

**PRACTICES AND PROCEDURES OF
MAGISTRATE JUDGE PATRICIA L. DODGE**

I. GENERAL MATTERS

A. Communications with the Court

Counsel are not to send letters, motions or briefs to Magistrate Judge Dodge unless she specifically requests or approves this practice. Requests for the rescheduling of conferences may be made by telephone to the Court's Courtroom Deputy, but only if counsel for all parties are on the line or have expressly authorized counsel for a particular party to convey the request. Otherwise, such requests are to be made by motion.

B. Communications with Chambers

Counsel may contact Magistrate Judge Dodge'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 telephone.

When a telephone conference by all counsel is permitted, the court will provide call-in information.

D. *Pro Hac Vice* Admissions

Pro hac vice motions are routinely granted as long as all of the requirements of Local Rule 83.2.B. are met.

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 may be scheduled for factually or legally complex matters. If the Court determines that oral argument is appropriate, an order will issue. The parties may also file a motion requesting oral argument. Magistrate Judge Dodge does

not set aside a specific day or time for argument of motions. The parties are also directed to the Statement of the Court Regarding Courtroom Opportunities for New Lawyers below.

B. Briefs

Motions that seek substantive legal rulings, 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 contains sufficient argument and legal citations to permit meaningful judicial review.

1. Page Limitations

Supporting and responsive briefs are limited to twenty-five (25) pages.

2. Citation to Unpublished Opinions

When citing to unpublished opinions, counsel must use the Westlaw citation rather than the LEXIS cite.

3. Reply Briefs

Reply briefs of no more than five (5) pages may be filed in response to a dispositive motion. Reply briefs shall not be submitted in connection with non-dispositive motions absent leave of court. Sur-reply briefs shall not be filed at any time without leave of court.

4. Font

All motions and briefs shall use a font not smaller than 12.

C. Chamber Copies of Motion Papers

Generally, courtesy copies of motions and briefs, including exhibits and attachments, should not be forwarded to chambers as they are available to the Court through ECF. In the event that exhibits and attachments are in excess of one-hundred fifty (150) pages, Magistrate Judge Dodge prefers that counsel deliver to chambers a hard copy of the exhibits/attachments.

D. Scheduling

Unless a separate Order is issued, responses to non-dispositive

motions shall be filed within fourteen (14) days of service, and responses to dispositive motions shall be filed within thirty (30) days of service. Reply briefs shall be filed within fourteen (14) days of service of a response to a dispositive motion.

At the close of discovery, or shortly thereafter, the Court will issue an order setting forth, among other things, the deadline for filing motions for summary judgment. Counsel must follow Local Rule 56.1 in filing and responding to motions for summary judgment.

E. Evidentiary Hearings

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

F. Motions *In Limine*

The deadline for filing motions *in limine* and supporting briefs will be set in a pretrial order. Generally, the Court will rule on these motions prior to trial. Counsel shall comply with Local Rule 16.1.C.4 with respect to all motions *in limine*.

G. Proposed Orders

In accordance with local rules, all motions shall be accompanied by a proposed order of court. The order of court shall include language detailing the specific relief sought rather than merely stating that the motion is "granted."

III. CIVIL CASES

A. Pretrial Procedures

1. Local Rule 16.1

The Court uses a standard case management order form based on Local Rule 16.1. Pretrial statements must comply with Local Rule 16.1.C.

2. Conferences

a. Initial Case Management Conferences

Magistrate Judge Dodge will issue an order setting the date for the initial case management conference after the filing of an answer by defendant(s) or after resolution of a Rule 12(b) motion. Prior to the

conference, the parties shall meet and confer and then file a report pursuant to Fed. R. Civ. P. 26(f), the form of which is set forth in the Appendix to the Local Rules. Trial counsel shall attend the initial case management conference.

b. Post-Discovery Conferences

A post-discovery conference will be scheduled shortly after the close of discovery. Trial counsel must attend.

c. Settlement Conferences

Magistrate Judge Dodge requires trial counsel and their clients, or persons with authority, including insurance companies, to attend all settlement conferences. In the event that counsel has full authority to negotiate a settlement, the client may be permitted to participate by telephone on an as-needed basis.

d. Other Conferences

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

3. Settlement

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

With the exception of social security appeals, petitions for habeas corpus and prisoner civil rights cases, all cases are required to participate in the Court's ADR program pursuant to Local Rule 16.2. The Court prefers that the ADR process occur within sixty (60) days of the Initial Scheduling Conference; however, if the parties have a good faith belief that additional time is required, the Court will entertain a motion to extend the deadline.

