

THE COMMERCIAL LITIGATOR'S DISCOVERY & VERIFICATION CHECKLIST

A 14-POINT AUDIT PROTOCOL FOR DEPOSITION PREP, MOTIONS & RECORD ACCURACY

Uncover contradictions, verify pinpoint Bates citations, and protect attorney work-product before filing.



WHY IT MATTERS

In document-intensive commercial litigation, a single missed contradictory email or unverified citation can derail summary judgment or destroy a key deposition. This protocol gives trial teams a defensible, repeatable audit system to ensure every factual assertion is anchored to the record and sanction-proof under Federal Rule 11 and ABA Formal Opinion 512.

1. RECORD & BATES TRACEABILITY

- ☐ **Exact Pinpoint Match:** Does every factual claim cite a specific Bates stamp, deposition line (p. 47:14-19), or exhibit number?
- ☐ **The 3-Second Page Test:** If you open the cited source, is the referenced fact highlighted and verifiable on that exact page?
- ☐ **Context Completeness:** Did the excerpt omit an adjoining sentence or "subject to" clause that alters the legal meaning?

2. CONTRADICTION & IMPEACHMENT AUDIT

- ☐ **Deposition vs. Email Check:** Has the witness's testimony been cross-checked against contemporaneous emails and Slack messages?
- ☐ **Negative Proof Verification:** If an alleged admission is not in the record, is it explicitly flagged rather than assumed?
- ☐ **Custodial Consistency:** Do communications between different corporate custodians align on key dates and contract terms?

3. CITATION & AUTHORITY INTEGRITY

- ☐ **Primary Law Verification:** Are all cited federal and state cases retrieved from verified court reporters with active good-law status?
- ☐ **Holding Alignment:** Does the cited decision directly support the legal proposition, or is it an overgeneralized headnote?
- ☐ **Local Rule Compliance:** Do all pin cites, court abbreviations, and table of authorities comply with local district court rules?

4. RULE 56 & DISCOVERY COMPLIANCE

- ☐ **Statement of Undisputed Facts (SUMF):** Is every factual paragraph in the summary judgment brief supported by admissible record exhibits?
- ☐ **Privilege & Work-Product Shield:** Have sensitive corporate trade secrets and privileged mental impressions been segregated?
- ☐ **Master Timeline Alignment:** Does the chronology correctly account for time zones in email headers and transaction dates?

5. FINAL PARTNER AUDIT & ADVERSARIAL TEST

- ☐ **Adversarial Pressure Test:** If opposing counsel questions this claim in open court, can your team immediately point to the record exhibit?
- ☐ **Rule 11 Diligence Certification:** Has the supervising partner confirmed that all factual assertions are supported by reasonable inquiry?

RED FLAGS TO WATCH FOR

-  **Unanchored Factual Claims:** Any statement in a brief or outline that lacks a specific Bates number, exhibit, or page/line cite.
-  **Unreconciled Testimony:** Deposition statements that directly conflict with internal emails or Slack messages from the same date.
-  **Ghost Precedents:** Legal authorities from unofficial databases or cases where the actual holding doesn't support the proposition.
-  **Out-of-Context Email Quotes:** Snippets that omit critical preceding or follow-up messages in the same thread.
-  **Hallucinated Admissions:** Assertions claiming the opposing party admitted liability when the record is silent or qualified.

PARTNER'S NOTE



Managing partners do not need to read 20,000 pages of raw discovery. They need an institutional, repeatable audit system so any associate or paralegal can prove every factual citation is 100% verified before it goes to filing.



GOVERNANCE CHECK

Has this brief or deposition outline been audited against source exhibits under the firm's verification protocol before filing or service?

Your credibility is your currency. Maintain confidence before filing.