# PRACTICE STANDARDS FOR CIVIL CASES

**MAGISTRATE JUDGE N. REID NEUREITER**

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

**Byron G. Rogers Courthouse**
**1929 Stout Street**
**Denver, CO 80294**

**Courtroom 203**
**Chambers C252**

**(303) 335-2403**
**Neureiter_Chambers@cod.uscourts.gov**

**REVISED: November 22, 2019**

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**N. Reid Neureiter, Magistrate Judge**

## A. INTRODUCTION

### 1. The Court's Mission

The mission of the United States District Court for the District of Colorado is "to serve the public by providing a fair and impartial forum that ensures equal access to justice in accordance with the rule of law, protects rights and liberties of all persons, and resolves cases in a timely and efficient manner." Litigation is an emotional, stressful, time-consuming, and expensive process. The Court's mission is best served when litigants treat each other with civility. The notion that litigation is an "adversarial" process is misguided. It is possible for counsel and parties to disagree and zealously advocate their positions, while at the same time treating each other with courtesy and respect. The Court expects nothing less.

### 2. Statement Re: Attorney Mentoring & Training

The Preamble to the Colorado Rules of Professional Conduct acknowledge that lawyers should "seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession." These goals are best achieved when experienced lawyers provide young, diverse, or inexperienced lawyers opportunities to participate in judicial proceedings. This Court welcomes the active participation of young, female, and diverse lawyers in litigation. The Court encourages seasoned lawyers to facilitate the mentoring and development of these lawyers that will enrich the legal profession and the work of the United States District Court.

### 3. Relationship of These Standards to an Article III Judge's Practice Standards and to the U.S. District Court Local Rules of Practice

Consistent with Fed. R. Civ. P. 1, these Practice Standards are intended to facilitate the just, speedy, and inexpensive determination of every civil action. Upon request and for good cause, these Practice Standards may be modified or supplemented by orders entered in specific cases. These Practice Standards supplement, but do not replace, the Local Rules of Practice. To the extent there is a direct conflict between these Practice Standards and the Local Rules of Practice, the Local Rules of Practice control.

These Practice Standards apply to civil cases assigned to this Magistrate Judge by consent of the parties. In civil cases where the primary judicial officer is an Article III District Judge, these procedures are replaced by the Article III District Judge's Practice Standards whenever there is a conflict between the two.

In all cases assigned to this Magistrate Judge (whether on consent or referral), Section E.3, below, applies to the resolution of discovery disputes.

## B. COMMUNICATION WITH CHAMBERS

My Chambers includes my career law clerk and term law clerk, whom are both lawyers. When contacting Chambers, therefore, you will be speaking with a lawyer. Please conduct all communications with my law clerks with the appropriate level of professionalism, and please instruct your staff to do the same.

While the Court cannot engage in *ex parte* communications with counsel or parties, my staff is available to answer questions of an administrative or logistical nature. You may contact my law clerks at (303) 335-2403. Please keep in mind, however, that my staff is not permitted to provide any type of legal advice, interpret orders or rules, grant oral requests, or provide specific information about the progress of any pending motion.

We also have a courtroom deputy assigned to Chambers, who is located in the Clerk's Office. My courtroom deputy is Stacy Libid. Please direct questions regarding courtroom proceedings, technology, or other equipment, to her at (303) 335-2101.

Documents required to be submitted to chambers pursuant to local rule, court order or these practice standards shall be submitted via email to Neureiter_Chambers@cod.uscourts.gov. Please include the case number, case name, and document description in the subject line of the email.

## C. COURTROOM PROCEDURES & DECORUM

Please be prompt and prepared for any conference, hearing, or other setting. Court time is valuable for litigants, counsel, and court staff. Please observe traditional courtroom decorum by rising to address the Court (unless directed otherwise) and by requesting permission to approach the bench and any witness. When speaking, please speak into a microphone. The microphone is the **only** method by which the proceeding is recorded. **Turn OFF cell phones**.

