

**The Honorable Joseph F. Leeson, Jr.  
United States District Judge**

**United States District Court  
for the  
Eastern District of Pennsylvania**

Edward N. Cahn U.S. Courthouse and Federal Building  
504 West Hamilton Street, Suite 3401  
Allentown, Pennsylvania 18101  
Telephone: 610-391-7020  
Fax: 610-821-1481  
Chambers\_of\_Judge\_Joseph\_F\_Leeson\_Jr@paed.uscourts.gov

**POLICIES AND PROCEDURES**

September 2016

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**POLICIES AND PROCEDURES**

(General Matters, Civil Cases, and Criminal Cases)

**I. GENERAL INFORMATION**

**A. Communication with Chambers**

1. Communications Policy - General. Communication with chambers is permitted by e-mail, telephone, letter, or facsimile regarding scheduling and non-substantive matters only, with the exception of the procedures for raising discovery disputes with the Court.<sup>1</sup> Any attachments to e-mail communications are to be submitted in Microsoft Word format or pdf format, unless otherwise specified. All other issues must be addressed by motion or other filing. Under no circumstances may any party or counsel communicate *ex parte* with any chambers personnel concerning substantive matters. Telephone inquiries are to be directed to the civil or criminal deputy, as appropriate, at the telephone numbers listed below. If the appropriate deputy is unavailable, attorneys may speak to the law clerks regarding scheduling matters; however, law clerks may not render advice.

2. Contact for Matters Relating to Civil Case Management and Requesting Telephone Conferences.

Civil Deputy Clerk: Diane J. Abeles  
Telephone: 610-391-7020  
Fax: 610-821-1481  
E-mail: Diane\_J\_Abeles@paed.uscourts.gov (An e-mail does not constitute a filing.)

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<sup>1</sup> See infra Section II(B)(3).

3. Contact for Matters Relating to Criminal Case Management and Courtroom Procedures.

Criminal/Courtroom Deputy Clerk: Justin F. Wood

Telephone: 610-776-6118

Fax: 610-434-3461

E-mail: Justin\_F\_Wood@paed.uscourts.gov (An e-mail does not constitute a filing.)

**B. Stipulations and Consent Decrees**

Stipulations, consent decrees, or other documents requiring Court approval or signature may be in a form using electronic signature. For all stipulations, the parties are to refer to Rule 6(b) of the Federal Rules of Civil Procedure requiring Court approval of proposed extensions of time. Stipulations are not effective until approved by the Court. Stipulations should be sent by e-mail or facsimile to chambers with a proposed form of order for Court approval. Stipulations should not be sent to the Clerk of Court. If approved, Judge Leeson forwards the Stipulation and Order to the Clerk for filing and dissemination to the parties.

**C. Telephone Conferences**

Telephone conferences are scheduled at the Court's discretion and may be held to resolve scheduling matters or discovery disputes. The Court will notify counsel of the date and time for the telephone conference. In a civil case, counsel for the moving party will be responsible for initiating the telephone conference and contacting the Judge through the Judge's Civil Deputy Clerk after all parties are present on the call. In a criminal case, the United States Attorney's Office will be responsible for initiating the call and contacting the Judge through the Judge's Criminal Deputy Clerk after all parties are present on the call.

**D. Courtesy Copies**

Courtesy copies should not be provided to chambers unless specifically required by the Court.

**E. Courtroom Location and Courtroom Technology**

1. Allentown. All trials and other proceedings will be held at the Edward N. Cahn U.S. Courthouse and Federal Building, Courtroom C, Third Floor, 504 West Hamilton Street, Allentown, Pennsylvania 18101.<sup>2</sup>

2. Courtroom Technology. The Judge's courtroom is not an electronic courtroom. Requests for Court approval for the parties to provide and pay for (at the parties' expense) courtroom technology should be directed to the Criminal/Courtroom Deputy Clerk, Justin F. Wood.

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<sup>2</sup> See infra Section III(A)(1) and Section IV(D)(1)(i).

3. Courtroom Internet Access. Counsel and the parties will not have internet access (wireless or ethernet) in the courtroom. If counsel require internet access, counsel may request permission to obtain and make arrangements (at the expense of counsel) for an internet provider. The Court requires advance notice to arrange for building access, if necessary.

#### **F. Transcripts**

To request a transcript, please contact the Court's Transcription Coordinator, David Hayes (267-299-7041). To order a transcript, you will need the caption of the case or docket number, the exact date(s) of the proceeding, the name of the presiding judge, and the courtroom location.

#### **G. Requirements of Paper Filings**

Papers or other documents filed in this Court, except original or true copies of exhibits, shall be on paper eight and one-half (8½) inches by eleven (11) inches in size. Any paper or other document filed shall be sufficient as to format and other physical characteristics if it substantially complies with the following requirements:

- (1) Prepared on white paper (except for covers, dividers, and similar sheets) of good quality.
- (2) The lettering shall be clearly legible and shall not be smaller than 12 point word processing font, using Times New Roman typeface. The text must be double spaced, but quotations more than two lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. The font type and size used in footnotes shall be the same as that used in the body of the document. Margins must be at least one inch on all four sides. All pages should be numbered.
- (3) Printed material shall appear on only one (1) side of each page.
- (4) Exceptions to the provisions of this rule may be made only upon motion and for good cause or in the case of papers filed by a pro se litigant.

## **II. CIVIL PRETRIAL MATTERS**

### **A. Initial Pretrial Conference (Fed. R. Civ. P. 16)**

1. Scheduling and Required Attendance. The initial pretrial conference pursuant to Rule 16 is an important step in the management of a case and will be scheduled once an answer is filed or, in some instances, while a motion to dismiss is pending. Unless a substitution is approved by the Court in advance, lead trial counsel must attend the initial pretrial conference and must enter an appearance prior to the conference. If lead trial counsel is appearing *pro hac vice*, local counsel must also attend the initial pretrial conference. All applications to appear *pro hac vice* must be approved prior to the conference. All pretrial conferences will be held in person

in Judge Leeson's courtroom. Requests to continue an initial pretrial conference or to conduct such conferences telephonically are discouraged.

