

**JUDGE REGINA RODRIGUEZ  
PRACTICE STANDARDS  
CRIMINAL ACTIONS**

**TO:** Counsel and Parties  
**FROM:** Judge Regina M. Rodriguez  
**RE:** Practice Standards Criminal Actions

**I. GENERAL PROCEDURES**

**A. Applicable Rules**

Those appearing in the District Court must know and follow:

1. The Federal Rules of Criminal 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 Electronic Case Filing Procedures (Criminal Version 3.0 or the most current version); and
5. These Practice Standards.

**B. Communications with Chambers**

1. 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 the Judge's chambers at **rodriguez\_chambers@cod.uscourts.gov**.
2. All emails to chambers should include the case name and number in the subject line of the email.
3. For information about courtroom technology, trial preparation, or submission of trial exhibits, please contact my Courtroom Deputy, Kally Myhaver, **kally\_myhaver@cod.uscourts.gov**.
4. Please do not contact the law clerks about procedural or scheduling matters.

**C. Proposed Orders**

1. You may be directed to transmit proposed orders or other pleadings or

papers by e-mail to [rodriguez\\_chambers@cod.uscourts.gov](mailto:rodriguez_chambers@cod.uscourts.gov). The proposed order or document should be submitted as an attachment to the e-mail in Word format unless otherwise specified. The e-mail message should identify the case number and document attached. **Please do not send documents directly to chambers by facsimile or e-mail unless requested or ordered to do so by the court.**

#### D. Citations

1. Citations shall be made pursuant to the most current edition of THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION.
2. General references to cases, pleadings, depositions, or documents are insufficient if the document is more than one page in length. Whenever possible, specific references in the form of pinpoint citations should be used to identify relevant excerpts from cases, pleadings, depositions, or documents.
3. Whenever practicable a citation to an unpublished opinion should include its Westlaw® citation. **If a Westlaw® citation does not exist, include the caselaw as an attachment.**

#### E. Motions to Continue

1. Motions to continue (including motions to vacate or reset) hearings and trials will be determined pursuant to *United States v. West*, 828 F.2d 1468, 1469-70 (10th Cir. 1987) unless a party seeks to continue a hearing or trial outside the Speedy Trial Act deadlines, in which case it will be decided pursuant to the Speedy Trial Act. Oral or written motions to continue should not be made at the time of a hearing or trial. Stipulations for continuance are not effective unless approved by the Court. When a motion to continue is granted, all parties will be notified as soon as practicable.

#### F. Motions for Extensions of Time

1. Motions for extension of time require a showing of good cause, which must be established with particularity. The following reasons do not constitute good cause: agreement of counsel, inconvenience to counsel or to the parties; the press of business; conflicts in scheduling; or practice as a sole practitioner.

## II. COURTROOM PROCEDURES

#### A. Courtroom Protocol

1. 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.

2. If you have a question about courtroom protocol, please contact my Courtroom Deputy, Kally Myhaver, at [kally\\_myhaver@cod.uscourts.gov](mailto:kally_myhaver@cod.uscourts.gov).

## B. Recording of Proceedings

1. The realtime reporter assigned to the court is ~~Jessica Anderson~~ ~~Sadie Herbert~~. Transcripts of proceedings may be ordered from Ms. ~~Anderson~~ ~~Herbert~~ at [jessica@anderson@cod.uscourts.gov](mailto:jessica@anderson@cod.uscourts.gov). ~~sadie-herbert@cod.uscourts.gov~~. **Requests for daily transcripts should be made at least thirty (30) days before the trial or hearing. Requests for realtime transcription should be made no later than seven (7) days prior to the trial or hearing. If there are any further questions, please contact Ms. Anderson for details. Further details can be obtained from Ms. Herbert.**

## C. Exhibits

1. Motions Hearings:
  - a. For motions hearings, each party must provide a copy of its exhibit list and each exhibit to opposing counsel or any pro se party **threetwo business days** before the hearing.
2. Trial
  - a. For trial, the Government must provide a copy of its exhibits to Chambers no later than **three two business days** prior to trial. This requirement applies to a defendant if he or she has identified exhibits for trial.
3. Each party must pre-mark all exhibits that will be used or identified in a hearing or trial. Exhibits not timely pre-marked or exchanged before a hearing or trial may not be admitted.
4. Exhibits must be bound, e.g., in three-ring notebooks or folders, and the notebook or folder labeled with the following information: (i) caption, (ii) nature of proceeding, (iii) scheduled date and time, and (iv) “original” or “copy.” If exhibits are not bound and labeled properly, the hearing or trial

may be delayed or continued until they are.

5. Number of Sets of Exhibits
  - a. For hearings, separate sets of bound exhibits must be brought to the hearing for (1) the court; (2) the law clerk; and (3) the witness stand. A third copy may be provided electronically via a thumb drive.
  - b. For trials, the **Trial Preparation Conference Order** will specify the number of sets of exhibits.
6. Before any hearing or trial, each party shall submit to the courtroom deputy clerk an original and two copies of the Witness List and Exhibit List.

