

FREE LEGAL SEMINAR

ON

**The Discovery Process in
Civil Cases**

August 2010

A Washoe County Law Library Community Service Program

Speaker: Hon. Wesley M. Ayres

Date: Thursday, August 19, 2010

**Location: Washoe County Law Library
75 Court St.- Old Courthouse**

Time: 5:00 – 7:00 PM

*Due to limited space please sign up ahead of time by
contacting the Washoe County Law Library at*

328-3250



The Discovery Process in Civil Cases

August 19, 2010

Washoe County Law Library

Tonight's Program

- Discovery Generally
- Mandatory Disclosures
- Discovery Methods
- Enforcement and Penalties



Discovery Generally

What is Discovery?

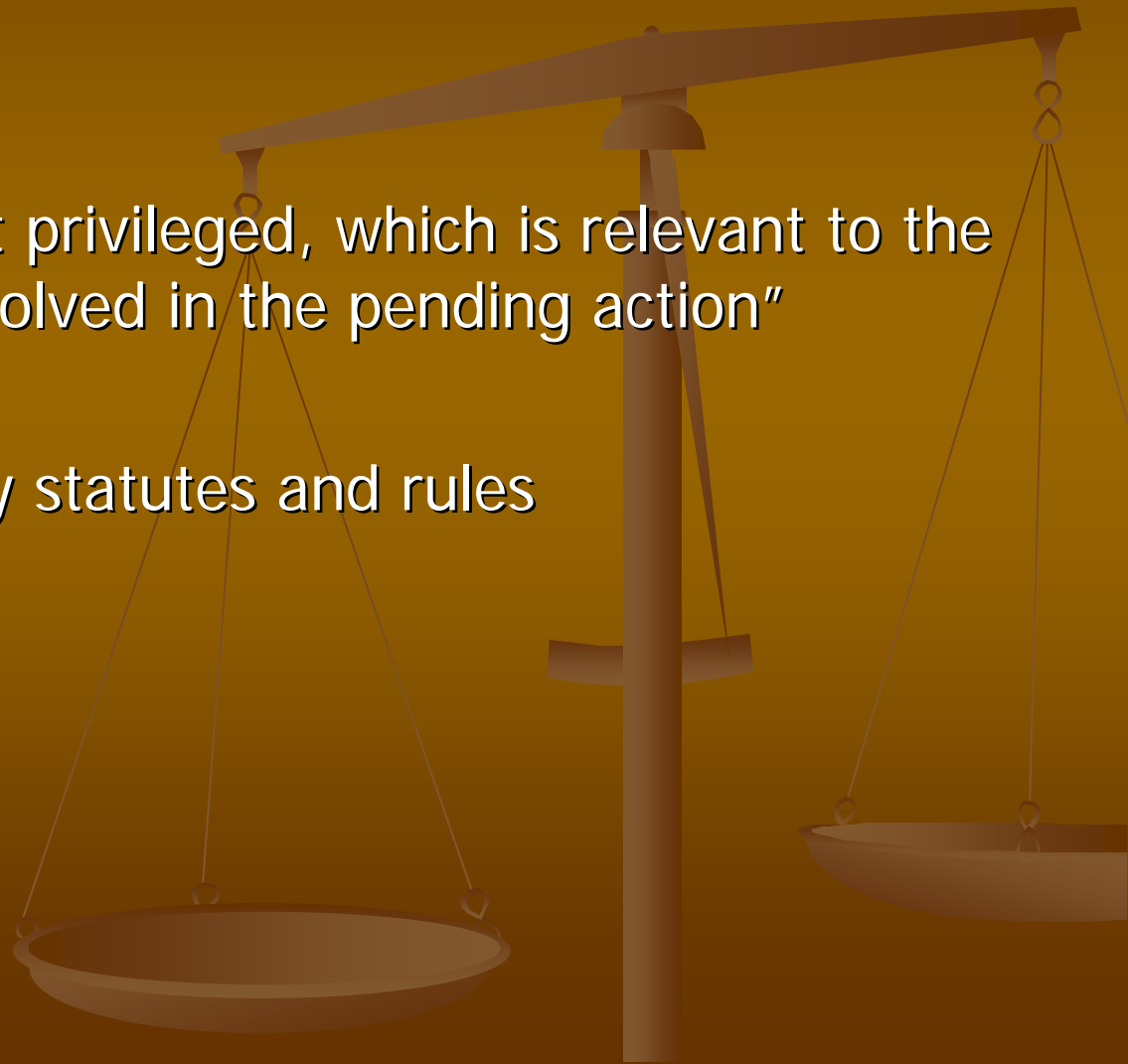
- The formal process of obtaining potential evidence
- The process is governed by court rules
 - Nevada Rules of Civil Procedure (“NRCP”)
 - Federal Rules of Civil Procedure (“FRCP”)
 - Local court rules



