

## **JUDGE THOMAS M. GOLDEN**

Judge Golden was born on November 1, 1947 in Pottsville, Pennsylvania. He received a B.A. from The Pennsylvania State University in 1969 and a J.D. from The Dickinson School of Law in 1972. From 1972 to 2006, Judge Golden was in private practice. In 2003 and 2004 Judge Golden served as the 109<sup>th</sup> President of the Pennsylvania Bar Association. He was appointed to the United States District Court for the Eastern District of Pennsylvania on June 13, 2006.

### **I. INTRODUCTION**

Judge Golden expects all counsel and pro se litigants to adhere to the Federal Rules of Civil Procedure, the Local Rules of Civil Procedure, and the rules of evidence applicable to the case. Judge Golden will rule on issues presented to him in a manner consistent with the law and as dictated by the facts.

### **II. PRELIMINARY GENERAL MATTERS**

#### **A. Correspondence with the Court**

Correspondence on scheduling is accepted, but correspondence on substantive matters is not accepted and will not be considered. Other than scheduling issues or to advise that a case has been settled or discontinued, requests for Court actions, or opposition to Court action, must be made by a pleading filed with the Clerk of Courts.

#### **B. Communications with Law Clerks**

Telephone calls to law clerks are discouraged. Law clerks may not render advice to counsel and have no authority to grant continuances or to give advice on substantive or procedural matters. Therefore, unless contacted directly by a law clerk, counsel should not communicate with the law clerks.

#### **C. Copies of Letters to Counsel**

Counsel should not send the Judge, or his staff, copies of letters sent to each other, unless specifically invited by the Court to do so.

#### **D. Scheduling Questions**

All scheduling questions or issues shall be addressed to the Deputy Clerks as follows:

Marcie Silfies, Civil Deputy Clerk/Judicial Assistant, 610-320-5097 in all civil cases.

Teri Lefkowitz, Criminal Deputy Clerk, 610-320-5030 in all criminal cases.

#### **E. Telephone Conferences**

Judge Golden may hold telephone conferences to resolve scheduling matters or discovery disputes. The Court will notify counsel of the date and time of the telephone conference. Counsel for the moving party will be responsible for initiating the telephone conference and contacting Judge Golden through his Secretary/Deputy Clerks after all parties are present on the call.

#### **F. Oral Arguments and Evidentiary Hearings**

Judge Golden does not set aside certain days or times for oral argument, motions or evidentiary hearings. Hearings and argument are scheduled as warranted.

#### **G. Faxes**

Unless specifically requested or explicitly permitted by the Court, parties should not transmit pleadings, motions, or other filings by fax to chambers.

#### **H. Courtesy Copies**

Counsel should send one (1) courtesy copy of a motion, brief, or memorandum to chambers at the time of filing. Nevertheless, if the motion, brief, or memorandum was electronically filed, you do not need to provide chambers with a courtesy copy.

#### **I. Pro Hac Vice Admissions**

Judge Golden expects motions for pro hac vice admissions to be in writing. He requires the attorney seeking such admission to submit a signed affidavit or certification stating that he or she is a member in good standing of the bar of another state.

### **III. CIVIL CASES**

#### **A. Pretrial Practice**

##### **1. Pretrial Conferences**

A preliminary pretrial conference as described in Federal Rules of Civil Procedure 16(a), (b) and (c) will be held, sometimes by telephone, approximately sixty (60) to ninety (90) days after an action is filed, or after an answer is filed, or shortly after a case is reassigned to Judge Golden's calendar. The preliminary pretrial conference will take approximately thirty (30) minutes. If it is truly impossible for trial or associate counsel to attend the preliminary pretrial conference, counsel should call Judge Golden's chambers to reschedule.

Pursuant to Federal Rules of Civil Procedure 26(f), counsel are required to discuss the following topics prior to the preliminary pretrial conference and to submit by fax to chambers, a conference information report in the form attached: (a) Jurisdictional defects, if any; (b) Prospects of settlement; (c) Establishing schedules for remaining pretrial proceedings including discovery, dispositive motions, exchange of expert reports, pretrial memoranda, etc; (d) Conduct of discovery; and (e) Setting a date for entry of the case into the trial pool.

Additional conferences should be requested by counsel if desired for exploration of settlement or for trial management or trial preparation purposes.

