PRACTICES AND PROCEDURES OF JUDGE ALAN N. BLOCH

I. GENERAL MATTERS

A. Communications with the Court

Judge Bloch has no ex parte and no off-the-record contact with counsel. He expects counsel to file formal briefs in support of motions. Letter briefs are acceptable, however, to supplement formal briefs.

B. Communications with Law Clerks

Judge Bloch permits communications with law clerks to discuss administrative matters and to inquire as to the status of pending motions.

C. Telephone Conferences

Judge Bloch will handle discovery disputes and status conferences by telephone under certain circumstances. For instance, if counsel must travel a great distance to attend the conference or if counsel is involved in a trial at the time the discovery dispute arises, the Judge will attempt to accommodate counsel by holding a telephone conference. The Judge will not, however, hold the pretrial conference by telephone.

D. Pro Hac Vice Admissions

Judge Bloch has no policy or requirements governing pro hac vice admissions. A motion immediately preceding trial is acceptable.

E. Comment to the Media

Judge Bloch has no policy with respect to contact by counsel with the media. However, the Judge noted that he believes that attorneys who speak with the media during the course of a trial are not exercising good judgment.

II. MOTIONS PRACTICE

A. Oral Argument

Judge Bloch does not permit oral argument with respect to legal issues. For discovery matters, the Court schedules a conference at the time the dispute arises. For other matters – such as status conferences, pretrial conferences and sentencing – the Court schedules conferences, well in advance, most frequently on Thursdays.

B. Briefs

For all motions except motions for continuances or extensions of time to file briefs, the Court expects counsel to file a brief. Counsel may file reply briefs and sur-reply briefs without leave of Court, but these briefs will not be considered if the briefs will delay resolution of the motion. There are no page limitations on briefs. The Court encourages counsel, however, to be concise.

C. **Chambers Copies of Motion Papers**
The Judge prefers that no courtesy copies of motions papers be sent to chambers.

D. **Scheduling**
The Court will issue an Order Regarding Summary Judgment Motions and Joint Statement of Material Facts Not In Dispute at the initial scheduling conference, which the Court expects the parties to abide by.

E. **Magistrate Judge's Report and Recommendation**
The Judge does not require supplemental briefs upon consideration of a magistrate's report and recommendation.

F. **Evidentiary Hearings**
All evidentiary hearings on pretrial matters are scheduled at least one to two weeks prior to the date set for trial. The hearings are scheduled on a Thursday. The Court generally rules upon the matter from the bench.

G. **In Limine Motions**
The Judge prefers that motions in limine be filed prior to trial, although he does not ordinarily decide the issues until it arises in trial.

III. CIVIL CASES

A. Pretrial Procedures

1. Local Rule 16.1

The Judge gives written instructions as to pretrial requirements at the initial status conference. A copy of these instructions is attached as Exhibit III.A.1.1.

The Judge's Court administrator reviews the docket sheets to ensure that the plaintiff has served the opposing party. If service is not made within 120 days, the Court issues an order directing the plaintiff to show cause why the complaint should not be dismissed. A copy of the order is attached as Exhibit III.A.1.-2.

The Court administrator also calculates the time that an answer to a complaint is due. If the answer is not filed in a timely fashion, the Court administrator sends a letter to the plaintiff and advises the plaintiff that a default judgment must be taken by a certain date. If the plaintiff does not take default judgment by that date, the Court will dismiss the case. A copy of this letter is attached as Exhibit III.A.1.-3.

The Judge also enforces penalties for the failure to file pretrial statements. If the Court administrator notes that the plaintiff has failed to file a timely pretrial statement, the plaintiff is advised that the case will be dismissed if

the pretrial statement is not filed. If the Court notes that the defendant has failed to file a timely pretrial statement, the defendant is advised that he or she will not be permitted to present evidence at trial unless a pretrial statement is filed. Copies of these letters are attached as Exhibits III.A.1.-4 and III.A.1.-5.

