

Rule 16.3
DUTY TO CONFER

(c) **MATTERS TO BE DISCUSSED BY THE PARTIES**

At the conference required by this Rule, the parties must confer to discuss the following matters:

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- (5) Whether the case could benefit from the Court's alternative dispute resolution (ADR) procedures (or some other form of ADR); what related steps should be taken to facilitate such ADR; and whether counsel have discussed ADR and their responses to this provision with their clients. In assessing the above, counsel shall consider:
- (i) the client's goals in bringing or defending the litigation;
 - (ii) whether settlement talks have already occurred and, if so, why they did not produce an agreement;
 - (iii) the point during the litigation when ADR would be most appropriate, with special consideration given to:
 - (aa) whether ADR should take place after the informal exchange or production through discovery of specific items of information; and
 - (bb) whether ADR should take place before or after the judicial resolution of key legal issues;
 - (iv) whether the parties would benefit from a neutral evaluation of their case, which could include suggestions regarding the focus of discovery, the legal merits of the claim, an assessment of damages and/or the potential settlement value of the case; and
 - (v) whether cost savings or any other practical advantage would flow from a stay of discovery or of other pre-trial proceedings while an ADR process is pending.