

PRACTICES AND PROCEDURES OF MAGISTRATE JUDGE K. TAYLOR

I. GENERAL MATTERS

A. Communications with the Court

Counsel shall not send letters, motions or briefs to Judge Taylor 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.

B. Communications with Chambers' Staff

Counsel may contact Judge Taylor's staff only to discuss administrative matters.

C. Telephone and Video Conferences

As appropriate, the Court may conduct conferences or other proceedings by telephone or by video conference. Unless otherwise ordered, settlement conferences, pretrial conferences, and oral arguments typically will be conducted in-person. Telephone conferences will be facilitated through a Court-provided conference line, which will be supplied through an ECF docket entry. If a proceeding is to be conducted *via* video conference, Chambers will supply log-in information to counsel and unrepresented parties in advance. In addition to Court-scheduled conferences, this Court may also schedule and conduct a status conference (telephone or in-person) upon counsel's request.

D. Courtroom Demeanor and Decorum

Counsel will be patient, dignified, respectful, courteous, and conduct themselves with civility toward all persons, including the general public, at all times. Parties and party representatives also are expected to conduct themselves in a similarly appropriate manner. Judge Taylor will not tolerate any demonstration of hostility, discrimination, or bias.

Counsel, if able, must stand when speaking for the record and when addressing the Court. Counsel shall not exhibit familiarity with witnesses, jurors, opposing counsel, or the Court. Counsel will address all participants formally (Ms., Mr., Sir, Madam, Attorney, Counsel, etc.), and not by first name alone.

E. Comments to the Media

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

F. Court Reporter

In civil cases, the Court will generally only have a court reporter present for oral arguments on substantive motions, evidentiary hearings, the final pre-trial conference, and trial proceedings. If no court reporter is present and counsel has an objection, or otherwise desires that the proceeding be on the record for any reason, counsel has the right to and should request a court reporter, but must do so no later than three (3) days before the conference.

G. Pro Hac Vice Admissions

Pro hac vice motions satisfying the requirements of Local Rule 83.2.B will be routinely granted.

H. Continuances

If a party seeks to continue a court proceeding, the party must include in the motion at least two proposed dates/times near the original hearing date when all counsel will be available or explain why they cannot do so. Motions to continue court proceedings will be granted only for good cause (e.g., illness, medical procedure, family emergency, pre-paid vacation, or a previously scheduled court proceeding).

II. MOTIONS PRACTICE

A. Routine Motions – Duty to Confer

For routine motions, including motions for extension of time, motions for continuance, or motions for leave to amend the pleadings, counsel for the moving party must: (1) confer with opposing counsel to obtain consent, and (2) state in the motion whether consent was obtained. The moving party must attach a Certificate of Conferral as an exhibit to the motion. Failure to indicate either that the parties have conferred or to state the position of the non-moving party's position may result in summary denial. The duty to meet and confer for routine motions does not extend to *pro se* civil rights cases.

B. Rule 12 Motions

If a defendant determines that a Rule 12 motion is appropriate, defense counsel first must meet and confer with plaintiff's counsel before filing to determine whether any purported defects with the complaint can be cured. Any motion to dismiss must be accompanied with a Certificate of Conferral stating that the defendant has made good-faith efforts to confer with the plaintiff to determine whether the identified pleading deficiencies may be cured by amendment. Rule 12

motions that do not contain a Certificate of Conferral will be stricken. This requirement applies to all Rule 12 motions, including motions for judgment on the pleadings under Rule 12(c).

C. Briefs

Motions that seek substantive legal rulings, whether dispositive or non-dispositive, should be accompanied by a supporting brief, filed contemporaneously with the motion. A brief may be omitted *only* if the motion is both: (1) non-dispositive, and (2) contains sufficient argument and legal citation to permit meaningful review.

1. Page Limitations

Supporting and responsive briefs regarding dispositive motions are limited to twenty-five (25) pages, excluding exhibits and fact statements submitted in support of, or in opposition to, summary judgment motions. Supporting and responsive briefs regarding non-dispositive motions are limited to ten (10) pages. For good cause, parties may move for leave to exceed these page limitations.

