

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
TRIAL DIVISION**

General Court Regulation No. 01 of 2018

Proceedings Seeking Forfeiture of Assets

The procedures contained in this General Court Regulation apply to civil forfeiture proceedings, including but not limited to asset forfeiture proceedings commenced pursuant to the Act of June 29, 2017, P.L. 247, No. 13 § 9.

General Court Regulation No. 02 of 2016 issued on July 25, 2016 is rescinded effective on November 1, 2018.

A. Initiation of Civil Forfeiture Proceedings by the Commonwealth

- 1. Filing of Forfeiture Petition.** The *in rem* civil forfeiture proceeding shall be commenced within the time period specified by law by filing a Forfeiture Petition with the Office of Judicial Records, (formerly “Prothonotary,” “Clerk of Quarter Sessions” and “Clerk of Courts”).

Note: The Petition, Answer, other pleadings and legal papers should be electronically filed with the Office of Judicial Records at its website www.courts.phila.gov. The Office of Judicial Records will also accept for filing the Petition, Answer and other pleadings and legal papers in a paper format through its office at the Justice Juanita Kidd Stout Center for Criminal Justice (“Stout Center”), Second Floor, Motions Counter, 1301 Filbert Street, Philadelphia, PA.

- 2. Parties.** The Commonwealth of Pennsylvania shall be the “Plaintiff” and the property at issue shall be the “Defendant.” The party or parties who have an interest in the property subject to forfeiture shall be referenced as “Claimant(s).”
- 3. Content of Petition.** The Petition shall contain the following:
 - a. A description of the property actually seized or constructively seized, including, if known, the address of any real property, the exact dollar amount of any United States currency, or the approximate value of any negotiable instrument or security and the make, model, year and license plate number of any vehicle.
 - b. A statement of the time and place where seized.
 - c. The owner, if known.
 - d. The person or persons in possession at the time of seizure, if known.
 - e. The related Offense Tracking Number (OTN), CPCMS criminal case number, and the criminal complaint, if applicable.
 - f. The Property Receipt which describes the property seized.
 - g. The Philadelphia Tracking Number (PID) of the claimant, if issued.
 - h. The Philadelphia Police Department District Control number (DC#) associated with the seizure of the subject property, if one exists.
 - i. An allegation that the property is subject to forfeiture and an averment of material facts supporting the forfeiture action.
 - j. A prayer for an order of forfeiture that the property be adjudged forfeited to the Commonwealth unless cause is shown to the contrary.
 - k. A verification pursuant to Pa.R.C.P. No. 1024 signed by the attorney for the Commonwealth.

- 4. **Notice to Defend.** The first page of the Petition shall be a Notice to Defend, signed as noted thereon, substantially as follows:

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
TRIAL DIVISION, CIVIL**

Commonwealth of Pennsylvania : **CP - 51- MD - _____ - _____**
Plaintiff :
vs. : **OTN #**
: **PID**
[Description of Property Seized] : **DC #**
Defendant : **PR #**

LOCATION OF SEIZURE: _____
OWNER OF PROPERTY: _____
PROPERTY SEIZED FROM: _____

**NOTICE TO DEFEND: CIVIL ASSET FORFEITURE
TO THE CLAIMANT OF WITHIN DESCRIBED PROPERTY:**

You are required to file a written Answer to this petition, setting forth your title in, and right to possession of, said property within 30 days from the service hereof, and you are also notified that, if you fail to file the Answer, a decree of forfeiture and condemnation will be entered against the property.

A Pretrial Conference will be scheduled by the Court, and you should expect to receive a Notice of Pretrial Conference within a week or so after the Forfeiture Petition and this Notice to Defend are served on you. The date of the Pretrial Conference should be at least two weeks after you receive the Notice of Pretrial Conference which should allow you to attend the hearing. You or your attorney must attend this Pretrial Conference.

If you have been criminally charged in a case associated with the forfeiture matter, prior to filing an Answer to the Forfeiture Petition, you may file a *Praecipe to Stay the Forfeiture Proceedings* using the above-referenced caption and docket number. The forfeiture proceedings will be stayed by the Office of Judicial Records upon receipt of the *Praecipe*. However, please know that when the stay is lifted, you must file an Answer to the *Forfeiture Petition* within 30 days from the day the stay is lifted.

If you wish to seek the temporary release of your seized property while these forfeiture proceedings are pending, you may also file a *Motion for Release of Seized Property Pending the Conclusion of the Forfeiture Proceedings*, pursuant to 42 Pa.C.S. §§ 5805(f) and 5806 at any time during the pendency of the Forfeiture Proceedings.

