

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Senior Judge Christine M. Arguello**

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**STANDING ORDER ON CIVIL TRIAL PROCEDURES  
(Effective December 1, 2022)  
(Updated June 8, 2023)**

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Pursuant to Civ. Practice Standard 43.1B, this Standing Order is intended to supplement the Uniform Civil Practice Standards to provide information regarding setting the case for trial, pre-trial preparations, and trial procedures for all civil actions before Senior Judge Christine M. Arguello.

This standing order shall be known as the Court's "Standing Order on Civil Trial Procedures." The rules herein should be cited as CMA Civ. Trial Standing Order, Subsection, Paragraph, Subparagraph, Item (e.g., CMA Civ. Trial Standing Order 43.1B(1)(a)).

**TRIAL PROCEDURES**

**CMA Civ. Trial Standing Order 43.1B(1) – Setting the Case for Trial and Pre-Trial Preparations**

**(a) Final Pretrial Conference.** A final pretrial conference will be held in all civil cases. Unless otherwise ordered by the Court, the assigned Magistrate Judge shall preside over the Final Pretrial Conference as prescribed by Fed. R. Civ. P. 16(d) and D.C.COLO.LCivR 16.3. The primary purpose of the Final Pretrial Conference is to complete and finalize the parties' proposed Final Pretrial Order.

**(b) Final Pretrial Order.** The Proposed Final Pretrial Order shall be prepared in accordance with the Instructions for Preparation of Final Pretrial Order, available under the "Forms" link on the District Court's homepage (<http://www.cod.uscourts.gov/>). The Magistrate Judge may also issue a Trial Preparation Order with specific tasks to be completed before the Pretrial Conference.

**(c) Trial Settings.**

**(1) Term Week Calendar.** Senior Judge Arguello is now setting cases on a term week calendar, which can be found under the "Calendar" link on the District Court's homepage (<https://www.cod.uscourts.gov/>). For this

reason, ALL trials expected to last one week or less will be set for ten days, and the parties shall clear their calendars for the full ten days. Trials need to be set for two weeks because they may be bumped to the second week due to a criminal trial.

- (2) **Length of Trial and Status Conference.** If the parties believe that they will require more than five (5) days for trial, the Court will review the case to determine whether a status conference needs to be set, at which time the parties will present argument to the Court as to why a longer trial is necessary.
- (3) **Scheduling Trial Dates.** The Court will unilaterally set the trial on a Court Term Week within 120 days from the Final Pretrial Conference (trial dates can be found on the Term Week Calendar).

(d) **Final Trial Preparation Conference.** Senior Judge Arguello will preside over the Final Trial Preparation Conference, which will be scheduled approximately two weeks before trial. Unless otherwise ordered, all Final Trial Preparation Conferences will be held via VTC. Counsel are directed to contact Nicholas Richards via email at [nicholas\\_richards@cod.uscourts.gov](mailto:nicholas_richards@cod.uscourts.gov) at least three (3) days before the scheduled hearing for instructions on how to proceed via VTC. Counsel who will try the case and any *pro se* parties must attend this Conference. Failure of chief trial counsel or *pro se* parties to attend may result in sanctions, including, without limitation, vacating the trial date, striking claims or defenses, and/or awarding attorney fees. At the Final Trial Preparation Conference, counsel and/or any *pro se* party should bring to the Court's attention any problems or issues that need to be resolved or addressed before trial commences or that may arise during the course of the trial. The parties should anticipate discussing witnesses, exhibits, *voir dire*, jury instructions, verdict forms, allotted time for openings and closings, trial testimony via deposition, settlement, evidentiary issues, and/or outstanding motions.

(e) **Proposed Case-Specific Voir Dire Questions.** No later than one week before the Final Trial Preparation Conference, the parties shall submit their **case-specific** proposed *voir dire* questions to Chambers via email ([Arguello\\_Chambers@cod.uscourts.gov](mailto:Arguello_Chambers@cod.uscourts.gov)), with a copy to opposing counsel. Parties should NOT file their proposed *voir dire* questions on the CM-ECF system. Routine questions (e.g., whether the jurors know any of the parties, whether they have served on a jury, whether they have any legal training or experience), need not be submitted as these will be included as part of the Court's standard *voir dire*. All proposed *voir dire* questions must be written in a format that can be asked of the jury panel as a whole, i.e., the questions must be "yes or no" questions.

