

BIOGRAPHY and COURT PRACTICE
MAGISTRATE JUDGE AMY REYNOLDS HAY

Magistrate Judge Amy Reynolds Hay was born on February 25, 1949, in Jackson, Michigan, to Dr. Harold S. and Marilyn W. Hay. She grew up in Somerset, Pennsylvania and was graduated from Somerset Area High School in 1967.

She attended Adelphi University in Garden City, New York, from 1967 through 1969, then attended the University of Pittsburgh, from which she was graduated in 1971 with a Bachelor of Arts degree. She was awarded her Juris Doctorate from the University of Pittsburgh School of Law in 1982.

She served as an Assistant Public Defender for Allegheny County upon graduation and then served as a trial attorney from 1982 - 1984 in the Criminal Section of the Civil Rights Division of the U.S. Department of Justice, in Washington, D.C. In 1984 she joined the trial staff of the Office of the United States Attorney for the Western District of Pennsylvania and served as Chief of the Civil Division from 1989 to 2003. She was appointed to the bench in 2003.

She is an adjunct professor of law at the University of Pittsburgh School of Law, where she teaches trial advocacy. She is a member of the Allegheny County Bar Association and she is Past President of the American Inns of Court, Pittsburgh Chapter, where she continues to participate as a Master in the Inn.

She is married to the Honorable Lester G. Nauhaus and is stepmother to Sara Nauhaus Birnbaum of Burlington, Vermont, and Jonathan T. Nauhaus of Pittsburgh, Pennsylvania.

**PRACTICES AND PROCEDURES OF
MAGISTRATE JUDGE AMY REYNOLDS HAY**

I. GENERAL MATTERS

A. Communications with the Court

Counsel should not send letter motions/briefs to Magistrate Judge Hay unless she specifically requests or approves this practice.

B. Communications with Law Clerks

Counsel may contact Magistrate Judge Hay's staff to discuss administrative matters and to inquire as to the status of pending motions.

C. Telephone Conferences

Requests for counsel or parties to participate by phone will be considered on a case by case basis. Unless otherwise ordered, initial case management conferences and settlement conferences will not be conducted over the phone.

When a telephone conference by all counsel is permitted, counsel must initiate the call and contact the Court once all parties are on line.

Magistrate Judge Hay requires that all discovery disputes be handled in the first instance by having the parties telephone chambers to resolve the matter, rather than filing a formal discovery motion. Please see Order on Motions Practice, *infra*.

D. Pro Hac Vice Admissions

Pro hac vice motions are referred to the district court judge to whom the case is assigned for a ruling.

E. Comments to the Media

Attorneys are expected to adhere to the Rules of Professional Conduct in all dealings, including those with the media.

II. MOTIONS PRACTICE

A. Oral Argument

Oral argument is reserved for only the most complex matters and, therefore, motions for oral argument are generally disfavored. If the Court deems oral argument to be appropriate, an Order will issue. Magistrate Judge Hay does not set aside a specific day or time for argument of motions.

B. Briefs

With the exception of motions for enlargements of time and for a continuance, all

motions must be accompanied by a brief. Magistrate Judge Hay imposes a page limitation of twenty-five (25) pages for all moving and responsive briefs. No reply or sur-reply briefs are permitted absent leave of Court. When permitted, reply and sur-reply briefs are limited to five (5) pages.

C. Chamber Copies of Motion Papers

Courtesy copies are not required. If counsel choose to provide a courtesy copy, exhibits and attachments may be omitted as they are available to the Court from the file maintained by the Clerk of Court.

D. Scheduling

Responses to non-dispositive motions shall be filed within ten (10) days of service, and responses to dispositive motions shall be filed within thirty (30) days of service; a separate briefing Order will not be issued. Please see Order on Motions Practice, *infra*.

Summary judgment motions are generally scheduled to be filed within 30 days of the close of discovery. Counsel must follow Local Rule 56.1.

Briefs must be filed with motions, except motions for extensions of time and for a continuance do not need to be briefed.

E. Magistrate Judge's Report and Recommendation

N/A

F. Evidentiary Hearings

The scheduling of evidentiary hearings is determined on a case by case basis.

G. Motions *In Limine*

Motions *in limine* and supporting briefs are expected prior to trial and a date for filing same will be set at the final pretrial conference. Generally, the Court will rule on these motions prior to trial.

III. CIVIL CASES

A. Pretrial Procedures

1. Local Rule 16.1

The Court uses a standard form case management order based on Local Rule 16.1. Pretrial statements must comply with Local Rule 16.1.4. Please see Case Management Order, *infra*.