Additionally, you should know that **you may request a jury trial**. However, the request must be made no later than twenty (20) days after the service of the last permissible pleading. You can request a jury either by indicating so on any Answer you file or by submitting and filing a separate request with the Office of Judicial Records, preferably electronically, or by mail or in person at the Justice Juanita Kidd Stout Center for Criminal Justice, Second Floor, Motion Counter, 1301 Filbert Street, Philadelphia, PA.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE. YOU ARE NOT ENTITLED TO A COURT-APPOINTED LAWYER.

*Philadelphia Bar Association
Lawyer Referral and Information Service
1101 Market Street, 11th Floor
Philadelphia, Pennsylvania 19107
(215) 238-6333
TTY (215) 451-6197*

/s/

Name of Person Signing and Title:
Attorney General, Deputy Attorney General,
District Attorney, Deputy District Attorney
or Assistant District Attorney
Date:

A copy of this Notice is also attached below as *Attachment A*. This Notice may be modified from time to time as may be appropriate, and the current version shall be posted on the website of the First Judicial District at: www.courts.phila.gov/forms.

5. Service of the Petition.

- a. **Personal Service. Service by Certified Mail.** The Commonwealth shall serve the Petition on the owner of the property, if known, and upon each person in possession of the property at the time of the seizure, if known. Service shall be accomplished by personal service or by certified mail.
 - i. **Personal Service.** Personal service shall be made as provided in Pa.R.C.P. No. 400.1, and an Affidavit of Service signed by the server, setting forth the date, time and location of service on the Claimant must be filed with the Office of Judicial Records, as soon as practicable after service is accomplished.
 - ii. **Service by Certified Mail.** Service by mail shall be made as provided in Pa.R.C.P. No. 403 and must require a receipt signed by the Claimant. Service is complete upon delivery of the mail, and the Plaintiff shall file an Affidavit of Service, and attach the receipt signed by the Claimant, with the Office of Judicial Records, as soon as practicable after service is accomplished.
 - iii. **Service Address.** In the event the Claimant was served at an address other than that stated in the Forfeiture Petition, or if the Claimant's address for subsequent service of legal papers other than original process, pursuant to Pa.R.C.P. No. 440, is different than that stated in the Forfeiture Petition, the Commonwealth shall file a *Praecipe* with the Office of Judicial Records providing the address to which legal papers may be served on the Claimant. The *Praecipe* shall be substantially in the form attached below as *Attachment B*.
- b. **Substitute Service.** If (i) the owner of the property is unknown, (ii) there was no person in possession of the property when seized or (iii) the owner or each person in possession at the time of the seizure cannot be personally served or located within the jurisdiction of

the court, notice of the filing of the petition shall be given by the Commonwealth through an advertisement in at least one newspaper of general circulation published in the county where the property has been seized, once a week for two successive weeks.

The substitute notice shall contain a statement of the seizure of the property with a description of the property and the place and date of seizure and shall direct any claimants to the property to file a claim on or before a date given in the notice, which shall not be less than 30 days from the date of the first publication. If no claims are filed within 30 days of publication, the Commonwealth may move for default judgment. The Plaintiff shall file an *Affidavit of Substitutes Service*, substantially in the form attached below as *Attachment C*, referencing advertising of the filing of the Forfeiture Petition and shall attach proof of the advertising.

6. Answer.

- a. **Filing.** As provided in 42 Pa.C.S. § 5805, a claimant shall file an *Answer* setting forth their title in and right to possession of the property, within thirty (30) days from the service of the Petition, or at any other time agreed upon by the parties, or as ordered by the court. Provided, however, that if the claimant has been criminally charged in a case associated with the forfeiture matter and files a *Praecipe to Stay Forfeiture Proceedings*, as provided in Section 8, the Claimant shall have thirty (30) days to file an *Answer* from the date the stay is lifted.
- b. **Service.** The Claimant must serve the District Attorney or Attorney General who has jurisdiction over the case, and must file proof of service with the Office of Judicial Records. However, the District Attorney's Office has agreed to be served by the Office of Judicial Records upon its receipt and acceptance of the Answer.

7. Failure to File an Answer. If an Answer is not filed as required above, the Plaintiff may seek the entry of judgment by default by complying with the provisions of Pa.R.C.P. No. 237.1, or by seeking any appropriate relief by filing an appropriate motion, as more fully set forth below.