(f) **Trial Briefs.** Trial briefs are not required, absent specific court order. If filed, trial briefs shall not exceed ten pages and shall be filed no later than seven (7) days

before trial. A trial brief may not be used as a substitute for a motion (e.g., a motion *in limine*).

**CMA Civ. Trial Standing Order 43.1B(2) – Motions *in Limine***

(a) **Not Discouraged.** Judge Arguello does NOT discourage motions *in limine*. The admissibility of evidence often depends upon the context in which the evidence is offered, so the Court may be unable to rule on the motion prior to trial. However, if the Court is forewarned about particular evidentiary disputes that are anticipated to arise during trial, the Court is able to make a more informed ruling on the evidentiary issue.

(b) **Conferral and One Motion Limit.** Prior to filing a motion *in limine*, counsel shall confer with one another in an attempt to resolve the contested evidentiary issues. If they are unable to come to a mutual resolution, counsel shall then determine which party will file the motion on the particular evidentiary issue and which party will file the response.

Each party shall be limited to **one** motion *in limine*, unless the Court grants leave for a supplemental filing. The motion shall address all difficult or unusual evidentiary issues the party anticipates will arise at trial, **with each discrete evidentiary dispute separately numbered within the motion**. Each motion and response shall be limited to eight pages, unless there is a showing of **substantial** good cause and the Court grants leave to extend the page limits. All text in these filings will count against the page limits, except for the attorney or party signature blocks and the certificate of service. No reply brief in support of a motion *in limine* will be permitted.

(c) **Filing Deadlines.** In order to ensure that motions *in limine* are ripe for ruling at the Final Trial Preparation Conference, such motions must be filed **no later than twenty-one (21) days prior** to the Final Trial Preparation Conference. A response to a motion *in limine* must be filed no later than fourteen (14) days after the filing of the motion.

**CMA Civ. Trial Standing Order 43.1B(3) – General Information**

(a) **Court Appearances.**

- (1) **Courtroom A602.** Unless otherwise directed, all matters to be heard by Senior Judge Arguello will be heard in her Courtroom (A602). Matters to be heard by the Magistrate Judge will be in the courtroom assigned to that Magistrate Judge.
- (2) **Punctuality.** Court time is valuable to litigants, counsel, and court staff. Counsel **shall arrive 15 minutes before** any scheduled hearing and

**30 minutes before** any trial and shall confer to confirm what issues are in dispute and what stipulations can be made. If a scheduled matter is called for hearing and a party or a party's counsel is not present, or if an attorney's tardiness delays the scheduled time of a proceeding, the Court may reset the matter for hearing, enter default, impose sanctions, give the tardy attorney the opportunity to perform needed public service through a *pro bono* assignment, or enter any other order.

- (3) **Personal Appearance.** Counsel—and, where specifically directed, the parties—shall appear personally at all hearings, unless leave to appear by telephone/VTC has been timely sought and expressly granted. Motions seeking leave to appear by telephone/VTC should be made at least three (3) business days before the scheduled hearing date. For non-evidentiary hearings, leave to appear by telephone/VTC will be liberally granted, providing that both sides are in full compliance with all prior orders and the case is making satisfactory progress. Leave to appear by telephone/VTC for evidentiary hearings will be granted only in exceptional circumstances.

(b) **Courtroom Organization and Protocol.**

- (1) **Courtroom Setup.** Plaintiff's table is closest to the jury box. There is one lectern in the courtroom at which all counsel and parties shall stand to make any statement or argument, with the exception of opening statement and closing argument. The lectern can be raised up and down, but it cannot be repositioned.
- (2) **Cell Phones.** All cell phones are to be **turned off** before entering the courtroom. If an attorney's cell phone rings during proceedings, the Court is likely to give counsel the opportunity to perform needed public service through a *pro bono* assignment.
- (3) **No Food or Drinks.** No soda, coffee, gum, or food is allowed in the courtroom. Water bottles are permitted. While the COVID-19 pandemic is ongoing, water and cups will not be provided by the Court.
- (4) **Delivery of Supplies.** The Court does not accept the delivery of supplies or other trial materials. Parties should coordinate among themselves for the delivery and receipt of any materials required for hearing or trial.
- (5) **New Issues or Filings.** Prior to the beginning of the hearing, please advise the Courtroom Deputy of any recent or anticipated filings or issues.

