

THE COURTS

Title 255—LOCAL COURT RULES

MONTGOMERY COUNTY

Amendment of Local Rules of Civil Procedure 206.4(c), 1028(c), 1034(a) and 1035.2(a); Adoption of Local Rule of Civil Procedure 210

Order

And Now, this 7th day of August, 2012, the Court hereby Amends Montgomery County Local Rules of Civil Procedure 206.4(c), 1028(c), 1034(a), and 1035.2(a), and Adopts Montgomery County Local Rule of Civil Procedure 210. These Amended and Adopted Local Rules shall become effective upon publication on the Pennsylvania Judiciary's Web Application Portal.

The Court Administrator is directed to publish this Order once in the *Montgomery County Law Reporter* and in *The Legal Intelligencer*. In conformity with Pa.R.C.P. 239 and 239.8, one (1) certified copy of this Order shall be filed with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and one (1) certified copy shall be filed with the Civil Procedural Rules Committee. One (1) copy shall be filed with the Law Library of Montgomery County, and one (1) copy with each Judge of this Court.

By the Court

WILLIAM J. FURBER, Jr.,
President Judge

Rule 206.4(c). Issuance of a Rule to Show Cause.

(1) *Issuance.* The issuance of a Rule to Show Cause for petitions governed by Rule 206.1, et seq., shall issue as a matter of course pursuant to Rule 206.6. Petitions governed by this Rule shall be filed along with:

- (a) a cover sheet in the form set forth in Rule 205.2(b),
- (b) a brief or memorandum of law, as set forth in Rule 210, if the subject petition is filed on or after October 1, 2012, and
- (c) a proposed order in the following form:

See Form Proposed Order

The petition and proposed order shall be filed in the Prothonotary's Office, and forwarded to the Court Administrator, who shall have the authority to sign the Rule to Show Cause Order.

If a petitioner requests a stay of execution pending disposition of a petition to open default judgment, or any other petition governed by this rule, the Court Administrator shall promptly refer the stay request to the Civil Equity/Emergency Judge for review and determination.

(2) *Disposition.*

For petitions governed by this Rule filed before October 1, 2012, after the filing of respondent's answer and/or the completion of discovery, any party may file with the Prothonotary a praecipe for argument in the form set forth herein, including a certification that a copy thereof has been served upon all other parties. If the respondent does not file an answer to the petition within the

timeframe outlined in the proposed order, petitioner may, by checking the appropriate box on the argument praecipe, request the court to consider the petition without the need for briefs, and enter an appropriate order in accordance with Rule 206.7(a).

The Prothonotary shall forthwith deliver a copy of the praecipe to Court Administration. The praecipe shall be in the following form:

See Form Argument Praecipe

The brief of the moving party, as set forth in Rule 210, shall be filed in the Prothonotary's Office within thirty (30) days of the filing of the praecipe for argument, unless otherwise directly by the assigned Judge. The brief of the respondent, as set forth in Rule 210, shall be filed within thirty (30) days of the date of the filing of the moving party's brief.

Once briefs are filed, the matter shall be referred to the assigned Judge for disposition. If oral argument is requested by either party on either their respective cover sheets or the argument praecipe, the matter shall then be scheduled for argument. If oral argument is not requested by either party, the assigned Judge may direct the scheduling of argument, or may simply decide the matter upon the filings.

For petitions governed by this Rule filed on or after October 1, 2012, sixty (60) days from the filing of the petition, the matter shall be referred to the assigned Judge for disposition. If discovery was requested by either party on their respective cover sheets, said discovery shall be concluded within sixty (60) days from the filing of the petition. If oral argument was requested by either party on their respective cover sheets, the matter shall be scheduled for argument. If discovery or oral argument were not requested by either party, the assigned Judge may direct the scheduling of discovery or oral argument, or may decide the matter upon the filings. If the respondent did not file an answer to the petition within the timeframe outlined in the proposed order, the Court will consider the petition without an answer, and enter an appropriate order in accordance with Rule 206.7(a).

(3) *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 assigned Judge may:

(a) Dismiss the petition 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.

Comment: the forms referenced in this rule are available online at www.montcopa.org/courts.

Rule 210. Briefs.

(1) *Form.* Briefs or memoranda of law shall be typewritten, printed or otherwise duplicated, and endorsed with the name of the case, the court term and number, and the name, address, and electronic mail address of the attorney or the party if not represented by an attorney. Briefs and memoranda of law shall contain concise and

summary statements, separately and distinctly titled, or the following items in the order listed:

(a) **Matter before the Court:** State the particular pleading (motion, petition, objection, exception, application, etc.) before the court for disposition, and the particular relief requested therein.

(b) **Statement of question(s) involved:** State the issue(s) in question form containing factual context sufficient to present the precise matter to be decided by the Court, each susceptible of a yes or no answer, each followed by the answer desired or advocated.

