

Handout 11
The Discovery Process

At the beginning of class today, we discussed what types of evidence we, as lawyers, might want to find in gathering evidence for our side of the case, and gathering evidence opposing the other party's side. We then tried to "discover" the information we needed by looking at the documents available to us. We were able to find some things we were looking for, but could not get answers to other questions. This is common in everyday litigation. But does this lead to fair trials?

A. Missing Information: What explanations and pieces of evidence did we fail to discover in the documents? Consider the missing information from both our party, and the opposing party.

Our Party: _____	Opposing Party: _____

B. Reasoning: Look at the pieces of missing evidence you listed above. If the documents we read today truly provide all the information available to us, what do the unanswered questions above tell us about how we should argue our (and the opposing party's) case?

Our Party: _____	Opposing Party: _____

C. Will this allow a fair trial? It's clear that both sides do not have all the information they need. Will this allow a fair trial? Regardless of the answer that you give, does the missing information help you at all in supporting your case, or opposing the other party's case?