

HONORABLE CRAIG M. STRAW

United States Magistrate Judge

James A. Byrne U.S. Courthouse 601

Market Street, Room 3029

Philadelphia, PA 19106

Courtroom 3G

Mag_Judge_Straw@paed.uscourts.gov

Courtroom Deputy

Donna Croce

267-299-7661

JUDGE STRAW'S POLICIES AND PROCEDURES

I. PRELIMINARY GENERAL MATTERS

A. Correspondence with the Court

Judge Straw permits correspondence from counsel on any matters as long as all other counsel in the matter are sent copies of such correspondence. Judge Straw sometimes permits letter motions in lieu of formal motions.

B. Communications with Courtroom Deputy and Law Clerks

Judge Straw permits counsel to communicate with his courtroom deputy and law clerks on scheduling and administrative matters, but never on the merits of a case.

C. Confidentiality Agreements

Judge Straw will approve confidentiality or sealing orders consistent with applicable legal standards. *See, In re Avandia Mktg., Sales Practices & Prods. Liab. Litig.*, 924 F.3d 662 (3d Cir. 2019).

D. Telephone Conferences

Judge Straw prefers telephone conferences to be utilized for matters such as scheduling conferences, scheduling changes, extensions of time and routine discovery disputes. It will be the responsibility of all counsel seeking relief to initiate any such conference by contacting the Judge's courtroom deputy, Donna Croce.

E. Oral Arguments and Evidentiary Hearings

To the extent deemed necessary by Judge Straw, oral arguments and evidentiary hearings will be scheduled through the courtroom deputy. All reasonable efforts will be made to accommodate the schedules of counsel.

F. *Pro Hac Vice* Admissions

Counsel must complete and submit an Attorney Admission Application (*Pro Hac Vice*) before the date of the non-admitted attorney's first appearance. The requisite forms are available on the United States District Court Eastern District of Pennsylvania website.

II. CIVIL CASES

A. Pretrial Procedure

Judge Straw will schedule status conferences, settlement conferences and final pretrial conferences as required by the circumstance of each particular case. Judge Straw will work with counsel on the scheduling of either telephone conferences or conferences in chambers to resolve any issues that may arise during the progress of the case. Judge Straw requires that counsel make all good faith efforts to resolve any disputed matter between themselves before seeking involvement of the Court. Counsel are expected to be mindful of the mandate of Federal Rule of Civil Procedure 1 that the procedural rules "should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding."

B. Continuances and Extensions

Counsel will have substantial input in the setting of dates in the Rule 16 Order, Judge Straw expects counsel to comply with the dates set out in that Order. Extensions will be entertained upon a good cause showing that circumstances beyond the reasonable expectation of counsel have hampered the progress of the case. Judge Straw requires a letter brief requesting an extension.

C. General Motions Practice

Except as described below, motion practice is governed by Local Rule 7.1.

1. Citations

Every assertion of fact in a memorandum must be supported by a citation to the record where that fact may be found. Both legal citations and citations to the record must include pinpoint cites.

2. Memoranda

Memoranda must not exceed twenty-five (25) pages in length (excluding table of contents and appendices), must be double spaced and must use 12-point Times New Roman font. Memoranda over fifteen (15) pages in length must include a table of contents and table of authorities.

D. Oral Arguments on Motions

Judge Straw will schedule oral argument on motions if it appears likely to be helpful to the Court's resolution of the matter. Counsel may request oral argument if considered appropriate.

E. Reply and Sur-reply Briefs

Judge Straw will permit reply briefs not to exceed fifteen (15) pages. Judge Straw will not normally permit sur-reply briefs and counsel desiring to file a sur-reply must first seek permission of the Court by letter brief, before such a brief will be accepted.

F. Chambers Copy of Motions Papers

Judge Straw requires a courtesy copy of all motion papers to be sent directly to chambers via email. If exhibits are over 20 pages, a hard copy must be sent to chambers.

G. Discovery Matters

1. Length of Discovery Period and Extensions

Judge Straw normally permits from ninety (90) to one hundred and twenty days (21) for the completion of discovery; however, he will consider the informed view of counsel as to the time that will be required for discovery in a particular case. Additional time will be allowed in complex cases or upon a specific showing of need. Judge Straw will also consider staged discovery. He will encourage that the most essential discovery be undertaken early in the case so that it will foster early settlement opportunities and minimize the costs of litigation.