### **CMA Civ. Trial Standing Order 43.1B(4) – Exhibits**

(a) **Conferral and Joint Exhibit List Required.** Counsel are required to meet and confer before the Final Trial Preparation Conference to exchange exhibits and to prepare a single, joint list of exhibits that they expect to offer. No exhibit is to be designated as “Plaintiff’s Exhibit” or “Defendant’s Exhibit.” The parties must stipulate to the authenticity and admissibility of as many exhibits as possible, marking the appropriate boxes on the Exhibit List form. Parties must pre-mark numerically all exhibits that will be used or identified for the record in a hearing or trial; the markings should also include the applicable case number.

(b) **Format of the Joint Exhibit List.** The Joint Exhibit List submitted by the parties must include all the information identified in the Civil Case Exhibit List found with Senior Judge Arguello’s Practice Standards on the District Court website (<http://www.cod.uscourts.gov/JudicialOfficers.aspx>).

(c) **When and How to Submit the Joint Exhibit List:** The Joint Exhibit List shall be emailed to Chambers (not filed via CM-ECF), at least seven (7) days before the Final Trial Preparation Conference.

(d) **Stipulation Does Not Result in Automatic Admission.** A “stipulated” notation on an exhibit list does not automatically result in the admission of that exhibit at trial or hearing. Rather, each exhibit must be offered orally on the record. If parties have stipulated to the authenticity and admissibility of an exhibit, counsel merely needs to so inform the Court upon offering the exhibit by number.

(e) **Exhibit Binders or Folders.**

- (1) Unless otherwise indicated, exhibits must be submitted to the Clerk’s office (ATTN: Nicholas Richards) on a flash drive no later than 12:00pm on the Monday before the first day of the trial. The exhibit flash drive should include all exhibits that the parties plan to use or introduce, including those that are stipulated, contested, and demonstrative. With the exception of composite exhibits, each exhibit shall consist of a single document and not a group of separate documents. The trial may be delayed or continued until exhibits are provided.
- (2) Unless otherwise indicated, on the first day of trial, the parties shall provide the Courtroom Deputy with:
  - (A) Four copies of the Joint Exhibit and Witness Lists;
  - (B) One three-ring binder containing the original exhibits (for the Court). Jurors will not receive individual exhibit binders; instead,

they view exhibits on the ELMO during the trial. During deliberations, jurors will use a thumb drive of admitted exhibits. The parties will prepare the thumb drive of admitted exhibits and provide the same to the courtroom deputy before deliberations begin. All exhibits must be in numerical sequence.

- (C) An electronic version of the exhibits in proper sequence on disc or thumb drive for the Court Reporter.

**(f) Voluminous Evidence.**

- (1) Parties shall either (a) redact voluminous evidence to reflect only the relevant portions and portions necessary for context; or (b) consistent with the requirements of Fed. R. Evid. 1006, prepare and offer charts, summaries, or calculations to communicate the contents of voluminous evidence to the Court and jury.
- (2) Additionally, parties shall include any redacted evidence or Rule 1006 chart, summary, or calculation they intend to use at trial in the list of exhibits set forth in the Final Pretrial Order and in the exhibit copies exchanged following the Final Pretrial Conference. The underlying voluminous evidence on which such redacted, summary, chart, or calculation exhibit is based shall be identified in an appendix to the exhibit list and such underlying evidence shall be made available to the other parties at the time the parties exchange exhibits.

**(g) No Oversized Exhibits; ELMO & Electronic System Training.** All exhibits are to be displayed on the ELMO, which is approximately 8½" x 11". Over-sized exhibits or demonstratives are not as effective as using the ELMO and will not be permitted unless they are approved by the Court. Alternatively, exhibits may be presented through the Court's electronic system and screens via a laptop computer. Training in effective use of the ELMO system, and/or the Court's electronic system, prior to trial is highly encouraged, and can be arranged by contacting Nicholas Richards at [nicholas\\_richards@cod.uscourts.gov](mailto:nicholas_richards@cod.uscourts.gov).