2. **Pretrial Conferences**

Within thirty days of the filing of the responsive pleading, the Court issues a notice scheduling a status conference. This notice also advise the parties of their duties under Rule 26(f) of the Federal Rules of Civil Procedure to confer 21 days prior to said status conference and that the parties must submit a discovery plan to the Court no later than 7 days prior to the status conference. At that conference, the Court sets dates for the discovery period, the filing of pretrial statements and the pretrial conference.

3. **Settlement**

The Judge follows Local Rule 16.1 in requiring that counsel and client be present at settlement discussions. If counsel has authority to settle the case, it is sufficient for the client to be available by telephone. The Judge will call a conference for settlement discussions upon request of counsel, so long as it appears that counsel intend to be reasonable.

The Judge handles settlement negotiations in non-jury cases himself. He does not refer the matter to a magistrate or another Judge.

The Judge does not explore the possibility of alternate dispute resolution with the parties.

4. **Extensions and Continuances**

Motions for extensions and for continuances must be formal, written motions. Ordinarily, the Judge will not grant motions for extensions of time for discovery or pretrial statements that necessarily result in a change of the pretrial conference date, even if counsel have agreed upon the request. However, the Judge routinely grants continuances that will not disrupt the scheduled pretrial conference.

B. **Discovery Matters**

1. **Length of Discovery Period and Extensions**

The Judge generally follows the local rule allowing 120 days for discovery. However, if counsel indicate that the case is particularly simple or particularly complex, he may shorten or lengthen the time period accordingly. On rare occasions, if there are extenuating circumstances, the Judge will allow an extension of discovery that necessitates a change in the pretrial schedule.

The Judge handles all pretrial discovery matters rather than referring these matters to a magistrate. If the case involves a large volume of documents and/or numerous objections, the Judge appoints a master at the cost of the parties to resolve such disputes. The Judge does not consider a party's ability to pay in deciding whether to appoint a master.

2. **Expert Witnesses**
Discovery depositions of expert witnesses must be noticed and taken within the discovery period.

3. **Deposition Disputes**
The Judge will utilize telephone conferences as a means of resolving discovery disputes that occur during the course of a deposition.

4. **Stay of Discovery**
Discovery is not stayed during the pendency of a motion to dismiss or other dispositive motion.

5. **Limitations on Discovery**
The only limitation upon discovery established by the Judge is the time limit set for the discovery period. On this point, the Judge noted that he will not enforce discovery unless the discovery request has been served soon enough that an answer or response is due within the discovery period.

6. **Rule 11 Motions - Rule 37 Sanctions**
The Judge does not defer Rule 11 motions to the conclusion of the case. Sometimes briefs are ordered and sometimes a hearing is held on the motions.

The Judge routinely awards attorney's fees to the opposing party if counsel fails to appear for a status conference.

C. **Injunctions and TROs**
N/A

D. **Trial Procedures**

1. **Scheduling of Cases**
As of now, Judge Bloch has no backlog of cases for trial. Thus, counsel should expect to proceed to trial within a week or so of the pretrial conference. Counsel usually keep in contact with the Court administrative clerk, who advises counsel as to the date set for trial or the status of the case as a backup for another and the likelihood as to when the case will be called.

The Judge recognizes the vacation schedule of the lead attorney for each party so long as the lawyer has notified the Court, in writing, well in advance of his or her plans. The Court does not recognize the vacation plans of witnesses and recommends that counsel obtain the trial deposition of such witnesses. The Court will also allow witnesses to be taken out of order to accommodate their vacation schedules.

With respect to counsel's scheduling conflicts with other Courts, the rule is that whichever Court gets you first, gets you.

2. **Trial Hours/Days**
The Judge tries cases from 9:30 a.m. to 5:00 p.m., with an hour and half break for lunch, usually from 12:30 p.m. to 2:00 p.m., and a mid-morning and mid-afternoon break.

