

HONORABLE PETRESE B. TUCKER

Judge Tucker was nominated by President William J. Clinton to the United States District Court for the Eastern District of Pennsylvania in 1999, and was sworn in in 2000. Prior to becoming a federal judge, Judge Tucker served for 13 years as a state judge in the First Judicial District of Pennsylvania. During her tenure in the Pennsylvania Common Pleas Court, Judge Tucker served in the Family Court Division, the Criminal and Civil sections of the Trial Division and was appointed by the Pennsylvania Supreme Court as the Administrative Judge of the Orphans' Court Division. Before becoming a member of the judiciary, Judge Tucker was Assistant Chief of the Rape Unit and Assistant Chief of the Child Abuse Unit of the Philadelphia District Attorney's office. In addition, her prior work experience includes positions as Senior Trial Attorney for the Southeastern Pennsylvania Transportation Authority (SEPTA), and Adjunct Professorships at the Great Lakes College Association and Trial Advocacy Courses at Temple University School of Law. Judge Tucker is a member of the Barristers Association of Philadelphia, past member of the Pennsylvania Conference of State Trial Judges, and the National Council of Juvenile and Family Court Judges. As a member of the Philadelphia, Pennsylvania National and American Bar Associations, Judge Tucker has chaired and worked on numerous committees. She has received many meritorious distinguished service awards for her significant contributions to the community. Judge Tucker is also a Board Member of The Avenue of the Arts, Incorporated.

Preliminary General Matters

1. Correspondence with the Court

Judge Tucker permits correspondence with the Court concerning scheduling, other routine matters, and to advise the Court that a case has been settled or dismissed. Otherwise, all communications with the Court should be made by the filing of pleadings, motions, applications, briefs or legal memoranda.

2. Communications with Law Clerks

Judge Tucker permits counsel to speak with her law clerks about administrative or scheduling matters.

3. Telephone Conferences

Judge Tucker may hold telephone conferences to resolve scheduling matters or discovery disputes. Counsel will be notified of the date and time for the telephone conference. It will be the responsibility of counsel for the moving party to initiate the conference and to contact Chambers after all parties are present on the call.

4. Oral Arguments and Evidentiary Hearings

Judge Tucker does not set aside certain days or times for oral argument, motions or evidentiary hearings. Hearings and argument are scheduled when warranted.

5. Pro Hac Vice Admissions

Judge Tucker requires that a written motion for admission be made by associate counsel of record. The admission of pro hac vice counsel does not relieve associate counsel of responsibility for the matter before the Court.

CIVIL CASES

Pretrial Procedures

1. Pretrial Conferences

Judge Tucker regularly schedules an in-person initial pretrial conference soon after the answer is filed or the case is transferred to her. Counsel is required to submit a Rule 16 Pretrial Conference Information Report prior to the pretrial conference.

At the pretrial conference, counsel will be expected to be prepared to discuss those topics listed in Local Rule of Civil Procedure 16.1(a) and Rule 16(b) and (c) of the Federal Rules of Civil Procedure as well as other appropriate matters. Counsel should also be prepared to discuss the progress of Self-Executing disclosures pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure.

A scheduling order will be issued after the pretrial conference setting forth deadlines for the completion of discovery, the filing of dispositive motions, the filing of pretrial submissions and a date when the case will be placed in the trial pool.

Continuances and Extensions

1. General Policy

Judge Tucker 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, oral argument, 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 extension or continuance may be made by letter and set forth in detail the reason or basis for the request and noting the agreement or disagreement of all other counsel as well

as the period of delay requested.

General Motion Practice

1. General Policies

The parties shall not file any dispositive motions before attending a settlement conference with Magistrate Judge Caracappa. All motions to amend the complaint, join or add additional defendants or name John Doe defendants shall be filed on or before the date set by the Court. All motions *in limine* shall be filed and served at least five (5) business days before the trial date. All other motions shall be filed and served prior to the close of the discovery period.

All briefs must be on 8.5 by 11 inch sequentially numbered pages. The text must be double-spaced. Headings and footnotes may be single-spaced. The font must be twelve (12) point. The margins must be one (1) inch on all four sides. No brief filed in support of or in opposition to any motion shall exceed twenty-five (25) pages in length without prior leave of Court. Any brief filed in support of or in opposition to any motion that exceeds ten (10) pages in length must be accompanied by a table of contents.

2. Reply and Sur-Reply Briefs

Judge Tucker generally discourages the filing of reply and sur-reply briefs. Requests for time to do so should be made by written motion. If leave is granted to file a reply or sur-reply, the brief shall be limited to a maximum of seven (7) pages.

3. Oral Argument on Motions

Judge Tucker generally schedules oral argument on motions if requested by counsel and if she believes it will be helpful in the Court's decision making process.

4. Chambers Copies of Motions

Judge Tucker does not require courtesy copies of motions.

