

Rule 1028(c). Preliminary Objections.

- (1) *Filing.* All preliminary objections shall be filed:
 - (a) in accordance with Pa.R.C.P. 1028,
 - (b) along with:
 - (1) a cover sheet in the form set forth in Rule 205.2(b),
 - (2) a brief or memorandum of law, as set forth in Rule 210,
 - (3) a proposed order, and
 - (4) a certificate of service.
- (2) *Response.* The respondent shall file an answer to preliminary objections, if required:
 - (a) in accordance with Pa.R.C.P. 1028 and Pa.R.C.P. 1029,
 - (b) within twenty (20) days of the service of the preliminary objections,
 - (c) along with:
 - (1) a cover sheet in the form set forth in Rule 205.2(b),
 - (2) a brief or memorandum of law, as set forth in Rule 210,
 - (3) a proposed order, and
 - (4) a certificate of service.
- (3) *Disposition.* Forty-five (45) days from the filing of preliminary objections, the matter shall be referred to a Judge for disposition. If discovery was requested by either party on their respective cover sheets, said discovery shall be concluded within forty-five (45) days from the filing of preliminary objections. If oral argument was requested by either party on their respective cover sheets, the matter may be scheduled for argument. If discovery or oral argument were not requested by either party, the Judge may direct the scheduling of discovery or oral argument, or may decide the matter upon the filings.
- (4) *Timely Filed Briefs.* If the brief of either party is not timely filed, either in accordance with this Rule or by order of the Court, the Judge may:
 - (a) Dismiss the preliminary objections where the moving party has failed to comply,

- (b) Grant the requested relief where the respondent has failed to comply, except that no civil action or proceeding shall be dismissed for failure to comply. Nothing precludes the assigned Judge from dismissing the matter on its merits,
- (c) List the matter for argument, at which time only the complying party shall be heard.

Comments:

- 1 The form referenced in this rule is available online at www.montcopa.org/courts;
- 2 Preliminary Objections may not necessarily be heard by the pre-trial Judge assigned to the case. The Court anticipates implementing an expedited scheduling program for Preliminary Objections involving Senior Judges.