

Form of order of court and certificate in optional procedure for recovery of documents

ORDER BY THE COURT OF SESSION

In the Cause (Cause Reference No.)

in which

[A.B.] (*designation and address*)

Pursuer [*or* Petitioner]

against

[C.D.] (*designation and address*)

Defender [*or* Respondent]

Date: (*date of posting or other method of service*)

To: (*name and address of party or parties or named third party haver, from whom the documents are sought to be recovered*)

1. You are hereby required to produce to the agent for the Pursuer [*or as the case may be*], (*name and address of agents*) **within seven days** of the service on you of this Order –

- (a) this Order which must be produced intact;
- (b) the certificate below duly dated and signed by you; and
- (c) all documents in your possession falling within the enclosed specification and a list or inventory of such documents signed by you relating to this Order and your certificate.

2. Subject to note (1) below, you may produce these documents either by sending them by registered post or by the first class recorded delivery service or registered postal packet, or by hand to the address above.

(*Signature and business address of the agent for the party in whose favour commission and diligence has been granted.*)

NOTES

- (1) If you claim that any of the documents produced by you are **confidential**, you must still produce such documents but may place them in a separate sealed packet by themselves, marked “confidential”. In that event they should NOT be sent to the address above, they must be delivered or sent by post as above provided to the **Deputy Principal Clerk of Session, 2 Parliament Square, Edinburgh, EH1 1RQ**. [Note: While Part 1 of Schedule 4 of the Coronavirus (Scotland) Act 2020 continues in force confidential documents can be submitted to the Deputy Principal Clerk of Session in electronic form via Objective Connect. Further information on this procedure can be obtained by emailing gcs@scotcourts.gov.uk.]
- (2) The documents will be considered by the parties to the action and they may or may not be lodged in the court process. A written receipt will be given or sent to you by the party recovering the documents, who may thereafter allow them to be inspected by the other parties. The party in whose possession the documents are will be responsible for their safekeeping.
- (3) Parties are obliged by rules of court to return the documents to you when their purpose with the documents is finished. If they do not do so, you will be entitled to apply to the court, under rule 35.3(9) of the Rules of the Court of Session 1994, for an order to have this done and you may apply for an award of the expenses incurred in doing so. Further information about this can be obtained from the General Department, Court of Session, 2 Parliament Square, Edinburgh EH1 1RQ (Tel. 0131-225 2595).

Certificate

(Date)

I hereby certify with reference to the above order of the Court of Session in the cause (*cause reference number*) and the enclosed specification of documents, served on me and marked respectively X and Y:-

- (1) That the documents which are produced and which are listed in the enclosed inventory signed by me and marked Z, are all the documents in my possession falling within the specification.

or

That I have no documents in my possession falling within the specification.

- (2) That, to the best of my knowledge and belief, there are in existence other documents falling within the specification, but not in my possession. These documents are as follows:- (*describe them by reference to the descriptions of documents in the specification*). They were last seen by me on or about (*date*), at (*place*), in the hands of (*name and address of the person*).

or

That I know of the existence of no documents in the possession of any person, other than myself, which fall within the specification.

(Signed)

(Name and address)