PRACTICE STANDARDS
(Civil)

JUDGE RAYMOND P. MOORE
UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

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PRACTICE STANDARDS—CIVIL ACTIONS

I. INTRODUCTION

A. Purpose and Authority

1. Consistent with Fed. R. Civ. P. 1, these practice standards are intended to secure the just, speedy, and inexpensive determination of every civil action.

2. Upon motion and for good cause, these practice standards may be modified by orders entered in specific cases. The Court may also *sua sponte* modify such standards, as appropriate, and will notify the parties accordingly.

B. Relation to Local Rules

These practice standards supplement, but do not supplant or supersede, the Local Rules or the Electronic Case Filing Procedures. To the extent that there is a direct conflict between these practice standards and the requirements of the Electronic Case Filing Procedures or Local Rules, the Local Rules and Electronic Case Filing Procedures, respectively, control. In circumstances in which these practice standards and Electronic Case Filing Procedures or Local Rules contain different, but not directly inconsistent, requirements, parties should comply with all sets of procedures to the extent possible.

C. Access to Local Rules and Electronic Case Filing Procedures

1. Copies of the Local Rules are available through the "Local Rules" link on the District of Colorado's website at http://www.cod.uscourts.gov/CourtOperations/RulesProcedures.aspx and from the Clerk of Court in Room A105.

2. Copies of these practice standards are available through the "Judicial Officers' Procedures" link on the District of Colorado's website at http://www.cod.uscourts.gov/CourtOperations/RulesProcedures.aspx and from the Clerk of Court in Room A105.

3. Copies of the Electronic Case Filing Procedures are available through the "Court Operations" "CMECF" link on the District of Colorado's website at http://www.cod.uscourts.gov/CourtOperations/CMECF.aspx and from the Clerk of the Court in Room A105.

4. The Court calendar for the pending week is available through the "Judicial Officers' Calendars" link on the District of Colorado's website at https://www.cod.uscourts.gov/Judges/Calendars.aspx.

II. GENERAL PROCEDURES

A. Applicable Rules

Those appearing in the District Court must know and follow:

1. The Federal Rules of Civil Procedure;

2. The Federal Rules of Evidence;

3. The Local Rules of Practice of the United States District Court for the District of Colorado;

4. The United States District Court for the District of Colorado Electronic Case Filing Procedures (Civil Cases); and

5. These Practice Standards.

B. Communications with Chambers

1. Unless specifically authorized, neither counsel nor pro se litigants may communicate about a case by letter to the Court. All communications must be made in the form of a motion, brief, notice, or status report, served on all opposing counsel and pro se parties, and filed as required by the Electronic Case Filing Procedures.

2. No courtesy copy for Chambers is required unless a paper is filed less than 48 hours before a hearing or trial. When directed by Local Rule, these Practice Standards, or the Judge to submit a document directly to Chambers, e.g., proposed orders, jury instructions, or voir dire questions, parties should submit documents as an e-mail attachment addressed to: Moore_Chambers@cod.uscourts.gov. Unless otherwise provided herein or directed by the Court, documents submitted directly to Chambers in this manner should NOT be filed with the Clerk of Court using CM/ECF. The proposed order or document should be submitted as an attachment in MS Word or WordPerfect using Times New Roman 12-point font or other easily readable font. PDF format is not acceptable. The subject line of the e-mail message should identify the case name, case number, and title of the document attached.

3. For information about filing documents electronically please contact the ECF Help Desk at 1-866-365-6381 or 303-335-2050. If you have questions about the status of a motion or order, please utilize the PACER system at http://www.cod.uscourts.gov/CourtOperations/CMECF.aspx.

4. For information regarding the courtroom, including telephonic connection, courtroom equipment and technology, courtroom protocol, trial preparation, use of deposition transcripts, submission of trial exhibits and witness lists, or use of exhibits at trial, please contact my Courtroom Deputy.

5. Chambers staff is not authorized to give legal advice or grant oral requests over the telephone, so please do not contact Chambers about substantive matters. For procedural information or assistance regarding a case, including scheduling of hearings or trials, please contact my Judicial Assistant.

6. To order a transcript or reach the Court Reporter, please contact my Court Reporter.

C. Citations

1. Citations shall be made pursuant to the most current edition of THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION.

2. Specific references in the form of pinpoint citations should be used to identify relevant excerpts from a document. Whenever practicable, a citation to an unpublished opinion should include its Westlaw citation.

3. These standards should be cited as Civ. Practice Standard, Part, Section, Subsection, Paragraph, and Subparagraph (e.g., Civ. Practice Standard IV.C.2.b.1).

D. Typeface and Spacing

All papers filed with the Court by anyone other than a judicial officer shall be double spaced and in an easily readable font. Although no particular font is required, Times New Roman 12-point font (exclusive of footnotes and endnotes) is encouraged.

E. Settlement

1. Settlement discussions are encouraged at all phases of the litigation process. However, hearings, trials, and pretrial deadlines will not be routinely continued or vacated to facilitate settlement negotiations or alternative dispute resolution, or in anticipation of the filing of settlement documents.

2. If a settlement is reached before a hearing or trial, please advise Chambers as soon as possible. If a matter is resolved during the weekend before trial, please file a notice via CM/ECF as soon as possible. However, no deadline, hearing, or trial will be routinely vacated, except upon the filing of papers sufficient to resolve the matter and issuance of an order. If the parties request a written order of dismissal for dismissals under Fed. R. Civ. P. 41(a)(1), a proposed order shall also be submitted to Chamber's e-mail as set forth in Section II.B.1 above. If counsel and any pro se party is unable to file the appropriate documents before the hearing or trial, counsel and any pro se party shall

appear at the scheduled hearing or trial to memorialize the settlement on the record. The Local Rules require that to avoid assessment of jury costs, the parties must notify the Court of a settlement before noon on the last business day before the scheduled trial date. *See* D.C.COLO.LCivR 54.2.

