



Standard Operating Procedures for Judge John T. McVay Jr.

In Compliance with the Fifth Judicial District Emergency Operations Plan

This document sets forth the standard operating procedures for the courtroom of Judge John T. McVay, Jr. in the Civil Division of the Allegheny Court of Common Pleas. We hope this document will serve counsel, litigants, and all other interested persons as a general guide for proceedings before this Court. Depending on the circumstances of any given case, Judge McVay may, in the interest of justice, deviate from these standard procedures. Nevertheless, those persons having business before the Court should familiarize themselves with these Standard Operating Procedures.

- **Communication**

- **Initially, it must be emphasized that filing a document with the Department of Court Records (“DCR”) is NOT notice to anyone.**
- **All filings should be docketed with the DCR, and then served on the opposing party, AND emailed to the judicial staff at cfejko@alleghenycourts.us and amcvay@alleghenycourts.us. The DCR does NOT independently notice judges or parties when something is filed.**
- **Please do not mail anything to Judge McVay’s chambers unless it is the only means of providing Judge McVay with a copy.**
- You may call chambers at 412-350-3779 to speak with a staff person or leave a voicemail if no one is available.
- Documents can be hand delivered to 709 City County Building, 414 Grant Street, Pittsburgh, PA, 15219.
- Please send electronic communications to cfejko@alleghenycourts.us and/or amcvay@alleghenycourts.us
- Do not send emails directly to Judge McVay unless authorized to do so by Judge McVay or his staff.
- When communicating with the Court via email, **ALL** parties must be included in the email unless directed otherwise. The email addresses of other parties/opposing counsel must be included in either the “To” or the “CC” boxes so that they are visible to the Court. Please do not “BCC” the other parties/opposing counsel on your communications.
- Please send all documents in PDF or Microsoft Word format. **PROPOSED ORDERS ARE REQUIRED** and should be attached separately in PDF format.
- The parties (and not Judge McVay or his staff) are responsible for filing their pleadings, motions, briefs, pre-trial statements, etc. with the DCR, whether it be in-person or electronically.

- **Unrepresented (*Pro Se*) Parties**
 - Individual (*i.e.*, non-corporate) parties are usually permitted to represent themselves (*i.e.*, proceed *pro se*) before the Court. However, such parties, like lawyers, must litigate their cases according to all applicable rules, including the Pennsylvania Rules of Evidence, the Pennsylvania Rules of Civil Procedure, and the Allegheny County Rules of Civil Procedure. Because following the applicable rules can be difficult for those not trained in law, *pro se* parties should consider obtaining an attorney. The Allegheny County Bar Association may be helpful to *pro se* litigants seeking counsel. The Allegheny County Bar Association can be contacted at (412)-261-5555.
- **Requests for Relief or Other Action**
 - Except as otherwise provided herein, or otherwise directed by the Court, parties requesting any type of relief or other action by the Court **MUST** present their requests via motion or petition. Motions and petitions are to be filed with the DCR and served on all parties and the Court consistent with applicable Pennsylvania and Allegheny County rules. **ALL MOTIONS AND PETITIONS SHALL CONTAIN A PROPOSED COURT ORDER.** The proposed order shall set forth the precise relief sought.
 - **Requests via email or telephone are not of record in the DCR and therefore are likely to be denied without a follow-up motion or petition.**
- **Pretrial Conciliation Procedures**
 - Pretrial Statements
 - Before any scheduled conciliation, all parties must timely file and serve their respective pretrial statements in compliance with the Pennsylvania and Allegheny County Rules of Civil Procedure. Failure to comply fully with filing and service requirements may result in appropriate sanctions.
 - Attendance
 - Counsel, their respective clients, and if applicable, the insurance representative or representatives who possess full and final authority to negotiate and reach settlement must attend all pretrial conciliations. The physical attendance of a party or the party's authorized representative(s) will only be excused with the consent of the opposing party and prior approval of the Court.
 - Settlement
 - If the case settles before the conciliation date, the parties **MUST** forward a joint letter or separate letters confirming settlement to this Court either by in-person delivery, by email to cfejko@alleghenycourts.us and amcvay@alleghenycourts.us, or by facsimile to (412) 350-3783.
 - Rules in General
 - All other Pennsylvania and Allegheny County rules relating to pretrial conciliations will likewise apply.

