



## **BIOGRAPHY and COURT PRACTICES MAGISTRATE JUDGE LISA PUPO LENIHAN**

Magistrate Judge Lisa Pupo Lenihan was born in Kulpmont, Pennsylvania on September 3, 1958 to Albert and Vilma Pupo. She graduated *cum laude* from the University of Pittsburgh in 1980 and *magna cum laude* from the University of Pittsburgh School of Law in 1983, where she was a member of the Law Review.

She worked as an associate with the law firm of Dickie, McCamey & Chilcote from 1983 until 1986. In 1987 she was one of five founding partners of the law firm Burns, White & Hickton and became managing partner of the firm in 1997. In 2000 she joined the University of Pittsburgh Medical Center as Corporate Secretary and Assistant Counsel. She was appointed to the bench in 2004.

From 1998 to 2004 she served on the Pennsylvania Board of Law Examiners, appointed by the Pennsylvania Supreme Court as board chairperson from 2002 to 2004. Magistrate Judge Lenihan is a member of the Board of Visitors for the University of Pittsburgh School of Law and is past president of the Law Alumni Association's Board of Governors. She served as Co-chair of the PBA's Commission on Women in the Profession in 1998 and remains a member of the Commission.

She currently serves on the board of the Parental Stress Center and has served on various other non-profit boards in the Pittsburgh area. She has lectured for PBI and published numerous articles in various legal journals. She serves on the Executive Council of the Women in the Law Division of the ACBA and is a past member of the ACBA Judiciary Committee, along with various other ACBA sections.

Magistrate Judge Lenihan was the recipient of the "Susan B. Anthony Award" given by the Women's Bar Association of Western Pennsylvania in 2004; the University of Pittsburgh School of Law Women's Association "Woman of the Year" award in 1999 and the Carlow College "Woman of Spirit" award in 1998.

Perhaps most importantly, she is the proud mother of Patrick, Alexandra and Christopher Lenihan.

**PRACTICES AND PROCEDURES OF  
MAGISTRATE JUDGE LISA PUPO LENIHAN**

**I. GENERAL MATTERS**

**A. Communications with the Court**

Counsel are not to send correspondence to Magistrate Judge Lenihan unless she specifically requests or approves the same. Requests for the rescheduling of conferences may be made by telephone to the Court's Deputy Clerk but only if counsel for all parties are on the line. Otherwise, such requests are to be made by motion.

**B. Communications with Law Clerks**

Counsel are not to contact Magistrate Judge Lenihan's law clerks. If they wish to consult on the status of a matter or an appropriate procedure, counsel are to call her Deputy Clerk.

**C. Telephone Conferences**

Requests for counsel or parties to participate by phone will be considered on a case by case basis.

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 Lenihan prefers that discovery disputes be handled in the first instance by having the parties discuss a resolution among themselves and, if this does not prove possible, then 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 entertained on selected, factually or legally complex matters. If the Court deems oral argument to be appropriate, an order will issue. Magistrate Judge Lenihan does not set aside a specific day or time for argument of motions.

**B. Briefs**

Motions seeking substantive legal ruling(s), whether dispositive or non-dispositive, should be accompanied by a supporting brief. The supporting brief must be filed contemporaneously with the motion. A brief may be omitted only if: (i) the motion is non-dispositive, and (ii) the motion itself contains sufficient arguments and legal citation to permit meaningful judicial review.

Supporting and Responsive briefs are limited to 25 pages in length. Reply briefs should not be submitted in connection with non-dispositive motions, absent leave of court. Reply briefs may be submitted in connection with dispositive motions but are limited to five (5) pages. Any reply brief submitted should be narrowly tailored to address only those matters newly raised in the response brief.

Sur-reply briefs are strongly disfavored, and they may be submitted only with leave of court.

**C. Chamber Copies of Motion Papers**

Courtesy copies are not required. If counsel choose to provide a courtesy copy, exhibits and attachments are to 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 eleven (11) 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.

Where a brief is required, it must be filed simultaneously with the motion.

**E. Evidentiary Hearings**

Evidentiary hearings on pretrial matters generally are scheduled well in advance of trial. When counsel conclude that an evidentiary hearing is appropriate, they should confer with opposing counsel and request a hearing by motion or through a conference call with the court.

