

JUDGE CYNTHIA M. RUFÉ

POLICIES AND PROCEDURES

REVISED NOVEMBER 2024

The Honorable Cynthia M. Rufe
United States District Court for the Eastern District of Pennsylvania
James A. Byrne U.S. Courthouse 601 Market Street, Room 12614
Philadelphia, Pennsylvania 19106-1797
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Judge Rufe was born in Philadelphia, Pennsylvania. She received a B.A. from Adelphi University in 1970, and a J.D. from the Law School of the State University of New York in 1977. Judge Rufe served as deputy in the Bucks County Public Defender's Office and also served as coordinator in the Juvenile Division from 1977 to 1982. From 1982 to 1993, Judge Rufe was in private practice, during which time she served as a solicitor for the Bucks County Children and Youth Services Agency from 1984 to 1988. Judge Rufe served as a judge on the Bucks County Court of Common Pleas from 1994 to 2002. Judge Rufe was appointed to the United States District Court for the Eastern District of Pennsylvania on May 3, 2002.

GENERAL INFORMATION

1. Communications with Judge Rufe's Chambers

Judge Rufe permits communications with Chambers by telephone, email, or facsimile regarding scheduling and other non-substantive matters. All other issues must be addressed by an appropriate motion or other document filed on the docket. Under no circumstances may any party or counsel communicate *ex parte* with any Chambers personnel concerning substantive matters. Law clerks may not render advice to counsel and have no authority to grant continuances or any other relief.

For civil scheduling and case management and general inquiries:
Kristen Pepin (Judicial Secretary/Civil Courtroom Deputy)
Telephone: (267) 299-7490 Facsimile: (267) 299-5077
Email: Chambers_of_Judge_Cynthia_M_Rufe@paed.uscourts.gov

For criminal scheduling and case management and inquiries about obtaining transcripts:
Erica Pratt (ESR/Criminal Courtroom Deputy)
Telephone: (267) 299-7499 Facsimile: (267) 299-7498
Email: Erica_Pratt@paed.uscourts.gov

NOTE: All email correspondence must be directed **only** to these email addresses and **not** sent directly to Judge Rufe.

2. Telephone Conferences

Counsel may request a telephone conference with Judge Rufe to resolve straightforward discovery disputes and other issues, but complicated matters should be resolved by formal motion and briefing. Counsel must exhaustively address all discovery disputes with opposing counsel before requesting Judge Rufe's assistance. Counsel should submit a letter by email or facsimile to Chambers summarizing the reason for the requested telephone conference.

3. Stipulations

Any stipulations requiring Court approval or the Judge's signature must be submitted by email or facsimile to Chambers.

4. Electronic Case Filing

Judge Rufe requires all counseled parties to use Electronic Case Filing ("ECF"). ECF provides greater efficiency and timeliness in the filing of pleadings, automatic e-mail notice of case activity, as well as electronic storage of documents for remote access by the Court, the Bar, and the litigants. Attorneys are urged to register as ECF Users in accordance with Rule 5.1.2 of the Local Rules of Civil Procedure, referencing the Procedural Order on Electronic Case Filing. Proposed orders should be attached to corresponding motions or memoranda of law. Transmittal of pleadings, motions, or other filings to Chambers instead of by ECF is not permitted.

5. Standing Orders

Judge Rufe has no standing Orders.

CIVIL MATTERS

1. Rule 26 Conferences

Judge Rufe relies on good-faith compliance in all respects with Federal Rule of Civil Procedure 26(f). The Rule 26(f) meeting shall take place as soon as possible and, in any event, at least 14 days before the Rule 16 scheduling conference. Outstanding motions will not excuse the parties from timely holding the meeting and submitting a Rule 26 plan. Compliance is mandatory. The meeting should not be viewed as perfunctory, but rather as a meaningful and substantive discussion to formulate the discovery plan required by the Rule. Parties who do not comply will have no voice at the scheduling conference and may be subject to additional sanctions.

2. Rule 16 Scheduling Conferences

Judge Rufe will issue an Order for a Rule 16 scheduling conference to be held by telephone (or, in the case of *pro se* parties, either on the record or by mail). The parties must file a Rule 26(f) report at least **seven days before** the Rule 16 conference. The report should include a statement as to whether and when the parties will be prepared to discuss settlement.

Lead trial counsel must participate in the Rule 16 conference and must enter an appearance before the conference unless Judge Rufe approves a substitution. All applications to appear *pro hac vice* must be approved before the conference.

After the conference, Judge Rufe will issue a Scheduling Order to govern further proceedings in the case. The Scheduling Order will usually include the requirements and deadlines set forth in the Sample Scheduling Order attached hereto as the Appendix.