2. Discovery Disputes

Judge Straw expects the parties to resolve discovery disputes without Court intervention. Should counsel be unable, in good faith, to resolve their dispute, Judge Straw permits contact with the Court through his courtroom deputy to set up telephone or chambers conferences to resolve outstanding issues. The use of motion practice in discovery matters is discouraged.

3. Expert Witnesses

The parties will identify expert witnesses and provide expert reports pursuant to the Rule 16 Scheduling Order entered in the particular case. A failure to do so may bar the use of the expert's testimony at trial.

H. Settlement

1. *When Jurisdiction remains with the District Court*

(a) Scheduling a Settlement Conference

When a case is referred for a settlement conference to Judge Straw by a district judge, counsel will receive an email from Judge Straw's Deputy, Donna Croce with Judge Straw's availability and instruction on how to schedule a settlement conference. If you have any questions about scheduling a settlement conference, email Donna Croce at Donna_M_Croce@paed.uscourts.gov.

(b) Settlement Conference Memoranda

Judge Straw requires counsel to submit a brief written conference summary one week before the scheduled conference. In addition, the parties must provide the Court with an updated demand and offer four (4) days before the scheduled conference. The summary should not exceed five (5) pages, excluding attachments. If attachments are over 20 pages, a hard copy is to be sent to Judge Straw chambers by the date the summaries are due. Do not include any documents that are already filed on the docket as exhibits. If you would like Judge Straw to take notice of these documents, reference them in your summary. Judge Straw requires that counsel exchange their summaries. The summaries are not to be filed with the Clerk's Office.

(c) Demands and Offers

Judge Straw requires the parties to engage in good faith settlement discussions prior to the submission of the written conference summary. Upon submission of the written conference summary and prior to the conference, the parties are required to update their settlement positions and submit a joint letter setting forth updated positions to Judge Straw. This timeline will be set forth in Judge Straw's settlement conference order.

(a) Parties Attendance and Participation

Judge Straw requires in-person attendance at the conference by the parties or the parties' representatives, with knowledge of the case and settlement authority. If Judge Straw determines that a virtual conference is appropriate, he will set forth the type of conference on the settlement conference order and the same requirements will apply. In exceptional circumstances, Judge Straw will permit a person to virtually participate in an in-person conference. Counsel seeking relief must contact chambers as soon as they are aware of a problem with attendance. A copy of Judge

Straw's Settlement Conference Scheduling Order is attached for reference. Counsel and the parties must strictly adhere to this procedure.

At the conference, Judge Straw will expect counsel to:

- Be prepared to discuss the weaknesses, as well as the strengths of their case.
- Prepare the client. Judge Straw will speak to them directly.
- Organize and bring critical documents. Judge Straw will want to see them.
- Attach relevant summary expert reports to the conference memos. Judge Straw will review them.
- Bring any photographs, sketches, diagrams and charts. Judge Straw will review them.
- Be patient. Settlement is a process. It takes time.
- Be flexible. Avoid bottom lines or top numbers.
- Be creative.
- Manage their client's expectations.
- Manage their own expectations.

(b) Follow-up Contact

Judge Straw will, if appropriate, continue to work with counsel after the settlement conference if the matter is not resolved at the conference.

(c) Continuances

Settlement conferences are scheduled by order of the Court and are not discretionary. Counsel and participants should use all efforts to be available for this conference. Due to the large number of cases scheduled for settlement conferences, any need to reschedule the conference could cause a delay of that conference for several weeks. For this reason, any continuance requests should be made within fourteen (14) days of receipt of the notice scheduling the conference. Continuance requests will only be granted for the most compelling reasons.

I. Consent Cases

1. When jurisdiction for all purposes has been assigned to Judge Straw

(a) Preliminary Telephone Conference

When the parties have agreed to consent to a magistrate judge for all future proceedings and the matter is assigned to Judge Straw, a Rule 16

teleconference with counsel will be held. If counsel has not previously filed a joint Rule 16(f) report, one is required to be filed on the docket one week before the Rule 16 conference. At the time of the telephone conference, counsel will be expected to discuss deadlines, discovery issues, possible motions to be filed and the status of settlement discussions (if any). In the interest of streamlining the litigation, Judge Straw will encourage counsel to participate in settlement discussions as early as practicable and to stage discovery such as to facilitate settlement and control costs.

