

**Rule 39-1035.2(a).**

**Motions for Summary Judgment; Disposition**

- (i) **Argument Court Calendar.** Unless contradicted by other provisions of the rules, Motions for Summary Judgment shall follow the procedures set forth in Local Rule 206.4(c) and shall be disposed off as set forth in this Rule. Except as otherwise provided by the Court, Arguments in the Franklin County Branch shall be held on the first Thursday of each month excluding August, except when Thursday is a legal holiday, in which case the Argument shall be held on the next business day, and in the Fulton County Branch Arguments shall be held on days as established by the annual Court Calendar.
- (ii.) **Listing and Briefing Cases.** Summary judgment motions may be set down for disposition only after expiration of the thirty (30) days authorized by Pa.R.C.P. 1035.3(a) for the filing of a response to the motion. Causes for Argument shall be listed in the Prothonotary's Office in a docket to be provided for that purpose. Any party may list a cause by the filing of a Praeceptum directing the Prothonotary to list the cause for oral argument. The Praeceptum shall be accompanied by a Cover Sheet substantially in the form set forth in Exhibit A, attached.

**A. Responsibility of Moving Party.**

1. Within twenty (20) days of the placing of any matter on the list for argument, the party requesting relief shall file an original and one copy of a supporting brief together with any affidavits, depositions, transcripts and other supporting documents.
2. The party requesting relief shall serve copies of its brief on all opposing parties together with a notice to file a responsive brief within twenty (20) days of service, and shall file proof of service of the notice.
3. Upon the failure of the party requesting relief to timely file and serve its brief, the Court may, *sua sponte* or upon petition of the opposing party, order the matter stricken from the argument list.
4. Rebuttal briefs may be filed only with the permission of the Court.

**B. Responsibility of the Opposing Party.**

1. Any party in opposition to the matter shall file an original and one copy of its responsive brief within twenty (20) days of service of the

party requesting relief's brief. Concurrently, the opposing party shall serve copies of its brief on the moving party and any other opposing parties.

2. If an opposing party fails to file its brief within the time period required, the Court may consider such failure to be a waiver of opposition and shall, *sua sponte*, or upon petition of the party requesting relief, either [a] grant the relief requested, so long as such action does not result in dismissal of the case; or [b] exclude the opposing party from oral argument.

**C. Scheduling Oral Argument.**

1. Any party may schedule a case for argument on the next scheduled argument court date by the filing of a praecipe with the Prothonotary on or before the Thursday which is four weeks preceding the day for argument, and further provided that the praecipe scheduling the case for argument or submission certifies that all briefs have been filed or that the opposition brief has not been timely filed.
  2. Any party scheduling a case for argument or submission shall give written notice thereof to all other parties within two (2) days, and shall certify such notice on the record. Failure to give such notice may be grounds for striking the case from the list.
- (iii.) **Listing by Agreement.** The parties may agree in writing to add a cause for the Argument List at any time so long as service of briefs may be made in accordance with the time requirements of Section (ii.), *supra*. The Court may order a cause listed for Argument at the next scheduled Argument Court or on such other day as it may direct, and in that event, it may regulate the time for service of briefs.
- (iv.) **Fact Determination.** When the ascertainment of facts is necessary for the proper disposition of a cause listed for Argument, such facts may be determined by deposition or as otherwise provided in the Pennsylvania Rules of Civil Procedure.
- (v.) **Oral Argument.** The person seeking the Order applied for shall argue first, and may also argue in reply, if permitted by the Court, but such reply shall be limited to answering Arguments advanced by the respondent. In causes where there is more than one respondent, the Order of Argument by the respondents shall be as directed by the Court.
- (vi.) **Briefs.** Briefs shall conform to the requirements of 39<sup>th</sup> Jud. Dist. R.C.P. 210.
- (vii.) **Disposition by Briefs Alone or Upon Oral Argument.** Oral argument may be

dispensed with provided that there is agreement of the parties and approval by the Court. The Court reserves the right to require oral argument in any case.

- (viii.) **Striking Cause from List.** Cases may be continued or stricken from the argument list only pursuant to order of court. A party may request such an order of court by petition setting forth the basis for the request. Such petition must include certification regarding concurrence or non-concurrence of all other parties.

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Promulgated by Order of Court dated January 27, 2005

<b>Case Name:</b> _____ <b>Docket No.</b> _____
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**Cover sheet, Oral Argument on Summary Judgment Motions  
Local Rule 1035.2(a)**

(one copy to be filed by listing party; to be completed by Prothonotary and transmitted along with the Briefs to the assigned Judge.

	<u>Date Filed</u>	<u>Reference</u>
<b>Listing and Briefing of Cases</b>		
1. <i>Any party</i> files Praecepte to list cause for Argument	_____	1035.2(a)(ii.)
2. <i>Party requesting relief</i> files two copies of brief [not later than twenty (20) days after service of brief of party requesting relief]	_____	1035.2(a)(ii.)(A)(1)
3. <i>Responding party</i> files two copies of brief [not later than twenty (20) days after service of brief of party requesting relief]	_____	1035.2(a)(ii.)(B)(1)

**Scheduling Oral Argument**

4. <i>Party requesting relief or Responding party may file a Praecepte to schedule the case for oral argument [not later than Thursday which is four weeks preceding the date for oral argument.</i>	_____	1035.2(a)(ii.)(C)(1)
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Prothonotary shall check one: 1035.2(a)(ii.)(C)(1)

- all briefs have been filed
- opposition brief has not been timely filed

5. Party scheduling case for oral argument certifies having given notice to other parties that matter has been scheduled for oral argument [not later than two (2) days after filing praecipe to schedule the case for oral argument]	_____	1035.2(a)(ii.)(C)(2)
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**Argument has been scheduled to be held on:** \_\_\_\_\_