

**PRACTICE STANDARDS**  
**(Criminal cases)**

---

**JUDGE PHILIP A. BRIMMER  
UNITED STATES DISTRICT COURT  
DISTRICT OF COLORADO**

**Courtroom A601  
Alfred A. Arraj United States Courthouse**

**Chambers A641, Sixth Floor  
Alfred A. Arraj United States Courthouse  
901 19<sup>th</sup> Street  
Denver, CO 80294**

**Telephone: (303) 335-2794  
FAX: (303) 335-2782  
E-mail: [Brimmer\\_Chambers@cod.uscourts.gov](mailto:Brimmer_Chambers@cod.uscourts.gov)**

Effective: November 2008

## I. GENERAL PROCEDURES

### A. Applicable Rules

Those appearing in the District Court must know and follow:

- a. The Federal Rules of Criminal Procedure;
- b. The Federal Rules of Evidence;
- c. The Local Rules of Practice of the United States District Court for the District of Colorado; and
- d. the Electronic Case Filing Procedures (Criminal Version 3.0 or the most current version).

### B. Communications with Chambers

1. My judicial assistant is **Susan Shapiro**, who can be reached at **303-335-2794**.
2. For information about the status of a motion or document, please contact **Kathy Triplett** at **303-335-2072**.
3. For information about courtroom technology, trial preparation, or submission of trial exhibits, please contact my courtroom deputy clerk, **Kathy Preuitt-Parks**, at **303-335-2093**.
4. My realtime reporter is **Janet Coppock**, at **303-335-2106**.
5. Please do not contact the law clerks about procedural or scheduling matters.

### C. Proposed orders

You may be directed to transmit proposed orders by electronic mail to [brimmer\\_chambers@cod.uscourts.gov](mailto:brimmer_chambers@cod.uscourts.gov). The proposed order or document should be submitted as an attachment in Word Perfect format (Word Perfect 12 or a later version) or Word. The e-mail message should identify the case number and the document attached. Do not send documents directly to chambers by facsimile or electronic mail unless asked to do so.

### D. Motions to Continue

Motions to continue (including motions to vacate or reset) hearings and trials will be determined pursuant to *United States v. West*, 828 F.2d 1468, 1469-70 (10<sup>th</sup> Cir. 1987). Oral or written motions to continue should not be made at the time of a hearing or trial. Stipulations for continuance are not effective unless approved by the court. When a motion to continue is granted, all parties will be notified as soon as practicable.

## **E. Motions for Extensions of Time**

1. Motions for extension of time require a showing of good cause, which must be established with particularity. The following reasons do not constitute good cause: agreement of counsel, inconvenience to counsel or to the parties; the press of business; conflicts in scheduling; or practice as a sole practitioner.

2. Any motion for extension of time shall be filed no later than **three** business days prior to the date the motion, response, reply, or other paper is due.

## **II. COURTROOM PROCEDURES**

### **A. Courtroom Protocol**

1. Please observe traditional courtroom decorum: rise to address the court, address the court as “Your Honor,” and request permission to approach the bench. It will not normally be necessary for counsel to approach a witness on the stand. The courtroom deputy, upon request of counsel, will hand a witness an exhibit.

2. If you have a question about courtroom protocol, please contact my courtroom deputy clerk, **Kathy Preuitt-Parks**, at **303-335-2093**.

### **B. Recording of Proceedings**

1. The official record of all trials and proceedings will be taken either by a realtime reporter or by electronic sound recording (audiotape). Prior to the beginning of any proceeding, please provide the court reporter with your business card.

2. The realtime reporter assigned to the court is **Janet Coppock**, at **303-335-2106**. Transcripts of proceedings may be ordered from Ms. Coppock. Requests for realtime, daily, or hourly copy must be made at least **thirty days** before the trial or hearing. Further details can be obtained from Ms. Coppock.

### **C. Exhibits**

1. Each party must pre-mark all exhibits that will be used or identified for the record in a hearing or trial. Each party must provide a copy of each exhibit to opposing counsel or any pro se party before a hearing or trial. Exhibits not timely pre-marked or exchanged before a hearing or trial may not be admitted. Any stipulation of fact should be formatted as a pleading and marked as an exhibit.

2. Exhibit labels can be obtained from the clerk’s office before trial. Plaintiff’s exhibits should be marked with yellow labels, using numbers. Defendant’s exhibits should

be marked with blue labels, using alphabetical letters for the first twenty-six exhibits. If there are more than twenty-six exhibits, mark them as A-1 through A-99, then B-1 through B-99, etc. Do not use double or triple letters. The criminal action number should also be placed on each of the exhibit stickers.

3. Exhibits must be bound, e.g., in three-ring notebooks or folders, and the notebook or folder labeled with the following information: (i) caption, (ii) nature of proceeding, (iii) scheduled date and time, and (iv) “original” or “copy.” If exhibits are not bound and labeled properly, the hearing or trial may be delayed or continued until they are. If a party has fewer than five exhibits, such exhibits need not be bound.

4. Number of Sets of Exhibits – For hearings and trials, each party should bring separate sets of bound exhibits for (a) the court, (b) the courtroom deputy clerk, (c) the court reporter, (d) opposing counsel, and (e) the witness stand.

5. Each party shall file its Witness List and Exhibit List via CM/ECF. The form of such lists are found at <http://www.cod.uscourts.gov/Judges/Judges.aspx>. Each party should also bring five sets of each list to the hearing or trial.

