



UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

NOTICE OF PROPOSED AMENDMENTS TO LOCAL RULES AND INVITATION TO COMMENT

The United States District Court for the District of Colorado announces proposed amendments to its Local Rules and invites public comment pursuant to 28 U.S.C. § 2071(b). The proposed amendments are posted on the Court's website found at www.cod.uscourts.gov. Alternatively, the proposed amendments can be obtained in hard copy at the office of the Clerk of the Court at the Alfred A. Arraj Courthouse located at 901 19th Street, Denver, Colorado.

Comments may be submitted either electronically to LocalRule_Comments@cod.uscourts.gov, or by hard copy addressed to the Clerk of the Court, United States District Court, Attn: Edward Butler, Legal Officer, Alfred A. Arraj Courthouse, 901 19th Street, Denver, Colorado 80294. Please identify a comment with the referent "Proposed Local Rule Amendments" and specify the rule to which the comment pertains. All comments must be received by 11:59:59 p.m. on Friday, October 30, 2009. The Court will consider all comments made. Amendments to the Local Rules will become effective December 1, 2009.

The Court expresses its appreciation for all comments and suggestions made during its 2009 rule revision cycle. Seventy-two comments/suggestions were submitted to an email account designated for this purpose - 1 by the Advisory Committee for Local Rules and Procedures, 4 by individual judicial officers, 17 from court staff and 50 from the bar and public. The Advisory Committee for Local Rules and Procedures carefully considered each comment/suggestion. It recommended rule amendments in response to 21 comments, referred 6 to the Chief Judge for consideration by other committees, tabled 17 comments for further consideration when all judicial vacancies are filled, and declined to recommend amendments in accordance with 26 comments. The Court considered the recommendations made by the Advisory Committee for Local Rules and Procedures, and authorized the proposed amendments referenced above.

PROPOSED CHANGES TO THE LOCAL RULES OF PRACTICE

October 8, 2009

I. List of Rules with Proposed Changes

Civil Rules

D.C.COLO.LCivR 1.1

D.C.COLO.LCivR 5.1

D.C.COLO.LCivR 5.2

D.C.COLO.LCivR 6.1

D.C.COLO.LCivR 7.1

D.C.COLO.LCivR 7.2

D.C.COLO.LCivR 7.3 [Reserved]

D.C.COLO.LCivR 7.5

D.C.COLO.LCivR 30.1

D.C.COLO.LCivR 37.1

D.C.COLO.LCivR 40.1

D.C.COLO.LCivR 45.1

D.C.COLO.LCivR 54.1

D.C.COLO.LCivR 54.2

D.C.COLO.LCivR 56.1

D.C.COLO.LCivR 77.1

Criminal Rules:

D.C.COLO.LCrR 1.1

D.C.COLO.LCrR 11.1

D.C.COLO.LCrR 12.1

D.C.COLO.LCrR 32.1

D.C.COLO.LCrR 44.1

D.C.COLO.LCrR 47.1

D.C.COLO.LCrR 47.2 [Reserved]

D.C.COLO.LCrR 50.1

D.C.COLO.LCrR 56.1

II. Complete Set of Local Rules Including Proposed Changes

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF COLORADO**

LOCAL RULES OF PRACTICE

(Including Proposed Changes, October 8, 2009)

Effective April 15, 2002
with updates through ~~December 1, 2008~~ **December 1, 2009**

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

CHIEF JUDGE WILEY Y. DANIEL
SENIOR JUDGE RICHARD P. MATSCH
SENIOR JUDGE JOHN L. KANE
SENIOR JUDGE ZITA L. WEINSHIENK
SENIOR JUDGE LEWIS T. BABCOCK
SENIOR JUDGE WALKER D. MILLER
JUDGE MARCIA S. KRIEGER
JUDGE ROBERT E. BLACKBURN
JUDGE PHILIP A. BRIMMER
JUDGE CHRISTINE M. ARGUELLO

* * * * *

MAGISTRATE JUDGE MICHAEL J. WATANABE
MAGISTRATE JUDGE BOYD N. BOLAND
MAGISTRATE JUDGE CRAIG B. SHAFFER
MAGISTRATE JUDGE MICHAEL E. HEGARTY
MAGISTRATE JUDGE KRISTEN L. MIX
MAGISTRATE JUDGE KATHLEEN M. TAFOYA
MAGISTRATE JUDGE DAVID L. WEST
MAGISTRATE JUDGE LAIRD T. MILBURN

Gregory C. Langham, Clerk
United States District Court
Alfred A. Arraj United States Courthouse
901 19th Street, Room A-105
Denver, Colorado 80294-3589
Civil: 303/844-3433
Criminal: 303/844-2115
Fax: 303/335-2714
Web site: www.cod.uscourts.gov

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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO CIVIL RULES

I. SCOPE, PURPOSE, AND CONSTRUCTION

D.C.COLO.LCivR 1.1 SCOPE OF THE LOCAL RULES

- A. **Title and Citation.** These rules shall be known as the Local Rules of Practice of the United States District Court for the District of Colorado-Civil. **These rules shall be cited as D.C.COLO.LCivR Rule, Section, Subsection, and Paragraph (e.g., D.C.COLO.LCivR 72.1A.1.a.).**
- B. **Effective Date.** These rules shall become effective on April 15, 2002.
- C. **Scope.** These rules apply in all civil actions filed in the United States District Court for the District of Colorado.
- D. **Relationship to Prior Rules.** Except as otherwise provided in D.C.COLO.LCivR 83.4, concerning standards of professional responsibility governing conduct of attorneys, these rules supersede all previous local rules.
- E. **Numbering and Indexing.** These rules are numbered and indexed in accordance with the Judicial Conference Uniform Numbering System.
- F. **Judicial Officer.** A judicial officer refers to a district judge or to a magistrate judge.
- G. **Clerk.** Reference in these rules to the clerk refers to the Clerk of the Court or a deputy clerk, unless otherwise specified.
- H. **Appendices.** Appendices are subject to modification without notice.

D.C.COLO.LCivR 1.2 FORMS

The forms referred to in these rules may be modified by the court or a judicial officer at any time. Parties may refer to the court's web site or contact the clerk's office to confirm that they are using the most current form, if any, used by the judicial officer assigned to their action.

II. COMMENCEMENT OF ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS, AND ORDERS

D.C.COLO.LCivR 3.1 CIVIL COVER SHEET

- A. **Civil Cover Sheet.** A properly completed Civil Cover Sheet (see Appendix A) shall be given to the clerk at the commencement of each civil action. If the filing party is represented by counsel, the Civil Cover Sheet shall be completed and signed by an attorney of record in the case.
- B. **Supplemental Civil Cover Sheet for Notices of Removal.** A properly completed Supplemental Civil Cover Sheet for Notices of Removal (see Appendix B) shall be given to the clerk at the time a notice of removal is filed.

D.C.COLO.LCivR 3.2 NOTICE REGARDING JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

A party shall promptly file a notice of pendency of action or proceeding if a civil action filed in this court is the subject of, or related to, an action or proceeding pending before the Judicial Panel on Multidistrict Litigation.

D.C.COLO.LCivR 3.3 PAYMENT OF FEES

- A. **Filing Fee.** The clerk shall require payment of a filing fee before a civil action, suit, or proceeding is filed. When a pleading is received for filing without the required fee, the clerk shall notify the filing party that the pleadings will be held and not accepted for filing until the required fee is received or an order allowing the party to proceed in forma pauperis is entered. When the filing fee or order is received, the clerk shall file the pleading.
- B. **Fees.** See Schedule of Fees (Appendix C).

D.C.COLO.LCivR 5.1 FILING AND SERVICE OF PLEADINGS AND PAPERS

- A. **Service Contemporaneous with Filing.** If a paper is filed, but service is not made by electronic means, service shall be made under Fed. R. Civ. P. 5(b) on the same date as the date of filing.

B. Facsimile Filing. A pleading or paper which does not require a filing fee and is no longer than ten pages, including all attachments, may be filed with the clerk by means of facsimile at a telephone number that may be obtained from the court's web site or clerk's office. Upon receipt of a facsimile filing, the clerk will make the copies required under D.C.COLO.LCivR 10.1L. Facsimiles received by the clerk after 5:00 p.m. (Mountain Time) will be considered filed as of the next business day. Unless otherwise ordered by the court, a pleading or paper filed by facsimile shall be treated as an original for all court purposes.

B.C. Facsimile Cover Sheet. A pleading or paper filed with the clerk by facsimile must be accompanied by a facsimile cover sheet (see Appendix D) which includes the following:

1. the date of transmission;
2. the name, facsimile number, and telephone number of the attorney or pro se party making the transmission;
3. the case number, caption, and title of the pleading or paper; and
4. the number of pages of the pleading or paper being transmitted including the facsimile cover sheet.

C.D. Confirmation of Facsimile Filing. Confirmation that the clerk received a facsimile filing may be made by:

1. reviewing the docket entries, or
2. transmitting an additional copy of the first page of the pleading or paper, and requesting on the facsimile cover sheet that the first page of the pleading or paper be file stamped by the clerk and returned to the attorney or pro se party via facsimile.

D.E. Original Pleading or Paper. If a facsimile copy is filed in lieu of the original pleading or paper, the attorney or pro se party shall maintain the original document including the certificate of service. See D.C.COLO.LCivR 5.1F. At the direction of a judicial officer, the transmitting party may be required to file the original document accompanied by a letter noting that the original document is being filed after transmission by facsimile.

E.F. Signatures. Signatures on pleadings or papers filed by facsimile shall have the same legal effect as original signatures on pleadings actually filed with the court.

F.G. Certificate of Service. Each paper, other than one filed ex parte, shall be accompanied by a certificate of service indicating the date it was served, the name and address of the person to whom it was sent, and the manner of service. Where service is by electronic means, the electronic mail address or facsimile number used shall be listed.

D.C.COLO.LCivR 5.2 SERVICE BY OTHER MEANS, INCLUDING ELECTRONIC MEANS

- A. Electronic Case Filing Registration.** Registration with the court's Electronic Case Filing system shall constitute consent to electronic service of all documents in accordance with the Federal Rules of Civil Procedure.
- B. Form and Content of Consent.** A party's consent to accept service by other means, as authorized by Fed. R. Civ. P. 5(b), shall be expressly stated and filed in writing with the clerk. The consent shall include:
 - 1. the persons to whom service should be made; and
 - 2. the appropriate address or location for such service, as authorized by Fed. R. Civ. P. 5(b).
- C. Duration of Consent.** A party's consent shall remain effective for all service authorized by Fed. R. Civ. P. 5 or Fed. R. Civ. P. 77(d) until expressly revoked or until the representation of a party changes through entry, withdrawal, or substitution of counsel.
- D. Notice of Change of Electronic-Mail Address or Facsimile Number.** Within five days after any change of electronic-mail address or facsimile number of any attorney or pro se party who has consented to service by other means, including electronic means, notice of the new electronic-mail address or facsimile number shall be filed.
- E. Effect of Electronic Service.** If a document is electronically filed and thereby electronically served, the time to respond or reply shall be calculated from the date of electronic service, regardless of whether other means of service are also used by the filing party.

D.C.COLO.LCivR 5.5 CUSTODIAN OF NON-FILED DISCOVERY MATERIALS

Counsel or a pro se party noticing a deposition or responsible for serving other non-filed discovery materials shall act for the court as custodian of such material. Nonfiled discovery materials under Fed. R. Civ. P. 5(d) include notices to take depositions and discovery subpoenas. The original sealed deposition transcript shall be brought to trial and opened only upon court order.

D.C.COLO.LCivR 5.6 ELECTRONIC CASE FILING

- A. Electronic Filing.** Pursuant to Fed. R. Civ. P. 5(e), the court will permit materials to be filed, signed, and verified by electronic means. Parties filing by electronic means shall comply with standards and procedures set forth in a manual entitled "Electronic Case Filing Procedures for the District of Colorado (Civil Cases)." The current version of that manual shall be available in the clerk's office, and shall be posted on the court's web site.

- B. **Paper Filings.** Parties authorized or directed to file in paper format, pursuant to exceptions enumerated in the Electronic Case Filing Procedures for the District of Colorado (Civil Cases), shall continue to file in accordance with all provisions of the local rules.
- C. **Time.** Nothing in the Electronic Case Filing Procedures for the District of Colorado (Civil Cases) alters the rules governing the computation of the deadlines for filing and service of documents that are set forth at Fed. R. Civ. P. 6.
- D. **Service.** Parties are authorized to make service under Fed. R. Civ. P. 5(b)(3) through the court's transmission facilities.

**D.C.COLO.LCivR 6.1
STIPULATIONS AND MOTIONS FOR EXTENSION OF TIME;
MOTIONS FOR CONTINUANCE**

- A. **Extension on Stipulation.** The parties may stipulate in writing to ~~one~~ **one** ~~a first~~ extension of not more than ~~20~~ **21** days beyond the time limits prescribed in the Federal Rules of Civil Procedure to respond to a complaint, cross-claim, counterclaim, third-party complaint, interrogatories, requests for production of documents, or requests for admissions. The stipulation must be filed before the expiration of the time limits to respond prescribed in the Federal Rules of Civil Procedure, and shall be effective upon filing, unless otherwise ordered.
- B. **Judicial Enforcement of ~~Extension on Stipulation~~ **Extension on Stipulation** ~~Agreements of Parties.~~** Except as provided in section A. above, or approved by order of the court, no stipulation by the parties shall be binding on or enforced by the court, including stipulations concerning a date or deadline established by court order, hearing dates, and case management deadlines.
- C. **~~Extension Upon~~ **Extension on** ~~Motion.~~** Except as provided in section A. of this rule, all requests for extensions of time must be approved by court order ~~upon~~ **on** motion.
- D. **Content of Motion for Extension of Time.** A ~~Any~~ **Any** motion for extension of time shall state ~~the reason an extension is required,~~ **state** a date certain for the requested extension of time, and ~~set forth~~ **state** the total number of extensions previously ~~granted~~ **granted** obtained by the moving party, including those obtained under section A of this rule. ~~as to the particular matter for which the extension is sought.~~
- E. **~~Proof Of Service~~ **Proof of Service on Client.**** A ~~stipulation or~~ **stipulation or** motion for extension of time or motion for continuance ~~will not be considered without proof that a copy of the motion has been~~ **shall be served** ~~simultaneously~~ **simultaneously** ~~upon~~ **on** the moving attorney's client. ~~all counsel of record and pro se parties.~~

- F. Time Limitations.** Except as provided in section A. of this rule:
1. no agreement of the parties to shorten or extend any time limitation provided by the Federal Rules of Civil Procedure or these rules will be recognized or enforced, nor will such an agreement be considered just cause for failing to perform within the time limits established by those rules; and
 2. only time variances specifically approved by court order ~~upon motion made within the time limits prescribed by the Federal Rules of Civil Procedure or these rules~~ will be recognized as having any binding or legal effect.

III. PLEADINGS AND MOTIONS

D.C.COLO.LCivR 7.1 MOTIONS

- A. Duty to Confer.** The court will not consider any motion, other than a motion under Fed. R. Civ. P. 12 or 56, unless counsel for the moving party or a pro se party, before filing the motion, has conferred or made reasonable, good-faith efforts to confer with opposing counsel or a pro se party to resolve the disputed matter. The moving party shall state in the motion, or in a certificate attached to the motion, the specific efforts to comply with this rule. **This section A. shall not apply to cases involving pro se prisoners.**
- B. Unopposed Motion.** If a motion is unopposed, it shall be entitled “Unopposed Motion for _____.”
- C. Motion, Response and Reply; Time for Serving and Filing; Length.** Excluding motions filed under Fed. R. Civ. P. 56 or 65, a motion involving a contested issue of law shall state under which rule or statute it is filed and be supported by a recitation of legal authority incorporated into the motion. The responding party shall have **21** days after ~~filing date~~ **the date of service of the a** motion, or such lesser or greater time as the court may allow, in which to file a response. The moving party may file a reply within **14** days after the ~~filing date of service date~~ **of the response**, or such lesser or greater time as the court may allow. **The service-date of service of a motion which is electronically filed shall be determined in accordance with D.C.COLO.LCivR 5.2E.** Nothing in this rule precludes a judicial officer from ruling on a motion at any time after it is filed.
- A motion shall not be included in a response or reply to the original motion. A motion shall be made in a separate paper.
- D. Citations.** Every citation in a motion, response or reply shall include the specific page or statutory subsection to which reference is made. ~~If an unpublished opinion is cited, a copy of the opinion must be attached to the motion, response, or reply in which it is cited.~~ **If an unpublished opinion is cited, a copy of the opinion shall be provided to any party appearing pro se.**

- E. **Supplemental Authority.** If the matter is set for hearing, **any** supplemental authority must be filed at least five days before the hearing.
- F. **Proposed Order.** A moving party may submit a proposed order with an unopposed motion or nondispositive motion. A general order attached to a motion (such as “it is ordered” or “so ordered”) is not permitted. A proposed order must be on separate paper, bear a separate caption, and set out clearly the order’s basis and terms.
- G. **Hearings.** A motion may be decided on the papers unless oral argument, at the court’s discretion, is ordered.
- H. **Sanctions.** Motions, responses, and replies shall be concise. A verbose, redundant, ungrammatical, or unintelligible motion, response, or reply may be stricken or returned for revision, and its filing may be grounds for imposing sanctions.

