

**PRACTICE STANDARDS FOR CIVIL CASES**  
~~(Civil Cases)~~

Judge Daniel D. Domenico  
United States District Court for the  
District of Colorado

Courtroom A1002702  
Chambers A1038  
Alfred A. Arraj Courthouse

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## I. GENERAL PROCEDURES

### A. Applicable Rules

1. Those appearing in the District Court must know and follow:
  - a. The Federal Rules of Civil Procedure;
  - b. The Federal Rules of Evidence;
  - c. The Local Rules of Practice of the United States District Court for the District of Colorado;
  - d. The Electronic Case Filing Procedures (Civil Cases) of the United States District Court for the District of Colorado; and
  - e. These Practice Standards for Civil Cases.
2. Failure to comply with the foregoing rules or procedures or these Practice Standards ~~of this Court~~ may result in appropriate sanctions.

### B. Communications with Chambers

1. Please do not call Chambers. Instead, inquiries to Chambers (e.g., questions about procedure or clarifications to these Practice Standards) should be made via **email** to **Domenico\_Chambers@cod.uscourts.gov**. Email messages to Chambers should identify the case number and name in the subject line and copy all counsel of record. ~~Please do not call Chambers.~~ Chambers staff cannot give legal advice or grant informal requests not made via motion, so please do not contact Chambers about substantive matters.-

1.2. For ~~information~~questions about filing documents electronically, please contact the **ECF Help Desk** at ~~(866) 365-6381~~ or (303) 335-2050, (866) 365-6381, or cod cmecf@cod.uscourts.gov. For other case filing and docketing questions, please contact the Court's Case Administration Specialist at (303) 335-2074.

## C. Citations

1. Citation and formatting may be in *Bluebook* form or in any form that consistently, accurately, and understandably conveys the authorities necessary to support a party's legal argument.

~~2. Though it is not mandatory, counsel may wish to consult the short citation guide prepared by Judge Richard Posner of the Seventh Circuit Court of Appeals, a copy of which is available at [https://www.law.gmu.edu/assets/files/faculty/Posner\\_citation\\_formatting\\_rules.pdf](https://www.law.gmu.edu/assets/files/faculty/Posner_citation_formatting_rules.pdf).~~

~~3.2.~~ These Practice Standards may be cited as “DDD Civ. P.S. XX” (e.g., “DDD Civ. P.S. III(A)(1)”).

~~4.3.~~ Whenever practicable, a citation to an unpublished opinion should include its Westlaw® citation. If an unpublished opinion is not readily available on Westlaw® or LexisNexis®, attach it as an exhibit to the brief or other paper.

## D. Typeface

1. All papers filed with the Court ~~must~~shall be in a proportionally spaced, serif font.

### ~~E.A. Proposed Orders~~

~~Proposed orders submitted pursuant to the Local Rules of Practice or at the direction of the Court shall be filed via CM/ECF and emailed to Domenico\_Chambers@cod.uscourts.gov in editable Word format. The email message should identify the case name and number in the subject line and refer to the underlying motion by CM/ECF number.~~

## ~~C.A. Continuances of Hearings and Trials~~

~~Motions to continue (including motions to vacate or reset) hearings and trials shall be determined pursuant to *United States v. West*, 828 F.2d 1468, 1469-70 (10th Cir. 1987). Oral or written motions to continue made at the time of a hearing or trial may not be entertained by the Court. Stipulations for continuance shall not be effective unless and until approved by the Court.~~

## ~~I.A. Emergency Motions~~

~~Emergency motions are only those necessary to avoid imminent, irreparable harm. Counsel filing an emergency motion should ensure that: (1) the caption of the motion begins with the word “emergency”; (2) the motion is electronically filed using the CM/ECF drop-down menu option entitled “Emergency” on the docket text modification screen; and (3) Chambers is notified of the motion by email at Domenico\_Chambers@cod.uscourts.gov, with a subject line containing “Emergency Motion,” and the case name and number.~~

