

HONORABLE RICHARD A. LLORET
United States Magistrate Judge
James A. Byrne U.S. Courthouse
601 Market Street, Room 3006 (Courtroom 3-D)
Philadelphia, Pennsylvania 19106
267-299-7410
Courtroom Deputy
Sheila McCurry
sheila_mccurry@paed.uscourts.gov

MAGISTRATE JUDGE ASSIGNMENT
Judge Gerald A. McHugh
Judge Wendy Beetlestone
Judge Eduardo C. Robreno

**JUDGE LLORET'S
PRACTICES AND PROCEDURES**

I. GENERAL MATTERS

A. Communications with Law Clerks: Counsel should communicate with the judge's law clerks only about procedural matters.

B. Communications between Counsel: Counsel should be courteous and reasonable with each other.

C. Confidentiality Agreements: The judge will only approve confidentiality or sealing orders for good cause shown. *See Pansy v. Borough of Stroudsburg*, 23 F.3d 772 (3d Cir. 1994). Such orders must contain this language: "The parties understand that the court may modify its order to disclose documents subject to this stipulation at any time in the interest of justice."

D. Courtesy copies of documents filed under seal: Counsel shall provide chambers, by U.S. Mail or hand delivery, with a paper copy and CD copy of any document that is filed under seal. The parties should also conform to the Clerk's general procedures on filing documents under seal, found at www.paed.uscourts.gov.

E. Video Telephone Conferences (VTC): Some helpful reminders about participation in court related video-conferences for attorneys and other participants, gleaned from experiences during the COVID-19 epidemic:

1. Please identify yourself when speaking. The person transcribing the conference may not have the video feed.
2. Remember that a picture of you is being recorded and televised to others, including a federal judge.

3. Brush or comb your hair before the hearing. You may wish to consider shaving, as well. The view from your computer's camera is unforgiving.
4. T-shirts and pajamas can be unwittingly revealing. Please wear a presentable dress shirt.
5. Take off the baseball cap. Ditto for the sunglasses.
6. Do not chew gum, or at a minimum, mute yourself and try to keep your mouth closed.
7. Wait on the sandwich until after the conference.
8. Think of what's behind you. Remove dirty clothes, raunchy posters, evidence of recent illegal activity, etc.
9. If your dog barks a lot, please mute your audio.
10. If you need to tell your children to be quiet, please mute your audio first.
11. It is better to make sure all filters are off than to tell me "I am not a cat."

II. CIVIL CASES

A. Settlement Conferences. At the time a case is referred for settlement, counsel shall contact my chambers to schedule a settlement conference in compliance with the district judge's referral order. Plaintiff(s) must make a demand no later than two weeks before the settlement conference, and defendant(s) must make an offer no later than one week before the conference. The judge requires that a principal with full settlement authority attend the conference and requires counsel for all parties to submit confidential position papers one week prior to the settlement conference. The parties should submit the position papers via email to sheila_mccurry@paed.uscourts.gov. An example of the notice is attached. The settlement conference summary calls for a one-page synopsis. Please stick to one page. If it is necessary for the judge to look at documents or pictures, please attach only the crucial pages or pictures. Please notify the court by joint telephone conference one week before the conference if settlement is not a real possibility, for example, if the defendant will not make an offer or will offer only nuisance value.

B. Scheduling Conferences. After the consent of the parties and a referral of a case for trial, the judge will hold a scheduling conference, often by telephone. At that time, deadlines will be set and the case listed for trial. An example of a scheduling order is attached.

C. Motion Practice: Except as described below, motion practice is governed by Local Rule 7.1.

1. Every assertion of fact in a memorandum must be supported by a citation to the record where that fact may be found. Both legal citations and citations to the record must include pinpoint cites.

2. Memoranda must not exceed thirty (30) pages in length (excluding table of contents and appendices), must be double spaced and must use 12-point font. Memoranda over fifteen (15) pages in length must include a table of contents and table of authorities.

3. Rule 56 Motions: Summary judgment practice must comply with Local Rule 7.1 and the following requirements:

a. Joint Appendix: A party who plans to file a motion for summary judgment must meet and confer with all other parties and develop a single, joint appendix of all exhibits that may be referenced in their respective memoranda. All pages of the joint appendix must be consecutively numbered with an appendix page number. Page references in the memoranda must be to the appendix page number, not internal document page numbers. The joint appendix must include a table of contents. The joint appendix must be filed by the movant no later than the date the initial motion for summary judgment is docketed.

