

JOHN J. THOMAS, U.S. BANKRUPTCY JUDGE
U.S. BANKRUPTCY COURT, MIDDLE DISTRICT OF PA
150 Max Rosenn U.S. Courthouse
197 South Main Street
Wilkes-Barre, PA 18701
570-831-2531 (telephone)
570-829-0164 (fax)

STAFF

Catherine M. Sisk: Judicial Assistant
Richard P. Rogers, Esq.: Law Clerk

PRACTICES AND PROCEDURES:

COMMUNICATION:

COMMUNICATION BETWEEN COUNSEL AND CHAMBERS STAFF.

Judge Thomas allows such communication on procedural matters but discourages *ex parte* communications regarding substantive issues. Communication is also allowed as follows: by fax when authorized by the Judge or staff in advance; by telephone as necessary; and by email directly to Chambers at [Chambers of Judge John Thomas@pamb.uscourts.gov](mailto:Chambers_of_Judge_John_Thomas@pamb.uscourts.gov).

WRITTEN CORRESPONDENCE FROM COUNSEL TO THE COURT.

Judge Thomas accepts correspondence as long as it is copied to opposing parties by similar transmission.

TELEPHONIC CONFERENCE:

PREFERENCE FOR THE USE OF TELEPHONE CONFERENCES RATHER THAN IN-PERSON CONFERENCES FOR ANY CATEGORY OF CONFERENCES SCHEDULED IN CONNECTION WITH A CASE.

Parties are referred to the use of CourtCall, which allows telephonic participation in all court hearings. More specific information can be found on the Court's website at www.pamb.uscourts.gov. Judge Thomas encourages all lawyers and litigants to use the CourtCall within the parameters of the restrictions as found on the Court's website.

MOTIONS:

POSITION WITH RESPECT TO ORAL ARGUMENTS ON MOTIONS (E.G., ROUTINELY PERMIT OR DENY THEM, OR REQUIRE A FORMAL REQUEST FOR ORAL ARGUMENT) AND ANY REQUIREMENT IN CONNECTION WITH ANY TYPE OF MOTION.

Judge Thomas generally discourages oral argument but occasionally requests it.

COURTESY COPIES OF MOTIONS, BRIEFS, AND OTHER WRITINGS FOR CHAMBERS.

Judge Thomas generally does not encourage submission of courtesy copies. Except in

emergency situations, no pleadings or correspondence are to be faxed or emailed to Chambers, unless authorized by Judge Thomas.

PRE-TRIAL MATTERS:

STANDARD FORM OF SCHEDULING ORDER AND THE EXTENT TO WHICH SCHEDULING ORDERS ARE CHANGED TO ACCOMMODATE PARTICULAR CASES.

Judge Thomas has a standard scheduling order. Particular cases can be accommodated, on request.

THE EXTENT TO WHICH COUNSEL MAY INFLUENCE THE LENGTH OF THE DISCOVERY PERIOD, EXTENSIONS, TRIAL DATES, ETC.

Judge Thomas accepts recommendations from counsel.

THE AVERAGE AMOUNT OF TIME ALLOWED FOR DISCOVERY IN A STANDARD TRACK CASE AND THE EXTENT TO WHICH THE STANDARD AMOUNT OF TIME IS VARIED.

Judge Thomas generally provides 90 days for discovery, although variations are common.

PREFERRED APPROACH AND PROCEDURES FOR HANDLING DISCOVERY CONFERENCES AND DISPUTES.

Judge Thomas generally schedules such disputes for hearing and reports that his career law clerk, Richard P. Rogers, Esq., generally pre-hears such matters.

PARTICULAR GUIDANCE REGARDING PRETRIAL MEMORANDA.

Unless specifically ordered to the contrary, memorandum of law need not be filed prior to a hearing or trial. If a party desires to file a pre-hearing or pretrial memorandum, the party may do so.

USE OF DIFFERENT PRE-TRIAL MEMORANDUM FORMAT THAN THAT INCLUDED WITH THE MIDDLE DISTRICT LOCAL RULES.

