

JUDGE RONALD L. BUCKWALTER

Judge Ronald L. Buckwalter was born on December 11, 1936 in Lancaster, Pennsylvania. He received an A.B. from Franklin & Marshall College in 1958 and a J.D. from the College of William and Mary in 1962. Judge Buckwalter was in private practice in Lancaster from 1963 to 1977. He served as the District Attorney of Lancaster County from 1977 to 1980, when he was elected to the Court of Common Pleas, Second Judicial District. Judge Buckwalter was appointed to the United States District Court for the Eastern District of Pennsylvania on March 12, 1990.

PRELIMINARY GENERAL MATTERS

1. Correspondence with the Court.

Judge Buckwalter has set forth in his standard Pretrial and Trial Procedures, a copy of which is attached, his policy with regard to contacting chambers during pendency of litigation.

2. Communications with Law Clerks.

Judge Buckwalter permits his law clerks to speak to counsel with regard to administrative matters only. Law clerks may not render advice to counsel and have no authority to grant continuances or to speak on behalf of the court.

3. Telephone Conferences.

Judge Buckwalter will conduct telephone conferences concerning any matter appropriately before him rather than requiring all parties to appear in person, unless for good cause one of the parties objects to a telephone conference or Judge Buckwalter decides that the matter before him can be more fairly and effectively resolved by a personal conference.

4. Oral Arguments and Evidentiary Hearings.

Judge Buckwalter will set special times for oral argument and evidentiary hearings as the particular case requires.

5. Pro Hac Vice Admissions.

Judge Buckwalter has no fixed policy with regard to *pro hac vice* admissions.

CIVIL CASES

Pretrial Procedure

1. Pretrial Conferences.

Judge Buckwalter requires the filing of a status report on a form which is sent to counsel by his courtroom deputy. When a completed form has been returned by all parties, he will issue a Federal Rule of Civil Procedure 16 Scheduling Order. He will, upon request and for good cause, hold scheduling, discovery, settlement, pretrial and final pretrial conferences. Judge Buckwalter's regular agenda are those matters referred to in Federal Rule of Civil Procedure 16, Local Civil Rules and this court's Civil Justice Expense and Delay Reduction Plan, specifically, Chapter 3 thereof.

Continuances and Extensions

1. General Policy.

Judge Buckwalter expects adherence to the dates that have been established in the scheduling order because that order is entered based upon counsels' assessment of the time needed for discovery as well as counsels' proposed trial date as set forth in the status report.

2. Requests for Extensions and Continuances.

Counsel should immediately notify the courtroom deputy after contacting opposing counsel of any request for change in schedule, together with the compelling reasons necessitating the change. Thereafter, if counsel can agree on the extension, a stipulation requesting approval by the court should be sent to the courtroom deputy. If no agreement can be reached, counsel should file an appropriate motion in accordance with Local Rules motion practice.

General Motion Practice

1. Oral Argument on Motions.

Judge Buckwalter does not normally hold oral argument on motions.

2. Reply and Surreply Briefs.

Judge Buckwalter follows Local Rules motion practice, which contains no specific reference to reply or surreply briefs. Counsel should immediately notify the court of his or her intention to file a reply brief or surreply by letter addressed to the judge's secretary.

3. Chambers Copies of Motions Papers.

Judge Buckwalter prefers to receive courtesy copies of motion papers in chambers, but he does not require it.

Discovery Matters

1. Length of Discovery Period and Extensions.

Judge Buckwalter expects discovery to be completed in accordance with his Scheduling Order. In the normal case, that date would be approximately six months from the date the case is filed.

2. Discovery Conferences and Dispute Resolution.

Judge Buckwalter does not normally hold discovery conferences but will do so upon request of all counsel or when required by the Civil Justice Expense and Delay Reduction Plan of this court. Telephone conferences to resolve disputes during depositions are permitted. Other discovery disputes are normally resolved through Local Rules motion practice.

3. Confidentiality Agreements.

Although Judge Buckwalter generally disfavors confidentiality orders, he may hold a conference to discuss their entry even if the parties have agreed to such an order.

4. Expert Witnesses.

Judge Buckwalter requires a party to disclose the identity of any person who may be used at trial to present evidence under Rules 702, 703 or 705 of the Federal Rules of Evidence in accordance with the terms of F.R.C.P. 26(a)(2), unless otherwise directed by the scheduling order or other order of this court.

Settlement

1. General Approach to Settlement and Non-Jury Cases.

Judge Buckwalter will become involved in settlement negotiations in jury cases. It is not Judge Buckwalter's practice to participate in settlement negotiations in non-jury cases. A settlement conference will be scheduled upon request of all parties.

