

JUDGE CYNTHIA M. RUFÉ
POLICIES AND PROCEDURES

REVISED APRIL 2018

Judge Rufe was born in 1948 in Philadelphia, Pennsylvania. She received a B.A. from Adelphi University in 1970, and a J.D. from the Law School of the State University of New York in 1977. Judge Rufe served as deputy in the Bucks County Public Defender's Office and also served as coordinator in the Juvenile Division from 1977 to 1982. From 1982 to 1993, Judge Rufe was in private practice, during which time she served as a solicitor for the Bucks County Children and Youth Services Agency from 1984 to 1988. Judge Rufe served as a judge on the Bucks County Court of Common Pleas from 1994 to 2002. She was appointed to the United States District Court for the Eastern District of Pennsylvania on May 3, 2002.

GENERAL INFORMATION

1. Communications with Judge Rufe's Chambers

Judge Rufe permits communications with Chambers via telephone, regular mail, or facsimile (10-page limit) regarding scheduling and other non-substantive matters. All other issues must be addressed by an appropriate motion or other filing. Transmittal of pleadings, motions, or other filings by facsimile to Chambers is not permitted.

Under no circumstances may any party or counsel communicate *ex parte* with any Chambers personnel concerning substantive matters. Law clerks may not render advice to counsel and have no authority to grant continuances or any other relief. Telephone inquiries should be directed as appropriate to either of the following:

Judicial Secretary/Civil Courtroom Deputy: Velma T. White

Telephone: (267) 299-7490

Facsimile: (267) 299-5077

Contact for matters related to civil scheduling and case management, requesting telephone conferences, and general procedures.

ESR/Criminal Courtroom Deputy: Erica Pratt

Telephone: (267) 299-7499

Facsimile: (267) 299-7498

Contact for matters related to criminal scheduling and case management, and obtaining transcripts of civil and criminal proceedings.

2. Telephone Conferences

Counsel may arrange a telephone conference with Judge Rufe to resolve straightforward discovery disputes, but complicated matters should be resolved via formal motion and briefing. Counsel must exhaustively address all discovery disputes with opposing counsel before

requesting Judge Rufe's assistance. Counsel for one of the parties must initiate all conference calls.

3. Stipulations

Any stipulations requiring Court approval or the Judge's signature must be submitted via letter or facsimile to Chambers.

4. Electronic Case Filing

Judge Rufe requires all counseled parties to use Electronic Case Filing ("ECF"). ECF provides greater efficiency and timeliness in the filing of pleadings, automatic e-mail notice of case activity, as well as electronic storage of documents for remote access by the Court, the Bar, and the litigants. Attorneys are urged to register as ECF Users in accordance with Rule 5.1.2 of the Local Rules of Civil Procedure, referencing the Procedural Order on Electronic Case Filing. Proposed orders should be attached to corresponding motions or memoranda of law.

5. Standing Orders

Judge Rufe has no standing Orders.

CIVIL MATTERS

1. Rule 26 Conferences

Judge Rufe relies on counsels' good-faith compliance in all respects with Federal Rule of Civil Procedure 26(f). The Rule 26(f) meeting shall take place as soon as possible and, in any event, at least 14 days before the Rule 16 scheduling conference. Outstanding motions will not excuse counsel from timely holding the meeting. Compliance is mandatory. The meeting should not be viewed as perfunctory, but rather as a meaningful and substantive discussion among professionals to formulate the discovery plan required by the Rule. Parties who do not comply will have no voice at the Rule 16 scheduling conference and may be subject to additional sanctions.

2. Rule 16 Scheduling Conferences

Judge Rufe will issue an Order for a Rule 16 scheduling conference to be held via telephone (or, in the case of *pro se* parties, in open court). Counsel should read carefully all instructions contained in the Order. The parties must file a Rule 26 plan at least **one week before** the Rule 16 conference.

Lead trial counsel must participate in the Rule 16 conference and must enter an appearance prior to the conference unless Judge Rufe approves a substitution. All applications to appear *pro hac vice* must be approved prior to the conference.

After the conference, Judge Rufe will issue a Scheduling Order to govern further proceedings in the case. The Scheduling Order will usually include the requirements and deadlines set forth in the Sample Scheduling Order attached hereto at Appendix 1.