Discovery Generally

Scope of Discovery

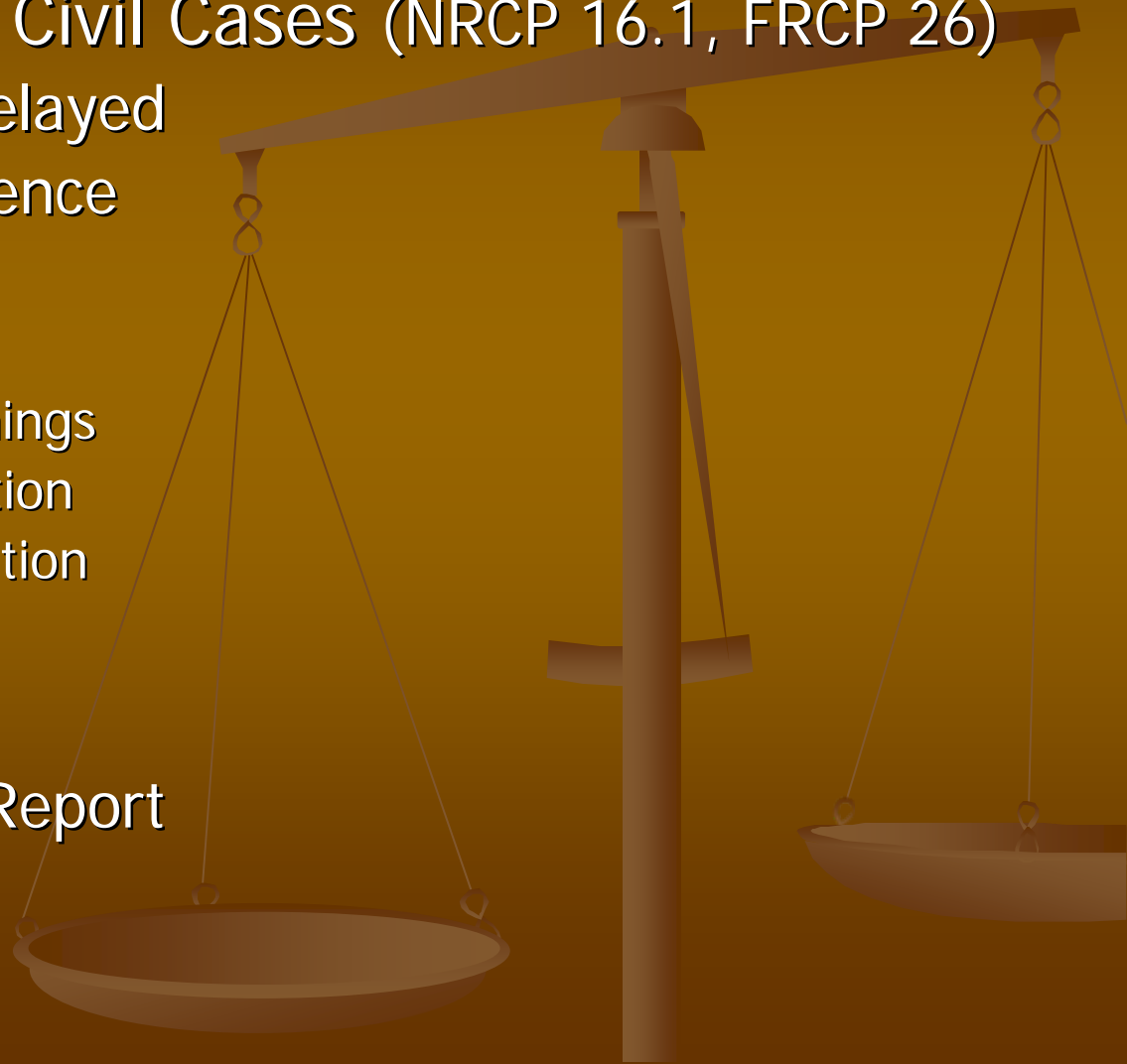
- “[A]ny matter, not privileged, which is relevant to the subject matter involved in the pending action”
- Scope is limited by statutes and rules
 - Privileges
 - Work product
 - Reasonableness
 - Protective orders



