

DISCOVERY RULES THAT GET BROKEN

Iowa Paralegal Association · Annual Meeting

Purpose of Discovery

Iowa R. Civ. P. 1.501(2) – “The rules providing for discovery and inspection should be liberally construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding and to provide the parties with access to all relevant facts.”

WHY DISCOVERY EXISTS

Iowa R. Civ. P. 1.503(1) · The foundation everything else builds on

Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action...

Rule 1.503(1)

ELIMINATE SURPRISE

Both sides are entitled to know the other's case before trial — not at trial

NARROW THE ISSUES

Isolate what is actually disputed so trial time is used efficiently

PRESERVE TESTIMONY

Depositions capture evidence before memory fades or witnesses move

PROMOTE SETTLEMENT

Full information exchange helps parties assess their positions accurately



Stipulations to Extend Time

Iowa R. Civ. P. 1.506 · The right way depends on what you're extending

THE 30-DAY DEADLINE

Iowa R. Civ. P. 1.509(c) · 1.512(2) · 1.510(2) · Same clock, very different consequences for missing it

INTERROGATORIES

R. 1.509(c)

30 days to answer OR object

Both answers and objections are due within 30 days — no separate deadline

Verification required: client must sign and swear to the answers

Objections must be specific and signed by counsel — not boilerplate

Must answer to the extent not objected to even if objecting

⚠ **Objections waived if extension isn't careful:** Confirm whether a stipulated extension covers the time to object — or objections may be lost.

REQUESTS FOR PRODUCTION

R. 1.512(2)

30 days to respond or object

Must state whether responsive documents exist and are being withheld

Objections must specify which part of the request is objectionable and why

No limit on number of requests — but proportionality applies

Form of production can be specified by requesting party — native vs. PDF matters

→ **Production is not filing:** Documents are served on the other party — never upload a production to EDMS.

REQUESTS FOR ADMISSION

R. 1.510(2)

30 days to answer or object — or it's admitted

No response = deemed admitted, binding at trial and on summary judgment

Denial must be specific: a vague denial may be treated as an admission

"Lack of knowledge" is only valid if reasonable inquiry was made and stated

Court may allow more time on motion — but don't count on it

🚩 **The silent trap:** Missing this deadline is case-dispositive. Calendar RFAs separately from all other discovery.

Objections — No Boilerplate

Iowa R. Civ. P. 1.509 · 1.512 · Specificity is required

THE BOILERPLATE PROBLEM

Courts have repeatedly rejected these — yet they keep appearing

✗ STILL SEEN IN IOWA COURTS

"Overbroad and unduly burdensome"

"Calls for a legal conclusion"

"Vague and ambiguous"

"Not reasonably calculated to lead to discoverable evidence"

"Subject to and without waiving all prior objections, Defendant responds as follows..."

Answering only 'to the extent not objectionable' with no further explanation

✓ WHAT THE RULES REQUIRE

Specificity: State with particularity which portion is objectionable and exactly why

Answer anyway: Respond to the extent not objectionable — silence is not an option

State what's withheld: Must state whether responsive materials are being held back

Burden showing: Demonstrate actual hardship with evidence — not just argument

Signed by counsel: Objections must be signed by the attorney making them (R. 1.509)

Privilege Logs

Iowa R. Civ. P. 1.503(5) · Required every time a document is withheld

THE PRIVILEGE LOG

Iowa R. Civ. P. 1.503(5) · A log that fails to establish privilege is no log at all

Doc #	Date	Author	Recipients	Privilege Claimed & Basis
001	03/14/24	J. Smith, Esq.	Client Corp.	Attorney-client: legal advice re: contract terms requested by client
002	03/19/24	Client Corp.	J. Smith, Esq.	Attorney-client: client communication seeking legal advice on same matter
003	04/01/24	J. Smith, Esq.	File only	Work product: attorney mental impressions re: litigation strategy

MOST COMMON FAILURES

- Withholding documents with no log at all
- Generic entries: 'Privileged communication'
- Not establishing both elements of privilege
- Logging clearly non-privileged documents
- Failing to log on a rolling basis

WHAT EVERY ENTRY NEEDS

- Document identifier & date
- Author and all recipients
- Description (non-revealing, but enough)
- Specific privilege claimed
- Facts establishing the privilege applies

TIPS

Practical habits that keep discovery on track — and keep counsel out of trouble

FILE vs. SERVE	CALENDARING	PROCESS & DOCS
<p>Do NOT file: Interrogatories, responses, RFPs, RFAs, objections, deposition notices — serve only</p>	<p>Calendar deadlines: try to predict extensions early</p>	<p>Verification first: get the client's signature before finalizing interrogatory answers — not after</p>
<p>DO file: Motions to compel, motions for protective order, subpoenas, certificates of service, stipulated amendments</p>	<p>Stipulated extensions: update calendar immediately and mark the old deadline superseded</p>	<p>Bates before producing: never send unnumbered documents; log incoming production by Bates range and flag gaps</p>
<p>File Notices: File notice of discovery requests/responses</p>	<p>RFAs separately: treat as a different calendar category — non-response is binding, not just late</p>	<p>Privilege log early: start it when you begin reviewing documents, not at the end</p> <p>Confirm oral agreements: follow up every phone extension agreement with an email — "confirming our call..."</p>

The discovery tracking matrix: One spreadsheet — every request, deadline, response status, and extension — is a good way to keep everything organized in one file.

RED FLAGS

Things to flag to the attorney immediately — don't wait, don't assume

▀ No verification on interrogatory answers

Opposing party's answers aren't signed and sworn — responses are deficient and attackable

▀ "See attached" without actually answering

Referring to documents is not an answer to an interrogatory — evasion that courts don't excuse

▀ Boilerplate objections

Objections should be made with specificity or they could be considered to be waived

▀ Bates gaps in a production

Numbers jump from 00312 to 00401? Documents are missing. Log it and tell counsel immediately

▀ Docs withheld, no privilege log

Objection on privilege grounds with nothing logged — possible waiver

▀ Extension agreed by phone, nothing in writing

Oral agreements evaporate. If counsel made one, get it confirmed before the deadline runs

QUESTIONS?

To get things started:

- Has your firm ever had a privilege log challenged on a motion to compel? What happened?
- Has a deemed admission ever caused a real problem in a case you worked on?
- What's your firm's process for getting client verification on interrogatory answers?
- Does your firm have a discovery tracking system — and does it actually get used?