## D. SCHEDULING CONFERENCES

Please plan to attend the Scheduling Conference in person if you are within the Denver/Boulder metropolitan area and be prepared to discuss the specific facts of the case and your pretrial needs. In addition to reviewing the proposed Scheduling Order, some typical issues that are covered during the Scheduling Conference include: (1) the basis for the schedule proposed, particularly if the discovery deadline is set beyond six months from the Scheduling Conference; (2) the scope of anticipated Electronically Stored Information ("ESI"); (3) the manner by which ESI will be exchanged; (4) the need for a Protective Order and/or ESI Protocol; (5) the status of any alternative dispute resolution attempts; (6) the specific claims and legal principles underlying the claims; (7) the factual and legal bases for any affirmative defenses; and (8) any special issues facing the Parties. It is unacceptable to send an attorney to a Scheduling Conference who lacks sufficient knowledge to discuss intelligently the claims and defenses of the case.

Along with filing, please submit the proposed Scheduling Order, proposed Protective Order, and/or proposed ESI Protocol in Microsoft Word format directly to my Chambers at Neureiter_Chambers@cod.uscourts.gov.

## E. MOTIONS PRACTICE

### 1. Duty to Meet and Confer Before Filing a Motion

**Parties must take their conferral obligation seriously.** Consistent with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice, parties have an affirmative obligation to meet and confer prior to filing any motion. The duty to meet and confer requires the parties to discuss the specific dispute at issue and the requested relief **by telephone or face-to-face**, and **not solely** through email or written correspondence, and provide opposing counsel a

reasonable amount of time to respond prior to raising a disputed issue with the Court. My procedures governing discovery motions/disputes is explained in Section E.3, below. Conferral is required even on dispositive motions, as it is my experience that with conferral, 12(b)(6) motions can sometimes be addressed via amendment of pleadings, and even summary judgment motions may not be necessary with respect to all claims if the parties confer in advance about the basis for the proposed summary judgement motion.

**2. Page Limits**

The parties shall comply with the presiding Article III District Judge's practice standards for all motions referred to this Court. For cases pending before me by consent of the parties, all motions shall be limited to 15 pages, except for motions for summary judgment, which may also include a section recounting a statement of undisputed facts, not to exceed ten pages (allowing for a total page limit of 25 pages for summary judgment motions). Responses shall be limited to 15 pages, except for responses to motions for summary judgment, which may also include a section responding to the statement of undisputed facts, not to exceed ten pages (allowing for a total page limit of 25 pages for responses to summary judgment motions). Replies shall be limited to 10 pages. Deviations from this rule will not be permitted without leave of Court, which will be granted with great reluctance.

**3. Discovery Disputes—General**

To avoid unnecessary and expensive motions 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 the Court may result in the motion being stricken and the imposition of appropriate sanctions. Counsel shall fully meet and confer in accordance with D.C.COLO.LCivR 7.1(a) in an attempt to narrow or resolve discovery-related disputes prior to contacting chambers to initiate an informal discovery conference.

Step One: The parties must meet and confer **in person or by telephone** (i.e. not solely through email or written communications) and make a reasonable, good faith effort to resolve or narrow the discovery dispute without the need for judicial intervention. The duty to meet and confer also requires counsel to react timely and be responsive to opposing counsel's efforts to confer. The parties should 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. **I expect counsel to take the conferral obligation seriously**.

Step Two: If the parties' efforts to meet and confer are unsuccessful, the parties shall jointly call Chambers at (303) 335-2403 to arrange for a discovery hearing before the Court on a time and date convenient for all parties. The hearing may be conducted telephonically.