**CMA Civ. Trial Standing Order 43.1B(5) – Witnesses**

**(a) Format of Witness List.** The Witness List submitted by the parties must include all the information identified in the Civil Case Witness List found with Senior Judge Arguello's Practice Standards on the District Court's website: <http://www.cod.uscourts.gov/JudicialOfficers.aspx>.

**(b) When and How to File.** Each party shall submit a list of its proposed witnesses at the time and in the manner set forth in the Court's orders or, if no time

or manner has been specified, as set forth below:

- (1) **Final Trial Preparation Conference:** Emailed directly to Chambers ([Arguello\\_Chambers@cod.uscourts.gov](mailto:Arguello_Chambers@cod.uscourts.gov)), NOT filed via CM-ECF, at least seven (7) days before the Conference. Witnesses not listed in the Final Pretrial Order may not be included in the Final Witness List without prior leave of Court for substantial good cause shown.
- (2) **Trials:** On the morning of trial, the parties shall provide the Courtroom Deputy with **four paper copies** of their respective witness and exhibit lists, which shall include an estimate of the time anticipated for each witness's testimony.
- (c) **Ensuring Witness Presence.** Counsel desiring a witness's physical presence at a trial shall ensure the presence of that witness either by written stipulation with the opposing party (if the witness is in the control of that party) or by subpoena (in all other circumstances).
- (d) **Sequestration Orders.** Sequestration orders should be strictly observed. Expert witnesses may not sit in on trials in which sequestration orders have been entered except with express prior authorization. Witnesses should not be "prepped" or their testimony reviewed during breaks after they have been sworn in. Witnesses who have not yet testified at trial should not be provided transcripts of trial proceedings. However, they may be prepared by asking them questions based upon hypotheticals. Once excused, witnesses may sit in the courtroom, unless a party has a good faith belief that the witness will be called again for rebuttal purposes and makes an ongoing exclusion request with the Court.
- (e) **Testimony by Telephone or Video Conference.** Parties should follow Civ. Practice Standard 43.1D(c) regarding testimony by telephone or video conference.

**CMA Civ. Trial Standing Order 43.1B(6) – Use of Depositions in Court Proceedings**

- (a) **Procedure.** Together with Fed. R. Civ. P. 32, this Practice Standard governs the use of both regular and video depositions in court proceedings.
- (b) **Sealed Original and One Court Copy.** At the beginning of a hearing or trial, the offering party shall deliver to the Courtroom Deputy the sealed, original transcripts of all depositions the party intends to use, whether for impeachment or otherwise. The offering party shall also provide the Court with a binder containing copies of any deposition transcripts the party plans to use, with tabs identifying the depositions.

(c) **No Substantive Use If Testifying Witness.** Unless otherwise permitted for good cause shown, if any party will be calling a witness to testify in person at trial, testimony by that witness via deposition on behalf of any party for substantive (as opposed to impeachment) purposes will not be allowed.

(d) **Designations.** Any party intending to offer deposition testimony in lieu of a live witness at trial shall provide opposing counsel with his/her designations of deposition testimony **at least twenty-one (21) days before the Final Trial Preparation Conference.** Within seven (7) days of receipt of these designations, opposing counsel shall provide counter-designated deposition testimony. Plaintiff's designations shall be highlighted in yellow, Defendant's in blue, and any other party's in green. Within seven (7) days of the Final Trial Preparation Conference, the parties shall exchange objections to all designated testimony, and make a good-faith attempt to resolve such objections. Objections to testimony shall be highlighted in red. Two copies of the highlighted deposition transcript(s) shall be provided to Judge Arguello at the beginning of trial.

Deposition testimony will be presented in the same manner as live testimony, i.e., objections to properly designated deposition testimony will be made during trial in the same way objections to live testimony are made.

(e) **Technical Requirements for Video Depositions.** To accommodate evidentiary objections to video deposition testimony, the proponent must have the technical ability to mute excluded responses and efficiently fast forward to the next segment of testimony.

(f) **Deposition Reader.** If evidence is to be presented through a written deposition transcript in a jury trial, the proponent shall supply a person to read from the deposition transcript.