8. Motion Practice.

- a. After the commencement of a forfeiture action, the Plaintiff and Claimant(s) may file motions, including but not limited to the following:
 - i. **Motion for Default Order of Forfeiture.** Plaintiff may seek the entry of a default forfeiture order if the Forfeiture Petition was served but an Answer was not filed as required under Section 6. If the Claimant attends the hearing scheduled on this Motion, a Pretrial or Status Conference shall be held. Unless the parties otherwise agree, the judge may order the Claimant to file an Answer by a date certain, and may enter an order granting the Forfeiture Petition if an Answer is not filed by that date.
 - ii. **Praecipe to Stay Forfeiture Proceedings.**

Consistent with 42 Pa.C.S. § 5805(a)(2)(ii), a Claimant who has been criminally charged in a case associated with the Forfeiture Petition may, prior to filing an Answer to the Forfeiture Petition, file a *Praecipe to Stay the Forfeiture Proceedings*, substantially in the form attached below as *Attachment D*, pending disposition of the criminal case(s).

 - (a) Upon the filing of the *Praecipe*, the Office of Judicial Records shall stay the forfeiture proceedings. The stay shall remain in effect until the earlier of:
 - (1) the issuance of a sentencing order, which is deemed to be the conclusion of the criminal proceedings for purposes of the asset forfeiture proceeding. The

Commonwealth must file a *Praecipe to Lift the Stay of Forfeiture Proceedings*, substantially in the form attached below as *Attachment E*, with the Office of Judicial Records and a status conference will be scheduled; or (2) the filing of a *Praecipe* by the Claimant to lift the stay.

- (b) Upon the lifting of the stay, the Claimant must file an Answer within thirty (30) days, and the Office of Judicial Records shall schedule a Status Conference.
- (c) The Stay does not affect a Claimant's ability to file a *Motion for Release of Property Pending the Conclusion of the Forfeiture Proceedings* under 42 Pa.C.S. §§ 5805(f), 5806.

iii. **Motion for Release of Seized Property Pending the Conclusion of the Forfeiture Proceedings Pursuant to Sections 5805(f) and 5806.** Any time after the commencement of civil forfeiture proceedings as provided in this General Court Regulation, the Claimant may seek the release of the seized property pending the conclusion of the forfeiture proceedings, as provided in 42 Pa.C.S. § 5805 (f), by filing a *Motion for Release of Seized Property Pending the Conclusion of the Forfeiture Proceedings*. A Claimant may also file a *Motion for Release of Seized Property Pending the Conclusion of the Forfeiture Proceedings* to commence the civil action, even if civil forfeiture proceedings have not yet been commenced, as provided in Section B below.

(a) **Contents of Motion.** The Motion shall set forth the basis for seeking the immediate release of the seized property as provided in Section 5805(f)(1), if applicable. The *Motion for Release of Seized Property Pending the Conclusion of the Forfeiture Proceedings* shall be substantially as attached below as *Attachment E*.

(b) **Service.** The Claimant must serve the Motion on the District Attorney or Attorney General who has jurisdiction over the case, and must file proof of service with the Office of Judicial Records. However, the District Attorney's Office has agreed to be served by the Office of Judicial Records upon its receipt and acceptance of the *Motion*.

(c) **Hearing.** The Office of Judicial Records shall schedule a hearing on the motion, as practicable and consistent with the interests of justice, but no later than for a date within ten (10) business days of the filing of the Motion or, when required, the filing of proof of service of the Motion by the Claimant.

- iv. **Motion for Judgment on the Pleadings**, as provided in Pa.R.C.P. No. 1035 *et seq.*, if the Claimant attends the hearing scheduled in connection with this Motion, the hearing shall be converted to a Pretrial Conference or Status Conference.
- v. **Motion for Summary Judgment**, as provided in Section 1035.1 *et seq.*, if the Claimant attends the hearing scheduled in connection with this Motion, the hearing shall be converted to a Pretrial Conference or Status Conference.

- b. All Motions shall be filed utilizing the Miscellaneous Docket number assigned by the Office of Judicial Records to the Forfeiture Petition.
- c. The Claimant must serve any Motions, Answers or Responses filed by the Claimant on the District Attorney or Attorney General who has jurisdiction over the case, and must file proof of service with the Office of Judicial Records. However, the District Attorney's

Office has agreed to be served by the Office of Judicial Records upon its receipt and acceptance of the Motion, Answer or Response.

- d. All motions will be assigned to a judge for disposition and, as practicable, shall be assigned to the same judge.

