

## JUDGE HARVEY BARTLE III

Judge Bartle was born on June 6, 1941 in Bryn Mawr, Pennsylvania. He was graduated cum laude from Princeton University with an A.B. in 1962 and received his LL.B. cum laude from the University of Pennsylvania Law School in 1965. Judge Bartle was admitted to the Pennsylvania Supreme Court in 1965. From 1965 to 1967 he served as a law clerk to The Honorable John Morgan Davis of the U.S. District Court for the Eastern District of Pennsylvania. After engaging in private practice with the law firm of Dechert Price & Rhoads in Philadelphia from 1967 to 1979, he served as the Pennsylvania Insurance Commissioner from 1979 to 1980. He was the Pennsylvania Attorney General from 1980 to 1981. He then returned to private practice at Dechert Price & Rhoads. Judge Bartle was appointed to the United States District Court for the Eastern District of Pennsylvania on September 16, 1991.

### PRELIMINARY GENERAL MATTERS

#### 1. Correspondence with the Court.

Counsel may write to Judge Bartle to request an extension of time and for all matters pertaining to scheduling. Judge Bartle does not permit correspondence in lieu of formal discovery or contested motions or other substantive matters which should be made of record.

#### 2. Communications with Law Clerks.

Judge Bartle has no objection if law clerks are used as vehicles for relaying information to the Court. He does not permit law clerks to give advice to counsel.

#### 3. Telephone Conferences.

Judge Bartle will use telephone conferences for scheduling changes, extensions of time, and similar matters. He often has conference calls on discovery motions. Judge Bartle requests that counsel or a conference call operator place the call.

#### 4. Oral Arguments and Evidentiary Hearings.

Judge Bartle does not set aside specific days or times for oral arguments or evidentiary hearings. Arguments and hearings are scheduled on an ad hoc basis.

#### 5. Pro Hac Vice Admissions.

Judge Bartle 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.

## CIVIL CASES

### Pretrial Procedure

#### 1. Pretrial Conferences.

After the entry of appearance by defense counsel in civil actions, Judge Bartle schedules a status conference in chambers. At this status conference, counsel are expected to be prepared to discuss jurisdictional defects; possibility of amicable settlements; alternative dispute resolution; time limitations for joining additional parties and amending pleadings, if necessary; scheduling for discovery deadlines, filing of motions, filing of pretrial memoranda, and future pretrial conferences; scheduling a date for trial; and any other appropriate matter. Judge Bartle enters a scheduling order following this conference.

Prior to attending this conference, parties are expected to have conferred with each other about each of these items, including discussion of settlement.

### Continuances and Extensions

#### 1. General Policy.

Since trial dates are set well in advance, normally at the time of the initial conference, Judge Bartle is extremely reluctant to grant continuances - especially if the

attorneys have not been diligent in moving the case forward. The Court will not accept accommodations counsel may extend to each other during the discovery period as a reason to extend the discovery deadline or the trial date.

Judge Bartle will permit extension of discovery deadlines only upon showing of good cause.

## General Motion Practice

Except as set forth herein, motion practice will be conducted in accordance with Local Civil Rule 7.1.

The originals of all motions and briefs shall be filed with the Clerk. A copy of same shall be delivered to Judge Bartle's chambers, including documents which are submitted using the Electronic Case Filing (ECF) system.

A reply brief, addressing arguments raised in the brief in opposition to the motion, may be filed and served by the moving party within seven (7) days after service of the brief in opposition to the motion unless the Court sets a different schedule. However, the Court will not necessarily delay its decision while awaiting a reply brief.

No further briefs may be filed, and no extension of time will be granted without leave of Court for good cause shown.

Except with leave of Court for good cause shown, no supporting brief and no brief in opposition shall exceed twenty-five (25) pages and no reply brief shall exceed fifteen (15) pages. Every factual assertion in a brief shall be supported by a citation to the record where that fact may be found. Both legal citations and citations to the record shall include pinpoint cites.

Judge Bartle does not routinely hear oral argument on motions, but will consider it on request of counsel or if he believes it will assist him in deciding the motion.

### Discovery Matters

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

The length of time permitted for discovery depends upon the nature of each case. Judge Bartle generally permits up to six months of discovery, except for more complex litigation.

2. Discovery Disputes.

When a discovery dispute arises, counsel are strongly urged to settle it among themselves. However, if after making a good faith effort, counsel are unable to resolve a disputed issue, counsel for the aggrieved party shall file with the Court a motion in conformity with Local Civil Rule 26.1(b), with a form of order, and short brief not to exceed five (5) pages describing the disputed issue(s). The Court will normally schedule a telephone conference with counsel to discuss the motion before the filing of any responsive brief. In most cases, the Court expects to rule promptly on discovery motions and often decides such motions during the telephone conference. All motions must contain the certification required under Local Civil Rule 26.1(f).