3. Settlement Conferences

Judge Rufe addresses the possibility of settlement at all stages in the proceedings. In addition, consistent with Local Rule 53.3, Judge Rufe directs all parties to consider the use of an alternative dispute resolution process at an appropriate stage in the litigation. Magistrate Judge Carol Sandra Moore Wells is available to conduct settlement conferences in civil matters, and Judge Rufe strongly encourages litigants to avail themselves of Judge Wells's skillful assistance.

If for any reason counsel desires a continuance of a settlement conference listed before Judge Wells, counsel must contact Judge Wells's Chambers directly. If, however, the requested continuance exceeds 14 days, counsel must receive Judge Rufe's approval before contacting Judge Wells's chambers.

4. Pretrial Conferences

Pretrial conferences are typically scheduled shortly before the date for which a trial is scheduled. Judge Rufe utilizes the pretrial conference to resolve any motions *in limine* and other pretrial matters, and to discuss *voir dire* and other trial procedures.

5. Requests for Extensions of Time

Where compelling circumstances so require, counsel may request an extension of a filing or other deadline only if such request has no effect on other existing deadlines. Judge Rufe will extend the deadline for filing dispositive motions or a trial date only in very limited circumstances and where genuinely necessary. If a request for an extension is unopposed, counsel must so state and may submit the request via motion, letter, or joint stipulation. Opposed requests must so state and be filed as a motion.

6. Pretrial Settlement

Upon reaching a settlement, counsel must notify Judge Rufe's Chambers immediately and request dismissal of the action pursuant to Local Rule of Civil Procedure 41.1 or some other procedure that will effectively terminate the litigation.

7. Motions Practice

In most cases, summary judgment motions filed pursuant to Federal Rule of Civil Procedure 56 will utilize the form and schedule outlined in Attachment A to the Sample Scheduling Order (Appendix 1 hereto), which is known as the “alternative method.” When there are cross-motions for summary judgment or in other rare cases, however, Judge Rufe will permit the parties to file their Rule 56 Motions under the traditional method. Judge Rufe will notify the parties in the Scheduling Order governing their matter whether they must file their Rule 56 Motions pursuant to the alternative method outlined in Attachment A to the Sample Scheduling Order.

Under the alternative method, Motions for Summary Judgment under Rule 56 shall not exceed five double-spaced pages. For the purposes of such a Motion only, Local Rule of Civil Procedure 7.1(c) does not apply to require the submission of a memorandum of law in support of the initial Motion. Rather, the Motion shall be made in outline form, identifying the issues which form the basis of the party’s request for relief. The non-moving party’s Response memorandum shall not exceed 25 double-spaced pages. Likewise, the moving party’s Reply memorandum shall not exceed 25 double-spaced pages. Any Sur-Reply memoranda shall not exceed 10 double-spaced pages. The parties need not seek leave of Court to file their Reply and Sur-Reply memoranda.

Under the traditional method, a moving party’s Memorandum of Law in support of its Motion for Summary Judgment shall not exceed 25 double-spaced pages. The Response shall not exceed 25 double-spaced pages. Any Reply or Sur-Reply shall not exceed 10 pages, and may be filed without leave of Court.

For all other motions, Judge Rufe follows the requirements of Local Rule of Civil Procedure 7.1. Memoranda in support of such motions and responses shall not exceed 15 double-spaced pages. Reply and Sur-Reply memoranda may be filed without leave of Court and shall not exceed 10 double-spaced pages. The motion and attached Reply or Sur-Reply shall be filed within 14 days of the memorandum to which the Reply or Sur-Reply responds.

Judge Rufe appreciates courtesy copies of significant motions, memoranda of law, and other pleadings, but requests that counsel send to Chambers only **one** courtesy copy. In the case of significant motions with voluminous attachments or exhibits, counsel should supply Chambers with a courtesy copy of all relevant materials, arranged in an orderly fashion, upon filing. Transmittal of courtesy copies by facsimile is not permitted.

Unless oral argument is requested and may be useful, Judge Rufe regularly decides motions on the papers.

8. Trial

Judge Rufe regularly sets matters for trial after resolving dispositive motions. In the event that a dispositive motion does not terminate a case, Judge Rufe will order the parties to file a status report informing the Court whether the case has settled within a period of time following the Order for the report. In the event that a case has not settled, Judge Rufe will request jointly proposed dates for trial. Judge Rufe will then schedule the trial and set deadlines for pretrial matters.