9. Jury Demand. A jury trial may be demanded by the Plaintiff or Claimant(s). Pursuant to Pa. R.C.P. No. 1007.1 (a), the right to jury trial shall be deemed waived unless a party files of record and serves on the adverse party a demand for jury trial no later than twenty (20) days after the service of the last permissible pleading. The Jury Demand shall be made by endorsement on a pleading or by a separate writing, substantially in the form attached below as *Attachment G*. A jury trial may be waived as provided in Pa.R.C.P. No. 1007.1(c)(2).

10. Scheduling of a Pretrial Conference.

- a. The Office of Judicial Records shall schedule a Pretrial Conference to be held within thirty (30) days from the date the Forfeiture Petition is served by the Commonwealth on the owner(s) or person(s) in possession at the time of the seizure of the property.
- b. The Pretrial Conference shall be scheduled and the Notice of Pretrial Conference shall be mailed within seven days of the filing of proof of service of the Forfeiture Petition and the date of the Pretrial Conference shall be approximately thirty days after service of the Forfeiture Petition.
- c. A draft *Notice of Pretrial Conference* is attached below as *Attachment H*. This Notice may be modified from time to time by the Court as may be appropriate.

11. Pretrial Conference.

- a. The Pretrial Conference shall be conducted by a judicial officer (a judge or trial commissioner) who shall provide important information to the Claimant regarding the proceedings in an oral and written format. The following issues shall be addressed:
 - i. Whether the Forfeiture Petition and related documents were served on the owner of the above-referenced Property or upon the person or persons in possession of the property at the time of the seizure. If service could not effectuated, the Pretrial Conference will be rescheduled to a date certain to enable the Plaintiff to effectuate service.
 - ii. Whether an Answer was filed. If an Answer has not been filed, whether there is agreement that an Answer may be filed within an agreed-upon period of time.
 - iii. Whether the Claimant is represented by counsel. The Claimant shall be informed that the Claimant is entitled to counsel, but is not entitled to court-appointed counsel.
 - iv. Whether the Claimant has requested, or intends to request, a jury trial. The Claimant shall be informed that the Claimant is entitled to a jury trial, and that in order to obtain a jury trial, the Claimant must file a written request for a jury trial no later than twenty (20) days after the service of the last permissible pleading and pay the required Jury fee.
 - v. Whether the proceedings may be resolved by agreement.
 - vi. If the Plaintiff and Claimant indicate that an agreement has been reached, the proceeding shall be referred to a Judge for approval. If a Judge is not available, the case shall be rescheduled before a Judge as soon as practicable. In order to approve the settlement, the judge must be satisfied that the claimant is entering into the agreement knowingly, voluntarily and intelligently and that the Claimant understands that he/she is entitled to a hearing on the merits, along with other factors that may be required by law.
 - vii. Whether there are any factual issues upon which the parties agree.

- viii. Whether discovery is necessary, and if so, if an Answer has been filed, the terms of discovery and a discovery schedule shall be established.
 - ix. Whether the Claimant has filed a *Praecipe to Stay Forfeiture Proceedings* pursuant to 42 Pa.C.S. § 5805(a)(2)(ii), a *Motion for Release of Seized Property Pending the Conclusion of the Forfeiture Proceedings* pursuant to 42 Pa.C.S. §§ 5805(f) and 5806, a *Motion for Return of Property* pursuant to Pa.R.Crim.P. 588 and Phila. Crim. R. *588, or is seeking other post-deprivation relief.
 - x. Whether a trial date can be scheduled or must be scheduled.
 - xi. Any other procedural issues impacting the forfeiture of the seized property or the owner(s) thereof.
- b. On the day of the Pretrial Conference, a Trial Commissioner may be assigned to review the status of the matter and to determine whether the Pretrial Conference is ready to proceed before the assigned judge on the scheduled date. In the event the Pretrial Conference cannot proceed as scheduled, the Trial Commissioner may reschedule the Pretrial Conference, but shall not take any dispositive action.
- c. If the Pretrial Conference is continued, any subsequent continuance requests by either party must be decided by the assigned Judge sitting that day.

12. Default Proceedings.

- a. If an Answer is not filed as required, the Plaintiff may seek the entry of judgment pursuant to law and rules of court including, but not limited to the following:
 - i. by default by complying with the provisions of Pa.R.C.P. No. 237.1;
 - ii. by filing a motion for judgment on the pleading pursuant to Pa.R.C.P. No. 1034, in which case, the court shall enter such judgment or order as shall be proper on the pleadings;
 - iii. by filing a motion for summary judgment pursuant to Pa.R.C.P. No. 1035.2;
 - iv. by filing a motion for default order; or
 - v. by filing any other appropriate motion.
- b. If the Claimant attends the hearing scheduled in connection with any of the above motions, the hearing shall be converted to a Pretrial Conference or Status Conference.