If unusual circumstances make it necessary for a party to supplement the joint appendix, the party must move for permission to file a supplemental joint appendix. The supplemental joint appendix must contain the original appendix, add the supplemental materials at the end, continue the appendix page numbering, and provide an updated table of contents. The judge will not consider evidence not included in the joint appendix.

b. Statements of Fact: At the same time as its motion for summary judgment, the moving party must also file a separate Statement of Facts (the "Statement") containing a numbered, paragraph-by-paragraph recitation of the facts that the moving party contends are undisputed, with specific page references to the joint appendix in support of each paragraph. Each paragraph shall deal with one fact.

At the same time a response to the motion for summary judgment is filed, the responding party must file a separate

Counterstatement of Facts that responds to each paragraph of the Statement by accepting or rejecting the contention in the paragraph. If a contention is rejected, the responding party must supply facts supporting the rejection by specific page reference(s) from the joint appendix.

D. Pretrial Procedure: Pretrial procedure is governed by Local Rule 16.1. The parties may agree to file a joint stipulation, in the form attached, in lieu of complying with Local Rule 16.1 (c) and (d)(2).

Whether complying with Local Rule 16.1 or proceeding by Pretrial Stipulation, the parties jointly must file one document titled "**Proposed Voir Dire Questions**" containing three (3) sections: agreed *voir dire* questions, additional questions proposed by the plaintiff, and additional questions proposed by the defendant. The parties also must file a joint document titled "**Proposed Jury Instructions**," using the same three-part format. Third Circuit standard instructions should be used, if available. The parties must supply authority for their proposed instructions. The parties must file a joint document titled "**Proposed Jury Verdict Form**," using the same three-part format.

The three jointly filed documents must be filed on ECF at the same time as Pretrial Memoranda [or Pretrial Stipulation]. At the time of filing the parties must submit to chambers an electronic version of the three documents, in Word format.

E. Trial Procedure

1. Scheduling of Cases. In most cases, the judge will set a date certain for trial. Civil trials will take place in the James A. Byrne U.S. Courthouse, 601 Market Street, Courtroom 3-D, Philadelphia, PA 19106. The judge ordinarily sits from 9:30 a.m. until 4:30 p.m., with an hour break for lunch and a brief recess in the morning and in the afternoon.

2. Using the Lectern. The judge prefers that counsel use the lectern during trial. Counsel need not ask permission to approach a witness each time they do so; once is enough.

3. Note-taking and Questions by Jurors. The jury may take notes. The jurors may propose questions during trial by writing them down and handing them to the judge, who will preview them with counsel.

4. Voir Dire. The judge conducts *voir dire* questioning. Counsel may ask additional questions after the judge has questioned the panel.

5• Sidebars. Sidebars are disfavored but not absolutely banned. If issues need to be addressed outside the presence of the jury, counsel should ordinarily do so before and after court sessions, or during breaks.

6. Examination of Witnesses.

a. Live Testimony. The same lawyer for a party must examine and handle objections to the examination of a witness. Only one lawyer per party per witness.

b. Videotaped Depositions. Federal Rule of Civil Procedure 43 governs the use of videotaped Depositions. Previously videotaped testimony generally shall not be introduced in lieu of live testimony. Taped depositions may be used at trial, with prior approval by the Court, if use would be in accordance with a permitting federal statute, the Federal Rules of Evidence, a rule permitted by the Supreme Court, or other exceptional circumstances.

7• Objections. When objecting, counsel may indicate briefly the nature of the objection, *e.g.*, "irrelevant," "unduly prejudicial," "hearsay," but should not launch into argument. If the judge desires argument he will ask for it.

8. Exhibits. Counsel should confer and stipulate to the admission of exhibits, whenever possible. When stipulated exhibits are introduced counsel should note the exhibit is admitted by stipulation. Non-stipulated exhibits should be moved into evidence as soon as a foundation for admission is established. Exhibits not moved and admitted into evidence may not be displayed to the jury. Any objections or proposed limitations on the use of an exhibit must be aired at the time the exhibit is introduced. Objections or proposed limitations not voiced at the time the exhibit is moved into evidence are waived.

9• Jury Deliberations

a. Exhibits in the Jury Room. Exhibits that have been admitted into evidence are made available to the jury during deliberations, together with a copy of the court's jury instructions.

b. Interviewing the Jury. After the jury has been discharged, counsel should get the judge's permission before speaking with jurors.

III. CRIMINAL CASES

Criminal duty hearings, including arraignments, are normally held via ZOOM at noon on Tuesday, Wednesday, and Friday.

