

STANDING ORDER REGARDING TRIAL AND PRE-TRIAL PROCEDURES

Judge Nina Y. Wang
United States District Court
District of Colorado

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TRIAL AND PRE-TRIAL PROCEDURES

A. Title and Citation

1. This Standing Order shall be cited as “NYW Standing Order Regarding Trial and Pre-Trial Procedures, Section, Subsection, Paragraph” (e.g., NYW Standing Order Regarding Trial and Pre-Trial Procedures, § E.5.a).

B. Final Pretrial Conference

1. Unless otherwise ordered, this Court will conduct the Final Pretrial Conference. **Seven days** prior to the Final Pretrial Conference, the parties shall submit a proposed Final Pretrial Order using the form found on the District of Colorado’s website. The parties shall jointly file their proposed Final Pretrial Order via CM/ECF and shall also send an editable Microsoft Word version to Wang_Chambers@cod.uscourts.gov.

2. If the Final Pretrial Conference is not set at the parties’ Scheduling Conference, within **two business days** of the Scheduling Conference, the parties shall jointly contact my chambers via telephone to set the Final Pretrial Conference. Calls and emails to chambers requesting potential dates for the Final Pretrial Conference are strongly discouraged.

3. Lead counsel must be physically present for the 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. The parties should be prepared to discuss at the Conference the anticipated length of trial. **If the parties believe that the trial should last longer than five days, the parties should be prepared to explain why good cause exists for a trial longer than five days.**

4. If the dispositive motions deadline has passed and no party has filed a motion for summary judgment, the parties may jointly contact the undersigned’s chambers via telephone, **no later than ten days following the dispositive motions deadline**, to determine whether the Court’s calendar can accommodate a sooner-in-time Final Pretrial Conference. In cases in which one of the parties is an incarcerated *pro se* litigant, the incarcerated litigant need not be on the joint telephone call.

C. Trial Preparation Conference

1. The Trial Preparation Conference will be held approximately two weeks prior to the beginning of the trial. Counsel who will try the case must attend in person.
2. The parties shall submit their respective proposed *voir dire* questions to the Court no later than **seven days** prior to the Trial Preparation Conference. The parties shall file their respective proposed *voir dire* questions via CM/ECF and shall jointly send editable Microsoft Word versions to Wang_Chambers@cod.uscourts.gov. The parties shall be prepared to discuss their proposed *voir dire* at the Conference.

D. Jury Instructions and Verdict Forms

1. The parties shall submit proposed jury instructions and verdict forms **fourteen days** prior to the Trial Preparation Conference, unless otherwise ordered. The parties shall jointly file their proposed jury instructions and verdict forms (in separate filings) via CM/ECF and shall also send an editable Microsoft Word version of each document to Wang_Chambers@cod.uscourts.gov.
2. Each proposed jury instruction must be submitted on a separate page, be numbered, and identify the source of the instruction and supporting authority.
3. The parties must use their best efforts to stipulate to jury instructions. To the extent there are disputes with respect to proposed jury instructions, each party shall submit their own proposed jury instruction. In addition, for each disputed instruction, the parties shall jointly submit a single, redlined jury instruction in which they delineate the language they respectively propose. For example:

Plaintiff's Proposed Jury Instruction: The reasonableness of an insurer's conduct is to be determined objectively, according to industry standards and must be evaluated based on the information before the insurer at the time of the conduct.

Defendant's Proposed Jury Instruction: The reasonableness of an insurer's conduct is to be determined objectively, according to industry standards. ~~and must be evaluated based on the information before the insurer at the time of the conduct.~~

4. The parties shall meet and confer and stipulate to a proposed verdict form. The Court strongly encourages counsel to craft a stipulated verdict form that is readily understandable to laypersons.

5. Stylistic conventions: Please capitalize party names and refrain from using articles when referring to parties (e.g., “Plaintiff” rather than “the plaintiff”). Where parties or other individuals are referenced by name, please use the appropriate title (e.g., Ms., Mr., Dr.) and not the last name alone.

E. Exhibits and Exhibit Lists

1. For all evidentiary hearings and trials, the parties shall use the format for exhibit lists located on the District Court’s website at <http://www.cod.uscourts.gov/JudicialOfficers/ActiveArticleIIIJudges/HonNinaYWang.aspx>.