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 generally will be granted.

B. Discovery Matters

1. Length of Discovery Period and Extensions

Generally, one-hundred fifty (150) days are allowed for discovery although Magistrate Judge Dodge will solicit input from counsel regarding the anticipated length of discovery required. Counsel must comply with the provisions of Fed. R. Civ. P. 26 generally, and must file the written report required by Rule 26(f) prior to the initial case management conference. The parties are encouraged to abide by discovery deadlines and only request extensions when they are absolutely necessary.

2. Expert Witnesses

Expert depositions may be deferred until after dispositive motions upon agreement of the parties and the Court.

3. Discovery/Deposition Disputes

For discovery disputes that arise during a deposition, counsel may jointly call the Court to resolve the matter at that time. All other discovery disputes shall be presented by written motion accompanied by the certification required by Federal Rule of Civil Procedure 37(a)(1).

4. Stay of Discovery

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

5. Limitations on Discovery

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

C. Preliminary Injunctions

Either upon consent of the parties or referral by a District Court Judge to Magistrate Judge Dodge, a briefing schedule will be issued and a hearing date will be scheduled. Requests for and the use of

expedited discovery are considered on a case by case basis.

D. Trial Procedures

1. Scheduling of Cases

For cases in which the parties have consented to jurisdiction before Magistrate Judge Dodge, a date certain will be given for trial following the resolution of any Rule 56 motions or, if none are filed, at the post-discovery status conference. Vacation schedules and personal/professional obligation conflicts of counsel, parties and witnesses will be accommodated whenever possible. The Court must be notified of any conflict as soon as possible.

2. Trial Hours/Days

Generally, cases will be tried Monday through Friday, 9:00 a.m. to 4:00 p.m., with breaks when appropriate. Magistrate Judge Dodge 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 the briefs will be set in a pretrial order.

4. Motions *In Limine*

The filing date for motions *in limine* will be set in a pretrial order.

5. Voir Dire

The filing date for proposed voir dire questions will be set in a pretrial order. Counsel may submit proposed voir dire as a supplement to the standard voir dire for the Court's consideration. The Court will conduct the voir dire.

6. Use of Courtroom Technology

The parties are required to use trial presentation and courtroom technology. Should the parties require training or other information on the use of courtroom technology, the parties may contact Sean Fox, who is with the Information Technology Department, at 412-208-7468.

- 7. Notetaking by Jurors**
The Court generally allows jurors to take notes unless counsel articulates a valid objection prior to the commencement of trial.
- 8. Side Bars**
Side bars will be permitted but only when necessary. Counsel should anticipate matters to be discussed outside of the jurors' presence and raise them either at the beginning or end of each trial day.
- 9. Examination of Witnesses Out of Sequence**
The Court will permit 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.
- 10. Opening Statements and Summations**
There are no court imposed time limits on opening statements and closing arguments. Defense counsel may defer opening statements.
- 11. Examination of Witnesses or Argument by More than One Attorney**
One attorney for each party shall conduct an examination of any witness and may argue any motion or point. However, the parties are also directed to the Statement of the Court Regarding Courtroom Opportunities for New Lawyers below.
- 12. Examination of Witnesses Beyond Direct and Cross**
Redirect and recross of a witness will be permitted but may not exceed the scope of the immediately preceding line of questions. The Court does not usually permit any further examination.
- 13. Videotaped Testimony**
Magistrate Judge Dodge has no special procedures or requirements with respect to the use or admission of videotaped testimony. However, counsel should inform the court in advance of trial of the intention to use such evidence, so that the procedures to be utilized may be discussed.