2. All Counsel Required to Hold Fed. R. Civ. P. 26(f) Meeting. The Court relies on counsel's good faith compliance in all respects with Rule 26(f). The Rule 26(f) meeting shall take place as soon as possible, and should be viewed not as perfunctory but rather as a meaningful and substantive discussion among professionals to formulate the discovery plan required by the Rule. Outstanding motions will not excuse counsel from timely holding a meeting. Prior to the initial pretrial conference, counsel will have discussed the nature and basis of the parties' claims and defenses, the possibility of a prompt settlement, and a discovery plan pursuant to Rule 26(f).

3. All Counsel Required to File Joint Status Report under Fed. R. Civ. P. 26(f). The parties must complete the "Joint Report By Counsel to the Court of Rule 26(f) Meeting" in the form found on the Court's web site under the link for "Judges' Info" – District Court Judges – Joseph F. Leeson, Jr. and must e-mail the completed report to chambers no later than three (3) days before the initial pretrial conference.

4. Required Initial Disclosures under Fed. R. Civ. P. 26(a)(1). At the initial pretrial conference, counsel are to disclose the status of compliance by the parties with the initial discovery disclosures required by Fed. R. Civ. P. 26(a)(1).

5. Other Matters that Will be Discussed at the Conference. At the initial pretrial conference, counsel must be prepared to discuss the strengths and weaknesses of the case and must be conversant with the essential facts and issues involved. Motions to dismiss, transfer venue, and other threshold motions are to be filed before the initial pretrial conference. Counsel are to be prepared to discuss any pending motions at the conference and, if requested by the Court, to present legal argument on pending motions. A scheduling order will be issued after the conference to govern further proceedings in the case.

## **B. Discovery**

1. Discovery Management. Parties are to manage discovery pursuant to Federal Rule of Civil Procedure 26 without involving the Court.

2. Length of Discovery Period and Extensions. Counsel are to commence discovery in advance of the date of the initial pretrial conference. In standard track cases, the Court allows up to 90 days from the date of the initial pretrial conference to complete discovery. In special management cases, the Court may permit additional time to conduct discovery if, in the judgment of the Court, the parties identify a justifiable need to do so at the initial pretrial conference or any subsequent status conference.

3. Discovery Disputes – Telephone Conferences. Counsel must exhaustively address all discovery disputes among themselves before requesting the Court's intervention. If the parties are unable to resolve a discovery dispute on their own, counsel are to initially send correspondence to the Court briefly describing the dispute and the parties' respective positions

and must certify that all counsel have already made a good faith effort to resolve the issue themselves as required by Local Rule of Civil Procedure 26.1. The Court will thereupon either schedule a telephone conference with counsel to address and resolve the dispute or direct the parties to file motions and briefs. If the parties are directed by the Court to file a motion, counsel must certify as part of the motion that all counsel have already made a good faith effort to resolve the issue themselves as required by Local Rule of Civil Procedure 26.1.

4. Depositions. Depositions are governed by Federal Rule of Civil Procedure 30, and all parties are expected to be familiar with the Rule and the accompanying notes. The parties are also encouraged to consult the opinion of Hall v. Clifton Precision, 150 F.R.D. 525 (E.D. Pa. 1993), and the commentary concerning the case that has followed. The parties should observe the court's cautionary advice set forth in Hall:

Counsel should never forget that even though the deposition may be taking place far from a real courtroom, with no black-robed overseer peering down upon them, as long as the deposition is conducted under the caption of this court and proceeding under the authority of the rules of this court, counsel are operating as officers of this court. They should comport themselves accordingly . . . .

Id. at 531.

5. Expert Reports. All expert reports, curricula vitae, and supporting documentation/information are to be exchanged in advance of trial pursuant to Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure. The time for exchanging expert reports will ordinarily be set forth in the Scheduling Order. A violation of the disclosure requirements of the Rule or Scheduling Order may result in the barring of expert testimony at trial. Any deposition of an expert under Rule 26(b)(4)(A) must be conducted before the deadline for submission of dispositive motions.

6. Appointment of a Discovery Master. With the parties' consent, the Court may approve the appointment of a discovery master in accordance with Rule 53 of the Federal Rules of Civil Procedure.

### **C. Requests for Extension of Time**

Where compelling circumstances so require, counsel may request an extension of a filing or other deadline. Deadlines for filing dispositive motions will be extended only in very limited circumstances and only where absolutely necessary. Counsel must confer with all opposing counsel prior to requesting an extension. If a request for an extension is unopposed, counsel must so state and may submit the request through joint stipulation. Opposed requests must so state and be filed as a motion.

#### **D. Confidentiality Agreements**

The Judge will consider entry of an Order approving stipulated confidentiality agreements or protective orders only if the proposed order explains, in detail, why disclosure would cause a “clearly defined and serious injury” and defines the categories of information subject to protection with specificity. *See Glenmede Trust Co. v. Thompson*, 56 F.3d 476, 483 (3d Cir. 1995) (cautioning that “[b]road allegations of harm, unsubstantiated by specific examples, . . . will not suffice”); *Pansy v. Borough of Stroudsburg*, 23 F.3d 772, 786 (3d Cir. 1994); *Cipollone v. Liggett Group, Inc.*, 785 F.2d 1108, 1122 & n.17 (3d Cir. 1986). 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.”

#### **E. Settlement Conferences**

The possibility of settlement will be addressed at all stages of the proceedings. Pursuant to Local Rule of Civil Procedure 53.3, the parties are to consider the use of an alternative dispute resolution process at an appropriate stage in the litigation. The parties are encouraged to request early referral to a magistrate judge for settlement discussions if they believe it will be productive. Judge Leeson is also receptive to requests to hold a settlement conference at any step of the proceedings. Counsel are advised to review Judge Leeson’s “Settlement Conference Policies and Procedures,” which are available on the Court’s website.

