

**Honorable R. Barclay Surrick**  
United States District Judge  
United States Courthouse  
601 Market Street, Room 8614  
Philadelphia, Pennsylvania 19106

**Staff Contacts**

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Civil Deputy/Secretary: Donna Donohue Marley (267) 299-7631

**POLICIES AND PROCEDURES**

**1. *Correspondence With the Court***

Judge Surrick permits correspondence with the Court so long as the initiating attorney has discussed his or her request with other counsel.

**2. *Communication with Law Clerks***

Judge Surrick permits communication with law clerks concerning administrative aspects of the case. Counsel may not communicate with the law clerks on the merits of any case, and law clerks are not permitted to render advice to counsel and have no authority to grant continuances or to speak on behalf of the Court.

**3. *Telephone Conferences***

Judge Surrick will handle disputes concerning discovery, scheduling, and requests for extensions of time by telephone conference. Prior to requesting a telephone conference, counsel should discuss the dispute with other counsel and send Judge Surrick a letter setting forth his or her position and the position of opposing counsel.

**4. *Oral Arguments and Evidentiary Hearings***

Judge Surrick will determine whether to schedule oral argument or an evidentiary hearing on a case by case basis. If counsel prefer either oral argument or an evidentiary hearing, they should request it by letter. Judge Surrick does not set aside any certain days or times for oral arguments or evidentiary hearings.

**5. *Pro Hac Vice Admissions***

Judge Surrick does not have a preference as to how counsel should submit a *pro hac vice* motion to the Court. He will usually grant the motion if it is unopposed.

## **CIVIL CASES**

### **Pretrial Procedure**

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

Judge Surrick regularly conducts pretrial conferences. Judge Surrick's Civil Deputy will initiate the scheduling of an initial pretrial conference. All pretrial conferences are held in Chambers. Judge Surrick uses a standard pretrial order to notify counsel of the conference. The regular agenda topics at an initial pretrial conference include: pleadings, service, joinder, settlement, jurisdictional defects, and the setting of discovery deadlines and a trial date. Judge Surrick uses a standard scheduling order pursuant to Rule 16, which is issued after the initial pretrial conference.

Judge Surrick will conduct settlement conferences if requested by all parties. Magistrate Judge Lynne A. Sitarski is Judge Surrick's assigned magistrate, and she will also conduct settlement conferences upon request of all parties.

### **Continuances and Extensions**

#### **1. *General Policy***

Judge Surrick has a general policy of adhering to originally scheduled dates unless a compelling reason is presented that justifies a change. This policy applies to briefing schedules, oral arguments, evidentiary hearings, pretrial conferences, discovery deadlines, and trial dates.

#### **2. *Requests for Extensions and Continuances***

Counsel should advise Judge Surrick immediately, and before the date has run, of any compelling reason which justifies an extension or continuance of any originally scheduled date. Requests for continuances are preferably made by letter, setting forth the reasons and noting the agreement or disagreement of all other counsel. Original stipulations are to be submitted to chambers. Upon approval, the stipulation will be electronically filed. Requests may also be communicated by telephone conference with all counsel participating.

### **General Motion Practice**

#### **1. *Oral Argument on Motions***

Judge Surrick may schedule oral argument on motions when it is requested by counsel. Oral argument will be scheduled when Judge Surrick believes oral argument will be helpful in the decision-making process.

#### **2. *Reply and Surreply Briefs***

Reply and surreply briefs should be filed only when absolutely necessary and only in circumstances where the parties wish to draw Judge Surrick's attention to controlling authority not previously cited by the parties.

**3. *Chambers Copies of Motion Papers***

Judge Surrick requests that copies of motion papers be sent to Chambers when the original is not wholly filed (with exhibits) on the ECF system and when the motion paper exceeds 50 pages.

**Discovery Matters**

**1. *Length of Discovery Period***

In non-complex litigation, Judge Surrick regularly allows 120 days to complete discovery, which is measured from the entry of appearances by defense counsel. If counsel have been diligent and genuinely require additional time for discovery, Judge Surrick will usually grant additional time. In arbitration cases, discovery must be completed prior to the arbitration date.