(c) **Facts:** State the operative facts.

(d) **Argument:** State the reason(s) why the court should answer the questions involved as proposed, including citation of the authorities relied on. An authority shall not be cited for general reference but in all cases shall be immediately preceded or followed by its relevant holding or particular proposition for which it stands.

(e) **Relief:** State the specific action(s) requested of the court.

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, if the subject preliminary objections are filed on or after October 1, 2012,

(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, if the subject preliminary objections were filed on or after October 1, 2012,

(3) a proposed order, and

(4) a certificate of service.

(3) *Disposition.*

For preliminary objections filed before October 1, 2012, after the response is filed, if any, where any party demands discovery, the parties shall complete such discovery within sixty (60) days of the filing of the response, unless otherwise directed by the Court. After the filing of respondent's answer and/or the completion of discovery, any party may file with the Prothonotary a praecipe for argument in the form set forth herein, including a certification that a copy thereof has been served upon all other parties. The Prothonotary shall forthwith deliver a copy of said praecipe to Court Administration. The praecipe shall be in the following form:

See Form Argument Praecipe

For preliminary objections raising appealable matters, the brief of the moving party, as set forth in Rule 210, shall be filed in the Prothonotary's Office within thirty (30) days of the filing of the praecipe for argument, unless otherwise directly by the assigned Judge. Regarding appealable matters, the brief of the respondent, as set forth in Rule 210, shall be filed within thirty (30) days of the date of the filing of the moving party's brief.

For preliminary objections raising interlocutory matters, where the Court orders briefs, the brief of the moving party, as set forth in Rule 210, shall be filed in the Prothonotary's Office within thirty (30) days of the date of said order and the respondent's brief, as set forth in Rule 210, shall be filed within thirty (30) days of the filing of the brief of the moving party, unless otherwise directly by the assigned Judge. A party may also voluntarily file a brief regarding interlocutory matters even though not specifically directed by the Court.

Once briefs, if required, are filed, the matter shall be referred to the assigned Judge for disposition. If oral argument was requested by either party on either their respective cover sheets or the argument praecipe, the matter shall be scheduled for argument. If oral argument was not requested by either party, the assigned Judge may direct the scheduling of argument, or may simply decide the matter upon the filings.

For preliminary objections filed on or after October 1, 2012, sixty (60) days from the filing of preliminary objections, the matter shall be referred to the assigned Judge for disposition. If discovery was requested by either party on their respective cover sheets, said discovery shall be concluded within sixty (60) days from the filing of preliminary objections. If oral argument was requested by either party on their respective cover sheets, the matter shall be scheduled for argument. If discovery or oral argument were not requested by either party, the assigned 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 assigned 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.

Comment: the form referenced in this rule is available online at www.montcopa.org/courts.

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

(1) *Filing.* After the relevant pleadings are closed, but within such time as not to unreasonably delay trial, any party may file a motion for judgment on the pleadings:

(a) in accordance with Pa.R.C.P. 1034,

(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, if the subject motion for judgment on the pleadings is filed on or after October 1, 2012,

- (3) a proposed order, and
- (4) a certificate of service

(2) *Response.* An answer to a motion for judgment on the pleadings is required from the non-moving parties:

- (a) in accordance with Pa.R.C.P. 1034,
- (b) within thirty (30) days of the service of the motion,
- (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, if the subject motion for judgment on the pleadings was filed on or after October 1, 2012,

- (3) a proposed order, and
- (4) a certificate of service
- (3) *Disposition.*

For motions for judgment on the pleadings filed before October 1, 2012, after the response is filed, if any, where any party demands discovery, the parties shall complete such discovery within sixty (60) days of the filing of the response, unless otherwise directed by the Court. After the filing of respondent's answer and/or the completion of discovery, any party may file with the Prothonotary a praecipe for argument in the form set forth herein, including a certification that a copy thereof has been served upon all other parties. The Prothonotary shall forthwith deliver a copy of said praecipe to Court Administration. The praecipe shall be in the following form:

See Form Argument Praecipe

For motions for judgment on the pleadings raising appealable matters, the brief of the moving party, as set forth in Rule 210, shall be filed in the Prothonotary's Office within thirty (30) days of the filing of the praecipe for argument, unless otherwise directed by the assigned Judge. Regarding appealable matters, the brief of the respondent, as set forth in Rule 210, shall be filed within thirty (30) days of the date of the filing of the moving party's brief.

For motions for judgment on the pleadings raising interlocutory matters, where the Court orders briefs, the brief of the moving party, as set forth in Rule 210, shall be filed in the Prothonotary's Office within thirty (30) days of the date of said order and the respondent's brief, as set forth in Rule 210, shall be filed within thirty (30) days of the filing of the brief of the moving party, unless otherwise directed by the assigned Judge. A party may also voluntarily file a brief regarding interlocutory matters even though not specifically directed by the Court.