Step Three: At least two business days prior to the hearing, the parties shall email Chambers (Neureiter_Chambers@cod.uscourts.gov) a joint statement setting out each party's position with regard to each dispute. The joint statement should not be filed on the Electronic Court Filing system. In most instances, a single paragraph detailing each party's position will be sufficient. In no event should each party's portion of the joint statement exceed **five pages** (**ten pages total**). If discovery requests or responses are at issue, the parties shall attach these as exhibits to the joint statement. The parties also may attach as an exhibit communications between counsel concerning the dispute at issue. Documents shall not be submitted for in camera review without prior permission from the Court. If the Court issues a ruling, the joint statement (and any

exhibits) will be filed and incorporated as an exhibit to the Courtroom minutes, so there is an appropriate record of any decisions.

Step Four: The discovery hearing will be conducted on the record. If the matter is appropriate for immediate adjudication, the Court will issue its order on the record at the hearing. If all issues are not conclusively resolved by the conclusion of the hearing, the Court may order additional briefing on an expedited schedule or may grant leave for filing appropriate motions.

### 4. Discovery Disputes—During Depositions

The Court welcomes phone calls to Chambers, 303-335-2403, to resolve issues that may arise during a deposition, including, for example, improper deposition conduct, assertions of privilege, and instructions not to answer. If the Court is not immediately available, it shall make every effort to become available before the deposition ends. When the parties call Chambers with such issues, they shall ensure a court reporter is available to make a record of the dispute and its resolution.

### 5. Motions for Extension of Time

This Court will apply the practice standards of the presiding Article III District Judge to analyze whether good cause has been shown to warrant a requested extension. For cases on consent, extensions of time will be granted for good cause shown, taking into consideration the potential prejudice to the opposing party.

### 6. Participation in Conferences and Hearings by Telephone

The Court will permit counsel to appear by telephone on motion for good cause shown. Any motion should be filed no less than five (5) business days in advance of the hearing. All counsel appearing by telephone must **jointly** contact the Court (303-335-2403) at the time of the hearing.

## F. SETTLEMENT CONFERENCES

### 1. Party Attendance

Unless otherwise ordered, counsel shall have all parties present at settlement conferences, including all individually named parties or a representative of each named entity. Permission to attend a settlement conference by telephone will be granted only in the most unusual circumstances. Any party seeking the attendance of a party or other representative by telephone should contact my Chambers with opposing counsel to set a telephonic status conference to address the request.

### 2. Full Authority

No person is ever required to settle a case on any particular terms or amounts. However, all parties must participate in the settlement conference in good faith, pursuant to Fed. R. Civ. P. 16(f). Counsel shall also have in attendance all individuals with full authority to negotiate all terms and demands presented by the case, and full authority to enter into a settlement agreement, including, but not limited to, an adjustor, if an insurance company is involved. “Full authority” means that the person who attends the settlement conference has the complete and unfettered capacity and authority to meet or pay all terms or amounts which are demanded or sought by the other side of the case without consulting with some other person, committee or agency.

If any party or party representative attends the settlement conference without full authority, fails to attend the proceeding without prior Court approval, or fails to participate in the proceeding in good faith, and the case fails to settle, that party may be ordered to pay the attorney's fees and costs for the other side.

### 3. Position Statements

Counsel shall prepare a confidential position statement submitted by email only to the Magistrate Judge, no later than **seven (7) days** prior to the date of the settlement conference. Statements are **limited to 10 pages total**. The total number of pages of exhibits attached may not exceed 20. To the extent that any party feels additional exhibits might be useful for settlement discussion purposes, that party is free to bring a binder with additional exhibits to the settlement conference. The confidential statement shall be emailed to Chambers (not submitted for filing to the court) at Neureiter_Chambers@cod.uscourts.gov.

This statement shall directly address the party's interests, concerns, needs, and fears which may affect the party's settlement position or ability to settle.

### 4. Pre-Settlement Conference Phone Call

When feasible, I would ask that the lead counsel for each party separately call Chambers 2 to 3 days in advance of the settlement conference to schedule a 15-20 minute call with the Court to discuss the nature of the case, the settlement demands, the respective positions of the parties, and any potential impediments to settlement they might foresee.

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