

DEFINITION OF CONFER AND DISCOVERY DISPUTES

To confer means to speak directly with opposing counsel or a self-represented litigant in person, by video, or by telephone, to identify and discuss disputed issues and to make a reasonable effort to resolve the disputed issues. The sending of an electronic or voice-mail communication does not satisfy the requirement to “confer.”

In cases involving pro se prisoners, written communication satisfies the “confer” requirement.

Before filing any motion relating to discovery under Federal Rules of Civil Procedure 26-37, counsel for the parties must confer, unless exempted by an applicable rule, in a good-faith effort to resolve or narrow any specific discovery issues and/or disputes to the extent possible. If areas of disagreement remain after the parties have conferred, as defined above, the parties should consult the presiding judge’s webpage for next steps before filing any motion.

RELATED AUTHORITY

Fed. R. Civ. P. 26(f), 37(a)(1)

Advisory Committee Notes

This rule does not prevent or prohibit the use of written communication to resolve disputes. However, if disputes are not resolved via written communication, counsel or self-represented litigants (except pro se prisoners) must attempt to confer in person, by video, or by telephone prior to a motion to compel being filed.

Video calls are available on multiple internet applications such as Skype, Zoom, and Microsoft teams, and may be accessed via computers, tablets and cell phones.

Counsel or self-represented litigants have a duty to respond within a reasonable amount of time to a request to confer and to be reasonably available to confer.