2. Pretrial Conferences

Magistrate Judge Hay schedules an initial case management conference within approximately two weeks of the filing of the answer(s) by defendant(s). If a motion to dismiss is filed in lieu of an answer, the Court will schedule the initial case management conference within approximately two weeks of the order disposing of the motion. Trial counsel shall attend the initial case management conference.

The following matters are generally discussed at the initial case management conference: (1) length of time needed for discovery, (2) settlement and ADR options, (3) the Court's standing Order on Motions Practice, and (4) dates that will control pretrial scheduling.

Additional case management conferences may take place at the request of counsel or at the Court's discretion.

3. Settlement

A status/settlement conference will be held approximately two weeks after the close of discovery. Compliance with Local Rule 16.1 is required. Trial counsel must attend; parties shall be available by phone.

At every conference, at each stage of the litigation, the Court will explore the possibility of resolving the case short of continued litigation and may suggest arbitration, early neutral evaluation, mediation, or other forms of ADR.

In a non-jury case, Magistrate Judge Hay will refer settlement negotiations to another magistrate judge or mediator.

4. Extensions and Continuances

Requests for extensions of time and continuances shall be presented by written motion, contain supporting facts and indicate the position of opposing counsel. Reasonable extensions will generally be granted.

B. Discovery Matters

1. Length of Discovery Period and Extensions

Magistrate Judge Hay solicits input from counsel on the anticipated length of discovery required. In this regard, counsel must comply with the provisions of Fed.R.Civ.P.26 generally, and must file a Rule 26(f) proposed discovery plan prior to the initial case management conference. Please see Order Setting Initial Case Management Conference, *infra*.

2. Expert Witnesses

The Court has no specific practice with regard to discovery depositions of

expert witnesses. Certainly expert depositions may be taken after the close of factual discovery.

3. Discovery/Deposition Disputes

The Court requires counsel to contact chambers by phone before any motion is filed on a discovery dispute. Please see Order on Motions Practice, *infra*.

The Court will entertain calls from counsel at a deposition to resolve a discovery dispute.

4. Stay of Discovery

The filing of a motion to dismiss or other dispositive motion generally will not stay discovery. A stay may be sought by motion but will be granted only if the right to relief is clear or some other compelling reason.

5. Limitations on Discovery

The Court follows the Federal Rules of Civil Procedure on this matter and does not impose additional restrictions or limitations.

6. Rule 11 Motions - Rule 37 Sanctions

Counsel are expected to comply with the federal and local rules. The Court has no additional requirements and will rule promptly.

C. Injunctions and TROs

In the event that an injunction is referred to Magistrate Judge Hay for a Report & Recommendation, a briefing schedule will issue and a hearing date set. Requests for and the use of expedited discovery are considered on a case by case basis.

D. Trial Procedures

1. Scheduling of Cases

A date certain will be given for trial following the final pretrial conference. Vacation schedules and personal/professional obligation conflicts of the attorneys, parties and witnesses will be accommodated where possible and the Court must be notified of any conflict as soon as possible.

2. Trial Hours/Days

Generally, cases will be tried Monday through Friday, 9:30 a.m. to 4:30 p.m., with breaks when appropriate. Magistrate Judge Hay will meet with counsel before and after these appointed times to discuss trial/evidentiary issues.

3. Trial Briefs

Trial briefs are not required but are encouraged and should not exceed fifteen (15) pages. The filing date for same will be set at the final pretrial conference.

4. Voir Dire

The filing date for proposed voir dire questions will be set at the final pretrial conference. Magistrate Judge Hay will conduct the voir dire. Supplemental questions will be permitted as required.

5. Notetaking by Jurors

The Court does not allow jurors to take notes.

6. Side Bars

Side bars will be permitted when necessary. However, counsel should be mindful of the negative impression side bars create on the jurors. Counsel should anticipate matters to be discussed outside of the jurors' presence and raise them either at the end of the trial day or at the beginning of the next.

7. Examination of Witnesses Out of Sequence

Examination of witnesses out of sequence is permitted.

8. Opening Statements and Summations

There are no court imposed time limits on opening statements and closing arguments. Defense counsel may defer opening statements.

9. Examination of Witnesses or Argument by More than One Attorney

One attorney for each party may conduct an examination of any witness and may argue any motion or point.

10. Examination of Witnesses Beyond Direct and Cross

True and brief redirect and recross will be permitted but generally not beyond.

11. Videotaped Testimony

Magistrate Judge Hay has no special procedures or requirements with regard to the use or admission of videotaped testimony.

12. Reading of Material into the Record

The Court has no special practice with regard to reading into the record deposition testimony, stipulations and the like.

