

DISTRICT COURT
CLARK COUNTY, NEVADA

*,
Plaintiff(s),
v.
*, et al.,
Defendant(s).

CASE NO. A---C
DEPT NO.

**DECLARATION OF
[WITNESS]¹ IN SUPPORT OF
[DISCOVERY MOTION]**

[WITNESS], under the penalty of perjury, declares as follows:

1. I am over the age of 18 years and have personal knowledge of the facts stated herein, except for those stated upon information and belief, and as to those, I believe those to be true. I am competent to testify as to the facts stated herein in a court of law and will so testify if called upon.

2. I am an attorney duly licensed to practice law in the State of Nevada. In this matter, I represent the interests of [PLAINTIFF/DEFENDANT] [NAME OF CLIENT]. I provide this declaration in support of [PLEADING NAME].

Add if the Motion is for Written Discovery or for Failure to Make Rule 16.1, 16.2, 16.205 Disclosures

3. On [DATE], I served [NAME OF WRITTEN DISCOVERY] on [PARTY].
Responses to [NAME OF WRITTEN DISCOVERY] were due on [DATE].

4. On [DATE], [PARTY] [served inadequate responses OR failed to timely respond to] [NAME OF WRITTEN DISCOVERY] [OR failed to make mandatory disclosures required by [RULE]].

¹ Bracketed text refers to information needed from the declarant or the need to make a choice between two or more alternatives. Replace the bracket with the required information with as much detail as necessary.

Add if the Motion is for a Deposition Dispute

5. On [DATE], [PARTY] served a Notice of Deposition for taking the deposition of [WITNESS]. A true, authentic, and accurate copy the Notice of Deposition is attached to the [DISCOVERY MOTION] as Exhibit [NUMBER].

6. The Notice of Deposition is problematic because [REASONS].

Add if the Motion is for a Dispute Arising During a Deposition

7. During the deposition of [WITNESS], a dispute arose regarding [NATURE OF DISPUTE, INCLUDING PORTIONS OF TRANSCRIPT IF NECESSARY].

8. I spoke with [COUNSEL] on the record in an attempt to resolve the dispute. [INCLUDE FROM TRANSCRIPT IF NECESSARY].

Add if the Motion is for a Subpoena Dispute

9. On [DATE], [PARTY] served [a Notice of Intent to Serve Subpoena on [RECIPIENT] with a Subpoena]. A true, authentic, and accurate copy the [Notice of Intent to Serve Subpoena OR Subpoena] is attached to the [DISCOVERY MOTION] as Exhibit [NUMBER].

10. The [Notice of Intent to Serve Subpoena on [RECIPIENT] with a Subpoena] is problematic because [REASONS].

Add if the Motion is for a Dispute Regarding Expert Witness Report or Designation

11. On [DATE], [PARTY] served [NAME OF EXPERT DISCLOSURE AT ISSUE]. A true, authentic, and accurate copy the [NAME OF EXPERT DISCLOSURE AT ISSUE] is attached to the [DISCOVERY MOTION] as Exhibit [NUMBER]. [NAME OF EXPERT DISCLOSURE AT ISSUE]'s report is problematic because [REASONS].

Add if Movant's Counsel Sent and Email

12. On [DATE], I sent [OPPOSING COUNSEL NAME] an email detailing the discovery dispute, as well as [PARTY]'s position regarding the discovery dispute (the "First Email"). A true, authentic, and accurate copy the First Email is attached to the [DISCOVERY MOTION] as Exhibit [NUMBER]. I suggested that we hold a [face-to-face OR telephonic conference OR video conference] on [DATE(S) PROPOSED] to meet and confer regarding [PARTY]'s deficiencies.

Add if Counsel Failed to Respond to Email²

13. [COUNSEL] failed to respond to my First Email. On [DATE] at [TIME], I called [COUNSEL]'s office number [PHONE NUMBER] (the "First Call"). [COUNSEL] was not available. I left a message that I was calling to engage in a meeting to confer about the discovery dispute referenced in my [DATE] email.

14. I sent a second email at [DATE], again inviting [COUNSEL] to meet and confer regarding the discovery dispute (the "Second Email"). I asked counsel to call me on or before [DATE AND TIME]³ to avoid the filing of the instant matter. A true, authentic, and accurate copy the email is attached to the [DISCOVERY MOTION] as Exhibit [NUMBER].

15. When [COUNSEL] failed to call by the appointed time, I again called [COUNSEL]'s office number [PHONE NUMBER] (the "Second Call"). [COUNSEL] was not available. I left another message explaining that I was attempting to meet with [COUNSEL] to resolve the discovery dispute referenced in my First Email, Second Email, and First Call. I informed [COUNSEL] that I would now begin preparing the [DISCOVERY MOTION] and would report to the Court that [COUNSEL] failed to participate in good faith in the conference

² If counsel refuses to meet and confer, you must demonstrate reasonable efforts to engage with counsel. Send at least one email detailing your positions. Call counsel at least twice, leaving a message each time. The calls should be at least 24 hours apart.

³ Give at least an additional 24 hours if possible.

and that I would ask the Court to require such [PARTY] to pay [PARTY]'s reasonable expenses, including attorney's fees, as allowed by [EDCR 2.34(d) OR EDCR 5.602(e)].

16. I confirmed the content of my voicemail on the same date by email, a true, authentic, and accurate copy of which is attached to the [DISCOVERY MOTION] as Exhibit [NUMBER] (the "Third Email").

Add if Counsel Held a Meet and Confer

17. On [DATE] at [TIME], I held a meeting with [COUNSEL] via [face-to-face meeting at [LOCATION] OR telephone conference OR video conference]. The meeting lasted approximately [AMOUNT OF TIME].

18. During our meet and confer efforts on [DATE], I informed [COUNSEL] of my position regarding the dispute. I informed [COUNSEL] that [INSERT ALL POSITIONS SHARED INCLUDING CASE LAW SHARED⁴]. [COUNSEL] informed me of his position that [INSERT ALL POSITIONS SHARED INCLUDING CASE LAW SHARED].

19. Seeing we were at an impasse, and recognizing some merit in [COUNSEL]'s position, I offered to compromise my position regarding [FINITE ISSUE(S)], including [DESCRIBE OFFER]. [COUNSEL] agreed with my offer and we resolved [FINITE ISSUE(S)].

20. Regarding [FINITE ISSUE(S)], I offered a compromise to which [COUNSEL] would not agree. I offered [COMPROMISE]. [COUNSEL] responded by [RESPONSE].

21. Regarding [FINITE ISSUE(S)], [COUNSEL] offered a compromise to which I could not agree. [COUNSEL] offered [COMPROMISE]. I responded by [RESPONSE].

⁴ Beware that failure to document that all issues in your Motion were discussed during a meet and confer may result in a denial of the motion as to the matters not discussed at the conference "with the same level of detail and legal support" as contained in your motion. *Guerrero v. Wharton*, No. 16-cv-01667 (D. Nev. Jan. 22, 2018).

Pursuant to NRS 53.045, I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated this ____ day of [MONTH], [YEAR].

[WITNESS]