## **2. Continuances and Extensions**

If counsel determine that a change in the scheduling order is necessary, they should attempt to agree on new dates and submit a letter or stipulation to that effect, preferably following the format of the Court's original scheduling order. If there is not agreement, a telephone conference should be requested. Counsel are welcome to suggest appropriate dates for entry of the case into the trial pool.

## **3. Final Pretrial Conference**

There will be a final pretrial conference within ten (10) days of the trial date or the date the case will be placed in the trial pool. Counsel should comply with Local Rule 16.1 regarding the submission of a pretrial memorandum. These memoranda shall be filed, with a courtesy copy to chambers, no later than seven (7) days prior to the Pretrial Conference.

During this conference, the Court will address factual and legal issues, the admissibility of exhibits, scheduling issues, and settlement. At the conclusion of the conference, the Court will issue a Final Pretrial Order or a Final Scheduling Order in a Complex Case.

### **B. General Motion Practice**

#### **1. Timing**

Motions to dismiss, amend, transfer, add parties, or other threshold motions should be filed, whenever possible, before the Preliminary Pretrial Conference.

#### **2. Oral Argument on Motions**

If the Court believes oral argument will be helpful in deciding a matter, it will schedule it, particularly when it involves a dispositive motion. A party desiring oral argument should request it by letter or in the body of the motion or responsive pleading.

### **3. Expert Witnesses**

Motions relating to expert testimony should be made promptly after the close of discovery, and in any event, prior to the filing of dispositive motions, or if none, prior to entry of the case into the trial pool.

### **4. Reply and Surreply Briefs**

Reply and surreply briefs are not permitted unless leave to file the same is granted upon motion of a party.

### **5. Dispositive Motions**

#### **a. Briefing Schedule**

The parties may stipulate to a briefing schedule.

#### **b. Components of the Opening Brief**

The party filing a dispositive motion shall include, preferably as a separate document, or, if short, within the Memorandum of Law, a “Statement of Undisputed Facts”, which sets forth, in numbered paragraphs, all material facts that the moving party contends are undisputed, with record references.

#### **c. Components of Responsive Briefs**

The responding party shall include, preferably as a separate document, or within the Memorandum of Law, a “Statement of Disputed or Undisputed Facts” responding to the numbered paragraphs set forth in the moving party’s statement, either admitting that the paragraph is not disputed, or if disputed, setting forth those facts contended to be in dispute, with record reference to where the party’s contention is supported in the papers filed with the Court on the dispositive motion.

The responding party may also set forth, in additional numbered paragraphs, any additional materials facts which the responding party contends preclude the granting of the dispositive motion, with record references.

#### **d. Exhibits**

Exhibits should be listed in an index and preferably tabbed.

**e. Rule 56 Motions**

Any motion for summary judgment filed pursuant to Federal Rule of Civil Procedure 56 shall include a short and concise Statement of Undisputed Facts as a separate exhibit. The Statement shall set forth, in numbered paragraphs, all material facts that the moving party contends are undisputed and entitle the movant to judgment as a matter of law. Only those facts which bear on material issues which will be dispositive should be included.

The papers opposing a motion for summary judgment shall include as a separate exhibit a short and concise statement of the material facts, which respondent contends present genuine issues for trial. This statement should respond to the numbered paragraphs set forth in the moving party's Statement of Undisputed Facts. The responding party also shall set forth, in separate numbered paragraphs, any additional facts which the respondent contends preclude summary judgment. The Court will accept all material facts set forth in the moving party's statement as admitted unless controverted by the opposing party.

Statements of material facts in support of or in opposition to a motion for summary judgment shall include specific and not general references to the parts of the record that support each statement. Each stated fact shall cite the source relied upon, including the page and line of any document to which reference is made.

**C. Discovery Matters**

**1. Length of Discovery Period and Extensions**

In an uncomplicated case, discovery should be completed within 120 days after appearances have been filed for all parties. The date for completing discovery will be set at the Preliminary Pretrial Conference. In complex cases, following the Preliminary Pretrial Conference, counsel will be directed to file a joint discovery schedule.

Counsel are expected to initiate discovery immediately following the Preliminary Pretrial Conference, and to complete discovery within the stated deadline. Unless specifically ordered, counsel need not file a discovery report.

The discovery deadline means that, unless otherwise specified, all reasonably foreseeable fact and expert discovery must be served, noticed, and completed by that date. Discovery may take place thereafter only by agreement of the parties, so long as the trial will not be delayed and trial preparation will not unreasonably be disrupted.