F. Partial Case Settlement/Dismissal

If fewer than all claims or defenses are resolved by a settlement, a motion requesting approval of the same shall specify what claims, defenses, and parties will be affected by the settlement or dismissal and which will remain. The parties shall also advise the Court if such settlement renders any motion or other paper, or portions thereof, moot.

III. COURTROOM PROCEDURES

A. Court Appearances

1. Unless otherwise directed, all matters to be heard by the Article III Judge to whom the case has been drawn will be heard in the Courtroom assigned to that Judge. Matters to be heard by the Magistrate Judge will be in the courtroom assigned to that Magistrate Judge.

2. Court time is valuable to litigants, counsel, and court staff. Counsel should arrive sufficiently in advance of any scheduled hearing or trial and, as appropriate, confer to confirm what issues are in dispute and what stipulations can be made.

B. Courtroom Organization and Protocol

1. Plaintiff's table is closest to the jury box. There is one lectern in the courtroom at which all counsel and parties shall stand to make any statement or argument. Counsel may object by standing at counsel table.

2. Please observe traditional courtroom decorum: stand when addressing the Court, address the Court as "Your Honor," and request permission to approach the bench. It will not normally be necessary for counsel to approach a witness on the stand. The Courtroom Deputy, upon request of counsel, will hand a witness an exhibit. If you have a question about courtroom protocol, please contact the Judge's Courtroom Deputy.

C. Recording of Proceedings

The official record of all trials and proceedings will be taken either by a real-time reporter or by electronic sound recording (audiotape). Prior to the beginning of any proceeding, please provide the Court Reporter with your business card. Transcripts of proceedings may be ordered from the Court Reporter. Requests for real time, daily, or hourly copy must be made at least thirty (30) days before the trial or hearing.

D. Audio Visual Aids

The Court has a VCR, DVD player, monitors, screens, white pads, easels, and an Elmo. Other equipment must be provided by counsel. The Courtroom Deputy can answer questions and provide assistance concerning technology in the courtroom. All setup should be done outside the presence of the jury and without causing downtime for the jury.

E. Exhibits

1. Format: Parties must use the form of exhibit list available on the District Court website at http://www.cod.uscourts.gov/JudicialOfficers/ActiveArticleIIIJudges/HonRaymondPMoore.aspx. Parties must pre-mark all exhibits that will be used or identified for the record in a hearing or trial.

2. When to File Exhibits Lists: For evidentiary motions hearings other than Rule 702 hearings, exhibit lists shall be filed via CM/ECF at least two (2) business days before the hearing. For Rule 702 hearings, see Civ. Practice Standard IV.L. For trials, see Civ. Practice Standard V.B.

3. Exhibits Preparation: Each party must pre-mark all exhibits that will be used or identified for the record in a hearing or trial. Each party must provide a copy of each exhibit to opposing counsel or any pro se party before a hearing or trial.

    a) Plaintiff's exhibits should be marked with yellow labels, using numbers.

    b) Defendant's exhibits should be marked with blue labels as follows. If there is one Defendant or if all Defendants are using the same exhibits, begin marking them as A-1 through A-XXX. If there is more than one Defendant submitting exhibits, they shall be labeled as follows. For the first named defendant, A-1 through A-XXX; for the second named defendant B-1 through B-XXX, and so on.

    c) The civil action number should also be placed on each of the exhibit stickers.

    d) There shall be no duplicate exhibits (i.e., exhibits listed on both Plaintiff's and Defendant's exhibit lists).

    e) The parties shall confer and attempt to stipulate to the admissibility of any exhibits.

    f) No oversized exhibits are to be used unless requested by prior motion and approved by the Court.

4. Exhibit Notebooks:

    a) The exhibits must be indexed and bound in three-ring notebooks or folders. The exhibit notebook or folder should include the exhibits list and all exhibits that the parties plan to use or introduce, including those that are stipulated, contested, and demonstrative. The notebook or folder should be labeled with the following information: (i) case caption and number, and (ii) "original" or "copy." Pages of multi-page exhibits must be numbered consecutively to avoid having the pages separated or omitted.

    b) In addition to the exhibit notebooks provided to the opposing parties, four exhibit notebooks, one containing the original exhibits and three containing a copy of the exhibits for the Court, shall be delivered to Chambers by 9:00 a.m. at least two (2) business days before commencement of the hearing or trial. If exhibits are not properly bound and labeled, time set aside for hearing or trial will be consumed while the parties assemble them appropriately.

    c) The Courtroom Deputy will place the original exhibit notebook(s) in the witness box. Thus, when asking a witness to look at an exhibit, counsel or a pro se party may simply say, "Please look at Exhibit No. __ in the notebook in front of you," and the witness will be able to refer to the exhibit in the Original Exhibit Notebook.

5. Voluminous Evidence: In preparation for trial or other evidentiary proceeding, parties shall either:

    a) redact voluminous evidence to reflect only the relevant portions and portions necessary for context; or

    b) consistent with the requirements of Fed. R. Evid. 1006, prepare and offer charts, summaries, or calculations to communicate the contents of voluminous evidence to the Court and jury. Although a complete original or copy of the evidence on which a redacted exhibit or Rule 1006 chart, summary, or calculation is based need not be offered and admitted into evidence, such underlying evidence must itself be admissible and available to the parties for examination or copying and to the Court for production if so ordered.

