

Standard Operating Procedures of Judges
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I. Pre-Trial Matters

A. Motions, Petitions and Stipulated Orders

1. Counsel who file civil motions and petitions which require briefing, hearing, or argument should follow the procedures set forth in C.C.R.C.P. 206, et. seq. However, civil motions and petitions filed as of course which are unopposed or which require only brief argument or explanation (e.g. Motion to Place on Trial List, Motion to Withdraw as Counsel, Motion to Proceed under Pa.R.C.P. 209, Motion for Continuance, etc.), may be presented on Mondays at 9:00 a.m. in open court during weeks in which civil, family or miscellaneous matters are scheduled (check with the Court Administrator's Office for schedule). Counsel should give the Court and opposing counsel at least three working days' advance notice of any such matter presented on Monday, and file an affidavit or a certificate of such service prior to the Monday presentation. Counsel are advised to familiarize themselves with Pa.R.C.P. 206 before presenting a matter on petition or answer, for disposition to the Court.

2. Motions in *limine* should be presented at least one week prior to the selection of a jury. However, motions in *limine* involving complex legal issues shall be submitted two weeks prior to the scheduled trial date. Motions in *limine*

¹ All references to counsel herein equally apply to unrepresented parties. Those procedures do not apply to Orphans Court practice except where specifically noted.

brought to jury selection or in violation of the above time requirements will likely be denied as unreasonably late and any issues raised therein deemed waived.

3. Stipulated Orders may be submitted at any time. Advance notice of such submittal should be given to the opposing counsel.

B. Oral Argument

Counsel should be prompt, professionally attired and well prepared for oral argument. Do not merely repeat what your brief asserts. Be prepared to engage in a colloquy with the Court and to cite applicable legal authority for your position. Oral argument should only be requested where there are *unique* factual/legal issues. A time limit of approximately 10 minutes per side will generally apply.

C. Conferences

Conferences should be scheduled through (the judge's) secretary. It is important to distinguish between administrative conferences, settlement conferences, and pre-trial conferences. Pre-trial and settlement memorandums should be filed no later than 3 days before the scheduled conference. Please review C.C.R.C.P. 212.1. Administrative conferences may be held telephonically at the request and upon agreement of the parties, if pre-arranged with chambers. The Court will try to make itself available for early morning or late afternoon conferences, upon request.

D. Continuances

Continuance requests must be sought as soon as possible and are not favored. Successive continuance requests are likely to be denied.

Counsel shall be forthright with the court in stating the reason for the continuance and shall not assume that it will be granted. The reason must be based upon a compelling reason unless otherwise approved. Counsel is obliged to inform the court that opposing counsel has been contacted and does not oppose the

continuance. Opposed continuances must be sought in person. Requests received within 48 hours of the assigned miscellaneous court date will not be considered as stating adequate grounds. Civil trial continuances must be sought through the administrative conference procedure. Criminal trial continuances are granted only when counsel appears in person at the call of the list. Continuances in civil cases will only be granted on written motion or petition pursuant to Pa.R.C.P. 216. In criminal cases, the standard continuance motion/order form must be used. Unless a continuance request is jointly agreed upon by all parties, requests for continuances must not be mailed or faxed directly to the Judge's chambers. The party requesting the continuance will have a significantly greater chance of having the request granted if opposing counsel has been notified of the request and consents to it. Such an agreed request may be submitted by letter to the Court with a proposed continuance order stating an agreed date for the continued hearing/trial. Please be prepared to discuss any such agreed upon requests with the Judge in person or via telephone conference.

E. Minors Compromises/Wrongful Death Claims

Minors Compromises/Wrongful Death Claims should be scheduled through the Orphans Court Administrator if no litigation has been commenced. Notice must be given to defendants and insurance companies. School aged minors must be present in Court.

F. Miscellaneous

Counsel should contact the appropriate office, not the Judge's chambers or law clerk, concerning legal/procedural questions or filings, and counsel should ensure complete research into any question raised before contacting any office. Specific questions about pre-trial filings, including motions, petitions and applications, may be addressed with the pre-trial clerks (the Judge's clerk is not a pre-trial clerk). It is assumed that you will have familiarized yourself with

Pennsylvania and local rules before making any such communication. Scheduling questions should be directed to the Court Administrator's office, unless special circumstances require that contact be made with the judge's secretary.

II. Court Proceedings

Court Schedule

1. The Court normally opens at 9:00 a.m. or 9:30 a.m. (consult the individual judge's daily schedule) and closes at 4:30 p.m. During trials, the Court normally closes at 5:00 p.m. and may delay closing into the night if a jury is deliberating on a verdict. The Court shall make every effort to commence proceedings on time. Counsel, parties, and witnesses shall be ready to proceed at the designated time. Generally, less time consuming matters will be heard first if more than one matter is scheduled for the same time. Prior to the initiation of the proceedings, counsel should make one last effort to discuss an agreed disposition with the opposing counsel. The Court will make itself available to facilitate such a disposition provided the scheduled and/or other proceedings are not unduly delayed.