3. **Trial Briefs**
The Judge permits the filing of trial briefs in any case. If the parties or the Court identify an unusual or particularly complex issue prior to trial, the Court will order briefs on that issue.

4. **Voir Dire**
The Court administrator conducts the voir dire in civil cases. Counsel is not permitted to conduct any part of the voir dire. Counsel may submit proposed voir dire for the Court's consideration in writing in advance in accordance with the schedule set by the Judge at the pretrial conference.

5. **Notetaking by Jurors**
Notetaking by jurors is not permitted.

6. **Side Bars**
The Judge permits side bar conferences, but discourages overly repetitive use of side bars. The Court will not entertain side bar conferences for the purpose of debating, after the fact, its ruling on the admissibility of evidence.

7. **Examination of Witnesses Out of Sequence**
The Court permits the examination of witnesses out of sequence when the need arises.

The Judge is also "fairly liberal" about allowing counsel to re-open a case to present additional evidence, because he believes that cases should be decided on the merits rather than on technicalities.

8. **Opening Statements and Summations**
The Court does not impose any time limitations for opening statements.

For closing statements, the Judge asks counsel to estimate the amount of time needed for closing argument. If counsel estimates a reasonable period of time, the Court will allow that much time for closing argument. However, the Court will hold counsel to the estimated time period and give counsel a five minute warning as the time draws nigh.

9. **Examination of Witnesses or Argument by More Than One Attorney**
Joint counsel may divide their responsibilities with respect to witnesses. However, the Judge will not allow two lawyers to question the same witness. Also, the lawyer who handles a particular witness must also conduct any redirect or cross examination, make objections, and handle the side bar conferences.

10. **Examination of Witnesses Beyond Direct and Cross**
The Judge allows redirect and recross, but no further examination.

11. **Videotaped Testimony**
The Judge requires that a professional operator be in the courtroom to handle videotaped testimony.

12. **Reading of Material into the Record**
The Judge has no policy or rules on this point.

13. **Exhibits**
Counsel are required to meet and discuss the authenticity and admissibility of all exhibits prior to the pretrial conference. (See Exhibit III.A.1.-1). Also, counsel must assign numbers/letters to the exhibits in advance of trial.

The Judge allows the use of visual aides, and he has no particular rules with respect to the use of these materials.

The Judge does not require that an exhibit be introduced into evidence before admitting testimony as to the exhibit.

14. **Directed Verdict Motions**
The Court has no standard practice with respect to motions for judgment as a matter of law.

15. **Jury Instructions and Verdict Forms**
The Court utilizes standard instructions that it has developed over the years, but these instructions are not based upon any single treatise.

In civil cases, the parties are required to submit proposed jury instructions in advance of the trial, which may be supplemented at the close of the trial.

In criminal cases, the Court prefers that points for charge be submitted as early as possible, but the defendant is not required to submit proposed points for charge until the close of the evidence.

The lawyers are given a copy of the charge before the Court delivers the charge in open Court. A copy of the charge is always sent out with the jury.

Lawyers must make any and all exceptions to the charge at the conclusion of the charge.

16. **Proposed Findings of Fact and Conclusions of Law**
The Court requires the filing of the proposed fact finding and conclusions of law in advance of the non-jury civil trial.

17. **Offers of Proof**
There are no restrictions on offers of proof at trial

18. **General Courtroom Rules**
The Judge has written instructions pertaining to courtroom conduct. See attached Exhibit III.A.1.6.

E. **Jury Deliberations**

1. **Written Jury Instructions**
The Judge always gives the jury a written copy of the charge.

2. **Exhibits in the Jury Room**
All exhibits are sent to the jury room except for dangerous items (drugs and weapons) and videotapes.

3. **Jury Requests to Read Back Testimony or Reply Tapes During Deliberation**
The Judge generally denies such requests because he finds that it tends to emphasize that particular testimony.

