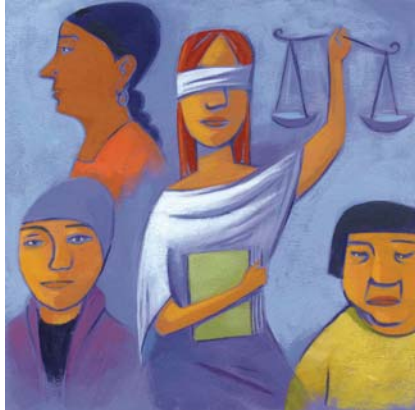


GUIDEBOOKS FOR REPRESENTING YOURSELF IN THE SUPERIOR COURT OF ONTARIO:



The Discovery Process

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Law Help Ontario is a self-help centre for low income, unrepresented litigants appearing before the Superior Court of Ontario (limited civil matters – no family law). Visit us in Toronto at:

393 University Avenue, Ground Floor, Toronto
Monday to Friday, 9:30 am to 4:00 pm

Walk-in centre only. No appointments. We do not guarantee assistance to all applicants. You must meet our eligibility requirements.

The Discovery Process

Where you can get help with your case

Information If You Represent Yourself

Law Help Ontario is a project of Pro Bono Law Ontario that provides pro bono legal services to people who cannot afford to hire a lawyer and are unrepresented in a legal matter. The project is currently piloting two self-help centres in courthouses in the Toronto area. In the future, centres may be launched in other locations across Ontario. The Law Help Ontario web site provides online resources relating to pro bono legal services.

If you live in the Toronto area, have a civil matter and are unrepresented because you cannot afford a lawyer, visit us at our centre in Superior Court or Small Claims Court. You may be eligible for free (pro bono) legal advice.

Get legal help in person on a civil case such as:

- starting or defending a civil action in Superior Court
- motions in Superior Court
- appeals (merit assessment only)

We CANNOT help you at the centre with: family law matters, criminal cases, human rights, landlord and tenant matters etc. Please refer to our online resources for information that might be available in these areas.

If you are located in other areas of the province or need help in another area of the law, check out our online resources at lawhelpontario.org.

Rules of Civil Procedure

The *Rules of Civil Procedure* describe how litigation is handled in the Superior Court of Justice. The rules will guide you through every step of your case and set time limits for when certain steps must be done. To view the *Rules of Civil Procedure*, go to <http://www.canlii.org/on/laws/regu/1990r.194/index.html>

Forms

Official court forms must be used when you bring a dispute to court and you must format your forms in accordance with the formatting requirements of the *Rules of Civil Procedure* (e.g. Rule 4.01) before filing them with the court. Visit www.lawhelpontario.org for help with forms.

This guidebook provides general information about civil, non-family claims in the Superior Court of Justice of Ontario. It does not explain the law. Court staff (and this guidebook) can only give you legal information, not legal advice. They can help you file documents or swear your affidavits, but they cannot tell you whether you should do something. Legal advice must come from a lawyer.

Before proceeding with a case in the Superior Court of Justice on your own, consider talking to a lawyer to help you understand the law and the procedures that might apply to your case.

If you do not have a lawyer, you will have to prepare your case and do the legal research to represent yourself. You will have to do all the things a lawyer would do and it will not be easy.

You will need to learn about:

- the court system;
- the law that relates to your case;
- what you and the other side need to prove; and
- the possible legal arguments for your case.

You will also need to know about the court rules and forms that must be used in your case. If you do not understand these things, you might miss something (e.g. a deadline) and hurt your case. You might be ordered to pay some or all of the costs of the other party.

Introduction

The *discovery process* is the way you (and the other party) discover what happened in your case. Discovery is an important process because it allows you to collect the information you need to assess the strengths and weaknesses of both your case and the case of the opposing party. It can help the parties settle the case, or it can help them resolve some issues or agree on some facts so the trial can be shorter. It also helps to avoid any surprises at trial, which makes the trial run more fairly and smoothly.

This guidebook only provides a general overview of the discovery process. You will need to do more research on the law and Rules that apply to your specific case if you wish to take any of the steps described in this guidebook. You may also want to consult with a lawyer about how to undertake the discovery process on your own.

Most discovery procedures are only available in actions (claims started by the filing of a Statement of Claim). This guidebook is intended for people involved in actions only, not applications (claims started by the filing of a Notice of Application).