2. Lateness for Court will not be tolerated; however, if counsel is going to be late for a Court proceeding, counsel should contact the judge's chambers as soon as possible and advise the judicial secretary of your expected arrival. Unreasonable tardiness by counsel may result in sanctions, including the payment of the opposing counsel fees.

III. Hearing/Trial Proceedings

A. Preliminary Conferences

Counsel shall meet with the Court prior to jury selection to provide witness lists for voir dire, points for charge and discuss the Court's rulings on any previously filed Motions in *limine*, timing of witnesses, proof, etc. If counsel has reason to anticipate that a significant question of law or evidence will arise during trial, counsel should alert his or her opponent, and the Court should be supplied with a memorandum of law, if not a Motion in *limine*, on the question prior to commencement of trial.

B. Voir Dire

1. In criminal cases, voir dire will be conducted by the Court.
2. Usually, voir dire in civil cases will be conducted by counsel.

If disputes arise, the Court will resolve them. Counsel should exchange proposed voir dire questions prior to the commencement of voir dire.

3. The Court prefers that counsel not spend more than one hour on voir dire, including the striking procedure. If you are taking too long, the Court may take over the process.

C. Court Seating

1. Under local practice, plaintiffs and the Commonwealth's table is closest to the jury box.

2. If there is a request for more than one counsel table for all plaintiffs or defendants, or any other special requests for seating, visual aids, etc., notify the Court Administrator's office at least one week before trial.

3. Generally, only counsel and parties, if desired, shall sit at counsel table. Witnesses shall sit in the public seating section unless otherwise authorized by the Court. If any party desires sequestration, that motion shall be made at the outset of the trial. If sequestration is ordered, all witnesses for all

parties will be sequestered. Counsel will be responsible for informing their non-party witnesses that they should remain outside the courtroom until called, and that they should not discuss their testimony with other witnesses until the trial is concluded.

4. No food or beverage may be brought to counsel table or into the courtroom. Counsel may, however, have water glasses and pitchers at counsel table. Arrangements should be made with the tipstaff.

D. Decorum of Counsel

1. Counsel shall dress in an appropriate professional manner and shall participate in any hearing or trial in a dignified and formal manner. Counsel shall not raise their voices any higher than is necessary to be clearly heard by the Court, witnesses and the jury. Always address the Court on a disputed issue and not opposing counsel. Colloquy between counsel is permitted only to expedite the trial and should be avoided in the presence of the judge and jury. All remarks should be addressed to the Court and counsel will rise when addressing the Court. Counsel should never act or speak disrespectfully to the Court or opposing counsel.

2. Counsel should be courteous and professional. Counsel shall not exhibit causal familiarity with the parties, jurors or opposing counsel while Court is in session. During opening statements or closing arguments, no juror should be addressed individually or by name. Neither counsel nor the parties by their body language or facial expression shall convey their reaction to the testimony of a witness, the questions of or argument of opposing counsel.

3. Counsel shall read the Pennsylvania Code of Civility prior to appearing in Court and abide by Code Section II, The Lawyer's Duties to the Court, while in Court or chambers.

E. Opening Statements

The purpose of the opening statement is to state briefly what counsel expects the evidence to show. Brief reference to the law will be permitted but only to the extent that it will aid the jury to understand what counsel expects to prove. It is not proper to use the opening statement to argue the case. Upon violation of any of these rules, the Court may, *sua sponte*, interrupt the opening statement and remind counsel of the opening statement purpose.

F. Objections to Questions

When objecting, counsel should only state "objection" and then give a brief statement of the legal grounds for the objection, e.g. "objection-hearsay"; "objection-lack of foundation". Do not offer extensive argument or explanation unless requested to do so by the Court. Counsel will not be permitted to state additional reasons after the Court has ruled. Do not use objections for the purpose of making a speech, recapitulating testimony, or attempting to guide the witness. Such "speaking objections" may result at least in a cautionary instruction being given to the jury. If argument is necessary on an objection, ask to speak with the Court at side bar.

G. Examination of Witnesses

1. It is counsel's responsibility to advise witnesses, in advance, regarding what behavior is expected in the courtroom including compliance with sequestration orders and not mentioning certain evidence such as insurance in a civil case or suppressed evidence and excluded past crimes/bad acts in a criminal case.

2. Counsel should ordinarily conduct examination of witnesses from the lectern or while seated at counsel table. If counsel is more comfortable standing, counsel shall stand behind the counsel table. Do not approach a witness

without specific permission. When permission is granted, please return to counsel table when the purpose of the permission is concluded.

3. At the beginning of a witness' testimony, have the witness state and spell their name for the court reporter's benefit.

4. If a witness is to be examined on the basis of the witness' prior written statements or deposition testimony, the witness shall first be shown the statement or deposition testimony and asked whether he or she acknowledges having made it.

5. Witnesses should be treated with fairness and consideration; they should not be shouted at, ridiculed, or abused in any manner. Even tough cross-examination can be done in a civilized and professional manner.