## ~~K.E. Settlement~~

~~1. If a settlement is reached, the parties must file a notice of settlement that includes the anticipated time required to file dismissal papers or other papers sufficient to resolve the matter. If a partial settlement is reached, the parties must file a notice of the partial settlement or a stipulation of dismissal specifying~~shall promptly notify the Court and request approval of the partial settlement or dismissal and shall specify the claims, counterclaims, cross-claims, defenses, or parties affected by the partial settlement.~~~~

~~1. before~~ If a settlement is reached on the eve of a hearing or trial, please also promptly advise Chambers via email copying all counsel of record promptly, with a subject line containing “Settlement;” and the case number and name ~~and number~~. No deadline, hearing, or trial is vacated or continued unless and until the Court issues an order. ~~If counsel are unable to file dismissal papers or other papers sufficient to resolve the matter before the hearing or trial, the Court may in its discretion require the parties to appear at the scheduled hearing or trial to place the settlement on the record. Regarding~~ If a settlement is reached after noon on the last business day before a jury trials, jury costs may be assessed in accordance with Local Civil Rule 54.2 ~~if a matter is resolved after noon on the last business day before trial. If a matter is resolved the weekend before trial, please file a notice via CM/ECF as soon as possible.~~

~~2. Settlement discussions are encouraged. However, hearings, trials, and pretrial deadlines will generally not be continued or vacated to facilitate settlement negotiations or alternative dispute resolution.~~

~~3.2. If a partial settlement is reached, the parties shall promptly notify the Court and request approval of the partial settlement or dismissal and shall specify the claims, counterclaims, cross-claims, defenses, or parties affected by the partial settlement.~~

~~4.3. The Court generally will not retain jurisdiction (including through open-ended administrative closure) over cases that have been settled. The proper mechanism for enforcing a settlement agreement is, in almost all cases, through a new action. Any motion or stipulation for dismissal requesting that the Court retain jurisdiction after dismissal must~~ shall explain in detail the circumstances necessitating such an approach.

## II. COURTROOM PROCEDURES

### A. Courtroom Operations

1. For information regarding the courtroom, including instructions on how to proceed by telephone conference or video teleconference~~telephonic connection~~, courtroom equipment and technology, courtroom protocol, trial preparation and submission of trial exhibits, and the use of exhibits and deposition transcripts at hearings or trial, ~~the submission of trial exhibits and witness lists, and the use of exhibits at trial~~, please contact the Courtroom Deputy, ~~Patricia Glover~~Robb Keech, at Robb Keech@cod.uscourts.gov(303) 335-2185.

### B. Recording of Proceedings

1. ~~The realtime reporter assigned to the Court is Tracy Weir at (303) 335-2358. Transcripts of proceedings may be ordered from Ms. Weir. To order transcripts of proceedings, please contact the Court Reporter, Tamara Hoffschmidt, at tamarahoffschmidt@gmail.com. Requests for real-time, daily, or hourly copy must be made at least 30thirty days before the trial or hearing. For further details, contact Ms. Weir.~~

2. Not later than **five business days** before any hearing, trial, or other proceeding, counsel and any pro se party must~~shall~~ file ~~and provide the Court, the court reporter, courtroom deputy clerk, opposing counsel, and any pro se party with~~ a glossary of any difficult, unusual, scientific, or technical words, names, places, terms, or phrases.

### C. Exhibits

~~1. Each party must pre-mark all exhibits that will be used or identified for the record in a hearing or trial. The case number shall appear on each exhibit sticker or label.~~

1. Counsel ~~must~~ shall confer and agree from the commencement of discovery on a numbering system that will avoid confusion and duplication, and that will allow the same exhibit number to be used for each exhibit for deposition and trial purposes (e.g., the employment contract at issue would be the same exhibit with the same number for all depositions and at trial). All exhibits should be identified by number only (e.g., “Exhibit 1,” not “Plaintiff’s Exhibit 1”). ~~Counsel shall confer and agree from the commencement of discovery on a numbering system that will avoid confusion and duplication, and that will allow the same exhibit number to be used for each exhibit for deposition and trial purposes (e.g., the employment contract at issue would be the same exhibit with the same number for all depositions and at trial).~~ Numbers for trial exhibits need not be consecutive.