#### **F. Motions Practice and Briefs – Required Content**

1. Electronic Case Filing. Counsel are to use electronic case filing and comply with the Court’s Electronic Case Filing (“ECF”) Procedures pursuant to Local Rule of Civil Procedure 5.1.2, unless excused from ECF registration. *Pro se* litigants are not required to file electronically.

2. Briefs – Required Content. All briefs shall consist of the following matters, separately and distinctly titled and in the following order:

- (a) Statement of Facts
- (b) Statement of the Questions Involved
- (c) Summary of Argument
- (d) Argument
- (e) Short conclusion stating the precise relief sought
- (f) Proposed Order that would grant the precise relief sought

When referring to the record, all briefs must specify the relevant exhibit, page, and line numbers.

3. Reply Briefs. Parties may submit reply briefs without leave of Court in support of any motion. A reply brief is not to exceed ten (10) pages and is to address only issues raised in opposition to the motion, without repeating arguments included in the initial brief. Parties shall file a reply brief no later than seven days after the opposition is served. A party may file a sur-reply brief only with permission of the Court upon good cause shown. The sur-reply brief may not exceed five (5) pages.

4. Proposed Order and Certificate of Concurrence or Non-Concurrence. A proposed order shall accompany each motion or other request for relief. The order shall be formatted for the Judge's signature (for example, do not include the word "proposed" in the text of the order). All motions shall be accompanied by a Certificate of Concurrence or Non-Concurrence.

5. Oral Argument. If the Court determines that oral argument will be helpful in deciding a matter, the Judge will schedule it. A party desiring oral argument should request it by letter or in the body of the motion or responsive pleading. Counsel are encouraged to bring their clients to oral argument on dispositive motions.

6. Injunctions and Restraining Orders. Any request for a temporary restraining order ("TRO") or preliminary injunction will be promptly listed for hearing, if the Court determines that testimony is required. A pre-hearing conference may, in the Court's discretion, be held with counsel to discuss any discovery issues and any options available for resolving the request for a TRO or preliminary injunction. If appropriate, expedited discovery will be ordered. The following are to be exchanged by counsel, and filed with the Court in advance of any hearing on a preliminary or permanent injunction:

- (a) No later than four (4) business days before the hearing, the moving party shall furnish to all opposing parties the names, addresses, and employers of all witnesses, a summary of testimony to be presented by each witness, any affidavits to be filed in connection with the hearing, and copies of all exhibits to be submitted at the hearing.
- (b) No later than two (2) business days before the hearing, the non-moving party shall furnish to the moving party the names, addresses, and employers of all witnesses, a summary of testimony to be presented by each witness, any affidavits to be filed in connection with the hearing, and copies of all exhibits to be submitted at the hearing.

The Court may modify or expedite these requirements when circumstances dictate.

7. Submittal of Proposed Findings of Fact and Conclusions of Law. The parties are required to submit proposed findings of fact and conclusions of law for TRO and injunction hearings. The Court will set the time for these submissions at a pre-hearing conference or by order.

8. Motions for Summary Judgment - Required Statement of Undisputed Material Facts. Any motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil

Procedure must be accompanied by a separate, short, and concise statement, in numbered paragraphs, of the material facts as to which the moving party contends there is no genuine issue to be tried. The moving party shall include only those facts that are material to the issues in dispute in the enumerated statement of facts. The moving party shall accompany each factual assertion with a citation to the specific portion(s) of the record that support the assertion, including the exhibit, page, and line number. When a factual assertion cites to a deposition transcript, counsel shall attach a copy of the entire transcript containing the cited testimony to the motion. The Court will not consider a factual assertion that is not supported by a citation to the record.

9. Responses to Motions for Summary Judgment - Required Answer to Moving Party's Statement of Undisputed Facts. A party opposing a motion for summary judgment shall file a separate, short, and concise statement responding to the numbered paragraphs set forth in the moving party's statement of undisputed facts and shall either concede the facts as undisputed or state that a genuine dispute exists. If the opposing party asserts a genuine dispute exists as to any fact, the party shall cite to the specific portion(s) of the record that create the dispute, including the exhibit, page, and line number. The opposing party shall also set forth in enumerated paragraphs any additional facts that the party contends preclude summary judgment. When a factual assertion cites to a deposition transcript, counsel shall attach a copy of the entire transcript containing the cited text. All facts set forth in the moving party's statement of undisputed facts shall be deemed admitted unless controverted.

10. Documents Filed Under Seal. With respect to any documents filed partially or entirely under seal, the filing party shall furnish the Court with an electronic copy of the unredacted filing. Counsel may contact chambers to discuss arrangements for any desired security measures.

11. Other Motions. For all other motions, counsel are expected to follow the requirements of Local Rule of Civil Procedure 7.1.

#### **G. Arbitration**

In cases placed on the Arbitration Case Management Track, the Court will issue a scheduling order setting a deadline for dispositive motions and a trial de novo date in the event one is demanded.

#### **H. Final Pretrial Conference**

The final pretrial conference will be used to resolve any outstanding motions and discuss *voir dire*, proposed jury instructions, objections raised in pretrial memoranda, and other trial procedures. The final pretrial conference date will routinely be set forth in the scheduling order.

#### **I. Continuances**

1. Applications for Continuances. Counsel must immediately notify the Court upon learning of any unavoidable and compelling professional or personal conflicts affecting the trial

schedule. Requests for continuances are strongly discouraged and rarely granted. Counsel must present good cause for the request. A continuance must be sought as soon as possible. Requests for continuances must be in writing and should be e-mailed to chambers with a copy to opposing counsel. If the scheduling conflict pertains to another court matter, counsel is required to identify the other court, the caption of the other case, the presiding judge in the other case and the docket number of the other case. A formal motion is not required.

2. Position of Opposing Counsel Must be Ascertained Before Applying for a Continuance. The party requesting a continuance must present the position of opposing counsel.