**D.C.COLO.LCivR 7.2
MOTIONS TO SEAL;
MOTIONS TO CLOSE COURT PROCEEDINGS**

- A. **Scope.** ~~The court has a constitutional obligation to determine whether sealing a paper filed in a case or closing all or a portion of a court proceeding is warranted. Upon~~ **On motion and an appropriate showing of compelling reasons,** a judicial officer may order that:
 1. ~~that all or a portion of a~~ papers and documents filed in a case shall be sealed; or
 2. ~~that all or a portion of a~~ court proceedings shall be closed to the public.
- B. **Judicial Enforcement of Stipulations to Seal.** A stipulated protective order or a confidentiality agreement executed by the parties, standing alone, will not suffice for sealing a paper or closing a court proceeding to the public and will not substitute for the showing required by D.C.COLO.LCivR 7.2C, and will not be binding on the court.
- B.C. Motion to Seal.** Any motion to seal or ~~otherwise~~ restrict public access shall **address** ~~describe~~, at a minimum:
 1. the nature of the materials or ~~the~~ proceedings at issue;
 2. the ~~legitimate private or public interests that,~~ **when weighed against the qualified right or presumption of public access to court files and proceedings,** warrants the relief sought;
 3. the clearly defined and serious injury that would result if the relief sought is not granted; and

4. why a less restrictive alternative to the relief sought is not ~~available~~ practicable or would not adequately protect the interest in question (e.g., redaction, summarization, limited sealing of exhibits or portions of exhibits).

D. Rule 11 Compliance. An attorney or pro se party ~~should~~ shall not attempt to seal a pleading, motion or any supporting material unless he or she is satisfied (consistent with Fed. R. Civ. P. 11) that he or she can demonstrate ~~compelling~~ reasons for an order to seal.

~~G.E.~~ **Motion Open to Public Inspection.** A motion to seal or close a court proceeding will be placed in the case file and open to public inspection.

F. Manner of Filing

1. **Electronic Means.** A paper filed electronically under seal shall conform with the court's "Electronic Case Filing Procedures for the District of Colorado (Civil Cases)," Section VI.

2. **Other Means.** Any other paper filed under seal must be placed unfolded in a sealed envelope with a cover page affixed to the outside of the envelope. The cover page affixed to the outside of the sealed envelope must include:

- a. the case caption;
- b. the title of the paper;
- c. the name, address, and telephone number of the attorney or pro se party filing the paper;
- d. a notation that the paper is filed under seal;
- e. the title and date of the court order pursuant to which the paper is sealed, if applicable; or
- f. the citation of the statute or other authority pursuant to which the paper is sealed, if applicable.

~~D.G.~~ **Proposed Filing: Effect of Filing a Motion to Seal.** A ~~proposed filing of papers or documents will be submitted under~~ that is the subject of a motion to seal ~~will be sealed~~ until the motion ~~to seal~~ is ~~decided~~ determined by a judicial officer.

- E.H. Public Notice; Objections.** On the business day after the filing of a motion to seal or motion to close court proceedings, a public notice will be posted in the clerk's office and on the court's web site. The public notice will advise of such motion and state that any person or entity may file objections to the motion on or before the date set forth in such public notice. The date will not be less than three business days after the public notice is posed. **The three day time period shall exclude weekends and legal holidays.**
- F.I. Order.** No order to seal or close court proceedings will be entered before the date set forth in the public notice for filing objections, except in emergency circumstances shown or referred to in the motion.
- G.J. Motion to Seal Denied: Effect of Denial of a Motion to Seal.** A paper materials submitted for filing **filed** under seal shall be deemed part of the public record if a motion to seal is denied, **unless otherwise requested addressed in the briefing on a motion to seal and** ordered by the court, or subject to Fed. R. Civ. P. 72(a) concerning objections relating to non-dispositive matters.

D.C.COLO.LCivR 7.3 [Reserved] **~~PROCEDURES FOR NON-ELECTRONIC FILING OF PAPERS AND DOCUMENTS UNDER SEAL~~**

A. Manner of Filing. ~~Except for filings made electronically pursuant to D.C.COLO.LCivR 5.6A, the following papers or documents must be placed unfolded in a sealed envelope with a copy of a cover page (see section B. of this rule) affixed to the outside of the envelope:~~

- ~~1. papers or documents ordered sealed by the court;~~
- ~~2. proposed filings of papers or documents submitted under seal with a motion requesting that the documents be sealed; and~~
- ~~3. documents required to be sealed by law.~~

B. Cover Page. ~~The cover page affixed to the outside of the sealed envelope must include:~~

- ~~1. the case caption;~~
- ~~2. the title of the paper or document;~~
- ~~3. the name, address, and telephone number of the attorney or pro se party filing the paper or document;~~
- ~~4. a notation that the paper or document is filed under seal;~~
- ~~5. the title and date of the court order pursuant to which the paper or document is sealed, if applicable; or~~
- ~~6. the citation of the statute or other authority pursuant to which the paper or document is sealed, if applicable.~~

D.C.COLO.LCivR 7.4 DISCLOSURE STATEMENT

- A. Who Must File.** Any nongovernmental corporate party or other legal entity to a proceeding in a district court must file a statement identifying all its parent entities and listing any publicly held entity that owns ten percent or more of the party's stock.
- B. Time for Filing; Supplemental Filing.**
1. A party must file the disclosure statement upon its first appearance, pleading, petition, motion, response, or other request addressed to the court.
 2. A party must promptly file a supplemental statement upon any change in the information that the statement requires.

D.C.COLO.LCivR 7.5 NOTICE OF ASSOCIATED RELATED CASES

- A. Who Must File.** A party to a case must file a notice identifying all cases pending in this or any other federal, state, or foreign jurisdiction that reasonably may be associated related with the case.
- B. Related Cases.** "Related" cases are cases that have at least one party in common and that have common questions of law and fact.
- C. Time for Filing; Supplemental Filing.**
1. A party shall file the required notice at the time of its first appearance or at the time of the filing of its first pleading, petition, motion, response, paper, or other matter addressed to the court.
 2. A party shall file promptly a supplemental notice of any change in the information required under this rule.
- D. Notice to Judicial Officers.** The notice of a related case shall be provided by the clerk to all judicial officers to whom the related case or cases are assigned.
- E. Procedure on Receipt of Notice.** On receipt of notice of a related case, the judicial officers to whom the related cases are assigned shall confer to discuss whether the related cases should be submitted for special assignment or reassignment under D.C.COLO.LCivR 40.1A. or transfer under D.C.COLO.LCivR 40.1C.4.a.

D.C.COLO.LCivR 8.1 PRO SE PLEADINGS

- A. Forms and Instructions.** A pro se party shall use the forms established by this court to file an action. Upon request, the clerk shall provide copies of the necessary forms and instructions for filing an action.
- B. Fees.** A judicial officer shall grant or deny a motion to proceed without payment of fees.
- C. Review of Pro Se Pleadings.** A judicial officer designated by the Chief Judge shall review the pleadings of a pro se party who is allowed to proceed without prepayment of fees to determine whether the pleadings should be dismissed summarily. A judicial officer may request additional facts or documentary evidence necessary to make this determination.
- D. Assignment.** If an action is not dismissed summarily, the action shall be assigned to a district judge and to a magistrate judge in accordance with D.C.COLO.LCivR 40.1. A judicial officer to whom the action is assigned may order issuance of a summons.

D.C.COLO.LCivR 8.2 PRISONER PLEADINGS

- A. Forms and Instructions.** A pro se prisoner shall use the forms established by this court to file an action. Upon request, the clerk shall provide copies of the necessary forms and instructions for filing an action.
- B. Fees.** A judicial officer shall grant or deny a motion to proceed without prepayment of fees.
- C. Review of Prisoner Pleadings.** A judicial officer designated by the Chief Judge shall review the pleadings of a prisoner (regardless of representation by counsel) to determine whether the pleadings should be dismissed summarily if the prisoner is:
 - 1. allowed to proceed without prepayment of fees;
 - 2. challenging prison conditions;
 - 3. seeking redress from a governmental entity, officer, or employee; or
 - 4. asserting claims pertinent to his or her conviction or sentence, except in death penalty cases.

A judicial officer may request additional facts or documentary evidence necessary to make this determination.

- D. Assignment.** If an action is not dismissed summarily, the action shall be assigned to a district judge and to a magistrate judge in accordance with D.C.COLO.LCivR 40.1. A judicial officer to whom the action is assigned may order issuance of a summons, an order to answer, or an order to show cause.

D.C.COLO.LCivR 10.1 FORMAT OF PAPERS PRESENTED FOR FILING

- A. Definition.** The term "papers" includes pleadings, motions, briefs, or other filings made pursuant to the Federal Rules of Civil Procedure or these rules.
- B. Size.** All documents filed with the court shall be on 8½- by 11-inch, white paper. Use of recycled paper is acceptable.
- C. Margins.** Margins shall be 1½ inches at the top and 1 inch at the left, right, and bottom.
- D. Font.** Except in pro se cases or for good cause shown, all papers shall be typewritten using black ink and not less than 12-point font.
- E. Spacing.** All papers shall be double-spaced.
- F. Text.** Text shall be printed on one side of the page only.
- G. Legible.** All papers and signatures shall be legible.
- H. Exhibits.** Exhibits, other than documentary evidence in a different format, shall conform to this rule.
- I. First Page; Case Number.** The title of every paper shall reflect accurately its nature and the identity of the party on whose behalf it is filed. All papers filed in pending cases after commencement of the case shall bear the proper case number, including in sequence the case year; the notation of the case type; the chronological case number; the initials of the district judge assigned; and the initials of the magistrate judge assigned:
 - (1) civil case types shall be designated "cv" (for example 05-cv-01234-WYD-MJW);
 - (2) miscellaneous filings of papers case types shall be designated "mc" (for example 05-mc-00123); and
 - (3) registrations of judgment pursuant to 28 U.S.C. § 1963 case types shall be designated "rj" (for example 05-rj-00123).

When the case is commenced, the clerk will select and designate the case type and the assigned district judge and the assigned magistrate judge. The parties will thereafter use that designation as the case number. For the initials of the judicial officers, see Appendix N.

- J. Caption.** The caption format shall be as set forth in Appendix E. Parties shall be listed in a caption with one party per line. The proper name of a party shall be in capital letters, and any identifying text shall be in upper and lower case immediately following the proper name. For example:

XOXOXO, and
XOXOXO,

Plaintiffs,

v.

XOXOXO,
XOXOXO, individually, and in his official capacity as _____,
XOXOXO, d/b/a XOXOXO,
XOXOXO, a/k/a XOXOXO,
XOXOXO, INC., a Colorado corporation, and
XOXOXO whose true name is unknown.

Defendants.

- K. Signature Block.** The name, current mailing address, and telephone number of any attorney of record or pro se party filing a paper shall be typed in a signature block at the end of the paper. A post office box number will be accepted as a mailing address, but a street address also must be provided. An electronic-mail address is required unless the filer is allowed to file in paper format pursuant to exceptions enumerated in the Electronic Case Filing Procedures of the District of Colorado (Civil Cases). A facsimile number is optional. A paper shall be legibly signed in the signature block by the attorney of record or pro se party filing the paper.
- L. Original Papers.** Except for papers filed by facsimile pursuant to D.C.COLO.LCivR 5.1A. and filings made electronically pursuant to D.C.COLO.LCivR 5.6A., an original paper shall be filed with the court.
- M. Notice of Change of Address, E-mail Address, or Telephone Number.** Within five days after any change of address, e-mail address (including any change of e-mail address to be used in the account maintenance link in ECF), or telephone number of any attorney or pro se party, notice of the new address, e-mail address, or telephone number shall be filed.

D.C.COLO.LCivR 11.1 APPEARANCES

- A. Appearances.** An appearance by or on behalf of a party shall be made in open court or in a pleading, motion, entry of appearance, or other paper personally signed by the individual making the appearance. Only pro se individual parties and members of this court's bar may appear or sign pleadings, motions, or other papers. Any pleading, motion, or paper listing in a signature block, or purporting to enter an appearance by, any other person, partnership, professional corporation, limited liability company, or other entity may be stricken.

- B. Signature Not to Be Delegated.** The responsibility for signing pleadings, motions, or other papers shall not be delegated. A signature made pursuant to authority granted by an individual who has entered an appearance in the case shall be treated for all purposes as the signature of the individual authorizing the signature.
- C. Signatures and Signature Pages.** Facsimile signatures on documents filed with the court shall have the same legal effect as original signatures on documents filed with the court. If a facsimile signature page with the facsimile signature of a member of this court's bar is attached to a pleading, motion, or other paper filed with the court, the member of this court's bar shall maintain the original signature page. At the direction of a judicial officer, the member of this court's bar may be required to file the original signature page.
- D. Attorney for the United States Government.** This rule shall not be applied or construed in a manner inconsistent with any statute or federal rule governing an attorney for the United States government who appears in a case.

D.C.COLO.LCivR 16.1 SCHEDULING CONFERENCE

A scheduling conference will be convened by a judicial officer to develop a scheduling order. The order setting the scheduling conference will set the deadline for the parties to meet and attempt to agree on a scheduling order. Plaintiff shall prepare the proposed scheduling order, unless counsel or the pro se parties have agreed otherwise. Any area of disagreement shall be set forth separately with brief statements of the reasons for disagreement. It should be expected that the court will make modifications in the proposed order and will discuss limitations on discovery, simplification of the issues, stipulations of fact, and other matters affecting the management of the litigation. Accordingly, counsel responsible for the trial of the case will be present. The schedule established by a scheduling order shall not be modified except upon a showing of good cause and by leave of court.

D.C.COLO.LCivR 16.2 SCHEDULING ORDERS

- A. Instructions for Preparation.** Unless otherwise instructed by a judicial officer, when a scheduling order is required, it shall be prepared in accordance with the Instructions for Preparation of Scheduling Order. See Appendix F.
- B. Limitations.** Unless otherwise ordered by a judicial officer, scheduling orders for discovery, joinder, and amendment of pleadings are unnecessary in:
1. appeals from the bankruptcy court (see D.C.COLO.LCivR 40.1.E.4.); and
 2. categories of proceedings listed in Fed. R. Civ. P. 26(a)(1)(B).

D.C.COLO.LCivR 16.3 FINAL PRETRIAL ORDERS

Unless otherwise instructed by a judicial officer, when a final pretrial order is required, it shall be prepared in accordance with the Instructions for Preparation of Final Pretrial Order. See Appendix G.

D.C.COLO.LCivR 16.6 ALTERNATIVE DISPUTE RESOLUTION

Pursuant to 28 U.S.C. § 652, all litigants in civil cases shall consider the use of an alternative dispute resolution process. At any stage of the proceedings, on a district judge's initiative or pursuant to motion or stipulation of counsel or the pro se parties, a district judge may direct the parties to a suit to engage in an early settlement conference or other alternative dispute resolution proceeding. To facilitate settlement or resolution of the suit, the district judge or a magistrate judge exercising consent jurisdiction may stay the action in whole or in part during a time certain or until further order. Relief from an order under this section may be had upon motion showing good cause. Unless otherwise ordered by a judicial officer, cases exempt from this rule are:

1. those in which the plaintiff is a prisoner proceeding pro se; and
2. habeas corpus actions.

IV. PARTIES

D.C.COLO.LCivR 24.1 CLAIM OF UNCONSTITUTIONALITY

- A. Act of Congress.** A party who questions the constitutionality of an Act of Congress in an action where neither the United States nor any of its agencies, officers, or employees is a party shall file with the court written notice stating the case title, identifying each questioned statute, and describing the grounds on which unconstitutionality is asserted. The party raising such question shall serve a copy of this written notice on the United States Attorney General and the United States Attorney by certified mail, return receipt requested, and file proof of service with the court.
- B. State Statute.** A party who questions the constitutionality of a state statute in an action where neither that state nor any of its agencies, officers, or employees is a party shall file with the court written notice stating the case title, identifying each questioned statute, and describing the grounds on which unconstitutionality is asserted. The party raising such question shall serve a copy of this written notice on the attorney general of the state involved by certified mail, return receipt requested, and file proof of service with the court.
- C. Certification.** Upon receipt of a notice of unconstitutionality, the court shall comply with the certification provisions of 28 U.S.C. § 2403.

V. DEPOSITIONS AND DISCOVERY

D.C.COLO.LCivR 26.1

COMPLIANCE WITH FED. R. CIV. P. 26 REQUIREMENTS

- A. **Proposed Scheduling Order.** The tendering of a proposed scheduling order in the form specified in Appendix F shall satisfy the requirement of submitting a written report outlining the discovery plan pursuant to Fed. R. Civ. P. 26(f).
- B. **Pretrial Disclosures.** The tendering of a proposed final pretrial order in the form specified in Appendix G shall satisfy the requirement of Fed. R. Civ. P. 26(a)(3) that pretrial disclosures be filed with the court.

D.C.COLO.LCivR 30.1

DEPOSITIONS

- A. **Reasonable Notice; Scheduling.** Unless otherwise ordered by the court, “reasonable notice” for the taking of depositions shall be not less than ~~14~~ **14** days, as computed under Fed. R. Civ. P. 6. Before sending a notice to take a deposition, counsel or the pro se party seeking the deposition shall make a good faith effort to schedule it by agreement at a time reasonably convenient and economically efficient to the proposed deponent, all counsel of record, and pro se parties.
- B. **Limiting Time and Expense.** Prior to scheduling or noticing any deposition, all counsel and pro se parties involved shall confer in a good-faith effort to agree on reasonable means of limiting the time and expense to be spent for that deposition. During that conference, they shall attempt in good faith to agree on a less expensive and less time-consuming method of obtaining the evidence sought including, without limitation, interviewing the witness under oath by telephone or in person.

