

**JUDGE BELANGER'S REPLY/EXPECTATIONS IN CONNECTION WITH MOTIONS TO COMPEL DISCOVERY:**

Discovery disputes usually arise in civil cases. For the most part, prosecutors and defense counsel can conduct discovery without judicial intervention. I don't have a procedural order regarding discovery disputes in criminal cases (I never saw the need), but there is no reason I can't require the same procedure here:

In a system brimming to capacity, counsel must try to resolve issues without judicial intervention where possible. Specifically with regard to discovery disputes, the order provides: Litigants have an obligation to cooperate with respect to planning and executing discovery or resolving discovery disputes. A party cannot file a motion to compel with the court without first working cooperatively with the other party to resolve the dispute.

A motion to compel discovery or for sanctions for failing to answer or respond must include a certification that the movant has in good faith conferred or attempted to confer with the party failing to act in an effort to obtain the answer or response without court action. In person or telephonic communications are preferred over written communications. See, Becker, Civility: A Rational Approach to Combat Discovery Abuse, Law Trends & News, Vol. 6, No. 1 (Fall 2009). [https://www.americanbar.org/content/newsletter/publications/law\\_trends\\_news\\_practice\\_area\\_e\\_newsletter\\_home/09\\_fall\\_lit\\_feat1.html](https://www.americanbar.org/content/newsletter/publications/law_trends_news_practice_area_e_newsletter_home/09_fall_lit_feat1.html)

The certification must include a description of the communications held or attempted in attempting to resolve the matter, including the date, time, and participants in each communication.

No motion to compel discovery will be heard where the parties did not comply with the foregoing procedures.