4. **Jury Questions**
Jurors must submit any communication in written form signed by the foreperson. The Court responds to the communication in open Court.

5. **Availability of Counsel During Jury Deliberation**
Counsel must be available by telephone and remain within a reasonable distance of the courthouse during jury deliberations.

F. General

1. **Special Types of Cases**

   a. **Fees Awards**

   In any case which may result in a fee award, the Judge has separate instructions setting forth how he expects attorney time to be recorded and described. See attached Exhibit III.A.1.7

   b. **Class Certifications/Social Security Actions**

   The Court strictly enforces time limit requirements for class certifications and for Social Security actions.

   c. **RICO Actions**

   N/A

2. **Other Individual Practices/Procedures.**

IV. CRIMINAL CASES

A. Motions

The Court allows extensions of time for the filing of pretrial motions and responses when there is a significant amount of discovery material to be reviewed.

The Court issues an Order, which includes a provision with respect to the Speedy Trial Act, upon receipt of motions for extension of time.

B. Pretrial Conferences

A pretrial conference is scheduled ten days after the filing of the government's response to pretrial motions.

C. Guilty Pleas

The Judge will only accept a guilty plea by agreement if it is offered three days prior to trial. After that time, the Court will accept a plea only if the defendant pleads to the entire indictment. (For Monday trials, a plea agreement will be accepted if notified by noon on Thursday).

D. Voir Dire

The Court conducts voir dire. Counsel is not permitted to conduct any part of the voir dire. Counsel may, of course, submit proposed voir dire, in written form, in advance. For sensitive questions (e.g., questions regarding racial bias, criminal history of family members, status of venire persons as victims of crime), the Court conducts individual voir dire out of the presence of other venire persons.

E. Trial

The Court allows the sequestrations of witnesses upon request.

The Court permits the use of written transcripts of tape-recorded conversations under two circumstances: (a) more than two persons are speaking, or (b) the conversation involves technical information.

The Judge permits defense counsel to choose whether to present his or her opening statement at the outset of trial or after the government rests.

The Judge submits special interrogatories with the verdict in appropriate cases.

Any waivers of the defendant's rights should be put on the record, in conference, at the outset of trial. In multi-defendant cases, the Judge allows defense counsel to question the witnesses in any order upon which they unanimously agree. If counsel is unable to agree, they will question witnesses in the order in which the defendants are listed in the indictment. The Judge discourages, and to a certain extent curtails, repetitive questioning by the defendants. Questioning in such cases proceeds as follows: Direct by government, cross by each defendant, redirect by government, recross by each defendant (including cross pertaining to question raised by other defendant).

During the defendant's case, the defendant conducts the direct, the government conducts cross, and then each of the other defendants has the opportunity to conduct cross examination.

F. **Sentencing Memoranda**

The Judge permits the filing of sentencing memoranda. He prefers that such memoranda be filed as far in advance of sentencing as possible.

G. **Sentencing Conference**

The Judge issues tentative findings and conclusions of law prior to sentencing, but he does not hold a conference prior to the sentencing hearing.

H. **Other General Practices and Procedures**

The Judge will, upon request, make appropriate recommendations to the Bureau of Prisons regarding the federal institution for incarceration of a defendant.

The Judge requests that prosecutors deliver Jencks Act material to defense counsel on the day before the witness is expected to testify.

The Judge requires the filing of a formal motion for leave of a defendant to travel outside the Western District of Pennsylvania. Even when defense counsel, the prosecutor and the probation officer have agreed that permission can be granted, the Judge will not necessarily grant such permission.

Any conflicts between defense counsel and the clients should be brought to the Court's attention on the record. If necessary, the Judge will conduct a hearing on the matter.

