



DEPARTMENT 21 - COMPLEX LITIGATION THE HONORABLE WINIFRED Y. SMITH PRESIDING

DISCOVERY DISPUTES

Obtaining Reservation Number(s) for Discovery Motion(s)

Reservations numbers for discovery motions will not be given by the Dept. 21 clerk unless and until directed to do so by Judge Smith.

When a discovery motion is necessary because no responses to the subject discovery have been provided at all, then an email requesting a reservation number should be sent the Dept. 21 email address (dept21@alameda.courts.ca.gov), copied to all parties, stating (a) that the subject discovery deadline has passed, (b) that no request for an extension of time was unreasonably denied, and (c) that counsel for the prospective moving party has communicated with the responding party to inquire about the overdue responses.

When a discovery motion is necessary because responses are considered inadequate and counsel believe they have exhausted the meet and confer process, the prospective moving party must send an email requesting a Discovery CMC to the Dept. 21 email address, copied to all parties. This email must include a concise statement, not to exceed 2 pages, describing the nature of the dispute and when the last meet and confer in person or by phone regarding the dispute occurred. The court will also entertain a responsive email from counsel for the opposing party, also limited to 2 pages, so long as it is received within 48 hours of the moving party's email. The court will then either (A) set a Discovery CMC, typically within a week of the initial request; or (B) instruct the clerk to provide a motion reservation number without setting a Discovery CMC. Discovery CMCs may be attended in person or via CourtCall.

The intent underlying the above procedure is to avoid situations where discovery motions are prepared and filed before there has been an adequate meet and confer process. In the court's experience discovery motions are too often filed prematurely, when the dispute could have been narrowed substantially, if not resolved completely. Once counsel are invested in a motion, and the fees incurred in preparing it, they find it more difficult to negotiate a compromise.