D.C.COLO.LCivR 30.2

EFFECT OF FILING MOTION FOR PROTECTIVE ORDER, MOTION TO LIMIT EXAMINATION, OR OBJECTION TO DISCOVERY ORDER BY MAGISTRATE JUDGE

- A. **Motion for Protective Order or to Limit Examination.** Pending resolution of any motion under Fed. R. Civ. P. 26(c) or 30(d), no party, attorney, or witness is required to appear at the deposition to which the motion is directed until the motion has been resolved. The filing of a motion under either of these rules shall stay the discovery to which the motion is directed until further order of the court.
- B. **Objection to Discovery Order by Magistrate Judge.** The filing of an objection, pursuant to Fed. R. Civ. P. 72(a), to an order by a magistrate judge concerning a discovery issue does not stay the discovery to which the order is directed. Any stay of the magistrate judge’s order must be sought and obtained separately by motion filed initially with the magistrate judge, and if denied, then with the assigned district court judge. The motion shall be supported by good cause.

D.C.COLO.LCivR 30.3 SANCTIONS FOR ABUSIVE DEPOSITION CONDUCT

- A. Prohibited Conduct.** The following abusive deposition conduct is prohibited:
1. Making objections or statements which have the effect of coaching the witness, instructing the witness concerning the way in which he or she should frame a response, or suggesting an answer to the witness.
 2. Interrupting examination for an off-the-record conference between counsel and the witness, except for the purpose of determining whether to assert a privilege. Any off-the-record conference during a recess may be a subject for inquiry by the opposing counsel or pro se party, to the extent the conference is not privileged.
 3. Instructing a deponent not to answer a question except when necessary to preserve a privilege, to enforce a limitation on evidence directed by a judicial officer, or to present a motion under Fed. R. Civ. P. 30(d)(3)(A).
 4. Filing a motion for protective order or to limit examination without a substantial basis in law.
 5. Questioning that unfairly embarrasses, humiliates, intimidates, or harasses the deponent, or invades his or her privacy absent a clear statement on the record explaining how the answers to such questions will constitute, or lead to, competent evidence admissible at trial.
- B. Standing Order; Special Master.** The prohibitions reflected in section A. of this rule shall be treated as a standing order of the court for purposes of Fed. R. Civ. P. 37(b). Whenever it comes to the attention of a judicial officer that an attorney or party has engaged in abusive deposition conduct, a judicial officer may appoint a special master under Fed. R. Civ. P. 53, at the expense of the attorney or person engaging in such conduct (or of both sides), to attend future depositions, exercise such authority, and prepare such reports as a judicial officer shall direct.
- C. Location of Deposition.** If deposition abuse is anticipated, a judicial officer may order that any deposition be taken at the courthouse or special master's office so that, at the request of any party, witness, or counsel, any dispute may be heard and decided immediately by a judicial officer or special master.
- D. Expenses, Costs, and Fees.** Whenever a judicial officer shall determine that any party or counsel unreasonably has interrupted, delayed, or prolonged any deposition, whether by excessive questioning, objecting, or other conduct, that party or its counsel, or both, may be ordered to pay each other party's expenses, including without limitation, reasonably necessary travel, lodging, reporter's fees, attorney fees, and videotaping expenses, for that portion of the deposition determined to be excessive. In addition, that party or its counsel, or both, may be required to pay all such costs and expenses for any additional depositions or hearing made necessary by its misconduct.

D.C.COLO.LCivR 37.1 FORM OF DISCOVERY MOTIONS

A motion under Fed. R. Civ. P. 26 or 37 directed to **an interrogatories, or requests, or response** under Fed. R. Civ. P. 33 or 34 ~~or to responses thereto~~ shall **either set forth verbatim in the text of the motion the specific interrogatory, request, and or response to which the motion is directed, or an exhibit that contains the interrogatory, request, or response shall be attached.**

VI. TRIALS

D.C.COLO.LCivR 40.1 ASSIGNMENT OF CASES

- A. Assignment in General.** Except as provided in this rule and in D.C.COLO.LCivR 8.1 and 8.2, civil cases shall be assigned to judicial officers by random draw. Work parity shall be maintained among active district judges, provided that a majority of active district judges may adjust the assignment of cases to the Chief Judge as may be necessary for the performance of the duties of that office, and may, for good cause, approve special assignment or reassignment of cases among the judicial officers of the court. All other transfers of cases from one judicial officer to another shall be subject to the Chief Judge's approval.
- B. Random Draw by Computer.** The clerk shall maintain a computerized program to assure random and public assignment of new cases on an equal basis among the judicial officers. A senior judge may decline assignment of cases and, on written notice to the Chief Judge, limit participation in the random draw by a stated percentage.
- C. Special Assignment.**
1. If the pro se plaintiff filing a new case already has a case pending or had a case terminated within 12 months of the new filing, the new case shall be assigned to the district judge who was assigned the earlier case.
 2. Once a bankruptcy appeal or motion to withdraw the reference has been assigned to a district judge by random draw, any case subsequently filed concerning the same debtor in bankruptcy shall be assigned to the same district judge. The party filing the subsequent case shall notify the clerk in writing of the pending bankruptcy matter.
 3. On filing a civil forfeiture proceeding, the United States Attorney shall notify the clerk in writing when a potential claimant is a defendant in a pending criminal case. The civil case shall be assigned to the judge to whom the criminal case was assigned.
 4. A new case **that is related under D.C.COLO.LCivR 7.5** to a pending case shall **may** be assigned to the same judicial officers: ~~only if district judge assigned to the pending case grants a motion to consolidate pursuant to Fed. R. Civ. P. 42(a) and D.C.COLO.LCivR 42.1.~~

- a. by special reassignment on a majority vote of the active district judges under D.C.COLO.LCivR 40.1A.; or
- a b. by transfer with approval of the Chief Judge under D.C.COLO.LCivR 40.1A.; or
- b c. by entry of an order granting a motion to consolidate pursuant to Fed. R. Civ. P. 42(a) and D.C.COLO.LCivR 42.1.

D. “AP” Cases. Upon the filing of any administrative agency or bankruptcy appeal, the clerk will assign a case number without random selection to a district judge designated by the Chief Judge. The case number shall bear the initials “AP” to identify it as an appeal. A separate listing of “AP” cases shall be maintained. The clerk shall confirm that the notice of appeal was timely filed or, in the case of administrative agency appeals, that final agency action is alleged. Judicial staff shall then set the case for a prebriefing conference before a judicial officer. Conference dates will be on a fixed schedule and judicial staff shall schedule each appeal. Notice advising counsel and any pro se party of the conference date shall describe the action to be taken at the prebriefing conference. During the pendency of the action, the clerk will docket all pleadings, briefs and orders, and will prepare the judgment in accordance with the court’s decision on appeal.

1. At the prebriefing conference, the judicial officer will determine whether the appeal can be resolved by stipulation, confession, or settlement. If not, the judicial officer will narrow the issues on appeal, refine the designation of record on appeal, and set the briefing schedule. Reference to Bankruptcy Rule 8009 shall be made in appropriate cases. The clerk shall attend each conference and prepare a minute order setting forth the schedule of further proceedings including the briefing schedule. If, in the opinion of the judicial officer, the appeal is filed for purposes of delay or other just cause appears, the judicial officer shall include in the minute order a notation that the appeal should be expedited, and the clerk shall stamp the word “EXPEDITE” on the face of both court file jackets.
2. The clerk shall monitor the “AP” docket and shall provide such reports and information as requested by the district judge assigned to administer cases filed pursuant to this rule.
3. The clerk shall refer any motions for extensions of time, for permission to exceed briefing limits, to supplement the record, to strike or impose sanctions, etc., to the district judge assigned to administer cases filed pursuant to this rule. When all briefs are filed and the appeal is at issue, the clerk will draw, using the automated random assignment procedure, a district judge to whom the case will be reassigned. The case will be renumbered, changing the “AP” designation to the assigned district judge’s identification initial(s), and the copy file will be delivered to that district judge. The clerk will advise counsel of record and any pro se party of this reassignment.
4. No scheduling order shall be prepared in cases governed by this subsection.

E. Recusal. Recusal of an active judicial officer shall be only by written order setting forth the reasons.

- F. **Adjustments.** Upon recusal or special assignment of a case to a judge pursuant to this rule or D.C.COLO.LCivR 42.1, the clerk shall adjust the computerized drawing program to maintain the equal assignment of cases among active district judges.

D.C.COLO.LCivR 40.2 TRIAL CALENDARS AND EXPEDITED CASE HANDLING

- A. **Calendar; Expedited Cases.** Each judicial officer shall maintain an individual trial calendar with due regard for the priorities and requirements of law. Selected cases may be expedited by the judicial officer on his or her own motion, or on the motion of any party.
- B. **Notice of Scheduling Conflict.** Within three days of learning of a scheduling conflict among different courts within the District of Colorado, or between the United States District Court for the District of Colorado and any other federal or state court, counsel or a pro se party shall file a written notice with the court.
- C. **Notice of Settlement or Resolution.** Whenever the parties have agreed to settle or otherwise resolve a pending matter, they shall immediately notify the court in writing. The court may provide a deadline for the filing of settlement papers or a stipulation for dismissal.

D.C.COLO.LCivR 41.1 DISMISSAL

A judicial officer may issue an order to show cause why a case should not be dismissed for lack of prosecution or for failure to comply with these rules, the Federal Rules of Civil Procedure, or any court order. If good cause is not shown within the time set in the show cause order, a district judge or a magistrate judge exercising consent jurisdiction may enter an order of dismissal with or without prejudice.

D.C.COLO.LCivR 41.2 ADMINISTRATIVE CLOSURE

A district judge or a magistrate judge exercising consent jurisdiction may direct the clerk to close a civil action administratively subject to reopening for good cause.

D.C.COLO.LCivR 42.1 MOTIONS TO CONSOLIDATE

A motion to consolidate shall be decided by the district judge to whom the oldest numbered case involved in the proposed consolidation is assigned for trial. Rulings on motions to consolidate shall be given priority. Cases consolidated shall be assigned for all further purposes to the judicial officer to whom the lowest numbered consolidated case previously was assigned for trial. A case not consolidated shall remain assigned to the judicial officer before whom it was pending when the motion to consolidate was filed.

D.C.COLO.LCivR 43.1 HEARING AND TRIAL PROCEDURES

Procedures pertaining to the hearing in or trial of a particular case will be established by the judicial officer trying the case. The procedures shall be in accordance with any written instructions of that judicial officer.

D.C.COLO.LCivR 43.2 ACCOMMODATIONS

At least five days prior to the hearing or trial, counsel or a pro se party shall notify the court of any necessary Americans with Disabilities Act accommodations.

D.C.COLO.LCivR 45.1 SUBPOENA SERVICE

Unless otherwise ordered by the court, a subpoena shall be served at least 48 hours before the time for appearance set in the subpoena. **The 48 hours shall be calculated in accordance with Fed. R. Civ. P. 6(a)(2).**

D.C.COLO.LCivR 47.1 COMMUNICATION WITH JURORS

No party or attorney shall communicate with, or cause another to communicate with, a juror or prospective juror before, during, or after any trial without written authority signed by the judicial officer to whom the case is assigned for trial.

VII. JUDGMENT

D.C.COLO.LCivR 54.1 TAXATION OF COSTS

Each judgment or final order shall indicate which party or parties are entitled to costs. A bill of costs must be filed on the form provided by the court within ~~ten~~ **14** days after entry of the judgment or final order. Costs will be taxed by the clerk. Prior to appearance before the clerk, counsel or a pro se party seeking costs shall file a written statement that a reasonable effort has been made, in a conference with the opposing counsel or pro se party, to resolve disputes regarding costs. If costs are resolved, a stipulation setting forth the amount of costs shall be filed with the court.

D.C.COLO.LCivR 54.2 JURY COST ASSESSMENT

Whenever any civil action scheduled for jury trial is settled or otherwise resolved after noon on the last ~~court business~~ day before trial, jury costs may be assessed against any of the parties and/or counsel. **The last day before trial shall be calculated in accordance with Fed. R. Civ. P. 6(a)(1).** Likewise, when any civil action is settled during jury trial before verdict, jury costs may be assessed against any of the parties and/or counsel.

D.C.COLO.LCivR 54.3 ATTORNEY FEES

- A. Motion Supported by Affidavit.** Unless otherwise ordered by the court, a motion for attorney fees shall be supported by one or more affidavits.
- B. Content of Motion.** A motion shall include the following for each person for whom fees are claimed:
1. a detailed description of the services rendered, the amount of time spent, the hourly rate, and the total amount claimed; and
 2. a summary of relevant qualifications and experience.

D.C.COLO.LCivR 56.1 SUMMARY JUDGMENT MOTIONS AND BRIEFS

- A. Motion.** A motion under Fed. R. Civ. P. 56 shall include a statement of undisputed facts and be supported by argument and a recitation of legal authority incorporated into the motion in lieu of a separate opening brief. A response brief shall be filed within 21 days after the date of service filing of the motion, or such other time as the court may order. A reply brief may be filed within 14 days of the date of filing service of the opposing brief, or such other time as the court may order.
- B. Cross Motion.** A cross motion for summary judgment shall not be included in a response brief. A cross motion shall be made in a separate motion and be subject to section A. of this rule.
- C. Exhibits to Motion or Briefs.** Voluminous exhibits are discouraged. Parties shall limit exhibits to essential portions of documents. Unless otherwise ordered by the court:
1. Plaintiff's exhibits should be marked using numbers. Defendant's exhibits should be marked as A-1 through A-99 (A-1, A-2, A-3, etc.), then B-1 through B-99, etc. Double or triple letters should not be used.
 2. Copies of documents attached as exhibits to an opening brief shall not be attached as exhibits to a response brief. A responding party shall refer to the exhibits attached to the opening brief. If it is necessary for a responding party to rely on additional exhibits, the additional exhibits shall be attached to the response brief.
 3. Copies of documents attached as exhibits to the opening brief or response brief(s) shall not be attached as exhibits to a reply brief. If it is necessary for the moving party to rely on additional exhibits, the additional exhibits shall be attached to the reply brief and consecutively numbered or lettered from the last exhibit attached to the opening brief.

VIII. PROVISIONAL AND FINAL REMEDIES

D.C.COLO.LCivR 65.1 TEMPORARY RESTRAINING ORDERS

- A. Motion.** An application for temporary restraining order shall be made in a motion separate from the complaint. A motion shall be accompanied by a certificate of counsel or pro se party, or other proof satisfactory to the court, stating:
1. that actual notice of the time of filing the motion, and copies of all pleadings and papers filed in the action to date or to be presented to the court at the hearing, have been furnished to the adverse party; or
 2. the efforts made by the moving party to give such notice and furnish such copies. The provisions of D.C.COLO.LCivR 7.1A. shall apply to any such motion. Except in accordance with Fed. R. Civ. P. 65(b), the court will not consider an ex parte motion for temporary restraining order.
- B. Proposed Order.** A proposed temporary restraining order shall be submitted with a motion for temporary restraining order.
- C. Information Sheet.** A properly completed temporary restraining order information sheet shall be given to the clerk at the time of filing of the motion for temporary restraining order. See Appendix I.

D.C.COLO.LCivR 67.1 BONDS AND OTHER SURETIES

- A. Personal Surety.** An attorney in any case, or a party or spouse of a party in a civil case, shall not be accepted as a personal surety on any bond filed in that case.
- B. Restriction.** No person, corporation, partnership, or other association or entity may act as his, her, or its own surety in a civil case.
- C. Surety Company; Power of Attorney.** Where the surety on a bond is a surety company approved by the United States Department of the Treasury, a power of attorney showing the authority of the agent signing the bond shall be on file with the clerk.

D.C.COLO.LCivR 67.2 COURT REGISTRY INVESTMENT SYSTEM (CRIS)

The following shall govern deposits into the registry of the court in all civil actions:

- A. Receipt of Funds**
1. Unless a statute requires the deposit of funds without leave of court, no money shall be sent to the court or its officers for deposit into the court's registry without a written court order. All proposed orders shall be reviewed initially by the clerk before submission to the assigned judicial officer.

2. The party making the deposit or transferring funds to the court's registry shall serve the written order permitting the deposit or transfer personally on the Clerk of the Court, or on a deputy clerk specifically designated. It shall be incumbent on the moving party to confirm that the appropriate action has been accomplished by the clerk in accordance with the provisions of the order. Failure of any party to comply with this rule will release the Clerk of the Court from any liability for the loss of earned interest on the funds.

B. Investment of Registry Funds

1. All funds (except funds obtained through garnishments) deposited into the registry of the court will be placed in a form of interest bearing account. Unless otherwise ordered by the court, the Court Registry Investment System (CRIS) shall be the authorized investment mechanism.
2. Under CRIS, monies deposited in each case under section A.1. of this rule will be pooled together with those on deposit with the United States Department of the Treasury to the credit of other courts in the CRIS and used to purchase treasury securities. The securities will be held at the Federal Reserve Bank of Dallas in a safekeeping account in the name and to the credit of the Clerk, United States District Court for the District of Colorado, hereby designated custodian for the CRIS.
3. An account for each case will be established in the CRIS titled in the name of the case giving rise to the investment in the system. Income received from fund investments will be distributed to each case based on the ratio each account's principal and income has to the aggregate principal and income total in the fund. Weekly reports showing the income earned and the principal amounts contributed in each case will be prepared and distributed to each court participating in the CRIS and made available, upon request, to parties and/or their counsel.

C. Registry Fee

1. Pursuant to the provisions of the miscellaneous fee schedule established by the Judicial Conference of the United States and as set forth in 28 U.S.C. § 1914, the clerk will assess and deduct registry fees according to the formula promulgated by the Director of the Administrative Office of the United States Courts.
2. No additional fee shall be assessed with respect to investments for which a fee has already been deducted prior to the establishment of the CRIS in this district.

