

PHILADELPHIA COURT OF COMMON PLEAS
Civil Administration
PETITION/MOTION COVER SHEET

FOR COURT USE ONLY	
ASSIGNED TO JUDGE:	ANSWER/RESPONSE DATE:
<i>Do not send Judge courtesy copy of Petition/Motion/Answer/Response. Status may be obtained online at http://courts.phila.gov</i>	

CONTROL NUMBER:

(RESPONDING PARTIES MUST INCLUDE THIS NUMBER ON ALL FILINGS)

_____ Term, _____
 Month Year

No. _____

Name of Filing Party: _____

(Check one) Plaintiff Defendant
 (Check one) Movant Respondent

 vs. _____

INDICATE NATURE OF DOCUMENT FILED:

- Petition (Attach Rule to Show Cause) Motion
 Answer to Petition Response to Motion

Has another petition/motion been decided in this case? Yes No
 Is another petition/motion pending? Yes No
 If the answer to either question is yes, you must identify the judge(s): _____

TYPE OF PETITION/MOTION (see list on reverse side)	PETITION/MOTION CODE (see list on reverse side)
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ANSWER/RESPONSE FILED TO (Please insert the title of the corresponding petition/motion to which you are responding): _____

I. CASE PROGRAM
 Is this case in the (answer all questions):

A. COMMERCE PROGRAM
 Name of Judicial Team Leader: _____
 Applicable Petition/Motion Deadline: _____
 Has deadline been previously extended by the Court?
 Yes No

B. DAY FORWARD/MAJOR JURY PROGRAM — Year _____
 Name of Judicial Team Leader: _____
 Applicable Petition/Motion Deadline: _____
 Has deadline been previously extended by the Court?
 Yes No

C. NON JURY PROGRAM
 Date Listed: _____

D. ARBITRATION PROGRAM
 Arbitration Date: _____

E. ARBITRATION APPEAL PROGRAM
 Date Listed: _____

F. OTHER PROGRAM: _____
 Date Listed: _____

II. PARTIES (required for proof of service)
 (Name, address and **telephone number** of all counsel of record and unrepresented parties. Attach a stamped addressed envelope for each attorney of record and unrepresented party.)

III. OTHER

By filing this document and signing below, the moving party certifies that this motion, petition, answer or response along with all documents filed, will be served upon all counsel and unrepresented parties as required by rules of Court (see PA. R.C.P. 206.6, Note to 208.2(a), and 440). Furthermore, moving party verifies that the answers made herein are true and correct and understands that sanctions may be imposed for inaccurate or incomplete answers.

 (Attorney Signature/Unrepresented Party) (Date) (Print Name) (Attorney I.D. No.)

**The Petition, Motion and Answer or Response, if any, will be forwarded to the Court after the Answer/Response Date.
 No extension of the Answer/Response Date will be granted even if the parties so stipulate.**

Instructions for Completing Petition/Motion Cover Sheet

A Petition/Motion Cover Sheet must be attached to all Petitions, Motions, Answers or Responses filed, except for Discovery Motions and Motions for Extraordinary Relief. Sanctions will be imposed if the Cover Sheet is inaccurately completed.

Please Note the following:

1. **ANSWER or RESPONSE DATE.** The Motion Clerk shall enter the "Answer" or "Response" Date on the Cover Sheet. All Responses to Motions and Answers to Petitions must be filed with the Prothonotary and submitted to the Motion Clerk on or before the Response Date. **Note:** Summary Judgment Motions have a 30 day Response period. Except for those Motions identified in Phila.Civ.R. *208.3(a) and (b), all other Motions have a 20 day Response period.
2. **ARGUMENT DATE.** The Motion Clerk shall enter the Argument Date and location on the Cover Sheet, as appropriate.
3. **CONTROL NUMBER.** The Motion Clerk shall assign a Control Number to all Petitions and Motions. The Responding parties must enter this Control Number on the Cover Sheet accompanying their Answer or Response.
4. **NATURE OF DOCUMENT FILED.** The filing party must check whether the document being filed is a Petition (in which case a Rule to Show Cause Order must be attached), a Motion, an Answer to a Petition, or a Response to a Motion. The parties must indicate whether another Petition or Motion is outstanding or has been decided and, if so, must identify the Judge(s) to whom such prior Petitions or Motions had been assigned.
5. **PETITION OR MOTION TYPES.** The parties must utilize the following Petition or Motion Codes and Types (and the Motion Clerk is authorized to change a filing party's designation to reflect the correct Petition or Motion Code and Type):

