

HONORABLE BERLE M. SCHILLER

United States Senior District Judge
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POLICIES AND PROCEDURES FOR CIVIL CASES

CORRESPONDENCE WITH THE COURT

Judge Schiller advises against correspondence with the Court on scheduling matters.

COMMUNICATIONS WITH JUDGE SCHILLER'S CIVIL DEPUTY

Judge Schiller does permit counsel to communicate with his deputies on any matters that relate to their responsibilities. For matters regarding scheduling, case management, and general procedures in **civil** cases, counsel should contact Jean Pennie, Judge Schiller's Civil Deputy, at (267) 299-7621 or via email at jean_pennie@paed.uscourts.gov.

MAGISTRATE JUDGE ASSIGNMENT

Magistrate Judge Jacob P. Hart is assigned to Judge Schiller.

ELECTRONIC CASE FILING (ECF) POLICY

Judge Schiller requires that all documents be filed electronically by the attorney through the Electronic Case Filing (ECF) system. 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 appearing before Judge Schiller are **required** to register as Electronic Case

Filing users at the Office of the Clerk of the Court or at this Court's website at www.paed.uscourts.gov.

POTENTIAL CONFLICTS OF INTEREST

Counsel is expected to inform the Court of any change of ownership so that potential conflicts of interest can be avoided.

SCHEDULING POLICY STATEMENT

1. Judge Schiller orders Rule 16 scheduling conferences as soon as practicable after the defendant responds to the complaint. Counsel is expected to commence discovery immediately upon the joining of the case in order to have a substantial amount of discovery completed by the time they appear for the Rule 16 conference. Settlement invariably appears on the agenda of the Rule 16 conference. Counsel is directed to promptly **enter an appearance on the docket**. Unless counsel has entered his/her appearance on the docket, the Court will not allow counsel to participate on behalf of any party or individual in any Court proceeding or request. In addition, no later than five (5) days prior to the conference, the parties are to submit directly to Chambers via fax or email their proposed discovery plan as required by Federal Rule of Civil Procedure 26(f).
2. Upon receiving a notice for Rule 16 conference, any counsel with prior commitment must notify the Court within three (3) days of such conflict. If such notice is not given to the Court within three (3) days the conference will not be rescheduled and counsel will be expected to attend.

3. Absent compelling circumstances, counsel should file motions to dismiss, transfer, add parties or seeking other threshold action before the conference. Counsel should note the prospect of Rule 56 motions at the conference.
4. The conference usually takes a maximum of 30 minutes. Absent extraordinary circumstances, the conference will not be held by telephone. Unless approval has been granted prior to the conference, trial counsel must attend.
6. In an uncomplicated case, discovery should be completed within 90 to 120 days, with a date-certain trial listing approximately six months from date of conference. In complex cases, longer periods of discovery may be permitted. The discovery deadline is in no sense a hypothetical date. It will only be changed for weighty cause shown.
7. **The parties must submit courtesy copies of any pleadings and/or motions listed in Federal Rule of Civil Procedure 7, unless the pleading or motion has been filed electronically. In the case of long documents/voluminous attachments filed electronically, a courtesy copy is appreciated. Legal memoranda shall not exceed 25 pages unless specific permission has been granted by the Court. Praecipe/Motion to the Court for permission is required before a party files a reply to a response to any motion. The proposed reply should be attached as an exhibit so that it may be filed immediately should Judge Schiller grant the request.**
8. Judge Schiller **strongly disfavors** discovery motions. Counsel must make every effort to resolve discovery disputes on their own. If Court intervention is required

– prior to filing any motion – the parties should first contact Judge Schiller’s Civil Deputy at (267) 299-7621 to set up a telephone conference.

9. Judge Schiller typically does not hold a further conference unless counsel requests one to discuss settlement or a special trial issue. Judge Schiller always seeks to help the parties achieve the settlement of their disputes.
10. Counsel should make requests for continuance by motion, with a concise explanatory memorandum appended. Judge Schiller will grant a continuance only for the most compelling reasons; in any event, Judge Schiller considers motions for continuances on their merits, whether opposed or unopposed. **If counsel for both parties consent to a continuance, they must submit a one page stipulation via email signed by both parties with a signature line for the Judge to sign and date, should Judge Schiller grant the continuance.**
11. Foreseeable discovery problems, including noncompliance or tardiness, will not constitute an acceptable ground for continuance of the trial. Counsel should act promptly to enforce the discovery schedule.
12. The trial listing will be for a **specific date** or as a **“backup”** to another trial as specified in the scheduling order. Trials typically begin on a Monday. These trial listings do not constitute a “pool.” The case will be called for trial on the date assigned unless Speedy Trial Act constraints in a criminal case are preemptive. However, if a cause is scheduled as a “backup,” counsel should be prepared for trial in the event the specified case settles or is continued.