D.C.COLO.LCivR 67.3 DISBURSEMENTS OF DEPOSITS

A court order to disburse funds must include the payee's full name, complete address, and amount to be disbursed to that payee. If at least \$10.00 of interest is to be disbursed to the payee, the counsel or pro se party must provide to the Clerk, Attention: Financial Deputy, a separate memorandum stating the payee's social security or taxpayer identification number. The movant shall serve a copy of the order personally on the Clerk of the Court, or on a deputy clerk specifically designated. Failure of any party to comply with this rule will release the Clerk from any liability for loss.

IX. SPECIAL PROCEEDINGS

D.C.COLO.LCivR 72.1 GENERAL AUTHORITY AND DUTIES OF MAGISTRATE JUDGES

- A. General Authority.** Except as restricted by these rules, magistrate judges may exercise all powers and duties authorized by federal statutes, regulations, and the Federal Rules of Civil Procedure.
- B. Duties.** Each magistrate judge may:
1. issue administrative inspection warrants;
 2. issue civil seizure warrants pursuant to 21 U.S.C. § 881 and 18 U.S.C. § 981-983.
 3. issue search and seizure warrants for levy pursuant to the Internal Revenue Code;
 4. act on postjudgment matters arising under Fed. R. Civ. P. 69, including:
 - a. issue writs;
 - b. issue orders directing funds to be paid into or disbursed from the registry of the court;
 - c. hold hearings and make recommendations to the district judge on substantive issues including the liability of a party under a writ of garnishment or execution;
 - d. perform duties set forth in chapter 176 of Title 28 United States Code, as assigned by the court pursuant to the Federal Debt Collection Procedures Act, 28 U.S.C. § 3008;
 5. make determinations and enter appropriate orders pursuant to 28 U.S.C. § 1915 with respect to any suit, action, or proceedings in which a request is made to proceed in forma pauperis;

6. perform duties set forth in D.C.COLO.LCivR 8.1 and 8.2;
7. make determinations and enter appropriate orders on discovery disputes in cases pending in other federal courts or courts of another country;
8. exercise contempt authority as authorized by law; and
9. issue administrative subpoenas as authorized by law.

C. Other Duties. Upon reference by a district judge, a magistrate judge may:

1. conduct pretrial conferences, settlement conferences, and other nondispositive pretrial proceedings;
2. handle petitions to perpetuate testimony pursuant to Fed. R. Civ. P. 27; and
3. hold hearings and make recommendations to the district judge on dispositive matters.

D.C.COLO.LCivR 72.2 CONSENT JURISDICTION OF MAGISTRATE JUDGES

- A. Designation.** Pursuant to 28 U.S.C. § 636(c)(1) and subject to the provisions of this rule, all full-time magistrate judges in the District of Colorado are specially designated to conduct any or all proceedings in any jury or nonjury civil matter and order the entry of judgment in the case. This rule, implementing 28 U.S.C. § 636(c) consent jurisdiction in the District of Colorado, does not affect assignments to magistrate judges under other court rules and orders of reference.
- B. Prohibition.** No judicial officer, court official, or court employee may attempt to influence the granting or withholding of consent to the reference of any civil matter to a magistrate judge under this rule. The form of notice of right to consent to disposition by a magistrate judge shall make reference to the prohibition and shall identify the rights being waived.
- C. Notice.** Upon the filing of any civil case, the clerk shall deliver to the plaintiff(s) written notice of the right of the parties to consent to disposition of the case by a magistrate judge pursuant to 28 U.S.C. § 636(c) and the provisions of this rule. The written notice shall be in such form as the district judges shall direct. The clerk shall also provide copies of such notice to be attached to the summons and thereafter served upon the defendant(s) in the manner provided by Fed. R. Civ. P. 4. A failure to serve a copy of such notice upon any defendant shall not affect the validity of the service of process or personal jurisdiction over the defendant(s).

- D. Unanimous Consent; Determination.** To consent to the jurisdiction of a magistrate judge under 28 U.S.C. § 636(c), all parties shall complete and file a Consent to the Exercise of Jurisdiction by a United States Magistrate Judge form (see Appendix M). Written consent to proceed before a magistrate judge must be filed no later than ten days after the discovery cut-off date. In cases not requiring discovery, the parties shall have 40 days from the filing of the last responsive pleading to file their unanimous consent. When there is such consent, the magistrate judge shall forthwith notify the assigned district judge, who will then determine whether to enter an order of reference pursuant to 28 U.S.C. § 636(c).
- E. Reassignment.** Upon entry of an order of reference pursuant to 28 U.S.C. § 636(c), the civil action will be reassigned to a magistrate judge by random draw, excluding the magistrate judge previously assigned.
- F. Additional Parties.** Any party added to the action or served after reference to a magistrate judge under this rule shall be notified by the clerk of the right to consent to the exercise of jurisdiction by the magistrate judge pursuant to 28 U.S.C. § 636(c). If any added party does not file a consent to proceed before a magistrate judge within 20 days from the date of mailing of the notice, the action shall be returned to the assigned district judge for further proceedings.
- G. Vacating Reference.** The district judge, for good cause shown on the district judge's own initiative or under extraordinary circumstances shown by a party, may vacate a reference of a civil matter to a magistrate judge under this rule.
- H. Appeal.** Upon entry of a judgment in any civil action on consent of the parties under 28 U.S.C. § 636(c) authority, an appeal shall be directly to the United States Court of Appeals for the Tenth Circuit in the same manner as an appeal from any other judgment of this court.

D.C.COLO.LCivR 72.3

REFERENCE OF DISPOSITIVE MOTIONS TO MAGISTRATE JUDGES

- A. Designation.** Pursuant to 28 U.S.C. § 636(c)(1) and subject to the provisions of this rule, all full-time magistrate judges in the District of Colorado are specifically designated to make final determination of dispositive motions that have been pending for more than six months. Dispositive motions include motions to dismiss, motions for transfer or for change of venue, motions to remand, motions for summary judgment, and motions for partial summary judgment.
- B. Unanimous Consent; Determination.** After a dispositive motion has been pending for more than six months, if all parties consent to the final determination of the dispositive motion by a magistrate judge, the parties shall file an appropriate notice. Upon receipt of such notice, the district judge shall determine whether to enter an order pursuant to 28 U.S.C. § 636(c).
- C. Prohibition.** No judicial officer, court official, or court employee may attempt to influence the granting or withholding of consent to the reference of a dispositive motion to a magistrate judge under this rule.

- D. **Reference.** Upon entry of an order of reference of a dispositive motion pursuant to 28 U.S.C. § 636(c), the motion shall be referred to a magistrate judge by random draw, excluding the magistrate judge previously assigned.
- E. **Vacating Reference.** A district judge, for good cause shown on the district judge's own initiative or under extraordinary circumstances shown by a party, may vacate a reference of a dispositive motion to a magistrate judge under this rule.
- F. **Appeal.** In the event that a magistrate judge grants a dispositive motion and directs the entry of final judgment, an appeal shall be directly to the United States Court of Appeals for the Tenth Circuit in the same manner as an appeal from any other judgment of this court.

X. DISTRICT COURT AND CLERK

D.C.COLO.LCivR 77.1

BUSINESS HOURS TIME AND PLACE OF FILING

If filed electronically, all pleadings, motions, briefs, and other papers shall be filed not later than **11:59:59 p.m.** (Mountain Time) on the day required, **unless otherwise directed by a judicial officer.** If filed otherwise, such pleadings, motions, briefs, and other papers shall be filed during the business hours of the office of the clerk from 8:00 a.m. to 5:00 p.m. (Mountain Time) Monday through Friday.

~~All pleadings, motions, briefs, and other papers shall be filed not later than 5:00 p.m. (Mountain Time) on the day required. After business hours and on Saturdays, Sundays, and legal holidays, the clerk, upon good cause shown, may permit filing of pleadings or other papers at any other location within the district.~~

D.C.COLO.LCivR 77.2

EX PARTE COMMUNICATION WITH JUDICIAL OFFICERS

In the absence of previous authorization, no attorney or party to any proceeding shall send letters, pleadings, or other papers or copies directly to a judicial officer. Unless otherwise instructed, all matters to be called to a judicial officer's attention shall be submitted through the clerk, with copies served on all other parties or their attorneys. No attorney or party shall contact orally a judicial officer regarding any case by telephone, in person, or through any other means, unless all other parties in the matter, or their attorneys, are present or on the telephone.

D.C.COLO.LCivR 79.1

CUSTODY OF FILES AND EXHIBITS

Pleadings, other papers, and exhibits in court files shall not be removed from the clerk's office or the court's custody except by written court order.

D.C.COLO.LCivR 79.2 INSPECTION OF EVIDENCE

Photographic negatives, tape recordings, contraband including drugs and narcotics, firearms, currency, negotiable instruments, computer disks or tapes, and other items designated by a judicial officer, while in the clerk's custody, shall not be available for inspection by any person except while in the presence of and under the control of the clerk. The clerk may limit or preclude access and copying in order to preserve such evidence.

XI. GENERAL PROVISIONS

D.C.COLO.LCivR 81.1 COPIES OF STATE COURT PROCEEDINGS IN REMOVED ACTIONS

If a hearing in the state court has been set before a case is removed, counsel or the pro se party removing the case shall notify the state judge forthwith of the removal and shall notify the federal judge to whom the case is assigned of the nature, time, and place of the state court setting. The removing party shall promptly file with this court copies of all state court pleadings, motions, and other papers.

D.C.COLO.LCivR 83.1 CAMERAS AND RECORDING DEVICES

- A.** Unless authorized by the court for the purposes of providing security or performing official duties, the possession or use of a) cameras or b) audio, video, or photographic recording devices, regardless of the technology used, by a person other than a judicial officer or a court employee performing official duties, in the United States Courthouse or in any location in which court business and proceedings are conducted is prohibited.
- B.** The proscription in section A that prohibits the possession of audio, video, or photographic recording devices does not apply to 1) members of the bar of the court who register under section C.; or 2) jurors. However, members of the bar of the court and jurors shall not use the audio, video, or photographic recording function of any such device in their possession.
- C.** Any bar member seeking an exemption under section B. permitting the possession, but not the use, of any such recording device shall register with the clerk of the court on a form approved by the court and shall be issued an identification card in a form approved by the court, authorizing the bar member to enter the courthouse with the recording device on presentation of the identification card

D.C.COLO.LCivR 83.2 SECURITY

- A. Procedures.** All persons entering a building where court is being held shall be subject to security procedures provided for that building.

All briefcases, purses, parcels, bags, backpacks, and other items shall be passed through X-ray scanners and shall be subject to search. This rule shall apply at such other places as a judicial officer may direct.

Failure to obey this rule shall be grounds for refusing admission to the buildings where court is being held, and may subject the offender to detention, arrest, and prosecution as provided by law, or to a contempt proceeding.

- B. Identification or Information.** Upon request of a United States marshal, court security officer, federal protective service officer, or court official, anyone within or seeking entry to any court facility shall produce identification and state the nature of his or her business at court. Failure to provide identification or information shall be grounds for removal or exclusion from the facility.
- C. Purpose.** This rule and these procedures are necessary in the interest of public safety and to maintain orderly court procedures.

D.C.COLO.LCivR 83.3 THE BAR OF THE COURT

- A. Applicant Information.** An applicant for admission to the bar of this court must be a person licensed by the highest court of a state, federal territory, or the District of Columbia, be on active status in a state, federal territory or the District of Columbia, and be a member of the bar in good standing in all courts and jurisdictions where he or she has been admitted. Each applicant for admission shall complete an approved form provided by the clerk. Each applicant shall pay to the clerk the fee prescribed by the court.
- B. Entry of Appearance.** An attorney's entry of appearance by signing a pleading, motion, or other paper does not constitute entry of appearance by that attorney's firm.
- C. Consent to Jurisdiction; Familiarity With Local Rules.** An attorney who applies for admission to the bar of this court:
 - 1. consents to this court's exercise of disciplinary jurisdiction over any alleged misconduct, and
 - 2. certifies familiarity with the local rules of this court.
- D. Withdrawal of Appearance.** An attorney who has appeared in a case may seek to withdraw on motion showing good cause. Withdrawal shall be effective only on court order entered after service of the notice of withdrawal on all counsel of record and on the withdrawing attorney's client. A motion to withdraw must state the reasons for withdrawal unless the statement would violate the rules of professional conduct. Notice to the attorney's client must include the warning that the client personally is responsible for complying with all court orders and time limitations established by any applicable rules. Where the withdrawing attorney's client is a corporation, partnership, or other legal entity, the notice shall state that such entity cannot appear without counsel admitted to practice before this court, and absent prompt appearance of substitute counsel, pleadings, motions, and other papers may be stricken, and default judgment or other sanctions may be imposed against the entity.

- E. Member in Good Standing.** An attorney admitted to the bar of this court must remain in good standing in all courts where admitted. “In good standing” means not subject to suspension or disbarment by any court for any reason. An attorney who is not in good standing shall not practice before the bar of this court or continue to be an attorney of record in any pending case. On notice to this court of lack of good standing from the suspending or disbarring jurisdiction, or otherwise, the clerk of this court shall make a notation in the court record of such lack of good standing.
- 1. Self-Reporting Requirements.** Whenever a member of the bar of this court has been suspended or disbarred for any reason by any court, including when the suspension is stayed, the attorney shall, within 10 days of the date the disciplinary order enters, give written notice to the clerk of this court of the terms of discipline, the name and address of the court imposing the discipline, and the effective date of that court’s action.
 - 2. Separate Violation.** Failure to self-report or to cease practicing before the bar of this court as required by this rule are themselves separate causes for disciplinary action, except that failure to self-report administrative suspensions for failure to pay an annual registration fee or to comply with mandatory continuing legal education requirements shall not be cause for further disciplinary action by this court.
 - 3. Reinstatement or Readmission.** Reinstatement following administrative suspension for failure to pay an annual fee or to comply with mandatory continuing legal education requirements shall be automatic upon receipt by this court of written proof of reinstatement by the original suspending jurisdiction. Application for reinstatement or readmission following suspension or disbarment from practice as a member of the bar of this court for any other reason shall be made in accordance with the terms of D.C.COLO.LCivR 83.5I.
- F. Relief From Rule of Good Standing.** It is presumed that discipline by another court against a member of this court’s bar is appropriate. In order to obtain relief, the attorney so disciplined has the burden to establish, by clear and convincing evidence, that:
- 1.** the procedure resulting in discipline by the court was so lacking in notice or opportunity to be heard as to deny due process,
 - 2.** the application of D.C.COLO.LCivR 83.3E. would result in grave injustice, or
 - 3.** the kind of misconduct established has been held by this court to warrant substantially less severe discipline. Applications under this section shall be filed with or referred to the Committee on Conduct, which shall proceed in accordance with the provisions of D.C.COLO.LCivR 83.5D.

D.C.COLO.LCivR 83.4 STANDARDS OF PROFESSIONAL RESPONSIBILITY

Except as otherwise provided by Administrative Order, the Colorado Rules of Professional Conduct adopted by the Colorado Supreme Court on April 12, 2007, and effective January 1, 2008, are adopted as standards of professional responsibility applicable in this court (Appendix O).

D.C.COLO.LCivR 83.5 ATTORNEY DISCIPLINE

- A. Disciplinary Panel.** The Chief Judge shall appoint a panel of three district judges to constitute the Disciplinary Panel (the "Panel"). The Panel shall have jurisdiction over all judicial proceedings involving disbarment, suspension, censure, or other lawyer discipline. The Chief Judge at any time may designate additional judges to serve as alternates on the Panel.
- B. Committee on Conduct.** The court has established a standing Committee on Conduct (the "Committee") consisting of 12 members of this court's bar, each appointed for three years and until his or her successor is appointed. Any member appointed to fill a vacancy shall serve the unexpired term of his or her predecessor. Where a member holds over after expiration of the term for which appointed, the time of additional service shall be deemed part of the successor member's term. The court shall designate a chairperson of the Committee and a vice-chairperson who shall act during the chairperson's absence or disability. Members of the Committee shall serve without compensation, but, insofar as possible, their necessary expenses shall be paid by the clerk from the fund in which admission and annual registration fees paid by members of the bar are deposited. No member of the Committee shall serve more than two consecutive terms.
- C. Duties of the Committee.** The Committee shall receive, investigate, consider, and act upon complaints against members of the bar, applications for reinstatement or readmission, allegations that a member of this court's bar is incapable of practicing law due to physical or mental disability or substance abuse, and other similar matters concerning attorneys. The Committee chairperson shall appoint one or more members to present and prosecute charges and to prepare and present orders and judgments as directed by the Panel. The Committee is authorized and directed to report its findings concerning any disciplinary action to the grievance committee of any other bar or court of which the attorney in question may be a member. Additionally, the Committee is authorized to reveal such information to any other court-authorized grievance body as the Committee deems appropriate and consistent with the objectives of this rule. The Committee also may perform any additional duties implied by these rules or assigned by order of the Panel. All requests for investigation submitted to the court or Committee and all complaints filed with the Committee shall be privileged, and no lawsuit may be predicated thereon. Persons performing official duties under this rule, including but not limited to members of the Committee, staff, and members of the bar or others working under the Committee's direction, shall be immune from suit for all acts and omissions occurring in the course of their official duties. All proceedings of the Committee shall be confidential.