2. Citation to Unpublished Opinions

When citing to unpublished opinions, counsel must use the Westlaw citation rather than a LEXIS, or any other law database, citation.

3. Reply Briefs

Reply briefs are permitted without leave of court only for Rule 12(b), Rule 12(c), and Rule 56 motions, and are limited to five (5) pages. Reply briefs to these motions are due within seven (7) days of the date of service of the response to which they reply.

The parties must seek leave of court to file all other reply briefs and any sur-reply brief and will be limited to five (5) pages if leave is granted. Any reply or sur-reply that is filed without leave of court will be stricken.

4. Font

All motions and briefs shall use 12-point font, including for footnotes.

D. 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.”

E. Chambers 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. However, counsel shall deliver to Chambers a hard copy of the exhibits/attachments if those exceed fifty (50) pages.

F. 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, such as a motion to dismiss, a motion for summary judgment, or a motion for judgment on the pleadings, shall be filed within thirty (30) days of service.

G. Oral Argument

Judge Taylor may schedule oral argument for factually or legally complex matters. Also, a party may file a motion requesting oral argument, which may be granted in the Court's discretion.

H. Evidentiary Hearings

Scheduling of evidentiary hearings will be determined on a case-by-case basis.

I. Motions *in Limine*/Daubert Motions

The deadline for filing motions *in limine* and *Daubert* motions, with their supporting briefs and proposed orders, will be set in a pretrial scheduling order. When feasible, 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*. Each motion may not exceed five (5) pages double-spaced; if a party elects to file an omnibus motion, the portion of the omnibus brief supporting each motion *in limine* may not exceed five (5) pages.

J. Motions for Reconsideration

Motions for reconsideration must be filed within seven (7) days of the order at issue.

K. Motions to Seal

All motions to seal any document or proceeding must set forth the specific factual and legal basis and necessity for sealing. Any order sealing any matter is subject to being vacated upon the motion of any party, any interested person, or by the Court on its own motion. Absent exceptional circumstances, proposed Orders must include this language: "This Order may be vacated, and sealing lifted for cause shown upon the motion of any party or other person with a recognized interest, or after due notice by the Court upon the Court's own motion." The parties are reminded

that all proceedings in federal court are presumptively open to the public, including those in which “sealed” material may be discussed.

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.

2. Confidential Position Letters for Jury Cases

In all jury cases,¹ at least three (3) business days prior to any scheduled conference (initial case management conference, post-discovery status conference, settlement or pretrial conference) each party shall submit a confidential position letter of five (5) pages or fewer to Judge Taylor’s Chambers, by email to Taylor_Chambers@pawd.uscourts.gov. Position letters are not to be filed or shared with opposing counsel to ensure candor. All position letters will be kept confidential.

The position letter shall include:

- (a) A brief recitation of the most salient facts;
- (b) A forthright discussion of your party’s strengths and weaknesses, including your party’s likelihood of prevailing on each claim or defense and a description of the issues remaining in dispute;
- (c) An estimate of the cost and time to be expended for trial;
- (d) The relief you are seeking; and
- (e) Your party’s settlement posture, including present demands and offers and history of past settlement discussions, offers, and demands.

3. Conferences

a. Initial Case Management Conferences

Judge Taylor will issue an order setting the date for the initial case management conference after the filing of an answer by all defendants 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); Judge Taylor’s Rule 26(f) Report can be found at the Chamber Procedures tab. Trial counsel shall attend the initial case management conference.

¹ Position letters should not be submitted in non-jury cases pending before Judge Taylor.

b. Post-Discovery Conferences

A post-discovery conference will be scheduled promptly after the close of discovery. Trial counsel must attend. Counsel shall be prepared to discuss all other pretrial deadlines.

c. Settlement Conferences

Judge Taylor requires trial counsel and their clients, or persons with authority, including insurance companies, to attend all settlement conferences. If counsel has full authority to negotiate a settlement, counsel can request that the client be permitted to participate by telephone or video conference on an as-needed basis.

d. Other Conferences

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

4. Settlement

The Court will explore the possibility of resolving the case at every conference and at each stage of the litigation.