2. Exhibits shall be labeled on the parties’ joint exhibit list in numeric order, with no designation as to whether it is “Plaintiff’s Exhibit” or “Defendant’s Exhibit.” The parties must stipulate to the authenticity and admissibility of as many exhibits as possible, marking the appropriate box on the proposed exhibit list. The parties’ stipulation as to the admissibility of a document does not guarantee its admissibility; each document the parties intend to submit to the jury must be offered to and accepted by the Court.

3. For all trials, exhibit lists are due no later than **seven days** prior to the Trial Preparation Conference, unless otherwise ordered. The parties shall jointly file their exhibit list via CM/ECF and shall also send an editable Microsoft Word version to Wang_Chambers@cod.uscourts.gov.

4. For all evidentiary hearings, exhibit lists are due no later than **two business days** prior to the hearing, unless otherwise ordered. The parties shall jointly file their exhibit list via CM/ECF and shall also send an editable Microsoft Word version to Wang_Chambers@cod.uscourts.gov.

5. Exhibit Notebooks

a. Prior to a hearing or trial, the parties shall jointly provide to the courtroom deputy two copies of all exhibits in a notebook format. For all trials, exhibit notebooks are due no later than **seven days** prior to the Trial Preparation Conference, unless otherwise ordered. For all hearings, exhibit

notebooks are due no later than **two business days** prior to the hearing, unless otherwise ordered.

b. The notebooks should be labeled with the following information: (a) case caption; (b) scheduled commencement date and time of the hearing or trial; and (c) designation of “witness” or “Court.”

c. The parties shall separate all documents by numbered tabs and reproduce each exhibit in the manner in which it will be shown to the witness and jury, e.g., colored exhibits should appear in color in the notebooks. Multi-page exhibits should include internal numbering for ease of the witness and the Court. All exhibits will be sequentially numbered, without any attribution to the plaintiff or the defendant.

6. In addition to submitting exhibit notebooks, the parties shall jointly provide to the court reporter a flash drive that contains a copy of all exhibits, numbered sequentially in the same numeric order used in the exhibit notebooks. For all trials, exhibit flash drives are due no later than **seven days** prior to the Trial Preparation Conference, unless otherwise ordered. For all hearings, exhibit flash drives are due no later than **two business days** prior to the hearing, unless otherwise ordered.

F. Witness Lists

1. For all evidentiary hearings and trials, the parties shall use the format for witness lists located on the District Court’s website at <http://www.cod.uscourts.gov/JudicialOfficers/ActiveArticleIIIJudges/HonNinaYWang.aspx>.

2. For each witness, please estimate the time for all examinations, e.g., direct and re-direct. Please note that the cumulative estimated times for trial witnesses should not exceed the total time allotted for a party to present its case. The Court will strictly enforce the estimated time allotted for each witness’s testimony.

3. For all trials, witness lists are due no later than **seven days** prior to the Trial Preparation Conference, unless otherwise ordered. The parties shall jointly file their witness lists via CM/ECF and shall also send an editable Microsoft Word version to Wang_Chambers@cod.uscourts.gov.

4. For all evidentiary hearings, witness lists are due no later than **two business days** prior to the hearing, unless otherwise ordered. The parties shall jointly file

their witness lists via CM/ECF and shall also send an editable Microsoft Word version to Wang_Chambers@cod.uscourts.gov.

5. On the morning of the first day of trial or the evidentiary hearing, each party shall provide the courtroom deputy with four paper copies of a final list of its witnesses that includes an estimate of the time anticipated for each witness's direct and cross examination. One copy will be made available to the court reporter to assist in the transcription of court proceedings, so please be sure that names are spelled correctly.

G. Depositions

1. Together with Fed. R. Civ. P. 32, this Practice Standard governs the use of both regular and videotaped depositions in court proceedings.

2. If the parties intend to offer deposition testimony in lieu of a live witness at trial or at an evidentiary hearing:

a. No later than **twenty-one days** prior to the Trial Preparation Conference, the party offering such testimony must designate the deposition testimony and inform the opposing party whether the testimony will be read or presented from a video recording.

b. Counter-designations must be made no later than **fourteen days** prior to the Trial Preparation Conference.

c. The parties should be prepared to address any anticipated objections at the Trial Preparation Conference. Prior to the Trial Preparation Conference, the parties shall meet and confer regarding their designations and objections. After a good-faith meet and confer process, the parties shall identify any remaining objections by page and line citation and provide (1) a copy of the transcript(s); (2) an explanation for each objection; and (3) any relevant or supporting case law to Wang_Chambers@cod.uscourts.gov no later than **seven days** prior to the Trial Preparation Conference.

i. Transcripts submitted to the Court should have each party's designations in a different color of highlighting, with a clear legend of the designated colors.

