

JUDGE J. CURTIS JOYNER

Judge Joyner was born on April 18, 1948 in Newberry, South Carolina. He received a B.S. from Central State University in Wilberforce, Ohio in 1971 and J.D. from Howard University in 1974. Judge Joyner served in the Chester County District Attorney's Office for twelve years as an Assistant District Attorney, Chief Deputy District Attorney and lastly, as First Assistant District Attorney. He also maintained a small general civil practice simultaneously. Judge Joyner was appointed and subsequently elected to the Chester County Court of Common Pleas in 1987. Judge Joyner was appointed to the United States District Court for the Eastern District of Pennsylvania on April 13, 1992.

PRELIMINARY GENERAL MATTERS

1. Correspondence with the Court.

Judge Joyner permits correspondence on scheduling issues and requests for extensions of time. Copies of such correspondence should be sent to all counsel of record and/or unrepresented parties. He discourages correspondence that raises substantive issues properly handled by motion.

2. Communications with Law Clerks.

Judge Joyner permits communications with his law clerks concerning the administrative aspects of cases, but not on scheduling matters, extensions of time and the like which must be directed to his Courtroom Deputy.

3. Telephone Conferences.

Judge Joyner uses telephone conferences for non-complex pretrial conferences, scheduling, discovery disputes, settlement conferences and other like matters. Judge Joyner requires that the time for telephone conferences be arranged through his Deputy Clerk. Counsel have the responsibility to initiate telephone conferences and to contact Judge Joyner through his secretary after all other parties are present on the call.

4. Oral Arguments and Evidentiary Hearings.

Judge Joyner determines in any given case whether to schedule oral argument or an evidentiary hearing. Oral argument is rarely granted. If counsel prefer either an oral argument or an evidentiary hearing, they should request it in writing. The scheduling of all such matters is handled by Judge Joyner's Courtroom Deputy. Judge Joyner does not set aside any certain days or times for oral arguments or evidentiary hearings.

5. Pro Hac Vice Admissions.

Judge Joyner prefers a written motion for admission to be made prior to the day of the first appearance of out-of-state counsel.

CIVIL CASES

Pretrial Procedure

1. Pretrial Conferences.

Judge Joyner regularly conducts status conferences, settlement conferences, and final pretrial conferences, depending on the complexity of the cases. He will usually schedule a pretrial conference upon request of counsel. Judge Joyner uses Rule 16 of the Federal Rules of Civil Procedure as the agenda for a typical pretrial conference. Judge Joyner has a standard form of order which is entered after the pretrial conference. A copy is attached.

Continuances and Extensions

1. General Policy.

Judge Joyner 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, evidentiary hearings, discovery deadlines and trial dates.

2. Requests for Extensions and Continuances.

Counsel should advise the Court immediately, and before the date has run, of any compelling reason justifying an extension or continuance of any originally scheduled date. Any

request for an extension or a continuance may be made by letter, setting forth the reasons and noting the agreement or disagreement of all other counsel, or by telephone conference with all counsel participating.

General Motion Practice

1. Oral Argument on Motions.

Judge Joyner rarely hears oral argument on motions and only when it is deemed necessary by the Court.

2. Reply and Surreply Briefs

Reply and surreply briefs should be filed only if absolutely necessary. Requests for time to do so shall be directed in the first instance to the Courtroom Deputy.

3. Chambers Copies of Motion Papers.

Judge Joyner requires courtesy copies of motion papers, briefs and all electronically filed documents.

Discovery Matters

1. Length of Discovery Period and Extensions.

In uncomplicated cases, Judge Joyner usually allows four (4) months to complete discovery, measured from the date appearances are filed for all defendants. If counsel have been diligent and genuinely need more time for discovery, he will

usually grant additional time. In arbitration cases, the discovery should be completed by the arbitration date.

2. Discovery Conferences and Dispute Resolution.

Judge Joyner prefers that discovery disputes be resolved by discovery conferences, preferably by telephone or as a last resort in chambers, if the parties are unable to resolve them without Court assistance. Where the discovery dispute is complex, a motion should be filed.

3. Confidentiality Agreements.

Judge Joyner has no standard practice or policy concerning confidentiality orders. He does not favor confidentiality orders that place virtually all discovery materials under a confidentiality nondisclosure status, even those agreed upon by counsel.

4. Expert Witnesses.

The conduct of expert witness discovery is covered by Judge Joyner at the pretrial conference and is the subject of a scheduling order. In most cases, Judge Joyner requires that plaintiffs serve expert reports and/or responses to expert witness discovery before a defendant is required to do so. Generally, Judge Joyner orders that all expert witness discovery be completed by the time fact discovery is concluded.

Settlement

1. General Approach to Settlement and Non-Jury Cases.

Judge Joyner will become involved in settlement negotiations at the request of the parties, but he refers most cases to his assigned magistrate, especially non-jury cases, preferring not to participate in any negotiations in non-jury cases. Judge Joyner will only assign cases to his Magistrate Judge for settlement conferences when the parties have previously had productive settlement discussions.

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

Judge Joyner rarely refers settlement negotiations to other district court judges.