(g) **Bench Trials.** For bench trials, depositions will not be read in open court. Instead, the Court will read them in Chambers in any requested sequence. At the beginning of the trial, the offering party shall provide the Courtroom Deputy with two copies of the relevant deposition transcript marked as an exhibit, marked as set forth in CMA Civ. Trial Standing Order 43.1(B)(6)(d).

#### **CMA Civ. Trial Standing Order 43.1B(7) – Bench Trials**

(a) **Time.** Trials to the Court will begin promptly at 8:30 a.m.

(b) **Elements Instructions.** The parties shall confer and submit stipulated elements instructions on the claims and affirmative defenses to be tried to the Court. If the parties are unable to reach a stipulation as to the elements, then the parties shall submit competing elements instructions with supporting legal authority, in accordance with CMA Civ. Standing Order 43.1B(9)(f)–(h). The elements instructions



are to be submitted to the Court via email ([Arguello\\_Chambers@cod.uscourts.gov](mailto:Arguello_Chambers@cod.uscourts.gov)) no later than two weeks before the Final Trial Preparation Conference.

(c) **Preliminary Proposed Findings of Fact Conclusions of Law.** Unless otherwise ordered by the Court, the parties should not submit preliminary proposed findings of fact and conclusions of law.

(d) **Expert Witness Qualification.** For a trial to the Court, a proper résumé or curriculum vitae, marked and introduced as an exhibit, generally will suffice for the determination of an expert witness's qualification.

### **CMA Civ. Trial Standing Order 43.1B(8) – Jury Trials**

(a) **Condensed Trial Day.**

- (1) **Trial Schedule.** The first trial day begins at 8:30 a.m. with jury selection. An hour-long lunch break will be taken at approximately 12:00 p.m., and the jurors are excused between 4:30 and 5:00 p.m. All other days will begin promptly at 8:00 a.m. A fifteen-minute recess is taken at approximately 10:00 a.m., and a half-hour lunch recess is taken at approximately 12:15 p.m. Jurors are excused for the day between 2:45 and 3:00 p.m.

(b) **Counsel to Arrive Early Each Day of Trial.** Counsel shall be present in the courtroom at least **30 minutes before** the trial day is scheduled to begin to address any issues that may arise before the start of the trial day. **It is counsel's responsibility to bring such issues to the Court's attention by alerting the Courtroom Deputy prior to the beginning of the trial day.** It is the Court's firm expectation that the Jury will be seated and trial will begin promptly at 8:00 a.m. each day.

(c) **Jury Selection Process.**

- (1) The jury in civil cases will normally consist of ten jurors with no designated alternates.
- (2) Prior to the jurors being brought up to the Courtroom, the Clerk's office provides the Court with a list of juror names, chosen by computer in a randomly selected order. The prospective jurors on the list are seated in and in front of the jury box.
- (3) *Voir dire* will be directed to the prospective jurors seated in the jury box. The Court will conduct the initial *voir dire* examination of the prospective jurors. Unless otherwise ordered by the Court, after a brief introduction of the parties and the lawyers, the Court will ask the parties to give their

**opening statements to the entire jury venire.** The Court will then continue with its *voir dire*. Thereafter, each side shall be permitted *voir dire* examination not to exceed 15 minutes, unless otherwise ordered. Such *voir dire* examination shall be limited to non-argumentative questions submitted by the parties and follow-up questions based on previous answers.

- (4) Any juror excused by the Court for hardship will be replaced by the next numerically identified prospective juror in the jury venire who has not already been seated in the jury box.
- (5) After *voir dire* examination is completed, the Court will entertain any challenges for cause. Any juror excused for cause will be replaced by the next numerically identified prospective juror in the jury venire who has not already been seated in the jury box. The Court shall conduct *voir dire* examination of any replacement jurors.
- (6) Pursuant to Fed. R. Civ. P. 47(b) and 28 U.S.C. § 1870, each side shall have three peremptory challenges, which shall be **exercised simultaneously** using a strike sheet. See *Pointer v. United States*, 151 U.S. 396 (1894); *United States v. Martinez-Salazar*, 528 U.S. 304 (2000).
- (7) Challenges pursuant to *Batson v. Kentucky*, 476 U.S. 79 (1986), are made after peremptory challenges are concluded and immediately prior to the jury being sworn.

