[New]*

### **CHAPTER 5. STIPULATIONS REGARDING DISCOVERY PROCEDURE**

- § 5:1 In general
- § 5:4 Control by the court

### **CHAPTER 6. DEPOSITIONS UPON ORAL EXAMINATION**

#### **I. INTRODUCTION**

- § 6:1 In general
- § 6:3 Whose depositions may be taken
- § 6:4 When depositions may be taken

TABLE OF CONTENTS

**II. NOTICE OF EXAMINATION AND SUBPOENAS**

- § 6:11 In general
- § 6:12 Corporations and other entities
- § 6:17 Deposition of out-of-state nonparty witness—Generally
- § 6:18 Deposition of out-of-state nonparty witness—Selected state laws

**III. DEPOSITIONS IN FOREIGN COUNTRIES**

- § 6:31 In general

**IV. THE DEPOSITION EXAMINATION**

- § 6:51 Place of examination
- § 6:52 Who may attend deposition

**V. MANNER OF EXAMINATION**

- § 6:61 In general
- § 6:66 Improper conduct
- § 6:67 Consultation with counsel
- § 6:68 Objections
- § 6:69 Instructions not to answer

**VI. VIDEOTAPED AND REMOTE DEPOSITIONS *[Retitled]***

- § 6:84 Taking deposition remotely *[New]*
- §§ 6:85 to 6:90 *[Reserved]*

**VII. RECORD OF EXAMINATION**

- § 6:91 In general
- § 6:93 Videotape deposition

**VIII. MISCELLANEOUS**

- § 6:102 Submission of deposition to deponent
- § 6:106 Comparison with Federal Rules

**CHAPTER 7. DEPOSITIONS UPON WRITTEN QUESTIONS**

- § 7:2 Advantages and disadvantages of depositions upon written questions
- § 7:3 When deposition may be taken
- § 7:12 Comparison with Federal Rules

**CHAPTER 8. USE OF DEPOSITIONS IN COURT PROCEEDINGS**

- § 8:3 Against whom deposition may be used
- § 8:4 Use of depositions at trial or hearing—Generally
- § 8:5 Use of depositions at trial or hearing—In support of motion

- § 8:7 Use of party depositions
- § 8:11 Use of depositions—Witness unable to attend or testify because of age, infirmity or imprisonment
- § 8:13 Use of depositions—Exceptional circumstances
- § 8:14 Use of medical expert depositions
- § 8:23 Objections to admissibility—Taking of deposition—Competency of witness

## **CHAPTER 9. INTERROGATORIES TO PARTIES**

- § 9:4 Scope of interrogatories
- § 9:5 Number of interrogatories
- § 9:7 Form of interrogatories
- § 9:12 Procedures for answering
- § 9:14 Option to produce business records
- § 9:15 Use at trial
- § 9:18 Comparison with Federal Rules

## **CHAPTER 10. PRODUCTION OF DOCUMENTS AND THINGS AND ENTRY UPON LAND FOR INSPECTION AND OTHER PURPOSES**

- § 10:4 Actions in which requests for production are proper
- § 10:5 Persons subject to requests for production
- § 10:6 Scope of discovery
- § 10:11 Procedure for responding to requests—Time for response
- § 10:12 Procedure for responding to requests—Content of response
- § 10:12.50 Electronically stored information [*New*]
- § 10:13 Procedure for responding to requests—Objections to requests
- § 10:19 Comparison with Federal Rules

## **CHAPTER 11. PHYSICAL AND MENTAL EXAMINATION OF PARTIES; INSPECTION OF MEDICAL DOCUMENTS**

- § 11:4 Motion and order for physical or mental examination—Generally
- § 11:10 Types of examinations permitted

## **CHAPTER 12. REQUESTS FOR ADMISSION**

### **I. INTRODUCTION**

- § 12:1 In general

### **II. SCOPE OF REQUEST**

- § 12:11 In general

TABLE OF CONTENTS

§ 12:14 Pure questions of law

**III. FORM OF REQUESTS FOR ADMISSION**

§ 12:21 In general

**V. RESPONSES TO REQUESTS FOR ADMISSION**

§ 12:41 In general

§ 12:47 Objections

§ 12:49 Failure to respond

**VI. USE OF ADMISSIONS**

§ 12:61 In general

§ 12:62 Summary judgment

**VII. MISCELLANEOUS**

§ 12:71 Withdrawal or amendment of admissions

§ 12:72 Expenses for failure to admit

§ 12:75 Potential dangers of requests for admission—Malpractice

**CHAPTER 13. FAILURE TO MAKE  
DISCOVERY; SANCTIONS**

§ 13:1 In general

§ 13:2 Motion for order compelling discovery

§ 13:3 Failure to comply with order to provide or permit discovery

§ 13:5 Expenses on failure to admit

§ 13:6 Complete failure of party to comply with discovery request

§ 13:6.50 Failure to produce electronically stored information *[New]*

§ 13:8 Comparison with Federal Rules

**CHAPTER 14. DISCOVERY OF  
ELECTRONICALLY STORED  
INFORMATION *[Retitled]***

§ 14:1 In general

§ 14:1.50 Specific limitations on discovery of electronically stored information *[New]*