Except for 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. Absent good cause shown, the ADR process shall occur within sixty (60) days of the Initial Scheduling Conference. If the parties have a good faith belief that additional time is required, however, the Court will entertain a motion to extend the deadline.

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 generally will be granted. Counsel are advised that untimely requests for continuances (for example, on or after a court-ordered deadline) without a showing of good cause are strongly disfavored.

6. Objections/Placing Proceedings on the Record

If counsel at any time has an objection to any procedure, ruling or other action of the Court, counsel, at the earliest practicable time, should object by written motion or otherwise on the record. If no court reporter is present and counsel has an objection(s), or otherwise desires that the proceeding be on the record, counsel has the right to and should request that the proceeding be recorded and thereafter place the objection(s) or proceedings on the record. Counsel may request at any time that any proceeding or matter be placed on the record.

7. Consultation by Counsel/Attendance of Necessary Counsel

All parties (other than those proceeding *pro se*) shall be represented at any conference by counsel who is a member of the Bar of this Court (or, who has been or will be, admitted specially), has entered an appearance, and is sufficiently familiar with all legal and factual matters involved in the action to allow counsel to meaningfully participate in the proceedings. At any conference, counsel shall be prepared to discuss in detail and argue any pending motions, and to discuss settlement. Counsel are expected to confer with one another prior to any conference with the Court to review any issue which may be raised at that conference and to provide their respective positions on those matters.

B. Discovery Matters

1. Length of Discovery Period and Extensions

Generally, one-hundred fifty (150) days are allowed for discovery although Judge Taylor will discuss with counsel the length of discovery required. Counsel must comply with the provisions of Rule 26 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. Any request for an extension must be made in a reasonable time frame prior to the deadline. Untimely requests are strongly disfavored.

2. Expert Witnesses

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

3. Discovery/Deposition Disputes

Counsel for the parties must confer on discovery disputes, prior to seeking the Court's intervention. If a discovery dispute cannot be resolved after the parties have conferred in good faith, the parties are to jointly telephone Chambers to schedule a telephone status conference so that the dispute may be addressed without the need for a written motion or response. No later than two (2) days before the telephone status conference, counsel must email to Chambers a one- or two-page summary of the discovery issue. Generally, no motions or briefs are to be filed regarding discovery disputes unless the Court so directs after the telephone status conference.

For discovery disputes that arise during a deposition, the attorneys together may contact Chambers by telephone to determine whether the Court wishes to resolve the matter at that time.

Counsel must contact Chambers to set a discovery conference before filing any motion to compel or for sanctions, or for a non-consensual protective order. Failure to do so may result in the deferral of a ruling, or the denial of that motion.

4. Stay of 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 another compelling reason exists.

5. Limitations on Discovery

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

C. Preliminary Injunctions

Federal Rule of Civil Procedure 65 governs motions for temporary restraining orders and/or preliminary injunctions, and litigants should review that rule prior to the filing of any motion for injunctive relief. Any *ex parte* contact with the Court should be avoided. For temporary restraining orders without notice, the moving party must meet the requirements of Federal Rule of Civil Procedure 65(b).

Consistent with Rule 65, the Court will not issue a temporary restraining order when:

- (1) the opposing party has been served;
- (2) the motion provides no certification indicating that prompt service cannot be accomplished; or
- (3) the motion is unaccompanied by an affidavit or verified complaint consistent with Rule 65(b)(1)(A).

Any response to the motion for temporary restraining order or preliminary injunction should be accompanied by affidavit(s).