2. Each party must pre-mark all exhibits that will be used or identified for the record at in a hearing or trial. The case number ~~must~~ shall appear on each exhibit sticker or label.

### III. MOTIONS AND OBJECTIONS PRACTICE

#### A. Length Limitations

1. Excluding motions filed under Federal Rule of Civil Procedure 56 or 65 ~~(a) or (b) and papers filed in AP Cases (see Local AP R. 1.1(c))~~, all motions, objections (including objections to the recommendations or orders of United States Magistrate Judges), responses, and briefs ~~must~~ **shall** not exceed **4,000 words**. Reply briefs ~~must~~ **shall** not exceed **2,700 words**. If a party elects to file more than one ~~preliminary motion under Rule 12(b) motion~~, the motions and response briefs ~~must~~ **shall** not exceed **4,000 words total** for all such motions/briefs (not each such motion/brief) filed by each party; reply briefs must not exceed **2,700 words total**.

2. Motions for summary judgment or partial summary judgment, motions for preliminary injunction or temporary restraining order, and related response briefs ~~must~~**shall** not exceed **5,500 words**. Reply briefs ~~must~~**shall** not exceed **2,700 words**. If a party elects to file more than one Rule 56 motion, the motions and response briefs ~~must~~**shall** not exceed **5,500 words total** for all such motions/briefs (not each such motion/brief) filed by each party; reply briefs must not exceed **2,700 words total**.

3. In social-security appeals, the length limitations of paragraph (1) above apply to motions, and the length limitations of Local AP Rule 16.1(c)(2) apply to appellate briefs. In bankruptcy appeals, the length limitations of Federal Rule of Bankruptcy Procedure 8013(f) apply to motions, and the length limitations of Rule 8015(a)(7) apply to appellate briefs. In appeals of agency action under 5 U.S.C. §§ 701-706, the length limitations of paragraph (1) above apply to motions, and the length limitations of paragraph (2) above apply to appellate briefs.

3.4. These ~~length~~**type-volume** limitations ~~shall~~ include footnotes, but ~~shall~~ exclude the case caption, any table of contents or table of authorities, signature block, certificate of service, and certificate of compliance with the applicable ~~length~~**type-volume** limitations. Motions and opening briefs ~~must~~**shall** be combined in a single document and ~~will~~**shall** be considered one paper for purposes of the applicable ~~length~~**type-volume** limitations.

~~4.5. All motions, objections, responses, and briefs. Each pleading must contain a separate statement, immediately after the signature block, certifying that the paperpleading complies with the applicable lengthtype-volume limitations set forth in these Practice Standards (e.g., “I hereby certify that the foregoing paperpleading complies with the lengthtype-volume limitation set forth in DDD Civ. P.S. Judge Domenico’s Practice Standard III(A)(1).”).~~

~~5.6. A party may file a motion to exceed the applicable lengthword limitation explaining the reasons why additional length iswords are necessary. Any such motion mustshall be filed no later than **three business days** before the date the motion, response, reply, or other paper is due.~~

~~6.7. For any party who does not have access to a word-processing system with a word-count function, typewritten or legibly handwritten paperspleadings are subject to page limitations instead of the word limits of paragraphs (1) and (2) above. The following equivalents should be used:~~

- a. 2,700 words = 10 pages;
- b. 4,000 words = 15 pages; and
- c. 5,500 words = 20 pages.