V. **BANKRUPTCY CASES**

N/A

VI. **BANKRUPTCY APPEALS (TO THE DISTRICT COURT)**

N/A

Revised - 3/10/05

PRETRIAL STATEMENTS

In all civil cases assigned to United States District Judge Alan N. Bloch, the parties' pretrial statements shall contain the following:

I. Factual and legal contentions:

A brief but full exposition of the legal theories that will be pursued at trial and a statement in narrative form of the material facts that will be offered at trial.

II. Damages:

An itemized list of all damages claimed by any party, including the method of calculation and how damages will be proved, and all defenses to the damages claimed by any party.

III. Witnesses:

1. Each party shall list those witnesses to be called at trial other than those contemplated to be used for impeachment or rebuttal purposes. Witnesses should be listed by their full name, street address, city, state (street address need not be supplied for parties).
2. Each witness shall be identified as a liability and/or damage witness.
3. All witnesses who will be testifying as experts shall be designated as such. Copies of all expert disclosures that the party made pursuant to Fed. R. Civ. P. 26(a)(2)

must be attached to the pretrial statement. The report of any witness designated as an expert must include a statement qualifying the witness to testify as an expert, i.e., education and degree(s) received, other cases in which the witness has testified as an expert, a listing of any writings of the expert, the factual basis of the expert's opinions, the conclusions and opinions of the expert, and the rationale of reaching those conclusions and opinions. The testimony of an expert witness will be confined to those matters set forth in his/her report.

4. A copy of all reports containing findings and conclusions of any physician who has treated, examined or has been consulted in connection with the injuries complained of and whom a party expects to call as a witness at trial must be attached to the party's pretrial statement. The testimony of such a witness shall be confined to the scope of his/her report.

IV. Exhibits:

1. A party shall specifically identify and list each exhibit, including the contents of voluminous writings, recordings, or photographs which cannot conveniently be examined in court and which are to be presented in the form of a chart, summary, or calculation, separately identifying those that the party expects to offer and those that the party may offer if the need arises. Each

exhibit must be pre-designated on the pretrial statement--plaintiff using numbers and defendant using letters.

2. Following the filing of the pretrial statements and prior to the pretrial conference, all parties are to make available for examination by opposing counsel and any unrepresented parties all exhibits identified in the pretrial statements and shall examine all exhibits made available.

3. Prior to the pretrial conference, the parties are to file a joint listing of all parties' exhibits indicating as to each exhibit the parties' agreement or disagreement on authenticity and admissibility, and if objected to, the reason for any objection. Counsel or the party themselves shall each sign the joint list.

4. Failure to comply with any of the above instructions on exhibits will preclude the party from offering any exhibits at the time of trial.

V. Unusual legal issues:

A party should list any issue that it considers unusual in the case.

VI. Discovery depositions:

A party intending to use a discovery deposition in its case-in-chief shall:

a. Identify the deposition by the name of the deponent and date deposed;

b. Designate to the Court and to the opposing party the pages and lines that will be offered at trial; and

c. Opposing counsel shall counter-designate those lines and pages of the same deposition that will be offered at trial.

VII. Settlement negotiations:

The parties shall extensively pursue settlement negotiations and advise the Court of their status. Prior to the pretrial conference, counsel shall confer with their client as to their authority to settle. At the pretrial conference, counsel shall have their clients present or available by telephone, and the parties must be prepared to discuss settlement.

VIII. Trial time:

The parties shall set forth in their pretrial statements an estimate of the number of days required for presentation of that party's case-in-chief.

IX. Amendment to pretrial statements:

The parties may not amend or supplement their pretrial statements without leave of Court.

X. Vacations:

At the time of filing of the pretrial statement, the parties should advise the Court in writing of any upcoming vacation plans of trial counsel in order for the Court to honor such plans.

XI. Sanctions:

At trial, a party will be limited to presenting those matters contained in its pretrial statement. Failure to comply with the Court's directive on pretrial statements will result in the exclusion of such evidence at trial.

