



Feature

## Effective Discovery Techniques: Ten Tips for Legal Staff

By Ursula Furi-Perry

It's not just a television channel...discovery is one of the most integral parts of trial preparation, which often doesn't receive the attention it's due from legal staff. "A lot of people think of discovery as just filling out papers, but it's really everything we do up to the moment of trial," explained Diana Orozco, paralegal at Koskoff, Koskoff & Bieder, P.C. in Connecticut, and member of the Paralegal Task Force at the American Trial Lawyers' Association.



Discovery is the formal exchange of information between parties; it involves document gathering and organization, as well as establishing the firm's 'road map' and strategies for trial.

As essential as discovery is for a win, non-attorney legal staff are often improperly utilized

during the process. "The biggest mistake attorneys make is not getting paralegals involved in war-gaming sessions when they go over their strategy," said Dr. Jim Rasicot, renowned trial psychologist and consultant, and owner of Professional Litigation Services in Minnesota. "Paralegals can be extremely helpful because they're often the first to see and file documents." From digesting depositions to reviewing records, from organizing paperwork to helping develop trial strategies, non-attorney legal staff can play a crucial role in trial preparation.

Consider the following tips for discovery involvement:

1. **Be efficient.** "Efficiency is important: to do what we do and to do it well," cited Orozco. Legal staff must understand the discovery process, be aware of the deadlines involved, and be able to perform necessary tasks in a timely and effective manner.
2. **Branch out.** Discovery often involves sub-contracting: firms may hire outside companies and experts to prepare demonstratives and timelines, or to run electronic discovery, for example. Consider learning to do those tasks on your own, to fill the need for an outsider's involvement. "If paralegals want to increase their worth to a firm and be more important, the more of these areas they can get involved in, the better," Rasicot believes.
3. **See the 'big picture.'** "Attorneys need to

communicate with paralegals, and likewise," said Orozco. "We need to know what they're thinking on the 'big picture' of the case; what their theories are. If that's not communicated, then we're wondering aimlessly in discovery."

4. **Be involved in strategizing.** Rasicot suggests that firms get together as a team and talk about the case, as the trial can benefit from everyone's input. "I'd like to see attorneys use paralegals more often early on, and explain the case better to paralegals," said Rasicot. "I would like to see paralegals involved more in actual trials."
5. **Learn to be electronically savvy.** Not only is electronic discovery and document management becoming more widespread at firms, but some courts also prefer or even require that documents be filed electronically. As such, "it's extremely important to know how to run electronics," Rasicot said.
6. **Learn to manage your documents.** A good case and document management system, whether computerized or kept up by staff, is essential. Orozco stresses the importance of having one central place to keep all documents—as well as keeping the entire staff in the loop about system management.
7. **Know your rules and terminology.** Can you tell the difference between interrogatories and requests for admission? Do you know your jurisdiction's rules of procedure governing the discovery process? "The more you can add to a case, the more your value goes up, and that includes knowing about the law," Rasicot stated. "If you don't understand the process, your value isn't as great."
8. **Stay organized.** "The volume of paperwork we can get involved in is [tremendous,]" said Orozco, who



## Feature

manages over 75 medical malpractice cases. “If you’re not sure what every single page says, that’s crucial.”

9. **Stay persistent-and get creative.** It’s no secret that discovery involves extensive investigation and interviewing, and that can mean some serious roadblocks. “You have to be creative in getting the information you need sometimes,” said Orozco, who frequents medical associations for hard-to-find information in some cases. “Think outside the box: if I can’t get it from [one place,] where else can I go?”

10. **Understand what’s important.** “In almost all the trials I do, whether they involve 1000 or two pieces of paper, there’s usually ten or less critical documents,” said Rasicot. “I can’t tell you how many times a paralegal sees a document that ends up being a smoking gun,” Rasicot stated. When legal staff are unaware of the importance of a document, it’s easy for that document to slip away or go unnoticed. As a result, attorneys and legal staff alike must be able to identify, understand, and keep track of significant documents.

EmploymentCrossing is the largest collection of active jobs in the world.

We continuously monitor the hiring needs of more than 250,000 employers, including virtually every corporation and organization in the United States. We do not charge employers to post their jobs and we aggressively contact and investigate thousands of employers each day to learn of new positions. No one works harder than EmploymentCrossing.

Let EmploymentCrossing go to work for you.