#### ~~**B.A. Untimely or Noncomplying Motions, Objections, Responses, or Replies**~~

~~3.1. Pleadings that are untimely, noncomplying, or filed without a certification when required under Local Civil Rule 7.1(a) or these Practice Standards may be denied without prejudice or stricken *sua sponte*.~~

## **D.B. Responses and Replies**

1. A response ~~must~~shall clearly and completely identify by title, ~~and~~court CM/ECF docket number, ~~and date filed~~, the antecedent motion, ~~objection, or other paper or petition~~ to which the response is made. Similarly, a reply ~~must~~shall clearly and completely identify by title, ~~and~~court CM/ECF docket number, ~~and date filed~~, the antecedent paper the reply supports and the antecedent response to which the reply is made. No sur-reply or supplemental brief is permitted without leave of Court.

2. A party may respond to another party's objections to a magistrate judge's recommended disposition of a dispositive pretrial matter as provided by Federal Rule of Civil Procedure 72(b)(2). A party may respond to another party's objections to a magistrate judge's order on a non-dispositive pretrial matter within fourteen days after being served with a copy of the objections. No reply is permitted without leave of Court.

~~1.3.~~ A notice of supplemental authority may be filed if new relevant authority is issued after briefing closed on a motion, objection, or other pending issue. Such a notice must be limited to (a) a citation to the new authority including the date of issuance, and (b) a single-sentence reference to the issue to which the filing party believes the new authority pertains (including a citation to the location(s) in previously filed briefing where the issue was raised). If the new authority is not readily available on Westlaw® or LexisNexis®, attach it as an exhibit to the notice. No comment, briefing, or response as to the significance or interpretation of the new authority is permitted without leave of Court. No notice of supplemental authority regarding any authority that issued before the close of briefing may be filed without leave of Court.

### **C. Proposed Orders**

1. Proposed orders submitted pursuant to the Local Rules of Practice or at the direction of the Court ~~must~~ shall be filed via CM/ECF and emailed to Domenico\_Chambers@cod.uscourts.gov in editable Word format, copying all counsel of record. The subject line of the email message should identify the case number and name and number in the subject line and refer to the CM/ECF docket number of the underlying motion by CM/ECF number.

### **D. Exhibits**

1. Exhibits to motions, objections, responses, and briefs must be labeled in the CM/ECF system both by exhibit number and by name (e.g., "Exhibit 1 - Smith Affidavit").

2. Copies of documents attached as exhibits to a motion, objection, or other opening brief should not be attached as exhibits to the response, and copies of documents attached as exhibits to a response should not be attached as exhibits to a reply. Any additional exhibit should be attached to the corresponding response or reply and consecutively numbered.

3. Voluminous exhibits are discouraged. Parties should limit exhibits to essential portions of documents.

## **E. Emergency Motions**

1. Emergency motions are only those necessary to avoid imminent, irreparable harm. Counsel filing an emergency motion should ensure that: (1) the caption of the motion begins with the word “eEmergency”; (2) the motion is electronically filed using the CM/ECF drop-down menu option entitled “Emergency” on the docket-text modification screen; and (3) Chambers is notified of the motion by email ~~at~~to Domenico Chambers@cod.uscourts.gov and copying all counsel of record, with a subject line containing “Emergency Motion,” and the case number and name, and the CM/ECF docket number of the motion.

## **F. Continuances of Motions to Continue Hearings and Trials**

1. Motions to continue (including motions to vacate or reset) hearings and trials ~~will~~shall be determined pursuant to *Rogers v. Andrus Transportation Services*, 502 F.3d 1147 (10th Cir. 2007) and *United States v. West*, 828 F.2d 1468, 1469-70 (10th Cir. 1987). Oral or written motions to continue made at the time of a hearing or trial may not be entertained by the Court. Stipulated ~~ed~~ motions for continuance ~~shall~~are not ~~be~~effective unless and until approved by the Court.

