

**CIVIL PRACTICE STANDARDS**  
**VISITING U.S. MAGISTRATE JUDGE JAMES P. O'HARA**  
(Revised February 13, 2024)

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF COLORADO**

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## I. GENERAL PURPOSE AND RELATION TO OTHER RULES

(A) **Purpose.** These Civil Practice Standards are intended to facilitate “the just, speedy, and inexpensive determination of every action and proceeding,” as contemplated by Rule 1 of the Federal Rules of Civil Procedure. They are intended to supplement, rather than supplant or supersede, the Federal Rules of Civil Procedure and the Local Rules of Practice for the District of Colorado. In addition, with regard to cases referred to Judge O’Hara, parties and counsel should adhere to the practice standards of the presiding Article III District Judge.

(B) **Applicable Rules.** Those appearing in this Court, including attorneys and *pro se* litigants, must know and comply with:

1. [The Federal Rules of Civil Procedure](#);
2. [The Federal Rules of Evidence](#);
3. [The Local Rules of Practice for the United States District Court for the District of Colorado](#);
4. [The Electronic Case Filing Procedures](#);
5. The presiding Article III District Judge’s practice standards; and
6. These Civil Practice Standards.

## II. COMMUNICATIONS WITH CHAMBERS

(A) **Case Information and Scheduling.** Judge O’Hara is a semi-retired visiting magistrate judge on recalled status. He has volunteered to serve in the District of Colorado on a temporary, part-time basis. He does not have any permanently assigned law clerks or a courtroom deputy in his home district (Kansas) or in Colorado. That is, unlike the full-time, active magistrate judges in Denver, Judge O’Hara has no chambers staff available to answer questions of an administrative or logistical nature. Therefore, emails to chambers concerning such inquiries are highly preferred over lengthy voice-mail messages, and only then after one actually has reviewed the materials mentioned in Section I(B) above.

(B) **Documents Submitted to Chambers.** Documents required to be submitted to chambers pursuant to local rule, court order, or these Civil Practice Standards shall be submitted via email to [ksd\\_ohara\\_chambers@ksd.uscourts.gov](mailto:ksd_ohara_chambers@ksd.uscourts.gov). Please include the case number, case name, and document description in the subject line of the email.

(C) **Transcripts.** All proceedings before Judge O'Hara will be audio-recorded. Electronic copies of the audio recording may be requested by contacting the Court Operations Supervisor, Nicholas Richards, at [Nicholas.richards@cod.uscourts.gov](mailto:Nicholas.richards@cod.uscourts.gov). Transcripts may be requested by contacting Patterson Transcription Company at 303-755-4536 or AB Litigation Services at 303-629-8534.

### III. DISCOVERY DISPUTES

(A) **Purpose.** To avoid unnecessary and expensive motion practice, a party may not file an opposed discovery motion without first complying with these discovery dispute procedures. Filing a disputed discovery motion without permission from Judge O'Hara may result in the motion being stricken and the imposition of appropriate sanctions.

(B) **Procedure.**

1. *Step One:* The parties must meet and confer **in person or on the telephone** and make a reasonable, good faith effort to resolve the discovery dispute without the need for judicial intervention. The parties must discuss their respective positions in detail, providing the legal and factual basis for each position, as well as any compromise position that would be acceptable.
2. *Step Two:* If the parties' efforts to meet-and-confer are unsuccessful, the parties shall **jointly** email chambers to request a telephonic discovery hearing before Judge O'Hara on a date and time convenient for all parties. This email should describe in detail the parties' meet-and-confer efforts and any need for briefing of the issues in dispute. Upon receipt and review of this email, Judge O'Hara will decide whether the dispute actually lends itself to a telephonic discovery hearing, or whether formal motion practice would be more appropriate (e.g., if attorney-client privilege issues are involved). In either event, because of the logistical constraints outlined in Section II(A) above, Judge O'Hara may elect to have a particular case reassigned for handling by one of the full-time, active magistrate judges in Denver.
3. *Step Three:* At least three business days prior to any telephonic hearing with Judge O'Hara, the parties shall submit via email to his chambers a joint statement no longer than 5 single-spaced pages (in at least 12-point font), setting out each party's position with regard to each dispute. The

joint statement should not be filed on the Electronic Court Filing system. The purpose of Judge O'Hara's discovery dispute procedures, including the requirement of a joint statement in lieu of seriatim briefing, is to resolve the parties' discovery disputes in the most efficient and cost-effective manner possible. Judge O'Hara strongly encourages the parties to be as succinct as possible, presenting a short statement of each dispute with citations to legal authority where appropriate. If supporting documents are referenced, they should be attached but redacted so as to include only those portions that are directly pertinent. Documents shall not be submitted for *in camera* review without prior permission from Judge O'Hara.