Summary Judgment Procedure

1. Initial Filing of Moving Party

A defending party moving under Rule 56 may¹ move without reference to supporting affidavits or other evidence and, in doing so, the party making the motion shall:

- (1) identify in outline form the issue(s) and/or sub-issue(s) as to which the motion is directed;
- (2) provide a separate, short, and concise Statement of Stipulated Material Facts, as described below;
- (3) affirm, on the basis prescribed in Rule 11, that there is no legally sufficient evidentiary basis to support the issues so identified; and
- (4) request judgment as provided in Rule 56.

The initial filing by the moving party must not exceed five (5) double-spaced, type-written pages, excluding the Statement of Stipulated Material Facts.

Prior to the dispositive motion deadline outlined in the Court's scheduling order, the parties shall confer as to the facts material to the case. The initial filing of the moving party must include a short and concise Statement of Stipulated Material Facts which sets forth, in numbered paragraphs, the material facts that the parties agree are not in dispute. Only the facts that bear on material issues shall be included.

2. Response of Non-Moving Party

¹ This alternative, "short form" summary judgment procedure is permissive, not mandatory. Moreover, it is only available to defending parties and may not be used when the parties file cross-motions for summary judgment. A plaintiff moving for summary judgment under Rule 56 may only do so under the traditional summary judgment method (*i.e.*, motions, briefs, and exhibits filed concurrently).

The party against whom the Motion for Summary Judgment is addressed shall file a Response within twenty-one (21) days after the Motion for Summary Judgment is served. The Response, subject to the provisions of Rule 56, shall be supported with affidavits, depositions, documents, or other evidence permitted by those provisions. Where applicable, references to such evidence must include specific citations to exhibit, page, and line number. The Response may not exceed twenty-five (25) pages.

3. Reply of Moving Party

The Movant shall file a Reply not later than ten (10) days after receipt of the Response from the non-moving party. The Reply must specify the relevant exhibit, page, and line numbers when referring to the record. The Reply may not exceed twenty-five (25) pages.

4. Sur-Reply of Non-Moving Party (Requires Prior Leave of Court)

Sur-reply briefs cannot be filed without prior leave of Court. If leave is granted, the sur-reply is limited to a maximum of seven (7) pages, and must be filed within five (5) business days of the filing of the opposing party's response. The sur-reply must specify the relevant exhibit, page, and line numbers when referring to the record.

Discovery Matters

1. Length of Discovery Period and Extensions

Judge Tucker generally permits ninety (90) to one hundred-twenty (120) days for discovery unless a longer period of time is dictated by the nature of the case.

Judge Tucker generally allows extensions of thirty (30) to sixty (60) days when warranted.

2. Discovery Disputes and Dispute Resolution

Judge Tucker is available to discuss discovery disputes by telephone conference or may forward the matter to a magistrate judge for resolution.

Judge Tucker encourages Alternate Dispute Resolution at all stages of the case.

3. Expert Witnesses

The time for disclosure of the identity of experts and for discovery pursuant to Federal Rule of Civil Procedure 26(a)(2)(B), will be set forth in the scheduling order issued at the conclusion of the Rule 16 pretrial conference.

Settlement

1. General Approach to Settlement and Non-Jury Cases

Judge Tucker encourages settlement at all stages of a case. Settlement conferences may be initiated by counsel for either party.

2. Referral of Settlement Negotiations to a Magistrate Judge

Judge Tucker generally refers cases to a magistrate judge for settlement negotiations.

TRIAL GUIDELINES

1. Scheduling Cases

Judge Tucker's practice is to assign a date for placing a case in the trial pool at the time of the initial pretrial conference. Once a case is placed in the trial pool, counsel, parties and witnesses should be ready to start trial upon twenty-four (24) hours telephone notice. Counsel will not be required to commence trial less than 24 hours after completing trial in another case.

It is the responsibility of counsel (or *pro se* or unrepresented parties) to contact Judge Tucker's law clerk with respect to the status and movement of Judge Tucker's trial pool.

2. Conflicts of Counsel

Judge Tucker requires that counsel notify the Court immediately of any unavoidable and compelling professional or personal conflicts affecting the trial schedule.

3. Cases Involving Out of Town Parties or Witnesses

Judge Tucker schedules the trial of cases involving out of town counsel, parties or witnesses the same as all other cases. Judge Tucker leaves the scheduling of witnesses to counsel.

4. Note Taking by Jurors

Judge Tucker generally decides on a case-by-case basis whether to permit jurors to take notes.

5. Trial Briefs

Judge Tucker requires the submission of a trial brief no later than five (5) days before the trial pool date.

6. Voir Dire

Judge Tucker generally permits counsel to conduct the voir dire in civil matters. Judge Tucker conducts the voir dire in all criminal cases.

7. Side Bars

Judge Tucker permits side bar conferences when appropriate.

8. Motions *In Limine*

Judge Tucker requires motions *in limine* to be submitted no later than five (5) days before the trial pool date.

9. Examinations of Witnesses Out of Sequence

Judge Tucker generally will permit counsel to take the testimony of a witness out of turn for the convenience of the witness unless it is objected to by opposing counsel.

