



**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
PHILADELPHIA COURT OF COMMON PLEAS**

Tuesday, May 5, 2020

TRIAL DIVISION – CIVIL

NOTICE TO THE BAR

**PROTOCOL FOR DISCOVERY MOTIONS
DURING JUDICIAL EMERGENCY CREATED BY COVID-19**

In order to facilitate the prompt resolution and docketing of discovery disputes that are either withdrawn, entered by agreement, uncontested, or contested the Court is ordering that the parties follow this protocol until further Notice to the Bar:

For any civil matter currently pending in which counsel or a party has filed a discovery motion, the movant shall, within 20 days of this Court's Notice to the Bar, submit through the E-filing system for the Court's review an appropriate Praeceptum as contained in this Protocol.

- (1) **For all Discovery motions that are withdrawn**, the moving party shall file a Praeceptum to Withdraw, identifying the e-file number, and identifying the party or parties against whom the motion is pending, with the relief sought. See the attached form for the appropriate format to be used for this Praeceptum to Withdraw.
- (2) **For all Discovery motions entered by agreement**, the moving party must file a Praeceptum to Enter Discovery Order By Agreement. The praecipe shall identify the e-file number, and identify the party or parties against whom the motion is pending, with the relief sought. Parties may stipulate to entry of sanctions or preclusion through the Praeceptum to Enter Discovery Order By Agreement. This praecipe shall request that the Office of Judicial Records enter, upon Court review, the stipulated order marked BY AGREEMENT and prepared by counsel for the movant with an appropriate certification that the other party(s) agree to the terms of the stipulated order. Counsel for the movant shall retain written proof of the agreement/consent from all counsel in the matter to the stipulated order. See the attached form for the appropriate format to be used for the requisite praecipe and certification.
- (3) **For all uncontested Discovery motions**, the moving party shall file a Praeceptum to Enter Uncontested Discovery Order. The praecipe shall identify the e-file number, and identify the party or parties against whom the motion is pending, with the relief sought. Parties shall not seek entry of sanctions or preclusion through the Praeceptum to Enter Uncontested Discovery Order. This

praecipe shall request that the Office of Judicial Records enter, upon Court review, the stipulated order marked UNCONTESTED prepared by counsel for the movant with an appropriate certification that the motion is uncontested. Counsel for the movant shall retain written proof of the consent from all counsel in the matter to the stipulated order and the fact that it is uncontested. See the attached form for the appropriate format to be used for the requisite praecipe and certification.

- (4) **For all Discovery motions concerning any person or entity which is not a party to the applicable action (collectively referred to as a “Third-party”) which are by agreement or uncontested**, the moving party or person shall file a Praecipe to Enter Discovery Order Against a Third-party. The praecipe shall identify the e-file number, attach the motion cover sheet of the pending motion, and identify the Third-party or parties against whom the motion is pending, with the relief sought. Sanctions or orders for preclusion may be entered by agreement; however, no sanction or order for preclusion may be entered by way of uncontested motion. This praecipe shall request that the Office of Judicial Records, upon Court review, enter the stipulated order marked by agreement or uncontested with an appropriate certification that the motion is by agreement or uncontested. The certification shall also set forth the means of service of the motion and include a valid electronic means of contacting the third-party against whom the motion is pending. Counsel for the movant shall retain written proof of the consent from the third party to the stipulated order and the fact that it is by agreement or uncontested. See the attached form for the appropriate format of the requisite praecipe and certification to be used for submission to the court hereunder. Movant shall provide the third party with a copy of the Order.
- (5) **For all contested Discovery motions (including third-party motions)**, the moving party or person shall file a Praecipe for Contested Discovery Motion. The praecipe shall identify the e-file number, and identify the party or parties against whom the motion is pending, with the relief sought. This praecipe shall confirm that counsel for the movant has conferred or made reasonable efforts to confer with the opposing party or third-party and/or its counsel to resolve the dispute and despite reasonable efforts, the parties are unable to resolve the dispute without court intervention. The praecipe shall contain a notice to plead. See the attached form for the appropriate format to be used for this praecipe and certification. Upon receipt of the praecipe, the Office of Judicial Records shall assign the Discovery Motion a control number. Respondent(s) shall within 10 days of the filing of the praecipe file a response to the Contested Discovery Motion.

Notes:

Be advised: All praecipe and certifications described above shall be made subject to the penalties of 18 Pa.C.S.A. § 4904 regarding unsworn falsifications to authorities.

Be advised: Any movant which has filed a discovery motion which is pending as of the date of this Judicial Notice and who does not comply with this Protocol may have their motion dismissed without prejudice. If a respondent does not comply with this protocol the motion may be granted as uncontested. Within 20 days from the date of such dismissal without prejudice, any party shall have the right to refile any motion which has been dismissed without prejudice as a result of failing to comply with this protocol.

Honorable Jacqueline F. Allen
Administrative Judge
Trial Division

Honorable Arnold L. New
Supervising Judge
Trial Division – Civil

Honorable Gary S. Glazer
Supervising Judge
Trial Division - Commerce

IN THE FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
PHILADELPHIA COURT OF COMMON PLEAS—CIVIL TRIAL DIVISION

	:	
	:	
	:	
	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY, PA
Plaintiffs	:	
	:	
v.	:	_____ TERM, 20__
	:	
	:	NO. _____
	:	
	:	
Defendants	:	
	:	

PRAECIPE TO WITHDRAW DISCOVERY MOTION

To the Office of Judicial Records:

[PARTY NAME] hereby withdraws the discovery motion filed [PARTY NAME] on [DATE] with E-File number [E-FILE NUMBER] seeking [relief sought] against [specific party or parties] is withdrawn.