IV. FORMS

[Caption]

PRETRIAL STIPULATION

- (a) **Agreed facts.** [A conscientious effort should be made to narrow the areas of dispute.]
- (b) **Disputed facts.** [The parties should outline the fact disputes that must be decided.]
- (c) **Exhibits, marked for trial.** [All objections to authenticity should be noted or will be considered waived. Exhibits are to be provided to the court in the form of two jointly prepared loose leaf exhibit books - one for the judge and one for his law clerk- each book containing tabbed Joint Exhibits, Plaintiffs Exhibits, and Defendant's Exhibits.]
- (d) **List of witnesses and the subject of their testimony.** [Counsel must list all witnesses (except rebuttal witnesses) and supply a short explanation of the witnesses' expected testimony. Parties who intend to use video equipment to present the testimony of a witness should either supply that equipment or request, at least two weeks before trial, that the court reserve equipment for them.]
- (e) **Legal issues.** [Parties should explain undisputed and disputed legal issues and supply authority for their positions.].
- (f) **Proposed *voir dire* questions, jury instructions, and jury verdict form.** [Counsel shall comply with the format prescribed in section II(D) of my practices and procedures].

Stipulated on the dates listed below *[signatures of trial counsel and dates]*

[Caption]

SCHEDULING ORDER

AND NOW, this. ___ day of _____ 20 ____, it is

ORDERED

As follows:

1. All written discovery requests and responses are to be completed by _____.
2. The parties will contact Magistrate Judge _____ on or before _____ to schedule a settlement conference.
3. All fact depositions shall be completed by _____.
4. All expert reports and disclosures by the complaining party (plaintiff, counter complainant, third-party complainant) are due by _____. All expert reports and disclosures by defending parties are due by _____. Rebuttal reports are due by _____.
5. All dispositive motions and *Daubert* motions shall be filed on or before _____.
6. All Motions in Limine shall be filed by _____. Responses to Motions in Limine shall be filed by _____.
7. Pretrial Memoranda [a Pretrial Stipulation], along with proposed *voir dire*, jury instructions, and a verdict form, shall be filed seven (7) days prior to the first day of trial.

All objections to the authenticity of exhibits are waived unless noted in the Pretrial Memoranda [Stipulation].

8. JURY SELECTION will take place at ___ a.m./p.m. on _____,

TRIAL will commence on _____.

[Caption]

NOTICE OF SETTLEMENT CONFERENCE

A settlement conference will be held on *[DATE]* at *[TIME]*, before the Honorable Richard A. Lloret, United States Magistrate Judge. Please report to the James A. Byrne U.S. Courthouse, 601 Market Street, Courtroom 3-D, Philadelphia, PA 19106. A status telephone call will be held one week before on *[DATE]* at *[TIME]*. Plaintiff's counsel shall initiate the call to chambers (267-299-7410) once all defense counsel are on the line.

- Plaintiff must make a demand no later than two weeks before the settlement conference. Defendant must make an offer no later than one week before the conference.
- Plaintiff will comply with Fed.R.Civ.P. 26(a)(1)(A)(iii) at once, if plaintiff has not already provided a computation of damages that complies with the rule.
- Defendant will comply with Fed.R.Civ.P. 26(a)(1)(A)(iv) at once, if defendant has not already provided a full and complete copy of all insurance policies (including policy limits, retention and deductibles) in accordance with the rule.
- Please notify the court by joint telephone conference one week before the conference if settlement is not a real possibility, for example, if the defendant will not make an offer or will offer only nuisance value.
- Counsel is responsible to have clients with full settlement authority physically present for the duration of the conference.¹ A call for additional authority to settle ordinarily means that the in-person representative did not have full settlement authority.

Please complete the attached summary and e-mail it to Chambers at sheila_mccurry@paed.uscourts.gov on or before **[DATE]**. **If it is NOT emailed by then Judge Lloret may CANCEL the settlement conference.**

s/ Sheila McCurry
SHEILA MCCURRY
Courtroom Deputy to the
Honorable Richard A. Lloret
U.S. Magistrate Judge
267-299-7410

Date:

¹ Each entity with an interest in the case (for instance, an insurance company *and* the insured) must have a person with full settlement authority in attendance.

SETTLEMENT CONFERENCE SUMMARY

CAPTION: _____

DISTRICT COURT JUDGE: _____

JURY / NONJURY
(Circle One)

TRIAL/POOL DATE: _____

COUNSEL ATTENDING SETTLEMENT CONFERENCE:

Name: _____

Address: _____

Phone: _____

Client: _____

CLIENT ATTENDING SETTLEMENT CONFERENCE:

Name of Individual with Ultimate Settlement Authority who will be present at the settlement conference (include company and position where applicable):

MOTIONS PENDING:

OTHER RELEVANT MATTERS:

DEMAND AND OFFER:

ATTACH A **ONE PAGE** SYNOPSIS OF THE CASE.

NOTE: Submission of this form is a certification under Fed.R.Civ.P. 26(g) that counsel has complied with Fed.R.Civ.P. 26(a)(1) regarding initial disclosure of a computation of damages (as to plaintiff) and all insurance policies (as to defendant).