Mandatory Disclosures

Initial Disclosures in Civil Cases (NRCP 16.1, FRCP 26)

- Other discovery delayed
- Early Case Conference
- Disclosures
 - Witnesses
 - Documents and things
 - Damages information
 - Insurance information
- Deadline
- Discovery Plan
- Case Conference Report



Mandatory Disclosures

Initial Disclosures in Family Court Cases (NRCP 16.2)

- Disclosures
 - Financial disclosure
 - Witnesses
 - Documents and things
- Deadline
- Case Management Conference
 - Pre-conference meeting
 - Case Management Order
- Use of other discovery methods



Mandatory Disclosures

Other Required Disclosures

- Expert witness disclosures
 - Deadline
 - Identification and expert reports
 - Payment
 - Expert disclosures in Family Court
- Pretrial disclosures
 - Deadline
 - Witnesses and exhibits



Discovery Methods

Interrogatories

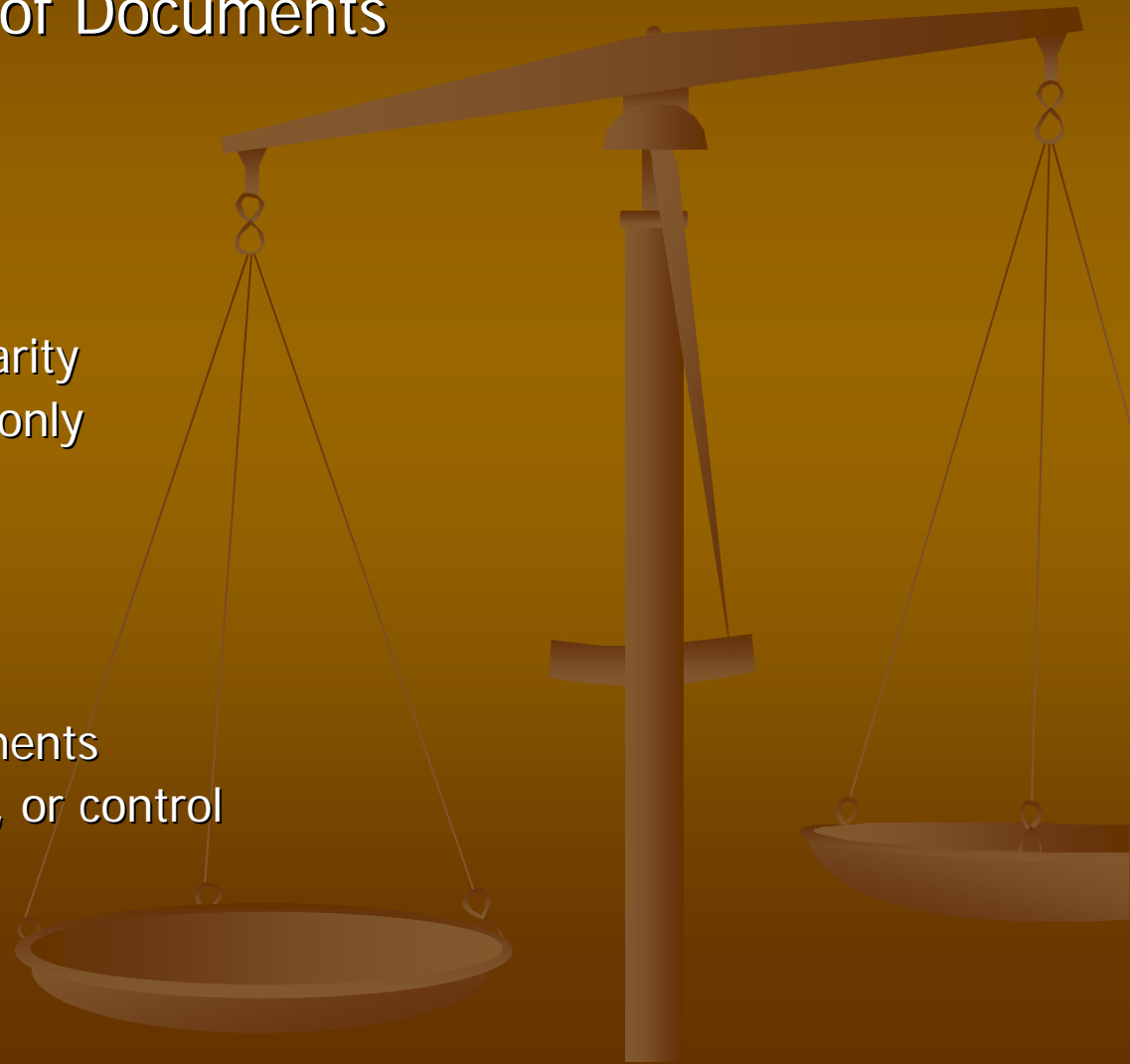
- Definition
- Purposes
- Format
 - Limits
 - Service
- Responses
 - Deadline
 - Objections
 - Requested information
 - Verification