3. Protective Orders, Confidentiality Agreements, and Filings Under Seal

Judge Rufe will not enter a protective order on confidentiality in a civil case unless statutorily required or for demonstrated good cause, but will enforce private confidentiality agreements as a matter of contract law. *See In re Avandia Mktg., Sales Practices & Prod. Liab. Litig.*, 924 F.3d 662, 671-73 (3d Cir. 2019).

Any proposed protective order must include language to the following effect: “Protected material may only be filed under seal pursuant to a court order authorizing the sealing of the specific material at issue. If a party’s request to file material under seal is denied by the Court, then the party may file the information in the public record unless otherwise instructed by the Court. The Court retains the right to allow disclosure of any subject covered by this order or to modify this order at any time in the interest of justice.”

Unless it is an emergency, documents may not be filed under seal in a civil case absent leave. Before attempting to file documents under seal, parties should carefully consider whether the purportedly confidential information could simply be omitted, redacted, or made available upon request because it is of little or no relevance.

In the event of an emergency, the parties shall deliver by email or facsimile the documents and explain why seal is necessary and the nature of the emergency.

A party seeking to file documents under seal should follow this procedure:

- (i) Well ahead of any applicable deadline, move to file under seal, proposing sealed material as narrowly as possible and articulating good cause consistent with applicable precedent. The motion to file under seal should be filed on the public docket by ECF. Any unredacted documents accompanying the motion should be

contemporaneously emailed to chambers. The moving party should indicate the consent of opposing counsel.

- (ii) If the motion to file under seal is granted, file the complete, unredacted versions of the documents under seal by ECF on the docket (observing appropriate deadlines). Consistent with representations made when seeking leave to file under seal, and any related order, counsel should highlight the non-public portions of sealed documents.
- (iii) Within 30 days of the filing under seal (or as otherwise ordered), file thoughtfully and narrowly redacted, public versions of the same documents on the docket. Documents filed under seal should be filed appropriately using ECF.

4. Settlement

Upon reaching a settlement, counsel must notify Judge Rufe's Chambers promptly and request dismissal of the action pursuant to Local Rule of Civil Procedure 41.1 or some other procedure that will effectively terminate the litigation.

Judge Rufe addresses the possibility of settlement at all stages in the proceedings. In addition, consistent with Local Rule 53.3, Judge Rufe directs all parties to consider the use of an alternative dispute resolution process at an appropriate stage in the litigation. Magistrate Judge Carol Sandra Moore Wells is available to conduct settlement conferences in civil matters, and Judge Rufe strongly encourages litigants to avail themselves of Judge Wells's skillful assistance.

If for any reason counsel desires a continuance of a settlement conference listed before Judge Wells, counsel must contact Judge Wells's Chambers directly. If, however, the requested continuance exceeds 14 days, counsel must receive Judge Rufe's approval before contacting Judge Wells's chambers.

5. Requests for Extensions of Time

Where compelling circumstances so require, counsel may request an extension of a filing or other deadline only if such request has no effect on other existing deadlines. If a request for an extension is unopposed, counsel must so state and may submit the request by motion, letter, or joint stipulation. Opposed requests must so state and be filed as a motion.

6. Motions Practice

In most cases, summary judgment motions filed pursuant to Federal Rule of Civil Procedure 56 will use the form and schedule outlined in Attachment B to the Sample Scheduling Order (the Appendix hereto), which is known as the "alternative method." When there are cross-motions for summary judgment or in certain other cases, however, Judge Rufe will permit the parties to file their Rule 56 Motions under the traditional method.

Judge Rufe will notify the parties in the Scheduling Order whether they must file their Rule 56 Motions pursuant to the alternative method outlined in Attachment B to the Sample Scheduling Order.

Under the alternative method, Motions for Summary Judgment under Rule 56 shall not exceed five double-spaced pages. For the purposes of such a Motion only, Local Rule of Civil Procedure 7.1(c) does not apply to require the submission of a memorandum of law in support of the initial Motion. Rather, the Motion shall be made in outline form, identifying the issues which form the basis of the party's request for relief. The non-moving party's Response memorandum shall not exceed 25 double-spaced pages. Likewise, the moving party's Reply memorandum shall not exceed 25 double-spaced pages. Any Sur-Reply memoranda shall not exceed 10 double-spaced pages. The parties need not seek leave of Court to file the Reply and Sur-Reply.

Under the traditional method, a moving party's Memorandum of Law in support of its Motion for Summary Judgment shall not exceed 25 double-spaced pages. The Response shall not exceed twenty-five double-spaced pages. Any Reply or Sur-Reply shall not exceed 10 pages, and may be filed without leave of Court.

For all other motions, Judge Rufe follows the requirements of Local Rule of Civil Procedure 7.1. Memoranda in support of such motions and responses shall not exceed 15 double-spaced pages. Reply and Sur-Reply memoranda may be filed without leave of Court and shall not exceed 10 double-spaced pages.