2. Referral of Settlement Negotiations to Another District Court Judge.

Judge Buckwalter has no fixed policy in this regard. In certain non-jury cases, Judge Buckwalter may refer settlement negotiations to another district judge or a magistrate judge. The latter may be used for settlement conferences in jury cases as well.

Arbitration

1. General Approach to Arbitration Cases.

At this time, Judge Buckwalter has no fixed policy involving arbitration cases other than to schedule the trial *de novo* as soon as possible.

2. Scheduling of Trial De Novo from Arbitration.

When *de novo* trial is demanded, it will be scheduled promptly. Judge Buckwalter has no special practices or procedures regarding *de novo* trials.

Proposed Final Pretrial Memoranda

1. Required Form of Pretrial Memoranda.

Judge Buckwalter's final pretrial memoranda requirements are set forth in his standard Pretrial and Trial Procedures, aforesaid, a copy of which is attached hereto. (See No. 8).

Injunctions

1. Scheduling and Expedited Discovery.

Judge Buckwalter promptly schedules hearings, but he may limit the time of initial hearings. He may permit expedited discovery depending upon the circumstances.

2. Proposed Findings of Fact and Conclusions of Law.

At a hearing on a petition for a TRO or preliminary injunction, Judge Buckwalter prefers to have proposed findings of fact and conclusions of law before the hearing. Recognizing that the emergency nature of such a hearing may make this difficult, he requires proposed findings of fact and conclusions of law no later than 24 hours after such a hearing.

Trial Procedure

1. Scheduling of Cases.

Judge Buckwalter's usual practice in the scheduling of cases for trial is to place all cases in his trial pool.

2. Conflicts of Counsel.

Counsel should immediately notify the courtroom deputy of professional and personal conflicts affecting the trial schedule.

3. Cases Involving Out-of-Town Parties or Witnesses.

In cases involving out-of-town witnesses or parties, Judge Buckwalter may assign the case a date certain for trial.

4. Notetaking by Jurors.

Judge Buckwalter has no objection to notetaking.

5. Trial Briefs.

Judge Buckwalter encourages the submission of trial briefs if the pretrial memorandum raises genuinely disputed legal issues which are better presented in a brief separate from the pretrial memorandum.

6. Voir Dire.

Judge Buckwalter permits counsel to conduct all *voir dire*. The Courtroom Deputy is present during *voir dire*. Disputes will be handled by Judge Buckwalter in chambers. Sixty to ninety minutes should be sufficient time to conduct *voir dire*.

7. Side Bars.

Judge Buckwalter discourages the use of side-bar conferences for reasons set forth in paragraph 9 of the attached Pretrial and Trial Procedures.

8. In Limine Motions.

Motions *in limine* must be filed no less than ten (10) days before trial. Responses must be filed no less than five (5) days before trial.

9. Examination of Witnesses Out of Sequence.

Judge Buckwalter allows witnesses to be examined out of turn for the convenience of the witnesses.

10. Opening Statements and Summations.

Judge Buckwalter feels that 30 minutes is sufficient for opening statements and 45 minutes is sufficient for closing.

11. Examination of Witnesses or Argument
By More Than One Attorney.

Judge Buckwalter allows more than one attorney for a party to examine different witnesses or to argue different points before the court.

12. Examination of Witnesses Beyond Redirect and Recross.

Judge Buckwalter feels that direct examination and cross-examination should be adequate in a well-prepared trial. He will permit redirect on issues brought up in cross-examination, but not to bring up matters that counsel neglected to cover on direct. Recross is limited to matters brought up on redirect. No further examination is normally permitted.

13. Videotaped Testimony.

All objections will be ruled upon in advance of playing videotapes to the jury. To accomplish this, all objections to video tapes must be filed no less than ten (10) days before trial. Responses must be filed no less than five (5) days before trial.

14. Reading of Material into the Record.

Reading of material into the record may be done in a manner agreed upon by court and counsel.

15. Preparation of Exhibits.

Judge Buckwalter requires that exhibits be pre-marked and pre-exchanged. Counsel need only provide one set of trial exhibits to the court.

16. Offering Exhibits Into Evidence.

Judge Buckwalter requires exhibits to be placed in evidence at the close of each party's case-in-chief.

17. Judgment as a Matter of Law Motions.

Motions for judgment as a matter of law [F.R.C.P. 50(a)] may be made orally. Such motions may be made in writing if counsel desire and must be in writing when the court deems it necessary or applicable rules require a written motion.