Unexcused violations of Scheduling Orders are subject to sanctions under Federal Rule of Civil Procedure 16(f), upon Motion or the initiative of the Court.

## **2. Initial Disclosures and Document Production**

Initial disclosures under Rule 26(a) shall be made prior to the Rule 16 Conference. As a general rule, once the initial disclosures have been completed, the parties should serve document requests forthwith and arrange for the production and copying of documents in a cooperative manner. Documents produced should be stamped showing their origin with an appropriate numbering system.

## **3. Discovery Conferences and Dispute Resolution**

When a discovery default occurs, the Court will consider a motion to compel under Local Civil Rule 26.1(g). If the parties are unable to resolve the matter by themselves, after the reasonable efforts required by Local Civil Rule 26.1(f), the parties seeking relief may file a motion to compel. The motion shall not exceed five (5) pages, shall not contain exhibits, and shall not include a brief or memorandum of law.

Once a motion to compel is filed, the Court will schedule a telephone or in-person conference to resolve the dispute as soon as possible. The responding party may file a response within five (5) days. The response shall also be limited to five (5) pages and shall not include exhibits or a brief or memorandum of law. If the parties resolve the dispute, the conference will be cancelled. If the Court's intervention is required, the Court may impose sanctions in favor of the prevailing party. Judge Golden permits a telephone conference to resolve disputes during depositions in cases where the deposition would otherwise have to be adjourned.

## **4. Confidentiality Agreements**

Agreements on "confidentiality" may be made between counsel without Court approval. If submitted for Court approval, the agreement must specifically define the type of materials to be protected as "confidential" and may not place any restrictions on the use of "confidential" materials by the Court or in any hearing or trial in Court.

### **D. Settlement**

A settlement conference is required in every case by a Court-appointed mediator, an independent mediator, a Magistrate Judge or Judge Golden. The timing of the settlement conference is to some extent in the hands of counsel. Early settlement conferences are encouraged because they have the potential of saving expenses. In some cases, however, counsel legitimately want to undertake some discovery before engaging in settlement discussions. Counsel should not hesitate to request a settlement conference when it is in the mutual desire of all parties.

**E. Arbitration**

**1. General Approach to Arbitration**

Judge Golden will not hold a Rule 16 conference or issue a Scheduling Order in arbitration track cases, unless there is a de novo appeal from an arbitration award. The parties are expected to complete all discovery prior to the date of the arbitration hearing.

Upon demand for trial de novo from an arbitration award, the Court will issue a Scheduling Order setting the date for trial at the earliest date available to the Court. Ordinarily, neither discovery nor dispositive motions will be allowed after the arbitration hearing is held.

**F. Final Pretrial Memorandum**

**1. Required Form of Pretrial Memorandum**

Unless otherwise ordered by the Court, the pretrial memorandum shall be prepared in accordance with the provisions of Local Rule of Civil Procedure 16.1(c), and should also include the following items:

- a. All stipulations of counsel;
- b. A statement of objections to: (1) the admissibility of any exhibit based on authenticity; (2) the admissibility of any evidence expected to be offered for any reason (except relevancy); (3) the adequacy of the qualifications of an expert witness expected to testify; and (4) the admissibility of any opinion testimony from lay witnesses pursuant to Federal Rule of Evidence 701. Such objection shall describe with particularity the ground and the authority for the objection; and
- c. Deposition testimony (including videotaped deposition testimony) that the party intends to offer during its case-in-chief. The statement should include citations to the page and line number and the opposing party's counter-designations.

**G. Injunctions**

**1. Scheduling and Expedited Discovery**

Judge Golden will promptly list any request for a temporary restraining order (“TRO”) or a preliminary injunction assigned to him.

**2. Pre-Hearing Conference**

Judge Golden will hold a pre-hearing conference to discuss discovery issues, narrow the issues of contention, and allocate time for the hearing. Expedited discovery will be discussed and,

when appropriate, ordered at the conclusion of the pre-hearing conference.

### **3. Proposed Findings of Fact and Conclusions of Law**

Judge Golden requires submission of proposed findings of fact and conclusions of law for TRO and injunction hearings. The Court will set the time for submission of these items at the pre-hearing conference.

