

# Model Protocols Governing Discovery

Re: DPR Number 0\_ - \_\_\_\_\_ -DM: Discovery Master  
Parties:

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## 1. General

### A. Preliminary Matters

1. Letters and Motions raising issues for disposition by Discovery Master may be served pursuant to the service paragraph on the Discovery Master \_\_\_\_\_ at the following address:

Dispute Prevention & Resolution, Inc.  
1155 Pauahi Tower  
1001 Bishop Street  
Honolulu, Hawaii 96813  
(808) 523-1234  
(808) 599-9100 fax  
Assistant: \_\_\_\_\_  
Email: \_\_\_\_\_

2. Service on the Discovery Master may be mail, facsimile, or by hand-delivery and service on each party shall be in the same manner as on the Discovery Master. The operative “date” of any document will be the date of posting/metering by mail, or in the case of hand-delivered or faxed documents, the operative “date” will be the date of receipt, except documents delivered or faxed after 5:00 p.m. Hawaii Standard Time will be counted as having been received the following day.
3. Every party is to receive notice of and be served with all moving, joinder, opposition and reply papers. Items mailed to parties must be placed in the mail before the U.S. Post Office’s last mail pick-up on the day the item is dated.
4. Any party may attend a hearing, but the scheduling of the hearing, and the location of the hearing will be made with deference only to those in dispute.

5. Hearings before the Discovery Master may be recorded by Court Reporter at the request of any party provided that the request is made at least 24 hours prior to the hearing and notice is served on all parties. Any party may request a transcript of any hearing; all reporting and transcript expenses are to be shared equally by the requesting parties.
6. Calls with the Discovery Master for scheduling hearings or other purposes should be done by conference call arranged by the party seeking a ruling for the Discovery Master.
7. For this matter, the Discovery Master will use these names and numbers for contact purposes:

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8. No letter or other communication among counsel will be copied to and served upon the Discovery Master unless it is:
  - a. An exhibit to correspondence, pleadings or motion papers; or
  - b. The Discovery Master has specifically requested it.
9. A letter style format may be used to bring discovery matters to the attention of the Discovery Master and shall not be copied to the court, or filed with the court, unless the party is seeking an appeal of the Discovery Master's ruling.
10. Pleadings and documents already in the possession of the parties need not be served upon the parties if such pleadings or documents are sufficiently described in the document bringing the discovery matter to the Discovery Master's attention.

B. Non-Urgent Matters

1. Unless designated otherwise, correspondence, pleadings or motion papers delivered to the Discovery Master will be presumed to be “Non-Urgent.”
2. The Discovery Master will schedule a hearing within 30 calendar days.
3. Opposition papers must be served 10 calendar days before the date set for the scheduled hearing. Service must be done by facsimile or hand-delivery.
4. Reply papers, if any, must be served within 5 calendar days before the scheduled hearing. Service must be done by facsimile or hand-delivery.

C. Semi-Urgent Matters

1. A cover letter may be sent notifying the Discovery Master that this is a “Semi-Urgent” matter. The Discovery Master will schedule a hearing within 10 calendar days. Service of the letter must be done by facsimile or hand-delivery.
2. Opposition papers must be served on the Discovery Master 5 calendar days prior to the scheduled hearing. Service must be done by facsimile or hand-delivery.
3. Reply papers are optional and may be served by facsimile or hand-delivery 2 business days prior to the scheduled hearing.

D. Extremely Urgent Matters

1. The party seeking to have an “Extremely Urgent” matter heard must arrange for a conference call with the opposing party(ies) and the Discovery Master. Notice of the conference call must be provided by facsimile or hand-delivery to all parties or by directly speaking to one of the identified contact persons. Non-participating parties shall advise the other parties as soon as possible that they will not participate in the conference call.
2. The Discovery Master will decide whether a telephone conference is necessary or whether a shortening of time is necessary.

E. Joinders

1. Any joinder to a motion must be limited to the issues at hand and shall not raise any new issues. The joinder must be served no later than the date the

opposition is due and in the same manner. Any opposition to a joinder must be served at the time any reply briefs are due and in the same manner.

**2. Protocol regarding: Matters Filed with the Court and Referred to the Discovery Master for Consideration.**

A. All discovery matters are referred to the Discovery Master by the court order filed \_\_\_\_\_ and no discovery matter shall be brought to the court's attention without initially being brought to the Discovery Master's attention and for his decision.

**3. Decisions**

A. Rulings

1. Matters referred directly to the Discovery Master

a. Within 10 business days of the date of an oral ruling, a party must inform the Discover Master in writing if an appeal of the ruling will be made. The appealing party may also request a stay of Discovery Master's oral decision. The appealing party must simultaneously serve a written notice on the other parties.

b. The Discovery Master will, as soon as practicable after notification of appeal, reduce the oral decision to writing and send said written decision to the court and serve a copy on all parties.

2. After an oral ruling and after the time for appeal has run, the Discovery Master may, in his discretion, reduce the oral ruling to writing, either at the request of a party or on his own initiative.

3. Any party may seek a Motion for Reconsideration within 10 business days of a ruling by the Discovery Master. Any motion for reconsideration must be served on all parties.

B. Appeal to the Court

1. Any party, within 30 calendar days from the date of any written ruling by the Discovery Master, may file a motion in Court to have such ruling modified or set aside. In the event of a motion for reconsideration, the time to appeal shall run from the date of the Discovery Master's ruling on that motion for reconsideration.

2. The briefing schedule on the appeal to Court shall follow rules governing motions in applicable rules of court.

C. Any appeal shall be limited to the record and arguments raised before the Discovery Master. The transcript of the proceedings before the Discovery Master must be included in the record on appeal.

**4. Records and Files**

The Discovery Master is not obligated to retain any of the documents relative to any matter once it has been resolved in a manner to which all parties have acquiesced or which has been finally resolved by the Court.

**5. Discovery Master's Fees and Expenses; Deposits**

The Discovery Master's fee for services rendered shall be \$\_\_\_\_\_.00/hour. This fee shall be paid by the non-prevailing party or parties in each discovery dispute as determined by the Discovery Master; or however the Discovery Master deems appropriate, or as ordered by the court. All parties shall deposit \$\_\_\_\_\_.00 to Dispute Prevention & Resolution, Inc. ("DPR"), within 10 business days of the signing of this document. The Discovery Master may order any party to deposit additional sums with DPR as may be necessary to pay for the services of the Discovery Master incurred by that party. Said additional deposit is due to DPR 10 business days after receiving said order.

Reviewed and Accepted:

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, Esq., attorney for

Date: \_\_\_\_\_

Reviewed and Accepted:

\_\_\_\_\_  
, Esq., attorney for

Date: \_\_\_\_\_

Reviewed and Accepted:

\_\_\_\_\_  
, Esq., attorney for

Date: \_\_\_\_\_