

Recommended Rules of Civil Procedure Governing Motion Practice

Table of Rules

Business of the Courts

Filing Legal Papers

Rule 205.2. Filing Legal Papers with the Prothonotary

Petitions

Rule 206.1. Petition. Content. Form

Rule 206.4. Rule to Show Cause. Alternative Procedures

Rule 206.5. Rule to Show Cause. Discretionary Issuance. Stay. Form of Order

Motions

Rule 208.1. Motion. Definition. Scope.

Rule 208.2. Motion. Form. Content

Rule 208.3. Alternative Procedures

Rule 208.4. Initial Consideration of Motion. Court Orders. Issues of Disputed Fact

Briefs

Rule 210. Form of Briefs

Local Rules

Rule 239. Local Rules

Rule 239.1. Pleadings and Legal Papers. Local Rules 205.2(a) and 205.2(b)

Rule 239.2. Petitions. Rule to Show Cause. Local Rules 206.1(a) and 206.4(c)

Rule 239.3. Motions. Local Rules 208.2(c), 208.2(d), 208.2(e), 208.3(a) and 208.3(b)

Rule 239.4. Briefs. Local Rule 210

- Rule 239.5. Preliminary Objections. Local Rule 1028(c)**
- Rule 239.6. Motion for Judgment on the Pleadings. Local Rule 1034(a)**
- Rule 239.7. Motion for Summary Judgment. Local Rule 1035.2(a)**
- Rule 239.8. Local Rules. Effective Date**

Civil Action

- Rule 1028. Preliminary Objections**
- Rule 1034. Motion for Judgment on the Pleadings**
- Rule 1035.2. Motion**

Discovery

- Rule 4012. Protective Orders**
- Rule 4019. Sanctions**

Business of the Courts

Filing Legal Papers

Rule 205.2. Filing Legal Papers With the Prothonotary

No pleading or other legal paper that complies with the Pennsylvania Rules of Civil Procedure shall be refused for filing by the prothonotary based on a requirement of a local rule of civil procedure or judicial administration, including local Rules 205.2(a) and 205.2(b).

NOTE: Rule 239.1(a) authorizes each court of common pleas to impose requirements governing the physical characteristics of pleadings and other legal papers. Rule 239.1(a) requires each court which has imposed requirements to promulgate a local rule, numbered Local Rule 205.2(a), listing the requirements.

Similarly, Rule 239.1(b) also authorizes each court to require pleadings and other legal papers to be accompanied by a cover sheet. Rule 239.1(b) requires each court which has imposed the requirement to promulgate a local rule, numbered Local Rule 205.2(b), stating the requirement and setting forth the form of the cover sheet.

Any local rule which has been promulgated must be published on the web site of the Administrative Office of Pennsylvania Courts (www.aopc.org).

Petitions

Rule 206.1. Petition. Definition. Content. Form

(a) As used in this chapter, "petition" means

(1) an application to open a default judgment or a judgment of non pros,

and

(2) any other application which is designated by local rule, numbered

Local Rule 206.1(a), to be governed by Rule 206.1 et seq.

NOTE: A petition for relief from a judgment by confession is governed by Rule 2959.

Motions are governed by Rule 208.1 et seq.

Rule 206.1(a)(2) authorizes each court of common pleas to designate applications which are to proceed in the manner of a petition under Rule 206.1 et seq. Rule 239.2(a) requires each court which has made that designation to promulgate a local rule, numbered Local Rule 206.1(a), listing the applications to be determined pursuant to Rule 206.1 et seq. Any local rule which has been promulgated must be published on the web site of the Administrative Office of Pennsylvania Courts (www.aopc.org).

[(a)](b) A petition shall specify the relief sought and state the material facts which constitute the grounds therefor.

[(b)](c) A petition shall be divided into paragraphs numbered consecutively. Each paragraph shall contain as far as practicable only one material allegation.

NOTE: Petitions are subject to Rule 440 governing service of legal papers other than original process, Rule 1023.1 governing the signing of documents, and Rule 1025 governing the endorsement of legal papers. Any

requirements of a court relating to the format of a petition and cover sheet must be set forth in local rules numbered Local Rule 205.2(a) and Local Rule 205.2(b).

Rule 206.4. Rule to Show Cause. Alternative Procedures

NOTE: Subdivisions (b) through (e) of Rule 239.2 require every court to promulgate Local Rule 206.4(c) describing the court's procedures for the issuance of a rule to show cause. Local Rule 206.4(c) shall be published on the web site of the Administrative Office of Pennsylvania Courts (www.aopc.org).

Rule 206.5. Rule to Show Cause. Discretionary Issuance. Stay. Form of Order

(a) Rescinded.

(b) ***

(c) ***

(d) ***

NOTE: ***

The court may provide in the order for the filing of briefs.

Motions

Rule 208.1. Motion. Definition. Scope.

(a) As used in this chapter, “motion” means any application to the court for an order made in any civil action or proceeding except as provided by subdivision (b)(1) and (2).

(b)(1) The rules of this chapter shall not apply to the following matters:

- (i) preliminary objections (Rule 1028),
- (ii) motions for judgment on the pleadings (Rule 1034) and for summary judgment (Rule 1035.1 et seq.),
- (iii) requests for special relief, including preliminary injunctions,
- (iv) motions relating to the conduct of the trial, including motions for nonsuit pursuant to Rule 218, motions relating to jury selection, motions to exclude expert testimony pursuant to Rule 207.1, motions in limine, and motions made during the course of the trial,
- (v) motions for post-trial relief (Rule 227.1),
- (vi) motions for delay damages (Rule 238),
- (vii) petitions (Rule 206.1), and
- (viii) petitions for relief from a judgment by confession (Rule 2959).

(2) The rules of this chapter shall not apply to motions arising in the following actions or proceedings:

- (i) asbestos litigation and cases otherwise designated by the court for special management (Rules 1041.1 and 1041.2),
- (ii) actions in replevin (Rule 1071 et seq.),
- (iii) class actions (Rule 1701 et seq.),
- (iv) family law actions (Rules 1901 through 1940.9), and
- (v) proceedings in Orphans' Court.

(c) The rules of this chapter shall not modify the provisions of any other general rule governing a particular motion.

Rule 208.2. Motion. Form. Content

(a) A motion shall

(1) contain a caption setting forth the name of the court, the number of the action, the name of the motion, and the name of the moving party,

(2) be divided into paragraphs numbered consecutively,

(4) set forth material facts constituting grounds for the relief sought, specify the relief sought and include a proposed order,

(5) include a certificate of service which sets forth the manner of service including the name of an attorney of record for each party that is represented by counsel, the party whom the attorney represents, a “pro se” designation for each party that is unrepresented, and the address at which service was made, and

(6) be signed and endorsed.

NOTE: Motions are subject to Rule 440 governing service of legal papers other than original process, Rule 1023.1 governing the signing of documents, and Rule 1025 governing the endorsement of legal papers. Any requirements of a court relating to the format of a motion and cover sheet must be set forth in local rules numbered Local Rule 205.2(a) and Local Rule 205.2(b).

(b) A motion need not be verified unless verification is required by general rule governing the particular motion or by order of court.

NOTE: Rule 239.3(a) authorizes a court to require that a motion include a brief statement of the applicable authority. Rule 239.3(a) requires each court which has imposed this requirement to promulgate a local rule, numbered Local Rule 208.2(c), stating the requirement.

Rule 239.3(b) also authorizes each court to provide a certification requirement for a motion as uncontested. Rule 239.3(b) requires each court which has imposed this requirement to promulgate a local rule, numbered Local Rule 208.2(d), stating the requirement.

Similarly, Rule 239.3(c) authorizes each court of common pleas to require the moving party in any motion relating to discovery to certify that counsel has conferred or attempted to confer with all interested parties in order to resolve the matter without court action. Rule 239.3(c) requires each court which has imposed this requirement to promulgate a local rule, numbered Local Rule 208.2(e), stating the requirement.

Any local rule which has been promulgated must be published on the web site of the Administrative Office of Pennsylvania Courts (www.aopc.org).

Rule 208.3. Alternative Procedures.

(a) Except as otherwise provided by subdivision (b), the court shall initially consider a motion without written responses or briefs. For a motion governed by this subdivision, the court may not enter an order that grants relief to the moving party unless the motion is presented as uncontested or the other parties to the proceeding are given an opportunity for an argument.

NOTE: Rule 208.3(a) does not prevent a court from denying the moving party's request for relief without the opportunity for an argument where the motion is procedurally defective, is untimely filed or fails to set forth adequate grounds for relief.

Parties may choose to submit responses and briefs at the time of the presentation, provided that copies have been served on every other party. However, parties are not required to do so.

Rule 239.3(d) requires every court to promulgate Local Rule 208.3(a) describing the local court procedure governing motions under this rule. Local Rule 208.3(a) shall be published on the web site of the Administrative Office of Pennsylvania Courts (www.aopc.org).

(b) A court, by local rule, numbered Local Rule 208.3(b), may impose requirements with respect to motions listed in the rule for the filing of a response, a brief or both. Where a response is required, any party opposing a motion governed by Local Rule 208.3(b) shall file the response within twenty days after service of the motion, unless the time for filing the response is modified by court order or enlarged by local rule.

NOTE: Motions are governed by the procedure in subdivision (a) unless the court by local rule designates particular types of motions to be governed by the procedure in subdivision (b).

The twenty-day response period may be extended or reduced by special order of court. A local rule may only extend the time period.

A response shall be filed by any party opposing a motion governed by subdivision (b) even if there are no contested issues of fact because the response is the opposing party's method of indicating its opposition.

Rule 208.3(b) authorizes each court of common pleas to impose requirements of responses and briefs with respect to designated motions. Rule 239.3(e) requires each court which has imposed such requirements to promulgate a local rule, numbered Local Rule 208.3(b), listing the motions and the requirements.

Rule 239.3(e) also provides that Local Rule 208.3(b) must describe the local court procedure governing motions under subdivision (b) and may allow the court to treat the motion as uncontested if a response is not filed.

Any local rule promulgated must be published on the web site of the Administrative Office of Pennsylvania Courts (www.aopc.org).

Rule 208.4. Initial Consideration of Motion. Court Orders. Issues of Disputed Fact

- (a) At the initial consideration of a motion, the court may enter an order that
 - (1) disposes of the motion, or
 - (2) sets forth the procedures the court will use for deciding the motion which may include one or more of the following:
 - (i) the filing of initial or supplemental responses,
 - (ii) the filing of initial or supplemental briefs,
 - (iii) the filing of affidavits, depositions and the like,

- (iv) the issuance of a rule to show cause pursuant to subdivision (b) of this rule,
- (v) the holding of an evidentiary hearing, and
- (vi) the entry of an order providing for any other procedure for developing the record.

(b)(1) If the moving party seeks relief based on disputed facts for which a record must be developed, the court, upon its own motion or the request of any party including the moving party, may enter an order in the form set forth in paragraph (2) providing for the issuance of a rule to show cause. The procedure following issuance of the rule to show cause shall be in accordance with Rule 206.7.

NOTE: A court will not necessarily utilize the rule to show cause procedure of subdivision (b) because other methods for developing the record, such as the filing of affidavits, may be the most efficient and appropriate manner for developing a record.

(2) The order required by paragraph (1) shall be substantially in the following form:

(Caption)

ORDER

AND NOW, _____, upon consideration of the foregoing motion, it is hereby
Date

ordered that

- (1) a rule is issued upon the respondent to show cause why the moving party is not entitled to the relief requested;
- (2) the respondent shall file an answer to the motion within ___ days of this date;
- (3) the motion shall be decided under Pa.R.C.P. No. 206.7;
- (4) depositions shall be completed within ___ days of this date;

- (5) argument shall be held on _____ in Courtroom ____ of the _____
Date
County Courthouse; and
- (6) notice of the entry of this order shall be provided to all parties by the moving party.

By the Court

J

NOTE: In counties in which an evidentiary hearing is held, the order should be modified by deleting paragraphs (4) and (5) and substituting new paragraph (4) to read as follows:

- (4) an evidentiary hearing on disputed issue of material fact shall be held on _____ in Courtroom ____ of the _____ County Courthouse.

The court may provide in the order for disposition upon briefs rather than oral argument.

The court has inherent power to permit forms of discovery other than depositions.

The court may provide in the order for the filing of briefs.

Briefs

Rule 210. Form of Briefs

[If briefs are filed they] Briefs shall be typewritten, printed, or otherwise duplicated and endorsed with the name of the case, the court and number and the name [and], address and telephone number of the attorney or the party if not represented by an attorney.

NOTE: Rule 239.4 authorizes each court of common pleas to impose additional requirements governing the form and content of a brief. Rule 239.4 requires each court which has imposed such requirements to promulgate a local rule, numbered Local Rule 210, listing the requirements. Any local rule which has been promulgated must be published on the web site of the Administrative Office of Pennsylvania Courts (www.aopc.org).

Local Rules

Rule 239. Local Rules

(c) To be effective and enforceable:

(7) Any local rules promulgated pursuant to Pennsylvania Rules of Civil Procedure Nos. 239.1 through 239.7 must be numbered in accordance with the requirements of those rules and published on the web site of the Administrative Office of Pennsylvania Courts.

(d) ***

Rule 239.1. Pleadings and Legal Papers. Local Rules 205.2(a) and 205.2(b)

(a) A court may impose requirements governing the physical characteristics of pleadings and other legal papers. A court which imposes such requirements must promulgate a local rule, numbered Local Rule 205.2(a), listing those requirements.

(b) A court may require pleadings and other legal papers to be accompanied by a cover sheet in the form set forth in the local rule. A court which imposes such requirements must promulgate a local rule, numbered Local Rule 205.2(b), stating the requirements and setting forth the form of the cover sheet.

Rule 239.2. Petitions. Rule to Show Cause. Local Rules 206.1(a) and 206.4(c)

(a) If, pursuant to Rule 206.1(a)(2), a court has designated applications which are to proceed under Rule 206.1 et seq., the court must promulgate a local rule, numbered Local Rule 206.1(a), listing those applications.

(b) Every court shall promulgate a local rule, numbered Local Rule 206.4(c), which describes the court's procedures for the issuance of a rule to show cause.

(c)(1) If a court has by local rule adopted the procedure of Rule 206.6 providing for the issuance of a rule to show cause as of course, Local Rule 206.4(c) shall expressly

(i) state that the rule shall issue as a matter of course pursuant to Rule 206.6, and

(ii) describe the steps that the moving party must take for the rule to issue.

(2) Local Rule 206.4(c) shall also describe the manner by which the court considers a petitioner's request for a stay of execution pending disposition of a petition to open a default judgment.

(d) If a court follows the procedure of Rule 206.5 under which the issuance of a rule to show cause is discretionary, Local Rule 206.4(c)

(1) shall describe the manner in which the request for the issuance of the rule is scheduled, argued, and decided, and

(2) may impose requirements for the filing of briefs addressing whether a rule to show cause should issue.

