

**CIVIL PRACTICE STANDARDS
MAGISTRATE JUDGE NINA Y. WANG**

**UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO**

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Effective: September 9, 2020

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CIVIL PRACTICE STANDARDS

I. SCOPE, PURPOSE, AND CONSTRUCTION

NYW Civ. Practice Standard 1.1

GENERAL INFORMATION

These Civil Practice Standards are intended to help clarify the procedures that this court uses, but they are not intended to be exhaustive. Nor are they intended to supersede either the Practice Standards of a presiding Article III District Judge, or the Local Rules of the District of Colorado. To the extent that the case is before this court on a referral basis, Parties should adhere to the Civil Practice Standards of the presiding Article III District Judge. The scheduling and discovery procedures set forth herein apply in all cases, unless the presiding Article III District Judge has different requirements.

If you have questions, you may contact my Chambers at 303.335.2600 or my Courtroom Deputy, Brandy Wilkins, at 303.335.2061. 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 over the telephone, or provide information about the progress of any pending motion.

II. PLEADINGS, MOTIONS, AND OBJECTIONS

NYW Civ. Practice Standard 6.1

MOTIONS FOR EXTENSION OF TIME AND MOTIONS FOR CONTINUANCE

When considering whether and when to file a Motion for Extension of Time, please consult the Practice Standards of the presiding Article III District Judge. I use their respective Practice Standards in analyzing whether good cause has been shown to warrant an extension. To the extent that I am the presiding judge by consent, please file all motions for extension of time no later than one business day prior to the operative deadline, unless there is an extenuating circumstance. Should there be an extenuating circumstance, your Motion for Extension of Time should state it.

Every Motion for Extension of Time and Motion for Continuance should state how many other extensions have been granted in the case (regardless of which judicial officer granted such extensions), and, where appropriate, identify (1) the original deadline, (2) the current deadline, and (3) a range of proposed alternate deadlines. The Motion for Extension of Time should also state whether the requested extension will affect any other date currently set in the case. The Motion for Continuance must also include dates of counsels' availability for the rescheduled setting. The court will attempt to reset the hearing within the provided date range. In addition, all motions requesting an extension of time must be served contemporaneously by counsel on his or her client pursuant to D.C.COLO.LCivR 6.1(c), as failure to do so may result in the court striking the motion without substantive consideration.

NYW Civ. Practice Standard 7.1

(a) DUTY TO MEET AND CONFER

Consistent with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice of the District of Colorado, parties have an obligation to meet and confer prior to filing certain motions and to initiate an informal discovery dispute resolution process with this Magistrate Judge. The duty to meet and confer requires the parties to discuss the specific dispute at issue and the requested relief, **preferably by telephone and not through written correspondence**, and provide opposing counsel a reasonable amount of time to respond prior to the filing of the motion. All motions requiring a meet and confer certificate must articulate the non-movant's position regarding the requested relief; failure to meaningfully confer and/or failure to include the non-movant's position will result in the court striking the motion without substantive consideration. Only in well-articulated, extraordinary circumstances will the court accept a filing that does not affirmatively establish the non-moving party's position on the requested relief. The informal discovery procedure is explained in more detail in NYW Civ. Practice Standard 37.1.

(b) MOTIONS UNDER FED. R. EVID 702 AND MOTIONS TO STRIKE EXPERT TESTIMONY

Unless otherwise ordered, all motions filed under Federal Rule of Evidence 702 and any motion to strike an expert on the basis of discovery violations shall be filed no later than the deadline for filing dispositive motions as set in the Scheduling Order.

NYW Civ. Practice Standard 7.2

CONFIDENTIALITY AND RESTRICTING THE RECORD

Public access to the courts is fundamental to our system of justice. While I recognize that some cases may involve information that must be restricted, I will not enter Protective Orders that require *per se* restriction based on party designation under the Protective Order. Nor will I grant motions to restrict that do not specifically address the factors set out in D.C.COLO.LCivR 7.2, even if the motions are stipulated. Failure to comply with Local Rule 7.2 will result in the striking of the Motion to Restrict and may also result in public availability of the information and/or document(s) at issue. In addition, the court will rarely restrict court pleadings, papers, orders, or Recommendations, even if such documents refer to exhibits that are restricted.

