



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

Tuesday, June 2, 2020

TRIAL DIVISION – CIVIL

NOTICE TO THE BAR

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

In order to facilitate the prompt resolution of contested discovery motions, the Court hereby Orders that parties follow this Protocol for Contested Discovery Motions until further Notice to the Bar.

This Protocol applies to any civil matter currently pending or to be filed in which a party has filed a Praecipe for Contested Discovery Motion in accordance with the May 5, 2020 NOTICE TO THE BAR OF PROTOCOL FOR DISCOVERY MOTIONS DURING JUDICIAL EMERGENCY CREATED BY COVID-19 and any extensions or amendments thereto.

The Court has utilized and continues to successfully utilize the services of members of the Bar who volunteer to serve as Judges Pro Tempore in settlement conferences. The Court will appoint members of the Bar to serve as Judges Pro Tempore - Discovery (JPT-D) and hereby orders the following protocol:

- (1) All discovery motions for which a Praecipe for Contested Discovery Motion, and response thereto, have been filed with the Court will be referred to the Judge Pro Tempore Discovery Program pursuant to this Protocol.
- (2) Attorneys who are approved to serve as a Judge Pro Tempore and who have the technological ability and willingness to serve as a JPT-D in the Judge Pro Tempore Discovery Program may be contacted by the Office of the Discovery Court Program to serve as a JPT-D. The Office of the Discovery Court Program will provide the JPT-D the case information including the case number and control number assigned to the subject motion. JPT-Ds will not be compensated for their service.
- (3) Upon referral, the JPT-D will conduct a remote **Discovery Resolution Conference**.
- (4) The JPT-D shall refer to the court's public docket for contact information for all counsel or unrepresented parties. The JPT-D shall within three (3) business days set a date for the

conference. The Discovery Resolution Conference may utilize telephonic means or advanced communication technology (e.g. Zoom). The date/time/manner of the conference will be communicated and confirmed to all counsel or unrepresented parties.

- (5) After contact, the movant shall deliver a filed copy of the contested motion and respondent(s) shall deliver a filed copy of the response(s) by email to the JPT-D.
- (6) The JPT-D should expeditiously conduct the Discovery Resolution Conference, anticipated to occur within seven (7) business days of receipt of the referral from the Office of the Discovery Court Program.
- (7) The JPT-D will conduct the conference, hear concise argument of counsel or the unrepresented parties, review pertinent documents, and consider pertinent case law, rules or statutes.
- (8) The Discovery Resolution Conference shall address all issues in the contested motion in an effort to resolve as many issues in the contested motion as possible.
- (9) As a result of the conference, orders on motions will be classified as wholly or partially (A) withdrawn, (B) entered by agreement, or (C) unresolved. Unresolved motions remain contested and will be referred to the Court for adjudication.
- (10) Within three (3) business days of the conference the JPT-D shall complete and return the attached **Discovery Resolution Conference Form** to Office of the Discovery Court Program. Motions will be designated as either:

(A) Withdrawn:

The JPT-D will email the Office of the Discovery Court Program that the discovery motion has been withdrawn, with a copy of the email sent to the counsel or unrepresented parties. The movant shall file a praecipe to withdraw the motion via the Motions section of the E-filing System with reference to the assigned control number.

(B) Entered by Agreement:

The Movant shall file a Praecipe to Enter Discovery Order by Agreement in the Existing Case section of the E-filing System via the filing category labeled Certification Regarding Discovery Motion in accordance with Protocol and Forms for discovery motions published in the Notice to the Bar re: DISCOVERY MOTIONS DURING JUDICIAL EMERGENCY CREATED BY COVID-19 on May 5, 2020 and any amendment thereto. The docket will be updated to reflect the status as entered by agreement. The Praecipe shall reference the assigned control number.

(C) Unresolved:

The contested discovery motion was not resolved at the Discovery Resolution Conference. The motion shall be referred to the Court for adjudication. The JPT-D shall make a recommendation to the Court as to whether oral argument is necessary. Oral argument shall be at the Court's discretion.

- (11) In the event that the JPT-D is unable to completely resolve the contested motion, the Office of the Discovery Court Program shall forward the contested motion to the appropriate Judge for final adjudication.
- (12) The Manager of the Discovery Court Program is Mr. Peter J. Divon, E-Mail: peter.divon@courts.phila.gov
- (13) The Court may revisit the terms and duration of the JPT-D Program at its discretion.

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

**CONTESTED DISCOVERY MOTIONS
DURING JUDICIAL EMERGENCY CREATED BY COVID-19**

DISCOVERY RESOLUTION CONFERENCE FORM

Case Name	
Court Term and Number and Assigned Control Number	
Movant's Counsel and Party Represented	
Respondent's Counsel and Party Represented	
Type of Motion Presented	
<p>Is the Motion Withdrawn?</p> <p>Yes _____ No _____</p>	<p>The JPT-D will email the Manager of the Discovery Court Program that the discovery motion has been withdrawn, with a copy of the email sent to the counsel or unrepresented parties.</p>
<p>Is the Order to be Entered by Agreement?</p> <p>Yes _____ No _____</p> <p>Partial _____</p>	<p>The Movant shall file a Praecipe to Enter Discovery Order by Agreement in accordance with the Protocol and Forms for Discovery motions published in the Notice to the Bar re: DISCOVERY MOTIONS DURING JUDICIAL EMERGENCY CREATED BY COVID-19 on May 5, 2020 and any amendment thereto.</p>

The contested discovery motion was not resolved at the discovery resolution conference. The motion will be referred to the Court for adjudication.

The JPT-D shall provide the following information to the Court:

Short Synopsis of the JPT-D conference

Issues agreed upon, if any

Identification of any unresolved issues

	<p><u>JPT-D shall make a recommendation to the Court as to whether oral argument is necessary. (It will be within the Court's discretion to determine the motion without the need for oral argument)</u></p>
<p>JPT-D name, email address, telephone number and Bar I.D.</p>	