4. *Step Four*. The discovery hearing will be conducted on the record. If the matter is appropriate for immediate adjudication, Judge O'Hara will issue its order on the record at the hearing, and may direct counsel to draft a short proposed order confirming the rulings made. If Judge O'Hara determines that the matter requires additional briefing, Judge O'Hara usually sets an expedited briefing schedule.

All parties that wish to participate in the telephonic discovery hearing shall do so by calling 571-353-2301 at the scheduled time and utilizing guest code: 595112843#. The participants may hear the conclusion of a prior hearing at the time they call in and are instructed to simply wait until their case is called.

- (C) **Document Retention.** The parties shall retain the original copy of all documents submitted to Judge O'Hara during the discovery dispute process (e.g., joint statements, discovery responses, documents submitted for *in camera* review) until 60 days beyond the later of the time to appeal or the conclusion of any appellate proceedings.

#### **IV. MOTION PRACTICE**

- (A) **Meet and Confer.** Judge O'Hara reminds the parties of their obligation pursuant to D.C.COLO.LCivR 7.1(a) to meet and confer prior to filing a motion or initiating the discovery dispute process described above. Any motion that does not contain a certificate of compliance with D.C.COLO.LCivR 7.1(a) may be stricken or denied as a matter of course.

- (B) **Formatting and Page Limitations.**

1. The parties shall comply with the presiding Article III District Judge's practice standards for all motions referred to Judge O'Hara.
2. All papers submitted to Judge O'Hara should be in an easily readable format, with all text, including footnotes, in at least 12-point font and at least one-inch margins.

**(D) Motion Hearings.**

Generally, motions are decided without oral argument. If Judge O'Hara determines that oral argument would be useful, he will set a telephonic hearing on the motion. As the circumstances require, Judge O'Hara may order an expedited briefing schedule and/or hearing.

All parties that wish to participate in the telephonic motion hearing shall do so by calling 571-353-2301 at the scheduled time and utilizing guest code: 595112843#. The participants may hear the conclusion of a prior hearing at the time they call in and are instructed to simply wait until their case is called.

**(E) Motions for Extension of Time.**

Judge O'Hara will apply the practice standards of the presiding Article III District Judge to analyze whether good cause has been shown to warrant the requested extension.

**(F) Motions to Amend.**

1. The parties are reminded to comply with the requirements of D.C.COLO.LCivR 15.1 when filing any amended pleading or motion for leave to amend a pleading. Pursuant to D.C.COLO.LCivR 15.1(b), "[a] party who files an opposed motion for leave to amend or supplement a pleading shall attach as an exhibit a copy of the proposed amended or supplemental pleading which strikes through (e.g., ~~strikes through~~) the text to be deleted and underlines (e.g., underlines) the text to be added."
2. If an amended pleading is filed (either with leave of Judge O'Hara or as of right) and there is a pending motion to dismiss the prior iteration of the pleading, the motion to dismiss is moot. See, e.g., *Gilles v. United States*, 906 F.2d 1386, 1389 (10th Cir. 1990) ("a pleading that has been amended

under Rule 15(a) supersedes the pleading it modifies”) (internal quotation marks omitted).

**(G) Motions for Protective Order.**

1. Parties seeking a protective order must file a motion that conforms to the requirements of D.C.COLO.LCivR 7.1 and attaches as an exhibit the form of protective order proposed by the moving party.
2. To the extent a party objects to the form of protective order proposed by the moving party, the objecting party shall attach as an exhibit to its response to the motion a copy of the protective order proposed by the moving party which strikes through (e.g., ~~strikes through~~) the text the objecting party proposes to delete and underlines (e.g., underlines) the text the objecting party proposes to add.
3. When practical, Judge O’Hara encourages the parties to stipulate to the entry of the template protective order available on Magistrate Judge Scott Varholak’s webpage on the Court’s website (<https://tinyurl.com/MagistrateVarholak>).

**(H) Motions to Dismiss, for Summary Judgment, and to Exclude Expert Testimony.**

The parties shall comply with the presiding Article III District Judge’s practice standards for all such motions referred to Judge O’Hara.