NYW Civ. Practice Standard 10.1

PAGE LIMITATIONS

On cases in which I am the presiding judge, a motion is limited to twenty (20) pages, a response is limited to twenty (20) pages, and any reply, including a sur-reply, is limited to ten (10) pages. All motions shall be formatted with Times New Roman 12-point font, including footnotes, **double-spaced**, and 1-inch margins throughout. A motion for leave to file excess pages should be filed at least one day prior to the filing of the motion at issue. This limit does not count signature blocks or certificates of service. Furthermore, absent a sufficient legal reason and leave of the court, all parties represented by the same counsel are limited to a consolidated motion that must adhere to the aforementioned limitations.

On cases in which I am the referral judge, the Parties should consult the presiding Article III District Judge’s Practice Standards to determine the required form and page limitations for motions.

**NYW Civ. Practice Standard 16.1
SCHEDULING CONFERENCES**

Please plan on attending the Scheduling Conference in person if you are within the Denver metropolitan area and be prepared to discuss the specific pretrial needs of your case. 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; and (6) any special issues facing the Parties.

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 Wang_Chambers@cod.uscourts.gov.

If you are out of town and wish to attend the Scheduling Conference by telephone, please file a Motion for Leave to Appear Telephonically at least three business days prior to the Scheduling Conference.

**NYW Civ. Practice Standard 16.6
ALTERNATIVE DISPUTE RESOLUTION PROCEDURES**

Court-sponsored settlement conferences are the exception to the general practice of this District. To the extent that the presiding judge does not *sua sponte* order the Parties to participate in a settlement conference mediated by this Magistrate Judge, the Parties ordinarily must move for an order setting a settlement conference pursuant to D.C.COLO.LCivR 16.6. The Parties should be prepared to address why a settlement conference before the court is more appropriate than private alternative dispute resolution.

If the case is set for either an Early Neutral Evaluation or Settlement Conference, a confidential statement must be submitted to my Chambers no later than five business days prior to the conference. In that confidential statement, you must identify a specific range that your client would be willing to accept or pay, and any other terms that are non-negotiable. Failure to do so may result in the court vacating the Early Neutral Evaluation or Settlement Conference. In addition, the court expects that a representative of all parties with full authority to settle the matter will attend in person, unless leave for some other arrangement is granted in advance by the court.

If you reach a resolution without court assistance, please advise our Chambers immediately if motions or hearings are pending. Please note that previously set conferences or deadlines will not be vacated without the filing of dismissal papers, unless otherwise ordered by the court.

III. COURTROOM PROCEDURES

NYW Civ. Practice Standard 17.1 COURTROOM DECORUM

Please observe traditional courtroom decorum, including standing when addressing the court and requesting permission to approach the bench.

NYW Civ. Practice Standard 18.1 USE OF EXHIBITS

To the extent a party intends to refer to or use exhibits as part of a hearing (except for an informal discovery dispute), any exhibit must already be an exhibit to the pending motion or paper, or specifically disclosed as an anticipated exhibit to the opposing party no later than seven days prior to the hearing, unless otherwise ordered by the court. Exhibits not properly disclosed may not be considered by the court. Any demonstrative exhibits comprised of information and/or documents must reflect the record citation(s) for the original source of information.

IV. DEPOSITIONS AND DISCOVERY

NYW Civ. Practice Standard 37.1 INFORMAL DISCOVERY DISPUTE PROCEDURE

This informal discovery dispute procedure is applicable to any case for which I am the presiding judge by consent or the referral Magistrate Judge for purposes of pretrial proceedings including discovery, **EXCEPT** cases involving *pro se* prisoners. Failure to engage in an informal discovery dispute process without leave of court may lead to the striking of any filed discovery motion without substantive consideration.

Before filing any discovery motion, please contact my Chambers with all counsel representing Parties to the particular discovery dispute or the *pro se* party to set an informal discovery conference. I expect that before the Parties contact my Chambers requesting an informal discovery conference, the Parties will have met and conferred, either in person or by telephone, during which:

- The dispute to be presented to the court was discussed in detail,

- Each Party clearly stated its position and any position of compromise that is acceptable to it, and
- Each Party identified the basis for its position.

Written Discovery. If the dispute involves written discovery, **at least one day prior** to the informal discovery conference, the Parties must complete and submit a written discovery dispute chart in the following example form, with the most persuasive authority included:

Issue	Moving Party's Position	Opposing Party's Position
Interrogatory No. 1	Overly broad contention interrogatory. <i>Witt v. GC Servs. Ltd. P'ship</i> , 307 F.R.D. 554, 559 (D. Colo. 2014).	Contention interrogatory is the appropriate vehicle and is less burdensome than a Rule 30(b)(6) deposition on this topic. <i>Teashot LLC v. Green Mountain Coffee Roasters, Inc.</i> , No. 12-cv-0189-WJM-KLM, 2014 WL 485876, at *7 (D. Colo. Feb. 6, 2014).