Discovery Methods

Request for Production of Documents

- Purpose
- “Documents”
- Format
 - No limits
 - Reasonable particularity
 - Existing documents only
 - Service
- Responses
 - Deadline
 - Objections
 - Production of documents
 - Possession, custody, or control
 - “Privilege log”



Discovery Methods

Depositions

- Definition
- Purpose
- Timing and other limits
- Recording
- Scheduling
 - Litigants
 - Nonparties and subpoenas
 - Corporations
 - Experts
- Procedures
 - Location
 - Conduct and Objections
 - Refusal to answer
 - Review of transcript



Discovery Methods

Request for Admissions

- Purpose
- Format
 - Limits
 - No oath
 - Service
- Responses
 - Deadline
 - Options



Discovery Methods

Physical or Mental Examinations

- Purpose
- Requirements
 - "In Controversy"
 - "Good Cause"
- Procedure
 - Specificity required
 - Attendees
 - Payment
 - Location
 - Examiners



Enforcement and Penalties

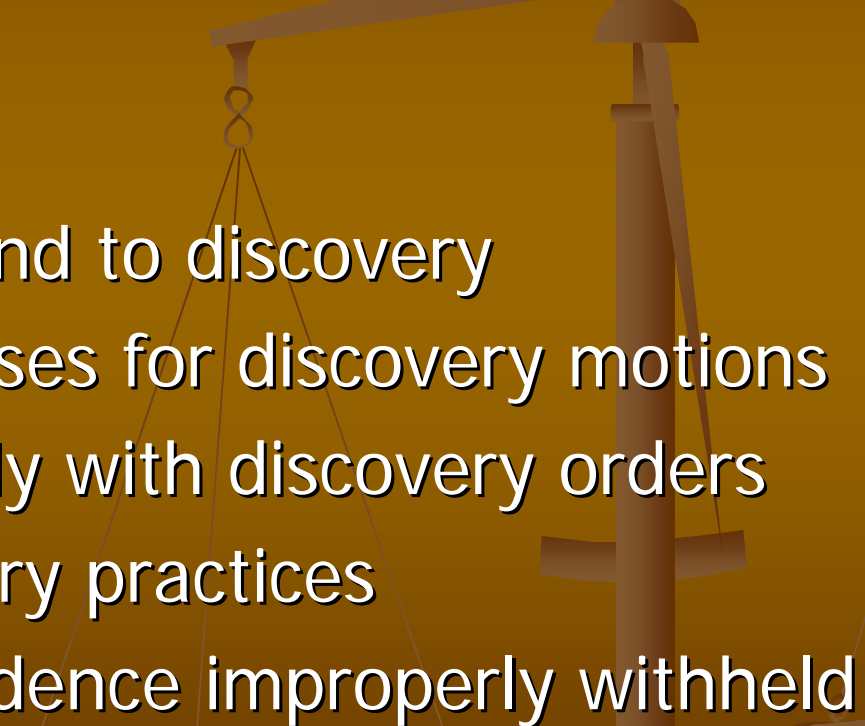
Discovery Disputes

