

LITIGATION IN LAYMAN'S TERMS – CHAPTER TWO

“Discovery” and Beyond (July 8, 2011)

As explained in [Chapter One](#), litigation starts with a [Complaint](#) by the Plaintiff and an Answer by the Defendant. Paragraph by paragraph the Answer responds to the Complaint. The Defendant can “admit”, “deny” or claim insufficient knowledge to admit or deny as to each allegation. Those paragraphs that are “admitted” are no longer at issue and become accepted fact. Usually any allegation that is more complicated than the time of day is denied. This is what lawyers refer to as “framing the issues.” This generally concludes the pleadings stage of litigation and we move on to “Discovery.”

Discovery

As the name implies, Discovery is when each side discovers information from the other parties. This is done in a couple of ways. Since this is a fast moving injunctive proceeding, the parties have only used a request for each other's documents.

These requests can be quite extensive and the production itself can be boxes upon boxes (or CD's) of documents. They can be supplemented. **This exchange of documents between the parties is ongoing at this writing.**

Post Discovery

Once Discovery is completed, the matter is considered ready for trial. Along this process, the attorneys may have had meetings with the judge (in chambers) who will set a schedule of deadlines and resolve disputes that have come up in Discovery and any other administrative matter related to the presentation of each side's case at trial.

Trial Prep

This is where your trial team is now working. A huge number of things are part of this process:

Exhibits – they have to be collected, understood why they are being offered, organized for order of presentation, and insure they can be admitted into evidence according to the rules of evidence.

Witnesses and Testimony – what witnesses are to be called and why, what order are they to be presented, what is the purpose/goal of them testifying and most important, preparation of individual witnesses for the trial.

Trial Brief - This is prepared primarily for the Judge. What is the case about? What are the issues? Why should the judge rule in your favor on all the issues? Are there citations of courts' decisions on similar issues (“authorities”) supporting your positions? The College should be doing similar preparation.

As this process produces public information it too will be posted to this website.

So, Where Are We?

Our non-jury trial is scheduled for July 20th. When the exact courtroom is confirmed in the Northampton County Courthouse it will be posted on this site. You are welcome to attend. Little Discovery has been completed. The College's responses to our request for documents were due July 8th. Our responses to their interrogatories are due thereafter.

As developments occur, I will keep you posted.

Fraternally,

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