(d) **Note Taking by Jurors.** Jurors will be permitted to take notes during the trial. The jurors' notes will be destroyed after the jury is discharged.

(e) **Questions by Jurors.** In specific cases, the Court may allow jurors to submit written questions to witnesses while the witness is on the stand. This issue will be addressed at the Final Trial Preparation Conference. The procedure the Court will follow is set forth in its Civil – Model Preliminary Jury Instructions, which can be found at <http://www.cod.uscourts.gov/JudicialOfficers.aspx>.

(f) **Bench Conferences.** Bench conferences are strongly discouraged and will be minimized. Matters should be raised either before or after the trial day.

(g) **Time Limits on Opening Statement/Closing Argument.** Unless otherwise ordered, the time limit for opening statements is 25 minutes per party and the time limit for closing arguments is 30 minutes, inclusive of rebuttal. If counsel intends to do rebuttal, s/he must so advise the Court and reserve the time. Counsel are not allowed to tag-team on opening and/or closing, i.e., only one lawyer per side can do opening and only one lawyer per side can do closing (including rebuttal).

(h) **Speaking Objections Not Permitted.** Speaking objections are not allowed. Objections and responses thereto shall be made specifically and concisely (e.g., “Objection: relevance”), rather than in an argumentative or suggestive manner.

#### **CMA Civ. Trial Standing Order 43.1B(9) – Jury Instructions and Verdict Form**

(a) **Jury Instruction.** The jury will be instructed before closing arguments. Each juror will be given a copy of the written instructions for his/her use during deliberations.

(b) **The Importance of (Far-Too-Often-Neglected) Jury Instructions.** The parties’ preparation of thorough, thoughtful, and clear jury instructions simply cannot be overstated. The Court devotes substantial time to reviewing and refining proposed jury instructions, and expects no less effort from counsel. To this end, the Court requires preparation and submission of instructions several weeks in advance of trial, so counsel and the Court can devote the time necessary for this crucial task **before** other trial preparation demands become overwhelming.

(c) **Conferral and Timing/Method of Submission.** The parties shall meet and confer well in advance of the Final Trial Preparation Conference and stipulate to the verdict form and as many proposed jury instructions as possible, including the statement of the case. Only true conflict or uncertainty in binding substantive law should prevent agreement. The parties shall exchange their proposed jury instructions and verdict forms at least one week before meeting. It is Plaintiff’s counsel’s responsibility (but if Plaintiff is *pro se*, it shall be Defendant’s counsel’s responsibility) to schedule these meeting(s), as well as to submit stipulated jury instructions (and, if applicable, a stipulated verdict form) directly to Chambers via email ([Arguello\\_Chambers@cod.uscourts.gov](mailto:Arguello_Chambers@cod.uscourts.gov)), with copy to opposing counsel/party, **at least two weeks before the Final Trial Preparation Conference**. Similarly, competing and non-stipulated instructions (defined and described in greater detail below) should also be submitted to Chambers via email by the party proffering such instructions **at least two weeks before the Final Trial Preparation Conference**. Instructions shall NOT be filed via CM-ECF. The Court will consider only those jury instructions and verdict forms tendered using the procedures described below.

(d) **Standard Preliminary and Final Instructions.** The Parties are required to use the Court’s model, generic preliminary and final jury instructions that are pertinent to all civil cases. See Senior Judge Arguello’s model preliminary and final instructions, available at <http://www.cod.uscourts.gov/JudicialOfficers.aspx>. If the parties wish to modify the Court’s Model Instructions, or if they believe additional preliminary or final instructions are necessary, they should attempt to stipulate to such instructions and shall follow the instructions set forth below.

(e) **Form Instructions; Plain Language.** The Court generally follows the most current editions of the form instructions provided in Federal Jury Practice and Instructions (for federal claims and introductory instructions) and the Colorado Jury Instructions – Civil (for state claims). However, it encourages counsel to carefully read and **tailor** any form instruction to the facts and circumstances of the particular case, as well as to edit such instructions to use plain language.