    The parties shall include any redacted evidence or Rule 1006 chart, summary, or calculation they intend to use at trial in the list of exhibits set forth in the Final Pretrial Order and in the exhibit copies exchanged following the Final Pretrial Conference. The voluminous evidence on which such redacted, summary, chart, or calculation exhibit is based shall be identified in an appendix to the exhibit list and such underlying evidence shall be made available to the other parties at the time the parties exchange exhibits.

6. Digital Presentation: If the parties intend to use digital exhibits or presentation hardware such as Elmo, they shall coordinate the use of such mediums with the Courtroom Deputy sufficiently in advance of the trial or hearing.

F. Witness Lists

1. Format: Parties must use the form of witness list available through the District Court website at http://www.cod.uscourts.gov/JudicialOfficers/ActiveArticleIIIJudges/HonRaymondPMoore.aspx.

2. When to File: Each party shall submit a list of its *proposed* witnesses at the time and in the manner set forth in the Court's orders or, if no time or manner has been specified, as set forth below:

   a) Evidentiary motion hearings, other than Rule 702 hearings: filed via CM/ECF two (2) business days before the hearing.

   b) Rule 702 motion hearings: *See* Civ. Practice Standard IV.L.

   c) Trials: *See* Civ. Practice Standard V.B.

3. On the morning of the commencement of trial or evidentiary hearing, in addition to the list of proposed witnesses, each party shall provide the Courtroom Deputy with four paper copies of a *final* list of its witnesses and include an estimate of the time anticipated for each witnesses' testimony. 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 videotape depositions in Court proceedings.

2. At the beginning of a hearing or trial, a party shall deliver to the Courtroom Deputy the sealed, original transcripts of all depositions the party intends to use, whether for impeachment or otherwise. To allow the Court to better rule on any objections to deposition testimony, the offering party should also provide the Court with a notebook containing copies of any deposition transcripts to be used, with tabs that identify the relevant depositions.

3. If the parties intend to offer deposition testimony in lieu of a live witness at trial:

   a) Not later than thirty days (30) prior to trial, counsel shall exchange with each other their designation of anticipated deposition and videotape deposition testimony. Plaintiff's designations shall be highlighted in yellow; Defendant's designations highlighted in blue; and any other party's in green. Subsequent to the original exchange, and not later than twenty-one (21) days prior to trial, counsel shall notify opposing counsel of any counter-designated deposition testimony, exchange objections to all designated testimony, and make a good-faith attempt to resolve such objections.

b) Not later than fourteen (14) days prior to trial, the parties shall submit directly to Chambers the transcript of the designated deposition testimony, highlighted as set forth above, along with the objections thereto highlighted in red, with a notation as to the basis for the objection and a response to such objection.

c) The Court will attempt to resolve disputes regarding the admissibility of properly designated deposition testimony prior to trial. However, if the Court does not rule on the admissibility of deposition testimony before trial, as with all other live testimony, objections shall be raised at the time the deposition testimony is presented.

d) 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.

4. For jury trials, if evidence is to be presented through a written deposition transcript, the proponent shall supply a person to read from a written deposition transcript.

5. For bench trials, depositions will usually not be read in open Court. Instead, the Court will read them in Chambers in any sequence requested. At the beginning of the trial, the offering party shall provide the Courtroom Deputy with two copies of the relevant deposition transcript marked as an exhibit with plaintiff's designated portions highlighted in yellow, the defendant's in blue, and any other party's in green. If there is any dispute or objection concerning such testimony, see Subsections III.G.3 and G.4 above.

IV. MOTIONS AND OBJECTIONS PRACTICE

A. Motions and Papers in General

Absent leave of Court, a motion, response, reply, or other filing may not (i) incorporate by reference another motion or filing; or (ii) contain another motion, e.g., a Rule 56(d) motion should not be included in a response to a Rule 56(a) motion and a Rule 15 motion should not be included in an objection to a United States Magistrate Judge's recommendation.

B. Motions Not Addressed in D.C.COLO.LCivR 7.1(d)

Excluding motions filed under Fed. R. Civ. P. 56 or 65, or under Fed. R. Evid. 702, all motions not covered by or addressed in D.C.COLO.LCivR 7.1(d), including, but not limited to, motions presenting issues in limine or only contested issues of fact, shall be marshaled and determined in the time and manner prescribed by D.C.COLO.LCivR 7.1, and subject to the page limitations imposed in this Practice Standard.

Proposed orders on non-substantive matters such as motions for extensions of time, to exceed page limitations, or to restrict documents should also be sent in Word or WordPerfect via e-mail to Chambers at Moore_Chambers@cod.uscourts.gov.

C. Format and Page Limitations

1. Except motions for summary judgment, all motions, objections (including objections to the recommendations or orders of United States Magistrate Judges), responses, and briefs shall not exceed **twenty (20) pages**. Motions filed under Rule 12 must comply with the requirements and limitations herein. The parties shall state under which section the Rule 12 motion is brought. Rule 12(c) motions should not be designated as Rule 12(b) motions. Motions and briefs shall be combined and shall be considered one paper for purposes of computing page limitations. Replies shall not exceed **fifteen (15) pages**. These page limitations shall include the cover page, jurisdictional statement, statement of facts, procedural history, argument, authority, closing, signature block, and all other matters except the certificate of service. A table of contents is not required, but if a party chooses to include one, the page or pages used for the table will not be counted for purposes of determining whether a party has exceeded the page limitations.

2. Motions for summary judgment or partial summary judgment must comply with the following requirements.

   a) Sample

   A sample separate statement of undisputed material facts and mock briefs are attached as Exhibits 1 and 2 at the end of these Standards. The separate statement of undisputed material facts should not be substituted for explaining the factual background of the case, i.e., a brief summary of the case, and the party's legal arguments should still be provided in the motion. Please see Exhibit 2 at the end of these standards for sample summaries of the case.

   b) Preferred Filing Procedure

      (1) The motion, response, and reply should each be filed as single docket entries.