CODE	MOTIONS	CODE	MOTIONS	CODE	MOTIONS
MTSAL	Motion for Additional Distribution of Sale Proceeds	MTJNP	Motion for Entry of Judgment of Non Pros	MTRWT	Motion to Return Writ of Possession or Execution
MTPHV	Motion for Admission Pro Hac Vice	MTSUP	Motion for Entry of Supersedeas	MTSAN	Motion for Sanctions
MTSVR	Motion for Alternative Service	MTEXP	Motion for Expungement of Record	MT229	Motion for Sanctions for Failure to Deliver Settlement Funds
MTAMJ	Motion to Amend Judgment	MTEOT	Motion for Extension of Time to file Certificate of Merit	MTSAS	Motion to Set Aside Sheriff's Sale
MTAMD	Motion to Amend Pleading	MTEXT	Motion for Extension of Time to answer/respond)	MTSAA	Motion to Set Aside Award
MTGAL	Motion to Appoint Guardian Ad Litem	PTEXR	Motion for Extraordinary Relief	MTIPP	Motion to Settle Incompetent/Incapacitated Person's Estate
MTAPC	Motion for Appointment of a Conservator	MTNPT	Motion to File Nunc Pro Tunc	MTSPR	Motion to Stay Proceedings
MTMCF	Motion for Approval and Distribution of Minor's Compromise	MTFUS	Motion to File Under Seal	MTWOE	Motion to Stay Writ of Execution
MTWRD	Motion for Approval & Distribution of Wrongful Death & Survival Action	PTFMV	Motion to Fix Fair Market Value	MTSTK	Motion to Strike Pleading
MTAPS	Motion to Approve Transfer of Structured Settlement	MTINT	Motion for Interpleader	MTSJD	Motion for Summary Judgment (30 day hold)
MTADH	Motion for Assessment of Damages Hearings	MTINV	Motion to Intervene	MTRAE	Motion for Supplementary Relief in Aid of Execution
MTAMV	Motion to Auction Motor Vehicles	MTIOP	Motion to Invalidate Opt-Outs (Class Action cases)	MTRDM	Motion to Reassess Damages
MTBIF	Motion to Bifurcate	MTJAD	Motion to Join Additional Defendant	MTRRF	Motion for Reimbursement of Fees
MTCIA	Motion to Certify Order for Interlocutory Appeal	MTJPL	Motion for Judgment on the Pleadings	MTRFL	Motion to Release Bond
MTCNM	Motion to Change Name	MTJUR	Motion for Jury Out of Time	MTRDS	Motion to Remove Case from Deferred Status
MTCLC	Motion for Class Action Certification	MTLIM	Motion in Limine	MTSRC	Motion to Seal Record
MTCMP	Motion to Compel Discovery	MTMJS	Motion to Mark Judgment Satisfied	MTSEV	Motion to Sever Cases
MTCPs	Motion to Compel Payment of Settlement	MTMVR	Motion to Obtain Motor Vehicle Records	MTSPP	Motion for Specific Performance
MTCOM	Motion to Complete Terms of Sheriff's Sale	MTOPN	Motion to Open/Strike Confessed Judgment	MTTFR	Motion to Transfer
MTCST	Motion to Confirm Settlement	MTPAR	Motion for Partition	MTTRJ	Motion to Transfer Judgment
MTCNS	Motion to Consolidate Actions	MTPIC	Motion for Payment into Court	MTFTV	Motion for Title to Vehicle
MTCON	Motion for Continuance	MTPRE	Motion to Pay Rent into Escrow Account	MTWDA	Motion to Withdraw Appearance
MTCOR	Motion for Coordination of Actions	MTSYS	Motion to Postpone Sheriff's Sale	MTWPS	Motion for Writ of Possession
MTCRT	Motion to Correct Record	PTTMF	Motion for Post Trial Relief	MTWRS	Motion for Writ of Seizure
MTCNF	Motion for Counsel Fees	MTPCD	Motion for Pre-Complaint Discovery	MTMIS	Miscellaneous Motion
PTDOM	Motion for Delay Damages	PRINJ	Motion for Preliminary Injunction		
MTDJT	Motion to Demand Jury Trial	MTPSA	Motion for Preliminary Settlement Approval (Class Action Cases)	CODE	PETITIONS
DPROB	Motion to Determine Preliminary Objections	MTPDE	Motion to Preserve Documents and Evidence	PTAAR	Petition to Appoint Common Law Arbitrator
MTDSC	Motion to Discontinue Case	MTIFP	Motion to Proceed In Forma Pauperis	PTARC	Petition to Appoint a Receiver
MTDIS	Motion to Dismiss for Forum Non Conveniens	MTPRO	Motion for Protective Order	PTCAR	Petition to Compel Arbitration
MTDCN	Motion to Disqualify Counsel	MTQSH	Motion to Quash	PTCAW	Petition to Confirm Arbitration Award
MTEMG	Emergency Motion	MTRCS	Motion for Reconsideration	PTCST	Petition to Confirm Settlement
MTEST	Motion to Enforce Settlement	MTRPR	Motion to Redeem Premises	PTFCT	Petition for Contempt
MTJDG	Motion for Entry of Default Judgment	MTREF	Motion to Release Escrow Funds	PTOJD	Petition to Open Default Judgment
		MTOPT	Motion to Remove Opt-Out of the Proposed Settlement Agreement (Class Action Cases)	PTSNP	Petition to Open Judgment of Non Pros
				PTEMG	Emergency Petition