- D. Complaints.** Any complaint against a member of this court's bar for any conduct which may justify any disciplinary action (not limited to suspension or disbarment) shall be filed in writing under oath, except that complaints filed by a judicial officer of this court need not be under oath. Complaints shall be filed with or referred to the Committee. The Committee shall admonish all persons concerned with any complaint, investigation, or inquiry that absolute confidentiality must be maintained and that violation of this rule will be deemed contempt of this court.
- E. Investigation of Complaints.** When a complaint is received, it shall be referred by the chairperson of the Committee to a Subcommittee consisting of three Committee members designated by the chairperson who shall appoint one of them as Subcommittee chairperson. The chairperson or vice-chairperson of the Committee may be designated as a member of a Subcommittee.
1. **Service of Complaint and Answer.** The Subcommittee shall investigate complaints referred to it by the chairperson of the Committee. A copy of the complaint shall be served on the member of the bar against whom the complaint has been made (the "respondent") by certified mail, return receipt requested, addressed to his or her most current address on file with the clerk. No answer shall be required unless specifically requested of the respondent by the Subcommittee investigating the complaint. If an answer is requested by the Subcommittee, the respondent shall file an answer under oath with the Subcommittee within 20 days of the date of the request or such later date as agreed upon by a majority of the Subcommittee.
 2. **Hearings, Witnesses, and Documents.** A Subcommittee may hold hearings upon reasonable notice to the complainant and respondent. The chairperson of the Subcommittee conducting the inquiry shall serve as a master with authority to order issuance of subpoenas commanding the presence of witnesses and/or production of designated books, papers, documents, or other tangibles at the times and places stated in the subpoena. The Subcommittee chairperson, as master, is authorized to administer oaths. The name of any witness who fails or refuses to attend or testify under oath may be certified to the Panel, which may initiate contempt proceedings and impose appropriate punishment.
- F. Resolution of the Complaint by the Committee on Conduct.** Upon completion of its investigation, the Subcommittee shall report its recommendations to the full Committee. The Committee may, by a vote of a majority of the Committee in attendance, instruct the Subcommittee in any one of the following ways:
1. **Dismissal of the Complaint.** If the Committee concludes that the complaint is without merit, the Committee shall instruct the Subcommittee to prepare a letter so advising the complainant and the respondent, to be signed by the chairperson or vice-chairperson of the Committee.

2. **Letter of Admonition.** If the Committee concludes, based on the report of the Subcommittee, that the misconduct or, in the case of alleged disability or substance abuse, the cause for concern, is sufficiently significant that the complaint should not be dismissed as without merit, but it does not warrant submitting charges to the Panel, the Committee may issue a letter of admonition to the respondent, with a copy to the complainant. An attorney receiving a letter of admonition shall be advised of the right to request in writing, within 20 days after receiving the letter, that formal disciplinary proceedings be initiated to adjudicate the propriety of the conduct upon which the admonition is based. Upon timely filing of such a request, the letter of admonition shall be vacated and the Subcommittee shall proceed to prepare charges in accordance with the formal procedures provided in these rules.
 3. **Submission of Charges to the Court.** The Committee may instruct the Subcommittee to prepare charges and submit them to the Panel or, with or without preparing charges, may refer the matter to Colorado Attorney Regulation Counsel or another court-authorized grievance body. If charges are prepared and submitted to the Panel, and thereafter the Panel orders the charges filed, the clerk shall file them and forthwith issue a summons commanding the respondent to answer. Except as hereinafter provided, the summons and a copy of the charges shall be served by a United States marshal. A respondent who cannot be served in Colorado may be served by filing a copy of the summons and charges with the clerk, who shall in turn send a copy of the summons and charges by certified mail, return receipt requested, to the last office address the respondent filed with the clerk. The respondent shall answer the charges within 30 days from the date of service. Absent a timely answer, the charges may be taken as confessed and hearing may be held ex parte at a time set by the Panel.
- G. Disciplinary Panel Hearings and Orders.** A respondent against whom charges have been filed shall be entitled to be represented by counsel, at his or her own expense unless indigent. When the respondent has filed an answer, an evidentiary hearing shall be scheduled by the Panel. The Panel may ask the chairperson of the Committee to appoint one or more members of the Committee to offer evidence, examine and cross-examine witnesses, and otherwise represent the Committee in prosecuting the charges. If the charges are sustained by clear and convincing evidence, the Panel may censure, suspend, disbar, or otherwise discipline the respondent. A respondent who is suspended or disbarred shall be enjoined from practicing law before this court and the judgment shall so recite. Any violation of the judgment shall be deemed a contempt of court.
- H. Rule Not to Deprive Court of Inherent Powers.** Nothing herein stated shall be deemed to negate or diminish this court's inherent disciplinary powers.

I. Application for Reinstatement or Readmission.

1. **General Procedure.** An attorney who has been suspended or disbarred may apply for reinstatement or readmission at the end of the disciplinary period. Each applicant for readmission or reinstatement shall complete an approved form provided by the clerk. Reinstatement or readmission is neither automatic nor a matter of right. Every application for reinstatement or readmission shall be investigated by one or more members of the Committee appointed by the Committee's chairperson. Following investigation, the Committee shall prepare a recommendation on the application. The recommendation and supporting documents shall be submitted to the Panel for decision. Reinstatement or readmission may be subject to conditions such as monitoring, reporting, testing, and education.

2. **Relationship to D.C.COLO.LCivR 83.3E. and D.C.COLO.LCrR 57.5E.** Suspension or disbarment of an attorney by any court may result in suspension or disbarment in a court other than the original disciplining court. An attorney applying for reinstatement or readmission to this court following reinstatement or readmission by the original disciplining court who remains suspended or disbarred in a court other than the original disciplining court or this court is subject to D.C.COLO.LCivR 83.3E. and D.C.COLO.LCrR 57.5E. requiring attorneys to be in good standing in all courts where admitted in order to be or remain admitted to the bar of this court. An attorney suspended or disbarred automatically in a court other than the original disciplining court or this court as a result of suspension or disbarment by the original disciplining court may petition this court for relief from the rule of good standing pursuant to D.C.COLO.LCivR 83.3F. or D.C.COLO.LCrR 57.5F., stating appropriate grounds for such relief.

J. Effect of Conviction or Resignation from Another Bar While Under Investigation, and Duty to Report Pendency of Criminal Offenses.

1. **Attorney Subject to a Criminal Conviction.** Any member of this court's bar who is convicted of a crime punishable by a term of imprisonment of more than one year, shall, within 10 days of the conviction, give written notice to the clerk of this court of the conviction including the terms of the conviction, the court entering the conviction and the date of conviction. Upon notice to the court by the attorney or otherwise, the convicted attorney shall be suspended from practicing law in this court. Upon the conviction becoming final with no further right of appeal, the Panel shall disbar the attorney from practicing as a member of the bar of this court. For purposes of this rule, "conviction" shall include any ultimate finding of fact in a criminal proceedings that the individual is guilty of a crime punishable by a term of imprisonment of more than one year, whether the judgment rests on a verdict of guilty, a plea of guilty, or a plea of nolo contendere, and irrespective of whether the entry of judgment or imposition of sentence is suspended or deferred by the court.

2. **Attorney Under Investigation Resigning from Bar of Another Court.** Any member of this court's bar who resigns from the bar of any other federal or state court while an investigation into allegations of misconduct is pending shall, within 10 days of resigning, give written notice of such resignation to the clerk of this court. Upon receipt of notice of resignation from the attorney or otherwise, the Panel shall disbar the attorney from practicing as a member of the bar of this court.
3. **Duty of Attorney to Notify Court of Pendency of Criminal Charges.** Any member of this court's bar who is charged in any court with a criminal offense that may subject the attorney to discipline in this court shall so notify the clerk in writing within 10 days after the charge is filed.

K. Mental or Physical Incompetence or Disability, or Substance Abuse.

1. **Declaration of Mental Incompetence.** Upon receiving proof that a member of this court's bar judicially has been declared incompetent or involuntarily committed to a mental hospital, the Panel may order that the attorney be suspended from practicing law immediately and indefinitely until further order. A copy of the order shall be served upon the attorney, his or her guardian, and the director of the mental hospital.
2. **Role of the Committee on Conduct.** In matters involving an allegation that a member of this court's bar is incapable of practicing law because of mental or physical disability or substance abuse, the Subcommittee assigned by the Chair of the Committee may take or direct whatever action it deems appropriate to determine whether the attorney is disabled or is adversely affected by substance abuse, including examination by such experts the Subcommittee shall designate. The cost of such examination shall be borne by the court. Failure or refusal to submit to examination shall result in certification of the name of the attorney to the Panel, which may initiate contempt proceedings and impose appropriate punishment. Any attorney who submits to examination may obtain a second opinion from expert(s) of his or her choice at his or her sole expense and may submit the results of such additional examination(s) to the Committee for consideration along with all other evidence. If the Committee determines that the attorney is incapable of practicing law, the Committee shall petition the Panel for an order of suspension. As an alternative to examination an attorney may elect to go on disability inactive status, and the Committee shall advise the attorney of this option prior to ordering examination. Any attorney who makes such an election shall be required to apply for reinstatement pursuant to D.C.COLO.LCivR 83.5I. and 83.5K.5. before practicing again in this court.

3. **Role of the Disciplinary Panel.** Upon petition by the Committee suggesting that a member of this court's bar is incapable of practicing law because of mental or physical disability or substance abuse, the Panel may take or direct whatever action it deems appropriate to determine whether the attorney is disabled, including examination by medical experts the Panel shall designate if no such examination had been ordered previously by the Committee or if the Panel desires further examination. The cost of such examination shall be borne by the court. Failure or refusal to submit to examination shall be prima facie evidence of disability. Any attorney who submits to examination may obtain a second opinion from expert(s) of his or her choice at his or her sole expense and may submit the results of such additional examination(s) to the Panel for consideration along with all other evidence. If the Panel concludes from the evidence that the attorney is incapable of practicing law competently, it shall order him or her suspended until further order. Prior to ordering suspension the Panel may, in its sole discretion, offer the attorney an opportunity to go on disability inactive status voluntarily. The Panel may provide respondent notice of the proceedings and may appoint an attorney to represent a respondent who is without representation. Any attorney who elects disability inactive status or is suspended because of mental or physical disability or substance abuse must apply for reinstatement pursuant to D.C.COLO.LCivR 83.5I. and 83.5K.5. before practicing again in this court.
4. **Claim of Disability During Disciplinary Proceedings.** If during a disciplinary proceeding the respondent attorney asserts a disability by reason of mental or physical illness or substance abuse, rendering adequate defense impossible, the Panel shall order the respondent suspended from practicing law until there can be a determination pursuant to D.C.COLO.LCivR 83.5K.2. and 3. of his or her capacity to practice law.
5. **Attorney Placed on Disability Inactive Status by Other Courts.** A member of this court's bar who is placed on disability inactive status by any state or federal court is prohibited from practicing before this court during such status. Reinstatement upon termination of disability inactive status shall be in accordance with D.C.COLO.LCivR 83.5K.5. through K.9.

6. **Reinstatement After Disability Inactive Status or Suspension Because of Disability.**

- a. An attorney who has elected to go on disability inactive status or who has been suspended for mental or physical disability or substance abuse may apply to the Panel for reinstatement not more than once a year, or more frequently if the Panel so directs. The application shall be granted upon a showing by clear and convincing evidence that the attorney no longer is disabled and is fit to practice law. The Panel, or the Committee if the Panel chooses to delegate initial consideration of the application for reinstatement to the Committee pursuant to D.C.COLO.LCivR 83.5I., may take or direct such action as it deems appropriate to determine whether the attorney's disability has been remedied, including examination by such medical experts as the Panel or Committee may designate. The Panel or Committee may direct that any examination expenses be paid by the attorney.
- b. An attorney suspended because of a judicial declaration of incompetence or involuntary commitment to a mental hospital, who thereafter judicially is declared competent, may apply for reinstatement upon proper proof of the latter declaration, and reinstatement may be subject to such conditions as the Panel may require.

7. **Evidentiary Hearing.** If the Panel holds an evidentiary hearing to determine whether an attorney is disabled or to consider an application for reinstatement, the chairperson of the Committee shall appoint one or more members to offer evidence, examine and cross-examine witnesses, and otherwise represent the Committee.

8. **Waiver of Physician/Patient Privilege.** Filing an application for reinstatement constitutes waiver of any physician-patient privilege with respect to any related treatment of the attorney. The attorney shall disclose the name and address of every psychiatrist, psychologist, physician, hospital, or other health-care provider that has examined or treated him or her since three (3) years prior to his or her suspension and shall furnish the Panel or the Committee written consent to obtain from these sources information and records requested by the Panel or the Committee or its designated medical experts.

9. **Orders Transferring.** Orders transferring attorneys to or from disability inactive status are matters of public record.

- L. Complaint against Sitting Member of the Committee on Conduct.** If a complaint is lodged against a sitting member of the Committee, in lieu of investigation by any other sitting member of the Committee the court shall appoint a Special Subcommittee consisting of three members of the bar of the court who in the past have served on the Committee but not as co-members with the member against whom the complaint is lodged, or such other members of the bar of the court as the court may choose. The court shall designate one of the three as chair of the Special Subcommittee. The Special Subcommittee shall follow the procedures set out in 83.5E., F., and G., with the exception that the Special Subcommittee shall work directly with the Panel rather than the full Committee.
- M. Costs.**
- 1. Disciplinary Proceedings.** In all cases where discipline is imposed by the Disciplinary Panel, it may assess against the respondent all or part of the costs incurred in connection with the disciplinary proceedings.
 - 2. Reinstatement and Readmission Proceedings.** An attorney who petitions for reinstatement from a suspension or readmission after disbarment shall bear the cost of such proceedings.
 - 3. Disability Proceedings.** The Disciplinary Panel may order an attorney to bear the cost of all or any part of the disability proceedings, including the cost of any examinations ordered.

D.C.COLO.LCivR 84.1 BANKRUPTCY MATTERS

- A. Automatic Referral.** All cases under Title 11, United States Code, and all proceedings arising under Title 11 or arising in or related to cases under Title 11, shall be automatically referred to the bankruptcy judges of this district pursuant to 28 U.S.C. § 157 without further order. All papers in those cases shall be filed directly in the bankruptcy court, and the bankruptcy judges of this district shall exercise the jurisdiction of this court in bankruptcy matters as provided in 28 U.S.C. § 157(b).
- B. Personal Injury or Wrongful Death Claims.** Any claim arising in or related to a case under Title 11 involving claims of personal injury or wrongful death shall be tried in the district court of the district in which the bankruptcy case is pending, or in the district court of the district in which the claim arose, as may be determined by the district judge assigned pursuant to D.C.COLO.LCivR 40.1.
- C. Withdrawal of Reference.** The automatic referral to bankruptcy judges provided in section A. of this rule may be withdrawn by a district judge.
- 1. Motion.** A motion for withdrawal of reference shall be filed with the clerk of the bankruptcy court in accordance with Bankruptcy Rule 5011 and Local Bankruptcy Rule 511.

2. **Response.** Within 10 days after being served with a copy of a motion for withdrawal of reference, a party may file with the clerk of the bankruptcy court and serve on affected parties an objection to the motion and a designation of any additional portions of the record necessary for the district court's determination of the motion.
 3. **Supplementation of Record.** The record may be supplemented by additional portions of the record as determined by the bankruptcy judge.
 4. **Order of Referral to District Court.** The bankruptcy judge shall enter an order directing the clerk of the bankruptcy court to refer the motion and/or matter to the district court.
 5. **Assignment.** The clerk of the district court shall assign the matter to a district court judge pursuant to D.C.COLO.LCivR 40.1.
- D. Proceeding Under 28 U.S.C. § 157(c)(1).** When a bankruptcy judge hears a proceeding under 28 U.S.C. § 157(c)(1) that is not a "core proceeding" as defined by 28 U.S.C. § 157(b)(2), the bankruptcy judge shall submit the proposed findings of fact and conclusions of law to the district judge assigned pursuant to D.C.COLO.LCivR 40.1. Copies of those recommendations shall be mailed by the bankruptcy judge to all parties, who shall have 10 days after the date of mailing of the recommendations (or such further time not to exceed 30 days as the bankruptcy judge may order) to file written objections. Objections lacking specificity as to factual findings or legal conclusions the objecting party claims to have been erroneously made and objections not timely filed may be summarily overruled. If no objection is filed, or if the parties consent in writing, the recommendations of the bankruptcy judge may be accepted by the district judge, and appropriate orders may be entered without further notice. Procedure for determining objections shall be as set forth in 28 U.S.C. § 157(c)(1).
- E. Filings.** The clerk of the bankruptcy court shall take in all pleadings in bankruptcy cases and related proceedings. Bankruptcy papers shall be filed with the bankruptcy court in accordance with the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules for the District of Colorado. Any bankruptcy papers filed with the clerk of the district court shall be transferred to the bankruptcy court.
- F. Post-judgment Matters.** The bankruptcy judges shall exercise jurisdiction over all post-judgment execution matters arising from a judgment or order entered by bankruptcy judges.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO CRIMINAL RULES

I. SCOPE, PURPOSE, AND CONSTRUCTION

D.C.COLO.LCrR 1.1 SCOPE OF THE LOCAL RULES

- A. **Title and Citation.** These rules shall be known as the Local Rules of Practice of the United States District Court for the District of Colorado-Criminal. **These rules shall be cited as, D.C.COLO.LCrR Rule, Section, Subsection, and Paragraph (e.g., D.C.COLO.LCrR 57.1B.23.a).**
- B. **Effective Date.** These rules shall become effective on April 15, 2002.
- C. **Scope.** These rules apply in all criminal actions filed in the United States District Court for the District of Colorado.
- D. **Relationship to Prior Rules.** Except as otherwise provided in D.C.COLO.LCrR 57.6, concerning standards of professional responsibility governing conduct of attorneys, these rules supersede all previous local rules.
- E. **Numbering and Indexing.** These rules are numbered and indexed in accordance with the Judicial Conference Uniform Numbering System.
- F. **Judicial Officer.** A judicial officer refers to a district judge or to a magistrate judge.
- G. **Clerk.** Reference in these rules to the clerk refers to the Clerk of the Court or a deputy clerk, unless otherwise specified.
- H. **Appendices.** Appendices are subject to modification without notice.