BY: _____, Esquire

Attorney for [PARTY NAME]

Date:

IN THE FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
 PHILADELPHIA COURT OF COMMON PLEAS—CIVIL TRIAL DIVISION

	:	
	:	
	:	
	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY, PA
Plaintiffs	:	
	:	
v.	:	_____ TERM, 20__
	:	
	:	NO. _____
	:	
Defendants	:	
	:	
	:	
	:	
	:	

PRAECIPE TO ENTER DISCOVERY ORDER BY AGREEMENT

To the Office of Judicial Records:

Pursuant to the Court’s COVID-19 protocol and subject to the below certification, and after Court review, kindly enter the Order By Agreement attached hereto as Exhibit A.

To resolve the discovery motion filed on [DATE] with E-File number [E-FILE NUMBER], [PARTY NAMES] hereby stipulate to the entry of the attached Order By Agreement. I, [MOVANT’S ATTORNEY’S NAME] attorney for [PARTY NAME], hereby certify that I have conferred with counsel for [PARTY NAME(S)] and that the discovery motion seeking [relief sought] against [specific party or parties] is resolved by agreement/stipulation.

I make this certification subject to the penalties of 18 Pa.C.S.A. § 4904 regarding unsworn falsifications to authorities. I maintain written documentation of the agreement.

BY: _____
 , Esquire
 Attorney for [PARTY NAME]

Date:

IN THE FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
PHILADELPHIA COURT OF COMMON PLEAS—CIVIL TRIAL DIVISION

	:	
	:	
	:	
	:	
Plaintiffs	:	COURT OF COMMON PLEAS PHILADELPHIA COUNTY, PA
	:	
v.	:	_____ TERM, 20__
	:	
	:	NO. _____
	:	
	:	
Defendants	:	
	:	
	:	

**PRAECIPE TO ENTER THIRD PARTY UNCONTESTED OR
RESOLVED BY AGREEMENT DISCOVERY ORDER**

To the Office of Judicial Records:

Pursuant to the Court’s COVID-19 protocol and subject to the below certification, kindly, upon court review enter the discovery order, attached hereto as Exhibit A which seeks relief including **[movant must enter relief sought here and whether it is by agreement or uncontested]**.

I, attorney for [PARTY NAME], hereby certify that, on [DATE] and in compliance with Pa.R.C.P. 440, I served third-party respondent [NAME OF ENTITY SUBJECT TO MOTION] with a copy of the motion to [STATE WHAT TYPE OF MOTION e.g. enforce subpoena, for protective order, or other] filed on [DATE] with E-File number [E-FILE NUMBER]. The respondent was properly served with said motion by [DESCRIBE MANNER OF SERVICE].

I also certify that, on [DATE], [THE SUBPOENA or MOTION] was properly served on respondent [NAME OF ENTITY SUBJECT TO MOTION] in compliance with Pa.R.C.P. 234.2 by [DESCRIBE MANNER OF SERVICE].

I further certify that I conferred with a representative of the respondent [NAME OF PERSON OR PARTY SUBJECT TO MOTION] and that the discovery motion filed on [DATE]

with E-File number [E-FILE NUMBER] is [STATE WHETHER UNCONTESTED OR RESOLVED BY AGREEMENT]. The representative for respondent [NAME OF PERSON OR PARTY SUBJECT TO MOTION] can be electronically contacted at [ELECTRONIC CONTACT]. A copy of the discovery order to which respondent [NAME OF PERSON OR PARTY SUBJECT TO MOTION] consents to entry as [UNCONTESTED OR BY AGREEMENT] is attached hereto as Exhibit A.

I make this certification subject to the penalties of 18 Pa.C.S.A. § 4904 regarding unsworn falsifications to authorities.

I hereby certify that I have provided a copy of the attached Order to the referenced respondent and I have maintained a written confirmation that this Motion is [STATE WHETHER UNCONTESTED OR BY AGREEMENT].

BY: _____, Esquire

Attorney for [MOVANT]

Date:

IN THE FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
 PHILADELPHIA COURT OF COMMON PLEAS—CIVIL TRIAL DIVISION

	:	
	:	
Plaintiffs	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY, PA
v.	:	
	:	
	:	_____ TERM, 20__
	:	
	:	NO. _____
	:	
Defendants	:	
	:	
	:	
	:	

PRAECIPE FOR CONTESTED DISCOVERY MOTION

To the Office of Judicial Records:

I, [ATTORNEY NAME], am counsel for the movant in the discovery motion filed on [DATE] with E-File number [E-FILE NUMBER] seeking [relief sought] against [specific party or parties].

I certify that I have conferred or made reasonable attempts to confer with opposing counsel for respondent(s) [PARTY NAME(s)] in an effort to resolve the aforementioned motion. However, despite reasonable and good faith efforts, the parties are unable to resolve this dispute without Court intervention. I make this certification subject to the penalties of 18 Pa.C.S.A. § 4904 regarding unsworn falsifications to authorities.

This Praecipe shall serve as **NOTICE** to respondent to respond to the contested discovery motion within 10 days of the date of this Praecipe.

BY: _____
 , Esquire

Attorney for [PARTY NAME]

Date: