

## **RULE 1028(c) – PRELIMINARY OBJECTIONS—PROCEDURES FOR DISPOSITION**

- (1) Preliminary Objections shall be filed with the Prothonotary and served on all other parties.
- (2) Any response shall be filed within twenty days after service of the Preliminary Objections.
- (3)
  - (i) If a response is filed, a brief in support of the Preliminary Objections shall be filed within twenty days after service of the response. If a brief in support is not filed within twenty days after service of the response, the Preliminary Objections shall be deemed withdrawn by the Prothonotary upon praecipe of the responding party.
  - (ii) If no response is filed, a brief in support of the Preliminary Objections shall be filed within forty days after service of the Preliminary Objections. If no response is filed and a brief in support of the Preliminary Objections is not filed within forty days after service of the Preliminary Objections, the Preliminary Objections shall be deemed withdrawn by the Prothonotary upon praecipe of the responding party.
- (4) Any brief in opposition shall be filed twenty days after service of any brief in support of the Preliminary Objections which may have been filed.
- (5) A Reply Brief, although not required, may be filed within ten days of service of the brief in opposition.
- (6) If the responding party filed a praecipe to have the Preliminary Objections deemed withdrawn pursuant to paragraph (3) above, the responding party shall serve Notice of the Praecipe by first class mail to the attorneys of record, or, if a party is unrepresented, to the party's last known address of record.
- (7) If the Preliminary Objections are deemed withdrawn, the objecting party shall have the right to file an answer to the pleading to which the preliminary objection were filed within twenty days after service of the aforementioned praecipe as if the Preliminary Objections had never been filed.
- (8) Oral argument may be requested as set forth in Local Rule 211.
- (9) The Preliminary Objections are ready for assignment to a judge when all briefing requirements set forth in subparagraphs (3), (4) and (5) above have been met or the time permitted for the filing of briefs has elapsed. At that point, either party may file an original and one copy of a Certificate of Readiness with the Prothonotary.

- (10) The Prothonotary shall forward the original Certificate of Readiness to the Court Administrator's Office and retain the copy in the file.
- (11) The Court Administrator's Office, under the direction and supervision of the Civil Calendar Judge, shall promptly assign the Preliminary Objections to a judge who has had prior significant involvement with the case or, if no judge has had prior significant involvement, to a judge on a rotating basis.
- (12) The Assigned Judge shall issue a scheduling order, which will include any additional briefing requirements and an argument date (if necessary). If the Assigned Judge determines that argument is advisable before a three-judge panel, the Assigned Judge and the Court Administrator's Office will make the necessary scheduling arrangements for such panel argument. Parties shall provide a copy of all subsequent pleadings, filings, briefs and memoranda related to the Preliminary Objections to the Court Administrator's Office for distribution to the assigned judge. No cover letter is necessary.
- (13) If a party requests that discovery is necessary for the disposition of the Preliminary Objections, said request shall be contained in the Preliminary Objections or in the answer thereto. The Assigned Judge shall dispose of this request in the scheduling order.
- (14) The Certificate of Readiness form is available in the Prothonotary's Office, in the Court Administrator's Office and online at the Dauphin County website ([www.dauphincounty.org](http://www.dauphincounty.org)). Parties filing a Certificate of Readiness form must ensure that the most current form is utilized. Failure to utilize the most current form shall result in the rejection of the Certificate of Readiness.

Comment: If a party determines that discovery is necessary before the disposition of the Preliminary Objections, a party should file an Administrative Application for a Status Conference and request that a scheduling order be issued which includes discovery deadlines. Rule 1028(c) was amended to provide time frames for response(s) and briefs. A Certificate of Readiness may be filed after the response(s) and briefs have been filed or at the expiration of the time lines contained in this rule. The purpose of the amendment is to provide for the assignment of the matter to a judge when the matter is ready for disposition.

Pursuant to Pa.R.C.P. 239.5(b), this rule shall not apply to family law actions governed by Rules 1901 through 1940.9.