**E.G. Preliminary Motions to Dismiss – Fed. R. Civ. P. 12(b)**

1. Rule 12(b) motions are discouraged if the defect is correctable by the filing of an amended pleading. Except in cases where a party is proceeding pro se, counsel must confer prior to the filing of ~~the motion~~ motion under Rule 12(b), (c), (e), or (f) to discuss whether an asserted deficiency is correctable by amendment (e.g., failure to plead fraud with specificity) and should exercise their best efforts to stipulate to appropriate amendments. If the parties are unable to resolve the dispute(s), the moving party must describe in the motion, or in a certificate attached to the motion, the specific efforts taken to comply with this duty to confer and the position of each party at the time the conferral process broke down.

1.2. If matters outside the pleadings are submitted in support of or opposition to a Rule 12 motion, the filing party must address the basis for the Court to consider such matters. Rule 12(b)(6) or 12(c) motions should not be stated in the alternative as a Rule 56 motion for summary judgment. ~~For Rule 12(b) motions, the following format should be used:~~

- ~~· For each claim for relief that the movant seeks to have dismissed, clearly enumerate each element that the movant contends must be alleged, but was not.~~
- ~~· The respondent should utilize the same format for each challenged claim. If the respondent disputes a particular element, it should be identified as “DISPUTED” and briefed. If the respondent contends that a sufficient factual allegation has been made in the complaint, the respondent should identify the page and paragraph containing the required factual allegation.~~
- ~~· If matters outside the pleadings are submitted in support of or opposition to a Rule 12(b) motion, the party should discuss whether the 12(b) motion should be converted to a summary judgment motion.~~

#### **H. Motions to Amend Pleadings – Fed. R. Civ. P. 15**

1. When a party seeks leave to amend a pleading on or before the applicable scheduling-order deadline, the Court will freely grant leave to amend. See Fed. R. Civ. P. 15(a)(2). Parties are discouraged from opposing a timely request to amend a pleading on the basis of futility of the proposed amendment; futility arguments are better addressed through an appropriate Rule 12 motion filed after the amended pleading is in place.

## I. Motions for Summary Judgment – Fed. R. Civ. P. 56

1. ~~Due the voluminous factual materials often submitted with~~ Rule 56 motions, ~~all such motions~~ must comply with the following:

a. ~~In a section of the brief required by Local Civil Rule 56.1(a) styled “Statement of Undisputed Material Facts,” the movant must-~~ ~~shall~~ set forth in simple, declarative sentences, separately numbered and paragraphed, each material fact that the movant believes is not in dispute and that supports the movant’s claim that the movant is entitled to judgment as a matter of law. \_

b. ~~Each material fact must be accompanied by a specific reference to material in the record that establishes that fact. General references to pleadings, depositions, or documents are usually insufficient if the document is more than one page in length.~~ \_

e.a. \_ A general reference is sufficient only if the nature of the material fact does not permit a specific reference (*e.g.*, “The contract contains no provision for termination.”).

2. Responses to Rule 56 motions must comply with the following:

a. ~~Any party opposing the motion for summary judgment shall,~~ ~~In a section of the response brief styled “Response to Statement of Undisputed Material Facts,” the opposing party must~~ admit or deny ~~each of~~ the movant’s asserted material facts. ~~The~~ Each admission or denial ~~must~~ ~~shall~~ be made in a separate paragraph numbered according to the ~~correspondingly numbered~~ paragraph in the movant’s “Statement of Undisputed Facts.” Any denial ~~must~~ ~~shall~~ be accompanied by a brief factual explanation of the reason(s) for the denial and a specific reference to material in the record supporting the denial.

b. If the party opposing the motion believes that there are additional ~~disputed questions of fact~~ material facts that have not been adequately addressed in its “Response to Statement of Undisputed Facts” ~~the submissions made pursuant to subparagraph (d) above~~ (e.g., ~~disputed~~ facts concerning an affirmative defense), the party ~~must~~ shall, in a separate section of the brief styled “Statement of Additional ~~Disputed~~ Facts,” set forth in simple, declarative sentences, separately ~~numbered and~~ numbered continuing from the previous list, each additional, material ~~disputed~~ fact that undercuts the movant’s claim that it is entitled to judgment as a matter of law. Each such fact ~~must~~ shall be accompanied by a specific reference to material in the record establishing the fact or demonstrating that it is in genuine ~~disputed~~.

