

# FUNDAMENTALS OF CIVIL PRACTICE

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## Pretrial Motions and Petitions

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## Preliminary Considerations in Almost Every Case

- State v. Federal Rule
- Local Rules
- Judges Personal Practice/Preferences
- Local Custom

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### Make Sure You Know Local Rules!!!

- Have separate local state rules book
- Have federal rules book and preferences
- Go to [pacourts.us](http://pacourts.us) and look up local rules
- Consider Local Counsel

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### Difference Between Motion and Petition

- A motion is anything that the rules say is Petition is not. (i.e. application to open default, application to open non pros, or any other application that local rules require to be made by petition.)

Rule 206.1

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### Most Common Motions

- Preliminary Objection (Rule 1028)
- Motion to Dismiss
- Discovery
- Motion for Judgment on Pleadings (Rule 1034)
- Motion for Summary Judgment (Rule 1035)

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## Preliminary Objection

- Rule 1028
- Can is be done by stipulation?
- Do you really want to file it?
- Follow State and Local Rules
- Are you just trying to preserve for appeal the issue?

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## Discovery

- Common Under Rule 4019
- Local Rules
- Status Conference (i.e. Dauphin County 215.3, 215.4)
- Scheduling Order (i.e. Cumberland 208.3, Franklin/Fulton 39-212.7, Lancaster 212.2, York 4003.5)
- Most times no argument
- Can it be done if judge assigned in status conference?

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## Motion for Judgment on Pleadings

- Rule 1034
- Do you really want to file? (ie. Clear issue)
- “Relevant”
- “Unreasonably”
- Local Rules
- Certify
- Oral argument?
- Be careful of stipulated facts

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## Motion for Summary Judgment

- Rule 1035
- “Relevant”
- “Unreasonably delay”
- Be wary of stipulated facts
- Make sure record it complete and filed
- Nanty Glo Rule

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## Other Common Motions

- Affidavit of non-involvement (Rule 1036)
- Motion for Default Judgment (Rule 1037)
- Motion for Non Pros Of Professional Liability Case (Rule 1042.1 et seq.)
- Post-trial motion (Rule 227.1)
- Motion for Reconsideration
- Motion in Limine

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