**J. *Voir Dire*, Points for Charge, Brief Agreed-upon Summary of Case, Jury Interrogatories, and Verdict Slip<sup>3</sup>**

1. Required Advance Submittal of Proposed Voir Dire Questions. The Court conducts *voir dire*. Counsel are typically permitted to conduct brief supplemental *voir dire* to address any important items not covered by the Court.

2. American Bar Association Formal Opinion 466: “Lawyer Reviewing Juror’s Internet Presence.” Counsel are permitted to use social media during jury selection in accordance with American Bar Association (ABA) Formal Opinion 466, “Lawyer Reviewing Juror’s Internet Presence.” Specifically, counsel may passively review a juror’s public presence on the Internet but may not communicate with a juror (or potential juror).

3. Required Advance Submittal of Points for Charge, Jury Interrogatories and Verdict Slip. In civil cases, the parties are to submit joint requested points for charge, joint jury interrogatories, and a joint verdict slip with only the disputed points highlighted. The proposed instructions shall conform to the Third Circuit Model Jury Instructions unless there is a compelling argument for deviation.

4. Supplemental Points for Charge. Counsel will have the opportunity to file supplemental points for charge during trial as necessary.

5. Argument by Counsel on Disputed Points for Charge, Jury Interrogatories, and Verdict Slip. Argument on disputed points for charge, jury interrogatories, and the verdict slip will be heard at the final pretrial conference or, in the Court’s discretion, at the close of testimony and before closing arguments.

6. Agreed-upon Brief Summary of the Case – To be Read by the Court to the Jury Pool before Voir Dire. All counsel are directed to confer and reach agreement upon a brief summary of the case, to be read by the Court to the jury prior to the commencement of voir dire questions. The purpose of the brief summary is to provide the prospective jurors with a brief overview in summary fashion of what the case is about.

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<sup>3</sup> Counsel are directed to refer to the Scheduling Order entered in each individual case for particularized direction concerning *voir dire*, points for charge, brief agreed-upon summary of case, jury interrogatories, and verdict slip.

7. Agreed-upon Summary of the Case – To be Read by the Court to the Jury before Opening Statements. All counsel are directed to confer and reach agreement upon a summary of the case and of the applicable law for the Court to read to the jury at the beginning of the trial to describe the claims, any counterclaims or defenses, and the elements of the applicable causes of action.

### **III. TRIALS**

#### **A. General Procedures**

1. Trial Location. Jury selection for jury trials shall occur at the James A. Byrne U.S. Courthouse, 601 Market Street, Philadelphia, Pennsylvania 19106 on the first day of trial. The second and all subsequent trial days shall be held at the Edward N. Cahn U.S. Courthouse and Federal Building, Courtroom C, Third Floor, 504 West Hamilton Street, Allentown, Pennsylvania 18101.

2. Scheduling of Trial Date. The scheduling order will assign a trial date. A final pretrial conference will typically be scheduled for the week preceding the trial date. Jury selection will ordinarily occur the Monday after the pretrial conference, with the trial starting immediately thereafter. All parties, witnesses, and counsel can expect their cases to be tried on the specified trial date and should arrange their schedules accordingly. If the trial does not commence on that date, the case will be placed in the trial pool and all attorneys and parties shall be on-call and ready to proceed on 24 hours' notice from the Court. In appropriate cases, time limits may be imposed on the parties' trial presentations. *See Duquesne Light Co. v. Westinghouse Elec. Corp.*, 66 F.3d 604, 609-10 (3d Cir. 1995).

3. Witness Scheduling. Trial of cases involving out-of-town counsel, parties, or witnesses is generally scheduled in the same manner as all other cases. Counsel are responsible for the scheduling of witnesses. Do not run out of witnesses during a trial day, or the Court may determine that the party has rested its case. Requests for early adjournment of a trial day will not ordinarily be granted.

4. Court Start and End Times. Court normally begins at 9:00 a.m. The Court will make every effort to commence proceedings on time. Counsel, parties, and witnesses shall be on time. Court normally adjourns at 5:00 p.m.

5. Civility. Civility is the foundation of all courtroom procedures and will be expected at all times. Counsel and the parties shall rise when the Judge and the jury enter and leave the courtroom.

6. Proper Attire. Counsel should instruct witnesses and parties to wear proper attire to court. Shorts, tank tops, etc. are not permitted attire. Witnesses or parties not properly attired may be excluded from the courtroom.

7. Cell Phones and Electronic Devices to be Turned Off. Cell phones and other electronic devices must be turned off (not on silent or vibrate mode) before entering the

courtroom. Recording or taking photographs in the courtroom is strictly prohibited. A violation of these rules may result in confiscation of the cell phone or device and prosecution. Attorneys are responsible for their own electronic devices and those of their witnesses and clients.

8. Food, Drink, and Chewing Gum Prohibited in Courtroom. Food, drink, and chewing gum are prohibited in the courtroom and witnesses are to be so instructed by counsel.

## **B. Decorum of Counsel**

1. Proper Attire and Professional Conduct. Counsel shall dress in an appropriate professional manner. The parties shall conduct the trial in a dignified and formal manner. Counsel shall not raise their voices any louder than is necessary to be clearly heard by the Court, witnesses, and the jury. All remarks are to be addressed to the Court and not opposing counsel. Counsel should never act or speak disrespectfully to the Court or opposing counsel.

2. Courtesy. Counsel's demeanor should be one of courtesy and professionalism. Counsel shall not exhibit familiarity with the parties, jurors, or opposing counsel and are to avoid using first names. During opening statements and closing arguments, no juror is to be addressed individually or by name. Neither counsel nor the parties by body language or facial expression shall convey their reaction to the testimony of a witness.

3. Counsel Addressing the Court. Counsel must rise to address the Court.

## **C. Notetaking by Jurors**

Although notetaking is generally not permitted, in appropriate cases, notetaking by jurors may be permitted by the Court.

## **D. Court Seating**

1. Party with Burden of Proof Seated Closest to Jury Box. Under local practice, the party with the burden of proof (generally the plaintiff in civil cases, the government in criminal cases) is seated at the table closest to the jury box.