6. Allow the witness to finish answering before asking the next question.

7. Witnesses and parties should be instructed to wear proper attire to court. Shorts, tank tops, etc., are not permitted attire. Witnesses or parties not properly attired may be excluded from the courtroom.

8. Avoid the use of argumentative questions. Keep your questions clear and to the point.

9. If a witness was on the stand at a recess or adjournment, the witness should be on the stand ready to proceed when Court is resumed. Counsel may not discuss a witness' testimony with the witness during a break in the witness' examination, and must instruct such a witness not to discuss his or her testimony with anyone else until the witness completes the witness' testimony. Make sure that you do not run out of witnesses. If you are out of witnesses and there is more than a brief delay, the Court may determine that counsel is resting. If there is going to be a problem with the scheduling of any witness(es), inform the Court at the pre-trial conference and at the beginning of that day's proceedings.

10. Cell phones, pagers and like communication equipment must be turned off in the courtroom and counsel shall so instruct those persons affiliated with counsel's case.

H. Exhibits

1. Be sure that exhibits are marked before the trial begins.

Arrange with the court reporter to have your exhibits marked at a time when it will not delay the proceedings. Do not ask the court reporter to give up his/her break to mark your exhibits.

2. Except where impractical, copies of the exhibits should be provided to all other counsel. The jury should not see an exhibit before it has been identified and admitted into evidence. Counsel should not unnecessarily request to have exhibits published to the jury.

3. Exhibits may be moved into evidence at any time during one's own case, once the proper foundation is laid. It is not necessary to hold all exhibits until the end of your case and move them at that time.

4. Each counsel should keep a list of exhibits and should keep track of when each exhibit has been admitted into evidence. Exhibits admitted into evidence should be delivered to the court clerk.

5. Counsel should refer to an exhibit by exhibit number.

Witnesses should be asked to do the same.

6. Exhibits shall not be shown to the jury during opening statements.

I. Side Bar Conferences

Side bar conferences should be infrequent and sought only when necessary.

J. Points for Charge and Closing Arguments

1. A charge conference will always be held prior to closing arguments. Ordinarily, standard jury instructions are given. However, if special or unusual issues or rules of law are at issue, or if specific points for charge are requested, written points for charge should be submitted, with citations of authority for each point. Counsel shall also submit at the same time a proposed verdict slip. Points for charge should be submitted prior to the beginning of trial and any amendment to those points made as soon as possible thereafter, but no later than immediately prior to closing arguments. Points for Charge and proposed verdict slip should also be emailed to the judge's secretary in Word format only at least two days prior to commencement of trial. A copy of proposed points for charge and verdict slip must be concurrently provided to opposing counsel. (For additional information regarding a specific judge, go to: www.chesco.org and see: Departments, Courts, Judges.)

2. All exceptions to the Court's charge must be placed on the record before the jury is dismissed for deliberations.

3. The Court may request counsel's good faith representation on the amount of time necessary for counsel to make closing argument and may hold counsel to that time. Plaintiff's counsel should be sure to reserve time from their closing to use for rebuttal.

K. Criminal Sentencing Hearings

The attorney for the Commonwealth and Defendant shall submit any sentencing memorandum to the Court and opposing counsel within five (5) days of the scheduled sentencing hearing.

L. Miscellaneous

1. Detailed Findings of Fact are very helpful in civil non-jury trials and are highly encouraged. They should be emailed to the judge's secretary in Word format only.

2. In civil cases, counsel should exchange their lists of experts and the substance of their testimony prior to the beginning of trial or risk having such expert(s) barred from giving testimony. Prepare your expert examination, including questions intended to establish a proper factual foundation. On critical issues, experts should be specifically asked if they hold their opinion to a reasonable degree of certainty within their field of expertise.

3. During jury deliberations, counsel shall let the tipstaff on duty know where they are, and shall be available, with their clients, to return to the Court on five minutes' notice.

4. From the time the jury is selected until it is discharged, counsel shall avoid all forms of contact with the individual jurors, and shall advise their parties and witnesses to do the same.

5. Do not copy the Judge on correspondence between counsel. If there is a discovery dispute, the Judge will only entertain a formal motion.

6. Judicial admissions, pleading averments, requests for admissions of parties, etc., can be very useful to the presentation of a case. However, they are not part of the evidence unless moved into evidence and admitted as such.

7. If use of videotapes is planned for use in Court, please rewind them to the starting point and review any objections made on the videotapes with the Court ahead of time. Videotapes shown to juries must be edited to delete inadmissible testimony and unnecessary questions or statements by counsel.

8. Although jury views are not encouraged, they may be done with advance arrangements by counsel with the Court. Highly detailed photographs are preferred and can prove just as informative.

M. Court Reporter

The court reporter is not under the control of the parties or counsel. Counsel should not issue instructions to or impose requirements upon the reporter. Counsel should direct their requests to the Court and, if appropriate, the Court will issue instructions to the reporter. During trial, be conscious of the speed at which you and your witnesses speak so that the reporter can accurately transcribe the statements and testimony. In cases, such as medical malpractice cases, which require the use of complicated terminology, please provide the reporter with a glossary of terms that you plan to use throughout the trial.