

RULE 4019

DISCOVERY

- (1) (a) Except in the situations that are covered by subsection (4) hereof, when a dispute arises, during any discovery permitted under the Pennsylvania Rules of Civil Procedure, an aggrieved party shall file with the Prothonotary an original and one copy of a Motion for a Discovery Conference. The Prothonotary shall forward the original discovery conference motion to the Court Administrator's Office for assignment in accordance with Local Rule 208.3(a) and shall retain the copy in the file.
- (b) The party filing the motion shall, at the time of filing, serve a copy upon all other parties.
- (2) (a) The motion shall be concise and contain the following:
 - (i) a brief statement identifying the parties and describing the nature of the case;
 - (ii) a brief statement of the status of any discovery procedure involved;
 - (iii) a verbatim statement of the discovery sought or objected to;
 - (iv) an assignment of reasons why the matter sought is discoverable or objected to, and a statement of the relief requested;
 - (v) a statement identifying all other parties and their counsel, with mailing addresses and telephone numbers, and a statement of the parties' attempt to resolve the dispute;
 - (vi) if necessary, a request for the suspension of all, or portion of all, discovery until the dispute is resolved;
- (b) No briefs will be filed with the motion or thereafter, except as permitted under Rule 4019(3)(b)(ii).
- (c) The party filing the motion shall submit therein all discovery disputes then existing between the parties.
- (d) Any other party may file an answer to the motion and raise by separate motion, whether an answer is filed or not, any discovery dispute not previously raised.
- (3) (a) Upon being filed, the matter shall be assigned to a Judge of this Court for disposition. Parties shall provide a copy of all subsequent pleadings, filings, briefs and memoranda related to the assigned discovery motion to

the assigned judge simultaneously with the filing thereof with the Prothonotary.

- (b) The Judge to whom the motion is assigned may:
 - (i) schedule a discovery conference;
 - (ii) require the filing of briefs;
 - (iii) require oral argument;
 - (iv) dismiss the matter if the moving party fails to comply with this rule.
 - (c) The Judge assigned to conduct the discovery conference shall enter an appropriate order disposing of the issues raised in the motion.
 - (d) Any order issued pursuant to this Rule shall be entered of record.
- (4) Procedure for failure to provide discovery permitted by statute, rule of practice, rule of procedure, or order of court.
- (a) WRITTEN DISCOVERY
 - (1) If a party fails to timely respond to interrogatories or a request for production of documents, and no extension of time has been granted, no motion for a protective order has been granted, or no objection to the written discovery request has been lodged, the party seeking the discovery shall proceed under **ONE** of the following options:
 - (a) DISCOVERY CONFERENCE – the aggrieved party may promptly file a Motion for a Discovery Conference in accordance with Local Rule 4019(1), provided that no written Notice of Intention to Seek Sanctions has been sent pursuant to Local Rule 4019(4)(a)(1)(b) as set forth hereafter.
 - (b) MOTION FOR SANCTIONS –
 - (i) A written Notice of Intention to Seek Sanctions, specifically (a) referencing this rule, (b) listing the sanctions sought, and (c) where applicable, noting that the Sanctions Hearing Order will require the presence of both the defaulting party(ies) and their counsel at said hearing, unless counsel for the defaulting party(ies) accepts full responsibility for

the default, in writing, filed within five calendar days of receipt of the motion, shall be sent to counsel for the defaulting party(ies), if represented, otherwise to the defaulting party(ies), by certified mail, return receipt requested, at least thirty days before filing a Motion for Sanctions.

- (ii) If a full and complete discovery response authorized by the Pennsylvania Rules of Civil Procedure is received within said thirty-day notice period, no Motion for Sanctions shall be filed. However, a Discovery Conference can thereafter be sought for any appropriate relief upon motion of any party.
- (iii) A Motion for Sanctions shall state the discovery requests alleged to be in default, and the requested appropriate sanctions pursuant to Pa.R.Civ.P. 4019. A written certificate of service of the written Notice of Intention to Seek Sanctions and a copy of the notice shall be attached. If attorneys' fees and expenses are sought, reasonable documentation of time devoted and expenses incurred must be attached to the Motion. Failure to attach such reasonable documentation shall preclude consideration of that form of relief. A concise Answer to the Motion is permitted if filed within ten days of service of a copy of the Motion for Sanctions. Parties shall provide a copy of all subsequent pleadings, filings, briefs and memoranda related to the motion for sanctions to the assigned judge simultaneously with the filing thereof with the Prothonotary.
- (iv) The Civil Calendar Judge shall conduct a hearing on the Motion, even if the default that prompted the Motion has been corrected before the hearing date.
- (v) Nothing in this section shall prohibit a party(ies), who is having difficulty in complying with a discovery request, from requesting a Discovery Conference with the Court by filing a Motion for Discovery Conference before a Notice of the Intention to Seek Sanctions is sent by the requesting party(ies).

(b) DEPOSITIONS

- (1) When a party or nonparty fails to appear for a duly noticed deposition, and no Protective Order has been obtained, a Motion for Sanctions may be filed immediately and without further notice. However, it shall be the firm responsibility of the party seeking sanctions to ensure, to a certainty, that actual notice of the deposition was personally served on the person failing to appear.