2. Special Requests for Seating Arrangements. Any requests concerning seating (e.g., requests for more than one counsel table for all plaintiffs or all defendants or special requests for seating, visual aids, etc.) are to be submitted to the Criminal/Courtroom Deputy Clerk, Justin F. Wood, at least one week before trial.

3. Seating Arrangements for Counsel, Parties, and Witnesses. Only counsel and parties, if desired, may sit at counsel table. Witnesses shall sit in the spectator section only, unless otherwise authorized by the Court. If any party desires sequestration, the party shall move for sequestration at the outset of the trial. If the Court orders sequestration, all witnesses for all parties shall be sequestered. Counsel are responsible for informing their non-party witnesses that they should remain outside the courtroom until called, and that they should not discuss their testimony with other witnesses until the trial is concluded.

## **E. Witnesses**

1. Courtesy to be Shown at All Times to All Witnesses. The rule of civility is absolute in addressing witnesses, whether on direct or cross examination. Witnesses are to be treated with fairness and consideration; they are not to be shouted at, ridiculed, or abused in any manner. Counsel may not approach a witness without leave of court. Counsel shall be responsible for making arrangements to have their witness present in the courtroom when the witness is called to testify.

2. Witness to Speak into Microphone. Counsel must ensure that a witness is speaking into the microphone for ease of recording and hearing. Court proceedings are electronically recorded; therefore it is important that all witnesses speak into the microphone.

3. Witnesses to be Ready; Discussions by Counsel with Witnesses During Witness Breaks. If a witness was on the stand at a recess or adjournment, the witness should be on the witness stand ready to proceed when court resumes. Counsel are reminded that they may not discuss a witness's testimony with him or her once that witness has begun testifying until the witness is excused.

4. Witness Scheduling. If there will be a problem with the scheduling of any witness, counsel should inform the Court at the pretrial conference or at the beginning of that day's proceedings. The Court may permit counsel to examine his/her own witnesses out of turn for the convenience of a witness.

## **F. Opening Statements and Closing Arguments**

In most cases, the Court permits up to 30 minutes for an opening statement and up to 45 minutes for a summation or closing argument. The Court generally follows Local Rule of Civil Procedure 39.1. Plaintiff's counsel must reserve time from his or her closing to use for rebuttal. The failure to reserve time for rebuttal will constitute a waiver of rebuttal.

## **G. Examination of Witnesses**

1. Witness to State and Spell Name. After the witness is sworn, if counsel has not already done so, the Court will ask the witness to state and spell his or her name for the benefit of the ESR operator. The Court will then allow counsel to proceed with questioning the witness.

2. Counsel to Stand at Lectern to Examine Witnesses and Speak into Microphone. Counsel should examine witnesses from the lectern unless counsel has obtained the Court's permission to examine witnesses from another appropriate location in the courtroom. Since all Court proceedings are electronically recorded, it is important for counsel to speak into the microphone at the lectern.

3. Restrictions on Multiple Attorneys for One Party. More than one attorney for a party may examine different witnesses or argue different points of law before the Court. Only

one attorney for each side may examine the same witness or address the jury during the opening statement or summation.

4. Direct, Cross, and Re-Direct Examination. The Court permits direct, cross, and re-direct examination of a witness. Re-cross examination is permitted only “[w]here new evidence is opened up on re-direct examination.” See *United States v. Riggi*, 951 F.2d 1368, 1375 (3d Cir. 1991) (explaining that “the privilege of recross-examination as to matters not covered on redirect examination lies within the trial court’s discretion” (citation omitted)).

5. Prior Written Statements of Witness. If counsel wishes to examine a witness on the basis of prior written statements made by the witness, the witness shall first be shown the statement and asked whether he or she acknowledges having made it.

6. Deposition of Witness. If counsel wishes to cross-examine a witness on the basis of a deposition, counsel must give a copy of the deposition to the witness, who will be permitted to read the deposition and to adopt or deny the testimony before counsel may proceed with cross-examination.

#### **H. Videotaped Testimony**

Videotaped testimony is to begin with the witness being sworn. Counsel are to bring objections to the Court’s attention at the time of the final pretrial conference. After the Court rules on any objections, counsel is required to edit the video recording before offering the videotaped testimony at trial.

#### **I. Reading of Material into the Record**

The Court has no special practice or policy regarding reading stipulations, pleadings, or discovery material into the record at trial. Admissions, pleadings, requests for admissions, admissions of parties contained in depositions, and answers to interrogatories are not part of the evidence at trial unless counsel moves for their admission and the Court admits them.

#### **J. Proposed Findings of Fact and Conclusions of Law - Required in Non-Jury Cases**

Proposed findings of fact and conclusions of law shall be submitted in accordance with the scheduling order entered in each case. All proposed findings of fact shall cite to specific pages and lines of the transcript where the proposed finding of fact appears.

#### **K. Stipulations**

Counsel are strongly encouraged to stipulate to as many matters as possible before trial, including undisputed facts, exhibits, jury instructions, and special interrogatories.

## **L. Objections to Questions**

1. Manner of Stating Objection. When objecting, counsel should only state “objection” and cite to the evidentiary rule or principle upon which the objection is based in a word or two. Counsel are not to offer argument or explanation in front of the jury unless requested to do so by the Court. The Court will not permit counsel to state additional reasons for an objection after the Court has ruled.

2. Sidebar Conferences Rarely Authorized. If necessary, particularly in instances where the Court requires argument or explanation about a particular objection, the Court may ask the parties to approach for a sidebar conference. Sidebar conferences are discouraged and are rarely authorized. The Court will not permit counsel to argue objections in the hearing of the jury or witnesses. Sensitive or highly controverted matters involving evidentiary objections should be brought to the attention of the Court before the commencement of trial, or on the morning of trial, before the jury enters the courtroom.

## **M. Jury Deliberations**

1. Location of Counsel and Clients. During jury deliberations, counsel and their clients may not leave the courthouse without seeking permission from the Court. Counsel are required to provide their cell phone numbers to the Courtroom Deputy Clerk. If the Court grants permission for counsel and their clients to leave the courthouse, then counsel and their clients must be able to return to the courthouse within five (5) to ten (10) minutes.