Following a review of the pleadings and affidavit(s), the Court will determine whether to conduct a hearing, whether the injunction hearing should be consolidated with a trial on the merits, the scope of the necessary testimony and evidence to be presented and whether expedited discovery should be granted. Counsel filing a motion for temporary restraining order or preliminary injunction should immediately be prepared to proceed with argument and testimony from supporting witnesses.

In circumstances where a bond or deposit of security may be required if relief is granted, the moving party is expected to have that arranged at the time the motion is filed.

D. Motions for Summary Judgment

Unless the parties are otherwise directed by the Court, motions for summary judgment and responses in opposition thereto must comply with the requirements of LCvR 56. A party's failure to adhere to these requirements may result in the motion for summary judgment being decided against the party's position.

When responding to a statement of facts in response to a summary judgment motion, pursuant to Rule 56, the responding party must include a reprint of each original fact statement, followed by the response, *seriatim*.

E. Motions for Leave to Amend Pleadings

Parties must attach a copy of the draft amended pleading to any motion to amend and must show all proposed changes in "redline" or "track changes" format. The motion shall state the position of all other parties to the that motion and shall set forth why amendment is supported by new law or newly discovered facts.

No motion is needed for any amended pleading permitted as of right under Fed. R. Civ. P. 15(a), however, parties must attach a copy of the amended pleading with all proposed changes in "redline" or "track changes" format.

F. Trial Procedures

1. Compliance with Local Rule 16.1 C.

The content of pretrial statements shall comply with LCvR 16.1.C.1.

2. Scheduling of Cases

For cases in which the parties have consented to jurisdiction before Magistrate Judge Taylor, 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 conflicts with the personal/professional obligations of counsel, parties and witnesses will be accommodated whenever possible. The Court must be notified of any conflicts as soon as possible.

3. Trial Hours/Days

Generally, cases will be tried Monday through Friday, 9:00 a.m. to 4:30 p.m., with one 15-minute break in the morning and one in the afternoon, and a one-hour lunch break. Judge Taylor will meet with counsel at 8:30 a.m. each morning, if requested, before trial to discuss evidentiary and other issues. To the extent possible, counsel should file with the Court a no more than one-page statement summarizing those

issues the evening before counsel intends to raise the issue for Court resolution. The Court will not delay the proceedings to respond to last minute requests for conferences to discuss matters that, in the exercise of reasonable diligence, could have been heard at the 8:30 a.m. conference.

Modification of this schedule will be considered as appropriate, but counsel should be prepared to examine witnesses until 4:30 p.m.

4. Motions in Limine/Daubert Motions

The filing date for motions *in limine* and *Daubert* motions will be set in the pretrial order.

5. Voir Dire

The filing date for proposed *voir dire* questions will be set in the pretrial order. Counsel may submit proposed *voir dire* as a supplement to the standard *voir dire* set forth in LCvR 47 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, and trial exhibit summaries pursuant to Federal Rule of Evidence 1006, to the fullest extent possible. Should the parties require training or other information on the use of courtroom technology, the parties may contact the Court's Courtroom Deputy. The parties are welcome to contact Chambers to schedule a time to visit the courtroom and review the available technology.

7. Notetaking by Jurors

The Court generally allows jurors to take notes.

8. Objections

Counsel must state the basis for any objection in a summary fashion (*e.g.*, hearsay, lacks foundation, leading, etc.). "Speaking objections," and generally proceeding beyond what is necessary to state the objection's basis, will not be permitted. If further explanation is needed, counsel may request a side bar.

9. 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 these matters either at the beginning or end of each trial day.

10. Examination of Witnesses Out of Sequence

If a scheduling conflict exists, 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.

11. Opening Statements and Summations

There are no court-imposed time limits on opening statements and closing arguments, but the Court strongly suggests that opening statements not exceed thirty (30) minutes. Defense counsel may defer opening statements. Counsel may use exhibits, PowerPoints, or other demonstratives in openings and closings, if they have previously provided the same to opposing counsel and either agreement was reached regarding the use of those materials, or the Court has ruled upon the matter.

