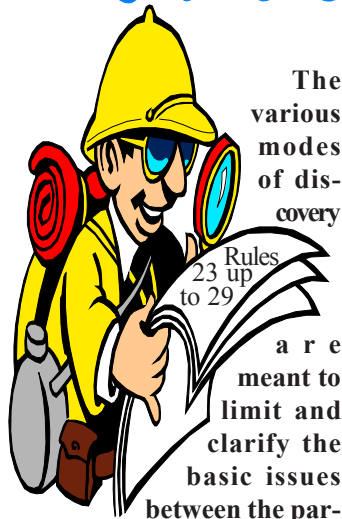


Modes of discovery

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The various modes of discovery are meant to limit and clarify the basic issues between the parties. Either party may compel the other to reveal whatever facts he has in his possession. All the parties are required to lay their cards on the table so that justice can be speedily rendered on the actual merits of the case.

1. Depositions pending action: the testimony of any person may be taken by oral examination or written interrogatories. **The attendance of witnesses may be compelled by the use of a subpoena. Within the Philippines, depositions may be taken before any judge, notary public or before any person authorized to administer oaths.**

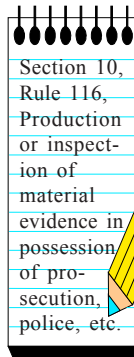
Unless otherwise ordered by the court, the deponent may be examined on any relevant matter, not privileged, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things, and the identity and location of persons having knowledge of relevant facts.

2. Depositions before action or pending appeal : A person who desires to perpetuate his own testimony or that of another person may file a verified petition in the court of the place of residence of any expected adverse party. **The petition shall state among other things that the petitioner expects to be a party to an action in a court of the Philippines but is presently unable to bring it, or cause it to be brought, the subject matter of the expected action and his interest in it.** If an appeal has been taken from a judgment of a court, including the Court of

Appeals, or before the taking of an appeal if the time for it has not expired, the court in which the judgment was rendered may allow the taking of depositions of witnesses to perpetuate their testimony in the event of further proceedings in the said court.

3. Interrogatories to parties: A party desiring to obtain material and relevant facts from any adverse party shall file and serve upon the latter written interrogatories to be answered by the party served, or if the party served is a partnership, association or corporation (public or private), by any of its officers who may be competent to testify in its behalf.

4. Admission by an adverse party : At any time after the issues have been joined, a party may file and serve upon any other party a written request for the admission by the latter of the genuineness of any material and relevant document described in and exhibited with the request, or of the truth of





any material and relevant matter of fact stated in the request. Each of the matters of which an admission is requested shall

be deemed admitted unless the party to whom the request is directed, files and serves upon the requesting party a sworn statement either denying specifically the matter, or explaining why he cannot either admit or deny those matters. Any admission made by a party is for the purpose of the pending action only and shall not constitute an admission by him for any other purpose, nor may the same be used against him in any other proceeding. The court may



allow the party making an admission to withdraw or amend it.

5. Production or inspection of documents or things: the court may (a) order any party to produce and permit the inspection and copying or photographing of any designated documents, paper, books, accounts, letters, photographs, objects or tangible things, not privileged, which constitute or contain evidence material to any matter involved in the case and which are in his possession, custody or control; or (b) order any party to permit entry upon designated land or other property in his possession or control for the purpose of inspecting, measuring, surveying or photographing the property or any designated object or operation

6. Physical and mental examination of persons: In an action in which the mental or physical condition of a party is in controversy the court may order him to submit to a physical or mental examination

by a physician. The order for examination may be made only on motion for good cause shown and upon notice to the party to be examined and to all other parties, and shall specify the time, place, manner, conditions and scope of the examination, and the person by whom it is to be made.

Consequences of refusal of a party to comply with the modes of discovery: (1) contempt of court; (2) arrest; (3) striking out of pleadings; (4) stopping of further proceedings; (5) dismissal of the action; (6) judgment by default, etc.