(e) In addition to the matters set forth in subdivision (b) or (c), Local Rule 206.4(c) may impose requirements upon the moving party to

(1) transmit the original and/or copies of the petition and related legal papers to a judge or other court personnel, and

(2) notify other parties of the date, time and location of a court proceeding.

NOTE: Local Rule 206.4(c) shall not modify the provisions of Rules. 206.1 through 206.2 governing the contents of a petition or answer, Rule 206.3 governing verification, or Rule 206.7 governing the procedure after issuance of a rule to show cause.

Local Rule 206.4(c) shall not alter the form of the order of court required by Rule 206.5(d), which sets forth the dates by which an answer shall be filed and depositions shall be completed, and the date of the final argument. Pursuant to the Note to Rule 206.5(d), the form of the order may be modified to provide for an evidentiary hearing on disputed issue of fact, the use of forms of discovery other than depositions, the filing of briefs, and disposition without oral argument.

Rule 239.3. Motions. Local Rules 208.2(c), 208.2(d), 208.2(e), 208.3(a) and 208.3(b)

(a) A court may impose a requirement that a motion include a brief statement of the applicable authority. A court which has imposed this requirement must promulgate a local rule, numbered Local Rule 208.2(c), stating the requirement.

(b) A court may impose a certification requirement for motions that are presented as uncontested. A court which imposes such a certification requirement must promulgate a local rule, numbered Local Rule 208.2(d), stating the requirement.

(c) A court may require any motion relating to discovery to include a certification signed by counsel for the moving party certifying that counsel has conferred or attempted to confer with all interested parties in order to resolve the matter without court action. A court which requires such a certification must promulgate a local rule, numbered Local Rule 208.2(e), stating the requirement.

(d) Every court shall promulgate a local rule, numbered Local Rule 208.3(a), which describe the court's motion procedure under Rule 208.3(a). Local Rule 208.3(a)

(1) shall describe the manner in which

(i) motions are scheduled, argued and decided and

(ii) emergency motions are scheduled, argued, and decided if they are governed by a different procedure, and

(2) may impose requirements upon a party to

(i) transmit the original and/or copies of the motion and related legal papers to a judge or other court personnel; and

(ii) notify other parties of the time, date and location of a court proceeding.

(e) If, pursuant to Rule 208.3(b), a court has imposed requirements for the filing of a response, a brief or both with respect to designated motions, the court shall promulgate a local rule, numbered Local Rule 208.3(b), which lists those motions and

requirements and which describes the court's motion practice under Rule 208. 3(b). Local Rule 208.3(b) shall conform to the requirements of subdivision (d) of this rule and may provide that the motion shall be treated as uncontested if a response is not filed.

Rule 239.4. Briefs. Local Rule 210

A court may impose requirements governing the form and content of a brief. A court which imposes such requirements must promulgate a local rule, numbered Local Rule 210, listing those requirements.

Rule 239.5. Preliminary Objections. Local Rule 1028(c)

(a) Every court shall promulgate a local rule, numbered Local Rule 1028(c), which describes the court's procedures for the disposition of preliminary objections and which

(1) shall set forth the manner in which preliminary objections are scheduled, argued and decided, and

(2) may impose requirements upon a party to

(i) transmit the original and/or copies of the preliminary objections and related legal papers to a judge or other court personnel,

(ii) notify other parties of the date, time and location of a court proceeding, and

(iii) file briefs.

NOTE: Under Rules. 1026 and 1029, an answer to preliminary objections shall be filed within twenty days after service of the preliminary objection whenever preliminary objections raise issues of fact and are endorsed with a notice to plead. This requirement shall not be altered by a local rule.

(b) This rule shall not apply to family law actions governed by Rules 1901 through 1940.9 or actions pursuant to the Eminent Domain Code of 1964.

