

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

WILLIAM F. DAVIS, III,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 05-67-SLR
	)	
WARDEN RAPHAEL WILLIAMS,	)	Jury Trial Requested
FIRST CORRECTIONAL MEDICAL,	)	
DR. BOSTON, BRIAN CASEY,	)	
C/O DAVIES, CAPTAIN EMMIT	)	
C/O REGINALD MAYES, and	)	
DEBRA MUSCARELLA,	)	
	)	
Defendants.	)	

**STATE DEFENDANTS’ MOTION FOR LEAVE TO DEPOSE PLAINTIFF**

COMES NOW, State Defendants Warden Raphael Williams, C/O Kerry Davies, Deputy Warden Mark Emig, and C/O Reginald Mays (the “State Defendants”), by and through their undersigned counsel, and hereby move this Honorable Court (the “Motion”) to enter an order, substantially in the form attached hereto, granting the State Defendants leave to depose Plaintiff William F. Davis, III (“Davis” or “Plaintiff”). In support of the Motion, the State Defendants state as follows:

1. Plaintiff, Davis is an inmate presently incarcerated at the Delaware Correctional Center in Smyrna, Delaware.
2. Counsel for the State Defendants wishes to depose Davis as part of discovery in this case.
3. The scheduling order entered in this matter set the discovery deadline for August 13, 2007 (D.I. 40).
4. Federal Rule of Civil Procedure 30(a) requires leave of the Court

to depose an incarcerated individual.

5. A form of order is attached to this Motion that grants the State Defendants' counsel the right to depose Davis.

WHEREFORE, State Defendants respectfully request that this Honorable Court enter an order, substantially in the form attached hereto, granting the Motion for Leave to Depose Plaintiff William F. Davis, III.

**DEPARTMENT OF JUSTICE  
STATE OF DELAWARE**

*/s/ Erika Y. Tross*

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Erika Y. Tross (#4506)  
Deputy Attorney General  
820 N. French Street, 6<sup>th</sup> Floor  
Wilmington, DE 19801  
(302) 577-8400

Attorney for the State Defendants

Dated: June 25, 2007

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

WILLIAM F. DAVIS, III,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 05-67-SLR
	)	
WARDEN RAPHAEL WILLIAMS,	)	Jury Trial Requested
FIRST CORRECTIONAL MEDICAL,	)	
DR. BOSTON, BRIAN CASEY,	)	
C/O DAVIES, CAPTAIN EMMIT	)	
C/O REGINALD MAYES, and	)	
DEBRA MUSCARELLA,	)	
	)	
Defendants.	)	

**ORDER**

Upon State Defendants’ Motion For Leave To Depose Plaintiff (the “Motion”); and it appearing that good and sufficient notice of the Motion has been given; and after due deliberation thereon:

**IT IS HEREBY ORDERED** as follows:

1. The Motion is **GRANTED**.
2. State Defendants are granted leave to depose the Plaintiff in this matter.

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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The Honorable Sue L. Robinson  
United States District Court Judge

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	)	
Plaintiff,	)	
	)	
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WARDEN RAPHAEL WILLIAMS,	)	Jury Trial Requested
FIRST CORRECTIONAL MEDICAL,	)	
DR. BOSTON, BRIAN CASEY,	)	
C/O DAVIES, CAPTAIN EMMIT	)	
C/O REGINALD MAYES, and	)	
DEBRA MUSCARELLA,	)	
	)	
Defendants.	)	

**7.1.1 CERTIFICATE OF COUNSEL**

The undersigned counsel hereby certifies, pursuant to Rule 7.1.1 of the Local Rules for the District Court of Delaware, that she is, as a practical matter, unable to discuss the subject of this Motion with the Plaintiff because the Plaintiff is an incarcerated inmate in a prison. Defense counsel assumes that the Plaintiff opposes the Motion.

**DEPARTMENT OF JUSTICE  
STATE OF DELAWARE**

/s/ Erika Y. Tross  
 Erika Y. Tross (#4506)  
 Deputy Attorney General  
 820 N. French Street, 6<sup>th</sup> Floor  
 Wilmington, DE 19801  
 (302) 577-8400  
 Attorney for the State Defendants

Dated: June 25, 2007

**CERTIFICATE OF SERVICE**

I, Erika Y. Tross, Esq., hereby certify that on June 25, 2007, I caused a true and correct copy of the attached *State Defendants' Motion for Leave to Depose Plaintiff* to be served on the following individuals in the form and manner indicated:

**VIA FIRST CLASS MAIL:**

Inmate William F. Davis, III  
SBI #162762  
Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

**VIA ELECTRONIC DELIVERY:**

Daniel L. McKenty, Esq.  
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*/s/ Erika Y. Tross* \_\_\_\_\_

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