The discovery process is different for actions under the Simplified Procedure (Rule 76). See Part 1 of the guidebook called *Starting a Civil Proceeding in the Superior Court of Justice* for more information about Simplified Procedure. Section 8 of this guidebook provides information about discovery under Simplified Procedure.

Types of discovery

There are several possible kinds of discovery in the discovery process, although it may not be necessary for you to undertake all of these forms of discovery:

- **Discovery of Documents:** This requires you to disclose to the other parties in the proceeding every document relevant to any matter that is being disputed in the action that is or has been in your possession, control or power (see Rule 30). The other parties will do the same thing. You do this by providing a list of documents (known as an Affidavit of Documents) to the other parties. Parties can then ask to see each other's documents. See section 1 of this guidebook for more information about discovery of documents.
- **Examinations for Discovery:** This is a meeting where one party asks an opposing party questions about any matter that is being disputed in the action before the actual trial (see Rules 31 and 34). The examination takes place before an official examiner or reporting service, who records each question and answer and then provides a transcript (a written record) of the examination for a fee. The party answering questions must swear that he or she will answer the questions truthfully. No judge or court official is present during the examination for discovery. See section 2 of this guidebook for more information about examinations for discovery.
- **Written Examinations for Discovery:** This is a series of written questions about any matter that is being disputed in the action, which is provided to the other party to answer in writing before the actual trial (see Rules 31 and 35). The answers to the questions are provided in the form of an affidavit. A party cannot be examined by both written and oral questions without the court's permission. See section 3 of this guidebook for more information about written examinations for discovery.
- **Inspection of Property:** You can ask the court to make an order for the inspection of real property (i.e. land) or personal property (i.e. any property other than land) if it is necessary to resolve an issue in the action (see Rule 32). For example, if you are suing over a piece of property that is not in your possession and inspection of the property will help determine who owns it, you can ask the court to provide you with an order to inspect the property. See section 4 of this guidebook for more information about inspections of property.

- **Physical or Mental Examination:** This is an examination by a health practitioner (e.g. a doctor) of a party in cases where the mental or physical condition of the party is in question (see Rule 33 and section 105 of the *Courts of Justice Act*). For example, if you are being sued by someone as a result of physical injuries they suffered, you can ask that they be examined by a doctor to confirm their injuries are genuine. See section 5 of this guidebook for more information about physical or mental examinations.
- **Pre-Trial Examination of Witnesses:** This is an examination of a witness who is not a party to the action before the trial begins, instead of at the trial (see Rule 36). This is not a part of the discovery process, but it does allow you to take evidence from the witness before the trial. To do this, you need either the other parties' consent or the court's permission. A pre-trial examination of a witness is similar to an examination for discovery, but the witness can be cross-examined and re-examined in the same manner as a witness at trial. See section 6 of this guidebook for more information about pre-trial examination of witnesses.
- **Request to Admit:** Requests to admit (although not officially part of the discovery process) allow you to take information and documents you got through the discovery process and ask the opposing party to admit the truth of a fact or the authenticity of a document before trial (see Rule 51). This helps speed up the trial by eliminating the need to bring witnesses to trial to prove facts or the authenticity of documents that have been admitted by the other party. See section 7 of this guidebook for more information about requests to admit.

In every action where there are documents that are relevant to your case, you will need to prepare a list of documents and ask the other parties to do the same (**discovery of documents**). In most cases, you will also need to examine someone for discovery (likely the opposing party) and be examined yourself (likely by the opposing party) (**examinations for discovery**). The other types of discovery are less frequently used but may be appropriate in your particular case.

The discovery process occurs between the parties and does not involve filing documents with the court unless an issue arises that a party asks the court to resolve.

You may want to consult a lawyer before beginning the discovery process. A lawyer can provide you with important information and advice about how to find out what you need to know about the other party's case. The lawyer can also inform you about how much information you must disclose to the other party.

The discovery process is different for actions under Simplified Procedure (Rule 76). The last section of this guidebook, section 8, deals with discovery under Simplified Procedure.

Using information you get through discovery outside of the action

You (and the other parties) can only use evidence and information you get through discovery (including documents, transcripts of examinations for discovery and answers to any written questions) for the purpose of the proceeding (see Rule 30.1). It can't be used outside of the proceeding. There are only four exceptions:

1. The party who wants to use the information has obtained the consent of the party who gave the information;
2. The party who wants to use the information is going to use it to impeach the testimony of a witness in another proceeding (i.e. to show the witness is not being truthful);
3. The party who wants to use the information is going to use it in a subsequent action; and
4. The party who wants to use the information has the court's permission to use the information in another proceeding.