The Court has no particular preference in this regard.

DISPOSITIVE MOTIONS

The parties are encouraged to follow the guidance provided by the Local Bankruptcy Rules for the Middle District of Pennsylvania. All litigants are to note that the time periods in the Rules are self-effectuating and, unless otherwise ordered by the Court, no oral argument will be scheduled on these Motions.

PROCEDURE FOR SCHEDULING TRIALS, INCLUDING WHETHER A DATE CERTAIN FOR TRIAL IS ASSIGNED; IF SO, THE AMOUNT OF TIME PRIOR TO TRIAL THAT SUCH A DATE CERTAIN IS ASSIGNED; AND THE EXTENT TO WHICH IT MAY BE MOVED DURING THE MONTH IN WHICH IT HAS BEEN SCHEDULED.

Judge Thomas typically assigns trial dates 180 days in advance and rarely moves trial dates on his own initiative.

AS TO INJUNCTIONS, WHETHER EXPEDITED DISCOVERY AND BRIEFING IS ALLOWED AND, IF SO, WHETHER BRIEFING IS ALLOWED BEFORE OR AFTER ANY PRELIMINARY INJUNCTION

HEARING, AND WHETHER PROPOSED FINDINGS OF FACT OR CONCLUSIONS OF LAW IN SUCH CASES ARE REQUIRED.

Judge Thomas permits expedited discovery and briefing in some cases. He does not require submission of briefs, proposed findings of fact, or conclusions of law.

TRIAL/HEARINGS:

PREFER EXPERT WITNESSES SCHEDULED TO TESTIFY TO PROVIDE WRITTEN REPORTS TO THE COURT AND, IF SO, THE TIME FOR DELIVERY OF SUCH WRITTEN REPORTS TO THE COURT.

Judge Thomas does not request written reports in advance of trial.

TRIAL BRIEFS SUBMITTED BY COUNSEL.

Unless specifically addressed to the contrary, memorandum of law need not be filed prior to a hearing or trial. If a party desires to file a pre-hearing or pretrial memorandum, the party may do so.

TESTIMONY

Judge Thomas is prepared to hear testimony in all trials in adversary proceedings and hearings on contested matters but, unless otherwise approved by Judge Thomas, will not entertain testimony at those matters scheduled for oral argument.

PREFERENCE REGARDING WHETHER COUNSEL EXAMINE WITNESSES FROM COUNSEL TABLE OR ELSEWHERE, INCLUDING WHETHER COUNSEL SHOULD REMAIN SEATED WHILE EXAMINING WITNESSES.

Judge Thomas has no preference, although he requires proximity to a microphone because of the use of a recording system.

WHETHER MORE THAN ONE ATTORNEY MAY HANDLE TRIAL FOR A PARTY.

Judge Thomas allows more than one attorney to handle a trial.

PRE-MARKING OF DOCUMENTARY AND PHOTOGRAPHIC EXHIBITS AND OTHER DEMONSTRATIVE EVIDENCE FOR TRIAL AND THE DATE UPON WHICH EXCHANGE OF EXHIBITS IS TO TAKE PLACE, IF ANY.

Judge Thomas requires pre-marking of exhibits together with exchanging exhibits with opposing counsel prior to hearing/trial. Counsel should have sufficient number of copies of exhibits to share with Judge Thomas, his law clerk, and all parties. If exhibits are numerous, e.g., more than 15, they should be presented in a binder and indexed.

PREFERRED PROCEDURE FOR THE MOVING OF EXHIBITS INTO EVIDENCE AT TRIAL.

Judge Thomas prefers that exhibits be pre-marked, shown to opposing counsel, and that the examination be completed prior to the exhibit being moved into evidence.

EXAMINATION OF WITNESSES BEYOND REDIRECT AND RECROSS.

Judge Thomas does allow such examination.

REQUIREMENT OF A WRITTEN MOTION AND/OR BRIEF FOR JUDGMENT AS A MATTER OF LAW OR JUDGMENT ON THE PLEADINGS WHEN SUCH MOTION IS MADE DURING TRIAL.

