

Highlights to the 2026 Edition

By Professor Edward J. Imwinkelried, your 2026 Edition of *Pretrial Discovery: Strategy and Tactics* brings you new information and expanded analysis for your litigation practice, including the following:

- Limiting the plausibility pleading standard to entitlement to relief, not to the alleged facts themselves. § 3:2.
- The latest decisions in the ongoing judicial dispute over the question of whether the plausibility standard applies to affirmative defenses as well as claims and counts. § 3:2.
- Distinguishing proper rebuttal expert reports from improper supplementary reports. § 5:6.
- During a remote video deposition in which the deponent's attorney is present in the same room as the deponent, it is misconduct for the attorney to appear by audio only. The attorney must be visible to allow the deposing attorney to monitor for improper coaching. § 6:10.
- New cases blocking depositions of opposing attorneys and legislators. § 7:3.
- The mechanics of seeking discovery from cloud platforms and workspace collaboration tools. § 9:13.
- A scorecard procedure for companies with BYOD policies to determine which employees' personal devices must be examined. § 9:43.
- The proper method of redacting documents for production. § 9:49.
- **JP Morgan Chase Bank v. Argus Info & Advisory** holding that Federal Rule of Evidence 408, barring evidence of compromise offers and negotiations, does not limit the scope of pretrial discovery. § 2:3.
- **In re Babcock v. Wilcox** dealing with the propriety of posing questions beyond the topics specified in the notice for Rule 30(b)(6) depositions and the evidentiary status of the answers to such questions. § 6:3.
- **Local 2507, Uniformed EMTs v. City of New York** blocking the deposition of a city fire commissioner. § 7:3..
- **United States v. Maxwell** denying the Department of Justice's request for the release of grand jury materials in the case of Ghislane Maxwell, the alleged facilitator of Jeffrey Epstein's sex trafficking scheme, even though there was intense public interest and several of Epstein's victims supported the release of the material. § 9:17.