II. PRELIMINARY PROCEEDINGS

[No local rules]

III. INDICTMENT AND INFORMATION

D.C.COLO.LCrR 6.1 GRAND JURY

Grand jury supervision shall be assigned equally among the active district judges. No indictment shall be sealed without the written order of a judicial officer. Unless otherwise ordered by the court, the indictment shall be unsealed upon the first defendant's arrest or initial appearance.

D.C.COLO.LCrR 7.1 INFORMATION SHEET

A properly completed information sheet shall be given to the clerk at the commencement of a criminal action.

IV. ARRAIGNMENT AND PREPARATION FOR TRIAL

D.C.COLO.LCrR 11.1 PLEAS

- A. **Written Notice.** Unless otherwise ordered, notice of disposition shall be filed no later than 14 days before the date set for the trial.
- B. **Pleas Before District Judge.** A plea of guilty or nolo contendere in a felony case shall be made before the district judge assigned to the case.
- C. **Plea Agreement.** A plea agreement shall be presented in writing in accordance with the form entitled "Plea Agreement" (see Appendix J) and signed by the attorney for the government, defendant's counsel, and the defendant.

The written stipulation of facts relevant to sentencing from the plea agreement shall be included in the presentence investigation report required by Fed. R. Crim. P. 32(b)(1). The attorney for the government shall deliver a copy of the plea agreement to the chambers of the assigned judicial officer and the Probation Office no later than 48 hours prior to the change of plea hearing. **The 48 hours shall be calculated in accordance with Fed. R. Crim. P. 45(a).**

- D. **Statement by Defendant in Advance of Plea of Guilty.** A statement by defendant in advance of plea of guilty shall be presented in writing in accordance with the form entitled "Statement by Defendant in Advance of Plea of Guilty" (see Appendix K), and signed by the defendant and defendant's counsel.

Defendant's counsel, or a pro se defendant, shall deliver the statement by defendant in advance of plea of guilty to the courtroom deputy in the courtroom before the change of plea hearing.

- E. Translation of Change of Plea Documents.** If a defendant requires an interpreter for a change of plea hearing:
1. defense counsel shall contact the deputy clerk designated as courtroom services specialist two weeks before the hearing to obtain the assistance of a designated interpreter in translating the plea agreement and the statement by defendant in advance of plea of guilty;
 2. defense counsel shall coordinate with the designated interpreter to ensure that the plea agreement and the statement by defendant in advance of plea of guilty are translated, in writing, into the language of the defendant, furnished to defendant, and signed by defendant in advance of the hearing; and
 3. a certificate that the written translation is a complete and correct interpretation shall be attached by the designated interpreter to the written translation of both the plea agreement and statement by defendant in advance of plea of guilty.
- F. Documents Tendered to Courtroom Deputy.** No later than the commencement of the change of plea hearing, the following documents shall be tendered to the courtroom deputy:
1. the original and a copy of both the plea agreement and statement in advance of plea of guilty; and
 2. if applicable, the original and a copy of the written translation of both the plea agreement and statement in advance of plea of guilty.

**D.C.COLO.LCrR 12.1
MOTIONS TO JOIN MOTIONS PROHIBITED**

- A.** No party may file a motion to join a motion filed by another party.
- B.** The government and each defendant shall file its, his, or her own motions. Each motion shall request specific relief and include a title that identifies the relief requested. In a motion, the party may indicate that the party approves, adopts, or may incorporate by reference any or all of the reasons stated, arguments advanced, and/or authorities cited by a party in another motion. The party shall identify the related motion of another party by providing the following information:

1. the name of the other party;
2. the precise title of the motion filed by the other party;
3. the document number assigned to the other motion by the court's CM/ECF docketing system; and
4. the date the other motion was filed.

D.C. COLO.LCrR 12.4 DISCLOSURE STATEMENT

A. Who Must File.

1. **Defendant.** Any nongovernmental party or other legal entity to a proceeding in a district court must file a statement identifying all its parent entities and listing any publicly held entity that owns ten percent or more of the party's stock.
2. **Organization Victim.** If an organization is a victim of the alleged criminal activity, the government must file a statement identifying the victim. If the organizational victim is a corporation, the statement must also disclose the information required by section A.1. of this rule.

B. Time for Filing; Supplemental Filing.

1. A party must file the disclosure statement upon its first appearance, pleading, petition, motion, response, or other request addressed to the court.
2. A party must promptly file a supplemental statement upon any change in the information that the statement requires.

D.C.COLO.LCrR 17.1.1 PRETRIAL CONFERENCE

A magistrate judge shall conduct a discovery conference at the time of or within ten days after the arraignment and direct counsel to obtain a motion date and trial date from the district judge assigned to the case.

D.C.COLO.LCrR 17.2 SEALING OF EX PARTE MOTIONS AND ORDERS IN CRIMINAL JUSTICE ACT CASES

Unless otherwise directed by the court, the clerk will seal at the time of filing all ex parte motions and orders in Criminal Justice Act (CJA) cases for issuance of trial subpoenas, appointment of experts, authorization of travel, and other extraordinary expenses. Copies of such signed orders will be served by the clerk on the moving party only. Unless otherwise ordered, the clerk will retain such motions and orders under seal until the judgment is final.

V. VENUE

[No local rules]

VI. TRIAL

D.C.COLO.LCrR 24.1 COMMUNICATION WITH JURORS

No party or attorney shall communicate with, or cause another to communicate with, a juror or prospective juror before, during, or after any trial without written authority signed by the judicial officer to whom the case is assigned for trial.

VII. JUDGMENT

D.C.COLO.LCrR 26.1 HEARING AND TRIAL PROCEDURES

Procedures pertaining to the hearing in or trial of a particular case will be established by the judicial officer trying the case. The procedures shall be in accordance with any written instructions of that judicial officer.

D.C.COLO.LCrR 26.2 ACCOMMODATIONS

At least five days prior to the hearing or trial, counsel or a pro se party shall notify the court of any necessary Americans with Disabilities Act accommodations.

D.C.COLO.LCrR 32.1 DEADLINE AND SERVICE FOR OBJECTIONS, MOTIONS AND STATEMENTS TO ASSIST WITH SENTENCING

Fed. R. Crim. P. 32(f)(1) affords parties in a criminal case 14 days after receipt of a presentence report to state in writing any objections to the report. No less than ~~44~~ 14 days before sentencing, the parties may file motions for a departure or a variance from the applicable sentencing guideline range. Such motions shall be served on the probation officer by the requesting party.

VIII. APPEAL

[No local rules]

IX. SUPPLEMENTARY AND SPECIAL PROCEEDINGS

[No local rules]

X. GENERAL PROVISIONS

D.C.COLO.LCrR 44.1 APPEARANCES

- A. Appearances.** An attorney appearing for a defendant in a criminal case shall file promptly ~~an written~~ entry of appearance ~~and serve a copy on the United States Attorney.~~ Only pro se individual parties and ~~members of this court's bar~~ **members of the bar of this court as defined in D.C.COLO.LCrR 57.5,** may appear or sign pleadings, motions, or other papers, **or participate in a court hearing or deposition.**
- B. Signatures and Signature Pages.** Facsimile signatures on documents filed with the court shall have the same legal effect as original signatures on documents filed with the court. If a facsimile signature page with the facsimile signature of a member of this court's bar is attached to a pleading, motion, or other paper filed with the court, the member of this court's bar shall maintain the original signature page. At the direction of a judicial officer, the member of this court's bar may be required to file the original signature page.

D.C.COLO.LCrR 46.1 DEPOSITS

- A. Investment in Interest-Bearing Accounts**
1. No deposit into an interest-bearing account shall be permitted without court order.
 2. The party obtaining an order to place funds in an interest-bearing account shall serve the written order permitting the investment personally on the Clerk of the Court, or on a deputy clerk specifically designated. It shall be incumbent on the moving party to confirm that the appropriate action has been accomplished by the clerk in accordance with the provisions of the order. Failure of any party to comply with this rule will release the Clerk of the Court from any liability for the loss of earned interest on the funds.
 3. Unless otherwise ordered by the court, the Court Registry Investment System (CRIS) shall be the authorized investment mechanism.

4. Under CRIS, monies deposited in each case under section A.1. of this rule will be pooled together with those on deposit with the United States Department of the Treasury to the credit of other courts in the CRIS and used to purchase treasury securities. The securities will be held at the Federal Reserve Bank of Dallas in a safekeeping account in the name and to the credit of the Clerk, United States District Court for the District of Colorado, hereby designated custodian for the CRIS.
5. An account for each case will be established in the CRIS titled in the name of the case giving rise to the investment in the system. Income received from fund investments will be distributed to each case based on the ratio each account's principal and income has to the aggregate principal and income total in the fund. Weekly reports showing the income earned and the principal amounts contributed in each case will be prepared and distributed to each court participating in the CRIS and made available, upon request, to parties and/or their counsel.

B. Registry Fee

1. Pursuant to the provisions of the miscellaneous fee schedule established by the Judicial Conference of the United States and as set forth in 28 U.S.C. § 1914, the clerk will assess and deduct registry fees according to the formula promulgated by the Director of the Administrative Office of the United States Courts.
2. No additional fee shall be assessed with respect to investments for which a fee already has been deducted prior to the establishment of the CRIS in this district.

**D.C.COLO.LCrR 46.2
DISBURSEMENTS OF DEPOSITS**

- A. To Whom Disbursed.** No cash or other funds on deposit with the court shall be refunded or returned to anyone other than the person or entity named on the receipt. When appropriate, the clerk may require a certified copy of valid letters of administration, or a notarized power of attorney, from the person or association named in the receipt unless exempted by order of a judicial officer.
- B. Disbursements.** Disbursements from an interest-bearing account shall be obtained only by court order.

- C. Interest-Bearing Account.** If funds are being disbursed from an interest-bearing account, a court order to disburse funds must include the payee's full name, complete address, and amount to be disbursed to that payee. If at least \$10.00 of interest is to be disbursed to the payee, the counsel or pro se party must provide to the Clerk, Attention: Financial Deputy, a separate memorandum stating the payee's social security or taxpayer identification number. The movant shall serve a copy of the order personally on the Clerk of the Court, or on a deputy clerk specifically designated. Failure of any party to comply with this rule will release the Clerk of the Court from any liability for loss.

**D.C.COLO.LCrR 47.1
MOTIONS TO SEAL;
MOTIONS TO CLOSE COURT PROCEEDINGS**

- A. Scope.** ~~The court has a constitutional obligation to determine whether sealing a paper filed in a case or closing all or a portion of a court proceeding is warranted. Upo~~ On motion and an appropriate showing of compelling reasons, ~~set forth in a sealed brief to a motion to seal, a~~ judicial officer may order that:
1. ~~that all or a portion of a~~ papers and documents filed in a case shall be sealed; or
 2. ~~that all or a portion of a~~ court proceedings shall be closed to the public.
- B. Motion Open to Public Inspection.** ~~In a motion to seal a movant will identify the paper to be sealed or the proceeding to be closed to the public. The motion will be filed as a public document, Eexcept as provided in those motions covered by D.C.COLO.LCrR 17.2 or unless otherwise ordered., by a district judge in writing, in the motion to seal or close court proceedings,~~
- C. Justification for Sealing: Proposed Filing.** ~~A proposed filing of papers or documents will be submitted under seal until the motion to seal is decided by a judicial officer. The factual basis showing the reasons to seal a paper or to close a proceeding will be set forth in a brief in support of the motion, which shall be filed separately under seal by electronic or other means. Such brief will remain sealed until the motion is determined.~~
- D. Manner of Filing.**
1. **Electronic Means.** A paper filed electronically under seal shall conform with the court's "Electronic Case Filing Procedures for the District of Colorado (Criminal Cases)," Section VI.
 2. **Other Means.** Any other paper filed under seal must be placed unfolded in a sealed envelope with a cover page affixed to the outside of the envelope. The cover page affixed to the outside of the sealed envelope must include:

- a. the case caption;
- b. the title of the paper;
- c. the name, address, and telephone number of the attorney or pro se party filing the paper;
- d. a notation that the paper is filed under seal;
- e. the title and date of the court order pursuant to which the paper is sealed, if applicable; or
- f. the citation of the statute or other authority pursuant to which the paper is sealed, if applicable.

D.E. Public Notice; Objections. On the business day after the filing of a motion to seal or motion to close court proceedings, a public notice will be posted in the clerk's office and on the court's web site. The public notice will advise of such motion and state that any person or entity may file objections to the motion on or before the date set forth in such public notice. The date will be not less than three business days after the public notice is posted. **The three day time period shall exclude weekends and legal holidays.**

E.F. Order. No order to seal or close court proceedings will be entered before the date set forth in the public notice for filing objections, except in emergency circumstances stated in the motion and at the discretion of the judicial officer.

F.G. Exemptions. The following documents are exempt from this rule and ~~D.C.COLO.LCrR 47.2:~~

- 1. unexecuted arrest warrants and supporting documents;
- 2. unexecuted search warrants and supporting documents;
- 3. unexecuted criminal and civil forfeiture seizure warrants and supporting documents;
- 4. Unexecuted ex parte bond revocation orders and supporting documents;
- 5. Title III and clone pager orders and supporting documents;
- 6. pen register and trap/trace orders and supporting documents;
- 7. orders and supporting documents regarding access to electronic communications; and
- 8. ex parte applications and orders for tax or bank account information;
- 9. **petitions for revocation of probation or supervised release.**

- H. Effect of Denial of Motion to Seal.** A paper filed under seal shall be deemed part of the public record if a motion to seal is denied, unless ordered by the court or otherwise provided in D.C.COLO.LCrR 17.2.

D.C.COLO.LCrR 47.2 [Reserved]
PROCEDURES FOR FILING PAPERS AND DOCUMENTS UNDER SEAL

- A. Manner of Filing.** ~~The following papers or documents must be placed unfolded in a sealed envelope with a copy of a cover page (see section B. of this rule) affixed to the outside of the sealed envelope:~~
- ~~1. papers or documents ordered sealed by the court;~~
 - ~~2. proposed filings of papers or documents submitted under seal with a motion requesting that the documents be sealed; and~~
 - ~~3. documents required to be sealed by law.~~
- B. Cover Page.** ~~The cover page affixed to the outside of the sealed envelope must include:~~
- ~~1. the case caption;~~
 - ~~2. the title of the paper or document;~~
 - ~~3. the name, address, and telephone number of the attorney or pro se defendant filing the paper or document;~~
 - ~~4. a notation that the paper or document is filed under seal;~~
 - ~~5. the title and date of the court order pursuant to which the paper or document is sealed, if applicable; or~~
 - ~~6. the citation of the statute, federal rule or other authority pursuant to which the paper or document is sealed, if applicable.~~
- C. Copies.** ~~Copies of the papers or documents in sealed envelopes shall be filed in accordance with D.C.COLO.LCrR 49.3L.~~

**D.C.COLO.LCrR 49.1
SERVICE AND FILING OF PLEADINGS AND PAPERS**

- A. Facsimile Filing.** A pleading or paper which is no longer than ten pages, including all attachments, may be filed with the clerk by means of facsimile at a telephone number that may be obtained from the court's web site or clerk's office. Upon receipt of a facsimile filing, the clerk will make the copies required under D.C.COLO.LCrR 49.3L. Facsimiles received by the clerk after 5:00 p.m. (Mountain Time) will be considered filed as of the next business day. Unless otherwise ordered by the court, a paper filed by facsimile shall be treated as an original for all court purposes.
- B. Facsimile Cover Sheet.** A pleading or paper filed with the clerk by facsimile must be accompanied by a facsimile cover sheet (see Appendix D) which includes the following:
1. the date of transmission;
 2. the name, facsimile number, and telephone number of the attorney or pro se party making the transmission;
 3. the case number, caption, and title of the pleading or paper;
 4. the number of pages of the pleading or paper being transmitted including the facsimile cover sheet; and
 5. the name of the magistrate judge, if the case has been referred to a magistrate judge.
- C. Confirmation of Facsimile Filing.** Confirmation that the clerk received a facsimile filing may be made by:
1. reviewing the docket entries, or
 2. transmitting an additional copy of the first page of the pleading or paper and requesting on the facsimile cover sheet that the first page of the pleading or paper be file stamped by the clerk and returned to the attorney or pro se defendant via facsimile.
- D. Original Pleading or Paper.** If a facsimile copy is filed in lieu of the original pleading or paper, the attorney or pro se defendant shall maintain the original document. At the direction of a judicial officer, the transmitting party may be required to file the original document accompanied by a letter noting that the original document is being filed after transmission by facsimile.
- E. Signatures.** Signatures on pleadings or papers filed by facsimile shall have the same legal effect as original signatures on pleadings actually filed with the court.

- F. Certificate of Service.** Each paper, other than one filed ex parte, shall be accompanied by a certificate of service indicating the date it was served, the name and address of the person to whom it was sent, and the manner of service. Where service is by electronic means, the electronic mail address or facsimile number used shall be listed.

**D.C.COLO.LCrR 49.2
SERVICE BY OTHER MEANS, INCLUDING ELECTRONIC MEANS**

- A. Electronic Case Filing Registration.** Registration with the court's Electronic Case Filing system shall constitute consent to electronic service of all documents in accordance with the Federal Rules of Criminal Procedure.
- B. Form and Content of Consent.** A party's consent to accept service by other means, as authorized by Fed. R. Crim. P. 49(b), shall be expressly stated and filed in writing with the clerk. The consent shall include:
1. the persons to whom service should be made; and
 2. the appropriate address or location for such service, as authorized by Fed. R. Crim. P. 49(b).
- C. Duration of Consent.** A party's consent shall remain effective for all service authorized by Fed. R. Crim. P. 49(b) until expressly revoked or until the representation of a party changes through entry, withdrawal, or substitution of counsel.
- D. Notice of Change of Electronic-Mail Address or Facsimile Number.** Within five days after any change of electronic-mail address or facsimile number of any attorney or pro se party that has consented to service by other means, including electronic means, notice of the new electronic-mail address or facsimile number shall be filed.