This obligation (known as a *deemed undertaking*) is to the court. There can be serious consequences for you if you do not meet this obligation (e.g. by circulating documents to people outside of the action).

1. Discovery Plan

Rule 29.1 mandates that parties agree to a discovery plan in writing within 60 days after the close of pleadings (or such longer period as the parties may agree to), or before attempting to obtain the evidence, if earlier. The discovery plan must include:

- the intended scope of documentary discovery, taking into account relevance, costs and the importance and complexity of the issues in the particular action;
- dates for the service of each party’s affidavit of documents;
- information respecting the timing, costs and manner of the production of documents by the parties and any other persons;
- the names of persons intended to be produced for oral examination for discovery and information respecting the timing and length of the examinations; and
- any other information intended to result in the expeditious and cost-effective completion of the discovery process in a manner that is proportionate to the importance and complexity of the action.

The discovery plan must also address any exchange of electronic documents (see Rule 29.01.03(4)).

2. Discovery of documents

Rule 30 sets out the requirements for the discovery and inspection of documents. Rule 30 allows you to get access to the documents of the other party that are relevant to your case and requires you to allow the other parties to see your relevant documents.

Finding and listing all of your documents (also known as creating an Affidavit of Documents) begins the discovery process as well as your preparation for trial. Once the parties exchange their Affidavits of Documents, there will be an opportunity for the parties to inspect (look at) each other’s documents.

What is a document?

Document is broadly defined in the Rules (see Rule 30.01(1)(a)) and includes:

- a sound recording,
- a videotape,
- a film,
- a photograph,
- a chart,
- a graph,
- a map,
- a plan,
- a survey,
- a book of account, and
- electronic information.

“Electronic information” includes all information stored on a computer, including email. If a paper and electronic copy of the document exist, both must be disclosed. When gathering your documents, it may be helpful to think of a document as anything that: 1) teaches you something; 2) you can learn from; or 3) gives you information.

What documents need to be disclosed?

A document should be disclosed (i.e. listed in the Affidavit of Documents) if it:

- **relevant to a “matter in issue” in the case:** A “matter in issue” is a matter raised by a party in the pleadings (such as the Statement of Claim or the Statement of Defence); and

- ***is or has been in the party's possession, control or power***: The obligation to disclose a document is not limited to documents that you have with you. It includes documents that you used to have and don't have any longer. It also includes documents that you are entitled to obtain but the other party is not, such as documents that are with your bank, your accountant, or your doctor (see Rule 30.01(1)(b)).

The obligation to disclose documents does not end once you provide the other party with your Affidavit of Documents. You may find documents in places or with people you did not think about when you completed and served your Affidavit of Documents, right up to and even during the trial. These “new” documents must also be disclosed. If you have already served your Affidavit of Documents, you will need to provide the other parties with a supplemental Affidavit of Documents listing the new documents.

Privilege

Some of the documents you find may be privileged. That means that although you still need to list the documents in your Affidavit of Documents, the other party is not entitled to see them. For example, communications between a lawyer and his/her client are privileged. If you consulted with a lawyer about your case and received a letter from the lawyer that gave you some advice about the case, the letter would be a privileged document and you would not be required to give a copy of it to the other party. Other privileged documents are those created for the main purpose of helping you prepare to take your case to court. For example, if you met with a mechanical engineer to get some advice about an aspect of your case and took notes of your meeting, you could claim that the notes were privileged.

You may want to talk with a lawyer about the law relating to privileged documents, as it might be difficult for you to determine which documents are privileged. You may harm your case if you disclose privileged documents or you could be sanctioned by the court if you do not disclose a document that you thought was privileged when it was not.

Creating an Affidavit of Documents

You must serve an Affidavit of Documents on every other party in the action within ten days after the close of the pleadings (see Rule 30.03(1)). Your Affidavit of Documents must fully disclose your knowledge, information and belief about all documents relevant to any matter in issue in the action that are or have been in your possession, control or power.

Your Affidavit of Documents will be in Form 30A (for individuals) or Form 30B (for corporations or partnerships). Form 30A (for individuals) is included at the end of this guidebook for your reference.