The moving party must submit the chart, the disputed discovery request, and the response to the disputed discovery request to my Chambers. It should not be filed on the court's Electronic Court Filing system. The Parties should only submit *one* final version of the chart reflecting each Party's position in the same document. Separate charts containing only one Party's position on each of the issues will not be accepted. Should a formal discovery motion follow, the chart may then be included in any filing or order of the court.

If the dispute does not involve written discovery, or if the parties find the above chart unhelpful or inappropriate given the substance of their dispute, then the parties are directed to submit a joint status report that clearly and succinctly outlines (1) the object of the dispute, (2) the parties' positions thereon, (3) the authority supporting the parties' positions, and (4) a brief summary of the parties' good faith attempts to resolve the matter before seeking court intervention. Like the chart described above, the joint status report should not be filed on the court's docket unless formal motions practice follows the informal conference.

Document Privilege Issues. Parties having issues related to the invocation of privilege are expected to have provided a privilege log with respect to the documents at issue that can be submitted to the court. To the extent that a party contends that creating such a privilege log would be too onerous, the court expects that the party forwarding that position will be prepared to address the burden in specific terms during the informal discovery conference. I will likely not resolve privilege issues during this informal conference, and so to the extent that the parties' dispute concerns an assertion of attorney-client, marital, or other such privilege, the parties should expect to engage in formal motions practice.

Depositions. If a dispute arises at a deposition, the Parties still must meet and confer regarding the issue in the manner set forth above before contacting Chambers. Parties who have disputes over the topics and/or scope of a Rule 30(b)(6) deposition, as written in the notice of deposition, are expected to raise such issues prior to the commencement of the Rule 30(b)(6) deposition.

If it becomes clear that the Parties have not had an adequate meet and confer, or that one Party is trying to use the informal discovery process as improper leverage, I may *sua sponte* terminate the informal discovery conference and impose other sanctions if warranted.

The informal discovery conferences occur on the record. I conduct these conferences on the record in hopes of avoiding further disputes over what occurred or how the court ruled or provided guidance during such conference. Unless you advise my staff otherwise, you should expect that these informal discovery conferences will be limited to 30 minutes. You may order transcripts of these informal discovery conferences by contacting my Courtroom Deputy, Brandy Wilkins at 303.335.2061.

V. TRIAL

NYW Civ. Practice Standard 44.1 PROCEDURE FOR CONSENT CASES ONLY

Lead counsel must be physically present for a Final Pretrial Conference. At the Final Pretrial Conference, the court will set a firm date for the Trial Preparation Conference and the commencement of trial. Unless otherwise ordered, the following procedures will govern the Trial Preparation Conference. No later than fourteen days prior to the Trial Preparation Conference, the Parties must exchange and submit proposed Witness Lists, Exhibit Lists, Designation of Deposition Transcripts, and proposed Jury Instructions. Any counter-designations for depositions must be exchanged and submitted no later than seven days prior to the Trial Preparation Conference. Any disputes with respect to the proposed Exhibit Lists, Witness Lists, or opening Jury Instructions will be discussed at this Trial Preparation Conference, as will any pending motions.

The court's preferred format for Witness and Exhibit Lists is attached.

VI. SUMMARY JUDGMENT

NYW Civ. Practice Standard 56.1 PROCEDURE FOR CONSENT CASES ONLY

Each party shall be limited to the filing of a single motion for summary judgment. No party may file a second motion for summary judgment without prior leave of court, which shall be granted in only the most extraordinary circumstances.

All motions for summary judgment must contain a Statement of Material Facts section. Each identified fact must contain citations to specific evidence in the record that purportedly support the corresponding fact. All responses must contain a Response to Statement of Material Facts section that must admit or deny each identified fact with citations to evidence in the record, and responses may also include a Statement of Additional Material Facts section with citations to specific evidence in the record, if necessary. To the extent a response contains a Statement of Additional Material Facts, all replies must similarly respond to said facts with citations to specific evidence in the record, but may not include any additional facts not already offered in the motion or response. Failure to adhere to this requirement may result in the court striking the motion for summary judgment, response, or reply without substantive consideration.