2. Polling the Jury. If requested by counsel, the Court will poll the jury.

3. Interviewing of Jurors after Verdict. Counsel are permitted to interview jurors after the verdict, but the Court will instruct the jury that they are not required to talk to the attorneys.

4. Trial Exhibits. Exhibits do not ordinarily go out with the jury during deliberations; however, the Court will hear argument on whether particular exhibits should go out with the jury. The Court will instruct the jury that they may request to review any exhibit during deliberations. Jury requests to examine any exhibit will be addressed as they arise.

***For any civil litigation issues not addressed above, please consult the Local Rules of Civil Procedure for the Eastern District of Pennsylvania, available at***

***<http://www.paed.uscourts.gov>***

## IV. CRIMINAL CASES

### A. Motions Practice

1. Pretrial Motions. All pretrial motions – including motions *in limine* and any motions challenging the indictment, seeking suppression of evidence, or raising any dispositive matters – must be filed in accordance with the deadlines set forth in the scheduling order entered in the case. Upon the filing of any motion, the parties shall advise the Court whether they intend to present testimony in support of or in opposition to the motion and the expected duration of any such testimony, so that the Court can schedule a hearing, if necessary. The Court will generally permit oral argument on substantive motions in a criminal case upon request.

2. Pretrial Hearings. Suppression and *Daubert*<sup>4</sup> hearings are typically held at least one to two weeks prior to trial. The Court may require the filing of proposed findings of fact and conclusions of law prior to the commencement of the hearing. The parties may request leave to supplement proposed findings of fact after the hearing.

### B. Trial Continuances

1. Requirements. Counsel must immediately notify the Court upon learning of any unavoidable and compelling professional or personal conflicts affecting the trial schedule. Any request for a continuance must be filed no later than fourteen (14) calendar days in advance of the scheduled trial date and must state the amount of time being requested for the continuance. Requests for a continuance must be filed with the Clerk as a motion stating the reasons for the request. Any such motion must be accompanied by a proposed order. The proposed order must be consistent with the requirements of the Speedy Trial Act, 18 U.S.C. § 3161(h)(7), and must include a proposed finding that explains in reasonable detail why the ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendant in a speedy trial. If the scheduling conflict pertains to another Court matter, counsel is required to identify the other Court, the presiding judge in the other case and the docket number of the other case. The Motion must state whether the continuance is opposed or unopposed.

2. Written Consent Form. If the Defendant requests the continuance, the motion should indicate that the Defendant agrees the time is excludable from the speedy trial clock, and attached to the motion must be a completed “Consent to Continuance of Criminal Trial” form found on the Court’s web site under the link for “Judges’ Info” – District Court Judges – Joseph F. Leeson, Jr.

### C. Pretrial Conferences

The Court may hold a pretrial conference with counsel if counsel specifically request one or the Court finds that a conference is appropriate. The Criminal Deputy Clerk handles all scheduling of criminal matters. If the Court holds a pretrial conference, any issues related to *voir dire*, motions *in limine*, jury instructions, and jury verdict forms must be submitted at least seven (7) calendar days prior to the pretrial conference.

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<sup>4</sup> *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993).

## **D. Trials**

### **1. General Procedures**

(a) Trial Location. Jury selection for jury trials shall occur at the James A. Byrne U.S. Courthouse, 601 Market Street, Philadelphia, Pennsylvania 19106 on the first day of trial. The second and all subsequent trial days shall be held at the Edward N. Cahn U.S. Courthouse and Federal Building, Courtroom C, Third Floor, 504 West Hamilton Street, Allentown, Pennsylvania 18101.

(b) Scheduling of Trial Date. The scheduling order will assign a trial date. A final pretrial conference will typically be scheduled for the week preceding the trial date. Jury selection will ordinarily occur the Monday after the pretrial conference, with the trial starting immediately thereafter. All parties, witnesses, and counsel can expect their cases to be tried on the specified trial date and should arrange their schedules accordingly. In appropriate cases, time limits may be imposed on the parties' trial presentations.

(c) Witness Scheduling. Trial of cases involving out-of-town counsel, parties, or witnesses is generally scheduled in the same manner as all other cases. Counsel are responsible for the scheduling of witnesses. Do not run out of witnesses during a trial day, or the Court may determine that the party has rested its case. Requests for early adjournment of a trial day will not ordinarily be granted.

(d) Court Start and End Times. Court normally begins at 9:00 a.m. The Court will make every effort to commence proceedings on time. Counsel, parties, and witnesses shall be on time. Court normally adjourns at 5:00 p.m.

(e) Civility. Civility is the foundation of all courtroom procedures and will be expected at all times. Counsel and the parties shall rise when the judge and the jury enter and leave the courtroom.

(f) Proper Attire. Counsel should instruct witnesses and parties to wear proper attire to court. Shorts, tank tops, etc. are not permitted attire. Witnesses or parties not properly attired may be excluded from the courtroom.

(g) Cell Phones and Electronic Devices to be Turned Off. Cell phones and other electronic devices must be turned off (not on silent or vibrate mode) before entering the courtroom. Recording or taking photographs in the courtroom is strictly prohibited. A violation of these rules may result in confiscation of the cell phone or device and prosecution. Counsel are responsible for their own electronic devices and those of their witnesses and clients.

(h) Food, Drink, and Chewing Gum Prohibited in Courtroom. Food, drink, and chewing gum are prohibited in the courtroom and witnesses are to be so instructed by counsel.

## **2. Decorum of Counsel**

(a) Proper Attire and Professional Conduct. Counsel shall dress in an appropriate professional manner. The parties shall conduct the trial in a dignified and formal manner. Counsel shall not raise their voices any louder than is necessary to be clearly heard by the Court, witnesses, and the jury. All remarks are to be addressed to the Court and not opposing counsel. Counsel should never act or speak disrespectfully to the Court or opposing counsel.