Arbitration

1. General Approach to Arbitration Cases

Judge Joyner has no standard procedures or practices for arbitration cases except that pretrial conferences are not normally held in such cases and, except in unusual cases, scheduling orders are not issued.

2. Scheduling of Trial De Novo from Arbitration

Once a trial de novo is demanded, Judge Joyner will give counsel a 30 day discovery period, after which time counsel

will have 20 days to file joint pretrial motions. The case will be placed in the trial pool on the same day motions are filed.

Proposed Final Pretrial Memoranda

1. Required Form of Pretrial Memoranda.

Unless specifically provided for by separate order in a particular case, in jury and non-jury cases Judge Joyner requires the use of the short form pretrial memorandum described in Local Rule 16.1(c) with two modifications -- he requires that any objections to the authenticity of expert witnesses be set forth in the pretrial memorandum, and he requires a stipulation of uncontested facts as described in Local Rule 16.1(d) (2) (b) (2) (A) through (E).

Injunctions

1. Scheduling and Expedited Discovery

Judge Joyner will promptly list any injunction matters assigned to him. The scheduling of injunction matters is conducted at an initial conference attended by all counsel. In appropriate cases, Judge Joyner will require expedited discovery.

When plaintiff requests a temporary restraining order, Judge Joyner expects prompt service of the motion and complaint upon the opposing party and notice to opposing counsel unless, for good cause shown, this is impossible.

2. Proposed Findings of Fact and Conclusions of Law.

Judge Joyner 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 Joyner routinely places cases on his trial list. Cases are occasionally assigned a date certain and given a special listing. Counsel whose cases are in the pool must maintain telephone contact with his Courtroom Deputy.

2. Conflicts of Counsel

Counsel should notify Judge Joyner of any professional or personal conflicts affecting the trial schedule by telephoning or writing to his Courtroom Deputy.

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

Trial scheduling by Judge Joyner does not generally change by the presence of out-of-town parties or witnesses. Judge Joyner leaves the scheduling of witnesses to counsel.

4. Notetaking by Jurors.

Judge Joyner permits notetaking by jurors in extremely complicated cases.

5. Trial Briefs.

Judge Joyner encourages the submission of trial briefs.

6. Voir Dire.

Voir dire in civil cases is conducted completely by counsel, with the deputy clerk present. If disputes arise, Judge Joyner usually handles them in chambers. Judge Joyner prefers that counsel not spend more than one hour on voir dire.

7. Side Bars.

Judge Joyner prefers that side bars be infrequent and sought only when truly necessary.

8. In Limine Motions.

Judge Joyner prefers that motions in limine be submitted before trial, rather than on the day trial begins.

9. Examination of Witnesses Out of Sequence.

Judge Joyner permits counsel to take witnesses out of turn for the convenience of the witnesses.

10. Opening Statements and Summations.

Judge Joyner places no time limit on opening statements or summations. He urges counsel to remember that opening statements are not for argument, but for presentation of an outline of what the parties intend to prove.

11. Offers of Proof.

Judge Joyner requires the parties to 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 Joyner 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.

Only in an extreme and rare circumstance will Judge Joyner permit more than one attorney for a party to examine different witnesses or argue different points before the Court.

13. Examination of Witnesses Beyond Redirect or Recross.

Judge Joyner generally does not permit further examination of a witness after redirect or recross has been completed.

14. Videotaped Testimony.

Judge Joyner requires that a list of all objections to videotaped trial testimony and a copy of the transcript be submitted to the Court prior to commencement of trial.

15. Reading of Material into the Record.

Judge Joyner has no special practice or policy for reading stipulations, pleadings, or discovery material into the record. He permits it when appropriate.

16. Preparation of Exhibits.

Judge Joyner requires that exhibits be pre-marked and pre-exchanged. One (1) 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 Exhibits into Evidence.

Judge Joyner leaves this decision to counsel.

18. Directed Verdict Motions.

Judge Joyner prefers, but does not require, that directed verdict motions be in writing. He will hear oral argument on such motions.

19. Proposed Jury Instructions and Verdict Forms.

Judge Joyner prefers that counsel submit proposed jury instructions at the beginning of trial. Proposed jury instructions must include citation to proper authority. Judge Joyner always conducts a conference on proposed jury instructions. Submission of supplemental proposed jury instructions is

permitted up to the time the charge is given. Toward the end of the charge, Judge Joyner always solicits suggestions and amendments from counsel.

20. Proposed Findings of Fact and Conclusions of Law.

Judge Joyner requires that proposed findings of fact and conclusions of law in non-jury cases be filed with the Clerk, and served on the Court (Chambers) in duplicate, three (3) days before the case is placed on the trial list.

Jury Deliberations

1. Written Jury Instructions.

Judge Joyner will only give the jury a copy of the instructions in extremely complex cases.

2. Exhibits in the Jury Room.

Judge Joyner usually permits all exhibits received in evidence to go out to the jury unless there is an objection.

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

In cases where transcripts are available, Judge Joyner will consider reading appropriate portions requested by the jury. He will generally allow audiotapes and videotapes to be replayed in open court if necessary.