## **H. Trial Procedure**

### **1. Scheduling Cases**

Judge Golden intends that most cases should be tried (if not settled) within one (1) year of filing. If extended pre-trial proceedings are necessary, every case should reach trial no later than two (2) years after the date of filing. Exceptions will be necessary only when there have been interlocutory appeals or other unusual pretrial procedures.

### **2. Cases Involving Out-Of-Town Parties or Witnesses**

Judge Golden schedules the trial cases involving out-of-town counsel, parties, or witnesses in the same manner as all other cases. Counsel are responsible for the scheduling of witnesses.

### **3. Conflicts of Counsel**

Counsel should notify the Court immediately upon hearing of any unavoidable and compelling professional or personal conflicts affecting the trial schedule.

### **4. Note Taking by Jurors**

Judge Golden permits jurors to take notes.

### **5. Offers of Proof**

If any party desires an “offer of proof” as to any witness or exhibit expected to be offered, the party shall inquire of counsel prior to trial for such information. If the inquiring party is dissatisfied with any offer provided, such party shall file a motion seeking relief from the Court prior to trial.

### **6. Voir Dire**

Judge Golden permits counsel to conduct all voir dire in civil cases. There is generally a time limit of thirty (30) minutes for each side for voir dire.

**7. Trial Briefs**

Parties shall submit a trial brief only if a new or unique point of law is involved.

**8. Motions In Limine**

The timing for filing motions in limine will be determined at the Rule 16 conference and will be confirmed in the Scheduling Order.

**9. Opening Statements and Summations**

In most cases, the Court permits twenty (20) to thirty (30) minutes for an opening statement and thirty (30) to forty-five (45) minutes for a summation or closing argument.

**10. Examination of Witnesses or Argument by More Than One Attorney**

More than one attorney for a party may examine different witnesses or argue different points of law before the Court. Only one attorney for each side may examine the same witness or address the jury during opening statement or summation.

**11. Videotaped Testimony**

Videotaped testimony should begin with the witness being sworn. Counsel should bring objections to the Court's attention at the time of the final pretrial conference. After the Court rules on any objections, counsel should edit the tapes before offering the videotaped testimony at trial.

**12. Preparation of Exhibits**

Exhibits should be pre-marked and exchanged in accordance with the Final Pretrial Order. On the day trial is scheduled to commence, counsel should provide one copy of each exhibit and a copy of a schedule of exhibits to the Court.

**13. Offering Exhibits into Evidence**

Unless the parties have an agreement as to the admissibility of a proposed exhibit, a witness may not testify as to its content until it has been admitted into evidence.

**14. Directed Verdict Motions**

Motions for judgment as a matter of law in jury trials and motions for an involuntary dismissal in non-jury trials must be in writing. Oral argument on the motions is ordinarily permitted.

## **15. Proposed Jury Instructions and Verdict Forms**

In his Scheduling Order, Judge Golden typically requires that the parties submit proposed jury instructions on substantive issues and proposed verdict forms or special interrogatories for the jury no later than ten (10) days before the trial or trial pool date. Jury instructions need only be submitted with respect to substantive issues in the case. Proposed instructions on procedural matters such as the burden of proof, unanimity, and credibility are not necessary.

Each proposed instruction shall be on a separate sheet of paper, double spaced, and should include citation to specific authority. The Court will not consider proposed instructions without citation to specific legal authority. Cases and model jury instructions that are cited should be accurately quoted and a page reference should be provided.

Counsel will have the opportunity to file supplemental points or proposed findings of fact and conclusions of law during the trial as necessary.

If a model jury instruction is submitted, for instance, from Devitt & Blackmar, Federal Jury Practice and Instructions, the submitting party shall state whether the proposed jury instruction is unchanged or modified. If a party modifies a model jury instruction, the additions should be underlined and deletions shall be placed in brackets.

## **16. Proposed Findings of Fact and Conclusions of Law**

Proposed findings of fact and conclusions of law in non-jury cases shall be submitted at least seven (7) days before the trial or trial pool date. They should be on hard copy. The parties may submit revised or supplemental findings of fact and conclusions of law with specific reference to trial evidence at the conclusion of the case. A schedule for the submission of revised findings/conclusions will be discussed at the conclusion of trial.

### **I. Jury Deliberations**

#### **1. Written Jury Instructions**

In the appropriate case, the Court will give the jury a copy of the written jury instructions.

