

HONORABLE PAMELA A. CARLOS

United States Magistrate Judge

Suite 4401

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Courtroom Deputy Clerk: Carlene Kohut

Magistrate Judge Carlos is a graduate of Franklin and Marshall College (1986) and Temple University's Beasley School of Law (1989). Upon graduation, she worked as an Assistant District Attorney for the Philadelphia District Attorney's Office. In 1993, Judge Carlos joined the law firm of Bennett, Bricklin & Saltzburg, LLC. She served as Chair of the Special Investigative Unit from 1997 through 2004. In 2004, she was named Chair of the Bad Faith and Insurance Coverage team and served in this capacity until her departure in 2021. Judge Carlos was sworn in as a United States Magistrate Judge on November 12, 2021.

### **PRELIMINARY GENERAL MATTERS**

#### ***1. Correspondence with the Court***

Judge Carlos permits correspondence from counsel on any matters, so long as all other counsel or unrepresented parties are sent copies of such correspondence. Judge Carlos sometimes permits letter motions in lieu of formal motions. However, such motions are also to be filed of record.

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

Judge Carlos permits counsel to communicate with her law clerks on scheduling and administrative matters, but never on the merits of a case.

#### ***3. Telephone Conferences***

Judge Carlos prefers that counsel come to chambers for all conferences. Telephone conferences may be utilized, however, for dealing with matters such as scheduling changes and routine discovery disputes. It will be the responsibility of counsel requesting a telephone conference to contact the Judge's deputy clerk, Carlene Kohut.

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

To the extent deemed necessary by Judge Carlos, oral arguments and evidentiary hearings will be scheduled through her deputy clerk. All reasonable efforts will be made to accommodate the schedules of counsel.

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

Counsel must complete and submit an Attorney Admission Application (Pro Hac Vice) before the date of the non-admitted attorney's first appearance. The requisite forms are available on the United States District Court Eastern District of Pennsylvania website.

### **CIVIL CASES – IN GENERAL**

#### **Pretrial Procedure**

Judge Carlos regularly conducts pretrial/status and settlement conferences in cases pending before her. Pretrial/status conferences, where appropriate, are scheduled promptly upon referral of the case to Judge Carlos. *At pretrial conferences, attorneys from both sides should be prepared to discuss settlement possibilities.*

#### **General Motions Practice**

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

Judge Carlos will schedule oral argument on motions only if it appears likely to be helpful to the Court's resolution of the matter.

##### ***2. Reply and Supplemental Briefs***

Judge Carlos will not permit reply or supplemental briefs. Counsel desiring to file such a brief must first seek permission of the Court before such a brief will be accepted.

#### **Discovery Matters**

##### ***1. Discovery Disputes***

###### ***A. General Discovery Matters***

Judge Carlos expects counsel to attempt to resolve disputes prior to bringing them to her attention, pursuant to Rule 26.1(f) of the Local Rules of Civil Procedure for the Eastern District of Pennsylvania. Should counsel be unable, in good faith, to resolve their dispute, Judge Carlos permits contact with the Court through her deputy clerk to set up telephone or chambers conferences to resolve outstanding issues. Generally, Judge Carlos prefers letter memoranda outlining the discovery dispute. Such memoranda should include the steps taken to resolve the dispute as well as the relief requested and should be docketed. Except for subpoenas issued to non-parties, the use of motion practice in discovery matters is discouraged.

## ***B. Enforcement of Subpoenas to Non-Parties***

Matters involving the enforcement of subpoenas issued to non-parties shall be handled through motion practice.

## ***2. Confidentiality Agreements***

Judge Carlos will permit confidentiality agreements subject to the requirements of *Pansy v. Borough of Stroudsburg*, 23 F.3d 772, 786 (3d Cir. 1994).

