

EVIDENCE PRESERVATION, DISCOVERY & WRITTEN DISCOVERY

What happens after a lawsuit starts collecting documents, answering interrogatories, responding to requests for admission, and producing evidence.

THE ONE-SENTENCE RULE Discovery is where both sides test whether the story can survive documents, sworn answers, and third-party evidence. The goal is not to hide the ball; it is to build the record.

THE 60-SECOND ISSUE MAP

Issue	What to ask	Risk / signal	Employee focus
Preservation	What texts, emails, files, photos, devices, calendars, and social media may be relevant?	CRITICAL	Do not delete, alter, or “clean up” after a dispute becomes foreseeable.
Document requests	What records does each side demand?	HIGH	Relevance and proportionality still matter; objections must be strategic, not reflexive.
Interrogatories	What facts, witnesses, damages, and contentions must be answered under oath?	HIGH	Accuracy and consistency matter.
Admissions	Which propositions can be admitted, denied, or qualified?	HIGH	Careless responses can narrow or damage the case.
Third parties	Former coworkers, medical providers, new employers, agencies, vendors?	VARIES	Subpoenas can expand the evidence beyond company files.

FIVE RULES THAT MATTER

1. Once litigation is reasonably anticipated, potentially relevant evidence should be preserved. Deleting or altering evidence can create sanctions and credibility problems. 2. Written discovery typically includes document requests, interrogatories, and requests for admission, with different rules in state and federal court.	3. Discovery responses are not casual emails. They can be verified under oath, used in depositions, attached to motions, and shown at trial. 4. Employment cases commonly involve personnel records, internal communications, comparator evidence, policies, investigation files, payroll data, and electronic systems. 5. Discovery is iterative. One email may identify a witness; one witness may identify a spreadsheet; one spreadsheet may turn an “opinion” dispute into arithmetic.
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THE PRACTICAL ACTION PLAN

1 VERIFY	2 PRESERVE	3 RESPOND
What texts, emails, files, photos, devices, calendars, and social media may be relevant?	Personal devices containing relevant communications; Emails / texts / messaging exports	Do not delete, alter, or “clean up” after a dispute becomes foreseeable.

DISCOVERY IS DOCUMENTARY CROSS-EXAMINATION

Preserve	Request	Test
Keep relevant evidence intact	Ask for the documents the employer story predicts should exist	Compare sworn answers to emails, policies, dates, and data

DOCUMENTS / ACTIONS TO SAVE NOW

- ☐ Personal devices containing relevant communications
- ☐ Emails / texts / messaging exports
- ☐ Calendars and notes
- ☐ Job-search records
- ☐ Medical records relevant to claimed injury
- ☐ Damages documents
- ☐ Witness list

WHAT THE EMPLOYER WILL TEST	WHAT THE EMPLOYEE SHOULD SHOW
large employers defend through systems. HRIS, email, payroll, CRM, access logs, performance databases, ticketing systems. Good discovery asks which system should contain the answer - then checks whether it does.	Do not delete, alter, or "clean up" after a dispute becomes foreseeable. • Relevance and proportionality still matter; objections must be strategic, not... • Accuracy and consistency matter.
WHEN PROMPT LEGAL REVIEW MAY MATTER An administrative, arbitration, or court deadline is approaching. • You receive discovery, deposition, mediation, motion, or trial papers. • Evidence must be preserved or a witness, document, account, or device may disappear.	

RELATED RUGGLES LAW FIRM READING

- Understanding the Litigation Process
- Depositions Explained
- Read Matt's Law Blog

CALIFORNIA STATUTES / REGULATIONS • Code of Civil Procedure section 2016.010	PUBLISHED CALIFORNIA CASES • Greyhound Corp. v. Superior Court, 56 Cal.2d 355 (1961) • Williams v. Superior Court, 3 Cal.5th 531 (2017)
 SCAN TO READ Understanding the Litigation Process RugglesLawFirm.com	OFFICIAL RESOURCES California Courts - Civil Lawsuits Federal Rules of Civil Procedure

The discovery statutes were intended to take the "game" element out of trial preparation while retaining the adversary nature of trial.

— Greyhound Corp. v. Superior Court, 56 Cal.2d 355 (1961)

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