Unless specifically requested to do so, counsel should not send paper courtesy copies. Counsel may send courtesy copies by email, but it is not necessary.

Judge Rufe regularly decides motions on the papers, but will hear oral argument when she determines that it will assist in the resolution of a motion.

7. Trial

Judge Rufe regularly sets matters for trial after resolving dispositive motions. In the event that a dispositive motion does not terminate a case, Judge Rufe will order the parties to file a status report informing the Court whether the case has settled within a period of time following the Order for the report. In the event that a case has not settled, Judge Rufe will request jointly proposed dates for trial. Judge Rufe will then schedule the trial and set associated deadlines, including the pretrial conference. Pretrial conferences are typically scheduled shortly before the trial date. Counsel should be prepared at the pretrial conference to discuss any motions *in limine* and other pretrial matters and to discuss *voir dire* and other trial procedures.

For any civil litigation issues not addressed above, please consult the Local Rules of Civil Procedure for the Eastern District of Pennsylvania at:
<http://www.paed.uscourts.gov/documents/locrules/civil/cvrules.pdf>

CRIMINAL MATTERS

1. Motions Practice

All pretrial motions must be filed no later than thirty days in advance of the scheduled trial date, and except in rare circumstances, will be heard on a date before the scheduled trial date. In multi-defendant proceedings, all motions will be heard jointly. Defendants may not join in co-defendants' pretrial motions without leave of the Court. Counsel are advised to provide Judge Rufe with supporting memoranda as soon as possible and no later than the date of the hearing. Such supporting memoranda shall not exceed 25 double-spaced pages.

All post-trial motions must be filed in accordance with the Federal and Local Rules of Criminal Procedure. Supporting memoranda for such motions and response memoranda shall not exceed 25 double-spaced pages. Reply and Sur-Reply memoranda may be filed only with leave of Court and shall not exceed 10 double-spaced pages.

2. Continuances of Trial

Any request for a continuance must be filed no later than 14 days in advance of the scheduled trial date. Requests for a continuance must be filed as motions stating the reasons for the request. Any such motion must be accompanied by a proposed form of Order which, if approved by the Court, would grant the relief sought by the motion. The proposed form of Order **must** be consistent with the requirements of the Speedy Trial Act, 18 U.S.C. § 3161(h)(7), and 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. Requests by letter are not permitted.

3. Pretrial Conferences

Judge Rufe will schedule a pretrial conference with counsel at least three days before the scheduled trial date. The conference may be conducted by telephone in limited circumstances. Any issues related to *voir dire*, motions *in limine*, jury instructions, and jury verdict forms will be addressed at that time.

4. *Voir Dire*

Judge Rufe conducts extensive *voir dire* in criminal jury cases. Counsel are permitted to address the venire with follow-up questions.

5. Sentencing

If the Court accepts a guilty plea or there is a conviction at trial, Judge Rufe will schedule a speedy sentencing for a date selected at the time of the plea or verdict. Judge Rufe discourages

continuance of sentencing, and sentencing will be continued for good cause only. Judge Rufe will generally not consider any request for a continuance exceeding 90 days.

In the rare event of a 90-day continuance, if counsel for both the Government and the defendant(s) believe that good cause exists for an additional continuance beyond the 90-day period, counsel may jointly request in writing an additional continuance. Any such request must state why good cause exists for an additional continuance. If Judge Rufe grants such a request, counsel shall be required to submit in writing a joint status update every 30 days until judgment of sentence is entered.

Sentencing motions and supporting memoranda must be filed at least 14 days before the scheduled sentencing date, and any response thereto must be filed at least seven days before the scheduled sentencing date.

Sentencing memoranda (exclusive of motions) must be filed no later than seven days before the scheduled sentencing date, and any response thereto must be filed at least three days before the scheduled sentencing date.

For any criminal litigation issues not addressed above, please consult the Local Rules of Criminal Procedure for the Eastern District of Pennsylvania at:

<http://www.paed.uscourts.gov/documents/locrules/criminal/crrules.pdf>

Appendix - Sample Scheduling Order

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Plaintiff,
v.
Defendant.

CIVIL ACTION NO.

SCHEDULING ORDER

AND NOW, this day of 20 , after a telephone conference with counsel for the parties, the Court hereby enters the following Scheduling Order to govern further proceedings in this case:

1. **[If appropriate]** The parties may add or drop claims or parties within **60 days** of the entry of this order without leave of Court.
2. On or before **[date]**, the parties, through counsel, shall jointly report to the Court, in writing, as to whether they wish to have a settlement conference before a magistrate judge, attempt mediation under Local Civil Rule 53.3 (a copy of which is attached hereto as Attachment A), or pursue some other form of alternative dispute resolution, for assistance in resolving the case and, if so, indicate by what date they will be prepared to commence such proceedings. This joint report should be submitted to Chambers by fax (to (267) 299-5077) or email (to (Chambers_of_Judge_Cynthia_M_Rufe@paed.uscourts.gov) and not filed of record.
3. Fact discovery shall be completed on or before **[date]**.
4. Plaintiff's expert reports, if any, shall be served on or before **[same as above]**.
5. Defendant's responsive reports, if any, shall be served on or before **[30 days later]**.