## **Settlement**

### ***1. When Jurisdiction Remains with the District Court***

#### ***A. Preliminary Telephone Conference***

When a matter is referred to Judge Carlos for purposes of settlement, she will hold a chambers conference with the parties. In certain cases, she may choose to hold a preliminary telephone conference with counsel. At the time of the telephone conference, counsel will be expected to discuss the status of settlement discussions (if any) and timing of the actual chambers conference. It is Judge Carlos' practice to hold settlement conferences as early as practicable and to stage discovery, in order to facilitate settlement and control costs, without contradiction to the referring judge's Rule 16 Scheduling Order.

#### ***B. Settlement Conference Memoranda***

Judge Carlos will normally require counsel to submit a brief written conference summary one week before the scheduled conference, including an offer/demand/settlement proposal. This summary should not exceed two (2) pages and should be submitted in Word format. Judge Carlos requires that counsel exchange their summaries, but counsel is not required to communicate their settlement proposals in the exchanged summaries. This information may be provided by a separate document to the Court. The summaries are not to be filed with the Clerk's Office. These summaries should be sent to chambers via Email: [PAED\\_Carlos\\_Chambers@paed.uscourts.gov](mailto:PAED_Carlos_Chambers@paed.uscourts.gov).

#### ***C. Parties' Attendance and Participation***

Judge Carlos will require that a party or party's representative with knowledge of the case and *full and binding* settlement authority attend the chambers conference, *in person*. **At the settlement conference, lead trial counsel shall appear and bring with them all persons whose consent may be necessary to settle the case. "[A]ll persons" shall mean insurance adjustors with full and unlimited authority to settle the case, as well as clients. Persons present must have full and unlimited settlement authority and may not confer by telephone with anyone to seek additional authority. Defendant's settlement authority must be consistent with and not less than the Plaintiff's last demand.** *Only* in exceptional circumstances, Judge Carlos will permit that person to participate in the conference by telephone. This shall be the exception rather than the

rule. Counsel seeking this relief must contact chambers as soon as they are aware of a problem with attendance. A copy of Judge Carlos' Settlement Conference Scheduling Order is attached for reference. Counsel and the parties must strictly adhere to this procedure.

At the conference, the Judge will expect counsel to:

- Be thoroughly versed in the matter and prepared to discuss the weaknesses and the strengths of their case.
- Critical documents should be provided to the court with the parties' settlement summaries.
- Prepare their client. Judge Carlos will speak to them directly.
- Be patient. Settlement is a process. It takes time.
- Realistically evaluate the case and be flexible.
- Manage your client's expectations.
- Manage our own expectations.

#### ***D. Follow-Up Contact***

Judge Carlos will, if appropriate, continue to work with counsel after the settlement conference, if the matter is not resolved at the conference.

#### ***E. Continuances***

Settlement conferences are scheduled by order of the court and are not discretionary. Counsel and participants should use all efforts to be available for this conference. Due to the large number of cases scheduled for settlement conferences, any need to reschedule the conference could cause a delay of that conference for several weeks. For this reason, any continuance request should be made within fourteen (14) days of receipt of the notice scheduling the conference. Continuance requests will only be granted for the most compelling reasons.

### ***2. When Jurisdiction for All Purposes Has Been Referred to Judge Carlos***

#### ***A. Jury Matters***

Judge Carlos may, after discussion with counsel, conduct her own settlement conferences utilizing the above-outlined procedures. If not appropriate, but a conference is deemed worthwhile, Judge Carlos may obtain the assistance of another magistrate judge to preside over settlement discussions.

#### ***B. Non-Jury Matters***

Judge Carlos will not take part in settlement discussions in a non-jury matter. A settlement conference may, however, be arranged with another magistrate judge.

## **CIVIL CASES – REFERRED TO JUDGE CARLOS FOR ALL PURPOSES**

### **Arbitration**

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

Judge Carlos has no special practices or procedures for arbitration cases.

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

Judge Carlos will schedule trial promptly when a demand for trial *de novo* is filed following arbitration.