      (2) The separate statement of undisputed material facts, together with supporting documentary evidence, should be filed as a separate docket entry.

   For example, the motion may be ECF No. 3; the separate statement may be ECF No. 4, and the exhibits thereto may be ECF Nos. 4-1, 4-2, etc. If the exhibits are too voluminous, they may be filed in subsequent docket entries, e.g., ECF No. 5, 5-1, 5-2, etc.

   c) Motion: The motion must comply with the following requirements.

      (1) Pages: maximum **twenty (20) pages**.

(2) Separate statement of undisputed material facts in support of the motion: The Separate Statement of Undisputed Material Facts in support must separately identify each material fact claimed to be undisputed. In a four-column format, the statement must state in numerical sequence the undisputed material facts in the second column followed by the evidence that establishes those undisputed facts in that same column. Citation to the evidence in support of each material fact must include reference to the exhibit, title, page, and paragraph or line numbers.

(3) Absent prior leave of Court, a movant shall not file more than eighty (80) separately numbered statements of undisputed material facts.

(4) The separate statement is *not* to be included in the motion, response, or reply.

(5) Evidence in support of motion, e.g., deposition transcripts and affidavits: no page limitation.

d) Responses: The response in opposition must comply with the following requirements.

(1) Response brief in opposition: maximum **twenty (20) pages**.

(2) Separate statement of undisputed material facts in opposition to motion for summary or partial summary judgment: The separate statement must contain the following in a four-column format. The first two columns shall contain the exact information contained in the moving party's separate statement of undisputed material facts. In the third column, the response must state whether the fact in that row is "disputed" or "undisputed." An opposing party who contends the fact is disputed must state, in the third column of that row, the nature of the dispute and set forth the evidence that supports the position that the fact is controverted. Also in the third column, the opposing party shall set forth any additional material fact which it contends is undisputed or which the opposing party contends show summary judgment may not be had, along with evidence in support of such fact. Citation to the evidence in support of each material fact must include reference to the exhibit, title, page, and paragraph or line numbers.

(3) Absent prior leave of Court, a respondent to a summary judgment motion shall not file more than forty (40) separately numbered statements of additional facts.

(4) Evidence in opposition to motion for summary or partial summary judgment: no page limitation.

e) Replies: The reply in support of the motion must comply with the following requirements.

(1) Reply brief: maximum **fifteen (15) pages**.

(2) Separate statement of undisputed material facts in support of motion for summary or partial summary judgment: The separate statement must contain the following in a four-column format: The first three columns shall contain the exact information contained in the opposing party's separate statement of undisputed material facts. In the fourth column, directly opposite the recitation of the opposing party's material facts and supporting evidence, the reply must state whether the fact in that row is "disputed" or "undisputed." The moving party who contends the fact is disputed must state, in the fourth column of that row, the nature of the dispute and set forth the evidence that supports the position that the fact is controverted. Citation to the evidence in support of each material fact must include reference to the exhibit, title, page, and paragraph or line numbers. Also in the fourth column, if the moving party contests the opposing party's dispute of the moving party's recitation of undisputed material fact, the moving party may set forth any additional supporting evidence in reply.

(3) Evidence in reply in support of motion for summary or partial summary judgment: no page limitation.

f) Documentary Evidence:

(1) If evidence in support or opposition to a motion is voluminous, the evidence must include a table of contents.

(2) All summary judgment exhibits shall be labeled in the CM/ECF system both by exhibit number or letter and by name, e.g., Exhibit 1 - Smith Affidavit.

g) Format for Separate Statements:

(1) Please see Exhibit 1 attached to these Practice Standards for a clarifying example. Argument is not permitted and may be stricken by the Court *sua sponte*.

(2) The separate statement may be set forth in portrait or landscape format.

(3) In the case of evidentiary materials which are not numbered by paragraph, line, or page, the parties shall provide a reference which will enable the Court to ascertain the material fact without reviewing the entire document; the effort at specificity may be made by highlighting, manual underscoring, or pagination supplied by the proponent of the evidence.

(4) The parties' motion, response, and reply shall refer to the separate statement for support, e.g., MSUMF at ¶¶ 8, 10, and not to any particular exhibit or documentary evidence.

h) Submission of Separate Statements to Opposing Party: In addition to filing its statement of undisputed material facts with the Court, each party shall provide to the opposing party an editable electronic version of its Statement in Word, WordPerfect, or Rich Text Format for the opposing party's use in preparing its Statement. Thus, for example, the moving party shall provide its Statement to the opposing party, with the first two columns completed. The opposing party shall provide its Statement to the moving party, with the first through third columns completed, and so on.

i) Table of Contents: If a party chooses to include a table of contents, the page(s) used for the table will not be counted for purposes of determining whether a party has exceeded the page limitations.

j) Exceptions to the above page and statements of material fact limitations will be granted only upon a showing of good cause, e.g., due to the complexity or numerosity of the issues involved. Permission to exceed the page or number of statements limitations shall be sought by way of an appropriate motion filed well in advance of the deadline for filing the motion or brief and shall indicate the number of pages or statements of the proposed document, the reason why the additional pages or statements are necessary, and whether the request is opposed or unopposed.

k) Case with pro se prisoners: such cases are exempt from the above requirements.

l) Other pro se parties: pro se parties, other than prisoners, who submit handwritten filings or who are not e-filers are exempt from the above requirements.