#### **2. Evidence in the Jury Room**

After the jury has been instructed and taken to the jury room to begin deliberations, the Court and counsel will discuss which exhibits should go out with the jury for their consideration during deliberations.

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

At the jury's request, the Court may permit the Deputy Clerk to read portions of testimony back to the jury or to replay the audio or videotaped testimony.

### **4. Availability of Counsel During Jury Deliberation**

Unless excused by the Court, counsel must remain in the courthouse during jury deliberations.

### **5. Taking the Verdict and Special Verdicts**

Ordinarily, the Court will submit interrogatories to the jury. The Courtroom Deputy will take the verdict in the presence of the Court, counsel and the parties.

### **6. Polling the Jury**

Judge Golden permits polling the jury if counsel makes a timely request.

### **7. Interviewing the Jury**

After the verdict is recorded, Judge Golden advises the jurors that they are under no obligation to speak to counsel, however, they may do so if they so elect.

## **IV. CRIMINAL CASES**

### **A. Approach to Oral Argument and Motions**

Judge Golden has no policy on the scheduling of oral argument on motions. He tries to consolidate such arguments with a pretrial conference. Hearings on motions to suppress are held as far in advance of trial as possible; they are rarely held on the morning of trial.

### **B. Pretrial Conferences**

Generally, Judge Golden does not hold pretrial conferences in every criminal case. In multi-defendant or otherwise complex cases, he may schedule several conferences in open court. He often finds it most helpful to hold a motions hearing at least one or two weeks before the start of trial.

### **C. Voir Dire**

Judge Golden conducts voir dire in criminal cases. He requests that counsel submit proposed voir dire questions at least a day in advance of trial for his consideration.

#### **D. Sentencing Memoranda**

Judge Golden requires the parties to submit objections to the Pre-Sentence Investigation Report and sentencing memoranda in accordance with the Notice of Sentencing, which will be issued shortly after the entry of a guilty plea or conviction.

### **V. OTHER GENERAL MATTERS**

#### **A. Briefs of Cases on Appeal**

Judge Golden welcomes copies of appellate briefs when a decision he has made is appealed.

#### **B. Consultation with Opposing Counsel**

In general, Judge Golden expects counsel to bring matters to his attention only after they have been discussed with opposing counsel. When communicating with the Court, counsel should be prepared to state the position of opposing counsel.

#### **C. Professionalism**

Judge Golden will insist on punctuality and courtesy from counsel to the Court and to each other, both in the presence of the Court and otherwise. Counsel should rise to address the Court and should seek permission of the Court before approaching witnesses or the bench. In addition, counsel will direct all comments to the Court or to the witness under examination and not to other counsel or to the jury. To the extent possible, the parties should notify the Court of any issues that will need to be ruled upon at the start of the day's proceedings, or during a recess out of the jury's presence.

CONFERENCE INFORMATION REPORT

CIVIL ACTION NO. \_\_\_\_\_

JURY TRIAL \_\_\_\_\_ NON-JURY TRIAL \_\_\_\_\_ ARBITRATION \_\_\_\_\_

SERVICE OF PROCESS MADE \_\_\_\_\_ (Date)

SHORT CAPTION:

TRIAL COUNSEL \_\_\_\_\_

REPRESENTING \_\_\_\_\_

LAW FIRM \_\_\_\_\_

ADDRESS \_\_\_\_\_

TELEPHONE & FAX \_\_\_\_\_

DISCOVERY COMPLETED \_\_\_\_\_ IF NOT, WHEN? \_\_\_\_\_ (Date)  
Yes

PROTRACTED DISCOVERY REQUIRED? \_\_\_\_\_  
Yes/No

IF YES, DESCRIBE PROPOSED DISCOVERY SEGMENTS BY SUBJECT MATTER OR PARTIES AND SUGGEST DATES FOR SEGMENTS:

OTHER PRETRIAL MATTERS:

SETTLEMENT CONFERENCE REQUESTED? \_\_\_\_\_

TRIAL TIME: TIME TO PRESENT YOUR CASE \_\_\_\_\_  
TIME FOR ENTIRE TRIAL \_\_\_\_\_

OTHER COMMENTS:

DATE: \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF COUNSEL

\_\_\_\_\_  
TYPE OR PRINT NAME

This form should be faxed to Chambers at 610-320-5002 or mailed or hand delivered to Chambers, The Madison Building, Room 401, 400 Washington Street, Reading, PA 19601.