13. Trial or Hearing. On the filing of an Answer setting forth a right of possession, the case shall be deemed at issue and a date and time shall be fixed for the trial.

14. Burden of Proof. The burden of proof shall be as set forth in 42 Pa.C.S. § 5805(j) and as otherwise provided by law.

15. Appeal. No post-trial motions need to be filed to the final order or judgment entered by the court. Appeals may be filed pursuant to Pa.R.A.P. 903.

16. Other Applicable Rules of Civil Procedure. The Pennsylvania Rules of Civil Procedure shall apply to fill procedural gaps arising from the various statutory provisions governing civil forfeitures.

17. Minors as Parties. In the event the owner or person or persons in possession of the seized property is a minor, the Commonwealth shall serve the minor and shall bring to the Court's attention the minority of the owner or person in possession. The Court shall determine to

what extent a parent or natural guardian may need to represent the minor's interests consistent with Pa.R.C.P. No. 2026 *et seq.*

B. Claimant's Initiation of Civil Proceedings by Filing a Motion for Release of Seized Property Pending the Conclusion of the Forfeiture Proceedings

A Claimant may initiate civil proceedings, before the Commonwealth files a Forfeiture Petition as provided in Section A., by filing a *Motion for Release of Seized Property Pending the Conclusion of the Proceedings Pursuant to 42 Pa.C.S. §§ 5805(f) and 5806.*

- 1. Filing of Motion for Release of Seized Property Pending the Conclusion of the Proceedings.** The *in rem* civil proceedings may be commenced by the Claimant through the filing of a *Motion*, setting forth the information identified in Sections 5805 (f)(1) and 5806, with the Office of Judicial Records.
- 2. Contents of Motion.** See Section A. 8. a. iii. above for more information regarding the contents of the Motion.
- 3. Service.** The claimant must serve the District Attorney or Attorney General who has jurisdiction over the case, and must file proof of service with the Office of Judicial Records. However, the District Attorney's Office has agreed to be served by the Office of Judicial Records upon its receipt and acceptance of the Motion.
- 4. Hearing. The Office of Judicial Records** shall schedule a hearing on the Motion, as practicable and consistent with the interests of justice, but no later than for a date within ten (10) business days of the filing of the Motion or, when required, the filing of proof of service of the Motion by the Claimant.
- 5. Order.** The Court will enter an appropriate order as provided in Section 5805 (f)(5).

This General Court Regulation is issued in accordance with the April 11, 1986 order of the Supreme Court of Pennsylvania, Eastern District, No. 55 Judicial Administration, Docket No. 1, and shall be filed with the Office of Judicial Records (formerly the *Prothonotary, Clerk of Quarter Sessions* and *Clerk of Courts*) in a docket maintained for Orders and General Court Regulations issued by the First Judicial District of Pennsylvania. Two certified copies of this General Court Regulation, and one copy on a computer diskette, shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. Copies will be submitted to *American Lawyer Media, Jenkins Memorial Law Library*, and the Law Library for the First Judicial District shall be published in *The Legal Intelligencer* and posted on the First Judicial District's website at <http://courts.phila.gov>. This General Court Regulation will become effective on November 1, 2018.

BY THE COURT:

/s/ Jacqueline F. Allen

Date: August 31, 2018

HONORABLE JACQUELINE F. ALLEN
Administrative Judge, Trial Division
Court of Common Pleas, Philadelphia County

Attachment A

Commonwealth of Pennsylvania : CP - 51- MD - _____ - _____
 Plaintiff
 vs. : OTN #
 : PID
 [Description of Property Seized] : DC #
 Defendant : PR #

LOCATION OF SEIZURE: _____
 OWNER OF PROPERTY: _____
 PROPERTY SEIZED FROM: _____

**NOTICE TO DEFEND: CIVIL ASSET FORFEITURE
 TO THE CLAIMANT OF WITHIN DESCRIBED PROPERTY:**

You are required to file a written Answer to this petition, setting forth your title in, and right to possession of, said property within 30 days from the service hereof, and you are also notified that, if you fail to file the Answer, a decree of forfeiture and condemnation will be entered against the property.

A Pretrial Conference will be scheduled by the Court, and you should expect to receive a Notice of Pretrial Conference within a week or so after the Forfeiture Petition and this Notice to Defend are served on you. The date of the Pretrial Conference should be at least two weeks after you receive the Notice of Pretrial Conference which should allow you to attend the hearing. You or your attorney must attend this Pretrial Conference.

