

PRACTICE STANDARDS
(Criminal Cases)

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

Courtroom 702
Alfred A. Arraj Courthouse

Chambers A738, Seventh Floor
901 19th St.
Denver, CO 80294

Telephone: (303) 335-2468
Email: Domenico_Chambers@cod.uscourts.gov

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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 Criminal Procedure;
 - b. The Federal Rules of Evidence;
 - c. The Local Rules of Practice of the United States District Court for the District of Colorado;
 - d. The Electronic Case Filing Procedures (Criminal Cases); and
 - e. These Practice Standards.
2. Failure to comply with the foregoing rules or procedures or the Practice Standards of this Court may result in the imposition of appropriate sanctions.

B. Communications with Chambers

~~If after reviewing Inquiries to Chambers (e.g., questions about procedure or clarifications to these Practice Standards and the Local Rules of Practice, you still have a question about procedure,) should be made via email Chambers-atto Domenico_Chambers@cod.uscourts.gov. Please do not call Chambers. Chambers staff cannot give legal advice or grant informal requests ~~over the telephone~~ not made via motion, so please do not contact Chambers about substantive matters. ~~Please do not call Chambers about clarifications to the Practice Standards or to ask about the status of a motion or order.~~ For information about filing documents electronically please contact the **ECF Help Desk** at **(866) 365-6381** or **(303) 335-2050**.~~

C. Citations

1. Citation and formatting may be in Bluebook form or in any manner that consistently, accurately, and understandably conveys the supporting 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.

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

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 Whenever practicable, a citation to an unpublished opinion should include its Westlaw® citation. If an unpublished opinion is not readily available on Westlaw® or LexisNexis®, attach it as an exhibit to the brief.

D. Typeface

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

E. 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.

F. 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). If a party seeks to continue a hearing or trial outside of Speedy Trial Act deadlines, it will also be decided pursuant to the Speedy Trial Act. 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.

G. 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~~docket text modification screen; and (3) ~~Judge Domenico’s~~ 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.

II. COURTROOM PROCEDURES

A. Courtroom Operations

For information regarding the courtroom, including telephonic connection, courtroom equipment and technology, courtroom protocol, trial preparation, use of deposition transcripts, the submission of trial exhibits and witness lists, ~~or~~and the use of exhibits at trial, please contact the Courtroom Deputy, **Patricia Glover**, at **(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. Requests for realtime, daily, or hourly copy must be made at least **30 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 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, 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.

2. 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.

III. MOTIONS AND OBJECTIONS PRACTICE

A. Length Limitations

1. All motions, objections, responses, and briefs shall not exceed **4,000 words**. Reply briefs shall not exceed **2,700 words**.

2. These type-volume limitations shall include footnotes, but shall exclude the caption, signature block, certificate of service, and certificate of service compliance with the applicable type-volume limitations. Motions and opening briefs shall be combined and shall be considered one paper for purposes of type-volume limitations.

3. Each pleading must contain a separate statement, immediately after the signature block, certifying that the pleading complies with the applicable type-volume limitations set forth in these Practice Standards. (e.g., “I hereby certify that the foregoing pleading complies with the type-volume limitation set forth in Judge Domenico’s Practice Standard III-(A)-(1-~~2~~)-~~1~~”).

4. A party may file a motion to exceed the word limitation explaining the reasons why additional words are necessary. Any such motion shall be filed no later than **three business days** before the date the motion, response, reply, or other paper is due.

5. For any party who does not have access to a word-processing system with a word-count function, typewritten or legibly handwritten pleadings are subject to page limitations instead. 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. Responses and Replies

A response shall clearly and completely identify by title, court CM/ECF docket number, and date filed, the antecedent motion or petition to which response is made. Similarly, a reply shall clearly and completely identify by title, court CM/ECF docket number, and date filed, the antecedent response to which reply is made.

C. Speedy Trial

Every motion filed shall include a statement concerning the status of, and the impact the motion may have, on the speedy trial clock.

IV. TRIALS

~~A. Motions *in Limine*~~

~~Motions *in limine* are discouraged when the motion cannot be resolved until evidence is presented at trial. Instead, such evidentiary issues can be flagged in a trial brief. If motions *in limine* are filed, they must be filed **seven days** before the Trial Preparation Conference.~~

B.A. Trial Preparation Conference

1. The Court will generally contact the parties to set a trial date and Trial Preparation Conference date after counsel for both sides have entered an appearance.