Judge Thomas does not require a written motion.

HANDLING REQUESTS FOR TEMPORARY RESTRAINING ORDERS, PRELIMINARY INJUNCTIONS, AND OTHER EMERGENCY RELIEF.

Judge Thomas requires compliance with the Federal Rules of Civil Procedure and with the Local Bankruptcy Rules and Forms of the United States Bankruptcy Court for the Middle District of Pennsylvania, which can be found at www.pamb.uscourts.gov. At a minimum, he requires that requests for temporary restraining orders be noticed to the opposition by telephone or electronic transmission, in advance, so that the opposition has an opportunity to be heard.

JOINT JURISDICTIONAL STATEMENT

Judge Thomas will require a joint jurisdictional statement from all parties in adversary proceedings which statement shall address whether the Complaint presents a core or non-core matter; whether the parties consent to the Court entering a final judgment pursuant to 28 U.S.C. § 157(c)(2); and whether the parties request a jury trial. The request for a joint jurisdictional statement is also found in the Court's scheduling order which is served on the parties by the Court after the answer has been filed or the Court has ruled on dispositive motions.

REQUESTS FOR CONTINUANCES

Judge Thomas does not follow a strict timetable as to when requests for continuances must be made to the Court. He does ask that a request for continuance be made so that all parties can react in a timely manner thereto. Un-consented or opposed requests for a continuance must be made by motion. If the request is with the consent of all parties, the request can be made to the Court by correspondence.

ALTERNATIVE DISPUTE RESOLUTION:

GENERAL APPROACH TO MEDIATION MATTERS.

The Court issues a scheduling order in adversarial proceedings that gives the parties 70 days from the entry of that order to submit a joint statement as to whether they would consent to mediation.

GENERAL APPROACH TO SETTLEMENT AND SETTLEMENT NEGOTIATIONS.

Judge Thomas encourages settlement. Reference to mediation is available. A list of mediators certified by the bankruptcy court is found on the Court's website. Judge Thomas and Judge Opel serve as settlement judges in each others' cases when the litigants request a particular adversary or contested matter be referred to a settlement judge and the assigned judge agrees to the reference.

GENERAL/MISCELLANEOUS:

REQUIREMENT OF A FORMAL MOTION FOR PRO HAC VICE ADMISSIONS.

Judge Thomas does not require a formal motion.

HANDLING OF CONFIDENTIALITY AGREEMENTS, PARTICULARLY IN LIGHT OF THE THIRD CIRCUIT'S RECENT OPINIONS ON THE PREREQUISITES FOR IMPOSING CONFIDENTIALITY AGREEMENTS.

Judge Thomas examines confidentiality agreements on a case-by-case basis.

HOW NEEDS OF OUT-OF-TOWN PARTIES, ATTORNEYS, OR WITNESSES ARE ACCOMMODATED.

Judge Thomas deals with these concerns on a case-by-case basis. Use of CourtCall is available as per guidelines on the Court website.

PREFER TO RECEIVE COPIES OF APPELLATE FILINGS WHEN AN APPEAL HAS BEEN TAKEN FROM AN ORDER.

Judge Thomas does not require such information inasmuch as electronic notice is automatically provided.

FILING OF AMENDED PLANS IN CHAPTER 13

Filing of an Amended Chapter 13 Plan cancels the previously scheduled confirmation hearing, and the attorney and Debtor(s) are not required to attend the previously scheduled confirmation hearing which will be removed from the hearing list. Debtor's counsel is expected to timely advise objectors to the previous plan of such filing.

FILING OF AMENDED CLAIMS

Filing of an Amended Claim following an objection to the original claim does not remove the hearing on the objection from the Judge's hearing list. Unless the Debtor places on the docket a Request to remove the hearing on the original objection, the hearing will stand and will be called on the Judge's hearing list.

AMENDMENTS TO EXEMPTIONS AFTER OBJECTION TO ORIGINAL EXEMPTION

The same answer applies as referenced above to Amended Claims after objection to the original claim.

OCTOBER 18, 2013