

PRETRIAL AND TRIAL PROCEDURE
Judge Clarence C. Newcomer
Effective October 1, 2004

I. General Policies

A. Communication

1. The use of the Electronic Filing System for the submission of complaints, notices of appeal, notices of removal and other civil documents is encouraged. The Electronic Filing System provides greater efficiency and timeliness in the filing of pleadings, as well as electronic storage of documents for remote access by the Court, the bar and the litigants. Applications are available from the Office of the Clerk of Court, 601 Market Street, Room 2609, Philadelphia, Pennsylvania 19106-1797 or (215) 597-5711.
2. Counsel are advised that their current telephone and FAX number(s) and any changes thereto are to be submitted to the courtroom deputy clerk.

B. Contact Information

3. The Court's current contact information is:
Phone 215-597-7847
Fax 215-580-2140
Courtroom 13A
Chambers 13th Floor, United States Courthouse
 Independence Mall
 Philadelphia, PA 19106

II. Pretrial

A. Scheduling

4. Counsel shall be familiar with the provisions of F.R.C.P. 16 and with this Court's Civil Justice Expense and Delay Reduction Plan.¹ This Court will follow the Plan's recommendations where appropriate; however, in the event of a conflict between the Plan's recommendations and this Court's scheduling orders the scheduling orders of the Court shall govern.
5. By the pre-trial conference, counsel should have completed initial disclosures

¹A copy of the Plan is available at the Court's website, www.paed.uscourts.gov under the heading "Documents."

pursuant to F.R.C.P. 26.

6. By the time of the pre-trial conference, counsel for both parties should have had initial talks with their clients regarding settlement. The Court will inquire as to the status of such discussions at the conference.

B. Discovery

7. Discovery shall be conducted promptly and diligently. Deadlines will be enforced and neither unnecessary discovery nor obstructions will be tolerated. Should a discovery conflict arise between the parties that is not resolved in a reasonable period, counsel should call the Court to settle the dispute.

C. Motions

8. Motion in Limine must be filed no later than seven (7) days before the final pre-trial conference. Responses to these motions should be no later than four (4) days before the final pre-trial conference.
9. **Briefs supporting and opposing dispositive motions should be no longer than fifteen (15) pages.**
10. Reply briefs are only permitted by leave of the Court.

III. Trial

A. Pretrial Submissions

11. Pretrial memoranda required to be delivered to the Court as per Court order shall include the following:
 - A. A brief, concise summary of the nature of the case. Please consider use of a roadmap type diagram, if helpful, to show relationship between parties and claims. This brief should be no longer than ten (10) pages.
 - B. A list of all reasonably anticipated witnesses with a brief statement of the nature of their testimony. Witnesses not listed may not be called in the party's case in chief. Counsel has the responsibility to have all witnesses available in Court as scheduled. Failure to do so may result in sanctions. This pretrial submission does not relieve attorneys of their obligations to inform opposing counsel of their anticipated witnesses at least thirty (30) days before trial, as mandated by Fed. R. Civ. Pro. 26(a)(3).
 - C. A list of all exhibits pre-numbered and pre-exchanged among all counsel. Exhibits they should be tabbed to facilitate ease and speed in locating an

exhibit. This Court's required Exhibit List is attached.

- 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 during trial 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, joint 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. Submissions shall be on disk in WordPerfect format.

All submissions to the Court including exhibits shall be in duplicate unless excused by the Court because of burdensomeness.

- 12. In civil cases, **no voir dire questions need to be submitted to the Court.** Voir dire questions will be conducted independently. The Court will become involved in the voir dire questioning only should an issue arise necessitating the Court's attention.

B. Final Pretrial Conference

- 13. At the final pretrial conference, counsel shall have full settlement authority or have their clients available by telephone.
- 14. Counsel should be prepared to go to trial as early as the day of the final pretrial conference. Counsel should make every effort to avoid any conflict with these dates and the Court will make every effort to commence trial as scheduled.
- 15. Any appeal from an arbitration award shall be scheduled by the Court for a final pretrial conference forthwith.

C. Opening and Closing Statements

- 16. Opening statements shall be **brief and outlines only (not argument)** of the evidence counsel intends to present. Opening statements and summations may be delivered from the lectern or closer to the jury if desired.
- 17. Summations shall not exceed thirty minutes except upon special exception in a complex case. Rebuttal argument by plaintiff shall

ordinarily not exceed five minutes and shall be confined strictly to a response to unanticipated argument by opposing counsel. Reargument will not be permitted.

D. Exhibits

18. The attached Exhibit List must be completed and submitted at or before the final pre-trial conference. Please note that the columns with headings in BOLD must be completed.
19. Counsel shall provide to the Court two copies of all exhibits pre-numbered and pre-exchanged among all counsel.
20. 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 in duplicate at least 24 hours before commencement of trial. Opposing counsel shall submit any counter-designations in a similar fashion within 24 hours. Use of a highlighter is suggested.
21. All videotape recordings shall be conducted with an acute sensitivity that the videotape will be shown to a jury. Skillful organization of the testimony, elimination of unnecessary objections, and conservation of time are strongly urged.
22. Whenever a deposition or videotape is to be used, a transcript of the testimony shall be furnished to the Court in advance.
23. All exhibits, once identified, shall be placed and kept at all times on the exhibit table in sequential order arranged by each party. Each exhibit should be offered into evidence as it becomes admissible. Normally it is the Court's policy to send all exhibits admitted into evidence out with the jury when they retire to deliberate. The only exceptions will be those exhibits which the court determines, at counsel's suggestion, to be prejudicial. At the conclusion of the trial, counsel, as officers of the court, shall take custody of their respective exhibits and safeguard them pending the expiration of all appeal periods.
24. When necessary to an intelligent understanding of the testimony, counsel may display briefly an exhibit specifically to the jury upon its admission by holding it directly in front of all jurors at once.

E. Witnesses

25. Counsel has the responsibility to have all witnesses available in Court as scheduled. Failure to do so may result in sanctions.
26. Whenever an expert witness is called he shall be sworn or affirmed and counsel shall then read his pertinent qualifications to the jury, limited to his education and degrees, and a brief statement of experience in the specific field of expertise and particularly relevant work or achievements. Opposing counsel may then object and conduct a brief voir dire limited to qualifications. The Court will then rule.
27. Except for good cause shown, counsel shall be limited in the examination of a witness to direct, cross, redirect and recross. Redirect and recross should be used sparingly.
28. Counsel may conduct examination of witnesses from counsel table or from the lectern.

F. Trial Proceedings

29. It is the Court's intention to avoid any side bar conferences and counsel are therefore instructed to anticipate legal issues and objections and to raise them prior to commencement of trial, at a recess or after adjournment.
30. Court sessions unless modified 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 2:00 p.m. and continue until 5:00 p.m. with a short mid-afternoon break. Because of the jurors' transportation considerations, the daily adjournment time will be scrupulously observed and counsel must fit all witnesses into that time frame and not seek exceptions.