

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA

CIVIL TRIAL DIVISION  
**ADMINISTRATIVE DOCKET NO. 03 OF 1998**  
PROTOCOL FOR PRODUCTION OF EXPERT REPORTS IN CIVIL CASE PROGRAMS

ORDER

AND NOW, this 2nd day of June, 1998 to assure uniform rulings with regard to the production of expert reports in cases governed by Case Management Order, the Court adopts the following protocol.

It has come to the Court's attention that certain counsel believe that the deadlines imposed by the Case Management Order set the time when expert reports or answers to expert interrogatories are due. Counsel have even argued that the Discovery Court has no authority to require earlier responses.

This is inaccurate. Pennsylvania Rule of Civil Procedure 4006(a)(2) reads: "The answering party shall serve a copy of the answers, and objections if any, within thirty days after the service of the interrogatories." No Case Management Order may contradict the Pennsylvania Rules of Civil Procedure requirements for the timing of discovery responses.

Day Forward Case Management has not changed longstanding Philadelphia Discovery Court practice or the authority of the presiding discovery judge. Discovery Court retains jurisdiction to enter discovery orders and counsel should file timely motions to compel discovery whenever necessary. The dates set forth in the Case Management Order are deadlines after which, in the absence of extraordinary circumstances, no new experts or theories can be identified.

The Bar should recall that the expert deadlines adopted in Day Forward Case Management are based upon the recommendations of the Bar Association. The Bar recommended that the defense expert report deadline should be one month after the deadline for plaintiff's expert report(s). This one month difference is a normal procedure for Federal Court litigation and is embodied in the Federal Rules of Civil Procedure.

Counsel may file a Motion to Compel answers to interrogatories whenever they are overdue. It should be understood, however, that the standard Case Management Order leaves to counsel the conduct of discovery. The court believes that in most cases judicial micromanagement of discovery should be unnecessary. Presenting a discovery motion demonstrates that independent management of discovery by counsel has proven inadequate.

When the Court is requested to enter an Order to require answers to expert interrogatories before the Case Management deadline, the Court should make inquiry as to what discovery is outstanding or needed before the "offending" party can reasonably provide expert reports. The Court may then enter Orders setting deadlines for the specific discovery needed to properly respond. The Court can then set a reasonable time for providing expert reports.

Of course, expert interrogatory answers or expert reports can be supplemented at any time before the deadline established by the Case Management Order. Counsel may consider filing summary judgment motions where no critical expert opinion has been provided. The dispositive motion deadline of the Case Management Order does not state that motions cannot be filed earlier.

The interpretative views expressed herein have been agreed to by all Civil Program Team Leaders and represents a uniform protocol to be followed in all Civil Case Programs governed by Case Management Orders.

**DATE:**

**JOHN W. HERRON**  
**ADMINISTRATIVE JUDGE,**  
**TRIAL DIVISION**

This Administrative Docket is promulgated in accordance with the April 11, 1986 Order of the Supreme Court of Pennsylvania, Eastern District, No. 55, Judicial Administration, Docket No. 1, Phila. Civ. 51 and Pa. R.C.P. 239, and shall become effective immediately. As required by Pa. R.C.P. 239, the original Administrative Docket shall be filed with the Prothonotary in a docket maintained for Administrative Dockets issued by the Administrative Judge of the Trial Division and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Civil Procedural Rules Committee. Copies of the Administrative Docket shall also be submitted to Legal Communications, Ltd., The Legal Intelligencer, Jenkins Memorial Law Library and the Law Library for the First Judicial District.