~~1. The Trial Preparation Conference will usually be held approximately **threefour** to **10seven** days before trial. Counsel who will try the case must attend. ~~Once a trial date has been set, the Court will issue an~~ The Court's order ~~that will confirm setting~~ the trial date, ~~confirm the and~~ Trial Preparation Conference date, ~~and will~~ specify the pretrial tasks to be completed ~~before the Trial Preparation Conference.~~~~

~~2. **Two business days** before the Trial Preparation Conference, the parties shall file their (*e.g.*, motions *in limine*, proposed witness and exhibit lists via CM/ECF. Defendants do not need to be listed on defendants' witness lists. Witness jury instructions, etc.) and exhibit list forms can be found at <http://www.cod.uscourts.gov/JudicialOfficers/ActiveArticleIIIJudges/HonDanielDDomenico.aspx>. the deadlines for those tasks.~~

C.B. Jury Trials

~~1. The parties shall file their proposed jury instructions and verdict forms **two business days** before the Trial Preparation Conference.~~

~~a. The proposed instructions shall identify the source of the instruction and supporting authority. Each instruction should be numbered (*e.g.*, "Government's Instruction No. 1") for purposes of making a record at the jury instruction conference. The parties shall attempt to stipulate to the jury instructions, particularly "stock" instructions and verdict forms.~~

~~b. — The parties shall submit their proposed instructions and verdict forms both via CM/ECF and by email to Domenico_Chambers@cod.uscourts.gov in editable Word format. Proposed verdict forms shall be submitted in a separate file from the proposed jury instructions. Within the jury instruction file, each jury instruction shall begin on a new page.~~

~~e. — Whenever practicable and appropriate, the parties shall use or adapt for use the Criminal Pattern Jury Instructions prepared by the Criminal Pattern Jury Instruction Committee of the United States Court of Appeals for the Tenth Circuit. The pattern instructions and updates may be found online at <https://www.ca10.uscourts.gov/clerk/downloads/criminal-pattern-jury-instructions>.~~

~~2. — The parties shall file their proposed *voir dire* questions **two business days** before the Trial Preparation Conference. Unless ordered otherwise, each side shall be permitted *voir dire* examination of **fifteen minutes** after *voir dire* examination by the Court.~~

~~3. — Counsel and pro se parties shall be present on the first day of trial at 8:00 a.m. Jury selection will begin at 8:30 a.m. Commencing the second day of trial, the normal trial day will begin at 8:30 a.m. and continue until 5:00 p.m. The trial day will have morning and afternoon recesses of approximately fifteen minutes in duration. A lunch break of approximately **90 minutes** will be taken at approximately 12:00 p.m.~~

1. 4. — The jury in criminal cases will normally consist of twelve jurors, and the Court may in its discretion impanel alternate jurors pursuant to Fed. R. Crim. P. 24(c). Each side shall have the number of peremptory challenges prescribed by Fed. R. Crim. P. 24(b) and (c)(4).

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

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

4. 7. — The jury will be instructed before closing argument, and each juror will be given a copy of the written jury instructions for use during deliberations.

~~D. Trials to the Court~~

~~1. Trials to the Court will begin at 8:30 a.m. on the first day of trial.~~

~~2. For trial to the Court, a resumé or *curriculum vitae*, marked as an exhibit, generally will suffice for the qualification of an expert witness.~~

~~C. Trial Briefs~~

~~Trial briefs are encouraged, but not required absent specific court order. If filed, trial briefs shall not exceed **2,700 words** and shall be filed not later than **two business days** before the Trial Preparation Conference. A trial brief may not be used as a substitute for a motion.~~

V. PLEA AGREEMENTS

A. Treatment of Notice of Disposition

Any notice of disposition filed pursuant to D.C.COLO.LCrRLocal Criminal Rule 11.1(a) shall be considered to be a proposed plea agreement within the meaning of 18 U.S.C. § 3161(h)(1)(G) for the purpose of computing time under the Speedy Trial Act, 18 U.S.C. §§ 3161-74.