Once briefs, if required, are filed, the matter shall be referred to the assigned Judge for disposition. If oral argument was requested by either party on either their respective cover sheets or the argument praecipe, the matter shall be scheduled for argument. If oral argument was not requested by either party, the assigned Judge may direct the scheduling of argument, or may simply decide the matter upon the filings.

For motions for judgment on the pleadings filed on or after October 1, 2012, sixty (60) days from the filing of the motion for judgment on the pleadings, the matter shall be referred to the assigned Judge for disposition. If oral argument was requested by either party on their

respective cover sheets, the matter shall be scheduled for argument. If oral argument was not requested by either party, the assigned Judge may direct the scheduling of 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 assigned Judge may:

(a) Dismiss the motion 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.

Comment: the form referenced in this rule is available online at www.montcopa.org/courts.

Rule 1035.2(a). Motion for Summary Judgment.

(1) *Filing.* After the relevant pleadings are closed, and prior to the filing of a trial Praecipe, but within such time as not to unreasonably delay trial, any party may file a motion for summary judgment:

- (a) in accordance with Pa.R.C.P. 1035.2,
- (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, if the subject motion for summary judgment is filed on or after October 1, 2012

- (3) a proposed order, and
- (4) a certificate of service.

(2) *Response.* An answer to a motion for summary judgment is required from the adverse parties:

- (a) in accordance with Pa.R.C.P. 1035.3,
- (b) within thirty (30) days of the service of the motion,
- (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, if the subject motion for summary judgment was filed on or after October 1, 2012,

- (3) a proposed order, and
- (4) a certificate of service.

(3) *Disposition.*

For motions for summary judgment filed before October 1, 2012, after the response is filed, if any, where any party demands discovery, the parties shall complete such discovery within sixty (60) days of the filing of the response, unless otherwise directed by the Court. After the filing of respondent's answer and/or the completion of discovery, any party may file with the Prothonotary a praecipe for argument in the form set forth herein, including a certification that a copy thereof has been served upon all other parties. The Prothonotary shall forthwith deliver a copy of said praecipe to Court Administration. The praecipe shall be in the following form:

See Form Argument Praecipe

For motions for summary judgment raising appealable matters, the brief of the moving party, as set forth in Rule

210, shall be filed in the Prothonotary's Office within thirty (30) days of the filing of the praecipe for argument, unless otherwise directly by the assigned Judge. Regarding appealable matters, the brief of the respondent, as set forth in Rule 210, shall be filed within thirty (30) days of the date of the filing of the moving party's brief.

For motions for summary judgment raising interlocutory matters, where the Court orders briefs, the brief of the moving party, as set forth in Rule 210, shall be filed in the Prothonotary's Office within thirty (30) days of the date of said order and the respondent's brief, as set forth in Rule 210, shall be filed within thirty (30) days of the filing of the brief of the moving party, unless otherwise directly by the assigned Judge. A party may also voluntarily file a brief regarding interlocutory matters even though not specifically directed by the Court.

Once briefs, if required, are filed, the matter shall be referred to the assigned Judge for disposition. If oral argument was requested by either party on either their respective cover sheets or the argument praecipe, the matter shall be scheduled for argument. If oral argument was not requested by either party, the assigned Judge may direct the scheduling of argument, or may simply decide the matter upon the filings.

For motions for summary judgment filed on or after October 1, 2012, sixty (60) days from the filing of the motion for summary judgment, the matter shall be referred to the assigned Judge for disposition, unless the underlying case has already been praeciped for trial or ordered on the trial list, in which case the motion will be assigned to the trial judge for disposition. If discovery was requested by either party on their respective cover sheets, said discovery shall be concluded within sixty (60) days from the filing of the motion. If oral argument was requested by either party on their respective cover sheets, the matter shall be scheduled for argument. If oral argument was not requested by either party, the assigned Judge may direct the scheduling of 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 assigned Judge may:

(a) Dismiss the motion 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.

Comment: the form referenced in this rule is available online at www.montcopa.org/courts.

[Pa.B. Doc. No. 12-1679. Filed for public inspection August 31, 2012, 9:00 a.m.]

SCHUYLKILL COUNTY

Amend Civil Rule of Procedure 301 Board of Viewers; S 1815-12

Order of Court

And Now, this 15th day of August, 2012 at 3:45 p.m., Schuylkill County Civil Rule of Procedure No. 301(e)(ii)

Board of Viewers is amended and § 301(e)(iii) and (f) are hereby rescinded for use in the Court of Common Pleas of Schuylkill County, Pennsylvania, Twenty-First Judicial District, Commonwealth of Pennsylvania, effective thirty days after publication in the *Pennsylvania Bulletin*.