3. Confidentiality Agreements.

Judge Bartle will approve a confidentiality order if the order includes a detailed statement demonstrating that good cause exists for the protective order. See Pansy v. Borough of Stroudsburg, 23 F.3d 772, 786 (3d Cir. 1994). All such orders must contain the following language or language substantially similar:

The court retains the right to allow disclosure of any subject covered by this stipulation or to modify this stipulation at any time in the interest of justice.

4. Expert Witnesses.

Parties should identify expert witnesses and provide the experts' written reports pursuant to the scheduling order entered in the particular case. Failure to do so will bar the use of the expert's testimony at trial.

Settlement

1. General Approach to Settlement.

Judge Bartle strongly encourages settlement. He believes that the Court's involvement in settlement conferences is generally helpful and will become involved in settlement of jury cases. In non-jury cases and sometimes in jury cases, Judge Bartle will refer settlement negotiations to a magistrate judge.

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

Judge Bartle rarely refers settlement negotiations to another district court judge.

### Arbitration

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

In arbitration cases, Judge Bartle normally does not schedule a status conference or settlement conference unless requested by counsel to do so. Appeals from arbitration are scheduled for trial promptly.

### Proposed Final Pretrial Memoranda

#### 1. Required Form of Pretrial Memoranda.

Judge Bartle requires the parties to submit pretrial memoranda addressing the subject matter set forth in Local Civil Rule 16.1(c)(1) through 16.1(c)(7). Counsel should carefully review and follow the terms of Judge Bartle's scheduling orders.

### Injunctions

#### 1. Scheduling and Expedited Discovery.

Judge Bartle will schedule hearings for preliminary injunctions promptly. He permits (or orders) expedited discovery in injunctive matters.

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

Judge Bartle permits the submission of proposed findings of fact and conclusions of law in injunction cases.

### Trial Procedure

#### 1. Scheduling of Cases.

Each case on Judge Bartle's calendar is assigned a month when it will be placed in the trial pool. He often specially lists cases for a day certain and, in any event, will advise counsel as soon as possible when each case will be called for trial. The Court may start as early as 9:00 a.m. and may sit until 5:00 p.m. or later.

2. Conflicts of Counsel.

When counsel become aware of professional or personal conflicts that may affect the trial schedule, they should notify Judge Bartle and opposing counsel immediately.

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

Judge Bartle has no special policy for cases involving out-of-town attorneys, parties, or witnesses.

4. Notetaking by Jurors.

Judge Bartle permits notetaking by jurors.



5. Trial Briefs.

Judge Bartle encourages the submission of trial briefs when they are necessary or likely to be helpful to the Court.

6. Voir Dire.

Judge Bartle's usual practice in civil matters is to conduct voir dire himself and, if appropriate, will ask questions submitted by counsel.

7. Side Bars.

Judge Bartle holds side-bar conferences when necessary.

8. In Limine Motions.

Judge Bartle normally hears any necessary in limine motions immediately prior to trial or during trial unless an earlier ruling will assist settlement discussions or the trial of the case. He prefers such motions to be in writing and filed sufficiently in advance of trial so that he can consider the motion and make an appropriate ruling.

9. Examination of Witnesses Out of Sequence.

Judge Bartle is willing to take witnesses out of turn for their convenience, particularly when there is no objection by opposing counsel.

10. Opening Statements and Summations.

Judge Bartle is flexible but will place time limits on openings statements and summations. He will discuss the time needed with counsel prior to the speeches.

11. Examination of Witnesses or Argument by More Than One Attorney.

Judge Bartle will not permit more than one attorney for a party to examine the same witness.

12. Examination of Witnesses Beyond Redirect and Recross.

Judge Bartle does not have any general policy concerning examination beyond redirect and recross.

13. Videotaped Testimony.

Judge Bartle requires counsel to view all videotaped depositions for the purpose of editing the videotape and resolving material objections before offering the videotape as evidence.

14. Reading of Material Into the Record.

Judge Bartle has no special practice on reading stipulations, pleadings, or discovery materials into the record.

15. Preparation of Exhibits.

Before commencement of trial, exhibits are to be premarked and exchanged by counsel. Counsel should provide Judge Bartle with two (2) copies of each exhibit and a schedule of exhibits which shall briefly describe each exhibit.

