

HONORABLE SCOTT W. REID

United States Magistrate Judge

James A. Byrne U.S. Courthouse 601

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Philadelphia, PA 19106

Courtroom 3C

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Courtroom Deputy

Ian Broderick

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JUDGE REID’S POLICIES AND PROCEDURES

I. PRELIMINARY GENERAL MATTERS

A. Correspondence with the Court

Judge Reid permits correspondence from counsel on any matters as long as all other counsel in the matter are sent copies of such correspondence. Judge Reid sometimes permits letter motions in lieu of formal motions.

B. Communications with Law Clerks

Judge Reid permits counsel to communicate with his courtroom deputy and law clerks on scheduling and administrative matters, but never on the merits of a case.

C. Confidentiality Agreements

Judge Reid will 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 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.”

D. Telephone Conferences

Judge Reid prefers that counsel come to chambers for all conferences. Telephone conferences may be utilized, however, for matters such as scheduling changes, extensions of time and routine discovery disputes, it will be the responsibility of all counsel seeking relief to initiate any such conference by contacting the Judge’s courtroom deputy, Ian Broderick.

E. Oral Arguments and Evidentiary Hearings

Oral arguments and evidentiary hearings may be scheduled through Judge Reid's courtroom deputy. All reasonable efforts will be made to accommodate the schedules of counsel.

F. *Pro Hac Vice* Admissions

Judge Reid will permit oral motions for *pro hac vice* admissions on the day that the attorney to be admitted first appears. On or before the date of the non-admitted attorney's first appearance, counsel must prepare an appropriate Order to memorialize the *pro hac vice* admission.

II. CIVIL CASES

A. Pretrial Procedure

Judge Reid will schedule status conferences, settlement conferences and final pretrial conferences as required by the circumstance of each particular case. Judge Reid will work with counsel in the scheduling of either telephone conferences or conferences in chambers to resolve any issues that may arise during the progress of the case. Judge Reid does expect, however, that counsel will make all good faith efforts to resolve any disputed matter between themselves before seeking involvement of the Court. Counsel are expected to be mindful of the mandate of Federal Rule of Civil Procedure 1 that the procedural rules "should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding."

B. Continuances and Extensions

Because counsel will have substantial input in the setting of dates in the Rule 16 Order, Judge Reid expects counsel to comply with the dates set out in that Order. Extensions will be entertained upon a good cause showing that circumstances beyond the reasonable expectation of counsel have hampered the progress of the case. Judge Reid requires a letter brief requesting an extension. In most cases, extensions will only be considered after a conference with the Judge.

C. General Motions 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 twenty-five (25) pages in length (excluding table of contents and appendices), must be double spaced and must use 12-point Times New Roman font. Memoranda over fifteen (15) pages in length must include a table of contents and table of authorities.

D. Oral Arguments on Motions

Judge Reid will schedule oral argument on motions if it appears likely to be helpful to the Court's resolution of the matter. Counsel may request oral argument if considered appropriate.

E. Reply and Sur-reply Briefs

Judge Reid will permit reply briefs not to exceed fifteen (15) pages. Judge Reid will not normally permit sur-reply briefs and counsel desiring to file a sur-reply must first seek permission of the Court before such a brief will be accepted.

F. Chambers Copy of Motions Papers

Judge Reid requires a courtesy copy of all motion papers to be sent directly to chambers.

G. Discovery Matters

1. Length of Discovery Period and Extensions

Judge Reid normally permits from ninety to one hundred and twenty days for the completion of discovery; however, he will consider the informed view of counsel as to the time that will be required for discovery in a particular case. Additional time will be allowed in complex cases or upon a specific showing of need. Judge Reid will also consider staged discovery. He will encourage that the most essential discovery be undertaken early in the case so that it will foster early settlement opportunities and minimize the costs of litigation.

2. Discovery Disputes

Judge Reid expects the parties to resolve discovery disputes without Court intervention. Should counsel be unable, in good faith, to resolve their dispute, Judge Reid permits contact with the Court through his courtroom deputy to set up telephone or chambers conferences to resolve outstanding issues. The use of motion practice in discovery matters is discouraged.

3. *Expert Witnesses*

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

H. Settlement

1. *When Jurisdiction remains with the District Court*

(a) Preliminary Telephone Conference

When a matter is referred to Judge Reid for purposes of settlement, he will normally hold a preliminary telephone conference with counsel. At the time of the telephone conference, counsel will be expected to discuss the status of settlement discussions (if any) and the timing of the actual face to face conference. In the interest of streamlining the litigation, Judge Reid will encourage counsel to participate in settlement discussions as early as practicable and to stage discovery such as to facilitate settlement and control costs without contradicting the referring judge's Rule 16 requirements.

(b) Settlement Conference Memoranda

Judge Reid will normally require counsel to submit a brief confidential written conference summary, including an offer/demand settlement proposal, one week before the scheduled conference. This summary should not exceed -three (3) pages, excluding attachments. Judge Reid requires that counsel exchange their summaries, but counsel is not required to communicate their settlement proposals in the exchanged summaries. This information must be provided in a separate document to the Court. The summaries are not to be filed with the Clerk's Office.

(c) Demands and Offers

Judge Reid requires plaintiff (and defendant to any affirmative claim) to set out a written good faith demand prior to the conference. The defendant (or the other responding party) is required to respond to that demand in writing. The dates of the demands and offers will be set out in Judge Reid's settlement conference order in each case.

