

Judge Abbe F. Fletman's Courtroom Procedures

Judge Abbe F. Fletman was born and raised in Philadelphia. She earned a B.A. from the University of Chicago, a J.D. from the University of Pennsylvania Carey Law School, and an L.L.M. in Trial Advocacy from Temple University's Beasley School of Law. From 1988 to 2014, Judge Fletman was in private practice in Philadelphia, Pennsylvania, engaging in general civil litigation with a concentration in intellectual property and technology matters, complex commercial cases, women's sports-related litigation and election law. Judge Fletman has been active in a variety of professional and community activities and organizations. She has served as an adjunct instructor of Evidence at the University of Pennsylvania Law School. Judge Fletman was appointed to the Philadelphia Court of Common Pleas and began serving on September 8, 2014. She was subsequently elected to a 10-year term beginning January 1, 2016.

A. Professionalism and Civility

- a. Counsel and their clients should be polite, courteous and otherwise civil to one another, as well as to all parties, witnesses, and court personnel at all times.
- b. Counsel shall not exhibit familiarity with the parties, witnesses, jurors or opposing counsel. The use of first names should be avoided.
- c. Counsel is expected to comply with the Pennsylvania Code of Civility. See <http://www.pacode.com/secure/data/204/chapter99/subchapdtoc.html>.

B. Training the Next Generation of Trial Lawyers

The Court takes seriously the responsibility of the bench and bar to train the next generation of trial lawyers. The Court accordingly encourages the appearance of junior lawyers to argue motions, examine witnesses and conduct trials. The Court will particularly welcome any lawyer with four or fewer years of experience.

All lawyers, including newer lawyers, will be held to the highest professional standards. All lawyers appearing in court are expected to be adequately prepared and thoroughly familiar with the factual record and the applicable law, and to have a degree of authority commensurate with the proceeding.

The Court also recognizes that there may be many different circumstances in which it is not appropriate for a newer lawyer to argue a motion or participate in a trial. The Court therefore emphasizes that it draws no inference from a party's decision not to have a newer lawyer take any particular role in a case.

C. Voir Dire

Voir dire generally is supervised by the Court's staff. The judge is available to resolve any disputes and will conduct voir dire if the parties prefer.

D. Trial Schedule

- a. Unless otherwise directed, court starts at 9:30 a.m. and ends at 4:30 p.m. Promptness is expected of counsel and their clients and witnesses.
- b. The Court will take a lunch break of at least one hour, and 10-minute comfort breaks each morning and afternoon during jury trials.
- c. 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 are reminded that they may not discuss a witness's testimony with them once that witness has begun testifying until the witness is excused.
- d. Do not run out of witnesses. If there is more than a brief delay because you are out of witnesses, the Court may determine that counsel is resting. If there is a possible problem with the scheduling of any witness, inform the Court at the end-of-the day conference.
- e. Upon request, the Court is likely to allow witnesses to be taken out of order, especially in the case of expert and out-of-town witnesses.
- f. The Court will meet with counsel each day after the jury is dismissed to go over any issues that may arise during the next day of trial. At this meeting, any party who will be presenting evidence the next day must identify witnesses who will be called and the evidence that will be presented. Offers of proof should be requested at that time. Counsel should raise any issues that may arise during the next day of trial at the meeting.

E. Use of Microphones

All lawyers and witnesses are required to use either a table microphone or a portable clip-on microphone at all times. To use the table microphone effectively, it must be 1-3 inches from your mouth.

F. Opening Statements

- a. The purpose of an opening statement is to briefly state what you expect the evidence to show.
- b. Do not use the opening statement to argue the case or to discuss the law applicable to the case.
- c. Upon violation of these rules, the Court may, sua sponte, interrupt the opening statement and admonish counsel.

G. Exhibits

By the beginning of trial, counsel shall have prepared pre-marked exhibits that counsel plans to show to a witness, to introduce through a witness, or to otherwise introduce into evidence. (This does not include documents to be used in cross examination or rebuttal, and does not include the portions of voluminous records that will not specifically be referred to.) A copy of the exhibits shall be given to the lawyer(s) for each other party. One additional copy shall be placed on the witness stand. One marked copy shall be given to the Court. Counsel are responsible for filing exhibits in accordance with the Court's electronic filing procedure.