2.3. Any reply brief in support of a Rule 56 motion must comply with the following:

a. In a ~~separate~~ of the brief section styled “Reply Concerning Undisputed Facts,” the movant ~~must~~ shall include any factual reply it cares to make regarding the facts asserted in its motion to be undisputed, supported by specific references to material in the record. ~~The~~ Each reply ~~must~~ will be made in a separate paragraphs numbered according to the corresponding paragraph in its motion and the opposing party’s response.

b. ~~If the response brief contains a “Statement of Additional Facts” pursuant to subparagraph (2)(b) above, the movant must, in a separate section of the reply brief styled “Response to Statement of Additional Concerning Disputed Facts,” (with respect to each additional fact that the opposing party asserts or, pursuant to subparagraph (e) above, claims to be in dispute), the movant shall either admit that the fact or that it is in genuine dispute or supply a brief factual explanation for its position that the fact is undisputed, supported accompanied by a specific reference to material in the record establishing the fact is undisputed. This must will be done in separate paragraphs numbered according to the corresponding paragraphs in with the opposing party’s response paragraph numbering.~~

3.4. In any admission or denial, the party must admit or deny the factual substance of the other party’s assertion, unless doing so would violate a recognized privilege. To this end, the following restrictions apply:

a. ~~The opposing A party may not deny an assertion on grounds of evidentiary admissibility or other reasons for inadmissibility (including, irrelevance, immateriality, lack of authenticity, lack of foundation, incompleteness, waiver, or estoppel). The opposing A party “may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence at trial,”~~ Fed. R. Civ. P. 56(c)(2), and any party so objecting must include a concise explanation of its objection, but the party must still admit or deny the factual substance of the assertion.

b. The opposing party may not deny an assertion for lack of knowledge, unless the party states within the body of its response a well-grounded request for additional discovery under Federal Rule of Civil Procedure 56(d) and attaches to the response the affidavit or declaration required by that Rule.

c. ~~The opposing~~A party may not admit an assertion in terms such as “admitted that John Doe *claims* such-and-such,” unless the assertion itself is framed in terms of what John Doe “claims.”

d. ~~The opposing~~A party may not respond that a quoted or summarized document “speaks for itself,” or similar phrases. When faced with such assertions, the opposing party must address their substance, including, for example, an admission or denial that the relevant portion of the document has been quoted or summarized accurately or completely.

4.5. The sole purpose of these procedures is to establish facts and determine which of them are in genuine dispute. Legal argument is not permitted herein the sections of the briefs submitted pursuant to subparagraphs (1)-(3) above, and instead should be reserved for separate portions of the briefs. If, for example, a party believes that an established fact is immaterial, that belief should be expressed in the part of the brief devoted to legal argument, and the fact should be admitted. If, on the other hand, a party believes that the reference to material in the record does not support the claimed fact, that fact may be denied, and *factual* argument may appropriately be made pursuant to these procedures.

~~e. See Local Civil Rule 56.1(e) regarding submission and marking of summary judgment exhibits. All summary judgment exhibits shall be labeled in the CM/ECF system both by exhibit number or letter and by name (e.g., “Exhibit 1 – Smith Affidavit”).~~

6. Failure to follow these procedures may result in an order striking or denying the motion or brief, and it will have to be re-submitted. Repeated failures may result in an order granting other proper relief.

