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Discovery

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Definition

In every jurisdiction, the rules of evidence permit attorneys to obtain information on the basis of the opinions of the expert witnesses. The process of examining information from the expert witness presented by the opposition is referred to as discovery. In both civil and criminal litigation, discovery rights are always imposed; thus, each expert witness is subject to this process. Discovery rules in most states are based on the Federal Rules of Evidence (FRE). While discovery is intended to collect information, it also serves to narrow or refine disputes regarding critical issues. In the case of forensic neuropsychologists serving as expert witnesses, it is often the case that one's entire file (e.g., interview notes, raw test scores, behavioral observations, etc.) be provided to the opposing counsel (or at least to their own retained neuropsychologist expert). Matarazzo (1990) outlined multiple types of raw data scrutinized during discovery including: (1) written reports, (2) handwritten interview notes, (3) raw test data – standardized test scores, (4) test stimuli, (5) participant's actual responses to test stimuli,

and (6) test manuals. A discovery deposition is a specific aspect of the discovery process in which the opposing counsel poses questions to the expert witness to determine what he/she does and does not know, to narrow the witness to a specific opinion, and to gain exposure to the witnesses' demeanor while testifying.

Cross-References

- [Cross-Examination](#)
- [Deposition](#)
- [Direct Examination](#)
- [Federal Rules of Evidence \(FRE\)](#)

References and Readings

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- Melton, G. B., Petrila, J., Poythress, N. G., & Slobogin, C. (2007). *Psychological evaluations for the courts* (3rd ed.). New York: Guilford.