13. Exhibits

All exhibits must be listed in the Pretrial Narrative Statements. Plaintiff(s) shall use numbers; defendant(s) shall use letters. The parties are expected to comply with Local Rule 16 by exchanging exhibits prior to the pretrial conference and

should be prepared to indicate a position at the pretrial conference with regard to the authenticity and admissibility of the opponent's exhibits. All exhibits shall be marked before trial. Exhibits may be introduced out of sequence. Exhibits must be admitted into evidence before testimony will be permitted about the exhibit.

Counsel shall obtain the Court's approval in advance for use of any visual aid(s) during opening statement. Otherwise, visual aids are permitted during trial and should be marked and offered into evidence as with any other exhibit.

14. Directed Verdict Motions

Magistrate Judge Hay does not have any special requirements beyond those set forth in the Federal Rules of Civil Procedure.

15. Jury Instructions and Verdict Forms

The Court requires counsel to confer and submit a single set of agreed upon jury instructions and a proposed verdict form. To the extent that the parties cannot agree on a particular instruction or form, each party may submit one for the Court's approval. The date for filing same will be set at the final pretrial conference. The Court will hold a charging conference at which time counsel will receive the final charge and verdict form to be given to the jury.

16. Proposed Findings of Fact and Conclusions of Law

In any non-jury trial, the parties will be required to submit proposed findings of fact and conclusions of law within thirty (30) days of the conclusion of testimony/final argument.

17. Offers of Proof

Offers of proof should not be required since the Court sets aside time before and after a trial day to discuss trial/evidentiary matters with counsel. Should the need arise during trial, however, the Court does not impose any restrictions.

18. General Courtroom Rules

Counsel shall conduct themselves with courtesy and civility.

E. Jury Deliberations

1. Written Jury Instructions

The jury will not be given a copy of the written instructions.

2. Exhibits in the Jury Room

All admitted exhibits will be given to the jury for use in deliberations, except those which could prove to be dangerous.

3. Jury Requests to Read Back Testimony or Replay Tapes during Deliberations

Generally, the Court is not inclined to grant these requests. In the event of such a request, the Court will confer with counsel and arrive at a satisfactory instruction.

4. Jury Questions

Jury questions must be in writing. The Court will confer with counsel and arrive at a satisfactory instruction/response.

5. Availability of Counsel During Jury Deliberations

Trial counsel need not remain in the courtroom during deliberations but must be available by telephone and able to return to the courthouse within a reasonably short time period.

6. Interviewing the Jury

Magistrate Judge Hay will inform jurors that they may speak to counsel but are not required to do so. Counsel shall not approach any juror until the Court has met with and dismissed them.

F. General

1. Special Types of Cases

Magistrate Judge Hay has no special practices or procedures with respect to any particular type of case.

2. Other Individual Practices/Procedures

The attorneys, parties and witnesses must be civil and courteous to one another.

IV. CRIMINAL CASES

Criminal cases before Magistrate Judge Hay are limited to petty offenses, misdemeanor charges and preliminary criminal proceedings (e.g., arraignment, detention hearings, etc.). Counsel must be well prepared and have conferred with their client prior to the scheduled criminal proceeding. Here, too, counsel shall conduct themselves with courtesy and civility.

ORDER SETTING INITIAL CASE MANAGEMENT CONFERENCE

The above-captioned case has been assigned to this Court for pretrial proceedings. Pursuant to Local Rule 16.1 and Rules 16 and 26 of the Federal Rules of Civil Procedure, an initial case management conference will be conducted in this case to discuss narrowing of the issues, the extent of pretrial preparation, discovery procedures, the early disposition of controlling questions of law, the probable extent of provable damages, the possibility of settlement, and any other matter that will contribute to the prompt disposition of the case. The initial case management conference will be held on _____, 200__, at _____ .m., in Courtroom 16, Fifth Floor, U.S. Post Office and Courthouse, 700 Grant Street, Pittsburgh, Pennsylvania. Trial counsel shall attend.

As required by Rule 26(f) of the Federal Rules of Civil Procedure, the parties must, as soon as practicable and in any event at least twenty-one (21) days before the date set for the initial case management conference, “confer to consider the nature and basis of their claims and defenses and the possibilities for a prompt settlement or resolution of the case, to make or arrange for the disclosures required by Rule 26(a)(1), and to develop a proposed discovery plan[.]” Fed.R.Civ.P. 26(f). Further, as also required by Rule 26(f), the attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for submitting to the Court on or before _____, 200__, that is, one week prior to the scheduled conference date, a written report outlining their proposed discovery plan.

SO ORDERED this _____ day of _____, 200__.

