

Rule 2.34 Discovery disputes; conferences; motions; stays.

(a) Unless otherwise ordered, all discovery disputes (except disputes presented at a pre-trial conference or at trial) must first be heard by the discovery commissioner.

(b) Upon reasonable notice, the discovery commissioner may direct the parties to appear for a conference with the commissioner concerning any discovery dispute. Unless otherwise directed, points and authorities need not be filed prior to a conference noticed by the commissioner. Counsel may not stipulate to vacate or continue a conference without the commissioner's consent.

(c) An available date and time for the setting of any noticed discovery motion must be obtained from the office of the discovery commissioner before [the] *a* motion is filed and, for good cause, the commissioner may shorten or extend any of the times *as* provided [for] in Rule 2.20.

(d) Discovery motions may not be filed unless an affidavit of moving counsel is attached thereto setting forth that after a discovery dispute conference or a good faith effort to confer, counsel have been unable to resolve the matter satisfactorily. A conference requires either a recent personal or telephone conference between or among counsel. Moving counsel must set forth in the affidavit what attempts to resolve the discovery dispute were made, what was resolved and what was not resolved, and the reasons therefor. If a personal or telephone conference was not possible, the affidavit shall set forth the reasons.

If the responding counsel fails to answer the discovery, the affidavit shall set forth what good faith attempts were made to obtain compliance. If, after request, responding counsel fails to participate in good faith in the conference or to answer the discovery, the court may require such counsel to pay to any other party the reasonable expenses, including attorney's fees, caused by the failure. When a party is not represented by counsel, the party shall comply with this rule.

(e) The commissioner may stay any disputed discovery proceeding pending resolution by the judge.

(f) Following the hearing of any discovery motion, the commissioner must prepare and file a report with a recommendation for the court's order. The commissioner may direct counsel to prepare the commissioner's report, including findings and recommendations, *and* in accordance with Rules 7.21 and 7.23. The clerk of the court shall forthwith serve a copy of the report on all parties. The report is deemed received 3 days after the clerk of the court places a copy in the attorney's folder in the clerk's office or 3 days after mailing to a party or the party's attorney. Within 5 days after being served with a copy, any party may serve and file specific written objections to the recommendations [,with] *and* a courtesy copy *of the objection must be* delivered to the office of the discovery commissioner. No points and authorities from any party or oral argument are permitted without leave of court.

(g) Papers or other materials submitted for the discovery commissioner's *in camera* inspection must be accompanied by a captioned cover sheet complying with rule 7.20 which indicates that it is being submitted *in camera*. All *in camera* submissions must also contain [an] *a Vaughn* index of the specific items submitted. A copy of the index must be furnished to all other parties. If the *in camera* materials consist of documents, counsel must provide to the commissioner an envelope of sufficient size into which the *in camera* papers can be sealed without being folded.