16. Offering Exhibits into Evidence.

Judge Bartle has no general policy as to when exhibits should be offered into evidence. When the number of exhibits in a case is large, Judge Bartle prefers counsel to reach advance agreement as to the admission of as many exhibits as possible.

17. Directed Verdict Motions.

Judge Bartle hears directed verdict motions outside the hearing of the jury.

18. Proposed Jury Instructions and Verdict Forms.

Judge Bartle's usual practice is that at least five (5) working days before the case is placed in the trial pool or listed for trial, each party shall submit to the Court, and serve on each other, two (2) copies of proposed points for charge and any proposed special jury interrogatories. Each point for charge and proposed jury interrogatory shall be numbered and on a separate sheet of paper identifying the name of the requesting party. Supplemental points for charge will be permitted during and at the conclusion of the trial. Points for charge should be accompanied by appropriate citations of legal authority.

19. Proposed Findings of Fact and Conclusions of Law.

Judge Bartle requires the submission of proposed findings of fact and conclusions of law in non-jury cases.

Counsel are to submit them in accordance with the scheduling order entered in each action.

20. Decisions in Non-jury Cases.

Counsel should be prepared for oral argument immediately following the close of all the evidence in a non-jury trial. Except in complex cases, it is Judge Bartle's usual practice to issue his ruling from the bench within a few days thereafter. Normally, Judge Bartle does not allow posttrial briefs.

Jury Deliberations

1. Written Jury Instructions.

Judge Bartle provides counsel with a copy of proposed jury instructions for review in advance of a charge conference. After reading the charge to the jury, he provides each juror with a copy. Judge Bartle permits counsel to put objections to the charge on the record before the jury retires.

2. Exhibits in the Jury Room.

Judge Bartle's general rule is that (except for weapons and drugs) if an exhibit is admitted into evidence, it goes into the jury room.

3. Availability of Counsel During Jury Deliberations.

Judge Bartle prefers counsel remain in the courthouse during jury deliberations. Counsel should be available in case questions arise from the jury during its deliberation.

4. Taking the Verdict and Special Interrogatories.

In most civil cases, Judge Bartle submits written interrogatories to the jury. A copy of such interrogatories is given to each juror.

5. Polling the Jury.

If there is a request to poll the jury, the deputy clerk polls the jury.

6. Interviewing the Jury.

Judge Bartle permits counsel to interview the jurors after the verdict has been recorded and the jury has been discharged. However, jurors are told they are under no obligation to speak with counsel.

CRIMINAL CASES

1. Approach to Oral Argument and Motions.

Judge Bartle will grant oral argument on motions in criminal cases if he believes it will assist him in deciding the motions. Hearings on motions to suppress evidence and Starks hearings will usually be held in advance of trial.

2. Pretrial Conferences.

Judge Bartle holds pretrial conferences in criminal cases as needed.

3. Voir Dire.

Judge Bartle conducts the voir dire in criminal cases, and he encourages counsel to submit proposed voir dire questions.

4. Proposed Jury Instructions and Verdict Forms.

Judge Bartle requires that at least seven (7) working days before the date the case is set for trial, each party shall submit to the court and serve on each other, two (2) copies of proposed points for charge and any proposed jury interrogatories. Each point for charge and proposed jury interrogatory shall be numbered and on a separate sheet of paper identifying the name of the requesting party. Supplemental points for

charge will be permitted during and at the conclusion of the trial. Points for charge should be accompanied by appropriate citations of legal authority.

5. Guilty Plea Memoranda.

Judge Bartle requires the government to submit a guilty plea memorandum two days prior to the guilty plea. Such a memorandum shall include the elements of each offense to which the defendant is pleading guilty and legal citations for such elements.

6. Sentencing Memoranda.

Judge Bartle encourages the submission of sentencing memoranda by both the government and the defendant.

OTHER GENERAL MATTERS

1. Judge Bartle expects counsel to be punctual for all conferences, hearings, and trials. He also expects counsel at all times to be civil to one another as well as to all parties, witnesses, and court personnel.

2. In all courtroom proceedings, Judge Bartle expects counsel to stand when addressing the Court. However, counsel may remain seated when examining witnesses. Counsel also may approach the witnesses with permission of the Court.

3. Stipulations should be sent to Judge Bartle's chambers for review and not to the Clerk. Judge Bartle requires that all stipulations be submitted to him for

his approval. If approved, Judge Bartle forwards the stipulation to the Clerk for filing, and the Clerk mails copies to counsel.

4. In general, Judge Bartle expects counsel to bring matters to his attention only after they have been discussed with opposing counsel.

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