Both Form 30A and Form 30B require you to list and describe your documents in three schedules (see Rule 30.03(2) for more detail):

- ***Schedule A***: In this schedule, you list and describe all the documents that are in your possession, control or power that you do not object to letting the other parties see (e.g. “contract of employment, dated June 1, 2006”).
- ***Schedule B***: In this schedule, you list and describe all the documents that are or were in your possession, control or power that you object to letting the other parties see because the documents are privileged. You must still describe the nature of the document (e.g. “a letter from a lawyer, John Brown, dated July 3, 2006”), as well as your grounds for claiming privilege.
- ***Schedule C***: In this schedule, you list and describe all the documents that were but are no longer in your possession, control or power (e.g. documents you have lost), whether or not you are claiming privilege over them. You must state when and how you lost access to these documents and their current location.

You will also need to state in your affidavit that you never had any relevant document other than those you listed in your affidavit (the exact language to use is provided in the form).

In the rare circumstance you do not have any documents that relate to the matters in issue, you must still swear an Affidavit of Documents stating this.

The law on disclosure of documents can be very complicated. You may want to consult a lawyer to make sure that you are disclosing all of the documents you should.

Inspecting documents

Rule 30.04 governs how you and the other parties can view each other's documents. This process begins by serving on the other party a Request to Inspect Documents (Form 30C), which you can find at the end of this guidebook. The other party has to provide you with a date (within five days of being served with the Request) and time (between 9:30am and 4:30pm) when their documents can be inspected at their lawyer's office or at some other convenient place. If you are served with a Request, you will need to do the same.

When you go to review the other party's documents, you should take your time and read each document carefully to ensure that you understand its relevance and what it means to your case. You are entitled to make copies of documents at your own expense. You may want to make copies of documents that you think are important to your case.

If a party claims privilege over a document and another party wishes to dispute that claim, a motion can be brought to the court to decide whether the document is privileged. If a judge decides that the document is not privileged, the judge can order that the document be made available for inspection.

In addition to making documents available for inspection, all parties will need to bring their documents (except privileged documents) to the examination for discovery and the trial, unless they agree otherwise (see Rule 30.04(4)).

3. Examinations for discovery

An examination for discovery is a second tool you can use, along with document discovery, to learn about the facts of your case. Once you have the other parties' documents, you can use an examination for discovery to get information you still need to have a "full picture" of what happened. You will also be able to use the information you get during an examination for discovery at trial (see Rule 31.11 for more information about how to do this).

Examinations for discovery are conducted under oath (the same oath that witnesses take before giving evidence at trial) before an official examiner or reporting service who records the questions and answers and will provide a transcript (a written record) to the parties (for a fee).

A judge is not present for the examination for discovery. People who may be present include the parties, their lawyers and the official examiner.

No party shall exceed a total of seven hours of oral examination for discovery except with consent of the parties or with leave of the Court (Rule 31.05.1(1)). Rule 31.05.1(2) provides the considerations for determining whether leave should be granted by the Court.

Even after an examination for discovery, parties are required to continue to update the answers they gave, including correcting answers that they later find out were incorrect. See Rule 31.09 for more information. Failure to provide continuing discovery can result in serious sanctions against a party.

Arranging an examination for discovery

To arrange an examination for discovery, you will have to complete and serve a Notice of Examination (Form 34A) on the lawyer of the party you want to examine, or on the party themselves if they don't have a lawyer. Form 34A is attached at the end of this guidebook for your reference.

You must provide at least two days notice to the party you want to examine and all other parties of the time and place of the examination for discovery (see Rule 34.05). The examination for discovery must take place in the county in which the person to be examined resides, unless all the parties and the person to be examined agree otherwise, or the court orders otherwise (see Rule 34.03).

Before booking an examination for discovery, you will want to consider the following questions:

- **Who should you examine?** If there is a single plaintiff and defendant, that is who you will want to examine. If the defendant or plaintiff is a company, you want to examine the person who knows most about the matters in question. To examine a party in the action, that party must be adverse in interest (i.e. the party has taken a position in the action that is different from yours and challenges your interests) (see Rule 31.03).
- **When should you examine this person?** You need to make sure that you are available, that the person you want to examine is available (and his/her lawyer, if he/she has one) and that you have booked an official examiner or reporting service to prepare the transcript.

If you are the plaintiff, you cannot conduct the examination for discovery until after the defendant has served and filed a Statement of Defence and you have served your Affidavit of Documents on the defendant (unless you have agreed otherwise) or the defendant has been noted in default (i.e. the defendant did not serve a Statement of Defence) (see Rule 31.04(2)).

If you are the defendant, you cannot conduct the examination for discovery until after you have served and filed your Statement of Defence and you have served your Affidavit of Documents on the plaintiff (unless you have agreed otherwise) (see Rule 31.04(1)).