If you have been criminally charged in a case associated with the forfeiture matter, prior to filing an Answer to the Forfeiture Petition, you may file a *Praecipe to Stay the Forfeiture Proceedings* using the above-referenced caption and docket number. The forfeiture proceedings will be stayed by the Office of Judicial Records upon receipt of the *Praecipe*. However, please know that when the stay is lifted, you must file an Answer to the *Forfeiture Petition* within 30 days from the day the stay is lifted.

If you wish to seek the temporary release of your seized property while these forfeiture proceedings are pending, you may also file a *Motion for Release of Seized Property Pending the Conclusion of the Forfeiture Proceedings*, pursuant to 42 Pa.C.S. §§ 5805(f) and 5806 at any time during the pendency of the Forfeiture Proceedings.

Additionally, you should know that you may request a jury trial. However, the request must be made no later than twenty (20) days after the service of the last permissible pleading. You can request a jury either by indicating so on any Answer you file or by submitting and filing a separate request with the Office of Judicial Records, preferably electronically, or by mail or in person at the Justice Juanita Kidd Stout Center for Criminal Justice, Second Floor, Motion Counter, 1301 Filbert Street, Philadelphia, PA.

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IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE. YOU ARE NOT ENTITLED TO A COURT-APPOINTED LAWYER.

*Philadelphia Bar Association
 Lawyer Referral and Information Service
 1101 Market Street, 11th Floor
 Philadelphia, Pennsylvania 19107
 (215) 238-6333
 TTY (215) 451-6197*

 Name:
 Title:
 Date:

Attachment B

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
TRIAL DIVISION, CIVIL**

Commonwealth of Pennsylvania	:	CP - 51- MD - _____
Plaintiff		
vs.	:	OTN #
		PID
[Description of Property Seized]	:	DC #
Defendant	:	PR #

PRAECIPE - CLAIMANT'S CHANGE OF ADDRESS

TO THE OFFICE OF JUDICIAL RECORDS:

Kindly update the Claimant's address for purposes of service of legal papers other than original process, and for giving notices pursuant to Pa.R.C.P. No. 236 to the following address:

Name:

Address:

Date: _____

Assistant District Attorney/PA Attorney General

Attachment C

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
Court of Common Pleas of Philadelphia County
Trial Division, Civil**

In Re: _____ : **Forfeiture Petition**
: **Receipt No.** _____
: _____
: No. __-51-__ - _____ - _____

AFFIDAVIT OF SUBSTITUTED SERVICE

TO THE OFFICE OF JUDICIAL RECORDS:

The Commonwealth effectuated service of its *Forfeiture Petition* by Substituted Service pursuant to 42 Pa.C.S. § 5805 (c), due to the following:

- the owner of the property is unknown.
- there was no person in possession of the property when seized.
- _____, the owner(s) or person(s) in possession at the time of the seizure cannot be personally served or located within the jurisdiction of the court despite the following efforts by the Commonwealth:

(Set forth below in detail the efforts made to serve the owner(s)/person(s) in possession)

Notice of the filing of the Forfeiture Petition, containing the information required by 42 Pa.C.S. § 5805, shall be given through an advertisement in one newspaper of general circulation published in Philadelphia County once a week for two successive weeks. Proof of Publication shall be filed with the Office of Judicial Records. After publication, any other notice to the owner, person in possession or other interested party deemed served by publication shall be provided, as appropriate, by regular mail if a last known address is known.

Date: _____

Assistant District Attorney/PA Attorney General

Attachment D

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
TRIAL DIVISION, CIVIL

Commonwealth of Pennsylvania	:	CP - 51- MD - _____ - _____
Plaintiff		
vs.	:	OTN #
		PID
[Description of Property Seized]	:	DC #
Defendant	:	PR #

LOCATION OF SEIZURE: _____

PROPERTY SEIZED FROM: _____

NAME OF CLAIMANT: _____

PRAECIPE TO STAY FORFEITURE PROCEEDINGS

Claimant, _____, requests that pursuant to 42 Pa.C.S. § 5805(a)(2)(ii) and Trial Division General Court Regulation No. 01 of 2018, the Forfeiture Proceedings be Stayed until the earlier of the disposition of the criminal case(s) related to the seized property or until Claimant’s request to lift the Stay.

I understand that I may file a Motion for Release of Seized Property Pending the Conclusion of the Forfeiture Proceedings even after this Stay is granted.

