

Short Form Discovery Motion Procedure

If a discovery dispute arises in this case, the parties must follow this procedure, in the sequence listed unless ordered otherwise by the court.

- (1) The parties must make reasonable efforts to resolve the dispute without court assistance.

At a minimum, those efforts must include a prompt written communication sent to the opposing party:

- (a) identifying the discovery disclosure/request(s) at issue, the response(s) thereto, and specifying why those responses/objections are inadequate, and
- (b) requesting to meet and confer, either in person or by telephone, with alternative dates and times to do so.

- (2) If the parties cannot resolve the dispute and they wish to have the Court mediate the dispute in accordance with Fed. R. Civ. P. 16(b)(3)(v), the parties (either individually or jointly) may contact chambers and request a discovery dispute conference.

- (3) If the parties wish for the Court to resolve the matter by order, the parties (either individually or jointly) must file a Short Form Discovery Motion, which should not exceed 500 words exclusive of caption and signature block.

- (4) The Short Form Discovery Motion must include a certification that the parties made reasonable efforts to reach agreement on the disputed matters and recite the date, time, and place of such consultation and the names of all participating parties or attorneys. The filing party should include a copy of the offending discovery request/response (if it exists) as an exhibit to the Short Form Motion. Each party should also e-mail chambers a proposed order setting forth the relief requested in a word processing format.

- (5) The parties must request expedited treatment as additional relief for the motion in CM/ECF to facilitate resolution of the dispute as soon as practicable. (After clicking the primary event, click Expedite.)

The screenshot shows a web interface for selecting motions. At the top, there is a search bar with the text 'Start typing to find another event.' Below this are two columns: 'Available Events (click to select events)' and 'Selected Events (click to remove events)'. The 'Available Events' list includes: Disqualify Counsel, Disqualify Judge, Disqualify Juror, Enforce, Enforce IRS Summons, Enforce Judgment, Entry of Default, Entry of Judgment, Exclude, Expedite (highlighted in cyan), Extension of Time, Extension of Time re Transcript, Extension of Time to Amend, Extension of Time to Complete Discovery, and Extension of Time To File Answer. The 'Selected Events' list includes: Disqualify Judge and Expedite. At the bottom of the interface are 'Next' and 'Clear' buttons.

- (6) The opposing party must file its response three business days after the filing of the Motion, unless otherwise ordered.¹ Any opposition should not exceed 500 words exclusive of caption and signature block.
- (7) To resolve the dispute the court may
- (A) decide the issue on the basis of the Short Form Discovery Motion after hearing from the parties to the dispute, either in writing or at a hearing, consistent with DUCivR 7-1(f);
 - (B) set a hearing, telephonic or otherwise, upon receipt of the Motion without waiting for any Opposition; and/or
 - (C) request further briefing and set a briefing schedule.
- (8) If any party to the dispute believes it needs extended briefing, it should request such briefing in the short form motion or at a hearing, if one takes place. This request should accompany, and not replace, the substantive argument.
- (9) A party subpoenaing a non-party must include a copy of this procedure with the subpoena. Any motion to quash, motion for a protective order, or motion to compel a subpoena will follow this procedure.

¹ This provision is not subject to the addition of three (3) days provided by Fed. R. Civ. P. 6(d).

- (10) If disputes arise during a deposition that can most efficiently be resolved by contacting the Court by phone, the parties shall call the assigned judge and not wait to file a Short Form Discovery Motion.
- (11) Any objection to a magistrate judge's order must be made according to Federal Rule of Civil Procedure 72(a) but must be made within fourteen (14) days of the magistrate judge's oral or written ruling, whichever comes first, and must request expedited treatment. DUCivR 72-3 continues to govern the handling of objections.