

Rule 9(c) Good Faith Consultation Certificate.

(2) *Domestic Violence.* If there is a current court order prohibiting contact between the parties or a history of domestic violence between self-represented parties, the parties are not required to personally meet or contact each other.

Form 17 – Good Faith Consultation Certificate

There is a current court order prohibiting contact between the parties and neither party is represented by counsel, or a history of domestic violence between self-represented parties, so the parties are not required to personally meet or contact each other.

Conversely, there are two rules that address a “domestic violence exception” but make no distinction as to whether the party is represented by counsel. The applicable provisions read as follows:

Rule 34 (c) Duty to Consult. Before filing a motion to continue a trial, hearing, or conference, the moving party must consult with other parties in the case and advise the court whether the other parties object to the motion. This requirement does not apply when there is a

protective order in the case or a history of domestic violence between the parties.

Rule 76 (b) Meet-and-Confer and Other Party Duties.

(1) *Generally*. Not less than 5 days before the RMC, the parties must:

(A) confer to resolve as many issues as possible. This requirement does not apply if a court order prohibits contact between the parties, or they have a history of domestic violence. However, in such situations counsel still must take all reasonable steps to resolve as many issues as possible; and

For Rule 34(c), there is no distinction as to whether a party is represented by counsel. Rule 76(b), however, suggests a difference when a party is represented by counsel but without any clear directive.

It is suggested that all rules imposing good faith consultation should apply when both parties are represented by counsel, whether the case involves domestic violence or not. If parties are not represented by counsel, there is sound policy to waive the good faith consultation requirement if there is a domestic violence issue.

PROPOSAL

The following rules should be amended with the recommended changes noted below:

Rule 34 (c) Duty to Consult. Before filing a motion to continue a trial, hearing, or conference, the moving party must consult with other parties in the case and advise the court whether the other parties object to the motion. ~~This requirement does not apply when there is a protective order in the case~~ If there is a current court order prohibiting contact between the parties or a history of domestic violence between ~~the self-represented parties, the parties are not required to consult regarding whether there is an objection to the motion.~~

Rule 76 (b) Meet-and-Confer and Other Party Duties.

(1) *Generally.* Not less than 5 days before the RMC, the parties must:

(A) confer to resolve as many issues as possible. ~~This requirement does not apply if~~ If there is a current a court order prohibits prohibiting contact between the parties, or ~~they have~~ a history of domestic violence between self-represented parties, the parties are not

~~required to meet and confer. However, in such situations counsel still
must take all reasonable steps to resolve as many issues as possible;~~
and

RESPECTFULLY SUBMITTED, this 22nd day of December, 2021.

Bruce R. Cohen

BRUCE R. COHEN

Family Court Presiding Judge

Superior Court of Arizona

Maricopa County

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