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Virginia Civil Practice Forms



Continuing Legal Education by the Virginia Law Foundation

VIRGINIA LAWYERS PRACTICE FORMS BOOK

VIRGINIA CIVIL PRACTICE
FORMS

Volume 1
Chapters 1 through 13

Fourth Edition

 Virginia CLE[®]
Publications

VIRGINIA LAWYERS PRACTICE FORMS BOOK

VIRGINIA CIVIL PRACTICE
FORMS

Volume 2
Chapters 14 through 24

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Virginia Civil Practice Forms

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**12.12 Stipulation Agreement and Protective Order**

VIRGINIA:

IN THE CIRCUIT COURT OF THE [COUNTY] [CITY] OF _____

_____,
Plaintiff,

v. Case No.: _____

_____,
Defendant.**STIPULATION AGREEMENT AND PROTECTIVE ORDER**

Comes now the plaintiff, [name of plaintiff], by counsel, and the defendant, [name of defendant], by counsel, and hereby agree and stipulate as follows:

1. Pursuant to the discovery request received by the [plaintiff] [defendant] in this matter for documents to be produced on [date] at [time] [a.m.] [p.m.] at [place], the documents shall be reviewed by counsel for the plaintiff and counsel for the defendant at that time and place for the purpose of identifying any documents that are alleged by the [plaintiff] [defendant] to contain [describe contents of documents meriting protection, such as trade secrets or other confidential matters], which the [plaintiff] [defendant] claims is not discoverable. The parties hereby agree that the documents so identified shall not be disclosed to any person other than [specify persons authorized] until a court of competent jurisdiction has ruled upon the discoverability of such documents. All documents other than those so identified shall be released to counsel for the [plaintiff] [defendant].

2. All such documents identified by counsel pursuant to the provisions of paragraph (1) as containing [describe contents of documents meriting protection, such as trade secrets or other confidential matters] shall be placed under seal and tendered to the Circuit Court of the [City] [County] of _____ for inspection in camera for a determination as to whether such documents or any part thereof are discoverable in this case.

3. All documents or all parts of documents ruled discoverable by the court shall be released to counsel for inspection, copying, and use in this case. Provided, however, that such documents or parts of documents shall be subject to the following terms and provisions:

- a. The documents or parts thereof shall be used only in the defense or prosecution of this case. The documents or parts thereof, their content, and the testimony regarding such documents shall not be disclosed to any person except as specified in this agreement.

[Continue specifying the restrictions on the access and use of such documents, including the use of such documents in discovery.]

- b. The persons permitted access to the documents pursuant to this Stipulation Agreement and Protective Order shall not disclose the documents, the contents thereof, or the testimony relating thereto unless specifically permitted by this agreement and order or as permitted by further order of the Court.

- c. The provisions of this Agreement and Order shall not be extinguished by any order of this Court unless such order specifically and expressly so provides; unless otherwise ordered by a court of competent jurisdiction, the terms and provisions of this Agreement shall continue in full force and effect after the conclusion of this case.

ENTER: _____
JUDGE

DATE: _____

WE ASK FOR THIS:

[Counsel's name]
[Virginia State Bar number]
[Address]
[City, State, and Zip Code]
[Telephone number]
[Email address]
[Fax number]
Counsel for Plaintiff

[Counsel's name]
[Virginia State Bar number]
[Address]
[City, State, and Zip Code]
[Telephone number]
[Email address]
[Fax number]
Counsel for Defendant

**15.11 *Complaint to Impeach a Will***

VIRGINIA:

IN THE CIRCUIT COURT OF THE [COUNTY] [CITY] OF _____
IN THE MATTER OF THE ESTATE OF [DECEDENT'S NAME], DECEASED

Civil Action No. _____

COMPLAINT

Plaintiffs respectfully represent to the honorable judges of this Court as follows:

1. [Identification of plaintiffs.]
2. [Identification of defendant[s].]
3. [Decedent's name] (hereafter, Decedent) died possessed of certain [real and] personal property, and by a writing dated [date of Will] purporting to be the last will and testament of the Decedent, gave to the defendant, [name of defendant], [his] [her] [summarize dispositive provisions of will, e.g., home and the land on which it is situated, as described in the writing purporting to be the last will and testament of the Decedent, and a life estate in the remainder of the real estate owned by the Decedent at the time of [his] [her] death, with remainder over at the death of the defendant, [name of defendant], to [alternate taker].] A copy of the writing purporting to be the last will and testament of the Decedent is marked as an Exhibit and attached hereto and incorporated herein by reference.

4. The writing purporting to be the Decedent's last will and testament gives the rest of the Decedent's property in equal shares to the defendants [names of the defendants].

5. The writing purporting to be the last will and testament of the Decedent was probated in the Clerk's Office of this honorable Court on [date of probate] as the Last Will and Testament of Decedent.