6. **CASE PROGRAM.** The party shall check the program to which the case is assigned and provide the requested program data.
7. **PARTIES.** The filing parties shall set forth the name, address and telephone number of all counsel of record and unrepresented parties, and must attach a stamped addressed envelope for each attorney of record and unrepresented party.
8. **OTHER.** The parties shall enter other relevant important information in this box – such as request for stay, emergency designation etc. – placing the Motion Clerk on notice of special handling or request.
9. **SIGNATURE LINE.** The Cover Sheet must be signed, dated and, if applicable, the attorney ID number must be provided.
10. **SERVICE.** A copy of the file-stamped Petition, Motion, Answer, Response and attachments must be served on all parties of record immediately after filing as required by Pa.R.C.P. 206.6, and Pa.R.C.P. 440.

FILED

Civil Administration

Dominic J. Morgan
1038 E. 18th St.
Chester, PA 19013

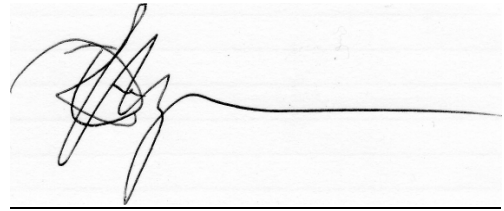
August 5, 2009

Honorable Peter F. Rogers
Court of Common Pleas of Philadelphia County
Criminal Justice Center - Room 1408
1301 Filbert Street
Philadelphia, PA 19107

Dear Judge Rogers:

I attach a courtesy "hard" copy of *Pro se* Defendant Morgan's Sur-Reply to "Plaintiffs' Sur-Reply Memorandum in Opposition to Defendant Friedman's Motion Concerning Plaintiff's Public Figure Status," submitted electronically today.

Respectfully yours,

A handwritten signature in black ink on a light-colored background. The signature is stylized and appears to be 'DJM'. A horizontal line is drawn below the signature.

Dominic Morgan, *pro se*

cc: Leon Silverman, Esq.

Maureen Fitzgerald, Esq.

Dominic J. Morgan, *pro se*
1038 East 18th Street
Chester, PA 19013
(610) 364-3367

HERBERT J. NEVYAS, M.D., and	:	COURT OF COMMON PLEAS
ANITA NEVYAS-WALLACE, M.D., and	:	TRIAL DIVISION
NEVYAS EYE ASSOCIATES, P.C.,	:	Philadelphia County
Plaintiffs	:	NOVEMBER TERM, 2003
	:	NO. 946
vs.	:	
DOMINIC MORGAN, and	:	Control Number <u>01-09062101</u>
STEVEN A FRIEDMAN	:	Jury Trial demanded on Counterclaim
Defendants	:	

PRO SE DEFENDANT MORGAN’S SUR-REPLY TO “PLAINTIFFS’ SUR-REPLY MEMORANDUM IN OPPOSITION TO DEFENDANT FRIEDMAN’S MOTION CONCERNING PLAINTIFF’S PUBLIC FIGURE STATUS.”