12. Witness List

Before the beginning of trial, counsel shall provide opposing counsel with a complete witness list. In addition, throughout the trial, by 5:00 p.m. each day, counsel for each side shall provide opposing counsel and the Court with the actual list of the next day's witnesses in the order that the witnesses are expected to be called. Counsel shall ensure that they have adequate witnesses to fill the allotted time each day.

13. 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.

14. 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 typically permit any further examination.

15. Videotaped Testimony

Judge Taylor 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 that evidence, so that suitable procedures may be discussed.

16. 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-case basis.

17. Exhibits

The parties shall list their respective exhibits in their Pretrial Narrative Statements. 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 regarding the authenticity and admissibility of the opponent's exhibits.

The parties, however, will be ordered by the Final Pretrial Order to provide the Court with a joint exhibit binder. All exhibits shall be marked before trial. Exhibits may be introduced out of sequence.

18. Directed Verdict Motions

The Court follows the Federal Rules of Civil Procedure regarding this matter and does not impose additional requirements. Motions may be made orally or in writing.

19. Jury Instructions

Counsel shall meet to agree on a joint set of proposed substantive jury instructions regarding Plaintiff's claims and their elements, any defenses and their elements, and any evidentiary or other matters particular or unique to this case. The proposed jury instructions must include the standard civil jury instructions relevant to this case. After conferring, counsel shall file one combined set of proposed instructions, and email the instructions in Word format to Judge Taylor's Chambers at Taylor_Chambers@pawd.uscourts.gov. The combined set of instructions shall include both the agreed-upon instructions and the instructions to which the parties have not agreed, clearly marked.

Each agreed-upon instruction shall include the following statement at the bottom of each instruction: "This proposed instruction is agreed-upon by the parties." Each instruction to which the parties have not agreed, shall state which party is advancing it, along with the legal authority relied upon by each party in support of and in opposition to each such instruction. Proposed instructions by different parties shall

be grouped together (*i.e.*, instruction should be matched with counter instructions).² To the extent applicable, the Court will follow the Court of Appeals for the Third Circuit's Model Civil Jury Instructions. Any requests for deviation from applicable Third Circuit Model Instructions must be supported by legal authority, as should requests for the exclusion of any particular instruction.

20. Verdict Slip

Counsel shall meet to agree on a joint verdict slip. If the parties, after conferring in good faith, cannot agree on a joint verdict slip, the parties shall submit their respective proposed verdict slips and include the basis for the dispute.

21. Joint Stipulations

The parties shall file joint stipulations. All possible stipulations shall be made as to: (i) facts; (ii) issues to be decided; (iii) the authenticity and admissibility of exhibits; (iv) expert qualifications and reports; (v) deposition testimony to be read into the record; (vi) a brief statement of the claims and defenses to be read to the jury to introduce the trial and to be read to the *venire* before jury selection; and (vii) exhibits or other demonstratives to be used in opening statements. After conferral, counsel will produce joint stipulations and file them pursuant to the Final Pretrial Order.

22. 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.

23. Other Procedures

The parties are directed to review and comply with the Final Pretrial Order for additional pretrial and trial procedures.

G. Jury Deliberations

1. Written Jury Instructions

A copy of the jury instructions will be provided to each juror to use during deliberations.

² An example of how to properly format the proposed jury instructions can be made available upon request.

2. Exhibits in the Jury Room

Generally, all admitted exhibits will be given to the jury for use in deliberations.

3. Jury Questions

All written questions submitted by the jury are supplied to counsel. Counsel and the Court will meet to discuss and agree on a reply. In most cases, the jury is then summoned to the Courtroom and the oral reply is provided to them. A written reply is provided when appropriate.

4. Availability of Counsel During Jury Deliberations

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

5. Interviewing the Jury

Counsel **must not approach any juror** until the Court has met with the jurors and dismissed them. Judge Taylor will inform the jurors that they may speak to counsel after the verdict has been entered and they are dismissed, but are not required to do so.

IV. CRIMINAL CASES

Criminal cases before Judge Taylor 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.