18. Proposed Jury Instructions and Verdict Forms.

Counsel should submit points on each matter he or she wishes to have covered by the court. (See paragraph 8 of Pretrial and Trial Procedures). Each instruction should be on a separate page. Supplemental instructions may be submitted at any time prior to the closing of the evidence. Pursuant to Federal Rule of Civil Procedure 51 the court conducts a charging conference.

19. Proposed Findings of Fact and Conclusions of Law.

Except at hearings on petitions for TRO or preliminary injunction, Judge Buckwalter prefers that an initial proposed findings of fact and conclusions of law be submitted to him at least 24 hours before the start of the trial. Judge Buckwalter further expects that counsel will submit an amended proposed findings of fact and conclusions of law at a reasonable time after the close of the evidence. Normally, the time for such submission is determined at the conclusion of the case by agreement of counsel.

Jury Deliberations

1. Written Jury Instructions.

Judge Buckwalter does give a copy of instructions to the jury, when the complexity of the law involved requires it.

2. Exhibits in the Jury Room.

At the conclusion of trial, an on-the-record determination is made by the court as to which exhibits go out with the jury.

3. Handling of Jury Requests to Read Back Testimony or Replay Tapes .

Judge Buckwalter decides each such request according to the facts of the particular case.

4. Availability of Counsel During Jury Deliberations.

Judge Buckwalter permits counsel to return to their offices only if they are able to return to the courtroom within 15 minutes.

5. Taking the Verdict and Special Interrogatories.

The nature and requirements of the case dictate whether Judge Buckwalter takes a general or a special verdict or submits interrogatories to the jury.

6. Polling the Jury.

Judge Buckwalter permits polling of the jury.

7. Interviewing the Jury.

Judge Buckwalter will permit counsel to interview jurors.

CRIMINAL CASES

1. Approach to Oral Argument and Motions.

Judge Buckwalter has no fixed policy concerning oral argument and motions.

2. Pretrial Conferences.

Judge Buckwalter does not anticipate holding pretrial conferences unless requested by counsel and warranted by the particular case.

3. Voir Dire.

Judge Buckwalter conducts all *voir dire* in criminal cases and permits counsel to submit proposed *voir dire* questions.

4. Sentencing Memoranda.

Judge Buckwalter does permit sentencing memoranda.

OTHER GENERAL MATTERS

Judge Buckwalter does not expect to receive appellate briefs if a decision rendered by him is appealed.

PRETRIAL AND TRIAL PROCEDURES
BEFORE JUDGE RONALD L. BUCKWALTER

PRETRIAL

1. As soon as reasonably practicable after an action is filed or a case is reassigned to my calendar, the courtroom deputy will mail to counsel a status report form which is to be completed and returned to this office within 10 days. Based substantially upon those reports, the court will issue a scheduling order as prescribed by F.R.C.P. 16. In some cases, either upon request of counsel or pursuant to Section 3:01 of the Civil Justice Expense and Delay Reduction Plan of this court or *sua sponte*, the court will set a scheduling conference to establish the terms of the F.R.C.P. 16 scheduling order.

2. The court expects discovery to be conducted promptly, diligently and fairly. Because they have been established after careful consideration of the status reports of each party, discovery deadlines as set forth in the scheduling order will be enforced. Counsel should seek discovery enforcement or relief only by filing a motion promptly.

3. The court will establish a specific trial date if counsel have persuaded the court that such a special listing is an indispensable requisite to an expeditious trial. Normally, all cases shall be listed in the trial pool. Every case in the trial pool will be deemed ready to proceed to trial upon 24 hours telephone notice to counsel. The court will attempt to attach cases for trial as they are listed in the trial pool.

4. Counsel should call the COURTROOM DEPUTY regarding any matters relating to the scheduling of pretrial conferences or hearings in any civil or criminal case, as well as any matters related to pretrial and post-trial motions in any CRIMINAL case. Counsel should call

the JUDICIAL SECRETARY regarding any matters relating to pretrial and post-trial motions in any CIVIL case.

5. Contacting the court by letter or phone during the pendency of litigation is normally not appropriate for the following reasons: (a) Pretrial matters involving discovery disputes or case dispositive motions should normally be handled by motion practice in accordance with Local Rules; and (b) Questions about scheduling whether involving dates or times of hearings or possible conferences with the court about any matters related to the case should be communicated orally or in writing to the courtroom deputy.

6. Because *ex parte* communications are normally inappropriate, if counsel must contact the court, such contact should be made only after consulting with opposing counsel. If opposing counsel objects to the proposed contact with the court, then counsel should file a motion. Merely sending opposing counsel a copy of a letter sent to chambers does not fulfill this directive.