3. To accommodate evidentiary objections to deposition testimony presented by video, the proponent must have the technical ability to "mute" excluded

responses and efficiently “fast forward” to the next segment of testimony. Otherwise, the deposition testimony will be read into the record.

4. For jury trials, if evidence will be presented through a written deposition transcript, the proponent shall supply a person to read from a written deposition transcript in a non-argumentative fashion.

H. Motions in Limine

1. Each party may file **one** omnibus motion in limine, not to exceed **fifteen (15) pages**.

2. Motions in limine shall be filed no later than **forty-two days** prior to the Trial Preparation Conference, unless otherwise ordered. Responses shall be filed no later than **twenty-eight days** prior to the Trial Preparation Conference, or **fourteen days** after the motion is filed, whichever is earlier. No replies will be permitted absent leave of Court and good cause shown.

I. Trial Briefs

1. The Court typically does not permit the filing of trial briefs. However, if a party believes that the circumstances of the case necessitate a trial brief, the party may seek leave of Court to submit a trial brief by filing a formal motion, and must articulate specific issue(s) that the party seeks to brief. The trial brief should not be used to repeat any arguments made in a motion in limine or a dispositive motion. Only after leave is granted shall the Court enter an order with page limitations and/or specific instructions. Trial briefs must be submitted to the Court via CM/ECF no later than **forty-five days** prior to the commencement of trial.

J. Jury Trials

1. Counsel and all *pro se* parties shall be present no later than **8:30 a.m.** each day during the trial to discuss any last-minute trial matters. Trial days will typically begin at 9:00 a.m. and end at 4:00 p.m., which a fifteen-minute break in the morning, an hour break for lunch, and a fifteen-minute break in the afternoon.

2. Unless otherwise ordered, civil juries will consist of at least 7 jurors.

3. Jury Selection and *Voir Dire*:

- a. The Court will conduct *voir dire* of prospective jurors. Unless otherwise ordered, each side will then be permitted to conduct a *voir dire* examination of potential jurors for 15 minutes after the Court has completed its *voir dire* examination.
 - b. After *voir dire* is complete, the Court will entertain challenges for cause. If any prospective jurors are struck for cause, the Court will conduct *voir dire* of any replacement juror(s). Each side will be permitted three peremptory strikes.
4. Jurors will be permitted to take notes during the trial.
5. After the close of evidence but before closing argument, the Court will read the jury instructions to the jurors. Each juror will be given a copy of the jury instructions for use during deliberations.
6. Opening Statements and Closing Arguments:
 - a. Opening statements will generally be limited to thirty (30) minutes per party. Should the parties believe that they require more time, the parties should be prepared to discuss their request at the Trial Preparation Conference. Typically, only one attorney per party will be permitted to make opening statements, unless the Court finds good cause to permit otherwise. Counsel for each party should inform the courtroom deputy whether counsel would like a warning before their time expires.
 - b. After the close of evidence, the Court will inform the parties how much time will be allotted for closing arguments. Typically, only one attorney per party will be permitted to make closing arguments, unless the Court finds good cause to permit otherwise. Counsel for each party should inform the courtroom deputy whether counsel would like a warning before their time expires. Should the plaintiff wish to reserve any time for rebuttal, counsel must make the request prior to beginning closing arguments.
 - c. To the extent any party intends to utilize PowerPoints, slides, or any other demonstrative items for opening or closing statements, the parties shall exchange such items no later than **two business days** prior to the commencement of trial and shall provide copies of the same to Wang_Chambers@cod.uscourts.gov. The Court will consider objections to

the use of such items prior to their use, generally, the morning of the first day of trial.

K. Bench Trials

1. No later than **three business days** before the Trial Preparation Conference, counsel and any *pro se* parties shall file Proposed Findings of Fact, Conclusions of Law, and Orders via CM/ECF and shall also submit an editable Microsoft Word version to Wang_Chambers@cod.uscourts.gov. The parties are expected to state their proposed findings of fact in the same order as the anticipated order of proof at trial.

