

Notice of Discovery Obligations

This is not intended as a complete list of discovery obligations or their exceptions. Rather, it is a brief summary to acquaint a pro se party with the general scope of discovery under the Federal Rules of Civil Procedure.

Discovery is the phase of a lawsuit where the parties exchange evidence. Each party has an obligation to preserve any evidence that might be relevant to the case. That means, for example, that the defendant is prohibited from destroying any existing electronic data that might show he or she participated in file-sharing and copyright infringement.

In addition, each party is generally required to allow the other to have access to evidence that might be relevant to the case. Evidence can include both documents and other tangible items. There are several exceptions to the general rule of production, such as legal theories and materials in preparation for this or any other lawsuit and materials pertaining to psychiatric treatment. Nor may a party make a request in discovery that is unduly burdensome or expensive. If a party wishes to object to a discovery request, he or she should first raise it with the other party. If they cannot reach an agreement, the objecting party should file a Motion for a Protective Order before this Court and explain the reasons for the objection. If a Motion for a Protective Order is not filed within a reasonable time after the objected-to request is made, the objection will be deemed waived.

Each party may be required to answer questions under the penalties of perjury for the purposes of discovery. This may be done orally, as in a deposition, or on paper, as through interrogatories or requests for admission. Parties who wish to object to the questions may do so by objecting when the question is asked to them. If a party chooses to object, he or she must state the reasons for the objection. Questions that are not objectionable must be answered.

During discovery, the plaintiffs shall explain in plain language what the defendant's obligations are and provide citations to the appropriate Rule of Civil Procedure providing them with the authority to seek that type of discovery.

Failure to comply with discovery obligations may result in sanctions. Sanctions can include adverse inferences and the payment of the other party's expenses in gaining compliance with the obligations.

SO ORDERED.

Date: January 30, 2008

/s/ Nancy Gertner

NANCY GERTNER, U.S.D.C.