Counsel should not show **ANY** exhibit to the jury unless they have the agreement of opposing counsel or the exhibit has been admitted into evidence.

H. Objections

- a. When objecting, a lawyer should rise, state only "objection" and then give a brief statement of the grounds.
- b. Do not offer extensive argument or explanation unless requested by the Court.
- c. Do not use objections to make a speech, recapitulate testimony, or attempt to guide the witness.
- d. If a lawyer disagrees with a ruling and believes the Court does not understand the issue, or if the lawyer wishes to place a sufficient explanation of the issue on the record to preserve the issue, they should

ask to approach the bench. This procedure is not intended to discourage lawyers from describing and placing their objections or disagreements with the Court's rulings on the record; its sole purpose is to have arguments conducted without the jury hearing them.

- e. Do not continue to argue once a ruling has been made.

I. Examination of Witnesses

- a. Counsel may stand or sit while examining witnesses.
- b. Witnesses and parties should be instructed to wear proper attire to court.

J. Sidebar Conferences

Sidebar conferences should be infrequent and should be sought only when necessary.

K. Use of Videotaped Depositions

A lawyer using a videotaped deposition is responsible for ensuring the operator has the equipment in place at the appropriate time so that there are no gaps in testimony. The deposition transcript should be made part of the trial record.

L. Closing Arguments

The purpose of a closing argument is to sum up the case with reference to the evidence presented, proper inferences that may be drawn from the evidence, and application of the facts to the law. It is improper during closing argument for a lawyer to refer to himself or to attempt to vouch for the evidence. Use of phrases such as, "I believe," or "I submit," violate this rule and the Court may, sua sponte, interrupt the argument and admonish counsel.

M. Communication with Court Personnel

Judge Fletman permits communications by counsel with her law clerk or other court personnel on appropriate matters, including scheduling. Counsel should avoid

adopting an overly familiar tone with the law clerk or other court personnel. Unless directed otherwise by the Court, counsel should never contact the law clerk for advice on substantive or procedural matters other than of a very rudimentary nature (such as to confirm the Court's administrative policies and procedures or to alert the Court of some actual emergency that cannot be timely handled by conventional correspondence or formal filings). **Ex parte communications to the judge or her staff are prohibited.** Please be sure to include all parties in your communications with the court.

The contact information for Judge Fletman's staff is:

- Courtroom 630 phone: (215) 686-5131
- Chambers phone: (215) 686-2636
- Chambers fax: (215) 686-7375
- Law Clerks:
 - Corinna Fu: Corinna.Fu@courts.phila.gov
 - Dana Lee: Dana.Lee@courts.phila.gov
- Secretary:
 - Lori Tenuto: Lori.Tenuto@courts.phila.gov

N. Miscellaneous Issues

- a. All cell phones must be silent in the courtroom. The Court will confiscate any cell phone that rings or otherwise makes noise after one warning and will return the phone to counsel at the end of the proceeding that day.
- b. Counsel should not interrupt the judge, opposing counsel, or witnesses while testifying.
- c. Counsel should rise while addressing the Court unless they are using a table microphone, in which case standing is not required.
- d. Counsel should direct all comments to the Court or to the witness under examination and not to other counsel.
- e. The court reporter is responsible to the Court. Counsel should not issue instructions to or make requirements of the reporter. Counsel should direct their requests to the Court and, if appropriate, the Court will issue instructions to the reporter.

- f. Counsel should provide their business cards and a case caption to the court reporter before proceedings.
- g. During jury deliberations, counsel shall let the tipstaff know where they are and be available, with their clients, to return to the courtroom on 15 minutes notice.
- h. 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.
- i. Counsel are **NOT** to make any ex parte communications with the Court. The Court does not accept courtesy copies.
- j. No food or beverage, with the exception of water in the cups provided by the Court, may be brought to counsel table.
- k. No gum chewing.
- l. Communications from counsel purporting to justify counsel's conduct by blaming counsel's own staff are highly disfavored.