**F. 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.

**G. Proposed Orders**

In accordance with local rules, each and every motion shall be accompanied by a proposed order of court. The order of court shall include language detailing the specific relief sought, and not simply that the motion “ is granted.”

**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. Case Management Conferences**

Pursuant to Local Rule 16.1, after the filing of an answer by the defendant (or after resolution of a timely filed Rule 12(b) motion), Magistrate Judge Lenihan will schedule a case management conference. Prior to the conference, the parties shall meet and confer to determine proposed dates for the Case Management Order, *infra*.

**3. Pretrial/Settlement Conferences**

After the court has ruled on all dispositive motions, a final conference will be held to discuss settlement and any pretrial matters that do not require the decision of the district court judge who will be trying the case. On consent cases, the pretrial conference shall be conducted in accordance with Local Rule 16.1.4.F.

**4. Settlement**

Magistrate Judge Lenihan follows Local Rule 16.1.D in requiring counsel and their clients, or persons with authority, to be present at settlement discussions. Presuming counsel has full authority to negotiate the settlement, and for good cause shown, the client may be permitted to participate by telephone on an as-needed basis.

Magistrate Judge Lenihan may suggest the possibility of alternate dispute resolution and/or participation in the court-annexed mediation program as appropriate.

**5. 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 Lenihan 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**

Expert depositions may be taken after the close of factual discovery in accordance with the rules.

### **3. Discovery/Deposition Disputes**

For discovery disputes that arise during a deposition, the attorneys together may contact the Court to resolve the matter at that time. Written motions are discouraged. Upon receipt of a written discovery motion, the Court will conduct a telephone conference with all attorneys as necessary. The non-moving parties may file a response if desired.

### **4. Requests for Extensions of Discovery**

All requests for extensions of discovery must comply with the Court's standing order concerning extensions of discovery, *infra*.

### **5. 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 exists.

### **6. Limitations on Discovery**

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

### **7. 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**

When these matters are referred by a District Court Judge for Report and Recommendation, a briefing schedule will be issued and a hearing date will be scheduled.

**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 Lenihan 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**

Magistrate Judge Lenihan or her Deputy Clerk will conduct the preliminary voir dire of potential jurors. Counsel may submit proposed voir dire for the Court's consideration one week prior to the start of trial.

**5. Notetaking by Jurors**

The Court will consider allowing jurors to take notes on a case by case basis.

**6. Side Bars**

Side bars will be permitted when necessary.

**7. Examination of Witnesses Out of Sequence**

Magistrate Judge Lenihan will permit the examination of a witness out of sequence, either within the party's own case or within an opposing party's case, if a scheduling conflict exists. In the event that a witness will be unavailable for trial, the witness' testimony may be presented by deposition.

**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**

Magistrate Judge Lenihan will permit redirect and recross of a witness as

necessary, but does not usually permit any further examination.

**11. Videotaped Testimony**

Magistrate Judge Lenihan does not have any special procedures or requirements with respect to the use or admission of videotaped testimony. Counsel should, however, inform the court in advance of trial of the intention to use such evidence, so that the Judge and parties may discuss the procedures to be utilized.

**12. Reading of Material into the Record**

Magistrate Judge Lenihan has no policy or rules on this point and it will be considered on a case by case basis.

**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. 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.

**15. Proposed Findings of Fact and Conclusions of Law**

In non-jury trials, Magistrate Judge Lenihan permits, and at times requests, the submission of proposed findings of fact and conclusions of law.

**16. 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.

**17. General Courtroom Rules**

Counsel shall conduct themselves with courtesy and civility at all times. The Court will not tolerate discrimination or bias of any kind.

**E. Jury Deliberations**

**1. Written Jury Instructions**

Magistrate Judge Lenihan gives the jury a written copy of her jury instructions.

**2. Exhibits in the Jury Room**

Magistrate Judge Lenihan permits exhibits to be provided to the jury for their deliberations, so long as counsel agrees upon the exhibits that are provided.

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

Where appropriate, Magistrate Judge Lenihan will permit the reading back of testimony to the jury.

**4. Jury Questions**

If a question is submitted to the Court, the Judge will discuss the question with counsel and obtain agreement on an appropriate answer to be given to the jury.

**5. Availability of Counsel During Jury Deliberations**

Counsel must be available by telephone during jury deliberations.