- **Jury Trial Procedures**

- Pretrial Conference Worksheet
 - As soon as counsel learns that the case has been assigned to this Court for trial, counsel must obtain a copy of the Court's pretrial conference worksheet and have it completed at the time of the pretrial conference.
- Pretrial Motions and Briefs
 - Motions and Briefs – As soon as counsel learns that the case has been assigned to this Court for trial, counsel must email copies of all pretrial motions and briefs to **cfejko@alleghencourts.us** and **amcvay@alleghencourts.us**, regardless of whether those motions and/or briefs were previously filed with the DCR or not.
 - Copies of Case Law and/or Statutes – The Court will accept copies of significant case law and/or statutes related to any motion and/or brief.
 - Hearing on Pretrial Motions – The Court may hold a hearing on pretrial motions. The timing of that hearing will depend on the number and complexity of the motions.
- Reporting to the Courtroom; Pretrial Conference
 - Timing of the Conference - Trial counsel must report to Judge McVay's courtroom immediately upon learning that the case has been assigned to this Court and before jury-selection.
 - The Court will conduct the pretrial conference when all trial counsel appears and at the discretion of the Court, either before or after jury-selection.
 - Content of the Conference - At the pretrial conference, the parties must be prepared to discuss all matters related to trial management.
- Stipulations
 - The Court encourages stipulations. The parties must fully advise the Court of all stipulations at the earliest possible time. The parties must be prepared to discuss stipulations during the pretrial conference.
- Depositions to be Read at Trial
 - The parties must make their best efforts to agree on what portions of depositions will be read into evidence and who will read those portions. All objections to the reading of depositions must be raised to the Court as early as possible, outside the presence of the jury. The parties must be prepared to discuss issues relating to deposition testimony during the pretrial conference.
- Video Depositions to be Played at Trial
 - It is the responsibility of the party using a video deposition to obtain the necessary projection equipment, to provide an operator, and to ensure that the video is ready to be shown to the jury at the appropriate time.
 - As with deposition transcripts, the parties must make their best efforts to agree on what videos will be played at trial. All objections to video depositions must be raised to the Court as early as possible, outside the presence of the jury. The parties must be prepared to discuss issues relating to video depositions during the pretrial conference.

- Exhibit Books
 - Prior to the start of trial, each party may prepare a tabbed exhibit book containing each exhibit that the party plans to show to any witness, to introduce through any witness, or otherwise to introduce into evidence. **Plaintiffs are to mark their exhibits with numbers. Defendants are to use letters.** Before the trial starts, the parties must exchange exhibit books. Each party must also provide a copy of its exhibit book to the Court before the trial commences. Additionally, each party must place on the witness stand a copy for use by witnesses during trial. The copies for the witnesses shall remain on the witness stand throughout the entirety of the trial.
 - Including an exhibit in an exhibit book does not impose an obligation to introduce the exhibit at trial.
 - As an alternative to separate exhibit books, the Court will allow the parties to use a joint exhibit book if they so choose. When the parties use a joint exhibit book, the exhibits are to be numbered, not lettered.
 - The parties should gather exhibits after trial as the Court is **NOT** responsible to keep them past the appeal period.
- Audio-Visual and/or Other Equipment
 - Parties intending to use any audio-visual and/or other equipment during trial must ensure that such equipment is set up in the courtroom and is ready for use before the trial session in which the equipment will be employed.
- Preliminary and Final Instructions to the Jury
 - This Court will review its preliminary jury instructions with the parties prior to the start of trial and will give the parties an opportunity to place objections on the record.
 - As to final instructions, the parties must confer and then provide to the Court a jointly agreed upon, jury-ready version of all instructions to be read to the jurors. If there is any instruction on which the parties do not agree, then each party shall submit its own proposed version of the disputed instruction. The parties shall email Word and PDF versions of all proposed final instructions to the Court and the Court's law clerks at kmccann@alleghenycourts.us and cfejko@alleghenycourts.us. The Court will give the parties a deadline for doing so at the pretrial conference but always before the charging conference.
 - Unless otherwise agreed upon the parties, after the close of testimony, but before closing arguments, the Court will hold a charging conference to discuss the final jury instructions. At the charging conference, the Court will also discuss the topic of which exhibits will be sent with the jury to the deliberation room. The Court will give all parties ample opportunity to make record objections regarding the instructions and/or regarding the Court's decision as to which exhibits will be given to the jurors for their deliberations.
- **ALL PARTIES SHALL RISE FOR THE JURY EVERY TIME THEY ENTER THE COURTROOM**