XII. Attendance at pretrial conference:

In accordance with Fed. R. Civ. P. 16(d), trial counsel must attend the pretrial conference (no substitutions allowed).

XIII. Motions in Limine:

Before filing a motion in limine, counsel or an unrepresented party shall confer with all other counsel and unrepresented parties in an effort to reach agreement on the issue to be raised by the motion. In the event an agreement is not reached, the motion in limine shall be accompanied by a certificate of the movant denominated a Motion in Limine Certificate stating that all parties made a reasonable effort to reach agreement on the issue raised by the motion.

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ORDER

AND NOW, this day of , 20 , IT IS HEREBY ORDERED that above captioned case will be dismissed without prejudice pursuant to Fed. R. Civ. P. 4(j) for failure of plaintiff to make service on the defendant within 120 days of the filing of the complaint, on *, unless good cause is shown why such service was not made within that period.

United States District Judge

cc:

Re:

Civil Action No.

Dear

*The Court record indicates that service was made on * in the above captioned matter * on *. As of today, however, no responsive pleading has been filed. You are therefore instructed to take default/default judgment against * no later than *. Failure to do so may result in the dismissal of for failure to prosecute.*

If you have any questions regarding this matter, contact me as soon as possible.

Sincerely,

John Galovich, Deputy Clerk

to Judge Alan N. Bloch

KEYBOARD()

Re: KEYBOARD()
Civil Action No. KEYBOARD()

Dear KEYBOARD()

It has come to the Court's attention that plaintiff's pretrial narrative statement, which was due on KEYBOARD(), was not filed as ordered by this Court at the status conference held on KEYBOARD().

Be advised that if plaintiff's pretrial narrative statement is not filed with the Clerk of Court by the close of business (4:30 p.m.) on KEYBOARD(), the above captioned case will be dismissed with prejudice.

Very truly yours,

Alan N. Bloch

United States District Judge

cc: Counsel of record.

KEYBOARD()

Re: KEYBOARD()
Civil Action No. KEYBOARD()

Dear KEYBOARD()

It has come to the Court's attention that defendant's pretrial narrative statement, which was due on KEYBOARD(), was not filed as ordered by this Court at the status conference held on KEYBOARD().

Be advised that if defendant's pretrial narrative statement is not filed with the Clerk of Court by the close of business (4:30 p.m.) on KEYBOARD(), the defendant will be precluded from presenting any evidence at the trial of this case.

Very truly yours,

Alan N. Bloch

United States District Judge

cc: Counsel of record.

Updated 1/1/01

INSTRUCTIONS FOR TRIALS
HELD BEFORE THE HONORABLE ALAN N. BLOCH
UNITED STATES DISTRICT JUDGE

Your compliance with the following is required.

1. Please be on time for each court session. Trial engagements take precedence over any other business. If you have matters scheduled in other courtrooms, appropriate motions to accommodate those obligations must be filed promptly.

2. In your opening statement to the jury, do not argue the case and do not discuss law. Confine yourself to a concise summary of the important facts which you intend to prove. Do not describe in detail what particular witnesses will say.

3. Do not greet or introduce yourself to witnesses. Commence your examination without preliminaries.

4. Do not address witnesses on a first name basis. Witnesses should be referred to by Mr. or Ms. Professional witnesses should be referred to by their appropriate title, i.e., doctor, professor, etc.

5. Do not pace about the courtroom when questioning witnesses. This distracts the jury and wastes time. Counsel may take any position in which they are comfortable, sitting or standing, when questioning witnesses.

6. Each witness may be examined and cross-examined by only one attorney representing each party. That attorney will also make all objections and speak for their client at all side bar conferences.

7. The Court limits examination of each witness to direct examination, cross-examination, redirect examination, and recross-examination. That means that each party may question a witness only twice.