Rule 239.6. Motion for Judgment on the Pleadings. Local Rule 1034(a)

Every court shall promulgate a local rule, numbered Local Rule 1034(a), which describes the court's procedures for the disposition of a motion for judgment on the pleadings and which

- (1) shall set forth the manner in which motions for judgment on the pleadings are scheduled, argued and decided, and
- (2) may impose requirements upon a party to
 - (i) transmit the original and/or copies of the motion and related legal papers to a judge or other court personnel,
 - (ii) notify other parties of the date, time and location of a court proceeding,
 - (iii) file a response within twenty days after service of the motion, and
 - (iv) file briefs.

Rule 239.7. Motion for Summary Judgment. Local Rule 1035.2(a)

Every court shall promulgate a local rule, numbered Local Rule 1035.2(a), which describes the court's procedures for the disposition of motions for summary judgment and which

- (1) shall set forth the manner in which motions for summary judgment are scheduled, argued and decided, and
- (2) may impose requirements upon a party to
 - (i) transmit the original and/or copies of the motion and related legal papers to a judge or other court personnel,
 - (ii) notify other parties of the date, time and location of a court proceeding, and
 - (iii) file briefs.

NOTE: The procedural requirements of Rule 1035.1 et seq., including the thirty-day period of Rule 1035.3(a) in which to file a response to the motion, shall not be altered by a local rule.

Rule 239.8. Local Rules. Effective Date

Local rules required by Rules 239.2, 239.3, 239.5, 239.6 and 239.7 shall be promulgated not later than nine months following the date of the Order of the Supreme Court promulgating this rule.

NOTE: The date of the Order promulgating Rule 239.8 was October 24, 2003.

Local requirements under Rules 239.1 through 239.7 are not effective and enforceable unless local rules are published on the web site of the Administrative Office of Pennsylvania Courts. See Rule 239(c)(7).

Civil Action

Rule 1028. Preliminary Objections

(c)(1) ***

(2) ***

NOTE: Preliminary objections raising an issue under subdivision (a)(1), (5) or (6) cannot be determined from facts of record. In such a case, the preliminary objections must be endorsed with a notice to plead or no response will be required under Rule 1029(d).

However, preliminary objections raising an issue under subdivision (a)(2), (3) or (4) may be determined from facts of record so that further evidence is not required.

[Consult local rules which may contain supplementary procedures governing the filing and disposition of preliminary objections.] Rule 239.5 requires every court to promulgate Local Rule 1028(c) describing the local court procedure governing preliminary objections. Local rule 1028(c) shall be published on the web site of the Administrative Office of Pennsylvania Courts (www.aopc.org).

Rule 1034. Motion for Judgment on the Pleadings

(a) ***

NOTE: Only the pleadings between the parties to the motion for judgment on the pleadings must be closed prior to filing the motion.

Rule 239.6 requires every court to promulgate Local Rule 1034(a) describing the local court procedure governing motions for judgment on the pleadings. Local Rule 1034(a) shall be published on the web site of the Administrative Office of Pennsylvania Courts (www.aopc.org).

(b) ***

Rule 1035.2. Motion

NOTE: ***

Rule 239.7 requires every court to promulgate Local Rule 1035.2(a) describing the local court procedure governing motions for summary judgment. Local Rule 1035.2(a) shall be published on the web site of the Administrative Office of Pennsylvania Courts (www.aopc.org).

Discovery

Rule 4012. Protective Orders

(a) ***

NOTE: Motions for a protective order are governed by the motion rules, Rule 208.1 et seq. A court of common pleas, by local rule numbered Local Rule 208.2(e), may require that the motion contain a certification that counsel has conferred or attempted to confer with all interested parties in order to resolve the matter without court action.

(b) ***

Rule 4019. Sanctions

(a)(1) ***

(2) ***

NOTE: Motions for sanctions are governed by the motion rules, Rule 208.1 et seq. A court of common pleas, by local rule numbered Local Rule 208.2(e), may require that the motion contain a certification that counsel has conferred or attempted to confer with all interested parties in order to resolve the matter without court action.

(b) ***