(f) **Categories of Jury Instructions.** The Court contemplates three categories of jury instructions, as described below. In order to assist the Court in distinguishing among the different instructions, at the bottom of each instruction (immediately preceding the legal authority), the instruction should be identified as “Stipulated,” “Competing,” or “Non-Stipulated,” and, in the case of competing or non-stipulated instructions, should also identify the party tendering the instruction (e.g., “Plaintiff’s Competing Instruction,” “Defendant’s Non-Stipulated Instruction.”) See Format of Proposed Jury Instructions below.

- (1) **“Stipulated Instructions”:** Stipulated instructions are those instructions about which the parties agree after conferral. There should be no duplication of stipulated instructions (or verdict forms); i.e., if the parties stipulate to a particular instruction or a verdict form, then that instruction or form should be submitted as stipulated only, and no similar instruction or form should appear in any party’s competing or non-stipulated instructions.
- (2) **“Competing Instructions”:** Competing instructions are those instructions about which all parties agree that an instruction is necessary, but disagree about the content of that instruction.
- (3) **“Non-Stipulated Instructions”:** Non-stipulated instructions are those instructions requested by a party (or parties) to which any other party objects, but does not request/tender a competing instruction.
- (4) Each proposed competing or non-stipulated instruction should contain, at the bottom of the instruction, one paragraph of argument from each side, including citations to **legal authority**, explaining why the instruction is tendered or opposed.

(g) **Format of Proposed Jury Instructions.**

- (1) Proposed instructions should NOT be numbered. Each proposed instruction should contain a title, which shall be centered in bold, all caps typeface on the top of the page corresponding to the instruction. For example:

## INSTRUCTION NO. DAMAGES

[Instruction]

Plaintiff's Competing Instruction. Source: 3 Fed. Jury Prac. & Instr. §§ 170:60, 170:63. [Legal Argument.]

- (2) If the parties edit a form or pattern instruction, the parties shall either redline/track such changes or specifically describe them at the bottom of the instruction.
- (3) Proposed instructions should be submitted with "hard page breaks" (**not** the use of "hard returns") between each instruction.
- (4) **Stylistic conventions.** When referring to this Court in the body of the instructions, always capitalize the word "Court." Additionally, do not use articles when referring to the parties, but do capitalize the parties' names or designation. Thus, the preferred format is: "Plaintiff Jones" or "Mr. Jones" or "XYZ Corp." rather than "the Plaintiff/Defendant." Please proofread submissions carefully.

(h) **Charging Conference.** Assuming the parties are cooperating in good faith, the Court will attempt to finalize the proposed instructions and provide them to the parties prior to the start of trial. The Court will examine the jury instructions again when it holds the charging conference before the case goes to the jury (generally, after Plaintiff rests). At the charging conference, the Court will review the proposed final instructions and verdict forms and the parties will have an opportunity to request changes to the proposed instructions and verdict forms and to state their objections on the record. The Court will also address unanticipated matters that arise during trial and that require changes to the jury instructions and/or verdict form at the charging conference or after the close of all evidence.

(i) **Verdict Forms.** As with jury instructions, the Court urges counsel to confer and to craft a verdict form that is understandable to lay persons. In all but the simplest cases, the Court prefers special interrogatory verdict forms, which provide a roadmap for the jury with specific questions keyed to each claim, as well as specific instructions about where to proceed in the verdict form, if, for example, a Plaintiff fails to prove an element of a claim. See Fed. R. Civ. P. 49(a) and Senior Judge Arguello's Civil Jury Verdict Form, available at <http://www.cod.uscourts.gov/JudicialOfficers.aspx>. Verdict forms shall not be filed via CM-ECF; they should be submitted pursuant to the same deadlines and method provided in CMA Civ. Trial Standing Order 43.1B(9)(c).

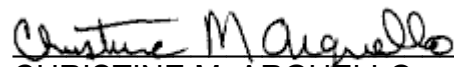
(j) **Final Instructions and Verdict Form.** Court staff will prepare a final, clean

set of instructions and the verdict form for the jury.

SO ORDERED.

DATED: June 8, 2023

BY THE COURT:

  
CHRISTINE M. ARGUELLO  
Senior United States District Judge