4. Availability of Counsel During Jury Deliberations.

Counsel should be available on ten (10) minutes notice during jury deliberations. As a practical matter, that means that counsel must either stay in the Courthouse or have an associate present.

5. Taking the Verdict and Special Interrogatories.

Judge Joyner has no usual practice for taking a special or general verdict. Interrogatories are submitted to the jury in most civil cases.

6. Polling the Jury.

Judge Joyner grants all requests to poll the jury.

7. Interviewing the Jury.

Judge Joyner permits counsel to interview jurors after the verdict has been recorded and the jury has been discharged. The jury is instructed that they may speak with counsel, but are not required to do so.

CRIMINAL CASES

1. Approach to Oral Argument and Motions.

Judge Joyner permits oral argument on motions in criminal cases. Oral argument normally takes place prior to jury selection.

2. Pretrial Conferences.

Judge Joyner will hold pretrial conferences depending on the circumstances of the particular case. He will also hold a conference at the request of counsel.

3. Voir Dire.

Judge Joyner conducts the entire voir dire in criminal cases. He encourages submissions of proposed voir dire questions by counsel. He permits counsel to follow up and ask individual questions, where warranted.

4. Sentencing Memoranda.

Judge Joyner permits and encourages the submission of sentencing memoranda by both the government and the defense.

OTHER GENERAL MATTERS

Judge Joyner employs no procedures in criminal cases that differ significantly from those he uses in civil cases.

Judge Joyner does not wish to receive copies of the appellate briefs if a decision he renders is appealed.

Judge Joyner expects punctuality, as well as courtesy, from counsel regarding each other, both in the presence of the Court and otherwise. He is of the view that vigorous, robust advocacy need not be rude.

Reports and/or responses to expert witness discovery for all such expert witnesses shall be served by defendant on plaintiff on or before _____;

5. All parties shall prepare and file with the Clerk of Court their Pretrial Memoranda, in accordance with this Order and Local Rule of Civil Procedure 16.1(c) as follows:

ALL MOTIONS FOR SUMMARY JUDGMENT ARE DUE BY _____;

a) Joint Pretrial Memo due on or before_____;

b) Plaintiff's memo due on or before_____;

c) Defendant's memo due on or before_____;

6. Settlement conference _____ (to be set) _____.

7. The case will be placed in the Court's trial pool on _____.

8. Any party having an objection to: (a) the admissibility of any exhibit based on authenticity; (b) the admissibility for any reason (except relevancy) of any evidence expected to be offered; or, (c) the adequacy of the qualifications of an expert witness expected to testify; shall set forth separately each such objection in their Pretrial Memorandum. Such objection shall describe with particularity the ground and the authority for the objection;

9. If any party desires an "offer of proof" as to any witness or exhibit expected to be offered, that party shall inquire of counsel prior to trial for such information. If the inquiring party is dissatisfied with any offer provided, such

party shall file a motion seeking relief from the Court prior to trial;

10. Because a witness may be unavailable at the time of trial as defined in Federal Rule of Civil Procedure 32(a)(4), the Court expects use of oral or videotape depositions at trial of any witness whose testimony a party believes essential to the presentation of that party's case, whether that witness is a party, a non-party or an expert. The unavailability of any such witness will not be a ground to delay the commencement or progress of an ongoing trial. In the event a deposition is to be offered, the offering party shall file with the Court, prior to the commencement of the trial, a copy of the deposition transcript, but only after all efforts have been made to resolve objections with other counsel. Unresolved objections shall be noted in the margin of the deposition page(s) where a Court ruling is necessary and a covering list of such objections supplied therewith;

11. The parties shall meet to prepare a complete and comprehensive stipulation of uncontested facts pursuant to paragraph (d)(2)(b)(2) of Local Rule of Civil Procedure 16.1; two (2) copies of such stipulation shall be submitted to the Court (Chambers, Room 17614) at least three days before the case appears on the trial list. The original shall be filed with the Clerk of the Court;

12. At least three days before the settlement conference or in certain cases where there is to be no settlement conference, then seven days before the day of trial, each party shall submit to the Court (Chambers, Room 17614) two (2) copies of proposed voir dire questions, proposed jury instructions with citations of authority for each point (ONE POINT PER PAGE), proposed jury interrogatories, and a trial memorandum on the legal issues involved in the case. The originals shall be filed with the Clerk of the Court;

13. At the commencement of trial, the Court should be supplied with one (1) copy of each exhibit, and two (2) copies of a schedule of exhibits which shall briefly describe each exhibit.

14. IF DOCUMENTS ARE FILED ELECTRONICALLY, THE PARTIES SHALL SEND A COPY TO CHAMBERS.

15. Unexcused violations of scheduling orders are subject to sanctions under Fed. R. Civ. P. 16(f), upon motion or the initiative of the Court.

16. Letters or written communications (which are discouraged) shall be directed to the Court and not to law clerks or to the deputy clerk. Telephone calls to law clerks are discouraged. 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. All scheduling matters should be discussed with Sharon Scott, Deputy Clerk, (267-299-7419).

BY THE COURT:

J. Curtis Joyner, J.