

Honorable Lynne A. Sitarski
United States Magistrate Judge
U.S. Courthouse
601 Market Street, Room 3015
Philadelphia, Pennsylvania 19106
(267) 299-7810
Fax: (267) 299-5060
Courtroom Deputy Clerk: Regina M. Zarnowski
Chambers_Sitarski@paed.uscourts.gov

MAGISTRATE JUDGE ASSIGNMENT:

Magistrate Judge Sitarski is paired with Judges Jones, Kenney, and Quinones.

STANDING ORDERS:

See settlement conference order below.

JUDGE SITARSKI'S GENERAL POLICIES AND PROCEDURES

1. Professionalism. Judge Sitarski expects counsel and parties to conduct themselves in a civil, polite, and professional manner at all times. All proceedings will begin at the scheduled time, and punctuality is expected.

2. Correspondence with the Court. Judge Sitarski permits correspondence from counsel on all matters, with copies to all counsel of record. Except for settlement conference documents, *everything* sent to the Court must also be sent to all counsel of record, and be served in the same manner. Judge Sitarski sometimes permits letter motions in lieu of formal motions.

3. Communications with Law Clerks. Judge Sitarski permits counsel to talk with her Deputy Clerk and law clerks regarding logistical matters, but *never on the merits of the case*. Counsel should never contact Chambers to inquire on the status of a pending motion.

4. Telephone Conferences versus In-Person Conferences. Judge Sitarski will determine whether a telephone conference or an in-person conference is appropriate on a case-by-case basis. Generally, telephone conferences will be used to deal with routine matters such as scheduling changes, extensions of time, and routine discovery disputes. Counsel seeking any such relief are responsible for initiating the conference by contacting Judge Sitarski's Deputy Clerk.

5. Pro Hac Vice Admissions. Judge Sitarski 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.

CIVIL CASES

Pretrial Procedure

Pretrial Status Conference. Judge Sitarski will schedule status conferences, settlement conferences, and final pretrial conferences as required by the circumstance of each particular case. Judge Sitarski will schedule either telephone conferences or conferences in chambers to resolve any issues that may arise as the case progresses. Judge Sitarski does expect 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 Fed.R.Civ.P. 1 that the procedural rules “shall be construed and administered to secure the just, speedy, and inexpensive determination of every action.”

Continuances and Extensions

General Policy. Generally, Judge Sitarski will expect counsel to comply with the requirements set out in the Court’s initial Rule 16 order. A scheduling order will be issued after a conference with the parties. The Court expects that counsel will provide all information necessary to set realistic and firm deadlines. Counsel will be encouraged to consider settlement at the earliest possible stage and, alternatively, to consider discovery staging agreements that permit productive settlement discussions before the parties are required to bear the extensive costs of protracted discovery. Extensions will be entertained upon a showing that circumstances beyond the reasonable expectation of counsel have hampered the progress of the case. Judge Sitarski will not require a formal motion seeking an extension, and will consider requests for extensions brought to the attention of her Deputy Clerk, who will set up either a telephone or chambers conference.

General Motions Practice

1. Oral Argument on Motions and Evidentiary Hearings. Judge Sitarski 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 counsel considers argument appropriate, but the Court will determine whether oral arguments will be heard. Evidentiary hearings will be scheduled by Judge Sitarski’s Deputy Clerk in appropriate cases. The Court will endeavor to accommodate the schedules of counsel and witnesses, consistent with the exigency of the matter and the Court’s schedule.

2. Reply and Surreply Briefs. Judge Sitarski will permit reply briefs, but expects such briefs to be concise, and to be limited to replying to matters raised in the opposition brief. Reply briefs should not be used to raise new issues. Judge Sitarski will not normally permit surreply briefs, and counsel who wish to file a surreply must first seek permission of the Court before such a brief will be accepted.

3. Chambers Copy of Motions Papers. Judge Sitarski expects a courtesy copy of all motion papers to be sent directly to chambers. Judge Sitarski expects that in most cases, these papers will be submitted by email.

4. Rule 56 Motions. Any motion for summary judgment filed pursuant to Fed.R.Civ.P. 56 shall include a separate Statement of Undisputed Facts which sets forth, in numbered paragraphs, the material facts that the moving party contends are undisputed and entitle the movant to judgment as a matter of law. Only those facts which bear on dispositive, material issues shall be included in the Statement of Undisputed Facts.