(b) Courtesy. Counsel's demeanor should be one of courtesy and professionalism. Counsel shall not exhibit familiarity with the parties, jurors, or opposing counsel, and are to avoid using first names. During opening statements and closing arguments, no juror is to be addressed individually or by name. Neither counsel nor the parties by body language or facial expression shall convey their reaction to the testimony of a witness.

(c) Counsel Addressing the Court. Counsel must rise to address the Court.

## **3. Court Seating**

(a) Party with Burden of Proof Seated Closest to Jury Box. Under local practice, the Government, which bears the burden of proof, is seated at the table closest to the jury box.

(b) Special Requests for Seating Arrangements. Any requests concerning seating (e.g., requests for more than one counsel table or special requests for seating, visual aids, etc.) are to be submitted to the Criminal/Courtroom Deputy Clerk, Justin F. Wood, at least one week before trial.

(c) Seating Arrangements for Counsel, Parties, and Witnesses. Only counsel, parties, and case agents, if desired, may sit at counsel table. Witnesses shall sit in the spectator section only, unless otherwise authorized by the Court. If any party desires sequestration, the party shall move for sequestration at the outset of the trial. If the Court orders sequestration, all witnesses for all parties shall be sequestered. Counsel are responsible for informing their non-party witnesses that they should remain outside the courtroom until called, and that they should not discuss their testimony with other witnesses until the trial is concluded.

## **4. Trial Memorandum**

At least seven (7) calendar days prior to the trial date, the Government must file a trial memorandum setting forth the essential elements of the offenses, the facts which it intends to present, the identity of each witness it intends to call, a statement of the substance of each witness' testimony and any legal issues. The defendant is not required to file a trial memorandum but may do so.

## **5. Voir Dire**

In criminal cases, the Court will conduct the initial *voir dire* regarding hardships, the general suitability of the jurors, etc. Counsel may then ask additional questions that have been

preapproved by the Court. Counsel must submit proposed *voir dire* questions in writing seven (7) calendar days before the pretrial conference date, or trial date, whichever is earlier.

## **6. Opening Statements and Closing Arguments**

In most cases, the Court permits up to 30 minutes for an opening statement and up to 45 minutes for a summation or closing argument. The failure to reserve time for rebuttal will constitute a waiver of rebuttal.

## **7. Witnesses**

(a) Courtesy to be Shown at All Times to All Witnesses. The rule of civility is absolute in addressing witnesses, whether on direct or cross examination. Witnesses are to be treated with fairness and consideration; they are not to be shouted at, ridiculed, or abused in any manner. Counsel may not approach a witness without leave of court. Counsel shall be responsible for making arrangements to have their witness present in the courtroom when the witness is called to testify.

(b) Witness to Speak into Microphone. Counsel must ensure that a witness is speaking into the microphone for ease of recording and hearing. Court proceedings are electronically recorded; therefore it is important that all witnesses speak into the microphone.

(c) Witnesses to be Ready; Discussions by Counsel with Witnesses During Witness Breaks. If a witness was on the stand at a recess or adjournment, the witness should be on the witness stand ready to proceed when court resumes. Counsel are reminded that they may not discuss a witness's testimony with him or her once that witness has begun testifying until the witness is excused.

(d) Witness Scheduling. If there will be a problem with the scheduling of any witness, counsel should inform the Court at the pretrial conference or at the beginning of that day's proceedings. The Court may permit counsel to examine his/her own witnesses out of turn for the convenience of a witness.

## **8. Examination of Witnesses**

(a) Witness to State and Spell Name. After the witness is sworn, if counsel has not already done so, the Court will ask the witness to state and spell his or her name for the benefit of the ESR operator. The Court will then allow counsel to proceed with questioning the witness.

(b) Counsel to Stand at Lectern to Examine Witnesses and Speak Into Microphone. Counsel should examine witnesses from the lectern unless counsel has obtained the Court's permission to examine witnesses from another appropriate location in the courtroom. Since all Court proceedings are electronically recorded, it is important for counsel to speak into the microphone at the lectern.

(c) Restrictions on Multiple Attorneys for One Party. More than one attorney for a party may examine different witnesses or argue different points of law before the Court. Only one attorney for each side may examine the same witness or address the jury during the opening statement or summation.

(d) Direct, Cross and Re-Direct Examination. The Court permits direct, cross, and re-direct examination of a witness. Re-cross examination is permitted only “[w]here new evidence is opened up on re-direct examination.” See *United States v. Riggi*, 951 F.2d 1368, 1375 (3d Cir. 1991) (explaining that “the privilege of recross-examination as to matters not covered on redirect examination lies within the trial court’s discretion” (citation omitted)).

(e) Prior Written Statements of Witness. If counsel wishes to examine a witness on the basis of prior written statements made by the witness, the witness shall first be shown the statement and asked whether he or she acknowledges having made it.

## **9. Proposed Findings of Fact and Conclusions of Law – May Be Required in Non-Jury Cases**

If directed by the Court, proposed findings of fact and conclusions of law in non-jury cases are to be submitted in accordance with the scheduling order entered in each case. If directed by the Court, the parties may submit revised or supplemental findings of fact and conclusions of law with specific reference to the trial evidence at the conclusion of the case.

## **10. Objections to Questions**

(a) Manner of Stating Objection. When objecting, counsel should only state “objection” and cite to the evidentiary rule or principle upon which the objection is based in a word or two. Counsel are not to offer argument or explanation in front of the jury unless requested to do so by the Court. The Court will not permit counsel to state additional reasons for an objection after the Court has ruled.

(b) Sidebar Conferences Rarely Authorized. If necessary, particularly in instances where the Court requires argument or explanation about a particular objection, the Court may ask the parties to approach for a sidebar conference. Sidebar conferences are discouraged and are rarely authorized. The Court will not permit counsel to argue objections in the hearing of the jury or witnesses. Sensitive or highly controverted matters involving evidentiary objections should be brought to the attention of the Court before the commencement of trial, or on the morning of trial, before the jury enters the courtroom.