- **What do you want to ask?** You may want to consult with a lawyer to make sure you are asking questions of the other party that are both appropriate and admissible.
- **What documents do you want to use in your examination?** You can bring documents to the examination and ask questions about them. The party being examined is required to bring documents relevant to any matter in the action in their possession, control or power, unless the documents are privileged. The party being examined is also required to bring any documents or things listed in the Notice of Examination, so long as they are not privileged (see Rule 34.10(2)). You may want to ask questions about these documents.
- **Can you examine a person who is not a party to the action?** You need to obtain the court's permission to examine a person who is not a party to the action. There are special rules to do this (see Rule 31.10). If the court grants you permission, you must personally serve the person with a Summons to Witness (Form 34B) and provide the person with attendance money in accordance with Tariff A. You must also give the person at least two days notice before the date of the examination.
- **Can you examine a person who resides outside of Ontario?** There are special procedures to do this (see e.g. Rule 34.07). You should speak to a lawyer if you want to do this.

What questions can be asked?

You can ask (or be asked) any proper question relating to any matter in issue in the action. You can also ask about the names and addresses of persons who might have knowledge of matters in issue in the action, unless the court orders otherwise. See Rule 31.06 for more information about questions that can be asked at an examination for discovery.

Answers to questions can be based on a person's *knowledge, information or belief*. "Knowledge" comes from the person's observations of, or participation in, the event or occurrence. "Information" comes from the person being informed about the event or occurrence by another person. "Belief" comes from what the person infers from the event or occurrence. You will want to confirm whether answers are based on a person's knowledge, information or belief. If the person indicates that his/her answer is based on information s/he received, you may want to ask for the source of the information and that source's contact information.

Preparing for an examination for discovery

You should prepare a list of questions you want to ask so you do not forget to ask the important questions. Typically, all examinations for discovery begin with asking the person being examined to state his/her name, address and occupation.

You normally only have one opportunity to conduct an examination for discovery of a person, so you need to make it count. This may be a good time to consult a lawyer. A lawyer can help you with the types of questions you can ask or the types of questions you might be asked. A lawyer will also be able to give you information about what questions you should ask, or what to do if you don't know the answer or you think the answer is privileged.

How do I get a transcript of the examination for discovery?

When you have examined another party and paid the required fees, the official examiner or reporting service will give you an original transcript and as many copies (both electronic and paper) as you have ordered. If you decide to use all or any part of the transcript at trial, you will need to provide the court with the original, so keep the original in a safe place and use a copy.

Transcripts are set out in a question and answer format. Each of the questions and answers are numbered in the chronological order that they were asked.

The transcripts set out any questions that have been left outstanding (known as *undertakings*). These are questions that the person agreed to provide an answer to later, because an answer was not readily available during the examination for discovery. You will want to keep track of these questions to ensure they are answered later. This is true whether you are the person being examined or the person doing the discovery.

4. Written examinations for discovery

Instead of doing an examination for discovery in person, you can conduct an examination for discovery through written questions and answers. The only difference is the manner in which the questions are asked and the answers are obtained.

Before deciding whether to proceed with an examination for discovery orally or through written questions, you may want to consult with a lawyer. Each form of examination for discovery has its own strengths and weaknesses. Remember, you generally only have one opportunity to examine a party, so you want to make sure that you get the most information possible from the examination for discovery.

Rule 35 governs how a written examination for discovery is to be conducted. It starts by a party serving a list of questions to be answered (Form 35A) on the person to be examined and every other party.

Once served with the Form 35A, the person being examined has fifteen days to reply to the questions. The response is provided by a sworn or affirmed affidavit (Form 35B). The person has the ability to object to a question, provided the objection is in Form 35B and accompanied by reasons for the objection.

If the party conducting the written examination for discovery is not satisfied with the answers that the person has provided or the answers raise a new line of questions, the party conducting the examination may, within ten days of receiving Form 35B, serve another list of questions on the person being examined. The person being examined then has another fifteen days to serve a response.

Forms 35A and 35B are attached at the end of this guidebook for your reference.

5. Inspection of property

Where a party's real property (i.e. land) or personal property (i.e. any property other than land) is at issue in the action, the court can require that another party be allowed to inspect the property (see Rule 32).

You may want to contact a lawyer before asking the court to order a party to make property available for examination. Forcing a party to make its property available for examination can be intrusive, and the court can require you to pay compensation. A lawyer can help you assess whether the property needs to be examined as

well as what the examination should entail. A lawyer can also help you gather information and draft the necessary materials to bring a motion.