- Consultation
- Discovery motions
- Discovery Commissioners
 - Formal and informal hearings
 - Recommendations
 - Objections

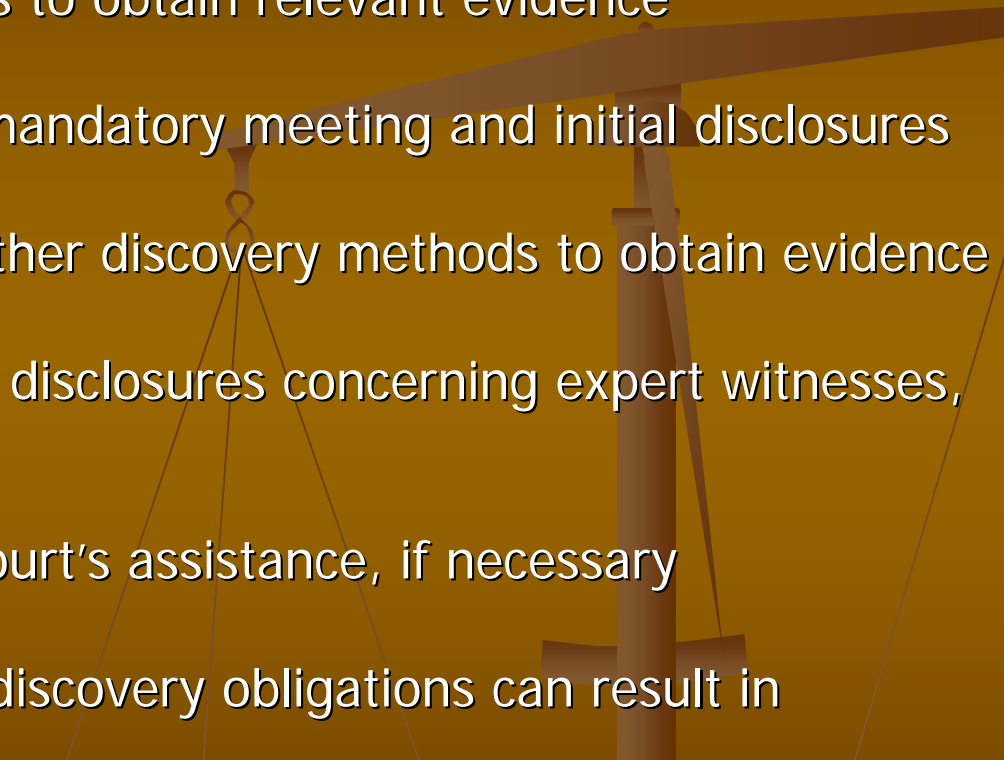


Enforcement and Penalties

Penalties

- NRCP 16.1
 - NRCP 16.2
 - Failure to respond to discovery
 - Award of expenses for discovery motions
 - Failure to comply with discovery orders
 - Abusive discovery practices
 - Exclusion of evidence improperly withheld
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Conclusion

- Discovery allows parties to obtain relevant evidence
 - Process begins with a mandatory meeting and initial disclosures
 - Parties may then use other discovery methods to obtain evidence
 - Parties must also make disclosures concerning expert witnesses, and pretrial disclosures
 - Parties may seek the court's assistance, if necessary
 - Failure to comply with discovery obligations can result in sanctions
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Questions