Plaintiffs’ Sur-Reply shows them again trying to have it both ways, saying one thing to this court in their Amended Complaint, and a different thing in their Sur-Reply.

Plaintiffs worked hard purporting themselves as “doctor’s doctors” at the forefront of eye care and LASIK surgery. For argument’s sake, even if they did not make themselves limited purpose public figures, Morgan did. *By the time Friedman purportedly defamed them* (by supposedly having Morgan post letters to the FDA), Morgan’s website was *already* prominent for almost one year and the public was *already* researching plaintiffs on the internet. As plaintiffs documented in their Amended Complaint at paragraphs 15, 17, 22, 23, 25, 52, 56, 57, 58:

15. At least as early as the beginning of 2003, Morgan created a website which intentionally and maliciously defamed Dr. Nevyas and Dr. Nevyas-Wallace...
17. On or about July 30, 2003, Dr. Nevyas received an anonymous telephone call directing him to the web address www.lasiksucks4u.com....
22. On November 3, a patient informed Dr. Nevyas that he had performed an internet search using the search engine Google and the search term “Nevyas” and that the third entry in the search was a reconstructed website: www.lasiksucks4u.com....
23. Morgan has spent a substantial amount of time to improve the search-result ranking of the website on various search engines. Searches performed

January 21, 2004 show Morgan's site to have high rankings on many search engines: Yahoo - the number two and four searches; Google - the number three, four and seven searches; Mamma Meta - the number two, three, six, eight and ten; Alta Vista - the number two, three and six searches; Dogpile - the number five, nine and nineteen searches; and on Search.com - the number three, four, five, six and eight searches....

25. Many of Plaintiffs' patients are referred to the Plaintiff from internet searches and other patients research the Plaintiffs on the web....
52. Plaintiffs brought an action in Common Pleas Court, Philadelphia County, entitled *Nevyas v. Morgan*, November 2003, No. 946, and applied for a Temporary Restraining Order....
56. On November 17, 2003, Judge Sylvester denied Plaintiffs motion for Temporary Restraining Order.
57. Later that week, Morgan made further modifications to the website....
58. Morgan added three letters written by Friedman and sent to the Food and Drug Administration ("FDA").... Upon information and belief Friedman agreed to have the letters included in the website.

In their Sur-Reply plaintiffs tell this court, "Only the advent of the internet allowed Friedman's defamatory statements their devastating scope." (Sur-Reply p. 8.)

Plaintiffs want it both ways: plaintiffs want this court to believe that *before* Morgan added three letters written by Friedman, plaintiffs were not limited purpose public figures, but *after* Morgan added three letters written by Friedman, the internet had "devastating scope."

In reality, by the time Friedman purportedly defamed them, even if plaintiffs own efforts had not already done so, Morgan had already made plaintiffs into public figures for almost one year.

CONCLUSIONS:

Plaintiffs again try to have it both ways, and cannot be relied upon.

By the time Friedman purportedly defamed them, plaintiffs were already limited purpose public figures.

VERIFICATION:

I, Dominic J. Morgan, defendant *pro se* verify these statements to be true, and understand that these statements are made subject to penalties of 18 Pa.C.S. Sec. 4904 relating to unsworn falsification to authorities.

CERTIFICATE OF SERVICE:

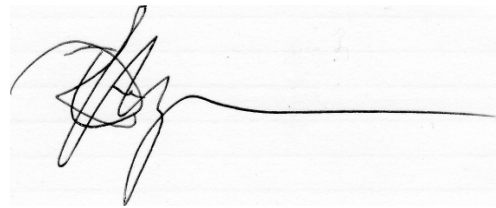
I certify that a true and correct copy of the attached document has been e-mailed or mailed first class prepaid to the persons listed below on the date listed below:

Leon Silverman, Esquire
Stein & Silverman, P.C.
230 South Broad Street, 18TH Floor
Philadelphia, PA. 19102

Maureen Fitzgerald, Esquire
Eckert Seamans Cherin & Mellott, LLC
2 Liberty Place
50 South 16th Street - 22nd Floor
Philadelphia, PA 19102
mfitzgerald@eckertseamans.com

Dated August 5, 2009

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'DJM', is written on a white background with faint horizontal lines. The signature is followed by a long horizontal line that extends to the right.

Dominic J. Morgan, *pro se*