

## **Judge Robbenhaar's Procedures for Civil Discovery, Settlement Matters, and Discovery Disputes**

### General Matters

1. For any opposed motion, counsel should indicate in their briefing whether they request a hearing on the motion and, if so, whether they request it be conducted telephonically or in person.
2. If materials must be sent to the Court for any reason, they should be sent electronically to [robbenhaarproposedtext@nmd.uscourts.gov](mailto:robbenhaarproposedtext@nmd.uscourts.gov) (link sends e-mail) or by mail to: Judge John F. Robbenhaar, United States District Court, Pete V. Domenici United States Courthouse, 333 Lomas Blvd. NW, c/o Clerk's Office, Albuquerque, New Mexico, 87102. Please do not send by facsimile. Opposing counsel must be copied on all written or email communications that counsel conduct with the Court with the exception of the confidential letter sent in anticipation of a settlement conference.
3. Proposed orders must be sent to [robbenhaarproposedtext@nmd.uscourts.gov](mailto:robbenhaarproposedtext@nmd.uscourts.gov) (link sends e-mail) after the filing of any unopposed motion. They should be submitted in Microsoft Word format (as .docx files), should have 1" margins, be non-justified, and use Times New Roman Font, size 12. In civil cases, the case number should be presented as follows: Case No. ###-cv-### [Presiding Judge initials] / [Referral Judge initials]. Further, they should indicate the approval of all parties by including the electronic signature of all parties at the end of the document.
4. Parties must clearly label all exhibits attached to a filing on CM/ECF. For example, rather than merely labeling an exhibit "Exhibit A," parties must provide additional description, such as "Exhibit A: Deposition of Plaintiff Jones," or "Exhibit A: Defendant Smith's Responses to Interrogatories."
5. For telephonic conferences or hearings, counsel must call into the conference line no later than five (5) minutes before the conference or hearing begins. Unless otherwise stated, the AT&T conference telephone number is 888-363-4735, Access Code 2387395.

### Settlement Matters and In-Person Zoom Video Information

6. Unless otherwise requested and ordered,\* all settlement conferences with Judge Robbenhaar are held in the Pecos courtroom, Room 340, in the Pete V. Domenici U.S. Courthouse in Albuquerque.

\* Until public health orders concerning Covid-19 have lifted, all "in-person" conferences before Judge Robbenhaar will take place by Zoom video technology. Each participant will need to have the Zoom app installed on your computer in advance of the hearing. Counsel are responsible for assuring all clients and other settlement participants are adequately prepared to participate via Zoom. You can download the app for free at <https://zoom.us> If you've never used Zoom before or its Breakout Room

function, please review the following short instructional videos to become acquainted with the basics:

Link to info on connecting/using Zoom:

<https://support.zoom.us/hc/en-us/articles/201362033-Getting-Started-on-Windows-and-Mac>

Link to info on breakout rooms:

<https://support.zoom.us/hc/en-us/articles/115005769646>

Finally, your computer will need a video camera. If that is not possible, then please contact Chambers at [robbenhaarchambers@nmd.uscourts.gov](mailto:robbenhaarchambers@nmd.uscourts.gov) or call 505.348.2370 to discuss.

7. The Court does not provide interpreters for settlement conferences. If a participant requires an interpreter, counsel must ensure one is present.
8. Individualized, private Zoom instructions will be sent to the parties by email shortly in advance of the hearing.

### Extensions of Time

9. Even if stipulated, parties seeking an extension in excess of ten (10) days for any filing deadline must file a Motion to Extend with the Court by the day of the original deadline. If the parties agree to a filing extension of less than ten (10) days which does not interfere with other established case management deadlines, they must file a notice as required by Local Rule 7.4(a).

### Informal Discovery Hearings

10. Judge Robbenhaar is available to resolve discovery disputes informally, including resolution of problems occurring during a deposition. Motions to compel will not be accepted unless the parties first utilize this informal resolution procedure.
11. Informal matters should be of a narrow or discrete nature; *e.g.* instructing a witness not to answer, protective orders, scheduled depositions, or production of discovery.
12. Counsel must have attempted to resolve the dispute themselves by discussing the matter either by telephone or in person. An e-mail or letter exchange is not sufficient.
13. Pursuant to Federal Rule of Civil Procedure 16(b)(3)(B)(v), “before moving for an order relating to discovery, the movant must request a conference with the court” to attempt to informally resolve the dispute. Fed. R. Civ. P. 16(b)(3)(B)(v). Discovery motions may be summarily denied if a movant fails to conform to this requirement. If the parties engage in motion practice, the “[m]ovant must determine whether a motion is opposed, and a motion that omits recitation of a good-faith request for concurrence may be summarily denied.” D.N.M.LR-Civ. 7.1. Further, the Court will not entertain any motion to resolve a discovery dispute pursuant to Fed. R. Civ. P. 26 through 37, or a motion to quash or modify a subpoena pursuant to Fed. R. Civ. P. 45(c), unless the attorney for the moving party has conferred or has made reasonable effort to confer with

opposing counsel concerning the matter in dispute prior to the filing of the motion. *See* Fed. R. Civ. P. 37(a)(1) (explaining that any motion for an order compelling disclosure or discovery must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action). Every certification required by Fed. R. Civ. P. 26(c) and 37 and this rule related to the efforts of the parties to resolve discovery or disclosure disputes must describe with particularity the steps taken by all attorneys to resolve the issues in dispute. A “reasonable effort to confer” means more than mailing or faxing a letter to the opposing party. It requires that the parties in good faith converse, confer, compare views, consult, and deliberate, or in good faith attempt to do so. Absent exceptional circumstances, parties should converse in person or telephonically.

14. If the meet-and-confer process does not resolve a dispute, counsel shall email chambers to coordinate a telephonic status conference with the judge. When emailing, counsel should give a brief summary of the issue and the availability of all counsel. The Court will permit the parties to extend the 21-day time limit for filing a motion to compel pursuant to Local Rule 26.6 by written stipulation filed with the Court, as long as the extension does not impact the court-ordered discovery motions deadline. Two business days before the status conference, counsel should submit a joint, written summary of the dispute (no more than 4 pages in length) to chambers’ proposed text address, [robbenhaarproposedtext@nmd.uscourts.gov](mailto:robbenhaarproposedtext@nmd.uscourts.gov), outlining the dispute(s) and the parties’ respective positions. Counsel should simply set forth the nature of the issue to be resolved by the Court. If specific written discovery and/or objections are at issue, counsel should also submit a copy of the specific discovery requests and responses. Counsel should not use the written request as an opportunity to chastise or criticize opposing counsel. The Court will usually rule on the discovery disputes at the conference after hearing counsel’s arguments.
15. These rules are also incorporated directly into all Judge Robbenhaar’s Initial Scheduling Orders and Orders Adopting the Joint Status Report and Provisional Discovery Plan and Setting Case Management Deadlines, *i.e.*, Scheduling Orders.

### Consent

16. Counsel are reminded that when Judge Robbenhaar is assigned as the discovery/referral judge, the parties may consent to him presiding over the case pursuant to Local Rule 73.2. Should the parties wish to do so, they must fill out Form AO 85 – “Notice, Consent, and Reference of a Civil Action to a Magistrate Judge.” The form must be returned to the Clerk’s Office and should not be sent directly to either assigned judge. A link to the consent form is provided on Judge Robbenhaar’s webpage within the “Resources” tab or through the “Court Forms” link to “Consent to Proceed/Refusal to Consent to Proceed Before a United States Magistrate Judge.”