(b) Settlement Conferences in Jury matters

Judge Straw may, after discussion with counsel, conduct his own settlement conferences utilizing the procedures above. If not appropriate and if a conference is deemed worthwhile, Judge Straw will obtain the assistance of another magistrate judge to assist with settlement discussions.

(c) Settlement Conferences in Non-Jury Matters

Judge Straw will not take part in settlement discussions in a non-jury matter. A settlement conference may, however, be arranged with another magistrate judge.

(d) Arbitration

(i) General Approach to Arbitration Cases

Judge Straw will automatically refer cases to arbitration when appropriate. If a matter settles before the scheduled arbitration date or the parties need to continue the arbitration, counsel is to notify Judge Straw's chambers immediately.

(ii) Scheduling Trial De Novo from Arbitration

Judge Straw will schedule trial promptly when a demand for trial de novo is filed following arbitration.

(d) Pretrial Memoranda

Unless specifically provided for by a separate order, Judge Straw will require the use of the short form pretrial memorandum described in Rule 16.1(c) of the Local Rules of Civil Procedure for the Eastern District of Pennsylvania. In certain cases Judge Straw may require counsel to stipulate to uncontested facts as generally set out in Local Rule 16.1(d)(2)(b)(2)(A-E).

(e) Trial Procedure

(i) Scheduling of Cases

Judge Straw's cases will be specially listed for trial based upon the Court's calendar and the availability of counsel, the parties, experts and critical witnesses. Judge Straw will generally schedule jury selection the Friday before trial starts.

(ii) Conflicts of Counsel

Given the manner of scheduling, conflicts will normally not occur. Should counsel, however, have a professional or personal conflict which may affect the trial schedule, notice should be provided immediately to opposing counsel and the Court.

(iii) Parties or Witnesses

Judge Straw will make all reasonable attempts to accommodate the schedules and availability of parties, experts and critical witnesses. In the alternative, the parties should be prepared to present testimony by videotape means so as not to delay the trial schedule.

(iv) Note taking by Jurors

Judge Straw will consider note taking by jurors on a case-by-case basis.

(v) Trial Briefs

Trial briefs are due in accordance with Judge Straw's pretrial scheduling order.

(vi) *Voir Dire*

Judge Straw will take the lead in asking questions during *voir dire*. If circumstances arise that require additional questions from counsel, Judge Straw will conference with all counsel before permitting any additional questions by counsel.

(vii) Sidebar

Judge Straw discourages the use of sidebar conferences. Counsel are encouraged to raise particular evidentiary issues before trial or during recesses or adjournments.

(viii) *In Limine* Motions

Judge Straw will accept *in limine* motions in advance of the final pretrial conference and in accordance with his scheduling order so as to give him an opportunity to consider the merits of the motion.

(ix) Examination of Witnesses Out of Sequence

Judge Straw will permit witnesses to be taken out of turn in appropriate circumstances.

(x) Opening Statements and Closing Arguments

Judge Straw will discuss with counsel the length of time necessary and appropriate for opening and closing statements but will give counsel reasonable latitude.

(xi) Examination of Witnesses or Argument by More than One Attorney

Judge Straw will not normally permit more than one attorney for the party to examine the same witness or more than one attorney to present argument on behalf of the party on the same point.

(xii) Examination of Witnesses Beyond Re-Direct or Re-Cross

Judge Straw will generally restrict counsel from examining witnesses beyond re-direct and re-cross.

(xiii) Videotaped Testimony

Judge Straw requires counsel to review all videotaped depositions and to have them edited such as to fairly present only the essential evidence of the witnesses involved. Counsel are expected to resolve all matters pertaining to objections before offering the video into evidence.

(xiv) Reading of Material into the Record

Judge Straw has no special practice with regard to reading stipulations, pleadings or discovery materials into the record.

(xv) Preparation of Exhibits

Prior to commencement of trial, counsel are to meet and confer to prepare *one* set of pre-marked trial exhibits for use at trial. The use of duplicate exhibits at trial is discouraged as inefficient and confusing. Counsel should provide Judge Straw with two (2)

exhibit binders that consist of a schedule of exhibits with a brief description of each and copies of each exhibit. Counsel is encouraged, however, to provide the Court with only the essential and relevant portions of bulky exhibits, together with sufficient material to provide context for the relevant portion of the exhibits. On the morning of trial, counsel shall provide the ESR/court reporter with a copy of the joint exhibit list and a copy of the witness lists.

