

STANDING ORDER REGARDING DISCOVERY DISPUTE PROCEDURES

Judge Nina Y. Wang
United States District Court
District of Colorado

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DISCOVERY DISPUTE PROCEDURES

A. Title and Citation

1. This Standing Order shall be cited as “NYW Standing Order Regarding Discovery Dispute Procedures, Section, Subsection, Paragraph” (e.g., NYW Standing Order Regarding Discovery Dispute Procedures, § B.1).

B. Applicable Procedures

1. **If the case has been referred to a Magistrate Judge, please consult the Magistrate Judge’s Practice Standards to determine the applicable procedures, unless otherwise ordered by the Court.**

2. In cases which I have not referred to a Magistrate Judge, or where I have otherwise decided to adjudicate a discovery dispute, the following discovery dispute procedures are applicable, **EXCEPT** cases involving *pro se* prisoners. Failure to engage in this discovery dispute process without leave of Court may lead to the striking of any filed discovery motion without substantive consideration.

C. Telephonic Discovery Conferences

1. *Before* filing any discovery motion, please contact my chambers with **all counsel** representing parties to the particular discovery dispute and/or the *pro se* party to set a telephonic discovery conference. I expect that before the parties contact my chambers requesting a telephonic discovery conference, the parties will have met and conferred, either in person or by telephone, during which:

- The dispute to be presented to the Court was discussed in detail,
- Each party clearly stated its position and any position of compromise that is acceptable to it, and
- Each party identified the basis for its position.

2. If it becomes clear that the parties have not had an adequate meet and confer, or that one party is trying to use the discovery dispute process as improper leverage, I may *sua sponte* terminate the telephonic discovery conference and impose other sanctions if warranted.

3. Telephonic discovery conferences occur on the record. I conduct these conferences on the record in hopes of avoiding further disputes over what

occurred or how the Court ruled or provided guidance during such conference. Unless you advise my staff otherwise, you should expect that these discovery conferences will be limited to 30 minutes. You may order transcripts of these discovery conferences by contacting Ms. Martinez.

D. Written Discovery

1. If the dispute involves written discovery, **at least one business day** prior to the telephonic discovery conference, unless otherwise ordered, the parties must complete and submit a written discovery dispute chart in the following example form, with the most persuasive authority included:

Issue	Moving Party’s Position	Opposing Party’s Position
Interrogatory No. 1	Overly broad contention interrogatory. <i>Witt v. GC Servs. Ltd. P’ship</i> , 307 F.R.D. 554, 559 (D. Colo. 2014).	Contention interrogatory is the appropriate vehicle and is less burdensome than a Rule 30(b)(6) deposition on this topic. <i>Teashot LLC v. Green Mountain Coffee Roasters, Inc.</i> , No. 12-cv-00189-WJM-KLM, 2014 WL 485876, at *7 (D. Colo. Feb. 6, 2014).

2. The moving party must submit the chart, the disputed discovery request, and the response to the disputed discovery request to my chambers. It should not be filed on the Court’s Electronic Case Filing system. The parties should only submit *one* final version of the chart reflecting each party’s position in the same document. Separate charts containing only one party’s position on each of the issues will not be accepted. Should a formal discovery motion follow, the chart may then be included in any filing or order of the Court.

3. If the dispute does not involve written discovery, or if the parties find the above chart unhelpful or inappropriate given the substance of their dispute, then the parties are directed to submit a joint status report that clearly and succinctly outlines (1) the object of the dispute, (2) the parties’ positions thereon, (3) the authority supporting the parties’ positions, and (4) a brief summary of the parties’ good faith attempts to resolve the matter before seeking Court intervention. Like

the chart described above, the joint status report should not be filed on the Court's docket unless formal motions practice follows the informal conference.

E. Document Privilege Issues

1. Parties having issues related to the invocation of privilege are expected to have provided a privilege log with respect to the documents at issue that can be submitted to the Court. To the extent that a party contends that creating such a privilege log would be too onerous, the Court expects that the party forwarding that position will be prepared to address the burden in specific terms during the informal discovery conference. I will likely not resolve privilege issues during the telephonic discovery conference, and so to the extent that the parties' dispute concerns an assertion of attorney-client, marital, or other such privilege, the parties should expect to engage in formal motions practice.

F. Depositions

1. If a dispute arises at a deposition, the parties still must meet and confer regarding the issue in the manner set forth above before contacting chambers. Parties who have disputes over the topics and/or scope of a Rule 30(b)(6) deposition, as written in the notice of deposition, are expected to raise such issues prior to the commencement of the Rule 30(b)(6) deposition.