

In Re: Nursing Home Litigation

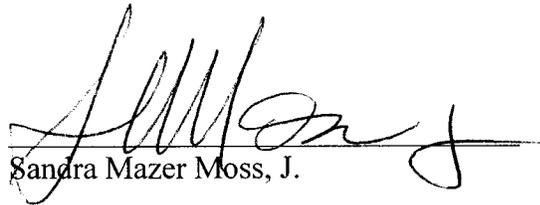
# 0903-4284

**NURSING HOME CONSOLIDATED LITIGATION  
CASE MANAGEMENT ORDER NO 4.**

AND NOW, this 7<sup>TH</sup> day of June, 2011, it is hereby ORDERED and DECREED that the standard self-executing discovery attached hereto as Exhibit "A" and Exhibit "B" are adopted as the self-executing discovery in all Philadelphia County Nursing Home Cases. It is further ORDERED and DECREED that this discovery shall be applicable for all nursing home cases currently filed and all future nursing home cases. In those cases already filed, it shall be the duty of counsel to assess the applicability of the self-executing discovery attached hereto and notify opposing counsel if they seek discovery of those items of self-executing discovery which have not previously been the subject of discovery in a currently pending case.

It is further ORDERED and DECREED that in newly filed cases, responses to the attached self-executing discovery (Exhibit "A" and Exhibit "B" hereto) shall be due forty-five (45) days after the later of the filing of a Certificate of Merit or the service of Plaintiff's Complaint, and in existing cases, forty-five (45) days after written notice by opposing counsel that responses are requested.

BY THE COURT:

  
Sandra Mazer Moss, J.

In Re: Nursing Home Litigation-ORDER



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DOCKETED  
COMPLEX LIT CENTER

JUN 7 2011

J. STEWART

In general, except as exempted by Pa.R.C.P. 4011 (Limitation of scope of discovery), or as otherwise stipulated or ordered by court, a party must, without awaiting a discovery request, provide to the other parties the following:

**PLAINTIFF'S SELF-EXECUTING DISCOVERY FOR DEFENDANTS**

1. A Bates-stamped black and white copy of the original chart for the resident at the facility, including but not limited to the following:
  - (a) Admission and Discharge documents;
  - (b) Resident Assessment Protocols (RAPs);
  - (c) Minimum Data Sets (MDS);
  - (d) Care Plans;
  - (e) Physician's(s) Notes;
  - (f) Physician's(s) Orders;
  - (g) Nursing Notes;
  - (h) Medication Administration Records (MARs);
  - (i) Treatment Administration Records (TARs);
  - (j) CNA Flowsheets;
  - (k) Activities for Daily Living (ADLs);
  - (l) Skin Audits;
  - (m) Social Service Notes;
  - (n) Advance Directives, including Acknowledgment of Resident's Rights, Living Will, Do Not Resuscitate Orders (DNR), Consent Forms;
  - (o) Diagnosis, including EKGs, x-rays, laboratory studies or other tests performed during the residency;
  - (p) Nutritional Notes;
  - (q) 24 hour reports / shift change reports that contain plaintiff's name (the other residents names and information may be redacted at this stage);
  - (r) Rehabilitation Notes;
  - (s) Miscellaneous Assessments, including behavior monitors, pressure sore risk assessments and bowel and bladder assessments; and
  - (t) Any photographs of the resident.
2. All communication with the resident's physician(s) regarding the resident's condition.
3. All incident and accident reports pertaining to the resident and any witness statements attendant to those reports.
4. Every report prepared by any person who is expected to testify as an expert witness, including physicians. (The response date for this request is modified by the specific case management order for expert deadlines)
5. Any and all summaries of qualifications and/or curriculum vitae for each expert to be called to testify as a witness at trial.

6. Complete and itemized bills for any and all services, medical supplies, pharmaceutical supplies, therapies, or any other goods or services for which the facility charged the resident or any third party payer on behalf of the resident while he/she was a resident at your facility.
7. A Declaratory Page (or other affirmation) identifying all insurance policies covering claims of professional liability against the facility and its employees that were in effect during the residency, including primary, umbrella, and excess.
8. A copy of the organizational chart for the facility and/or corporate structures of Defendants effective during the residency.\*
9. A Table of Contents of the Nursing Policy and Procedure Manual(s) in effect for the facility during the residency.
10. All contracts related to administrative and/or management services provided to the facility during the residency.\*
11. Staffing schedules of all nursing personnel who actually worked on the resident's unit for the period in issue per the Complaint.\*

\*Paragraphs 8, 10, and 11 apply to Skilled Nursing Facilities and not hospitals.

In general, except as exempted by Pa.R.C.P. 4011 (Limitation of scope of discovery), or as otherwise stipulated or ordered by court, a party must, without awaiting a discovery request, provide to the other parties the following:

**DEFENDANT'S SELF-EXECUTING DISCOVERY FOR PLAINTIFF**

1. All photographs, drawings and/or video prepared of the nursing facility or of the injuries which are the subject of this litigation.
2. All photographs, drawings and/or video of the resident prepared or taken during the residency, whether taken within or out of the nursing facility.
3. All documents containing the names and home and business addresses of all individuals contacted as potential witnesses.
4. Any and all statements by the plaintiff, family or any witness (whether written or oral) in relation to subject matter of this litigation. For purpose of this Request, "statement" means a written statement signed or unsigned or a stenographic, mechanically, electrically or other recording, or a transcription thereof, which is substantially verbatim recital of an oral statement by a person making it contemporaneously recorded.
5. Every report prepared by any person who is expected to testify as an expert witness, including physicians. (The response date for this request is modified by the specific case management order for expert deadlines).
6. Any and all summaries of qualifications and/or curriculum vitae for each expert to be called to testify as a witness at trial.
7. Any and all documents which will be used to support the allegations in Plaintiff's Complaint.
8. A copy of any diary or notes created by the resident, their family member, POA or guardian regarding the care or injuries that are the subject of the litigation.
9. All medical reports, hospital records, physician's reports, x-ray records and all other records which relate in any manner whatsoever to the injuries and damages allegedly sustained by decedent, as well as treatment of any similar disease, abnormality or conditions prior to or subsequent to the care and treatment which is the subject of this action.
10. The resident's death certificate.
11. A copy of the resident's Last Will and Testament.
12. A copy of the resident's Advanced Directives.

13. All Powers of Attorney prepared for and/or executed by the resident during the past ten (10) years.
14. A signed HIPPA Release form to obtain medical records of any medical provider that fails to produce medical records pursuant to a duly authorized subpoena.
15. A written statement, letter or notice from CMS, DPW, or any other governmental agency or contractor identifying the Medicare, Medicaid or any other liens which may be asserted by those entities against any recovery.
16. Any and all bills, invoices, canceled checks or receipts relating directly or indirectly to those damages described by the decedent in the Complaint and alleged to be resulting from the care referred to in the Plaintiff's Complaint.
17. If a wage loss claim is being made, a copy of all IRS tax returns for the resident for five years prior to, and all years subsequent to, the date of the incident referred to in the Complaint.
18. If a wage loss claim is being made, any and all reports of rates of earnings and time lost from work prepared on behalf of the decedent.
19. Copies of any and all correspondences addressed to any of the defendants regarding the care and treatment of the resident or any subject matter raised in the plaintiff's Complaint (or Amended Complaints).
20. Copies of all correspondences received from the defendants regarding the care and treatment of the decedent or any subject matter raised in the plaintiff's Complaint (or Amended Complaints).
21. Copies of all correspondences (to and from) any state or federal agency regarding the decedent or any subject matter raised in the plaintiff's Complaint (or Amended Complaints).