

Rule 2.34. Discovery disputes; conferences; motions; stays.

(a) Unless otherwise ordered, all discovery disputes (except disputes regarding any extension of deadlines set by the discovery scheduling order, or presented at a pretrial 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) The commissioner may shorten or extend any of the times provided for in Rule 2.20 on any discovery motion.

(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 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 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 or other contested matter, heard by or submitted to the discovery commissioner, the commissioner must prepare and file a report with the commissioner's recommendations for a resolution of each unresolved dispute. The commissioner may direct counsel to prepare the report in accordance with Rules 7.21 and 7.23. The commissioner must file the report with the court and serve a copy of it on each party.

(1) Objections. Within 14 days after being served with a report, any party may file and serve written objections to the recommendations. Points and authorities may be filed with an objection but are not mandatory. If points and authorities are filed, any other party may file and serve responding points and authorities within 7 days after being served with the objections.

(2) Review. Upon receipt of a discovery commissioner's report, any objections, and any response, the court shall:

(A) Affirm, reverse, or modify the discovery commissioner's ruling without a hearing;

(B) Set the matter for a hearing; or

(C) Remand the matter to the discovery commissioner for reconsideration or further action.

(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 that indicates that it is being submitted *in camera*. All *in camera* submissions must also contain an index of the specific items submitted. A copy of the index must be furnished to all other parties. The party submitting the materials *in camera* must provide one copy of the materials without redactions and one set of materials with proposed redactions. 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.

(h) If when counsel meet and confer pursuant to [NRCP 16.1](#), they discover that the parties would benefit from participating in a settlement conference, that information along with 5 dates consistent with the settlement program on which it can be held should be included in the case conference report prepared pursuant to [NRCP 16.1](#)(c). The discovery commissioner will then pass said information on to the department managing the settlement conference program, and the department will contact counsel to get the case so scheduled.

[Amended; effective January 1, 2020.]