The Prothonotary of Schuylkill County is Ordered and Directed to do the following:

1) File one (1) certified copy of this Order and Rule with the Administrative Office of the Pennsylvania Courts.

2) Forward two (2) certified copies of this Order and Rule and a computer diskette containing the text of the local rules to the Legislative Reference Bureau.

3) Forward one (1) certified copy of this Order and Rule with the Civil Procedural Rules Committee of the Supreme Court of Pennsylvania.

4) Forward one (1) copy to the Law Library of Schuylkill County for publication in the *Schuylkill Legal Record*.

5) Copies shall be kept continuously available for public inspection in the Office of the Schuylkill County Prothonotary and the Schuylkill County Law Library.

It is further *Ordered* that said rule as it existed prior to the amendment is hereby repealed and annulled on the effective date of said rule as amended, but no right acquired thereunder shall be disturbed.

By the Court

WILLIAM E. BALDWIN,
President Judge

SCHUYLKILL COUNTY RULES OF CIVIL PROCEDURE

Rule 301. Board of Viewers.

(a) *Composition and Appointment of Boards of Viewers Pursuant to 42 Pa.C.S. § 214*

The Board of Viewers shall consist of not less than nine (9) members, all of whom shall be adult residents of Schuylkill County. At least one-third (1/3) of its members shall be attorneys. Board members shall be appointed for a term of three (3) years by the Court of Common Pleas. Sitting board members may be re-appointed for an additional term or terms of three (3) years upon expiration of their terms. Vacancies in an unexpired term of a board member shall be filled by the President Judge. The Court shall have the power to remove a board member at will.

(b) *Petitions for Appointment of a Board of Viewers*

Petitions for appointment of a Board of Views shall be accompanied by a praecipe to transmit pursuant to Sch.R.C.P. 205.2(b) and shall comply with Sch.R.C.P. 206A. In case of a vacancy in the Viewers appointed in a specific case before the panel files its report, the President Judge shall fill such vacancy by appointing another member of the Board of Viewers.

(c) *Appeals from Decision of Viewers*

Any party who appeals to the court from the decision of the Viewers and sets forth in the appeal objections to the Viewers' Report other than to the amount of the award shall comply with Sch.R.C.P. 14.

(d) *Stenographic Notes*

Whenever, in the opinion of the Board of Viewers, it shall be desirable, accurate stenographic notes of the hearing shall be taken and copies of such notes shall be furnished to the parties interested, when desired, upon payment of such sum as shall be fixed from time to time

by the Court. The stenographer in any particular case shall be appointed from the list of the court-appointed stenographers by the Chairman of the Board of Viewers appointed to the case.

(e) *Compensation of Viewers*

(i) Compensation of Viewers shall be on a case by case basis in an amount fixed by the Court. A Petition for compensation shall be made at the time of filing of the Report of the Board of Viewers by a Petition for Compensation directed to the President Judge. A copy of the Petition for Compensation shall be served upon all parties, or their attorneys of record, at the time the Board transmits a copy of its report to them pursuant to 26 Pa.C.S. § 1-512.

(ii) Compensation approved by the President Judge pursuant to a Petition for Compensation shall be paid to the Viewers.

[Pa.B. Doc. No. 12-1680. Filed for public inspection August 31, 2012, 9:00 a.m.]

WAYNE COUNTY

Local Rule 6.12B; No. 63-OCD-1996

Order

And Now, to wit, this 1st day of August 2012, the Local Rules of Civil Procedure are amended, effective thirty (30) days after publication in the *Pennsylvania Bulletin*, as follows:

1. Local Civil Rule 6.12B is rescinded in its entirety. The Court Administrator of Wayne County shall file or submit certified copies of this Order as follows:

A. One (1) certified copy with the Administrative Office of Pennsylvania Courts;

B. Two (2) copies and a CD ROM to the Legislative Reference Bureau, for publication in the *Pennsylvania Bulletin*;

C. One (1) copy to *The Wayne County Legal Journal*; and

D. One (1) copy shall be kept continuously available for public inspection and copying at the Clerk of Courts Office.

By the Court

RAYMOND L. HAMILL,
President Judge

[Pa.B. Doc. No. 12-1681. Filed for public inspection August 31, 2012, 9:00 a.m.]

**DISCIPLINARY BOARD OF
THE SUPREME COURT**

Notice of Disbarment

Notice is hereby given that Jeanne M. Vanim-Botting, having been disbarred from the practice of law in the State of New Hampshire by Order of the Supreme Court of New Hampshire dated October 3, 2011, the Supreme Court of Pennsylvania issued an Order on August 16, 2012, disbaring Jeanne M. Vanim-Botting from the Bar of this Commonwealth, effective September 15, 2012. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Secretary
*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 12-1682. Filed for public inspection August 31, 2012, 9:00 a.m.]