#### **D. Depositions**

Together with Fed.R.Crim.P. 15, this practice standard governs the use of depositions in criminal proceedings:

a. Objections to any portion of a proposed deposition shall be filed and determined pursuant to D.C.COLO.LCivR 7.1 and these Practice Standards. Any objectionable portion of the deposition shall be identified with specificity, i.e., by page and line. Objections may be resolved before trial to facilitate appropriate redaction.

b. For jury trials, parties shall provide a person to read the deposition answers.

c. For bench trials depositions will not be read in open court. Instead, the court will read them in chambers in any requested sequence. At the beginning of the trial, the offering party shall provide the courtroom deputy clerk with **two copies** of the relevant deposition transcript marked as an exhibit with government’s designated portions highlighted in yellow and the defendant’s in blue.

#### **E. Videotaped Depositions**

Together with Fed.R.Crim.P. 15, this practice standard governs the use of videotaped depositions in criminal proceedings. Objections to any portion of a proposed videotaped deposition shall be filed and determined pursuant to D.C.COLO.LCivR 7.1 and these

Practice Standards. Objections may be resolved before trial to facilitate appropriate redaction.

#### **F. Special Equipment (Audio/Video)**

The court has audio, video, audio-visual, evidentiary presentation, and other special equipment that may be used by the parties. A listing of available equipment can be found on the District Court's website at <http://www.cod.uscourts.gov/Judges/Judges.aspx> under "Courtroom Technology Manual for Attorneys." Notify my courtroom deputy clerk, **Kathy Preuitt-Parks** at **303-335-2093**, no later than **fourteen days** before a hearing or trial of the date and time you need such equipment or need your own equipment to be brought through security for use in the courtroom.

### **III. MOTIONS PRACTICE**

#### **A. Motions *In Limine***

Motions *in limine* are discouraged when the motion is evidence driven and cannot be resolved until evidence is presented at trial. Instead, the issue can be flagged in a trial brief.

#### **B. Trial Briefs**

Trial briefs are encouraged, but not required absent specific court order. If filed, trial briefs shall not exceed **ten pages** and shall be filed not later than **five business days** before trial. Please flag evidentiary issues in a trial brief rather than by motion in limine. A trial brief may not be used as a substitute for a motion.

---

### **IV. TRIALS**

#### **A. Trial Preparation Conference**

The Trial Preparation Conference will be held approximately **three to ten days** before trial. Counsel who will try the case must attend. Once trial has been set, the court will issue a Trial Preparation Conference Order, which will confirm the trial date, confirm the Trial Preparation Conference date, and specify the tasks to be completed before the Trial Preparation Conference.

#### **B. Trials To Court**

For a trial to the court, a resumé or *curriculum vitae*, marked as an exhibit, generally will suffice for the qualification of an expert witness.

## C. Jury Trials

1. Jury trials will begin with jury selection on Monday morning at 8:30 a.m., with the trial commencing after jury selection. Counsel and pro se parties shall be present on the first day of trial at 8:00 a.m. Commencing the second day of trial, the normal trial day will begin at 8:30 a.m. and continue until 5:00 p.m. The trial day will have morning and afternoon recesses of approximately fifteen minutes duration. A lunch break will be scheduled for approximately one hour and thirty minutes beginning between 11:30 a.m. and 12:30 p.m., depending on the exigencies of trial.

2. Unless ordered otherwise, jurors and alternate jurors shall be selected using the **Juror Selection Protocol** of the court found online at <http://www.cod.uscourts.gov/Judges/Judges.aspx>.

---

3. Voir Dire:

a. **Two business days** before the trial preparation conference, the parties shall file their proposed *voir dire* questions.

b. Unless ordered otherwise, each party shall be permitted reasonable *voir dire* examination following *voir dire* examination by the court.

4. **Batson** challenges [*see Batson v. Kentucky*, 476 U.S. 79 (1986)] shall be made and considered at the conclusion of *voir dire* examination by the court, but before the jury is seated and sworn.

5. Jury Instructions

a. Whenever practicable, the parties shall use or adapt for use the Criminal Pattern Jury Instructions prepared by the Criminal Pattern Jury Instruction Committee of the United States Court of Appeals for the Tenth Circuit. The pattern instructions and updates may be found online at <http://www.ca10.uscourts.gov/clerk/rulesandforms.php>.

b. **Two business days** before the trial preparation conference, counsel and any pro se party shall submit proposed jury instructions and verdict forms, one copy identifying the source of the instruction and supporting authority and one copy without sources and authority. Parties shall submit their instructions and verdict forms both via CM/ECF and by electronic mail to [brimmer\\_chambers@cod.uscourts.gov](mailto:brimmer_chambers@cod.uscourts.gov). Proposed instructions must be tendered in Word Perfect format (Word Perfect 12 or a later version) or Word, and be double-spaced. **Each instruction and verdict form tendered must be in a separate document or file.**

c. Each instruction should be numbered (e.g., “Plaintiff’s Instruction No. 1”) for purposes of making a record at the jury instruction conference. The parties shall attempt to stipulate to the jury instructions, particularly “stock” instructions and verdict forms.

6. Jurors will be permitted to take notes during the trial.

7. The jury will be instructed before closing argument.

8. Each juror will be given copies of the written jury instructions and verdict forms for use and consideration during deliberations.

## **V. PLEA AGREEMENTS**

### **Treatment of Notice of Disposition**

Any notice of disposition filed pursuant to D.C.COLO.LCrR 11.1A shall be considered to be a pretrial motion within the meaning of 18 U.S.C. § 3161(h)(1)(F) for the purpose of computing time under the Speedy Trial Act of 1974, 18 U.S.C. §§ 3161-74.