- Opening Statements and Closing Arguments
 - Opening statements
 - Unless instructed otherwise, the Court will not impose time limitations on opening statements; however, the Court does require that the parties and counsel demonstrate professional courtesy.
- Objections During Trial
 - When raising an objection, counsel must rise and state, “Objection” followed by a brief legal basis for the objection. After an objection, the Court will either rule immediately *or* may ask the non-objecting party for a brief legal response if one is needed. If either the objecting party or the responding party believes that merely stating a brief legal basis is not sufficient to present the party’s position, that party should request a sidebar.
 - Sidebars are not favored, though they will be conducted when reasonably necessary. Sidebars will be held outside of the hearing of the jury, and as such counsel are to speak at a volume that the jury will not hear. Counsel shall refrain from making facial expressions that could communicate anything to jurors who may be watching.
 - Once the Court rules on an objection, there is to be no further argument, although a party may request a limiting instruction if the party has not already done so.
- Verdict Slip(s)
 - The parties must confer with each other in order to submit to the Court a jointly prepared proposed verdict slip. If the parties cannot agree on a verdict slip, each party must submit its own proposed version.
 - The parties must email Word and PDF versions of their proposed verdict slip(s) to the Court’s law clerks at kmccann@alleghenycourts.us and cfejko@alleghenycourts.us. At the pretrial conference, the Court will give the parties a deadline for doing so.
- Miscellaneous Courtroom Management
 - Seating – Plaintiff’s counsel sits at the counsel table nearest the jury box. Defendant’s counsel sits at the counsel table farthest from the jury. The parties themselves may sit either with their respective counsel, or in the spectators’ seats directly behind their respective counsel. Non-party witnesses must sit in the spectator section of the courtroom.
 - Sequestration - Usually, the Court **will not** *sua sponte* sequester witnesses. A party seeking sequestration must make a motion to that end on the record.

- Courtroom Decorum
 - All persons in the courtroom must turn off their cellphones.
 - No one is permitted to take photographs, to make video recordings, or to make audio recordings in the courtroom during trial.
 - No one in the courtroom may move during the administration of any oath.
 - No one in the courtroom is to nod, make facial expressions, or give any other indication of agreement or disagreement with testimony so as to convey that agreement/disagreement to the jury.
 - All persons in or near the courtroom must conduct themselves in a respectful fashion and must not disrupt or interfere with the trial or any other proceedings before the Court.
- Rules in General
 - All other Pennsylvania and Allegheny County rules relating to jury trials will likewise apply.
- **Non-Jury Trial Procedures**
 - Reporting to the Courtroom; Jury Waivers; Verdict Envelopes; Pretrial Conference
 - All parties are to file, serve upon each other, and email cfejko@alleghencycourts.us and amcvay@alleghencycourts.us a pre-trial statement in accordance with Local Rule 212.2, regardless of whether the case is an appeal from compulsory arbitration or not.
 - No later than 15 minutes before the time scheduled for the start of trial, counsel and *pro se* litigants shall have appeared in the courtroom, shall have executed all necessary waivers to proceed with a non-jury trial, shall have addressed their envelopes (provided by the Court's tipstaff) for receipt of the verdict, shall have given the foregoing items to the Court's tipstaff, and shall be prepared to meet with the Court at a pretrial conference to address the possibility of settlement, to determine stipulations, and to consider any unusual question of law or procedure that is anticipated to arise during the course of the trial.
 - During the pretrial conference, the Court will accept, but will not normally require, copies of any particularly significant case law and/or statutes. The Court will also accept brief memoranda on pertinent points of law, though copies of significant case law and/or statutes normally prove to be equally valuable to, or more valuable than, memoranda. All parties shall provide opposing parties with copies of all submissions before presenting them to the Court.
 - Stipulations
 - The parties are encouraged to reach stipulations of any kind.

- Exhibits and Exhibit Books
 - Before the start of trial, the parties must exchange exhibits or exhibit books (see previous section). Each party must also provide copies of its exhibits to the Court. Plaintiff's exhibits must be marked with numbers. Defendant's exhibits must be marked with letters. If the parties choose to do so, they may use joint exhibits rather than exhibits separately marked by each party. Joint exhibits must be numbered, not lettered.
- Opening Statements and Closing Arguments
 - Unless ordered otherwise, each party may present an opening statement and/or a closing argument, with each statement/argument being no longer than 10 minutes.
- Miscellaneous Courtroom Management
 - The same expectations apply for non-jury trials as the ones to be upheld during jury trials.
- Rules in General
 - All other Pennsylvania and Allegheny County rules relating to non-jury trials will likewise apply.
- **Post-Trial Motion Procedures**
 - Service
 - The filing party must serve a copy of its post-trial motion on the opposing party and on the Court consistent with the applicable Pennsylvania and Allegheny County rules.
 - Transcript(s)
 - The filing party is reminded to consult the Allegheny County Rules of Civil Procedure regarding the party's obligations to order the needed portions of the trial and/or related transcripts.
 - Brief
 - If the trial and/or related transcripts are not necessary in order to prepare a brief, the moving party must file a brief at the time the party files its post-trial motion. If one or more transcripts are needed to prepare a brief, the Court will allow the moving party time to file a brief after the party receives the required transcript(s).
 - Response
 - The non-moving party may file a response no more than fourteen days after the moving party has filed its motion and brief.
 - Disposition of Motion
 - Depending on the circumstances of the case, the Court may decide the motion with or without a hearing. The Court may also hold a post-trial conciliation.