D. Unopposed Motions

An unopposed motion shall be so designated as required by D.C.COLO.LCivR 7.1. Proposed orders should be submitted via CM/ECF along with all motions. Proposed orders should be sent via e-mail to Chambers. Unless directed by the Court, do not submit proposed judgments, as judgments are prepared by the Clerk of the Court.

E. Responses, Replies, Surreplies, and Supplemental Papers

1. Deadlines: Unless otherwise ordered, the time limit for filing a responsive brief is 21 days and a reply brief is 14 days. *See* D.C.COLO.LCivR 7.1 and 56.1. Rule 6 of the Federal Rules of Civil Procedures controls the computation of time. For extensions of time for filing such briefs, see Section IV.J.

2. A response or reply shall identify by title and CM/ECF docket number the document to which it responds.

3. No surreply or supplemental briefs shall be filed without leave of Court, upon motion filed after conferring with the opposing party or parties.

4. Parties may, without leave of Court, file notices of supplemental authority, identifying and supplying a copy of such authority and the issue to which it relates, e.g., statute of limitations. No analysis or briefing of the asserted supplemental authority is allowed.

F. Objections

1. Objection to a Magistrate Judge's order or recommendation must be filed within fourteen (14) days and comply with Fed. R. Civ. P. 72 and any applicable Local Rules.

2. On dispositive matters, replies may be filed within seven (7) days of service of the response.

3. On nondispositive matters, no response to an objection may be filed absent leave of the Court upon motion filed promptly upon the receipt of any objection, after conferral with the opposing party or parties.

G. Untimely or Noncomplying Motions, Objections, Responses, or Replies

1. A noncomplying motion, response, reply, objection, or other paper is a filing that does not conform in form and substance to the procedural, formatting, or technical requirements of applicable statutes, regulations, rules of civil procedure, local rules, and these practice standards.

2. Motions without a certification required by D.C.COLO.LCivR 6.1 or 7.1 may be denied without prejudice *sua sponte*.

3. Untimely or noncomplying motions, responses, replies, objections, or other papers may be denied in whole or part, or struck by the Court *sua sponte*.

H. Motions Hearings

1. Motions may be determined without a hearing or set for an evidentiary hearing or oral argument.

2. Unless otherwise stated in the Court's order setting the hearing or oral argument, there is no specific time limitation for presentation of argument or evidence. The Court will allow such time as it deems reasonable in light of the issues to be heard. If any party anticipates that it will require a specific amount of time to adequately address its position, that party may file a motion with the Court requesting relief, stating whether such request is opposed or unopposed.

I. Forthwith Hearings on Motions

1. A "forthwith hearing" is a hearing that cannot be handled in the normal course of notice and setting due to a need for immediate judicial intervention. A request for forthwith hearing must be made by separate motion stating the reason(s) warranting immediate action, whether notice was given to all parties, and, if not, why such notice could not be given. A courtesy call to Chambers advising that such a motion is being filed is appreciated and will help facilitate prompt consideration.

2. Unless required by statute or rule of procedure, after reviewing the request for forthwith hearing, the Court may order that the matter be heard as soon as possible on a forthwith basis, require that notice and opportunity to respond be given to any opposing party, or deny the request for forthwith hearing and require that the matter be set using normal setting procedures. If the Court determines that a forthwith hearing is necessary, notice to all parties of record may be required in the manner and form directed by the Court.

J. Continuances of Hearings and Trials

Motions to continue hearings and trials (including motions to vacate or reset) are governed by D.C.COLO.LCivR 6.1 and 7.1; *Rogers v. Andrus Transp. Serv.*, 502 F.3d 1147, 1151 (10th Cir. 2007); and *United States v. West*, 828 F.2d 1468, 1469-70 (10th Cir. 1987). Motions to continue shall be submitted in writing to the Court as far in advance as possible of the matter to be continued and, absent extraordinary circumstances, should not be made at the time of a hearing or trial. To be granted, such motions must show good cause.

K. Motions for Extension of Time

1. Motions for extensions of time are governed by Fed. R. Civ. P. 6; D.C.COLO.LCivR 6.1 and 7.1; and these Practice Standards. Unless otherwise required by the Federal Rules of Civil Procedure, such motions require a showing of good cause and may be denied if they do not comply with these rules. Unless the circumstances are unanticipatable and unavoidable, the following do not constitute good cause: inconvenience to counsel or parties, press of other business, scheduling conflicts (especially when more than one attorney has entered an appearance for a party), or agreements by counsel.

2. Please be aware that requested extensions of time, even if stipulated, may be denied if they adversely affect the scheduling of the case or other cases. In addition, if extensions are granted, they may prevent the determination of the matter prior to a scheduled hearing or trial.

L. Motions in Limine

Motions in limine are discouraged when the motion is evidence-driven and cannot be resolved until evidence is presented at trial, or when trial is to the Court. Instead, the issue can be flagged in a trial brief. Motions in limine must be filed at least seven (7) days before the trial preparation conference.

M. Rule 702 Motions

A party objecting to the admissibility of opinion testimony by an expert witness shall file a written motion seeking its exclusion. (The failure of an opponent to file such a motion, however, does not relieve the proponent of its burden to show that the proffered testimony is admissible at trial.)

The motion shall identify with specificity each opinion the moving party seeks to exclude. The motion shall also identify the specific ground(s) on which each opinion is challenged, e.g., relevancy, sufficiency of facts and data, or methodology. *See* Fed. R. Evid. 702.

Such motions shall be filed no later than thirty (30) days after the deadline for disclosure of rebuttal expert witnesses, unless a different deadline has been set at the scheduling conference.