(xvi) Offering Exhibits into Evidence

Judge Straw expects counsel to reach agreement in advance as to the admission of exhibits. Judge Straw has no particular procedure as to when an exhibit may be formally offered into evidence but must be done before they are published to the jury.

(xvii) Motions for Judgment as a Matter of Law and Motions for Judgment on Partial Findings

Motions for Judgment as a Matter of Law or Motions for Judgment on Partial Findings in non-jury trials may be submitted in writing or orally. Judge Straw will ordinarily request oral argument on these motions.

(xviii) Proposed Jury Instructions and Verdict Forms

Judge Straw requires counsel to submit joint proposed jury instructions, noting areas of agreement as well as objections. The points for charge should be submitted with appropriate citations of legal authority and shall be provided to the Court in accordance with the deadline set forth in the scheduling order. Judge Straw prefers use of the Third Circuit Model Jury Instructions whenever possible.

Counsel will submit a jointly prepared verdict form or proposed special interrogatories in accordance with the deadline set forth in the scheduling order. If counsel are unable to agree, they may submit separate proposed forms of interrogatories. Judge Straw will encourage counsel to agree upon a less than unanimous verdict.

(xix) Proposed Findings of Fact and Conclusions of Law

Judge Straw requires counsel to submit proposed findings of fact and conclusions of law in non-jury cases at the final pretrial conference or at such a date as set forth in a scheduling order. A supplementation will be permitted at the close of trial or, in an appropriate case, after trial.

(f) Jury Deliberations

(i) Written Jury Instructions

Judge Straw has no particular practice or policy on submitting a copy of instructions to the jury.

(ii) Exhibits in the Jury Room

Judge Straw will consider what exhibits should be sent out to the jury during their deliberations on a case-by-case basis.

(iii) Handling of Jury Requests to Read Back Testimony or Replay Tapes

Judge Straw will seek the input of counsel and will then make a determination on a case-by-case basis when requests are made to read back testimony or replay tapes.

(iv) Availability of Counsel During Jury Deliberations

Judge Straw will not require counsel to remain in the courthouse during deliberations but will require counsel to be available on short telephone notice. Counsel must provide the courtroom deputy with their phone number.

(v) Taking the Verdict and Special Interrogatories

Judge Straw has no usual practice with respect to taking a verdict. Judge Straw will submit written interrogatories to the jury in the appropriate case. A copy of the interrogatories shall be given to the jury during their deliberations.

(vi) Polling the Jury

Judge Straw will, if requested, permit the jury to be polled.

(vii) Interviewing the Jury

Judge Straw will permit counsel to interview jurors, but only after the verdict has been recorded, the jury has been discharged *and* they have been told in clear terms that they have no obligation to speak with counsel.

III. CRIMINAL CASES

A. Sentencing Memoranda

Sentencing memoranda are due to Judge Straw one (1) week before the scheduled sentencing.

B. Additional Matters

At all “criminal duty week” proceedings, counsel once appointed or retained, must be present to permit the proceeding to go forward. Once the Court has ordered that a defendant be detained or has set conditions of release, any proposed changes thereto must be submitted to the Court by written motion.

Judge Straw does not favor the dual representation of defendants by a single attorney at any criminal proceeding, apart, perhaps, from the initial appearance.

Judge Straw requires that all relevant documents be emailed to Chambers at Mag_Judge_Straw@paed.uscourts.gov and Donna Croce at Donna_M_Croce@paed.uscourts.gov in advance of court. Counsel may contact Donna Croce (267-299-7661) if there are any questions regarding the matters before the Court.

IV. GENERAL MATTERS

When a decision rendered by this Court is appealed, Judge Straw prefers to receive copies of appellate briefs.

Judge Straw expects counsel to be prompt in all appearances, to be professional and courteous to each other, both in the presence of the Court and otherwise, and to have discussions with each other about any matter in dispute before it is brought to the attention of the Court.

Counsel should feel free to contact Judge Straw’s courtroom deputy if they have any questions about his courtroom practices and procedures.