Claimant
Date:

Attachment E

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
TRIAL DIVISION, CIVIL**

Commonwealth of Pennsylvania	:	CP - 51- MD - _____
Plaintiff		
vs.	:	OTN #
		PID
[Description of Property Seized]	:	DC #
Defendant	:	PR #

LOCATION OF SEIZURE: _____

PROPERTY SEIZED FROM: _____

NAME OF CLAIMANT: _____

PRAECIPE TO LIFT STAY OF FORFEITURE PROCEEDINGS

The undersigned requests that the Stay of Forfeiture Proceeding entered on _____ is lifted at the request of

Claimant _____; the Commonwealth

[Claimant] [Commonwealth of Pennsylvania]

Date:

Attachment F

For Official Use Only – Bar Code

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
Motion for the Release of Seized Property
Pending the Conclusion of the Forfeiture Proceedings

Pursuant to 42 Pa. C.S. §§ 5805(f) and 5806

<p><i>Motion Must Be Filed with the Office of Judicial Records</i></p> <p>Justice Juanita Kidd Stout Center for Criminal Justice 1301 Filbert Street, Motions Counter (Second Floor), Philadelphia, PA 19107 <i>(Petitioner: See Reverse Side for Service Information)</i></p>		<p><i>FOR OFFICIAL USE ONLY- CAPTION (PROPERTY DESCRIPTION)</i> In Re:</p> <p>CPCMS No. __ -51-MD - _____ - _____</p>	
NAME OF PETITIONER <i>(Person filing this Motion)</i>		PP No.	
PETITIONER'S CURRENT ADDRESS		TELEPHONE NO.	
<i>Motion for the Release of Seized Property Pending the Conclusion of the Forfeiture Proceedings, pursuant to 42 Pa. C.S. § 5805(f)& § 5806</i>			
1) I, the above named Petitioner, represent that I am entitled to lawful possession of the property described and identified below, and request this Honorable Court to release the property to me pending the conclusion of the Forfeiture Proceedings, and in support of my request I aver as follows:			
2) NAME AND ADDRESS OF PERSON IN POSSESSION OF PROPERTY WHEN SEIZED		3) NAME AND ADDRESS OF THE OWNER, IF KNOWN	
POLICE PROPERTY RECEIPT NUMBER (Attach Receipt)	DATE PROPERTY SEIZED	LOCATION OF PROPERTY WHEN SEIZED	
NAME OF LAW ENFORCEMENT OFFICER WHO SEIZED PROPERTY, IF KNOWN		BADGE NUMBER, IF KNOWN	
DESCRIPTION OF PROPERTY			
ADDRESS OF PROPERTY, IF PROPERTY SEIZED IS REAL ESTATE		VIN NUMBER, IF PROPERTY SEIZED IS A MOTOR VEHICLE	
ARE THERE ANY PENDING MATTERS RELATED TO THE SUBJECT PROPERTY (SUCH AS FORFEITURE)? <input type="checkbox"/> Yes <input type="checkbox"/> No			
If Yes, Case ID(s) assigned to the pending matter(s):			
<input type="checkbox"/> I have not filed a Motion for the Return of Property pursuant to Pa.R.Crim. P. 588 and Phila.Crim.R. 588. <input type="checkbox"/> I have filed a Motion for the Return of Property pursuant to Pa.R.Crim. P. 588 and Phila.Crim.R. 588. The Case ID is:			
<i>Basis for the Motion</i>			
The legal/factual basis for this motion is/are <i>(more than one may apply, attach additional pages as necessary)</i> :			
<input type="checkbox"/> A. The Commonwealth lacked probable cause for the seizure of the property. <input type="checkbox"/> B. The likelihood that the Commonwealth will prevail on the merits is low, including overcoming 'innocent owner' or other defenses. <input type="checkbox"/> C. The balance of equities favors the return of my property during the pendency of the civil forfeiture proceedings because my likely hardship outweighs the risk that the property will be destroyed, damaged, lost, concealed or transferred. In addition, I aver that: <i>(In order to set forth the basis on which these requirements have been met attach additional proof or documentation and explain each item in detail if possible)</i>			
1. I have a possessory interest in the property.			
2. I have sufficient ties to the community to assure that the property will be available at the time of the trial.			
3. The hardship I will suffer from the Commonwealth's continued possession of my property (such as preventing the functioning of my legitimate business, preventing me from working or leaving me homeless) outweighs the risk that the property will be destroyed, damaged, lost, concealed or transferred if the property is returned to me during the pendency of the forfeiture proceeding.			
4. The property seized is not contraband, not evidence of a violation of the law, not particularly suited for use in illegal activities, and will not be used to commit additional criminal acts if it is returned to me.			
<input type="checkbox"/> D. Other: _____			
<i>Requested Relief</i>			
I request that the Court order the Commonwealth to: <input type="checkbox"/> Return my property. <input type="checkbox"/> Reimburse me for my legal interest in the property. <input type="checkbox"/> Sever my property from the forfeited property. <input type="checkbox"/> Provide any relief the court deems appropriate and just.			
VERIFICATION			
I, being duly sworn according to law, depose and say that I am the Petitioner in this action and that the facts and statements I have provided in this <i>Motion for the Release of Seized Property Pending the Conclusion of the Forfeiture Proceedings</i> are true and correct to the best of my knowledge, information and belief. I verify that the statements made are true and correct. I understand that any false statements I have made in this <i>Motion</i> are subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities (perjury).			
Date	Type Name of Petitioner	Signature of Petitioner	