6. All dispositive motions shall be filed on or before **[30 days after above]**. The parties are directed to follow Judge Rufe's Policies and Procedures for Summary Judgment, a copy of which is appended hereto as Attachment B.

It is so **ORDERED**.

BY THE COURT:

CYNTHIA M. RUFÉ, J.

Attachment A

LOCAL RULE OF CIVIL PROCEDURE 53.3: ALTERNATIVE DISPUTE RESOLUTION

1. Litigants in all civil actions, exempting only social security appeals, pro se prisoner civil rights actions, and petitions for habeas corpus, shall be required to consider the use of an alternative dispute resolution process (the “ADR process”) at an appropriate stage in the litigation.
2. ADR processes may include mediation and settlement conferences and such other ADR processes as the judge to whom the case is assigned (the “assigned judge”) may designate.
3. All ADR processes subject to this Rule shall be confidential, and disclosure by any person of confidential dispute resolution communications is prohibited unless confidentiality has been waived by all participants in the ADR process, or disclosure is ordered by the assigned judge for good cause shown.
4. Nothing in the Rule shall be construed to limit the assigned judge from (a) conducting settlement conferences or referring a matter to a magistrate judge for a settlement conference, or (b) ordering the litigants to participate in an ADR process, or (c) approving or disapproving of an ADR process selected by the litigants.
5. The Alternative Dispute Resolution (“ADR”) Committee of the court shall administer, oversee, and evaluate the court’s ADR program in accordance with the Alternative Dispute Resolution Act of 1998. The Clerk of Court, or such other person as may be designated from time to time by the Chief Judge, shall serve as the ADR coordinator. Under the direction of the ADR committee, the coordinator shall administer a program for recruitment, screening and training of attorneys to serve as neutrals.
6. The Rule is intended to be flexible so as to permit the court to adopt, from time to time, guidelines and policies for the administration of the ADR program. The procedures promulgated by the court for the implementation of the ADR program shall be maintained on file in the office of the Clerk.
7. Nothing in the Rule shall be construed to amend or modify the provisions of Local Civil Rule 53.2 (compulsory and voluntary arbitration with right of trial *de novo*). Local Civil Rule 53.2.1 (compulsory mediation) is repealed by separate order.

Explanatory Note

The Rule is intended to implement the provisions of the Alternative Dispute Resolution Act of 1998 and to demonstrate the long-standing commitment of the court and its bar to non-binding alternative dispute resolution, without, however, limiting the authority and discretion of the assigned judge. Certain civil actions are exempted from the Rule as cases not appropriate for ADR process pursuant to the Alternative Dispute Resolution Act of 1998.

Effective July 1, 2003

Attachment B

JUDGE RUFÉ'S REQUIRED PROCEDURE ON SUMMARY JUDGMENT FOR THOSE MOVING UNDER RULE 56

1. **Initial Filing of Moving Party:** A party moving under Rule 56 may 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) affirm, on the basis prescribed in Rule 11, that there is no legally sufficient evidentiary basis for the non-movant to prevail upon the issues so identified;
 - (3) provide a separate, concise Statement of Stipulated Material Facts, as described below; and
 - (4) request judgment.

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

No later than 14 days before the case dispositive motion deadline, the parties shall meet and confer about the facts material to the case. The initial filing of the moving party must include a 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:** The non-moving party shall file a Response within 21 days after the Motion for Summary Judgment is served. The Response shall be supported with affidavits, depositions, documents or other evidence permitted by Rule 56. Where applicable, references to such evidence must include specific citations to exhibit, page, and line number. The Response may not exceed 25 pages.
3. **Reply of Moving Party:** The movant shall file a Reply. Such a Reply must be filed not later than fourteen days after the Response from the non-moving party is served. The Reply must specify the relevant exhibit, page, and line numbers when referring to the record. The Reply may not exceed 25 pages.
4. **Sur-Reply of Non-Moving Party (Optional):** The non-moving party may, within seven days after the Reply is received, file a Sur-reply. The Sur-reply must specify the relevant exhibit, page, and line numbers when referring to the record. The Sur-reply may not exceed 10 pages.

The purpose of this procedure is to encourage the parties in their dispositive motion to track the natural order of trial where the plaintiff sets forth its cause and the defendant then responds.