7. Law clerks may not render advice to counsel and have no authority to grant continuances or to speak on behalf of the court.

8. Upon completion of discovery, but no later than ten (10) days before a case is to be listed in the trial pool, counsel shall file a pretrial memorandum which may be supplemented up to 24 hours before the trial begins. The pretrial memorandum shall include the following:

- (a) A brief, concise summary of the nature of the case.
- (b) A list of all witnesses to be presented with a brief statement of the nature of their testimony. Witnesses not listed may not be called in the party's case in chief.
- (c) A list of all exhibits pre-numbered and pre-exchanged among all counsel, including those exhibits whose introduction into evidence is objected to and the reasons for the objections.

- (d) Claimant's itemized statement of damages or other relief sought.
- (e) A statement of any anticipated legal issues on which the court will be required to rule, together with counsel's single best authority (case citation, Rule of Civil Procedure, Rule of Evidence, statute, etc.)
- (f) All stipulations of counsel and an itemized list of any admissions to be read into evidence.
- (g) In all jury cases, proposed points for charge and in all non-jury cases, proposed findings of fact and conclusions of law. Counsel have the right to file supplemental points, findings and conclusions upon the close of testimony.
- (h) The court requires that all submissions to it be in duplicate. An exception to this requirement is exhibits, a single court copy of which is sufficient at the time of trial. In certain instances, the court will excuse its requirement for copies of exhibits if the making of the same is unduly burdensome.

9. Motions *in limine* must be filed no less than ten (10) days before trial.

Responses must be filed no less than five (5) days before trial.

10. All objections will be ruled upon in advance of playing videotapes to the jury.

To accomplish this, all objections to video tapes must be filed no less than ten (10) days before trial.

Responses must be filed no less than five (5) days before trial.

TRIAL

11. Because side bar conferences interrupt the flow of the trial and interfere with the jurors' understanding of a witness' testimony, the court intends to avoid side bar conferences.

Under most circumstances this is accomplished by virtue of counsel having anticipated the legal issues and objections and raised them during pretrial proceedings or at a recess or after adjournment.

12. Court sessions involving jury trials will commence daily at 9:30 a.m. and continue until 12:30 p.m., with a short mid-morning break. Court will reconvene at 1:45 p.m. and continue until 4:30 p.m., with a short mid-afternoon break. The 4:30 p.m. adjournment may be extended depending upon the transportation considerations of the jurors.

13. Counsel has the responsibility to have all witnesses available in court as scheduled. Failure to do so may result in sanctions.

14. Except for good cause shown, counsel shall be limited in the examination of a witness to direct, cross, redirect and recross. As to redirect and recross, counsel are not entitled to these as a matter of right.

15. Whenever a deposition or portion thereof is to be read into evidence, a written designation of the pages and lines shall be furnished to opposing counsel and to the court at least 24 hours before commencement of trial. Opposing counsel shall submit any counter designations in a similar fashion within 24 hours.

16. In conducting videotape recordings, counsel should do so with acute sensitivity realizing that the video tape may be shown to a jury. Thus, skillful organization of the testimony, elimination of unnecessary objections and conservation of time are essential in videotape recordings.

17. Whenever a deposition or videotape is to be used, a transcript of the testimony shall be furnished to the court in advance.

18. All exhibits, once identified, shall be placed and kept at all times on the exhibit table in sequential order arranged according to each party except when being used during the examination of a witness. Each exhibit should be offered into evidence at the conclusion of a party's case. Normally, it is the court's policy to send out all exhibits admitted into evidence with the jury when they retire to deliberate. The only exceptions will be those exhibits which all parties agree or which the court, upon motion, determines should not go out with the jury. The court's policy on exhibits reflects its belief that well organized and identified exhibits are of great value to counsel in their efficient presentation of the case as well as to jurors in their understanding of the case.

19. Counsel shall conduct examination of witnesses from counsel table or from the lectern.

20. When necessary to an intelligent understanding of the testimony, counsel may display an exhibit specifically to the jury upon its admission by holding it directly in front of all jurors at once or by circulating the exhibit among the jurors. In either case, counsel should request the court's permission before doing so.

21. Opening statements should be brief and outline only (not argue) the evidence counsel intends to present.

22. Summations should not exceed forty-five (45) minutes unless a shorter or longer time is established by the court. Rebuttal argument by plaintiff shall ordinarily not exceed ten (10) minutes.

These Pretrial and Trial Procedures are effective as of August 1, 1995.