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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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UNITED STATES OF AMERICA,  
  
Plaintiff,

v.

CHESTER H. ROSSMAN, II et al.,  
  
Defendants.

**ORDER ON DISCOVERY DISPUTES**

Case No. 2:11-cv-0441-CW-EJF

District Judge Clark Waddoups

Magistrate Judge Evelyn J. Furse

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The Court ORDERS the parties in this matter to follow the following procedure if and when discovery disputes arise.

**(a) Discovery Disputes.**

(1) The court will not entertain any discovery motion unless it grants leave to file one.

(2) When a discovery dispute arises, the parties must make reasonable efforts to reach agreement on the dispute. At a minimum, those efforts should include a prompt written communication to the opposing party:

(i) identifying the discovery disclosure/request(s) at issue, the response(s) thereto, and why those responses/objections are inadequate,

(ii) requesting to meet and confer, either in person or by telephone, with alternative dates and times to do so, and

(iii) indicating the deadline for filing either a Discovery Dispute Letter as set forth in (b) or a Notice of Discovery Dispute as set forth in (a)(4).

(3) A discovery dispute arises when a party does not receive a response to a discovery request or disclosure obligation or receives a response and has reason to believe the response is deficient.

(4) If the parties cannot resolve the dispute within 14 days of the dispute arising, the parties must file either a Discovery Dispute Letter as set forth in (b) or a Notice of Discovery Dispute identifying the dispute, the date it arose, and the intention to continue to meet and confer on the matter. Parties should only file a Notice of Discovery Dispute if they have not completed the meet and confer process within 14 days of the dispute arising.

**(b) Discovery Dispute Letters**

If the meet and confer process fails to resolve the dispute, each party should submit a letter (the body of which should not exceed 500 words) describing the dispute to the court. The letter must include a certification that the parties made reasonable efforts to reach agreement on the disputed matters. Such statement must recite, in addition, the date, time, and place of such consultation and the names of all participating parties or attorneys. The parties should designate amongst themselves one party to attach to its letter a copy of the discovery request and the response to the request to which a party objects. Each party should also e-mail chambers a proposed Order setting forth the relief requested in an editable format.

**(c) Timing of Discovery Dispute Letters**

A party must file the Dispute Letter no later than 14 days following the beginning of the dispute or the filing of a Notice of Discovery Dispute. Failure to submit a letter within this period may result in sanctions, potentially including waiver of any relief sought for the discovery dispute or assent to the disputed condition.

**(d) Discovery Dispute Conference**

The parties should request expedited treatment in CM/ECF to attempt to resolve the dispute as soon as practicable. The court may set a conference upon receipt of the first letter and need not wait for any additional letters before setting the conference.

(1) The court may decide the issue on the basis of the letters or authorize further briefing without holding the conference consistent with DUCivR 7-1(f).

(2) If after considering the matter the court determines to have the issues fully briefed, the court will authorize the filing of a discovery motion and set a briefing schedule.

**Parties may not file a discovery motion without leave of the court.**

*Comment*

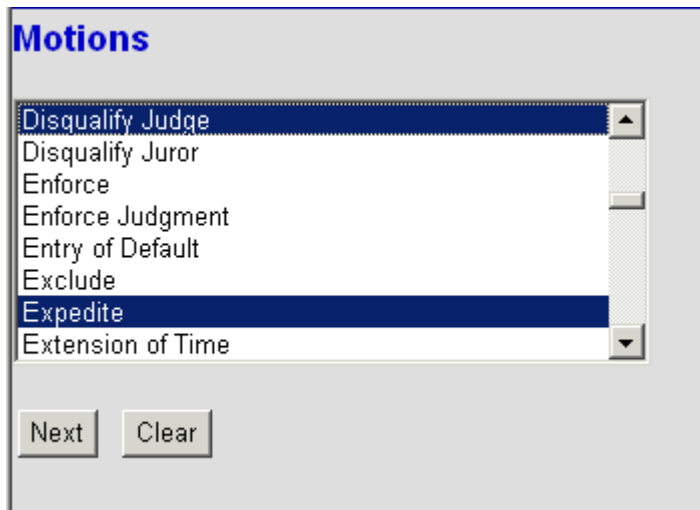
*In determining when a dispute has arisen, the parties should consider the communications between the parties, the complexity of the dispute, and the amount of discovery. For example, a failure to provide certain documents may be apparent upon receipt of documents pursuant to a document request, and the parties should begin to meet and confer immediately. In other cases, a failure to provide certain documents may not become apparent until a witness mentions such documents during a deposition. The parties should begin to meet and confer as soon as the failure becomes apparent. When one party has reason to believe the discovery provided is insufficient, the dispute has arisen. The parties should then attempt to resolve the dispute through the meet and confer process.*

*To request an expedited schedule submit motion and proposed order for expedited treatment. Orders for Expedited Treatment of Motion*

[Sample 1](http://www.utd.uscourts.gov/judges/orderexpeditedmotion1.wpd): [www.utd.uscourts.gov/judges/orderexpeditedmotion1.wpd](http://www.utd.uscourts.gov/judges/orderexpeditedmotion1.wpd)

[Sample 2](http://www.utd.uscourts.gov/judges/orderexpeditedmotion2.wpd): [www.utd.uscourts.gov/judges/orderexpeditedmotion2.wpd](http://www.utd.uscourts.gov/judges/orderexpeditedmotion2.wpd)

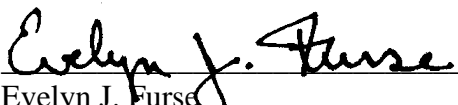
*In CM/ECF, be sure to specify that the motion seeks to Expedite, as well as seeks the relief sought. (Control-click to select all applicable types of relief.)*



The screenshot shows a web interface titled "Motions" in blue text. Below the title is a dropdown menu with a list of motion types. The list includes: "Disqualify Judge", "Disqualify Juror", "Enforce", "Enforce Judgment", "Entry of Default", "Exclude", "Expedite", and "Extension of Time". The "Expedite" option is highlighted with a dark blue background. Below the dropdown menu are two buttons: "Next" and "Clear".

DATED this 14th day of June, 2013.

BY THE COURT:

  
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Evelyn J. Furse  
United States Magistrate Judge