



## **JUDGE JAMES J. GOODMAN'S PROCEDURES RELATED TO CIVIL DISCOVERY MATTERS**

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### **1. UNDERLYING PHILOSOPHY:**

Almost every judge who presides over a civil docket will likely cite discovery disputes as the worst part of the assignment because the majority of said disputes should be resolved without the use of judicial resources. Please be advised that this Court typically acts in conformity with the suggestions designed to deter discovery litigation and abuse – namely, imposition of fees when legally appropriate – as set forth in the Florida Trial Attorneys Discovery Handbook. Furthermore, Florida Rule of Civil Procedure 1.380 provides for the recovery of expenses by the prevailing party in a discovery dispute absent certain findings. Thus, it is the Rule of this Court to award expenses to the prevailing party, not the exception. With this in mind, the parties should make every effort to resolve discovery disputes without judicial intervention.

### **2. DISCOVERY DISPUTES:**

Prior to filing a Motion to Compel (the “Motion”), the moving party shall confer in good faith with the non-moving party in an attempt to resolve the discovery dispute. Further, such Motion shall contain a “Certificate of Good Faith Conferral” as set forth in this Court’s “Form Order Requiring Good Faith Referral.” Any Motion which does not contain an appropriate “Certificate of Good Faith Conferral” shall be subject to immediate dismissal.

The Court does not believe that a “Certificate of Good Faith Conferral” is merely a “box to check” in conjunction with filing a Motion. Instead, the Court expects that, in most cases, the

description of the efforts regarding the mandated good faith conferral may be the lengthiest part of the Motion.

Except for Motions grounded upon a *complete failure* to respond to discovery, discovery Motions shall:

- A. Quote in full each interrogatory, question on deposition, request for admission, or request for production to which the Motion is addressed;
- B. Quote in full the specific objection and grounds given therefore;
- C. State (with citations of authority) the reason such objection should be overruled or sustained. If the allegation in the Motion is that there has been a *complete failure* to respond or object to discovery, and there has been no request for an extension of time, then the Court may enter an *ex parte* order compelling discovery upon specific request; and
- D. Certify the specific efforts of counsel (*not staff*) to meet and confer, which shall include: (1) a description of all efforts to meet and confer, including the names of the attorneys, dates and method (email, telephone, in-person); (2) a description of any results achieved; and (3) a copy of the correspondence regarding the motion as an exhibit, thus providing proof that a good faith effort to resolve the discovery dispute was made. At least one (1) effort to meet and confer *must* include the attorney filing the Motion attempting to call opposing counsel within ten (10) days of filing the Motion. The date, time, participants, and results of such pre-Motion call shall be set forth with specificity in the Motion.

If, for any reason, counsel for the moving party is unable to confer with counsel for the non-moving party, there should be a detailed description in the Motion of all actions taken by the moving party to confer. The requirement imposes the obligation upon all counsel to promptly reply to a ‘meet-and-confer’ request and to provide availability for that meeting. Once a Motion is scheduled on the Court’s calendar, it will only be removed if the cancellation is requested by both parties at least 72 hours prior to the hearing, in writing, and approved by the Court or if the case is completely resolved and settled by the parties. If the cancellation is not requested at least 72 hours prior to the hearing, the parties shall be expected to attend the hearing, at which time this Court will likely make use of its discretion in considering sanctions, including attorney’s fees, in

order to induce attorneys to resolve discovery disputes in a more appropriate fashion. Should the Court be requested to hear multiple motions to compel during the course of litigations, the parties shall expect that such motions will be held in-person at the Bay County Courthouse.

Finally, Florida law does not provide for “General Objections.” Any objections to discovery requests must be specific and detailed. Discovery responses listing “General Objections” will be stricken and subject to monetary sanctions.

**3. SETTING MOTIONS FOR HEARING:**

No Motion shall be scheduled for a hearing until all the aforementioned requirements are met. The failure to comply may result in the Court entering an order striking, without prejudice, any discovery motion or responsive pleading thereto. Further, discovery disputes called up for a hearing that this Court determines: (1) to not be meritorious; (2) to be a complete failure to respond to discovery; or (3) contain objections that have no legitimate basis, shall result in sanctions as deemed appropriate by this Court.

Furthermore, within twenty (20) days of filing a Motion, the moving party *shall* contact the undersigned’s judicial assistant via e-mail and request a hearing on the Motion. Should the moving party fail to timely request a hearing on the Motion as required herein, such failure shall be deemed a waiver of the Motion and the Court may dismiss the Motion without prejudice for the moving party’s failure to timely pursue the matter.

**4. USE OF SPECIAL MAGISTRATES:**

This Court is aware that, for many reasons, there may be a significant delay in obtaining hearing times. The Court encourages the parties to consider the use of a Special Magistrate pursuant to Florida Rule of Civil Procedure 1.490(b)- - especially in regard to matters related to discovery disputes. If all parties agree to the appointment of a Special Magistrate, please submit a Joint Motion to Appoint Special Magistrate along with a proposed Order identifying the Special Magistrate and the issues to be handled by him or her. The parties are responsible for the cost of the Special Magistrate.