### **Pretrial Procedure**

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

Judge Carlos normally permits ninety (90) to one hundred and twenty (120) days for the completion of discovery. Additional time will be allowed in complex cases or upon a specific showing of need. *Judge Carlos will encourage that the most essential discovery be undertaken early in the case, so far as to foster early settlement and minimize the costs of litigation.*

#### ***2. Continuances and Extension***

In that counsel will have substantial input in the setting of dates in the Rule 16 Order, Judge Carlos expects counsel to comply with the dates set out in the Order. Extensions will be entertained upon a showing that circumstances beyond the reasonable expectation of counsel have hampered the progress of the case. Judge Carlos will require a formal motion seeking an extension together with proposed order and certification of concurrence or objection of all counsel or unrepresented parties. In most cases, extensions will only be considered after a conference with the Judge.

#### ***3. Expert Witnesses***

The parties will identify expert witnesses and provide expert reports pursuant to the Rule 16 Scheduling Order entered in the particular case. A failure to do so will normally bar the use of the expert's testimony at trial.

### **Pretrial Memoranda**

Unless specifically provided for by separate Order, Judge Carlos will require the use of the short form pretrial memorandum described in Rule 16.1(c) of the Local Rule of Civil Procedure for the Eastern District of Pennsylvania. In certain cases, Judge Carlos may require counsel to stipulate to uncontested facts as generally set out in Local 16.1(d)(2)(b)(2)(A-E).

## **Trial Procedure**

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

Judge Carlos' cases will be listed for trial based upon the Court's calendar and the availability of counsel, the parties, experts and critical witnesses.

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

Given the manner of scheduling, conflicts will normally not occur. Should counsel, however, have a professional or personal conflict which may affect the trial schedule, notice should be provided immediately to opposing counsel and the Court.

### ***3. Parties or Witnesses***

Judge Carlos will make all reasonable attempts to accommodate the schedules and availability of parties, experts and critical witnesses. In the alternative, the parties should be prepared to present testimony by videotape means so as not to delay the trial schedule.

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

Judge Carlos will generally permit jurors to take notes during trial.

### ***5. Trial Briefs***

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

### ***6. Voir Dire***

Judge Carlos usually permits counsel to conduct all *voir dire*.

### ***7. Sidebar***

Judge Carlos discourages the use of sidebar conferences. Counsel are encouraged to raise particular evidentiary issues before trial or during recesses or adjournments. Moreover, speaking objections at trial are strongly discouraged.

### ***8. In Limine Motions***

Judge Carlos will accept *in limine* motions in advance of the final pretrial conference and in accordance with the scheduling order, so as to give her an adequate opportunity to consider the merits of each motion.

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

Judge Carlos will permit witnesses to be taken out of turn in appropriate circumstances.

### ***10. Opening Statements and Closing Argument***

Judge Carlos will discuss with counsel the length of time necessary and appropriate for opening and closing statements, but will give counsel reasonable latitude.

### ***11. Examination of Witnesses or Argument by More than One Attorney***

Judge Carlos will not normally permit more than one attorney for the party to examine the same witness or more than one attorney to present argument on behalf of the party on the same issue.

### ***12. Examination of Witnesses Beyond Re-Direct or Re-Cross***

Judge Carlos will generally restrict counsel from examining witnesses beyond re-direct and re-cross.

### ***13. Videotaped Testimony***

Judge Carlos requires counsel to review all videotaped depositions and have them edited, after consultation with each other, such as to fairly present only the essential evidence of the witness involved. Counsel are expected to resolve all matters pertaining to objections before offering the videotape into evidence.

### ***14. Reading of Materials into the Record***

Judge Carlos has no special practice with regard to reading stipulations, pleadings or discovery materials into the record.

### ***15. Preparation of Exhibits***

Prior to commencement of trial, counsel are to meet and confer to prepare *one* set of pre-marked trial exhibits for use at trial. The use of duplicate exhibits at trial is discouraged as inefficient and confusing. Counsel should provide Judge Carlos with two (2) copies of each exhibit, together with a schedule of exhibits that briefly describes each exhibit. Counsel is encouraged, however, to provide the Court with only the essential and relevant portions of bulky exhibits, together with sufficient material to provide context for the relevant portion of the exhibits.

