

Disclosure of Evidence in the Civil Procedure Code

The disclosure of evidence, or Discovery, is undoubtedly one of the most innovative mechanisms introduced by the new Civil Procedure Code. While it is not entirely new to our legal system—since it was previously contemplated, for example, in the Maritime Procedure Code—its inclusion in civil proceedings marks a milestone in the way litigation is conducted in our country.

Disclosure of evidence is a legal procedure based on the exchange of information between the parties involved, without the need for judicial intervention, except in certain cases established by law. The purpose of this mechanism is to allow the parties to timely assess the strength of their positions and, in that sense, optimize their legal strategy and anticipate, as much as possible, that of the opposing party. In many cases, this system has led to the termination of proceedings even before reaching the trial stage. Thus, the introduction of disclosure of evidence not only implies a change in our civil procedure but also in the strategies employed by the parties in anticipation of litigation or, in any case, during its course.

In general terms, we present a brief summary of the means of evidence disclosure contemplated in the Civil Procedure Code, without prejudice to the applicable restrictions on the disclosure of the requested information established by the same Code:

- Sworn statements through oral or written questions: The parties may take sworn statements by oral or written interrogation of a witness. This may be agreed upon by the parties or, if not possible, the interested party may request the witness's appearance before the Court. This proceeding will be recorded by audio, audiovisual, or stenographic means.
- Written interrogatories: The parties may submit up to 25 written questions to the Court, which will notify the parties.
- Production and inspection of documents or other objects: The parties may request the production of documents and objects in the possession of the opposing party or even third parties.
- Physical or mental examinations: Any party may request an examination of the physical or mental condition of one of the parties or a person under their custody when such conditions are the subject of the dispute.



- Requests for admission of facts and authentication of documents and objects: The parties may request the other party to admit the truth of a fact or the authenticity of any document.

The implementation of the disclosure of evidence in our civil procedure has a significant impact on the dynamics of litigation. Traditionally, there has been a culture of withholding information until the last moment or even using delaying tactics throughout the process to wear down the opposing party. This approach has fostered uncertainty and the unnecessary prolongation of judicial proceedings.

The introduction of this mechanism now implies a shift in mindset for all litigants, requiring greater transparency and collaboration in the exchange of information. For the expected benefits of this mechanism to materialize, it is necessary for the parties and their representatives to adopt different methodologies, whether inside or outside the judicial sphere, aimed at efficient and strategic case management.



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