**6. Interviewing the Jury**

Magistrate Judge Lenihan advises jurors that they do not have to respond to inquiries from counsel. However, she instructs the jurors that responses may be helpful to counsel.

Although the Judge does not discourage counsel from interviewing jurors post verdict, lawyers should advise the Court of their intention to interview a juror prior to doing so.

**IV. CRIMINAL CASES**

Criminal cases before Magistrate Judge Lenihan 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. 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 \_\_\_\_\_, 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 proposed discovery plan.

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

By the Court:

\_\_\_\_\_  
Lisa Pupo Lenihan  
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 eleven (11) 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 briefs for dispositive motions may be filed without leave of Court, but are limited to five (5) pages and shall be filed within seven (7) days of service of the response brief.
5. Sur-reply briefs may be submitted only with leave of court and if permitted, are limited to five (5) pages.
6. 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.
7. Courtesy copies of all motions and briefs may be forwarded to chambers, but are not required. However, exhibits and attachments should be omitted as they are available to the Court from the file maintained by the Clerk of Court.

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 8th day of July, 2004.

By the Court:

/s/ \_\_\_\_\_  
Lisa Pupo Lenihan  
United States Magistrate Judge

**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, along with the concise statement of material facts, memorandum in support, and any evidentiary material shall be filed by \_\_\_\_\_ (*30 days after the close of discovery*). Responses to summary judgment motions, including a response to the concise statement of material facts, memorandum in opposition, and any evidentiary material, shall be filed 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 shall be filed by \_\_\_\_\_ (**30 days after the completion of filing all summary judgment briefs**). Defendant's pretrial narrative statement shall comply with Local Rule 16.1.4.B and shall be filed by \_\_\_\_\_ (**30 days after the filing of plaintiff's pretrial narrative statement**). Material facts not identified in the pretrial narrative statement 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. A status/settlement conference will be held on \_\_\_\_\_ at \_\_\_\_\_ m., (**generally within 2 weeks following the close of discovery**), in Courtroom \_\_\_\_\_, U.S. Post Office and Courthouse, 700 Grant Street, Pittsburgh, Pennsylvania. Trial counsel shall attend and the parties shall be available by telephone.

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:

\_\_\_\_\_  
Lisa Pupo Lenihan  
United States Magistrate Judge

cc: All counsel of record listed below



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

\_\_\_\_\_, )  
 )  
Plaintiff(s), )  
 )  
vs. ) Civil Action No. \_\_\_\_\_  
 )  
 )  
 )  
\_\_\_\_\_, )  
 )  
Defendant(s). )

**MOTION FOR EXTENSION OF DISCOVERY DEADLINES  
AND/OR MODIFICATION OF CASE MANAGEMENT ORDER**

1. This is the \_\_\_\_\_ (first or second) request for an extension of discovery deadlines and/or a modification of the case management order.
2. (A) copy(ies) of the Court's original Case Management Order and any subsequent Orders is (are) attached.
3. During the original discovery period, the following have taken place:
  - a. The following depositions were taken on the dates set forth below:
    - i. By Plaintiff:
    - ii. By Defendant:
  - b. Motions to produce documents were served on the dates set forth below:
    - i. By Plaintiff:
    - b. By Defendant:
  - c. Interrogatories were served on the dates set forth below:
    - i. By Plaintiff:
    - ii. By Defendant:
4. (Plaintiff) (Defendant) (Plaintiff and Defendant jointly) seek an extension of discovery deadlines or a modification of the Case Management Order for the reasons set forth below:

5. If this motion is filed by only one of the parties:
  - a. The movant has met and discussed this request with opposing counsel;
  - b. Opposing counsel does (does not) consent to the extension or modification.
6. The specific request for extension and/or modification is set forth below:
7. The proposed amended case management order is attached.
8. If the motion is granted, the movant will complete the following discovery within the extended discovery period:
  - a. Depositions of the following parties on the following dates;
  - b. First (second or subsequent) set of interrogatories;
  - c. First (second or subsequent) request to produce documents;
  - d. Other specific discovery objectives to be completed.
9. Movant understands that absent some extraordinary, unavoidable and unforeseeable circumstances (which do not include moving counsel's preoccupation with other cases), no further extensions for discovery will be granted and the case will proceed to disposition.

Respectfully submitted,

---

Counsel for Plaintiff/Defendant