14. Reading of Material into the Record

The Court has no special practice with regard to reading deposition testimony, stipulations and the like into the record. It will be considered on a case by a case basis.

15. Exhibits

All exhibits must be listed in the Pretrial Narrative Statements. Unless otherwise ordered, Plaintiff(s) shall use numbers; defendant(s) shall use letters. The parties are expected to comply with Local Rule 16.1.C.5 by exchanging exhibits prior to the final pretrial conference, unless otherwise ordered by the Court, and should be prepared to indicate a position at the final 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.

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

Counsel for each party will be expected to provide two (2) tabbed exhibit binders to the Court and one (1) binder for each opposing party in advance of trial.

16. Directed Verdict Motions

Magistrate Judge Dodge does not have any special requirements beyond those set forth in the Federal Rules of Civil Procedure. Motions may be made orally or in writing.

17. 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, the various versions proposed by the parties and/or any objections shall be included where appropriate in the document. The date for filing same will be set in a pretrial order. The Court will hold charging conference at which time counsel will receive the final charge and verdict form to be given to the jury.

18. Proposed Findings of Fact and Conclusions of Law

In any non-jury trial, Magistrate Judge Dodge permits, and sometimes requires, the submission of proposed findings of fact and conclusions of law. The filing date will be established by order.

19. Offers of Proof

Generally, 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.

20. General Courtroom Rules

Magistrate Judge Dodge will not tolerate any demonstration of hostility, discrimination or bias of any kind. Counsel shall conduct themselves with courtesy and civility at all times. All parties and party representatives are also expected to conduct themselves in a similarly appropriate manner.

E. Jury Deliberations

1. Written Jury Instructions

The jury will be given a written copy of the jury instructions.

2. Exhibits in the Jury Room

All admitted exhibits will be given to the jury for use in 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, and after conferring with counsel, Magistrate Judge Dodge will permit the reading back of testimony to the jury.

4. Jury Questions

Jury questions must be in writing. The Court will discuss the question 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 period of time.

6. Interviewing the Jury

Magistrate Judge Dodge will inform the 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 the jury and dismissed them.

IV. CRIMINAL CASES

Criminal cases before Magistrate Judge Dodge are limited to petty offenses, misdemeanor charges and preliminary criminal proceedings (e.g., arraignment, detention hearings and initial appearances). Counsel must be prepared and have conferred with their client prior to scheduled criminal proceedings.

**STATEMENT REGARDING COURTROOM OPPORTUNITIES
FOR NEWER LAWYERS**

PATRICIA L. DODGE, UNITED STATES MAGISTRATE JUDGE

Courtroom opportunities for relatively new attorneys, particularly those who practice at larger firms or in more complex areas of the law, have declined precipitously in recent years.

I encourage the active participation of such attorneys in all court proceedings. Based on my experience, these newer lawyers are more than up to the task, and they can effectively handle not only relatively routine matters (such as discovery motions), but also, where appropriate, more complex matters (such as motions for summary judgment or the examination of witnesses at trial).

In an effort to increase advocacy opportunities for newer lawyers, with notice in advance, the Court will consider relaxing the usual requirement that only a single lawyer may present an argument, and will allow a more experienced lawyer to "back up" a newer lawyer in the examination of witnesses so long as doing so will not unduly prolong the proceeding, not prejudice the opposing party, and not result in undue "double dipping". Such new lawyers who actively participate in evidentiary hearings, including examining a witness at trial, should be accompanied and supervised by a more experienced attorney.

Of course, even relatively inexperienced attorneys will be held to the same professional standards with regard to any matter as to which experience is largely irrelevant. In particular, all attorneys appearing in court are expected to be appropriately prepared, regardless of experience. For example, any attorney who is arguing a motion for summary judgment is expected to be thoroughly familiar with the factual record and the applicable law.

Further, all attorneys appearing in court should have a degree of authority commensurate with the proceeding that they are assigned to handle. For example, an attorney appearing at a scheduling conference ordinarily must have the full authority to propose and agree to a discovery or trial schedule and any other matters reasonably likely to arise at the conference, to address and argue any then-pending motion, and to discuss the status of any settlement discussions.