§ 14:1.70 Recovering information inadvertently disclosed *[New]*

§ 14:1.90 Possession, custody or control *[New]*

§ 14:2 Electronically stored information—Generally *[Retitled]*

§ 14:3 Electronically stored information—Search and retrieval *[Retitled]*

§ 14:3.30 Electronically stored information—Search and retrieval—Proportionality *[New]*

§ 14:3.50 Electronically stored information—Search and retrieval—Proportionality—Messaging *[New]*

§ 14:4 Electronically stored information—Production of documents *[Retitled]*

§ 14:5 Electronically stored information—Interrogatories *[Retitled]*

- § 14:6 Electronically stored information—Work product doctrine—  
Generally *[Retitled]*
- § 14:7 Electronically stored information—Work product doctrine—  
Experts *[Retitled]*
- § 14:8 Electronically stored information—Work product doctrine—  
Waiver *[Retitled]*
- § 14:9 E-mail messages
- § 14:9.50 Smart phones *[New]*
- § 14:14 The Sedona Conference *[New]*
- § 14:15 Electronic Discovery Model Project (EDRM) *[New]*
- § 14:16 ABA eDiscovery Standards *[New]*
- § 14:17 Ethics and concealment *[New]*
- § 14:18 Social media *[New]*
- § 14:18.10 Text messages *[New]*
- § 14:18.20 Snapchat *[New]*
- § 14:18.30 Slack *[New]*
- § 14:18.40 Twitter *[New]*
- § 14:18.50 WhatsApp *[New]*
- § 14:18.60 Viber *[New]*
- § 14:18.70 iMessage *[New]*
- § 14:18.80 Google Hangouts Meet and Google Hangouts Chat *[New]*
- § 14:18.90 Encrypted applications *[New]*
- § 14:19 Cloud computing *[New]*
- § 14:20 Forfeiture of Privilege *[New]*
- § 14:21 Public records *[New]*
- § 14:22 Protecting electronically stored information *[New]*
- § 14:23 Artificial intelligence—Generally *[New]*
- § 14:24 Artificial intelligence—Generative artificial intelligence  
tools *[New]*

## **CHAPTER 15. ETHICS, PROFESSIONALISM AND DISCOVERY**

- § 15:1 In general
- § 15:2 Ex parte contact—Generally
- § 15:3 Ex parte contact—Current employees of adverse party
- § 15:4 Ex parte contact—Former employees of adverse party
- § 15:5 Ex parte contact—Plaintiff’s treating physician
- § 15:8 Receipt of unauthorized or inadvertently produced confidential  
material
- § 15:9 Obstructive tactics
- § 15:10 Disclosure of metadata *[New]*
- § 15:11 Advising clients with regard to social media *[New]*
- § 15:12 Law firm use of social media *[New]*
- § 15:13 Cloud computing *[New]*

## **CHAPTER 16. DISCOVERY OF HEALTH CARE RECORDS**

### **I. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (“HIPAA”)**

- § 16:2 Application of HIPAA

TABLE OF CONTENTS

§ 16:3 Discovery of health care information in civil litigation

**II. WISCONSIN PRIVACY STATUTES**

§ 16:4 In general

**CHAPTER 17. SPOILIATION OF EVIDENCE**

**I. INTRODUCTION**

§ 17:1 Generally

**II. LEGAL AUTHORITY**

§ 17:10 Routine document destruction and spoliation

§ 17:11 Foreseeability of future litigation

§ 17:12 Balancing of competing interests

§ 17:14 When sanctions are typically not applied

**III. SANCTIONS**

§ 17:20 Judicial sanctions

§ 17:22 Ethical considerations

**Appendices**

Appendix A. Discovery Forms

Appendix C. Federal Rules of Civil Procedure for the United States  
District Courts

Appendix D. Managing Discovery of Electronic Information (Third  
Edition) [*New*]

**Table of Laws and Rules**

**Table of Cases**

**Index**