Upon the filing of a motion, the Court, in its discretion, may set a hearing to determine whether the challenged opinions are admissible under the relevant Federal Rules of Evidence. The setting of such hearing does not obviate the need for opposing counsel to respond to such motion. If such a hearing is ordered, the parties shall proceed as follows:

1. No later than fourteen (14) days prior to the hearing, the proponent of the expert witness shall file a statement of the expert witness that sets forth the expert witness's relevant qualifications, methodology, etc. This statement shall substitute for the proponent's direct examination of the expert witness and should therefore include all information the proponent would otherwise seek to establish on direct examination in support of the challenged opinions. Particular attention should be paid to the challenges raised by the opposing party. For example, if the opposing party challenges an expert witness's methodology for a particular opinion pursuant to Fed. R. Evid. 702, the statement should focus on the reliability of that methodology. Such statement shall not exceed ten (10) pages without permission of the Court. The expert witness must be present at the hearing.

2. The hearing will begin, if necessary, with brief opening arguments by the parties, followed immediately by the challenging party's cross-examination of the expert witness. Following cross-examination, the proponent will be permitted to ask questions of the expert witness on redirect examination.

3. After examination of the expert is complete, the proponent may call additional witnesses, if necessary. The opponent may also call additional witnesses, if necessary.

4. Unless otherwise ordered, no later than seven (7) days before the hearing, the parties shall: (i) exchange any exhibits they intend to introduce at the hearing, properly labeled and indexed in accordance with Section III.E above, and (ii) file their witness and exhibits lists via CM/ECF.

5. Exhibit Notebooks: Notwithstanding anything herein to the contrary, four sets of exhibit notebooks (original plus three copies) shall be delivered to Chambers at least two (2) days before the hearing.

N. Dispositive Motions

1. Motions seeking relief pursuant to Fed. R. Civ. P. 12 or 56 are governed by D.C.COLO.LCivR. 7.1 and 56.1, and these Practice Standards. Deadlines will be applied strictly.

2. Fed. R. Civ. P. 12(b) Motions

   a) Motions brought pursuant to Fed. R. Civ. P. 12(b) are discouraged if the defect is correctable by filing an amended pleading. Movants should confer before filing the motion to determine whether the deficiency can be corrected by amendment (e.g., failure to plead fraud with specificity) and should exercise their best efforts to stipulate to appropriate amendments. If such a motion is nonetheless filed, movants shall include in the motion a conspicuous statement describing the specific efforts undertaken to comply with this Practice Standard.

   b) Conferral is not required for or with pro se prisoners.

   c) All motions to dismiss must comply with Fed. R. Civ. P. 12. All motions to dismiss shall state in the caption or in the opening paragraph the rule or subsection under which such motion is filed.

   d) A Rule 12(b) motion should not be stated in the alternative as a Rule 56 motion for summary judgment. If matters outside the pleadings are submitted in support of or opposition to a Rule 12(b) motion, the party should discuss whether the 12(b) motion should be converted to a summary judgment motion. In such a case, the extraneous submissions may be disregarded, or the Court may issue an order to show cause why the motion should not be treated as a Rule 56 motion.

3. Fed. R. Civ. P. 56 Motions

   a) Plaintiffs collectively are limited to one motion. Defendants collectively are limited to one motion, unless defendants have differing interests and are represented by separate counsel. For example, Defendant A is represented by Law Firm A, while Defendants B and C are represented by Law Firm B. Defendant A may file one motion, and Defendants B and C (collectively) may file one motion. A party may *not* file multiple motions for summary judgment without obtaining permission from the Court. Such permission will be given only in exceptional circumstances.

   b) The formatting and content of Rule 56 motions are addressed in Section IV.C above.

V. TRIALS

A. Final Pretrial Conference

A Final Pretrial Conference will be held in all civil cases and will be used to set the trial date. Unless otherwise ordered by the Court, the assigned Magistrate Judge shall preside over a Final Pretrial Conference as prescribed by Fed. R. Civ. P. 16(e) and D.C.COLO.LCivR 16.3. The primary purpose of the Final Pretrial Conference is to complete and finalize the parties' proposed Final Pretrial Order. The Proposed Final Pretrial Order shall be prepared in accordance with the Instructions for Preparation of Final Pretrial Order found in the "Forms" link at http://www.cod.uscourts.gov/CourtOperations/RulesProcedures/Forms.aspx.

B. Trial Settings

1. Unless otherwise instructed by the Magistrate Judge, immediately following the Final Pretrial Conference counsel and pro se parties shall report to the Court's Chambers to set the case for a Final Trial Preparation Conference and Trial.

2. Length of Trial: Should the parties be unable to agree on the length of the trial, before a trial date can be set, counsel and pro se parties shall report to this Court's Chambers following the Final Pretrial Conference to set a status conference date, at which time the parties may present argument to the Court on the length of trial they believe is appropriate.

3. Final Trial Preparation Conference: The Final Trial Preparation Conference will be scheduled approximately two (2) to four (4) weeks before trial. Counsel who will try the case must attend the Final Trial Preparation Conference. At the Final Trial Preparation Conference, counsel and any pro se parties should bring to the Court's attention any problems which need to be resolved or addressed before trial commences or which may arise during the course of the trial. The parties should anticipate discussing witnesses, exhibits, voir dire, jury instructions, verdict forms, and outstanding motions or issues.