By the Court:

AMY REYNOLDS HAY
United States Magistrate Judge

cc: All counsel of record as listed below

ORDER ON MOTIONS PRACTICE

The parties shall submit to the following rules in making and responding to motions on any case assigned to this member of the Court:

1. All motions and briefs shall use a font size not smaller than 12.
2. A motion shall state the factual and legal grounds for said motion, and shall be accompanied by a proposed Order and a brief in support, except that briefs are not required for motions for extensions of time and motions for continuance. A brief in support of a motion shall not exceed twenty-five (25) pages in length. Motions for summary judgment shall comply with Local Rule 56.1.
3. Responses to non-dispositive motions shall be filed within ten (10) days of service, and responses to dispositive motions shall be filed within thirty (30) days of service; a separate briefing Order will not be issued. Responsive briefs are limited to twenty-five (25) pages in length.
4. Reply and surreply briefs are not to be filed without leave of Court, and will be limited to five (5) pages, if leave is granted.
5. Oral argument will generally be reserved for only the most factually and legally complex matters. An order will issue should the Court deem oral argument necessary.
6. Courtesy copies of all motions and briefs may be forwarded to chambers. However, exhibits and attachments should be omitted as they are available to the Court from the file maintained by the Clerk of Court.
7. The following additional rules pertain specifically to discovery motions practice:

Counsel shall confer to resolve any discovery dispute **without** judicial intervention. Where the matter is resolved and requires modification of the Case Management Order, the parties shall file a joint motion

and proposed Order requesting amendment. If discovery issues remain unresolved, counsel shall contact the Court to arrange for a telephone conference **before** proceeding to formal motions practice. Any dispute not resolved during the telephone conference shall be presented by motion, with a proposed order, in accordance with Local Rules 7.1 and 16.1.2-G and this Order on Motions Practice. All memoranda on discovery issues shall be limited to five (5) pages. All discovery motions and responses shall be served on opposing counsel by facsimile, e-mail or hand delivery on the same date the motion is filed with the Court.

SO ORDERED this _____ day of _____, 200_.

By the Court:

AMY REYNOLDS HAY
United States Magistrate Judge

cc: All counsel of record as listed below

CASE MANAGEMENT ORDER

AND NOW this _____ day of _____, 200__, IT IS HEREBY ORDERED that this action is placed under Local Rule 16.1 for pretrial proceedings and all provisions of the Rule will be strictly enforced. This action is designated a Track I case under Local Rule 16.1.3.

IT IS FURTHER ORDERED that counsel shall confer with their clients prior to all case management, status or pretrial conferences to obtain authority to participate in settlement negotiations to be conducted by the Court. Counsel are encouraged to instruct the principals to be available by telephone to facilitate the amicable resolution of all litigation.

IT IS FURTHER ORDERED that compliance with provisions of Rule 16.1 shall be completed as follows:

- (1) The parties shall move to amend the pleadings or add new parties by _____ . (*30 days before the end of discovery*)
- (2) The parties shall complete discovery (factual **and** expert) by _____ . (*generally 90-120 days after the filing of the Answer*) All interrogatories, depositions and requests for admissions and/or production of documents shall be served within sufficient time to allow responses to be completed **prior** to the close of discovery, **except** that expert depositions may be conducted after the close of discovery.
- (3) Motions for summary judgment with evidentiary material and accompanying brief, if appropriate, shall be filed by _____ . (*30 days after the close of discovery*) Responses to summary judgment motions shall be by _____ . (*30 days after the filing of the motion*)

- (4) Plaintiff's pretrial narrative statement shall comply with Local Rule 16.1.4.A and be filed by _____. (*45 days after the completion of filing of summary judgment briefs*)

Defendant's pretrial narrative statement shall comply with Local Rule 16.1.4.B and be filed by _____. (*30 days after the filing of plaintiff's pretrial*)

Material facts not identified in the pretrial narrative statements may be excluded upon objection or *sua sponte*. Witnesses or exhibits not identified in the pretrial narrative statement shall not be admissible at trial, except for an exhibit to be used solely for impeachment purposes. The parties shall not amend or supplement their pretrial narrative statements absent leave of court.

- (5) Motions to challenge the qualifications of any proposed expert witness and/or the substance of such expert's testimony shall be filed by _____. (*30 days after the filing of defendant's pretrial*)

- (6) A status/settlement conference will be held on _____, at _____
__m., (*generally within 2 weeks following the close of discovery*) in Courtroom
16, Fifth Floor, U.S. Post Office and Courthouse, 700 Grant Street, Pittsburgh,
Pennsylvania. Trial counsel shall attend and the parties shall be available by phone.

IT IS FURTHER ORDERED that the parties shall follow this Court's Order on Motions Practice in connection with all pretrial motions. The pendency of motions, including dispositive motions, will not stay the time periods nor any compliance requirements of the Case Management Order.

By the Court:

AMY REYNOLDS HAY
United States Magistrate Judge

cc: All counsel of record as listed below