A party opposing summary judgment must respond to the numbered paragraphs set forth in the Statement of Undisputed Facts and state whether it agrees or disagrees with each fact the moving party lists. The responding party shall also set forth, in separate numbered paragraphs, any additional facts which the respondent contends preclude summary judgment.

Statements of material facts in support of or in opposition to a motion shall include specific references to the parts of the record that support the statements. Each stated fact shall cite the source relied upon, including the page and line of any document or deposition to which reference is made.

Discovery Matters

1. Length of Discovery Period and Extensions. Judge Sitarski normally permits from 90 to 120 days for the completion of discovery; however, she 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 Sitarski will also consider staged discovery. She 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 Conferences and Dispute Resolution. Discovery should be conducted in a voluntary, candid, cooperative, and timely manner. Judge Sitarski expects the parties to resolve discovery disputes without Court intervention. Should counsel be unable, in good faith, to resolve their dispute, Judge Sitarski permits contact with the Court so that telephone or chambers conferences may be set up to resolve outstanding issues.

3. Confidentiality Agreements. Judge Sitarski will permit confidentiality agreements, subject to the requirements of *Pansy v. Borough of Stroudsburg*, 23 F.3d 772, 786 (3d Cir. 1994).

4. Expert Witnesses. The parties will identify expert witnesses and provide expert reports pursuant to the Rule 16 scheduling order entered in the particular case. Failure to do so may bar the use of the expert's testimony at trial.

Settlement

1. **When The Case Is Assigned to Another Judge.**

a. **Settlement Conference Memoranda.** Judge Sitarski will normally require counsel to submit a confidential settlement conference memorandum one week before the actual conference. Judge Sitarski permits each attorney to submit copies of up to five documents that he/she considers critical to resolution of the case. An order outlining the matters to be covered in the memorandum will be filed shortly after the conference is scheduled. These summaries shall be submitted to the Court only, and should *not* be filed with the Clerk's Office. Judge Sitarski expects that these submissions will include a candid discussion of the submitting party's strengths and weaknesses in the case.

b. **Parties' Attendance and Participation.** Judge Sitarski will require that each party or a representative of each party with knowledge of the case and settlement authority attend the conference in person. In very exceptional circumstances, with advance approval, Judge Sitarski will permit that person to participate in the conference by telephone.

c. **Follow-up Contact.** Judge Sitarski may, if appropriate, continue to work with counsel after the settlement conference if the matter is not resolved at the conference.

2. **When The Case is Assigned to Judge Sitarski.**

a. **Jury Matters.** Judge Sitarski may, after discussion with counsel, conduct her own settlement conferences using the above procedures. If that is not appropriate, and if a conference is deemed worthwhile, Judge Sitarski will seek the assistance of another magistrate judge to assist with settlement discussions.

b. **Nonjury Matters.** Judge Sitarski will not take part in settlement discussions in a nonjury matter. In appropriate cases, Judge Sitarski will seek the assistance of another magistrate judge to assist with settlement discussions.

Arbitration

1. **General Approach to Arbitration Cases.** Judge Sitarski has no special practices or procedures for arbitration cases.

2. **Scheduling Trial De Novo from Arbitration.** Judge Sitarski will schedule trial promptly when a demand for trial de novo is filed following arbitration. Judge Sitarski expects that all discovery will be completed before the arbitration hearing, and will not permit additional discovery in cases where a party requests trial de novo.

Proposed Pretrial Memoranda

1. Required Form of Pretrial Memoranda. Unless specifically provided for by separate order, Judge Sitarski 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 Sitarski may require counsel to stipulate to uncontested facts as generally set out in Local Rule 16.1(d)(2)(b)(2)(A-E).

Injunctions

1. Scheduling and Expedited Discovery. Judge Sitarski will promptly list for a conference any injunction matters assigned to her. The scheduling of injunction matters will depend upon the circumstances of the case and will be determined at an initial conference to be attended by all counsel.

2. Proposed Findings of Fact and Conclusions of Law. Judge Sitarski requires the submission of proposed findings of fact and conclusions of law in advance of the hearing in all injunction cases.