(d) Parties Attendance and Participation

Judge Reid requires in-person attendance at the conference by the parties or the parties' representatives, with knowledge of the case and settlement authority. In exceptional circumstances, Judge Reid will permit that person to participate in the conference by telephone. Counsel seeking relief must contact chambers as soon as they are aware of a problem with attendance.

At the conference, Judge Reid will expect counsel to:

- Be prepared to discuss the weaknesses, as well as, the strengths of their case.
- Prepare the client. Judge Reid will speak to them directly.
- Organize and bring critical documents. Judge Reid will want to see them.
- Attach relevant summary expert reports to the conference memos. Judge Reid will review them.
- Bring any photographs, sketches, diagrams and charts. Judge Reid will review them.
- Be patient. Settlement is a process. It takes time.
- Be flexible. Avoid bottom lines or top numbers.
- Be creative.
- Manage their client's expectations.
- Manage their own expectations.

(e) Follow-up Contact

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

(f) Continuances

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

2. *When jurisdiction for all purposes has been referred to Judge Reid*

(a) Jury matters

Judge Reid may, after discussion with counsel, conduct his own settlement conferences utilizing the procedures above. If not appropriate and if a

conference is deemed worthwhile, Judge Reid will obtain the assistance of another magistrate judge to assist with settlement discussions.

(b) Non-Jury Matters

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

(c) Arbitration

(i) General Approach to Arbitration Cases

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

(ii) Scheduling Trial De Novo from Arbitration

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

(d) Pretrial Memoranda

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

(e) Trial Procedure

(i) Scheduling of Cases

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

(ii) Conflicts of Counsel

Given the manner of scheduling, conflicts will normally not occur. Should counsel, however, have a professional or personal conflict

which may affect the trial schedule, notice should be provided immediately to opposing counsel and the Court.

(iii) Parties or Witnesses

Judge Reid will make all reasonable attempts to accommodate the schedules and availability of parties, experts and critical witnesses.

(iv) Note taking by Jurors

Judge Reid will consider note taking by jurors on a case by case basis.

(v) Trial Briefs

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

(vi) *Voir Dire*

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

(vii) Sidebar

Judge Reid discourages the use of sidebar conferences. Counsel are encouraged to raise particular evidentiary issues before trial or during recesses or adjournments.

(viii) *In Limine* Motions

Judge Reid will accept *in limine* motions in advance of the final pretrial conference and in accordance with his scheduling order so as to give him an opportunity to consider the merits of the motion.

(ix) Examination of Witnesses Out of Sequence

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

(x) Opening Statements and Submission

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

(xi) Examination of Witnesses or Argument by More than One Attorney

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

(xii) Examination of Witnesses Beyond Re-Direct or Re-Cross

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

(xiii) Videotaped Testimony

Judge Reid requires counsel to review all videotaped depositions and to have them edited such as to fairly present only the essential evidence of the witnesses involved. Counsel are expected to resolve all matters pertaining to objections before offering the video into evidence.

(xiv) Reading of Material into the Record

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

(xv) Preparation of Exhibits

Prior to commencement of trial, exhibits are to be pre-marked and exchanged by counsel. Counsel should provide Judge Reid with two (2) copies of each exhibit, together with a schedule of exhibits that briefly describes each exhibit. Counsel is encouraged, however, to provide the Court with only the essential and relevant portions of bulky exhibits, together with sufficient material to provide context for the relevant portion of the exhibits.

(xvi) Offering Exhibits into Evidence

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

(xvii) Motions for Judgment as a Matter of Law and Motions for Judgment on Partial Findings

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

(xviii) Proposed Jury Instructions and Verdict Forms

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

Counsel will submit a jointly prepared verdict form or proposed special interrogatories in accordance with the deadline set forth in the scheduling order. If counsel are unable to agree, they may submit separate proposed forms of interrogatories. Judge Reid will encourage counsel to agree upon a less than unanimous verdict. (xix) Proposed Findings of Fact and Conclusions of Law

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

(f) Jury Deliberations

(i) Written Jury Instructions

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

(ii) Exhibits in the Jury Room

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

(iii) Handling of Jury Requests to Read Back Testimony or Replay Tapes

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

(iv) Availability of Counsel During Jury Deliberations

Judge Reid will not require counsel to remain in the courthouse during deliberations but will require counsel to be available on short telephone notice.

(v) Taking the Verdict and Special Interrogatories

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

(vi) Polling the Jury

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

(vii) Interviewing the Jury

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

III. CRIMINAL CASES

A. Sentencing Memoranda

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

B. Additional Matters At all “criminal duty week” proceedings, counsel once appointed or retained, must be present to permit the proceeding to go forward.

Once the Court has ordered that a defendant be detained or has set conditions of release, any proposed changes thereto must be submitted to the Court by written motion.

Judge Reid does not favor the dual representation of defendants by a single attorney at any criminal proceeding, apart, perhaps, from the initial appearance.

Judge Reid requires that all relevant documents be delivered to Chambers in advance of court. Counsel may contact Ian Broderick (267-299-7640) if there are any questions regarding the matters before the Court.

IV. GENERAL MATTERS

When a decision rendered by this Court is appealed, Judge Reid prefers to receive copies of appellate briefs.

Judge Reid expects counsel to be prompt in all appearances, to be professional and courteous to each other, both in the presence of the Court and otherwise, and to have discussions with each other about any matter in dispute before it is brought to the attention of the Court.

Counsel should feel free to contact Judge Reid’s courtroom deputy or law clerks if they have any questions about his courtroom practices and procedures.