13. Trial depositions must be scheduled so as not to delay trial or disrupt trial preparation. They may not be taken later than 14 days before the trial date unless the parties agree or the Court approves. Continuance applications because of refusal of an expert witness to appear for trial or to be available for trial deposition will not be granted if notice of the trial date was given to the witness at least 60 days in advance or at the earliest reasonable opportunity.
14. **Discovery of documents, photos, and videos in digital format:** The parties will meet and confer before the initial pretrial conference to be fully prepared to advise the Court of the following matters:
 - a. Whether, during discovery, the parties will exchange documents in digital format; whether there are any issues as to the format to be used; and whether there are any issues as to the alteration of documents that may routinely occur when paper documents are converted to digital format.
 - b. Whether the parties contemplate the use of any photographs in digital format; and whether there any issues as to how and when digital alteration of photos is to be disclosed.
 - c. Whether the parties plan to create and exchange video in digital format; arrangements for the synchronization of audio and video for any videotaped depositions in digital format that may be shown at trial.
 - d. Whether there any issues as to the discovery of digital materials other than those identified in paragraphs (a) through (c) above (such as

databases), and whether the parties have agreed on ground rules for the routine business practices that affect the retention of these digital materials.

15. A Joint Pretrial Disclosure Memorandum is required, signed by all counsel.* Although counsel should consult Local Rule 16.1(c) for guidance, they should tailor the memorandum to be commensurate with the needs of the case. The foregoing sentence is intended to encourage brevity and simplicity. The memorandum should be submitted at least 14 days before the trial date or as specified in the Scheduling Order. Absent cooperation, counsel may file separate memoranda with the permission of the Court. If the Joint Pretrial Disclosure Memorandum is not submitted on time or in proper form, the Court may consider the imposition of sanctions in appropriate cases.
16. Unexcused violations of scheduling orders are subject to sanctions under Federal Rule of Civil Procedure 16(f), upon motion or the Court's initiative. The Court will normally sanction counsel's failure to appear at a Rule 16 pretrial conference by awarding costs to counsel who do appear.
17. Post-trial motions are to be governed by the Federal Rules of Civil Procedure generally and specifically by Judge Schiller's Guide for Post-Trial Motions, which is available to counsel upon request by calling Judge Schiller's Civil Deputy.

* A Joint Pretrial Disclosure Memorandum is not required in arbitrations but is required in arbitration appeals.

18. Counsel should direct all communications regarding the civil trial calendar to Judge Schiller's Civil Deputy.

POLICIES AND PROCEDURES FOR CRIMINAL CASES

COMMUNICATIONS WITH JUDGE SCHILLER'S CRIMINAL DEPUTY

Judge Schiller does permit counsel to communicate with his deputies on any matters that relate to their responsibilities. For matters regarding scheduling, case management, and general procedures in **criminal** cases, counsel should contact Christopher Campoli, Judge Schiller's Criminal Deputy, at (267) 299-7629 or via email at chris_campoli@paed.uscourts.gov.

ATTORNEY-CLIENT MEETINGS

In all criminal cases, counsel shall meet with their client(s) prior to any scheduled court proceeding so as to avoid any delays during the day/time of the proceeding.

MOTIONS TO SUPPRESS

Within 14 days prior to the commencement of trial, counsel shall file any motions to suppress.

PROBATION REPORT

Judge Schiller does not permit the defendant or counsel to review the Probation Department's written recommendations as to sentence.

SENTENCING

Within 48 hours prior to sentencing, counsel shall file sentencing memoranda.

JURY INSTRUCTIONS

At least 14 days prior to the commencement of trial, counsel shall file proposed jury instructions and proposed verdict sheets, with courtesy copies submitted to Chambers in hard copy and via email to chris_campoli@paed.uscourts.gov in Word format.