## **11. Stipulations**

Counsel are strongly encouraged to stipulate to as many matters as possible before trial, including undisputed facts, exhibits, jury instructions, and special interrogatories.

## **12. Jury Deliberations**

(a) Location of Counsel and Clients. During jury deliberations, counsel and their clients may not leave the courthouse without seeking permission from the Court. Counsel are required to provide their cell phone numbers to the Courtroom Deputy Clerk. If the Court grants permission for counsel and their clients to leave the courthouse, then counsel and their clients must be able to return to the courthouse within five (5) to ten (10) minutes.

(b) Polling the Jury. If requested, the Court will poll the jury.

(c) Interviewing of Jurors after Verdict. Counsel are permitted to interview jurors after the verdict, but the Court will instruct the jury that they are not required to talk to the attorneys.

(d) Trial Exhibits. Exhibits do not ordinarily go out with the jury during deliberations; however, the Court will hear argument on whether particular exhibits should go out with the jury. The Court will instruct the jury that they may request to review any exhibit during deliberations. Jury requests to examine any exhibit are addressed as they arise.

### **E. Guilty Pleas**

1. Documents to be Submitted to the Court. Before a plea hearing, the Government must file a guilty plea memorandum, guilty plea statement, and acknowledgement of rights and review those documents with the defendant. The Government must also provide copies of those documents to the Court.

2. Requirements of Guilty Plea Agreement. The guilty plea agreement must state whether the plea is a general plea of guilty, a conditional plea, or a plea of *nolo contendere*. The guilty plea agreement also must disclose to the defendant and the Court whether the plea is entered pursuant to Federal Rule of Criminal Procedure 11(c)(1)(A), (B) or (C), relating to the obligation of the Government regarding other charges under subsection (A), a non-binding sentencing recommendation under subsection (B), or a binding sentencing recommendation under subsection (C). The plea agreement must inform the defendant, pursuant to Rule 11(c)(3)(B), that the defendant has no right to withdraw the plea if the Court does not follow the sentence recommendation.

3. Government to Submit Guilty Plea Memorandum. The Government must submit a guilty plea memorandum at least seven (7) calendar days prior to the change of plea hearing. The memorandum shall include the elements of each offense to which the defendant is pleading guilty and legal citations for the elements, the maximum statutory penalties for each offense, the terms of any plea agreement, and the factual basis for the plea.

### **F. Sentencing**

1. Scheduling; Generally Ninety (90) Days after Date of Guilty Plea or Trial. Sentencing will be scheduled on the day the Court accepts a defendant's guilty plea or after a

defendant is convicted at trial. Sentencing will generally take place ninety (90) days after a guilty plea or trial.

2. Continuances. If, after receiving a first continuance, both counsel for the Government and defense believe that good cause exists for an additional continuance, counsel may jointly submit a request for an additional continuance.

3. Objections to Presentence Investigation Report Due in Advance of Sentencing. To avoid delay in sentencing, all objections to the Presentence Investigation Report (“PSR”) must be sent to the probation officer in advance of sentencing. Pursuant to Federal Rule of Criminal Procedure 32(f)(1), all counsel shall notify the Probation Officer in writing of any objections to the PSR within fourteen (14) calendar days of receipt of the PSR. In no event shall counsel raise objections for the first time in a sentencing memorandum or at sentencing.

4. Requirement of Sentencing Motions and Supporting Memoranda. All counsel must file sentencing motions and supporting memoranda at least fourteen (14) calendar days prior to the scheduled sentencing date, and any response thereto must be filed at least seven (7) calendar days prior to the scheduled sentencing date. The memoranda must set forth any legal authority relied upon by the party. Counsel shall serve a copy on the United States Probation Office.

5. Deadline for Sentencing Memoranda (Exclusive of Motions). Sentencing memoranda (exclusive of motions), must be filed no later than seven (7) calendar days before the scheduled sentencing date, and any response thereto must be filed at least three (3) calendar days prior to the scheduled sentencing date. Counsel shall serve a copy on the United States Probation Office.

6. Documentation to be Submitted for Restitution Matters. If a defendant is responsible for restitution, the Government must submit sufficient information in its sentencing memorandum to enable the Court to determine entitlement, the name and the address of each victim, the amount of loss for each victim, and documentary support for each amount. If liability for restitution is joint and several, the government shall itemize the restitution amount for which each defendant is responsible.

***For any criminal litigation issues not addressed above, please consult the Local Rules of Criminal Procedure for the Eastern District of Pennsylvania, available at <http://www.paed.uscourts.gov>***

## V. MISCELLANEOUS INFORMATION

### A. Attorney Admissions in Philadelphia and Allentown

1. Attorney Admissions Application. The Attorney Admissions Application is available on the Court's web site ([www.paed.uscourts.gov/documents2/forms/forms-miscellaneous](http://www.paed.uscourts.gov/documents2/forms/forms-miscellaneous)). Applicants are to bring the completed form on the scheduled attorney admission ceremony date. The form is also available in the Clerk's Office.

2. Attorney Admissions in Philadelphia. Attorney admission ceremonies in Philadelphia will occur on the date and time indicated on the Court's web site ([www.paed.uscourts.gov/services/attorney-info](http://www.paed.uscourts.gov/services/attorney-info)). The applicant and sponsor should report to the Clerk's Office, Room 2609 (second floor), thirty (30) minutes prior to the scheduled admission time.

3. Attorney Admissions in Allentown. Attorney admission ceremonies in Allentown will occur by appointment only. Arrangements should be made with Judge Leeson's Civil Deputy Clerk, Diane J. Abeles (610-391-7020) to schedule a date and time for the ceremony. The applicant and sponsor should report to the Clerk's Office, Room 1601 (first floor), thirty (30) minutes prior to the scheduled admission time, pay the admission fee, and bring a receipt for payment to the admissions ceremony.

4. Attorney Admissions Information. For additional information concerning attorney admissions, please see the FAQs on the Court's web site ([www.paed.uscourts.gov](http://www.paed.uscourts.gov)).