8. You may approach witnesses without leave of court for purposes of identifying and interrogation concerning exhibits.

9. Do not face or otherwise appear to address yourself to jurors when questioning a witness.

10. Court time may not be used for marking exhibits. This must be done in advance of the court session. Exhibit numbers or letters must coincide with those numbers or letters that have been designated in the parties' pretrial statements.

11. In advance of each trial session, counsel for the party going forward at that session should show opposing counsel the exhibits he intends to introduce at the session. The opponent shall indicate those exhibits to which he has no objection, and the court will admit them when offered at the session.

12. All exhibits already admitted into evidence must remain on the table immediately in front of the bench at all times, except when being used as part of the examination of a witness. Do not take exhibits to counsel table.

13. If you intend to question a witness about any document or exhibit, place all such documents or exhibits that will be used during the examination of that witness at the witness stand prior to the commencement of direct examination or cross-examination.

14. At the conclusion of direct or cross-examination of a witness, counsel should return all exhibits which have been admitted into evidence to the exhibit table.

15. The parties are to contact Judge Bloch's deputy clerk to make arrangements to use Court equipment. Court equipment available includes televisions, VCRs, overhead projector with screen, digital whiteboard, video-conferencing, and ELMO with monitors. Since Court equipment is assigned on a first-come/first served basis, the Court may not be able to honor requests made as late as the date of trial. Thus, the parties should speak to the deputy clerk about such matters upon notification of the date of trial. If parties desire to bring to the Court their own equipment and/or oversized demonstrative evidence, the parties should advise the Judge's deputy clerk no later than two days before trial in order for the Court to make arrangements with the U.S. Marshal's Office. Whether Court equipment or private equipment is used, the parties are required to retain their own professional operator.

16. Do not approach the jury without leave of court.

17. When you make objections, state the objection and the legal basis for said objection. Do not make any further argument in the presence of the jury concerning said objection and do not argue with the ruling of the court on said objection.

18. Side bar conferences will be kept to a minimum. This court agrees with Standard 5.9 of the Standards suggested by the American Bar Association Advisory Committee on the Judge's Function (1972):

> The trial judge should be alert to the distracting effect on the jury during the taking of evidence of frequent bench conferences between counsel and the judge out of the hearing of the jury, and should postpone the requested conference to the next recess except when an immediate conference appears necessary to avoid prejudice.

19. The Court will charge the jury prior to closing arguments. In your final argument, you may quote the charge verbatim on a particular subject.

20. When the court recesses or adjourns, attorneys and their support people, as well as witnesses, shall stay in place until the jury has left the courtroom.

COURT GUIDELINES FOR RECOVERY OF ATTORNEYS' FEES

Alan N. Bloch
United States District Judge

Any fees and expenses for which court approval is sought in this case will be evaluated in accordance with the following guidelines:

1. **Individual responsibility.** Generally, attorneys should work independently, without the incessant "conferring" that so often forms a major part of the fee petition. Counsel who are not able to work independently should not seek to represent the class or individual party. Examples of the kind of work for which only one attorney will be compensated are:

   a. Court appearances. When it is necessary to be represented in court on a motion or argument, or for a conference, no more than one lawyer should appear.

   b. Depositions. No more than one lawyer should appear at a deposition of a witness.

2. **Rates of compensation.** Senior partner rates will be paid only for work that warrants the attention of a senior partner. If a senior partner spends his time reviewing documents or doing research a beginning associate could do, he will be paid at the rate of a beginning associate.

3. **Legal research.** Counsel who are sufficiently experienced to represent the class or individual party are presumed to have an adequate background in the law applicable to the case. While it is recognized that particular questions requiring research will arise from time to time, no fees will be allowed for general research on law which is well known to practitioners in the areas of law involved.

4. **Document "review."** Generally speaking, I will allow no fees to a lawyer for simply reading the work product of another lawyer. There will be instances, of course, where a junior associate might prepare a pleading or a brief for a senior lawyer to approve before filing. There will also be times when a lawyer will need to read something prepared by someone else in order to perform a particular task in the case. In these instances, reasonable fees will be allowed. But under no circumstances will it be compensable for a multiplicity of lawyers to review the same

document simply as a matter of interest, whether it be a pleading, a brief or a document produced in discovery.