10. Opening Statements and Summaries

Judge Tucker generally does not place time limits on opening statements or summations by counsel. However, Judge Tucker believes that twenty (20) to thirty (30) minutes is usually adequate for an opening and thirty (30) to forty-five (45) minutes is usually adequate for summations in routine cases.

11. Offers of Proof

Judge Tucker requires counsel 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 Tucker will rule on them upon application before a witness testifies or an exhibit is offered into evidence and at a time when the jury will not be inconvenienced.

12. Examination of Witnesses by More Than One Attorney

Judge Tucker will permit more than one attorney for a party to examine different witnesses or to argue different points of law before the Court. Ordinarily, Judge Tucker will

not permit more than one attorney to examine the same witness, or to address the jury during the opening statement or summation.

13. Examination of Witnesses beyond Re-Direct and Re-Cross

Judge Tucker has no general policy regarding further examination of a witness after re-direct or re-cross has been completed. Where appropriate, she will allow it.

14. Videotaped Testimony

Videotaped testimony should begin with the witness being sworn. Judge Tucker requires that a list of all objections to videotaped trial testimony and a copy of the transcript should be submitted to the Court well in advance of the offering of such evidence.

15. Reading of Material into the Record

Judge Tucker has no special practice or policy regarding reading stipulations, pleadings or discovery material into the record. When appropriate, she will allow it.

16. Exhibits

Exhibits must be pre-marked and pre-exchanged. A bench 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.

So long as each exhibit is offered and admitted into evidence before it is shown to the jury, Judge Tucker has no particular preference as to when counsel should offer exhibits into evidence. At the conclusion of a party's case-in-chief, counsel should make sure that all exhibits intended to be offered into evidence either have been or are offered into evidence.

Unless there is an objection from opposing counsel placed on the record, exhibits are released at the close of trial to the custody of the party who offered them and must be picked up within forty-eight (48) hours after the close of trial or they will be destroyed.

17. Directed Verdict Motions

Motions for judgments as a matter of law in jury trials under Federal Rule of Civil Procedure 50(a) and motions for judgment on partial findings in non-jury trials under Federal Rule of Civil Procedure 52(c) may be oral or written. Judge Tucker will hear oral argument on such motions if counsel requests it.

18. Proposed Jury Instructions and Verdict Forms

Judge Tucker requires proposed jury instructions and verdict forms to be filed with the Clerk and served on the Court at least three (3) days before the case is placed on the trial list.

A courtesy copy of the proposed jury interrogatories, jury instructions, and verdict forms shall be submitted to Chief Judge Tucker's Chambers in Word or WordPerfect format by electronic mail.

Jury Deliberations

1. Written Jury Instructions

Ordinarily, Judge Tucker will provide counsel with a draft of the proposed instructions, but does not provide a copy to the jury.

2. Exhibits in the Jury Room

After the close of the charge, counsel will review the exhibits among themselves to determine which exhibits will go out to the jury *if and when requested by the jury*. Any disputes will be resolved by the Court.

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

At the jury's request, if the transcript is available, Judge Tucker will consider allowing the reading of the appropriate portions back to the jury and replaying of audio and video tapes.

4. Availability of Counsel during Jury Deliberations

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

Post-trial discussions with jurors by counsel will not be permitted.

CRIMINAL CASES

1. Approach to Oral Argument and Motions

Judge Tucker will grant oral argument on motions in criminal cases if she believes it will assist her in her decision making process. Hearings on motions to suppress evidence and Starks hearings will usually be held in advance of trial.

2. Pretrial Conferences

Judge Tucker conducts pretrial conferences in criminal cases as needed.

3. Voir Dire

Judge Tucker conducts voir dire in all criminal cases. Judge Tucker requires counsel to submit proposed voir dire questions at least three (3) days prior to the trial date.

4. Proposed Jury Instructions and Verdict Forms

Judge Tucker requires that counsel for each party submit to the Court and serve upon each other, proposed points for charge and any proposed jury interrogatories at least five (5) days before the trial date. Each point for charge and proposed jury interrogatory shall be numbered and on a separate sheet of paper identifying the name of the requesting party. Supplemental points for charge will be permitted during and at the conclusion of the trial. Points for charge should be accompanied by appropriate citations of legal authority.

5. Guilty Plea Memoranda

Judge Tucker requires counsel for the government to submit a guilty plea memorandum at least two (3) days prior to the date of the plea hearing. Such a memorandum shall include the elements of each offense to which the defendant is pleading guilty and legal citations for such elements.

6. Sentencing Memoranda

Judge Tucker encourages the submission of sentencing memoranda by both counsel for the government and the defendant(s).

OTHER GENERAL MATTERS

1. Judge Tucker expects counsel to be punctual for all conferences, hearings and trials. She also expects counsel at all times to be civil to one another as well to all parties, witnesses and court personnel.

2. In all courtroom proceedings, Judge Tucker expects counsel to stand when addressing the Court or when examining witnesses as well as when the jury is entering or exiting the courtroom. Counsel also may approach the witnesses with the permission of the Court.

3. In general, Judge Tucker expects counsel to bring matters to her attention only after they have been discussed with opposing counsel.