**D.C.COLO.LCrR 49.3
FORMAT AND COPIES OF PAPERS PRESENTED FOR FILING**

- A. Definition.** The term "papers" includes pleadings, motions, briefs, or other filings made pursuant to the Federal Rules of Criminal Procedure or these rules.
- B. Size.** All documents filed with the court shall be on 8½- by 11-inch, white paper. Use of recycled paper is acceptable.
- C. Margins.** Margins shall be 1½ inches at the top and 1 inch at the left, right, and bottom.
- D. Font.** Except in pro se cases or for good cause shown, all papers shall be typewritten using black ink and not less than 12-point font.
- E. Spacing.** All papers shall be double-spaced.

- F. **Text.** Text shall be printed on one side of the page only.
- G. **Legible.** All papers and signatures shall be legible.
- H. **Exhibits.** Exhibits, other than documentary evidence in a different format, shall conform to this rule.
- I. **First Page; Case Number.** The title of every paper shall reflect accurately its nature and the identity of the party on whose behalf it is filed. All papers filed in pending cases after commencement of the case shall bear the proper case number, including in sequence the case year; the notation of the case type; the chronological case number; the initials of the district judge assigned; or the initials of the magistrate judge assigned:
 1. criminal case types shall be designated “cr” (for example 05-cr-00123-WYD);
 2. criminal miscellaneous filings of papers case types shall be designated “y” (for example 05-y-00123-WYD);
 3. magistrate judge case types shall be designated “mj” (for example 05-mj-00123-MJW);
 4. petty offense case types shall be designated “po” (for example 05-po-00123-MJW);
 5. search warrant case types shall be designated “sw” (for example 05-sw-00123-MJW).

When the case is commenced, the clerk will select and designate the case type and the assigned district judge or the assigned magistrate judge. The parties will thereafter use that designation as the case number. For the initials of the judicial officers, see Appendix N.

- J. **Caption.** The caption format shall be as set forth in Appendix L. Defendants shall be listed in a caption by consecutive numbers with one defendant per line. The proper name of a party shall be in capital letters, and any identifying text shall be in upper and lower case immediately following the proper name. For example:

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. XOXOXO,
2. XOXOXO, a/k/a XOXOXO and XOXOXO, and
3. XOXOXO, INC., a Colorado corporation,

Defendants.

- K. Signature Block.** The name, current mailing address, and telephone number of any attorney of record or pro se defendant filing a paper shall be typed in a signature block at the end of the paper. A post office box number will be accepted as a mailing address, but a street address also must be provided. An electronic-mail address is required unless the filer is allowed to file in paper format pursuant to exceptions enumerated in the Electronic Case Filing Procedures of the District of Colorado (Criminal Cases). A facsimile number is optional. A paper shall be legibly signed in the signature block by the attorney of record or pro se defendant filing the paper.
- L. Original Papers.** Except for papers filed by facsimile pursuant to D.C.COLO.LCrR 49.1A. and filings made electronically pursuant to D.C.COLO.LCrR 49.4A., an original paper shall be filed with the court.
- M. Notice of Change of Address, E-mail Address, or Telephone Number.** Within five days after any change of address, e-mail address (including any change of e-mail address to be used in the account maintenance link in ECF), or telephone number of any attorney or pro se party, notice of the new address, e-mail address, or telephone number shall be filed.

D.C.COLO.LCrR 49.4 ELECTRONIC CASE FILING

- A. Electronic Filing.** Pursuant to Fed. R. Crim. P. 49, the court will permit papers to be filed, signed, and verified by electronic means. Parties filing by electronic means shall comply with standards and procedures set forth in a manual entitled “Electronic Case Filing Procedures for the District of Colorado (Criminal Cases).” The current version of that manual shall be available in the clerk’s office and shall be posted on the court’s web site.
- B. Paper Filings.** Parties authorized or directed to file in paper format, pursuant to exceptions enumerated in the Electronic Case Filing Procedures for the District of Colorado (Criminal Cases), shall continue to file in accordance with all provisions of the local rules.
- C. Time.** Nothing in the Electronic Case Filing Procedures for the District of Colorado (Criminal Cases) alters the rules governing the computation of deadlines for filing and service of documents that are set forth at Fed. R. Crim. P. 45.
- D. Service.** Pursuant to Fed. R. Crim. P. 49, parties are authorized to make service through the court’s transmission facilities.

D.C.COLO.LCrR 50.1 ASSIGNMENT OF CASES

- A. Assignment in General.** Except as provided in this rule, criminal cases shall be assigned to judicial officers by random draw. Work parity shall be maintained among active district judges, provided that a majority of active district judges may adjust the assignment of cases to the Chief Judge as may be necessary for the performance of the duties of that office, and may, for good cause, approve special assignment or reassignment of cases among the judicial officers of the court. All other transfers of cases from one judicial officer to another shall be subject to the Chief Judge's approval.
- B. Random Draw by Computer.** The clerk shall maintain a computerized program to assure random and public assignment of new cases on an equal basis among the judicial officers. A senior judge may decline assignment of cases and, on written notice to the Chief Judge, limit participation in the random draw by a stated percentage.
- C. Special Assignments.**
1. On filing a new criminal case, the United States Attorney shall notify the clerk in writing when that defendant is involved in a pending civil forfeiture proceeding. The criminal case shall be assigned to the judicial officer to whom the civil case was assigned.
 2. On filing a new criminal case, including new cases filed pursuant to 18 U.S.C. § 3605, Transfer of Jurisdiction Over a Probationer, and criminal cases transferred to the court pursuant to Fed. R. Crim. P. 20, the United States Attorney shall notify the clerk in writing when that defendant is currently serving, or has served, a sentence of probation or supervised release. ~~imposed by a district judge presently sitting on the bench of this court, and the case shall be assigned to that judge.~~ **The new criminal case shall be assigned to the district judge presiding in the case in which the previous sentence of probation or supervised release was imposed.** In the event the defendant has had multiple cases before this court, the new case shall be reassigned to the judge who handled the oldest case.
- D. Recusal.** Recusal of a judicial officer shall be only by written order setting forth the reasons.
- E. Adjustments.** Upon recusal or special assignment of a case to a judge pursuant to this rule, the clerk shall adjust the computerized drawing program to maintain the equal assignment of cases among active district judges.

D.C.COLO.LCrR 55.1 CUSTODY OF FILES AND EXHIBITS

Pleadings, other papers, and exhibits in court files shall not be removed from the clerk's office or the court's custody except by written court order.

D.C.COLO.LCrR 55.2 INSPECTION OF EVIDENCE

Photographic negatives, tape recordings, contraband including drugs and narcotics, firearms, currency, negotiable instruments, computer disks or tapes, and other items designated by a judicial officer, while in the clerk's custody, shall not be available for inspection by any person except while in the presence of and under the control of the clerk. The clerk may limit or preclude access and copying in order to preserve such evidence.

D.C.COLO.LCrR 56.1 BUSINESS HOURS TIME AND PLACE OF FILING

If filed electronically, all pleadings, motions, briefs, and other papers shall be filed not later than **11:59:59 p.m.** (Mountain Time) on the day required, **unless otherwise directed by a judicial officer.** If filed otherwise, such pleadings, motions, briefs, and other papers shall be filed during the business hours of the office of the clerk from 8:00 a.m. to 5:00 p.m. (Mountain Time) Monday through Friday.

D.C.COLO.LCrR 57.1 GENERAL AUTHORITY AND DUTIES OF MAGISTRATE JUDGES

- A. General Authority.** Except as restricted by these rules, magistrate judges may exercise all powers and duties authorized by federal statutes, regulations, and the Federal Rules of Criminal Procedure.
- B. Duties.** Each magistrate judge may:
1. issue orders authorizing the installation and use of a pen register or a trap and trace device pursuant to 18 U.S.C. §§ 3122-23, and issue related orders directing the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of the pen register or trap and trace device;
 2. issue search warrants, including warrants based upon oral or telephonic testimony;
 3. accept criminal complaints and issue arrest warrants or summonses;
 4. accept waivers of indictment pursuant to Fed. R. Crim. P. 7(b);

5. receive the return of indictments by the grand jury and issue arrest warrants or summonses when necessary for the defendants named in the indictments;
6. enter orders sealing and unsealing indictments;
7. conduct preliminary proceedings incident to transfer cases pursuant to Fed. R. Crim. P. 20;
8. exercise powers and duties necessary for extraditing fugitives pursuant to 18 U.S.C. §§ 3181-96;
9. conduct hearings and issue orders under the Bail Reform Act of 1984.;
10. enter an order to forfeit bail when a defendant breaches his or her bail conditions by failing to appear in proceedings scheduled before the magistrate judge;
11. set bail for material witnesses;
12. schedule and conduct arraignments on indictments and informations by taking and entering not guilty pleas and making findings regarding time limits required by the Speedy Trial Act;
13. direct the United States Marshal to arrange for payment of basic transportation and subsistence expenses for defendants financially unable to bear the costs of travel to required court appearances;
14. issue subpoenas and writs of habeas corpus ad testificandum or other orders necessary to obtain the presence of parties, witnesses, or evidence necessary for court proceedings;
15. try petty offense or misdemeanor cases in accordance with the law;
16. conduct a jury trial in any petty offense or misdemeanor case as authorized by law;
17. direct the probation office to conduct a presentence investigation in any misdemeanor case;
18. perform the functions specified in 18 U.S.C. §§ 4107, 4108, and 4109, regarding proceedings for verification of consent by offenders to transfer to or from the United States and the appointment of counsel therein;

19. appoint counsel for persons subject to revocation of probation, parole, or supervised release (in which case preference shall be given to previously appointed counsel if such attorney still is available and willing to serve); for persons in custody as a material witness; persons seeking relief under 28 U.S.C. §§ 2241, 2254, or 2255 or 18 U.S.C. § 4245; or for any person for whom the Sixth Amendment to the Constitution requires the appointment of counsel or for whom, in a case in which the person faces loss of liberty, any federal law requires the appointment of counsel;
20. conduct preliminary hearings for the purpose of determining whether there is probable cause to hold a probationer or a person on supervised release for a revocation hearing;
21. exercise contempt authority as authorized by law;
22. preside over petty offense and misdemeanor cases that involve juvenile defendants as authorized by law;
23. act on post judgment matters;
 - a. to issue writs;
 - b. to issue orders directing funds to be paid into or disbursed from the registry of the court;
 - c. to hold hearings and make recommendations to the district judge on substantive issues including the liability of a party under a writ of garnishment or execution, and
 - d. to perform duties set forth in chapter 176 of Title 28 United States Code, as assigned by the court pursuant to the Federal Debt Collection Procedures Act, 28 U.S.C. § 3008.

D.C.COLO.LCrR 57.2 EX PARTE COMMUNICATION WITH JUDICIAL OFFICERS

No attorney or party to any proceeding shall send letters, pleadings, or other papers or copies directly to a judicial officer. Unless otherwise instructed, all matters to be called to a judicial officer's attention shall be submitted through the clerk with copies served on all other parties or their attorneys. No attorney or party shall contact orally a judicial officer regarding any case by telephone, in person, or through any other means, unless all other parties in the matter, or their attorneys, are present or on the telephone.

D.C.COLO.LCrR 57.3 CAMERAS AND RECORDING DEVICES

- A.** Unless authorized by the court for the purposes of providing security or performing official duties, the possession or use of a) cameras or b) audio, video, or photographic recording devices, regardless of the technology used, by a person other than a judicial officer or a court employee performing official duties, in the United States Courthouse or in any location in which court business and proceedings are conducted is prohibited.
- B.** The proscription in section A. that prohibits the possession of audio, video, or photographic recording devices does not apply to 1) members of the bar of the court who register under section C.; or 2) jurors. However, members of the bar of the court and jurors shall not use the audio, video, or photographic recording function of any such device in their possession.
- C.** Any bar member seeking an exemption under section B. permitting the possession, but not the use, of any such recording device shall register with the clerk of the court on a form approved by the court and shall be issued an identification card in a form approved by the court, authorizing the bar member to enter the courthouse with the recording device on presentation of the identification card.

D.C.COLO.LCrR 57.4 SECURITY

- A. Procedures.** All persons entering a building where court is being held shall be subject to security procedures provided for that building.

All briefcases, purses, parcels, bags, backpacks, and other items shall be passed through X-ray scanners and shall be subject to search. This rule shall apply at such other places as a judicial officer may direct.

Failure to obey this rule shall be grounds for refusing admission to the buildings where court is being held and may subject the offender to detention, arrest, and prosecution as provided by law, or to a contempt proceeding.
- B. Identification or Information.** Upon request of a United States marshal, court security officer, federal protective service officer, or court official, anyone within or seeking entry to any court facility shall produce identification and state the nature of his or her business at court. Failure to provide identification or information shall be grounds for removal or exclusion from the facility.
- C. Purpose.** This rule and these procedures are necessary in the interest of public safety and to maintain orderly court procedures.

D.C.COLO.LCrR 57.5 THE BAR OF THE COURT

- A. Applicant Information.** An applicant for admission to the bar of this court must be a person licensed by the highest court of a state, federal territory, or the District of Columbia, be on active status in a state, federal territory or the District of Columbia, and be a member of the bar in good standing in all courts and jurisdictions where he or she has been admitted. Each applicant for admission shall complete an approved form provided by the clerk. Each applicant shall pay to the clerk the fee prescribed by the court.
- B. Entry of Appearance.** An attorney's entry of appearance by signing a pleading, motion, or other paper does not constitute entry of appearance by that attorney's firm.
- C. Consent to Jurisdiction; Familiarity With Local Rules.** An attorney who applies for admission to the bar of this court:
1. consents to this court's exercise of disciplinary jurisdiction over any alleged misconduct, and
 2. certifies familiarity with the local rules of this court.
- D. Withdrawal of Appearance.** An attorney who has appeared in a case may seek to withdraw on motion showing good cause. Withdrawal shall be effective only on court order entered after service of the notice of withdrawal on all counsel of record and on the withdrawing attorney's client. A motion to withdraw must state the reasons for withdrawal unless the statement would violate the rules of professional conduct. Notice to the attorney's client must include the warning that the client personally is responsible for complying with all court orders and time limitations established by any applicable rules. Where the withdrawing attorney's client is a corporation, partnership, or other legal entity, the notice shall state that such entity cannot appear without counsel admitted to practice before this court, and absent prompt appearance of substitute counsel, pleadings, motions, and other papers may be stricken, and default judgment or other sanctions may be imposed against the entity.
- E. Member in Good Standing.** An attorney admitted to the bar of this court must remain in good standing in all courts where admitted. "In good standing" means not subject to suspension or disbarment by any court for any reason. An attorney who is not in good standing shall not practice before the bar of this court or continue to be an attorney of record in any pending case. On notice to this court of lack of good standing from the suspending or disbarring jurisdiction, or otherwise, the clerk of this court shall make a notation in the court record of such lack of good standing.

1. **Self-Reporting Requirements.** Whenever a member of the bar of this court has been suspended or disbarred for any reason by any court, including when the suspension is stayed, the attorney shall, within ten days of the date the disciplinary order enters, give written notice to the clerk of this court of the terms of discipline, the name and address of the court imposing the discipline, and the effective date of that court's action.
 2. **Separate Violation.** Failure to self-report or to cease practicing before the bar of this court as required by this rule are themselves separate causes for disciplinary action, except that failure to self-report administrative suspensions for failure to pay an annual registration fee or to comply with mandatory continuing legal education requirements shall not be cause for further disciplinary action by this court.
 3. **Reinstatement or Readmission.** Reinstatement following administrative suspension for failure to pay an annual fee or to comply with mandatory continuing legal education requirements shall be automatic upon receipt by this court of written proof of reinstatement by the original suspending jurisdiction. Application for reinstatement or readmission following suspension or disbarment from practice as a member of the bar of this court for any other reason shall be made in accordance with the terms of D.C.COLO.LCrR 57.7I.
- F. Relief From Rule of Good Standing.** It is presumed that discipline by another court against a member of this court's bar is appropriate. In order to obtain relief, the attorney so disciplined has the burden to establish, by clear and convincing evidence, that:
1. the procedure resulting in discipline by the court was so lacking in notice or opportunity to be heard as to deny due process;
 2. application of D.C.COLO.LCrR 57.5E. would result in grave injustice; or
 3. the kind of misconduct established has been held by this court to warrant substantially less severe discipline. Applications under this section shall be filed with or referred to the Committee on Conduct, which shall proceed in accordance with the provisions of D.C.COLO.LCrR 57.7D.

D.C.COLO.LCrR 57.6 STANDARDS OF PROFESSIONAL RESPONSIBILITY

Except as otherwise provided by Administrative Order, the Colorado Rules of Professional Conduct adopted by the Colorado Supreme Court on April 12, 2007, and effective January 1, 2008, are adopted as standards of professional responsibility applicable in this court (Appendix O).

