

# **Judicial Practice and Procedures**

Judge Paul S. Diamond

## **General Matters**

### **Communication with Law Clerks**

Judge Diamond prefers that counsel communicate with the Civil or Criminal Deputy. If they are not available, then Judge Diamond permits counsel to speak with his law clerks on scheduling and procedural issues only.

### **Copies of Items Filed with the Court**

Judge Diamond would appreciate one courtesy copy of all items filed with the Court. Judge Diamond also encourages electronic filing. Counsel need not provide courtesy copies of those items that have been filed electronically. Judge Diamond also wishes to receive a courtesy copy of any briefs filed in appeals from his decisions.

## **Pretrial Conferences and Settlement Proceedings**

### **Pretrial Conference**

Judge Diamond will hold a Rule 16 pretrial conference as soon as possible after the answer to the complaint is served. If trial counsel is absolutely unable to attend, the conference will be rescheduled.

### **Settlement Discussions**

Judge Diamond actively encourages settlement and will discuss settlement at the Rule 16 pretrial conference. Counsel should be prepared to discuss the strengths and weaknesses of the case and therefore should be completely conversant in the essential issues and facts of the case. Counsel must have full authority to negotiate or settle the case or should bring a client representative to the conference who does have such authority.

### **Service of Complaint**

Judge Diamond expects Plaintiffs to serve their complaints as expeditiously as possible.

## **Motions Practice**

### **Oral Arguments**

Judge Diamond ordinarily will not require oral argument on motions.

### **Reply and Supplemental Briefs**

Unless so ordered, Judge Diamond will accept reply or supplemental briefs, but normally will not await a reply brief before ruling on a motion.

## **Discovery Matters**

### **Discovery Disputes Should be Settled by the Parties**

Judge Diamond believes that discovery should begin as soon as possible. In ordinary circumstances, Judge Diamond requires that discovery be well underway by the time of the Rule 16 conference. Although Judge Diamond requires the parties to meet the conciliation requirements of Local Rule 26.1(f), he expects counsel to bring unresolved discovery disputes to his attention as soon as possible. Counsel should provide the Court with a brief letter or motion and attach the disputed discovery request.

Ordinarily, Judge Diamond will schedule a telephone conference to resolve the discovery motion promptly after it is filed, usually before any response is due. If a dispute arises during a deposition, Judge Diamond expects counsel to phone his Chambers during the deposition so that he can resolve the dispute immediately.

### **Length of Discovery Period and Deadline Compliance**

Judge Diamond believes the complexity of the case should dictate the amount of time allowed for discovery. This will normally be determined at the Rule 16 conference. Generally, 45 to 75 days should be sufficient time for discovery unless the case is complex or otherwise out of the ordinary.

Judge Diamond looks unfavorably on attempts to ambush opposing counsel with the production of evidence or witnesses past the appropriate cutoff date in the Case Management Order. Judge Diamond takes these dates seriously and expects counsel to do so as well.

## **Trial Procedure**

### **Scheduling of Cases**

Ordinarily, Judge Diamond will schedule a trial date immediately after the Rule 16 conference.

### **Conflicts of Counsel**

When counsel become aware of professional or personal conflicts that may affect the trial schedule, they should notify the Civil Deputy immediately.

### **Trial Date Extensions**

Judge Diamond is extremely reluctant to grant continuances of trial dates.

### **Stipulations of Counsel**

Judge Diamond encourages counsel to agree on or stipulate to as many matters as possible before trial. If, for instance, counsel can agree on jury instructions, exhibits, and the like, it will make trial less burdensome for everyone.

### **Order of Proof**

Normally, Judge Diamond requires counsel each day to inform the Court and opposing counsel of the witnesses he or she expects to call the next trial day.