**2. *Discovery Conferences and Dispute Resolution***

The parties should make every effort to resolve discovery disputes without Judge Surrick's assistance. In the event that Judge Surrick decides that a conference is necessary, the conference will be held by telephone or in Chambers. In the event that the discovery dispute is complex, a motion should be filed.

**3. *Confidentiality Agreements***

In the event that a confidentiality agreement is necessary, Judge Surrick prefers that counsel submit a stipulated order for consideration along with a memorandum setting forth proposed findings to meet the requirements of *Pansy v. Borough of Stroudsburg*, 23 F3.d 772 (3d Cir. 1994).

**4. *Expert Witnesses***

Expert witness discovery is covered at the pretrial conference and is the subject of part of the scheduling order. In most cases, the plaintiff must serve expert reports and/or responses before the defendant. Generally, all expert witness discovery must be completed by the time all other discovery is completed.

**Settlement**

**1. *General Approach to Settlement and Non-jury Cases***

Judge Surrick believes that the Court's involvement in settlement conferences is generally helpful. At the request of all counsel in a jury case, a settlement conference will be scheduled before Judge Surrick or a Magistrate Judge. Settlement conferences in non-jury cases are referred a Magistrate Judge.

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

Judge Surrick will not refer settlement negotiations to another District Court Judge unless the parties present a compelling reason to do so and the Judge to whom negotiations are to be referred consents.

## **Arbitration**

### **1. *General Approach to Arbitration Cases***

Judge Surrick normally does not hold pretrial conferences nor does he issue scheduling orders in arbitration cases.

### **2. *Scheduling of Trial De Novo from Arbitration***

Upon demand for trial *de novo* after an arbitration award, the case will be scheduled for trial immediately. Judge Surrick's Civil Deputy will clear trial dates with counsel, and Judge Surrick will then issue a scheduling order setting deadlines for the parties pretrial memorandum.

## **Injunctions**

### **1. *Scheduling and Expedited Discovery***

Judge Surrick will promptly list any injunction matters assigned to him for a hearing. In appropriate cases, Judge Surrick will require expedited discovery.

When plaintiff requests a temporary restraining order, plaintiff's counsel should contact Judge Surrick's Civil Deputy for a conference date and serve the motion, complaint and notice of the conference date upon the opposing party and counsel prior thereto unless, for good cause shown, this is impossible.

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

Judge Surrick requires submission of proposed findings of fact and conclusions of law in injunction cases as early as possible.

## **Trial Procedure**

### **1. *Scheduling of Cases***

Judge Surrick schedules cases for a date certain. Complex, multi-party cases are specially listed.

### **2. *Conflicts of Counsel***

Counsel should notify Judge Surrick of any professional or personal conflicts affecting the trial schedule by telephone or in writing. Opposing counsel must also be notified promptly.

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

Trial scheduling by Judge Surrick is not generally affected by the presence of out-of-town parties or witnesses. Judge Surrick leaves the scheduling of witnesses to counsel.

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

Judge Surrick permits note taking by jurors in complicated cases and in other cases in which it is deemed appropriate.

**5. *Trial Briefs***

Judge Surrick encourages the submission of trial briefs in all cases.

**6. *Voir Dire***

Judge Surrick sets a date for the submission of voir dire questions by scheduling order. In civil cases, Judge Surrick may conduct the voir dire, or the attorneys may conduct voir dire out of the presence of Judge Surrick. This will be discussed at the final pretrial conference.

**7. *Side Bars***

Judge Surrick permits side-bar conferences, but limits them if they become a distraction or interrupt the flow of the trial.

**8. *In Limine Motions***

*In limine* motions should be presented in sufficient time so that they can be considered in advance of trial. Routine *in limine* motions will ordinarily be disposed of on the first day of trial or during the course of the trial.

**9. *Examination of Witnesses Out of Sequence***

Judge Surrick will generally grant a request by counsel to take the testimony of a witness out of turn for the convenience of the witness subject to objection by opposing counsel.

**10. *Opening Statements and Summations***

No time limits are placed on opening statements or summations by counsel. However, Judge Surrick believes that thirty (30) to forty-five (45) minutes is usually adequate for an opening and thirty (30) to forty-five (45) minutes is usually adequate for a summation in routine cases.