For any civil litigation issues not addressed above, please consult the Local Rules of Civil Procedure for the Eastern District of Pennsylvania, available at:
<http://www.paed.uscourts.gov/documents/locrules/civil/cvrules.pdf>.

CRIMINAL MATTERS

1. Motions Practice

All pretrial motions must be filed no later than 30 days in advance of the scheduled trial date, and except in rare circumstances, will be heard on a date prior to the scheduled trial date. In multi-defendant proceedings, all motions will be heard jointly. Defendants may not join in co-defendants' pretrial motion(s) without leave of the Court. Counsel are advised to provide Judge Rufe with supporting memoranda as soon as possible and no later than the date of the hearing. Such supporting memoranda shall not exceed 25 double-spaced pages.

All post-trial motions must be filed in accordance with the Federal and Local Rules of Criminal Procedure. Supporting memoranda for such motions and response memoranda shall not exceed 25 double-spaced pages. Reply and Sur-Reply memoranda may be filed only with leave of Court and shall not exceed 10 double-spaced pages.

2. Continuances of Trial

Any request for a continuance must be filed no later than 14 days in advance of the scheduled trial date. Requests for a continuance must be filed as motions stating the reasons for the request. Any such motion must be accompanied by a proposed form of Order which, if approved by the Court, would grant the relief sought by the motion. The proposed form of Order **must** be consistent with the requirements of the Speedy Trial Act, 18 U.S.C. § 3161(h)(7), and include a proposed finding that explains in reasonable detail why the ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendant in a speedy trial. Requests by letter are not permitted.

3. Pretrial Conferences

Judge Rufe will schedule a pretrial conference with counsel at least three days prior to the scheduled trial date. The conference may be conducted by telephone in limited circumstances. Any issues related to *voir dire*, motions *in limine*, jury instructions, and jury verdict forms will be addressed at that time.

4. Voir Dire

Judge Rufe conducts extensive *voir dire* in criminal jury matters. Counsel are permitted to address the venire with follow-up questions.

5. Sentencing

If the Court accepts a guilty plea or there is a conviction at trial, Judge Rufe will schedule a speedy sentencing for a date selected at the time of the plea or verdict. Judge Rufe discourages continuance of sentencing, and sentencing will be continued for good cause only. Judge Rufe will generally not consider any request for a continuance exceeding 90 days.

In the rare event of a 90-day continuance, if counsel for both the Government and the defendant(s) believe that good cause exists for an additional continuance beyond the 90-day period, counsel may jointly request in writing an additional continuance. Any such request must state why good cause exists for an additional continuance. If Judge Rufe grants such a request, counsel shall be required to submit in writing a joint status update every 30 days until judgment of sentence is entered.

Sentencing motions and supporting memoranda must be filed at least 14 days prior to the scheduled sentencing date, and any response thereto must be filed at least seven days prior to the scheduled sentencing date.

Sentencing memoranda (exclusive of motions) must be filed no later than seven days prior to the scheduled sentencing date, and any response thereto must be filed at least three days before the scheduled sentencing date.

For criminal litigation issues not addressed above, please consult the Local Rules of Criminal Procedure for the Eastern District of Pennsylvania, available at: <http://www.paed.uscourts.gov/documents/locrules/criminal/crrules.pdf>.

6. On or before **[date]**, the parties, through counsel, shall jointly report to the Court, in writing, as to whether they wish to have a settlement conference before a magistrate judge, attempt mediation under Local Civil Rule 53.3 (a copy of which is attached hereto as Attachment B), or pursue some other form of alternative dispute resolution, for assistance in resolving the case and, if so, indicate by what date they will be prepared to commence such proceedings. This joint report should be submitted to chambers by fax (to (267) 299-5077) and not filed of record. **[Alternative:** Parties through counsel agree that this case shall be submitted to a settlement conference before Magistrate Judge Carol Moore Wells. Counsel for the parties are directed to report to Judge Wells's chambers (Room 3016) on **[date]**. The parties and/or persons with full authority to settle **must** accompany counsel unless excused in advance by Judge Wells.]

It is so **ORDERED**.

BY THE COURT:

CYNTHIA M. RUFÉ, J.