6. Physical or mental examination

Where a party's physical or mental condition is at issue in an action, the court may require the party to undergo a physical or mental examination by one or more health practitioners (e.g. medical doctors, dentists, psychologists) (see section 105 of the *Courts of Justice Act*). Rule 33 sets out the procedure to be followed when requesting a party undergo a physical or medical examination.

You should contact a lawyer before asking the court to order a party to undergo a physical or mental examination. Forcing a party to undergo a physical or mental examination is intrusive and the court will want to be satisfied that such an examination is necessary before ordering it. A lawyer can help you gather information and draft the necessary materials to bring a motion. A lawyer can also help you assess whether a physical or mental examination is needed as well as what the examination should focus on.

7. Pre-trial examination of witnesses

You or another party can examine a witness who is not a party before the trial begins, instead of at trial. Although this is not part of the discovery process, it allows you to take evidence from a witness before the trial (as opposed to at the trial). This evidence can then be used at the trial. A pre-trial examination is generally used when there will be some problem with the witness attending the trial (for example, the witness may not be alive by the time of the trial). Rule 36 governs the requirements and process to conduct a pre-trial examination of a witness.

A pre-trial examination is conducted in a similar way to an examination for discovery. In fact, Rule 34 (which governs the examination for discovery process) also applies to the pre-trial examination of a witness unless the court orders otherwise. The difference is that the witness can be cross-examined and re-examined in the same manner as a witness at trial.

Any party to the action can use the transcript (and/or videotape) of the pre-trial examination at the trial, unless the court orders otherwise. A witness who was examined before the trial can't give evidence at the trial without the court's permission. A pre-trial examination is meant to take the place of giving evidence at trial.

You will need the consent of the opposing party or the court's permission to conduct a pre-trial examination of a witness. To get the court's permission, you will have to bring a motion before the court. The court will consider factors such as the possibility that the witness won't be able to testify at the trial because of illness.

You may want to consult with a lawyer before deciding to conduct a pre-trial examination. A lawyer will be able to help determine whether it is a good idea to conduct an examination. A lawyer can also help you gather information and draft the necessary materials to bring a motion.

8. Requests to admit

Requests to admit can help to expedite your case, shorten your trial, and cut down on the expense of the litigation because they allow both parties to admit to certain facts and documents. The admitted facts and documents are no longer in issue in the proceeding. You should consider using a request to admit if, for example, a particular fact you would otherwise need to prove is contained in the other party's documents. The other party may admit the fact, in which case it will be considered proven at the trial.

Rule 51 governs the process of admissions. To get an admission from the other party, you will need to serve a Request to Admit (Form 51A) on the other party. Note that the admission only relates to your current case, and can't be used in another proceeding.

The party that receives the Request to Admit must respond within twenty days after being served by serving the requesting party with a Response to Request to Admit (Form 51B). If the party does not respond within the specified time, the party is deemed, for the purposes of the proceeding, to admit to the truth of the facts or the authenticity of the documents mentioned in the Request to Admit.

You may want to contact a lawyer before serving or responding to a Request to Admit. A lawyer can help help you draft a Request to Admit. A properly drafted Request to Admit can cut down the number of matters in issue at the trial. A lawyer can also help you decide whether you should admit to anything if you are served with a Request to Admit. Admitting to the requests means you agree facts are true or documents are authentic. It is possible to withdraw the admission later, but the other party will have to consent or you will need to ask the court for permission. Also, failure to admit to something in the Request to Admit that is later proven to be true during the trial can be used as a factor when determining the costs of the Action.

Forms 51A and 51B are attached at the end of this guidebook for your reference.

9. Discovery under Simplified Procedure (Rule 76)

Under Simplified Procedure, in addition to an Affidavit of Documents (Form 30A or 30B), you must also serve the other parties with copies of all the documents in Schedule A of your Affidavit within ten days of the close of pleadings. Your Affidavit of Documents will also need to include a Schedule D, where you list of the names and addresses of persons who might reasonably be expected to have knowledge of the matters in issue in the action, unless the court orders otherwise.

Examinations for discovery under Rule 31 are limited to two hours per party and written examinations for discovery under Rule 35 are not available in actions under Simplified Procedure.

For more information about discovery under Simplified Procedure, see Rule 76.

For more information about court processes, read the other guidebooks in this series by visiting www.lawhelpontario.org.

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393 University Avenue, Suite 110, Toronto, Ontario M5E 1E6.