D.C.COLO.LCrR 57.7 ATTORNEY DISCIPLINE

- A. Disciplinary Panel.** The Chief Judge shall appoint a panel of three district judges to constitute the Disciplinary Panel (the "Panel"). The Panel shall have jurisdiction over all judicial proceedings involving disbarment, suspension, censure, or other lawyer discipline. The Chief Judge at any time may designate additional judges to serve as alternates on the Panel.
- B. Committee on Conduct.** The court has established a standing Committee on Conduct (the "Committee") consisting of 12 members of this court's bar, each appointed for three years and until his or her successor is appointed. Any member appointed to fill a vacancy shall serve the unexpired term of his or her predecessor. Where a member holds over after expiration of the term for which appointed, the time of additional service shall be deemed part of the successor member's term. The court shall designate a chairperson of the Committee and a vice-chairperson who shall act during the chairperson's absence or disability. Members of the Committee shall serve without compensation, but, insofar as possible, their necessary expenses shall be paid by the clerk from the fund in which admission and annual registration fees paid by members of the bar are deposited. No member of the Committee shall serve more than two consecutive terms.
- C. Duties of the Committee.** The Committee shall receive, investigate, consider, and act upon complaints against members of the bar, applications for reinstatement or readmission, allegations that a member of this court's bar is incapable of practicing law due to physical or mental disability or substance abuse, and other similar matters concerning attorneys. The Committee chairperson shall appoint one or more members to present and prosecute charges and to prepare and present orders and judgments as directed by the Panel. The Committee is authorized and directed to report its findings concerning any disciplinary action to the grievance committee of any other bar or court of which the attorney in question may be a member. Additionally, the Committee is authorized to reveal such information to any other court-authorized grievance body as the Committee deems appropriate and consistent with the objectives of this rule. The Committee also may perform any additional duties implied by these rules or assigned by order of the Panel. All requests for investigation submitted to the court or Committee and all complaints filed with the Committee shall be privileged, and no lawsuit may be predicated thereon. Persons performing official duties under this rule, including but not limited to members of the Committee, staff, and members of the bar or others working under the Committee's direction, shall be immune from suit for all acts and omissions occurring in the course of their official duties. All proceedings of the Committee shall be confidential.

- D. Complaints.** Any complaint against a member of this court's bar for any conduct which may justify any disciplinary action (not limited to suspension or disbarment) shall be filed in writing under oath, except that complaints filed by a judicial officer of this court need not be under oath. Complaints shall be filed with or referred to the Committee. The Committee shall admonish all persons concerned with any complaint, investigation, or inquiry that absolute confidentiality must be maintained and that violation of this rule will be deemed contempt of this court.
- E. Investigation of Complaints.** When a complaint is received, it shall be referred by the chairperson of the Committee to a Subcommittee consisting of three Committee members designated by the chairperson who shall appoint one of them as Subcommittee chairperson. The chairperson or vice-chairperson of the Committee may be designated as a member of a Subcommittee.
1. **Service of Complaint and Answer.** The Subcommittee shall investigate complaints referred to it by the chairperson of the Committee. A copy of the complaint shall be served on the member of the bar against whom the complaint has been made (the "respondent") by certified mail, return receipt requested, addressed to his or her most current address on file with the clerk. No answer shall be required unless specifically requested of the respondent by the Subcommittee investigating the complaint. If an answer is requested by the Subcommittee, the respondent shall file an answer under oath with the Subcommittee within 20 days of the date of the request or such later date as agreed upon by a majority of the Subcommittee.
 2. **Hearings, Witnesses, and Documents.** A Subcommittee may hold hearings upon reasonable notice to the complainant and respondent. The chairperson of the Subcommittee conducting the inquiry shall serve as a master with authority to order issuance of subpoenas commanding the presence of witnesses and/or production of designated books, papers, documents, or other tangibles at the times and places stated in the subpoena. The Subcommittee chairperson, as master, is authorized to administer oaths. The name of any witness who fails or refuses to attend or testify under oath may be certified to the Panel, which may initiate contempt proceedings and impose appropriate punishment.
- F. Resolution of the Complaint by the Committee on Conduct.** Upon completion of its investigation, the Subcommittee shall report its recommendations to the full Committee. The Committee may, by a vote of a majority of the Committee in attendance, instruct the Subcommittee in any one of the following ways:
1. **Dismissal of the Complaint.** If the Committee concludes that the complaint is without merit, the Committee shall instruct the Subcommittee to prepare a letter so advising the complainant and the respondent, to be signed by the chairperson or vice-chairperson of the Committee.

2. **Letter of Admonition.** If the Committee concludes, based on the report of the Subcommittee, that the misconduct or, in the case of alleged disability or substance abuse, the cause for concern, is sufficiently significant that the complaint should not be dismissed as without merit, but it does not warrant submitting charges to the Panel, the Committee may issue a letter of admonition to the respondent, with a copy to the complainant. An attorney receiving a letter of admonition shall be advised of the right to request in writing, within 20 days after receiving the letter, that formal disciplinary proceedings be initiated to adjudicate the propriety of the conduct upon which the admonition is based. Upon timely filing of such a request, the letter of admonition shall be vacated and the Subcommittee shall proceed to prepare charges in accordance with the formal procedures provided in these rules.
 3. **Submission of Charges to the Court.** The Committee may instruct the Subcommittee to prepare charges and submit them to the Panel or, with or without preparing charges, may refer the matter to Colorado Attorney Regulation Counsel or another court-authorized grievance body. If charges are prepared and submitted to the Panel, and thereafter the Panel orders the charges filed, the clerk shall file them and forthwith issue a summons commanding the respondent to answer. Except as hereinafter provided, the summons and a copy of the charges shall be served by a United States marshal. A respondent who cannot be served in Colorado may be served by filing a copy of the summons and charges with the clerk, who shall in turn send a copy of the summons and charges by certified mail, return receipt requested, to the last office address the respondent filed with the clerk. The respondent shall answer the charges within 30 days from the date of service. Absent a timely answer, the charges may be taken as confessed and hearing may be held ex parte at a time set by the Panel.
- G. Disciplinary Panel Hearings and Orders.** A respondent against whom charges have been filed shall be entitled to be represented by counsel, at his or her own expense unless indigent. When the respondent has filed an answer, an evidentiary hearing shall be scheduled by the Panel. The Panel may ask the chairperson of the Committee to appoint one or more members of the Committee to offer evidence, examine and cross-examine witnesses, and otherwise represent the Committee in prosecuting the charges. If the charges are sustained by clear and convincing evidence, the Panel may censure, suspend, disbar, or otherwise discipline the respondent. A respondent who is suspended or disbarred shall be enjoined from practicing law before this court and the judgment shall so recite. Any violation of the judgment shall be deemed a contempt of court.
- H. Rule Not to Deprive Court of Inherent Powers.** Nothing herein stated shall be deemed to negate or diminish this court's inherent disciplinary powers.

I. Application for Reinstatement or Readmission.

1. **General Procedure.** An attorney who has been suspended or disbarred may apply for reinstatement or readmission at the end of the disciplinary period. Each applicant for readmission or reinstatement shall complete an approved form provided by the clerk. Reinstatement or readmission is neither automatic nor a matter of right. Every application for reinstatement or readmission shall be investigated by one or more members of the Committee appointed by the Committee's chairperson. Following investigation, the Committee shall prepare a recommendation on the application. The recommendation and supporting documents shall be submitted to the Panel for decision. Reinstatement or readmission may be subject to conditions such as monitoring, reporting, testing, and education.

2. **Relationship to D.C.COLO.LCivR 83.3E. and D.C.COLO.LCrR 57.5E.** Suspension or disbarment of an attorney by any court may result in suspension or disbarment in a court other than the original disciplining court. An attorney applying for reinstatement or readmission to this court following reinstatement or readmission by the original disciplining court who remains suspended or disbarred in a court other than the original disciplining court or this court is subject to D.C.COLO.LCivR 83.3E. and D.C.COLO.LCrR 57.5E. requiring attorneys to be in good standing in all courts where admitted in order to be or remain admitted to the bar of this court. An attorney suspended or disbarred automatically in a court other than the original disciplining court or this court as a result of suspension or disbarment by the original disciplining court may petition this court for relief from the rule of good standing pursuant to D.C.COLO.LCivR 83.3F. or D.C.COLO.LCrR 57.5F., stating appropriate grounds for such relief.

J. Effect of Conviction or Resignation from Another Bar While Under Investigation, and Duty to Report Pendency of Criminal Offenses.

1. **Attorney Subject to a Criminal Conviction.** Any member of this court's bar who is convicted of a crime punishable by a term of imprisonment of more than one year, shall, within 10 days of the conviction, give written notice to the clerk of this court of the conviction including the terms of the conviction, the court entering the conviction and the date of conviction. Upon notice to the court by the attorney or otherwise, the convicted attorney shall be suspended from practicing law in this court. Upon the conviction becoming final with no further right of appeal, the Panel shall disbar the attorney from practicing as a member of the bar of this court. For purposes of this rule, "conviction" shall include any ultimate finding of fact in a criminal proceedings that the individual is guilty of a crime punishable by a term of imprisonment of more than one year, whether the judgment rests on a verdict of guilty, a plea of guilty, or a plea of nolo contendere, and irrespective of whether the entry of judgment or imposition of sentence is suspended or deferred by the court.

2. **Attorney Under Investigation Resigning from Bar of Another Court.** Any member of this court's bar who resigns from the bar of any other federal or state court while an investigation into allegations of misconduct is pending shall, within 10 days of resigning, give written notice of such resignation to the clerk of this court. Upon receipt of notice of resignation from the attorney or otherwise, the Panel shall disbar the attorney from practicing as a member of the bar of this court.
3. **Duty of Attorney to Notify Court of Pendency of Criminal Charges.** Any member of this court's bar who is charged in any court with a criminal offense that may subject the attorney to discipline in this court shall so notify the clerk in writing within 10 days after the charge is filed.

K. Mental or Physical Incompetence or Disability, or Substance Abuse.

1. **Declaration of Mental Incompetence.** Upon receiving proof that a member of this court's bar judicially has been declared incompetent or involuntarily committed to a mental hospital, the Panel may order that the attorney be suspended from practicing law immediately and indefinitely until further order. A copy of the order shall be served upon the attorney, his or her guardian, and the director of the mental hospital.
2. **Role of the Committee on Conduct.** In matters involving an allegation that a member of this court's bar is incapable of practicing law because of mental or physical disability or substance abuse, the Subcommittee assigned by the Chair of the Committee may take or direct whatever action it deems appropriate to determine whether the attorney is disabled or is adversely affected by substance abuse, including examination by such experts the Subcommittee shall designate. The cost of such examination shall be borne by the court. Failure or refusal to submit to examination shall result in certification of the name of the attorney to the Panel, which may initiate contempt proceedings and impose appropriate punishment. Any attorney who submits to examination may obtain a second opinion from expert(s) of his or her choice at his or her sole expense and may submit the results of such additional examination(s) to the Committee for consideration along with all other evidence. If the Committee determines that the attorney is incapable of practicing law, the Committee shall petition the Panel for an order of suspension. As an alternative to examination an attorney may elect to go on disability inactive status, and the Committee shall advise the attorney of this option prior to ordering examination. Any attorney who makes such an election shall be required to apply for reinstatement pursuant to D.C.COLO.LCrR 57.7I. and 57.7K.5. before practicing again in this court.

3. **Role of the Disciplinary Panel.** Upon petition by the Committee suggesting that a member of this court's bar is incapable of practicing law because of mental or physical disability or substance abuse, the Panel may take or direct whatever action it deems appropriate to determine whether the attorney is disabled, including examination by medical experts the Panel shall designate if no such examination had been ordered previously by the Committee or if the Panel desires further examination. The cost of such examination shall be borne by the court. Failure or refusal to submit to examination shall be prima facie evidence of disability. Any attorney who submits to examination may obtain a second opinion from expert(s) of his or her choice at his or her sole expense and may submit the results of such additional examination(s) to the Panel for consideration along with all other evidence. If the Panel concludes from the evidence that the attorney is incapable of practicing law competently, it shall order him or her suspended until further order. Prior to ordering suspension the Panel may, in its sole discretion, offer the attorney an opportunity to go on disability inactive status voluntarily. The Panel may provide respondent notice of the proceedings and may appoint an attorney to represent a respondent who is without representation. Any attorney who elects disability inactive status or is suspended because of mental or physical disability or substance abuse must apply for reinstatement pursuant to D.C.COLO.LCrR 57.7I. and 57.7K.5. before practicing again in this court.
4. **Claim of Disability During Disciplinary Proceedings.** If during a disciplinary proceeding the respondent attorney asserts a disability by reason of mental or physical illness or substance abuse, rendering adequate defense impossible, the Panel shall order the respondent suspended from practicing law until there can be a determination pursuant to D.C.COLO.LCrR 57.7K.2. and 3. of his or her capacity to practice law.
5. **Attorney Placed on Disability Inactive Status by Other Courts.** A member of this court's bar who is placed on disability inactive status by any state or federal court is prohibited from practicing before this court during such status. Reinstatement upon termination of disability inactive status shall be in accordance with D.C.COLO.LCrR 57.7K.5. through K.9.

6. **Reinstatement After Disability Inactive Status or Suspension Because of Disability.**
 - a. An attorney who has elected to go on disability inactive status or who has been suspended for mental or physical disability or substance abuse may apply to the Panel for reinstatement not more than once a year, or more frequently if the Panel so directs. The application shall be granted upon a showing by clear and convincing evidence that the attorney no longer is disabled and is fit to practice law. The Panel, or the Committee if the Panel chooses to delegate initial consideration of the application for reinstatement to the Committee pursuant to D.C.COLO.LCrR 57.71., may take or direct such action as it deems appropriate to determine whether the attorney's disability has been remedied, including examination by such medical experts as the Panel or Committee may designate. The Panel or Committee may direct that any examination expenses be paid by the attorney.
 - b. An attorney suspended because of a judicial declaration of incompetence or involuntary commitment to a mental hospital, who thereafter judicially is declared competent, may apply for reinstatement upon proper proof of the latter declaration, and reinstatement may be subject to such conditions as the Panel may require.
7. **Evidentiary Hearing.** If the Panel holds an evidentiary hearing to determine whether an attorney is disabled or to consider an application for reinstatement, the chairperson of the Committee shall appoint one or more members to offer evidence, examine and cross-examine witnesses, and otherwise represent the Committee.
8. **Waiver of Physician/Patient Privilege.** Filing an application for reinstatement constitutes waiver of any physician-patient privilege with respect to any related treatment of the attorney. The attorney shall disclose the name and address of every psychiatrist, psychologist, physician, hospital, or other health-care provider that has examined or treated him or her since three (3) years prior to his or her suspension and shall furnish the Panel or the Committee written consent to obtain from these sources information and records requested by the Panel or the Committee or its designated medical experts.
9. **Orders Transferring.** Orders transferring attorneys to or from disability inactive status are matters of public record.

L. Complaint against Sitting Member of the Committee on Conduct. If a complaint is lodged against a sitting member of the Committee, in lieu of investigation by any other sitting member of the Committee the court shall appoint a Special Subcommittee consisting of three members of the bar of the court who in the past have served on the Committee but not as co-members with the member against whom the complaint is lodged, or such other members of the bar of the court as the court may choose. The court shall designate one of the three as chair of the Special Subcommittee. The Special Subcommittee shall follow the procedures set out in D.C.COLO.LCrR 57.7E., F., and G., with the exception that the Special Subcommittee shall work directly with the Panel rather than the full Committee.

M. Costs.

- 1. Disciplinary Proceedings.** In all cases where discipline is imposed by the Disciplinary Panel, it may assess against the respondent all or part of the costs incurred in connection with the disciplinary proceedings.
- 2. Reinstatement and Readmission Proceedings.** An attorney who petitions for reinstatement from a suspension or readmission after disbarment shall bear the cost of such proceedings.
- 3. Disability Proceedings.** The Disciplinary Panel may order an attorney to bear the cost of all or any part of the disability proceedings, including the cost of any examinations ordered.

**D.C.COLO.LCrR 58.1
FORFEITURE OF COLLATERAL IN LIEU OF APPEARANCE AND
NOTICE OF CONVICTION**

- A. Scheduled Offenses; Collateral.** For certain scheduled offenses committed within the jurisdiction of this court, collateral may be posted in the scheduled amount set by the court. The collateral schedule for assimilated state-law offenses shall be the same as set forth by the statutes or regulations of the state unless modified by order of a judicial officer.
- B. Petty Offenses; Collateral.** With respect to any petty offense, a judicial officer shall have the authority to specify a collateral forfeiture amount different from that set out in this rule so long as an attorney or other representative of the government consents.
- C. Forfeiture Amount; Payment.** The collateral forfeiture amount set by a judicial officer pursuant to this section shall not be less than the minimum nor greater than the maximum fine that could be imposed upon conviction for violation of the particular regulation. Collateral may be posted by mail. Payment is authorized by cash, check, money order, draft, or court-approved credit card.

- D. Forfeiture.** If a defendant fails to appear before a judicial officer after posting collateral, the collateral shall be forfeited to the United States, and that forfeiture shall be accepted in lieu of appearance and shall terminate the proceeding without entry of judgment.
- E. Increase in Amount of Collateral.** If a defendant fails to post collateral and fails to appear before a judicial officer, a judicial officer may increase the amount of collateral. The increased amount of collateral shall not exceed double the maximum fine which could be imposed upon conviction.
- F. Forfeiture Not Permitted; Appearance Required.** Notwithstanding section D. above, forfeiture of collateral will not be permitted, and the defendant is required to appear before a judicial officer in person or by counsel for:
1. an offense arising from an accident causing personal injury or death;
 2. operation of a motor vehicle while impaired by or under the influence of alcohol or a drug or controlled substance as defined by federal or state statutes;
 3. driving while a driver's license is suspended, denied, or revoked;
 4. reckless driving;
 5. any offense where appearance is required by state or federal statute or regulation;
 6. illegal use or possession of a weapon; and
 7. assault or crime of violence.
- G. Notice of Conviction.** When the defendant is convicted of a motor-vehicle offense that requires a mandatory appearance, the clerk shall send notice of that conviction to the appropriate state agency concerned with motor-vehicle violations.