## J. Motions to Exclude Expert Testimony – Fed. R. Evid. 702

1. A party objecting to the admissibility of opinion testimony by an expert witness ~~must~~shall file a written motion seeking its exclusion. If a deadline for filing such motions is not set in the scheduling order, such motions must be filed **thirty days** after the deadline for disclosure of rebuttal expert witnesses. The time for filing responses and replies ~~is~~shall be governed by Local Civil Rule 7.1(d). Failure to raise an issue concerning a putative expert witness (whether under Federal Rule of Evidence 401, 403, 702, and/or 704) in the time and manner set forth herein will constitute a waiver or forfeiture of the issue.~~(The failure of an opponent to file such a motion, however, does not relieve the proponent of its burden to show that the proffered testimony is admissible at trial.)~~

2. The motion ~~must~~shall identify with specificity each opinion the moving party seeks to exclude. The motion ~~must~~shall also identify the specific ground(s) on which each opinion is challenged, e.g., ~~relevan-~~ey~~qualifications, helpfulness,~~ sufficiency of facts ~~and~~or data, ~~reliability~~of methodology or its application. See Fed. R. Evid. 702.

~~3.~~—If the opinion(s) ~~was~~ere disclosed in a written expert report pursuant to Federal Rule of Civil Procedure 26(a)(2)(B), a complete copy of the report ~~must~~shall be attached as an exhibit to the motion.

~~4.3. If a deadline for filing such motions is not set in the scheduling order, such motions must be filed **thirty days** after the deadline for disclosure of rebuttal expert witnesses. The time for filing responses and replies shall be governed by Local Civil Rule 7.1(d).~~

K. Untimely or Noncomplying ~~Papers~~Motions, Objections, Responses, or Replies

1. Pleadings~~Motions, objections, responses, replies, briefs, or other papers~~ that are untimely, noncomplying, or filed without a certification when required under Local Civil Rule 7.1(a) or these Practice Standards may be denied without prejudice or stricken *sua sponte*.

IV. TRIALS

A. Trial Scheduling and Preparation~~Final—Pretrial Conference/Trial Preparation Conference~~

1. The Court generally will ~~generally~~ contact the parties to set a trial date and Final Pretrial Conference/Trial Preparation Conference date(s) after the dispositive--motions deadline has passed and the Court has issued rulings on all pendingsueh motions. If there are no pending motions and the Court has not contacted the parties or issued an order regarding trial scheduling within one month after the dispositive-motions deadline has passed, counsel and pro se parties may email Chambers at Domenico Chambers@cod.uscourts.gov and politely inquire regarding trial scheduling. Such email messages should identify the case number and name in the subject line and copy all counsel of record.

2. In most cases, the Court will combine~~set~~ the Federal Rule of Civil Procedure 16(e) Final Pretrial Conference ~~with a Trial Preparation Conference, held~~ approximately three to four weeks before trial and a separate Trial Preparation Conference the week before trial. Counsel who will try the case must attend both conferences.

~~2.3. Once a trial date and Final Pretrial Conference/Trial Preparation Conference date(s) have been set, t~~The Court will issue a trial preparation~~n~~ order specifying the pretrial tasks to be completed (e.g., proposed Final Pretrial Order, motions *in limine*, proposed jury instructions, etc.) and the deadlines for those tasks.

## **B. Jury Trials**

~~1. The jury in civil cases will normally consist of nine jurors. Pursuant to Federal Rule of Civil Procedure 47(b) and 28 U.S.C. § 1870, each side shall have three peremptory challenges.~~

~~2.1.~~ Challenges pursuant to *Batson v. Kentucky*, 476 U.S. 79 (1986), ~~must~~shall be made ~~and considered~~ after peremptory challenges ~~have~~are concluded and before the jury is sworn. A party that wants to preserve a *Batson* challenge should request that the Court not ~~to~~ release any jurors subject to the challenge.

~~3.2.~~ Jurors will be permitted to take notes during the trial.

~~4.3. The jury will be instructed before closing argument, and e~~Each juror will be given a copy of the written jury instructions for use during deliberations.