Scheduling Order Attachment A

JUDGE RUFÉ'S REQUIRED PROCEDURE ON SUMMARY JUDGMENT FOR THOSE MOVING UNDER RULE 56

1. **Initial Filing of Moving Party:** A party moving under Rule 56 may move without reference to supporting affidavits or other evidence and, in doing so, the party shall:
 - (1) identify in outline form the issue(s) and/or sub-issue(s) to which the Motion is directed;
 - (2) affirm, on the basis prescribed in Rule 11, that there is no legally sufficient evidentiary basis for the non-movant to prevail upon the identified issues;
 - (3) provide a separate, concise Statement of Stipulated Material Facts, as described below; and
 - (4) request judgment.

The initial filing by the moving party generally should not exceed five double-spaced, type-written pages, excluding the Statement of Stipulated Material Facts.

No later than 14 days before the case dispositive motion deadline, the parties shall meet and confer about the material facts. The initial filing of the moving party must include a

concise Statement of Stipulated Material Facts. This Statement shall set forth (in numbered paragraphs) only material facts and only facts that the parties agree are not in dispute for the purposes of Summary Judgment.

2. **Response of Non-Moving Party:** The non-moving party shall file a Response within 21 days after the Motion is served. The Response shall be supported with affidavits, depositions, documents or other evidence permitted by Rule 56. Where applicable, references to such evidence must include specific citations to exhibit, page, and line number. The Response may not exceed 25 pages.

3. **Reply of Moving Party:** The movant shall file a Reply. The Reply must be filed not later than 14 days after the Response from the non-moving party is served. The Reply must specify the relevant exhibit, page, and line numbers when referring to the record. The Reply may not exceed 25 pages.

4. **Sur-Reply of Non-Moving Party (Optional):** The non-moving party may, within seven days after the Reply is received, file a Sur-Reply. The Sur-Reply must specify the relevant exhibit, page, and line numbers when referring to the record and may not exceed 10 pages.

The purpose of this procedure is to promote efficiency by requiring the initial brief to identify genuinely disputed material facts about the issues the moving party raises.

Scheduling Order Attachment B

LOCAL RULE OF CIVIL PROCEDURE 53.3: ALTERNATIVE DISPUTE RESOLUTION

1. Litigants in all civil actions, exempting only social security appeals, pro se prisoner civil rights actions, and petitions for habeas corpus, shall be required to consider the use of an alternative dispute resolution process (the “ADR process”) at an appropriate stage in the litigation.

2. ADR processes may include mediation and settlement conferences and such other ADR processes as the judge to whom the case is assigned (the “assigned judge”) may designate.

3. All ADR processes subject to this Rule shall be confidential, and disclosure by any person of confidential dispute resolution communications is prohibited unless confidentiality has been waived by all participants in the ADR process, or disclosure is ordered by the assigned judge for good cause shown.

4. Nothing in the Rule shall be construed to limit the assigned judge from (a) conducting settlement conferences or referring a matter to a magistrate judge for a settlement conference, or

(b) ordering the litigants to participate in an ADR process, or (c) approving or disapproving of an ADR process selected by the litigants.

5. The Alternative Dispute Resolution (“ADR”) Committee of the court shall administer, oversee, and evaluate the court’s ADR program in accordance with the Alternative Dispute Resolution Act of 1998. The Clerk of Court, or such other person as may be designated from time to time by the Chief Judge, shall serve as the ADR coordinator. Under the direction of the ADR committee, the coordinator shall administer a program for recruitment, screening and training of attorneys to serve as neutrals.

6. The Rule is intended to be flexible so as to permit the court to adopt, from time to time, guidelines and policies for the administration of the ADR program. The procedures promulgated by the court for the implementation of the ADR program shall be maintained on file in the office of the Clerk.

7. Nothing in the Rule shall be construed to amend or modify the provisions of Local Civil Rule 53.2 (compulsory and voluntary arbitration with right of trial *de novo*). Local Civil Rule 53.2.1 (compulsory mediation) is repealed by separate order.

Explanatory Note

The Rule is intended to implement the provisions of the Alternative Dispute Resolution Act of 1998 and to demonstrate the long-standing commitment of the court and its bar to non-binding alternative dispute resolution, without, however, limiting the authority and discretion of the assigned judge. Certain civil actions are exempted from the Rule as cases not appropriate for ADR process pursuant to the Alternative Dispute Resolution Act of 1998.

Effective July 1, 2003