6. The Order admitting the writing to probate is also recorded in the Clerk's Office of this honorable Court, and upon the motion of the defendant, [name of defendant], [executor's name] was permitted to qualify as executor of the Decedent's estate and entered to bond in the amount of \$ _____ [with] [without] surety, the certificate of qualification also being recorded in the Clerk's Office of this honorable Court.

7. The writing that has been admitted to probate as the last will and testament of the Decedent is not [his] [her] last will and testament, in that upon plaintiffs' information and belief, it was not signed as [his] [her] free and voluntary act as required by law.

8. Plaintiffs further aver that at the time of the making of the purported last will and testament, the Decedent lacked testamentary capacity to make and execute a valid will.

9. Plaintiffs further aver that the defendant, [name of defendant], obtained complete control over the will and mind of Decedent so that the writing purporting to be the Decedent's last will and testament was not a free will and testament of the Decedent but was brought about by the undue influence, persistently and consistently exercised by the defendant, [name of defendant], over the Decedent.

WHEREFORE, Plaintiffs pray that an issue *devisavit vel non* be made up and be tried by a jury to ascertain whether the writing attached hereto as an Exhibit and admitted to probate as aforesaid is or is not the true and last will and testament of the Decedent; that the probate be set aside; that the writing be declared and adjudged not to be the last will and testament of [Decedent's name]; that plaintiffs and defendants, [names of all defendants], be determined to be the heirs of the Decedent; that the Decedent be adjudged to have died intestate; and for such other and further relief as the nature of their case may require.

[Names of Plaintiffs]

By: _____
Counsel

[Counsel's name]
[Virginia State Bar No. ____]
[Address]
[City, State and Zip Code]
[Telephone number]
[Fax number]
[Email address]
Counsel for Plaintiffs



**20.13 *Provision Allowing for Later Insertion of Omitted Language***

In the event of an inadvertent omission from this Agreement of some word, item, or clause that had been previously agreed to by the parties or of some word, item, or clause that, by its very nature, reasonably belongs in this Agreement, the missing word, item, or clause, upon further agreement of the parties, may be inserted into the Agreement and become part of it as though entered in the first instance, upon a proper showing of the facts warranting this action.



**20.14 *Undisclosed/Not Included Assets***

Undisclosed Assets: Both parties acknowledge and individually warrant to the other that they do not own nor do they have any interest in any assets other than as disclosed in this Agreement, nor have they owned or had any such interest in the last year other than as disclosed in this Agreement, and they agree that if either owns or has any interest in any assets other than as disclosed in this Agreement, any such assets shall, upon the execution of this Agreement, pass to the other absolutely; and that if either has owned or had any such interest in the last year, that party will pay the amount received from any sale of these assets or will transfer the interest exchanged for them to the other within five days after the execution of this Agreement.

OR

Assets Not Included: Both parties acknowledge and individually warrant to the other that they do not own nor do they have any interest in any assets other than those included in this Agreement, and they agree that if either owns or has any interest in any assets other than those specifically included in this Agreement, any such assets shall, upon the execution of this Agreement, pass to the other absolutely; and that if either has owned any assets other than those included in this Agreement in the last year, that party will pay such interest or sum received in return for such assets to the other within five days after the execution of this Agreement.

Litigation Costs: Any litigation or legal expenses incurred by either party as a result of the other's failure to disclose assets or to include assets shall be paid by the party whose failure to disclose or include necessitated the expenses.

OR

Undisclosed Assets: Each party represents and warrants that [he] [she] [he or she] has made a full and complete disclosure to the other of all assets and liabilities of (i) any nature whatsoever in which [he] [she] [he or she] has an interest above \$1,000 in value; (ii) the sources and amounts of [his] [her] [his or her] income of every type whatsoever; and (iii) all other financial facts relating to the subject matter of this Agreement. If either party comes to realize that [he] [she] [he or she] or the other party failed to disclose a marital asset or marital liability in excess of \$1,000, [he] [she] [he or she] shall bring the matter to the other party's attention, and said marital asset or the marital share of any hybrid asset, and any such marital liability, or the marital share of a hybrid liability, shall be divided. The party who failed to disclose the marital asset shall pay to the other

party 75% of the fair market value of such asset. The party who failed to disclose a marital liability shall be liable for the payment of 75% of the marital liability with the other party liable for only 25% of same.

 SAMPLE



20.15 *Effect of Reconciliation*

This agreement shall survive any reconciliation of the parties and shall be fully binding during any reconciliation and subsequent to any failed reconciliation.

If during any reconciliation the parties acquire property, if the same is titled, the title shall control ownership. In the case of such property acquired during reconciliation that has no title, the same shall be deemed to be owned one-half by each party, regardless of contribution or source of funds.

OR

This Agreement shall not be invalidated by a reconciliation or resumption of marital cohabitation of the parties. This Agreement shall be nullified in the event of reconciliation only if the parties specifically execute a statement, signed by each of them with the same formality as this Agreement, declaring this Agreement to be void.

A large, light blue watermark is oriented diagonally across the page. It features a stylized icon of a building with columns on the left and the word "SAMPLE" in a large, serif font to its right.