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

TABLE OF PRE-TRIAL/TRIAL DEADLINES

Note: This table is provided for the convenience of the parties appearing before Judge Wang. It does not include all the dates and deadlines listed within the Court’s Civil Practice Standards and Standing Orders and is not a substitute for knowledge of and familiarity with those texts.

Deadline	Days Prior to/After	Reference to Applicable Practice Standard/Standing Order/Rule
After the Defendant’s Submission of a Responsive Pleading or Motion		
<p><i>For employment cases which challenge one or more employment actions alleged to be adverse, except the employment actions listed in Civ. Practice Standard 26.1A(b):</i></p> <p>The parties shall provide to one another the documents and information described in the Initial Discovery Protocols, located on the District Court’s website, for the relevant time period.</p>	30 days	Civ. Practice Standard 26.1A(c).
After the Scheduling Conference		
Contact chambers to set the Final Pretrial Conference, if the Final Pretrial Conference is not set at the Scheduling Conference.	2 business days	NYW Standing Order Regarding Trial and Pre-Trial Procedures, § B.2.
After the Deadline for the Disclosure of Rebuttal Witnesses		
File motions pursuant to Federal Rule of Evidence 702.	30 days	Civ. Practice Standard 7.1C(a).

After the Close of Discovery		
File joint status report regarding settlement discussions.	14 days	Civ. Practice Standard 16.6(a).
After the Dispositive Motions Deadline		
Optional deadline to contact chambers to determine whether the Court's calendar can accommodate a sooner-in-time Final Pretrial Conference.	10 days	NYW Standing Order Regarding Trial and Pre-Trial Procedures, § B.4.
Prior to the Final Pretrial Conference		
File the proposed Final Pretrial Order.	7 days	NYW Standing Order Regarding Trial and Pre-Trial Procedures, § B.1.
Prior to the Trial Preparation Conference		
File motions in limine.	42 days	NYW Standing Order Regarding Trial and Pre-Trial Procedures, § H.2.
File responses to motions in limine.	28 days (or 14 days after the motion is filed, whichever is earlier)	NYW Standing Order Regarding Trial and Pre-Trial Procedures, § H.2.
Exchange designations of deposition testimony.	21 days	NYW Standing Order Regarding Trial and Pre-Trial Procedures, § G.2.a.
Exchange counter-designations of deposition testimony.	14 days	NYW Standing Order Regarding Trial and Pre-Trial Procedures, § G.2.b.
Submit unresolved deposition objections.	7 days	NYW Standing Order Regarding Trial and Pre-Trial Procedures, § G.2.c.

File proposed jury instructions and verdict forms.	14 days	NYW Standing Order Regarding Trial and Pre-Trial Procedures, § D.1.
File proposed <i>voir dire</i> questions, exhibit list, and witness lists.	7 days	NYW Standing Order Regarding Trial and Pre-Trial Procedures, §§ C.2, E.3, F.3.
Submit exhibit notebooks and exhibit flash drive to chambers.	7 days	NYW Standing Order Regarding Trial and Pre-Trial Procedures, §§ E.5.a, E.6.
File Proposed Findings of Fact, Conclusions of Law, and Orders <i>for bench trial</i> .	3 business days	NYW Standing Order Regarding Trial and Pre-Trial Procedures, § K.1.
Prior to Trial		
File any trial briefs.	45 days	NYW Standing Order Regarding Trial and Pre-Trial Procedures, § I.
Request daily transcripts from the Court Reporter.	30 days	Civ. Practice Standard 43.1A(c)(2).
File a motion requesting the presentation of testimony by telephone or video conference.	7 days	Civ. Practice Standard 43.1D(c).
Request realtime transcripts from the Court Reporter.	7 days	Civ. Practice Standard 43.1A(c)(2).
File a glossary of any difficult, unusual, scientific, technical, and/or medical jargon, words, names, terms, and/or phrases.	5 days	Civ. Practice Standard 43.1A(d).

Submit PowerPoint, slides, or any other demonstrative items for opening or closing statements.	2 business days	NYW Standing Order Regarding Trial and Pre-Trial Procedures, § J.6.c.
Submit final witness lists to the Courtroom Deputy.	Morning of the first day of trial	NYW Standing Order Regarding Trial and Pre-Trial Procedures, § F.5.