Trial Procedure

1. Scheduling of Cases. Judge Sitarski'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.

2. Conflicts of Counsel. Given the manner of scheduling, conflicts will normally not occur. Should a professional or personal conflict arise that may affect the trial schedule, counsel shall immediately notify opposing counsel and the Court. The Court will hold a conference to address the conflict.

3. Parties or Witnesses. Given the manner of scheduling, the parties and witnesses are expected to be available as needed for trial. If an exceptional circumstance arises, Judge Sitarski will attempt to accommodate the schedules and availability of parties and witnesses, while also being respectful of the jurors' and the Court's time.

4. Note-taking by Jurors. Judge Sitarski will consider note-taking by jurors on a case-by-case basis.

5. Trial Briefs. Judge Sitarski encourages the submission of trial briefs when they are necessary or likely to be helpful to the Court.

6. Voir Dire. It is Judge Sitarski's general practice to preside over voir dire and jury selection. Judge Sitarski permits counsel to conduct voir dire in all civil cases. Counsel should exchange proposed voir dire questions prior to the final pretrial conference. Judge Sitarski may conduct supplemental voir dire when appropriate.

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

8. In Limine Motions. Judge Sitarski requires that in limine motions be filed and served in advance of the final pretrial conference so as to give her an opportunity to consider the merits of each motion.

9. Examination of Witnesses Out of Sequence. Judge Sitarski will permit witnesses to be taken out of turn in appropriate circumstances.

10. Opening Statements and Submission. Judge Sitarski will discuss with counsel the length of time necessary and appropriate for opening and closing statements, but will give counsel reasonable latitude.

11. Examination of Witnesses or Argument by More Than One Attorney. Judge Sitarski will normally not permit more than one attorney for the party to examine the same witness, and will normally not permit more than one attorney to present argument on behalf of the party on the same point.

12. Examination of Witnesses Beyond Redirect or Recross. Judge Sitarski will generally restrict counsel from examining witnesses beyond redirect and recross.

13. Videotaped Testimony. Judge Sitarski requires counsel to review all videotaped depositions and to have them edited so as to fairly present only the essential evidence of the witness involved. Counsel are expected to resolve all matters pertaining to objections before offering the videotape into evidence.

14. Reading of Material Into the Record. Judge Sitarski will request that counsel read stipulations and pleadings into the record. Judge Sitarski discourages reading depositions into the record, she prefers that a witness respond to the questions of counsel in open court.

15. Preparation of Exhibits. Prior to commencement of trial, counsel shall pre-mark and exchange exhibits. Counsel shall provide Judge Sitarski with two sets of exhibits in a tabbed, three-ring binder, together with a schedule of exhibits that briefly describes each exhibit. Counsel are encouraged, however, to provide the Court with only the essential and relevant portions of lengthy exhibits, together with sufficient material to provide context for the relevant portion of the exhibits.

16. Offering Exhibits Into Evidence. Judge Sitarski expects counsel to attempt in good faith to reach agreement in advance as to the admission of exhibits. Judge Sitarski has no particular procedure as to when an exhibit may be formally offered into evidence.

17. 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 nonjury trials may be submitted in writing or orally. Judge Sitarski will ordinarily request oral argument on these motions.

18. Proposed Jury Instructions and Verdict Forms. Judge Sitarski expects counsel to use the Third Circuit's Model Jury Instructions whenever possible. In cases that include state law claims, Judge Sitarski expects counsel to use the model instructions, if any, of the applicable state law whenever possible. Judge Sitarski 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 must be provided to the Court at least two business days prior to the commencement of trial.

Counsel will submit a jointly prepared verdict form or proposed special interrogatories at least two business days prior to the start of trial. If counsel are unable to agree, they may submit separate proposed forms of interrogatories. She will accept supplemental points prior to the delivery of the charge. Judge Sitarski usually conducts a conference on proposed jury instructions. The proposed jury instructions and verdict forms shall be submitted electronically, via e-mail to chambers, in Word format.

19. Proposed Findings of Fact and Conclusions of Law. Judge Sitarski requires counsel to submit proposed findings of fact and conclusions of law in nonjury cases at the final pretrial conference. They shall be submitted electronically, via e-mail to chambers, in Word format. Supplementation will be permitted at the close of trial or in an appropriate case after trial.