**11. *Offers of Proof***

Judge Surrick requires that parties inquire of each other privately as to offers of proof regarding any witness or exhibit expected to be offered. If counsel cannot resolve such matters, Judge Surrick will rule on them upon application before a witness testifies or an exhibit is offered into evidence.

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

More than one attorney for a party may examine different witnesses or argue different legal points before Judge Surrick. Ordinarily, more than one attorney for a party may not examine a single witness or argue the same legal point.

**13. *Examination of Witnesses Beyond Redirect or Recross***

Judge Surrick has no general policy regarding further examination of a witness after redirect or recross has been completed. Where appropriate, he will allow it.

**14. *Videotaped Testimony***

Judge Surrick requires that a list of all objections to videotaped trial testimony and a copy of the transcript be submitted to the Court well in advance of the offering of such evidence. The videotape should then be edited to eliminate pauses and speed-ups to the maximum extent such final editing is possible. Videotape playback equipment should be brought into the courtroom at the beginning of the morning or afternoon session at which the videotape will be played. It should not block the view of counsel or the jury when not in use.

**15. *Reading of Material into the Record***

Judge Surrick does not have a special practice or policy regarding the reading of stipulations, pleadings, or discovery material into the record. He permits it when appropriate.

**16. *Preparation of Exhibits***

Judge Surrick requires that exhibits be pre-marked and pre-exchanged. A bench copy of trial exhibits should be provided to the Court on the first day of trial. The trial exhibits should be accompanied by an exhibit list which describes each exhibit.

**17. *Offering of Exhibits into Evidence***

Judge Surrick permits counsel to choose the timing of their offer of exhibits into evidence so long as each exhibit is offered and admitted into evidence before it is shown to the jury. At the conclusion of a party's case-in-chief, counsel should make sure that all exhibits intended to be offered into evidence either have been or are offered into evidence.

**18. *Motions for Judgment as a Matter of Law and Motions for Judgment on Partial Findings***

Motions for judgment as a matter of law and motions for judgment on partial findings may be either oral or written. Oral argument will be permitted if counsel request it.

**19. *Proposed Jury Instructions and Verdict Forms***

Judge Surrick requires proposed jury instructions and verdict forms to be filed with the Clerk and a courtesy copy to be sent to Chambers. He sets the deadline for submissions by scheduling order. Judge Surrick will permit submission of supplemental jury instructions up to the time he charges the jury.

**20. *Proposed Findings of Fact and Conclusions of Law***

Judge Surrick requires that proposed findings of fact and conclusions of law be filed with the Clerk and that a courtesy copy be sent to Chambers. He sets the deadline for submissions by scheduling order.

**Jury Deliberations**

**1. *Written Jury Instructions***

Judge Surrick does not give the jury a copy of the written jury instructions, but may do so

in an appropriate case.

**2. *Exhibits in the Jury Room***

After the close of the charge, counsel will review the exhibits and to the extent possible reach agreement on which exhibits will go out to the jury. Any disputes will be resolved by Judge Surrick.

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

If the jury requests that testimony be read back or that tapes be replayed, Judge Surrick will confer with counsel with regard to the jury's request. Such requests are not granted as a matter of course.

**4. *Availability of Counsel During Jury Deliberations***

Judge Surrick requires that counsel be available on ten (10) minutes notice during the jury deliberations.

**5. *Verdict and Special Interrogatories***

The Courtroom Deputy will take the verdict. Special interrogatories are submitted to the jury in most civil cases.

**6. *Polling the Jury***

Judge Surrick will permit polling the jury when requested. Polling of the jury is allowed in all criminal cases.

**7. *Interviewing the Jury***

After a verdict has been recorded and a jury has been discharged, counsel may interview jurors. The jurors are told that they are permitted to talk to counsel and others, if they desire, but they do not need to do so.

## **CRIMINAL CASES**

**1. *Oral Argument on Motions***

Judge Surrick will allow oral argument on motions in a criminal case upon the request of counsel.

**2. *Pretrial Conferences***

Judge Surrick will hold pretrial conferences only in complex criminal cases.

**3. *Voir Dire***

Judge Surrick conducts voir dire in criminal cases.