



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

Monday, March 1, 2021

**TRIAL DIVISION – CIVIL**

**NOTICE TO THE BAR**

**PROTOCOL FOR DISCOVERY MOTIONS FILED ON/AFTER MARCH 15, 2021**

**Praecipes and Certifications Regarding Discovery Motions**

For all Discovery Motions filed on/or after March 15, 2021, the Office of Judicial Records shall set a *Certification Due Date* of seven (7) days from the date of filing the motion. No later than the *Certification Due Date*, only the movant (not the respondent) shall file in the *Discovery Court Filings* section of the Civil Electronic Filing System (EFS) the appropriate praecipe and certification for the Court's review as follows.

- (1) **Withdrawn discovery motions:** For all Discovery motions that are withdrawn, only the movant (not the respondent) shall file a Praecipe to Withdraw, identifying the control number, and identifying the party or parties against whom the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 Praecipe to Withdraw.
- (2) **Discovery motions entered by agreement:** For all Discovery motions entered by agreement, only the movant (not the respondent) shall file a Praecipe to Enter Discovery Order By Agreement. The praecipe shall identify the control number, and identify the party or parties against whom the motion is pending, with the relief sought. This praecipe shall request that the Office of Judicial Records enter, upon Court review, the 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 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 praecipe and certification of discovery motions entered by agreement.
- (3) **Uncontested discovery motions:** For all uncontested Discovery motions, only the movant (not the respondent) shall file a Praecipe to Enter Uncontested Discovery Order. The praecipe shall identify the control number, and identify the party or parties against whom the motion is pending, with the relief sought. This praecipe shall request that the Office of Judicial Records enter, subject to review, the order marked UNCONTESTED prepared by

counsel for the movant with an appropriate certification that the motion is uncontested by the party or parties against whom the motion is pending. Counsel for the movant shall retain written proof of the consent from all counsel in the matter to the order and the fact that it is uncontested. See the attached form for the appropriate format to be used for the praecipe and certification of uncontested discovery motions.

**Note:** If the movant is unsuccessful in reaching the respondent to obtain the respondent's position, the motion is presumed Contested per paragraph 5.

(4) **Discovery motions involving a third party:** 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, only the movant (not the respondent) shall file a Praecipe to Enter Discovery Order Against a Third Party. The praecipe shall identify the control number, and identify the third party or parties against whom the motion is pending, with the relief sought. This praecipe shall request that the Office of Judicial Records, subject to review, enter the order 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 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) **Contested discovery motions:** For all contested Discovery motions (including third party motions), only the movant (not the respondent) shall file a Praecipe for Contested Discovery Motion. The praecipe shall identify the control 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. See the attached form for the appropriate format to be used for this praecipe and certification.

**Note:** If the movant is unsuccessful in reaching the respondent to obtain the respondent's position, the motion is presumed Contested.

**Be Advised:** If a movant must file a unique praecipe and certification that relates to less than all parties subject to the filed Discovery Motion, Discovery Court Program staff should be consulted before filing. For example, a movant may withdraw a Discovery Motion as it relates to defendant A, but may need to file a certification that marks the motion contested as it relates to defendant B. In this and similar circumstances, Discovery Court Program staff should be consulted for filing protocols.

**Be Advised:** If the movant fails to file any of the praecipes or certifications described above, the Discovery Motion will be marked “dismissed without prejudice” by the Office of Judicial Records after the expiration of the *Response Date*.

### **Discovery Motions Certified Contested**

The Office of Judicial Records shall set a *Response Date* of seven (7) days from the *Certification Due Date* for all Discovery Motions filed on/or after March 15, 2021. If the movant certifies a Discovery Motion as contested, all respondents shall file a response by the established *Response Date* in the *Discovery Court Filings* section of the Civil Electronic Filing System (EFS).

If a Discovery Motion is certified Contested, and no response is filed within seven (7) days, the motion will be assigned to a judge for review as unopposed.

If a response in opposition of the motion is filed, the Discovery Motion will be listed for a hearing with the appropriate Judicial Team Leader. The hearing will be listed approximately seven (7) to ten (10) days from the expiration of the *Response Date*. Notice of the date, time, and manner of the hearing will be sent by the Office of Judicial Records to all parties.

If a Discovery Motion is certified contested, but subsequently determined to be agreed upon, uncontested, or withdrawn, only the movant (not the respondent) shall file the appropriate praecipe and certification with the Office of Judicial Records as described above. Subsequently, the scheduled hearing will be canceled and closed on the docket and the order shall be entered by agreement, uncontested, or withdrawn as described above.

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

Questions regarding these protocols and any related filing procedures should be directed to Peter Divon, Manager, Discovery Court Program, at [Peter.Divon@courts.phila.gov](mailto:Peter.Divon@courts.phila.gov).

Honorable Lisette Shirdan-Harris  
Administrative Judge  
Trial Division

Honorable Daniel J. Anders  
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  
TRIAL DIVISION – CIVIL

---

	:	
	:	
	:	
	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY, PA
Plaintiffs	:	
	:	
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 Discovery 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 Control number [CONTROL 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].



