

Making the Most of Local Rule 2.07’s Conference Requirement

BY ALLIE J. HALLMARK

Before ruling on any discovery motion, Dallas County trial judges typically ask an important threshold question: did the parties confer before involving the court? Indeed, attorneys can expect their motions to be rejected from the outset if not accompanied by a certificate of conference that substantially complies with Dallas County Civil Court Local Rule 2.07.

While counsel often view the certificate of conference requirement as a technical box to check, the Rule contemplates more meaningful engagement between counsel, including resolution or narrowing of issues when possible.

Understanding Local Rule 2.07’s Conference Requirement

Local Rule 2.07(b) requires movant’s counsel to make three attempts over at least two business days to “personally” contact opposing counsel to hold or schedule a conference to resolve the disputed matter.

Rule 2.07(c) contemplates four possible outcomes and requires the certificate to contain one of the following statements:

- (1) The parties’ counsel “personally” conducted a conference and had a “substantive discussion of every item presented” in the motion, but could not—“despite best efforts”—resolve the matters before the court;
- (2) Movant’s counsel made

unsuccessful attempts to contact and confer with opposing counsel and subsequently forwarded the motion, but again could not resolve the matters presented;

- (3) Movant’s counsel attempted to contact and confer with opposing counsel but must immediately file the motion because “an emergency exists of such nature that further delay would cause irreparable harm to movant”; or
- (4) The parties’ counsel conferred to resolve the issues in the motion and opposing counsel indicated they do not oppose the motion.

Maximizing the Conference Process

Counsel regularly navigate the scenario in Rule 2.07(c)(1), where the dispute could not be resolved despite a substantive conference. But even then, they may still be able to refine or narrow the issues to be decided by the court.

Although Rule 2.07(c)(1) does not specify in-person or telephone conferences, it does require counsel to “personally” conduct the conference and “substantively” discuss each matter presented in a motion. In practice, a meaningful conference may involve phone calls, in-person discussions, and follow-up letters or emails.

Consider a hypothetical workplace injury case where the defendant objects and produces no documents in

response to the plaintiff’s request for “all company safety policies and procedures, including handbooks, guidelines, and training materials.”

Several rules may permit or limit the scope of this discovery depending on the circumstances—a matter that may ultimately require court intervention. But not so fast.

First, as the requesting party, be specific and act promptly. Contact opposing counsel early. Identify the deficient responses and improper objections, explain the relevance of the request and set a timeline for resolution. Review the court’s procedures to comply with any court specific conference requirements.

Next, as the responding party, supplement the response and production “to the extent no objection is made,” i.e., partially comply with the request. In our example, safety policies and procedures related to the employee’s job are likely relevant. To meaningfully confer, counsel should review the defendant’s materials to determine which are clearly discoverable and produce them without court intervention.

To have any real chance at resolution, attempts to confer may require more than the two business days set forth in Rule 2.07(b). Only after true good-faith attempts to confer—including supplemental production and, when possible, narrowing or clarifying the scope of a request—is the dispute truly ripe for a motion with a proper certificate of conference.

You’ve Conferred and Set a Hearing. Now What?

To keep discovery moving forward, particularly where depositions are ongoing, the movant’s counsel does not have to pause efforts after obtaining a hearing date on their motion. Instead, continued efforts to confer may further narrow the issues.

If additional progress is made, the parties can submit a partially agreed proposed order in advance of the hearing that identifies which items are now agreed and which remain opposed. In our hypothetical, counsel may agree on the scope of training materials to be produced but despite best efforts, disputes remain about which safety policies are discoverable.

Formalizing and timely filing a partially agreed order reflecting the status of the dispute helps the court determine which matters truly require its attention. A succinct supplement to the motion or explanation in a reply may further assist the court to home in on the outstanding issues.

Conclusion

By requiring substantive conferences and best efforts to resolve or narrow disputes, Local Rule 2.07 is intended to both facilitate the discovery process and conserve judicial resources. Used effectively, it provides an opportunity for counsel to move the case forward and obtain targeted relief.

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