Attachment G

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
TRIAL DIVISION, CIVIL**

Commonwealth of Pennsylvania	:	CP - 51- MD - _____
Plaintiff		
vs.	:	OTN #
		PID
[Description of Property Seized]	:	DC #
Defendant	:	PR #

LOCATION OF SEIZURE: _____

PROPERTY SEIZED FROM: _____

NAME OF CLAIMANT: _____

JURY TRIAL DEMAND

Claimant, _____, requests a Jury Trial as provided in Pa.R.C.P.

No. 1007.1 and Phila. Civ.R. *1007.1 and *1007.2.

Claimant
Date:

Attachment H

**Commonwealth of Pennsylvania
Court of Common Pleas
County of Philadelphia
1st Judicial District**



NOTICE OF PRETRIAL CONFERENCE
Forfeiture Proceedings

Commonwealth v. [Describe Property], Defendant
Docket No. CP-51-MD--

Property Receipt No.:
Date Seized:
Location:

You are hereby DIRECTED to appear for a Pretrial Conference in the above-captioned Forfeiture proceeding to be held as follows:

Date:	Location: Courtroom ____ Justice Juanita Kidd Stout Center for Criminal Justice 1301 Filbert Street Philadelphia, PA 19107
Time:	

On the above date, a Pretrial Conference will be held. The following issues shall be addressed:

- a. Whether the Forfeiture Petition and related documents were served on the owner of the above-referenced property or upon the person or persons in possession of the property at the time of the seizure. If service could not effectuated, the Pretrial Conference will be rescheduled to a date certain to enable the Plaintiff to effectuate service.
- b. Whether an Answer was filed. If an Answer has not been filed, whether there is agreement that an Answer may be filed within an agreed-upon period of time.
- c. Whether the Claimant is represented by counsel. The Claimant shall be informed that the Claimant is entitled to counsel, but is not entitled to court-appointed counsel.
- d. Whether the Claimant has requested, or intends to request, a jury trial. The Claimant shall be informed that the Claimant is entitled to a jury trial, and that in order to obtain a jury trial the Claimant must file a written request for a jury trial no later than twenty (20) days after the service of the last permissible pleading and pay the required Jury fee, \$247.94.
- e. Whether the proceedings may be resolved by agreement.
- f. If the Plaintiff and Claimant indicate that an agreement has been reached, the proceeding shall be referred to a Judge for approval. If a Judge is not available, the case shall be rescheduled before a Judge as soon as practicable. In order to approve the settlement, the Judge must be satisfied that the Claimant is entering into the agreement knowingly, voluntarily and intelligently and that the Claimant understands that he/she is entitled to a hearing on the merits, along with other factors that may be required by law.
- g. Whether there are any factual issues upon which the parties agree.
- h. Whether discovery is necessary, and if so, if an Answer has been filed, the terms of discovery and a discovery schedule shall be established.
- i. Whether the Claimant has filed a *Praecepte to Stay Forfeiture Proceedings* pursuant to 42 Pa.C.S. § 5805(a)(2)(ii), a *Motion for Release of Seized Property Pending the Conclusion of the Forfeiture Proceedings* pursuant to 42 Pa.C.S. §§ 5805(f) and 5806, a *Motion for Return of Property* pursuant to Pa.R.Crim.P. 588 and Phila. R. Crim. P. *588, or is seeking other post-deprivation relief.
- j. Whether a trial date can be scheduled or must be scheduled.
- k. Any other procedural issues impacting the forfeiture of the seized property or the owner(s) thereof.

TO THE CLAIMANT: Should you receive this Notice less than 14 days before the hearing date, and should you be unable to attend the hearing, kindly contact the District Attorney’s office at 215-686-9695 and request that they ask the Court to continue the hearing to enable you to attend the rescheduled Pretrial Conference.