5. **Class actions.** One of the principal advantages of a class action is that duplication of legal expense is avoided, or at least greatly reduced. It makes no sense to designate a small number of attorneys to represent the class and then compensate them for time spent communicating with the attorneys for individual class members. If the attorneys for the class are competent, there is no need for a legion of other lawyers to be looking over their shoulders; if they are not competent, the legion will do no good anyway. There is no doubt that the activities of "liaison" counsel in communicating, lawyer to lawyer, with the lawyers for class members frequently generate enormous amounts of "billable time" in class actions. These hours will not be compensated. Class members should be kept apprised of the progress of the litigation, but in no greater detail or frequency than the typical client is kept advised by his attorney. Periodic informational mailings to the class should suffice. Even that may not be necessary. In many class actions, counsel do no more than respond to specific inquiries by class members. The needs of this particular case will become apparent in time, and we will meet those needs as they arise.

In the event a class is certified, I would prefer to designate counsel who are nominated by plaintiffs' attorneys. I, therefore, suggest that plaintiffs' counsel confer together with a view toward submitting a proposed roster that will be no larger than necessary to provide effective representation under the foregoing guidelines.

6. **Expenses.** Reimbursement will be allowed for the reasonable expense of <u>necessary</u> travel, hotel accommodations and meals. Since this case is pending in the Western District of Pennsylvania, I cannot readily imagine a circumstance that would justify a lawyer from out of the district making a court appearance here. Conferences between counsel who office at distant points should be by telephone; it would require extraordinary justification for counsel to fly, say from Chicago to Pittsburgh, for a conference. Air fares will be reimbursed at tourist rates, and there will be no meal reimbursement unless counsel is travelling away from home.

7. **Keeping of time records.** All of the foregoing rules would be unenforceable unless there is some means of record keeping that will demonstrate compliance. Typically, fee petitions are organized by attorney, showing the chronological breakdown of what each attorney did from day to day on the case. This format makes it very difficult, if not impossible, to determine whether there has been duplication of effort, especially when the time records of numerous attorneys are involved.

The time records in this case should be kept, or at least ultimately submitted to me, chronologically by activity rather than by attorney. For instance, if a memorandum of law is prepared over a period of several days, there should be a time entry such as "preparation of memorandum re_____," describing that memorandum and, for each date work was done, naming each person who worked on it and the number of hours spent by each person. As a further example, if a conference is held, the time entry should be headed "conference re_____," and indicate all of the persons who participated and the time spent by each.

The description of the work done should be sufficient to demonstrate that it benefitted the class or individual party or contributed to the recovery of the common fund. Notations such as "research re class action" or "research re Smith case" will not suffice. The particular question researched should be described. Much of the narrative in most fee petitions consists of entries like "conference with GBS re motion to compel." As indicated above, such "conferences" should be held only when necessary, which should not be very often. But in no event would that kind of entry be sufficient to show the conference was necessary and productive. There should be a statement, albeit very brief, of specifically what was discussed and what conclusion was reached. Should such a statement necessarily include privileged information (which seems unlikely, since it will be submitted at the end of the case), it may be submitted in camera.

At the time of submission of fee petitions, if your fee records are maintained on computer ledger and it is possible for that ledger to be converted to Wordperfect 5.1 format, please submit a copy of that computer disc (in Wordperfect 5.1 format) with your fee petition. Either 5.25 or 3.5 discs are acceptable.

The intent of these guidelines is not to force parties to litigate with counsel who have no expectation of reasonable compensation. The intent, rather, is to avoid duplication and unnecessary expense. Should I have occasion to award fees, they will be reasonable, with due allowance for the quality of the work performed and the results accomplished.