- Post-Trial Conciliations
 - In an attempt to finally resolve the dispute, the Court will offer a traditional post-trial conciliation via “Final” Offer Arbitration or alternatively, “High-Low” Arbitration. If either offered option is accepted by the parties, no ruling on Post-Trial Motions will be made and **both parties waive the right to appeal the award.**
 - A Court Order will be issued detailing specific instructions of Post-Trial Conciliation procedures.
 - “Final” Offer Arbitrations
 - Each party will provide to the Court a proposed final award, signed by counsel, and the Court will adopt one of the two proposed awards.
 - “High-Low” Offer Arbitrations
 - Each party will propose a final award, signed by counsel, and provide it to the Court.
 - After hearing arguments from both parties, the Court will determine an award between the parties proposed awards or accept the final proposed award of one of the parties.
- Rules in General
 - All other Pennsylvania and Allegheny County rules relating to post-trial practice will likewise apply.
- **Procedures for General Motions**
 - Judge McVay frequently presides as the General Motions Judge throughout the Fifth Judicial District’s calendar year. Please consult Tony Bagnato’s email and Kim Filipcic’s email at anthony.bagnato@alleghencourts.us and kfilipcic@alleghencourts.us, respectively, as well as our staff’s emails with any specific questions.
- **Procedures for City of Pittsburgh Conservatorship Cases**
 - Conservatorship cases take place a when a non-profit located anywhere in Pennsylvania or a citizen or business within 2,000 feet of an abandoned property use their legal right to gain possession of that abandoned and blighted property. 68 P.S. § 1102 *et. seq.*
 - Judge McVay will hear conservatorship cases where the respondent or opposing party is the City of Pittsburgh. Contested conservatorship cases are often heard before Judge O’Brien and Judge McVay, and uncontested conservatorship cases are generally before Judge Luty. All case assignments are at the discretion of Judge McVay and Judge Ward.
 - All conservatorship proceedings should be filed with the DCR and sent to the conservatorship email at conservatorshipcalendar@alleghencourts.us. Once the email has been received, judicial chambers will respond.

- **Procedures for the Allegheny County “Save Your Home” Program**
 - More formally the “Mortgage Foreclosure Program”, the SYH program helps Allegheny County homeowners who are facing a foreclosure on their mortgage.
 - In order to be eligible for the SYH program,
 - 1. A complaint for Mortgage Foreclosure has been filed with the DCR, Civil Division with an MG Docket number,
 - 2. The property must be occupied by the owner.
 - 3. The property must be of four or fewer units.
 - If all the above criteria are met, then the homeowner can call the SYH Program Hotline at **1-866-298-8020** to get started with the program. All concerns and questions from homeowners regarding their case should be directed to the SYH Staff.
 - The SYH Program Hotline will schedule the homeowner with one of eight participating nonprofit HUD/PHFA certified housing counseling agencies.
 - Counseling Agencies will contact the homeowners within twenty-four hours to accept them into the program. Appointments are set-up with these agencies, generally within a week of the homeowner’s initial call to the hotline. This allows time for the counseling agency to send the homeowner information outlining the documentation that will be needed at the counseling appointment. The Allegheny County Department of Economic Development will then request that a Conciliation Conference be scheduled before Judge McVay. The request for conciliation conference is posted on the Civil Division Court Records website. The County Manager’s office then prepares an order of court that will be presented to Judicial staff to schedule a conciliation, which also places a hold on the foreclosure proceedings. These orders are then presented to Judge McVay for signature. The signed orders are delivered to the Civil Division Court Records, and the orders are posted on the website. The order temporarily prevents the lenders from being able to continue the foreclosure process. Copies of this order are mailed to all parties involved by the DCR. Until the scheduled hearing occurs, the Housing Counselors continue to work with the homeowners in an attempt to reach an agreement between the homeowner and lender. The Housing Counselors send the Department of Economic Development a follow-up form concerning the progress of the loan modification. Economic Development reviews the information and provides Judge McVay with a summary of the scheduled conciliations so that he may determine which cases need to be:
 - Removed from the program
 - Continued for another Conciliation Hearing allowing enough time to reach an agreement between parties
 - Settled and Discontinued
 - More information regarding the SYH program can be located at **<https://www.alleghencourts.us/civil/foreclosure.aspx>**
 - Attorneys may continue to contact Amy McVay via email at **amcvay@alleghencourts.us** with any Motions to Discontinue and End or requests for conciliations.

- **Procedures for Election Cases**

- In advance of each election day, the President Judge shall enter an administrative order designating which judges of the Court shall be available in the Assignment Room throughout the day to handle matters of an emergency nature relating to the election.
- Except with respect to matters of an emergency nature arising on an election day, actions relating to elections, upon filing, shall be assigned to Judge James and Judge McVay.
- Please check in advance with Judge McVay's staff on how to specifically proceed with election cases assigned to Judge McVay, although the above-referenced SOP should be reviewed and generally followed.