Jury Deliberations

1. Written Jury Instructions. Judge Sitarski generally does not submit a written copy of the instructions to the jury.

2. Exhibits in the Jury Room. Judge Sitarski will consider what exhibits should be sent out to the jury during their deliberations on a case-by-case basis.

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

4. Availability of Counsel During Jury Deliberations. In most cases, Judge Sitarski will expect counsel to remain in the Courthouse during deliberations, and will expect counsel to be available on short telephone notice and be able to be in the courtroom within 10 minutes.

5. Taking the Verdict and Special Interrogatories. Judge Sitarski has no usual practice with respect to taking a verdict. Judge Sitarski will submit written interrogatories to the jury. A copy of the interrogatories will be given to each juror.

6. **Polling the Jury.** Judge Sitarski will, if requested, permit the jury to be polled.

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

CRIMINAL DUTY WEEK

Practices and Procedures. When Judge Sitarski is assigned to criminal duty matters, she holds the hearings in Courtroom 5A at 1:30 p.m. Arraignments assigned by the district court are held on Thursday mornings at 10:30 a.m., in Courtroom 5A.

At all criminal duty week proceedings, counsel, once appointed or retained, must be present for all proceedings. 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 Sitarski requires that all relevant documents be delivered to chambers in advance of all hearings and other proceedings. Counsel may contact Judge Sitarski's Deputy Clerk if there are questions regarding the matters before the Court.

OTHER GENERAL MATTERS

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

Judge Sitarski 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 Sitarski's Deputy Clerk or law clerks if they have any questions about her courtroom practices or procedures.

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

XXXXXXXXXXXXXXXXXX,	:	CIVIL ACTION
Plaintiff,	:	
	:	
v.	:	No.: XX-cv-XXXX
	:	
XXXXXXXXXXXXXXXXXX,	:	
Defendant.	:	

ORDER

AND NOW, this _____ day of _____, 20XX, IT IS HEREBY ORDERED that a **SETTLEMENT CONFERENCE** in the above-captioned case will be held on **XXXXXX, XX, 20XX, at 9:30 A.M.**, before the Honorable Lynne A. Sitarski, United States Magistrate Judge, in Courtroom 3-E, U.S. Courthouse, 601 Market Street, Philadelphia, PA 19106.

- Please notify the Court if settlement is not a real possibility.
- Parties/client representatives with full and complete settlement authority must be physically present for the duration of the conference.¹ **Full and complete authority means the party must possess authority consistent with the most recent demand.**
- Lead Trial Counsel for each party must be physically present at the Conference. Counsel are expected to be fully familiar with the facts of the case, the legal theories supporting their client’s claims or defenses, and the procedural posture of the case.
- Please complete the attached settlement conference form and email it to Chambers at Chambers_sitarski@paed.uscourts.gov on or before **XXXXX XX, 20XX**. As indicated on the attached form, counsel shall include a synopsis of the case with a discussion of the relevant facts, as well as a brief summary of the legal issues affecting the party’s settlement position. The Court anticipates that in most cases, the parties’ case summaries will not exceed five (5) pages. The case synopsis should include a candid discussion of the submitting party’s strengths and weaknesses in the case.

¹ Parties include all persons, corporations or other business entities, and insurance companies with an interest in the case, and each entity with an interest in the case must attend the conference. In the case of corporate or other business entities, the corporate official with ultimate settlement authority is required to attend. Where an insurance company is involved, a representative with full and complete settlement authority is also required to attend.

- Counsel are also encouraged to submit a small number of documents that counsel considers **critical to** their client's claims or defenses (by way of example only: the contract at issue, or excerpts therefrom; selected portions of critical medical records; police reports; the "smoking gun" email). Counsel shall not submit more than 20 pages of documents without prior Court approval.
- These submissions are **confidential** and shall be submitted to the Court only.

Failure to comply with this Order may result in the imposition of sanctions.

BY THE COURT:

LYNNE A. SITARSKI
United States Magistrate Judge

COPIES BY ECF:

CONFIDENTIAL 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 Full and Complete Settlement Authority who will be present at the settlement conference (include company and position where applicable):

MOTIONS PENDING:

OTHER RELEVANT MATTERS:

PRIOR OFFERS / DEMANDS:

ATTACH SYNOPSIS OF CASE (UP TO FIVE [5] PAGES)