4. Jury Instructions and Verdict Forms:

    a) Fourteen (14) days before the Final Trial Preparation Conference, counsel and any pro se party shall submit proposed jury instructions and verdict forms. The jury instructions shall identify the source of the instruction and supporting authority, e.g., § 103, Fed. Jury Practice, O'Malley, Grenig, and Lee (5th ed.). The parties shall submit their instructions and verdict forms both via CM/ECF and by e-mail to Moore_Chambers@cod.uscourts.gov in Word or WordPerfect (WordPerfect 12 or later version). Verdict forms shall be submitted in a separate file from jury instructions. Within the jury instruction file, each jury instruction shall begin on a new page.

b) Each instruction should be numbered (e.g., "Plaintiff'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 (e.g., burden of proof, a joint statement of the parties' claims and defenses) and verdict forms. The parties shall identify any instructions and verdict forms as stipulated, competing, or opposed.

c) In diversity cases where Colorado law applies, please submit instructions and verdict forms that conform to the most recent edition of CJI-Civ.

5. Exhibit and Witness Lists:

a) Seven days (7) before the Final Trial Preparation Conference, the parties shall file their proposed witness and exhibit lists via CM/ECF. The form of such lists is found at http://www.cod.uscourts.gov/JudicialOfficers/ActiveArticleIIIJudges/HonRaymondPMoore.aspx.

b) For additional matters regarding exhibit and witness lists, see Sections III.E and III.F above.

6. Voir Dire: Seven (7) days before the Final Trial Preparation Conference, the parties shall file their proposed voir dire questions.

C. Trial Times

1. Trial to a jury: On the first day of trial, counsel are normally expected to be present at 8:30 a.m. to go over any final matters before the commencement of trial. Thereafter, the normal trial day begins at 9:00 a.m. and continues until 5:00 p.m. The Court will recess for a lunch break as well as short mid-morning and mid-afternoon breaks.

2. Trial to the Court: The normal trial day begins at 9:00 a.m. and continues until 5:00 p.m., with recess for breaks as with a jury trial.

D. Bench Trials

1. Not less than two (2) business days before the Final Trial Preparation Conference, counsel and any pro se party shall file proposed findings of fact, conclusions of law, and orders. A copy shall also be e-mailed to Chambers. Counsel and any pro se party are requested to state their proposed findings of fact in the same order as their anticipated order of proof at trial.

2. Counsel and any pro se party are requested to key their closing arguments to their proposed findings of fact and conclusions of law and to emphasize the evidence on which they rely to support their positions.

3. For a trial to the Court, a proper resume or curriculum vitae, marked and introduced as an exhibit, generally will suffice for the determination of an expert witness's qualification.

E. Jury Trials

1. Jury Selection Process

   a) Unless otherwise ordered by the Court, the jury in civil cases will normally consist of eight jurors.

   b) Prior to the jurors being brought up to the Courtroom, the Clerk's office will provide the Court with a list of juror names in an order that was randomly selected by the computer program used by the Clerk's office. The prospective jurors on the list will be seated in the jury box in the order in which they were drawn. The total number seated in the box will be the number of jurors the Court intends to seat plus six additional jurors.

   c) Voir dire will be directed to the prospective jurors seated in the jury box and will be conducted in the following manner:

      (1) Unless ordered otherwise, the Court will conduct the initial voir dire examination of the prospective jurors, following which each side shall be permitted voir dire examination not to exceed fifteen (15) minutes. Voir dire by counsel or a pro se party shall be limited to previously approved questions and appropriate follow-up questions.

      (2) Any juror excused by the Court for hardship will be replaced by the next numerically identified prospective juror in the jury pool who has not already been seated in the jury box.

      (3) The Court will entertain challenges for cause as matters giving rise to the challenge present themselves. Any juror excused for cause will be replaced by the next numerically identified prospective juror in the jury pool who has not already been seated in the jury box. Voir dire of any replacement jurors shall be conducted by the Court.

   d) Pursuant to Fed. R. Civ. P. 47(b) and 28 U.S.C. § 1870, each side shall have three peremptory challenges, which shall be exercised in alternating fashion beginning with Plaintiff. *Batson* challenges are to be made at the conclusion of the exercise of peremptory challenges, immediately prior to the jury being seated and sworn.

2. Jurors will be permitted to take notes during the trial. The jurors' notes will be destroyed after the jury is discharged.

3. The jury will be instructed after closing arguments.

4. The jury will be given a copy of the written jury instructions for their use and consideration during deliberations.

F. Trial Briefs

Trial briefs are encouraged, but not required absent specific Court order. If filed, trial briefs shall not exceed ten (10) pages and shall be filed not later than five (5) business days before trial.

G. Glossary

Not later than five (5) business days before commencement of a hearing, a bench trial, a jury trial, or any other proceeding, counsel and any pro se party shall file and provide the Court, the Court Reporter, the Courtroom Deputy, opposing counsel, and any pro se party with a glossary of any difficult, unusual, scientific, technical, and medical jargon, words, names, terms, and phrases.

Exhibit 1
Format for Separate Statement of Undisputed Material Facts ("SUMF")[1]

Movant's SUMF:

	Moving Party's Statement of Undisputed Material Facts ("MSUMF") and Supporting Evidence	**Opposing Party's Response and Additional Facts and Supporting Evidence ("OSUMF")**	**Moving Party's Reply and Supporting Evidence ("RSUMF")**
1.	Plaintiff was hired by Defendant on July 1, 2010. Ex. 1, Plaintiff's Depo., page 5, lines 8-12.		
2.	Plaintiff received five reviews from her supervisor, Jane Smith, all of which rated her performance as "superior." Ex. 2, Plaintiff's Performance Reviews.		
3.	On July 1, 2012, Plaintiff applied for a promotion to supervisor. Ex. 3, Plaintiff's application for Supervisor II position.		

[1] The columns of the SUMF may be cited as "MSUMF" for the movant's SUMF; "OSUMF" for the opposing party's SUMF; and "RSUMF" for the movant's reply.