### ***16. Offering Exhibits into Evidence***

Judge Carlos expects counsel to reach agreement in advance as to the admission of exhibits. Judge Carlos has no particular procedure as to when an exhibit may be formally offered into evidence.

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

Motions for Judgment as a Matter of Law or Motions for Judgment on Partial Findings in non-jury trials may be submitted in writing or orally. Judge Carlos will ordinarily request oral argument on these motions.

### ***18. Proposed Jury Instructions and Verdict Forms***

Judge Carlos requires counsel to submit joint proposed jury instructions, noting areas of agreement as well as objection. The points for charge should be submitted with appropriate citations of legal authority and shall be provided to the Court in accordance with the deadline set forth in the scheduling order. Judge Carlos prefers use of the Third Circuit Model Jury

Instructions whenever possible. Counsel will submit a jointly prepared verdict form or proposed special interrogatories in accordance with the deadline set forth in the scheduling order. If counsel are unable to agree, they may submit separate proposed forms of interrogatories. Judge Carlos will encourage counsel to agree upon a less than unanimous verdict.

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

Judge Carlos requires counsel to submit proposed findings of fact and conclusions of law in non-jury cases at the final pretrial conference or at such other date as set forth in the scheduling order. A supplementation will be permitted at the close of trial or, in an appropriate case, after trial.

## **Jury Deliberations**

### ***1. Written Jury Instructions***

Judge Carlos has no particular practice or policy on submitting a copy of instructions to the jury.

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

Judge Carlos will consider what exhibits should be sent out to the jury during their deliberations on a case-by-case basis.

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

Judge Carlos will seek the input of counsel and will then make a determination on a case-by-case basis when requests are made to read back testimony or replay tapes.

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

Judge Carlos will not require counsel to remain in the courthouse during deliberations but will require counsel to be available on short telephone notice. Counsel must provide the deputy clerk with their phone number.

### ***5. Taking the Verdict and Special Interrogatories***

Judge Carlos has no usual practice with respect to taking a verdict. Judge Carlos will submit written interrogatories to the jury in the appropriate case. A copy of the interrogatories shall be given to the jury during their deliberations.

### ***6. Polling the Jury***

Judge Carlos will, if requested, permit the jury to be polled.

### ***7. Interviewing the Jury***

Judge Carlos will permit counsel to interview jurors, but only after the verdict has been recorded, the jury has been discharged *and* they have been told in clear terms that they have no obligation to speak with counsel.

## **CRIMINAL CASES**

### ***1. Sentencing Memoranda***

When a pretrial sentencing report is utilized, Judge Carlos permits the submission of sentencing memoranda by both counsel.

### ***2. Additional Matters***

At all “criminal duty week” proceedings, counsel, once appointed or retained, must be present to permit the proceeding to go forward. Once the Court has ordered that a defendant be detained or has set conditions of release, any proposed changes thereto must be submitted to the Court by written motion. Judge Carlos does not favor the dual representation of defendants by a single attorney at any criminal proceeding, apart, perhaps, from the initial appearance. Judge Carlos requires that all relevant documents be delivered to chambers in advance of court. Counsel may contact the Court’s deputy clerk, Carlene Kohut, if there are questions regarding the matters before the Court.

## **GENERAL MATTERS**

When a decision rendered by this Court is appealed, Judge Carlos prefers to receive copies of appellate briefs. Judge Carlos expects counsel to be prompt in all appearances, to be professional and courteous to each other, both in the presence of the Court and otherwise, and to have discussions with each other about any matter in dispute before it is brought to the attention of the Court. Counsel should feel free to contact Judge Carlos’ deputy clerk or law clerks if they have any questions about her courtroom practices or procedures.