Opposing Party's OSUMF:

	Moving Party's Statement of Undisputed Material Facts ("MSUMF") and Supporting Evidence	**Opposing Party's Response and Additional Facts and Supporting Evidence ("OSUMF")**	**Moving Party's Reply and Supporting Evidence ("RSUMF")**
1.	Plaintiff was hired by Defendant on July 1, 2010. Ex. 1, Plaintiff's Depo., page 5, lines 8-12.	Undisputed.	
2.	Plaintiff received five reviews from her supervisor, Jane Smith, all of which rated her overall performance as "superior." Ex. 2, Plaintiff's Performance Reviews.	Disputed. Plaintiff received four such reviews. The fifth review rated some elements as superior, but her *overall* performance as "above average." Ex. A, Plaintiff's Performance Review of December 1, 2010, page 5.	
3.	On July 1, 2012, Plaintiff applied for a promotion to supervisor. Ex. 3, Plaintiff's application for Supervisor II position.	Undisputed.	
4		On July 15, 2012, Plaintiff appeared 20 minutes late for her interview for the supervisor position. Ex. B, Jane Smith Declaration, ¶ 5.	
5		On July 30, 2012, after completing all interviews, Defendant selected external candidate John Doe for the position. Ex. C, Jane Smith Depo., page 56, lines 1-7.	

Moving Party's RSUMF:

	Moving Party's Statement of Undisputed Material Facts ("MSUMF") and Supporting Evidence	**Opposing Party's Response and Additional Facts and Supporting Evidence ("OSUMF")**	**Moving Party's Reply and Supporting Evidence ("RSUMF")**
1	Plaintiff was hired by Defendant on July 1, 2010. Ex. 1, Plaintiff's Depo., page 5, lines 8-12.	Undisputed.	
2	Plaintiff received five reviews from her supervisor, Jane Smith, all of which rated her overall performance as "superior." Ex. 2, Plaintiff's Performance Reviews.	Disputed. Plaintiff received four such reviews. The fifth review rated some elements as superior, but her *overall* performance as "above average." Ex. A, Plaintiff's Performance Review of December 1, 2010, page 5.	Plaintiff's December 1, 2010 review was subsequent amended, as shown by the review submitted as part of Ex. 2. Ex. 2, Plaintiff's Performance Reviews, page 18.
3	On July 1, 2012, Plaintiff applied for a promotion to supervisor. Ex. 3, Plaintiff's application for Supervisor II position.	Undisputed.	
4		On July 15, 2012, Plaintiff appeared 20 minutes late for her interview for the supervisor position. Ex. B, Jane Smith Declaration, ¶ 5.	Disputed. Plaintiff was not late because Defendant had orally advised her that her interview was at 3:30 p.m. She arrived at 3:20 p.m., ten minutes early. Ex. 4, Plaintiff's Responses to Interrogatory, page 6, ¶ 7.
5		On July 30, 2012, after completing all interviews, Defendant selected external candidate John Doe for the position. Ex. C, Jane Smith Depo., page 56, lines 1-7.	Undisputed.

Exhibit 2

Using and Citing the Separate Statement of Undisputed Material Facts

A. Sample Motion for Summary Judgment Summary

This case involves water damage to a condominium building. (MSUMF Nos. 5, 6, and 7, Defendant's Separate Statement.)[2] On March 5, 2018, a 39-year-old cast iron water main buried 8-feet underground failed and flooded Plaintiff's property—a water main located at a neighboring property. (MSUMF Nos. 5, 6, and 7.) Plaintiff asserts four tort claims against Defendant. Defendant, however, did not cause the water main to fail. (MSUMF Nos. 11, 12, 13, 14.) Defendant did not perform any act with the intent required to support Plaintiff's intentional tort theories. (MSUMF Nos. 15-17.) And, regarding Plaintiff's negligence claim, Defendant met the standard of care in performing its annual test of a fire sprinkler system located at the neighboring property. (MSUMF No. 21.) Defendant did not owe Plaintiff any duty to protect against an unknown and unforeseeable risk that was preexisting at the neighboring property. These facts are not in dispute and are fatal to Plaintiff's claims as a matter of law. Therefore, summary judgment should be entered in Defendant's favor.

B. Sample Opposition to a Motion for Summary Judgment Summary

This is a products liability case involving a light fixture manufactured by Defendant. Whether Defendant's product is defective and unreasonably dangerous are disputed issues of material fact. A properly installed and properly functioning light fixture should not start a fire and burn down a house. (OSUMF No. 43, Plaintiff's Separate Statement.)[3] Defendant's fixture is designed and comes with a pre-installed "thermal protector switch" or "insulation detector." (MSUMF No. 6.) The purpose of the "thermal protector switch" is to detect improperly installed

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[2] All "MSUMF" references are to the movant's Separate Statement of Undisputed Material Facts filed in support of its motion for summary judgment.

[3] All "OSUMF" references are to the opposing party's Separate Statement of Undisputed Material Facts filed in opposition to Defendant's motion for summary judgment.

insulation and prevent a fire. (OSUMF Nos. 51, 52, 53, 54.) Insulation was installed in direct contact with the light fixture. (OSUMF No. 48.) The "thermal protector switch" showed abnormal electrical activity that allowed the light fixture to continue generating heat leading to this fire. (OSUMF Nos. 48, 51, 52, 53, and 54.) Defendant presents no credible evidence to establish that, at the time of the fire, the subject light fixture did not fail. Instead, Defendant tries to place blame on the insulation installer, Subcontractor. As discussed below, the acts or omissions of both parties combined to cause the fire. No facts suggest that Defendant tested the fixture to determine whether it operated properly. (OSUMF No. 52.) In fact, Defendant's own person most knowledgeable testified that the fixture failed. (OSUMF No. 52.) Accordingly, these material issues of fact must be decided by a jury.