#### **D. Witness Lists**

1. Motions hearings:
  - a. For motions hearings, witness lists should be filed via CM-ECF-~~three~~ business days before the hearing. For trials, see Section IV.A. concerning the Trial Preparation Conference.
2. Format – Parties should use the form of witness list available on the District Court website

### **III. MOTIONS PRACTICE**

#### **A. General**

1. All requests for the Court to take distinct actions must be contained in separate, written motions. In other words, different bases for the same relief shall be filed in one motion, whereas requests for the Court to take different or distinct actions shall be filed in separate motions.
2. Parties should submit a proposed order with any stipulated, joint, or unopposed motion.
3. Motions with separately filed briefs or memoranda in support are discouraged. I prefer the motion itself and all supporting arguments to be contained within a single document. In no event, however, will a separate motion and brief in support thereof be accepted unless they are filed contemporaneously.
4. Exhibits to a motion, response, or reply (when permitted pursuant to RMR Criminal Practice Standard III.D.2) must be filed on the same calendar day as the motion, response, or reply. Exhibits filed on a later day may be summarily stricken. Where a motion is supported by exhibits, said motion shall be accompanied by one consecutively numbered appendix.

containing all exhibits and shall be referenced in the motion, response, and reply by appendix page number and name, e.g., (Movant's Appx., p. 30 – Smith Affidavit). Refer to Uniform Civil Practice Standards 7.1(a)(3).

5. If parties file what they deem to be an “emergency” motion, they should also email chambers at rodriguez\_chambers@cod.uscourts.gov at the time the motion is filed.

#### **B. Ends of Justice Continuances of Hearings and Trials.**

1. **All motions for an ends of justice continuance must:**
  - a. Specify the number of days remaining on the speedy trial clock and the date the requesting party believes the speedy trial clock expires;
  - b. Specify the number of days the party is seeking to exclude;
  - c. Identify which parties join in the motion and which parties object to the motion.
  - d. If the ends of justice continuance is unopposed/joined by all defendants each defendant shall sign the motion.
2. Any party who objects to the granting of an ends of justice continuance must file their objection within 7 days of the filing of the motion.

#### **C. Page Limitations**

1. All motions, objections, responses, and briefs shall not exceed fifteen pages. Replies (when permitted pursuant to RMR Criminal Practice Standard III.D.2) shall not exceed ten pages. Motions and briefs shall be combined and will be considered one paper for purposes of computing page limitations. These page limitations include the statement of facts, procedural history, argument, authority, closing, signature block, and all other matters, except the certificate of service. The body of the text and all footnotes shall be no smaller than 12-point type.
2. Motions to exceed the page limitations set forth in these Practice Standards will be granted only upon a showing of good cause. Any such motion shall indicate the number of pages of the proposed document and the reason why the additional pages are necessary.

#### **D. Responses and Replies**

1. A response shall clearly and completely identify by title, court CM/ECF docket number, and date filed the antecedent motion or petition to which response is made.
2. No replies shall be allowed unless specifically granted by the Court. If permitted, a reply shall clearly and completely identify by title, court CM/ECF docket number, and date filed the antecedent response to which reply is made.

3.

#### E. Trial Briefs

Trial briefs are encouraged, but not required absent specific court order. If filed, trial briefs shall not exceed ten pages and shall be filed not later than seven days before trial. Please flag evidentiary issues in a trial brief rather than by motion in limine. A trial brief may not be used as a substitute for a motion.

### IV. TRIALS

#### A. Trial Preparation Conference/ Change of Plea Hearing

1. The court will set a date for either the Trial Preparation Conference or a change of plea hearing approximately two weeks before trial. Counsel who will try the case must attend.
2. Not later than **one week** prior to the Trial Preparation Conference, the parties shall submit, via CM/ECF, the following:
  - a. **Witness List.** It should include the proposed order of witnesses, the anticipated length of testimony, including cross examination, and the expertise of any testifying experts. The parties shall also advise the Court whether any witnesses will appear by video.
  - b. **Exhibit List.**
  - c. **Deposition Designations/Objections.** If any party objects to any deposition designations, the parties shall jointly file with the court a single marked-up transcript of their respectively designated deposition testimony. Government's designations shall be highlighted in **yellow** and Defendant's designations shall be highlighted in **blue**. The parties shall also file a chart identifying the designation by page and line number and any objections to that designation. Objections must state the rule and a **short** statement of the basis for the objection
  - d. **Proposed Jury Instructions.** To the maximum extent possible, the parties shall agree on one stipulated set of proposed jury instructions; only true conflict or uncertainty in binding substantive law should prevent such agreement.
    - i. Whenever practicable and appropriate, the parties shall use or adapt for use the Criminal Pattern Jury Instructions prepared by the Criminal Pattern Jury Instruction Committee of the United States Court of Appeals for the Tenth Circuit. The pattern instructions and updates may be found online at (<https://www.ca10.uscourts.gov/>).

- ii. To the extent that counsel are unable to agree on proposed instructions, they are to jointly submit a document identifying all disputed instructions, with a brief statement of dispute and each side's proposed language.

e. **Proposed Verdict Forms.**

f. **Proposed Voir Dire.** Proposed voir dire should only include questions counsel would like the Court to ask. The Court has stock questions it will ask. The parties may obtain a copy of the Court's stock questions from Ms. Myhaver.

## **B. Trial Practice and Procedure**

1. Counsel and pro se parties shall be present on the first day of trial at 8:30 a.m. Jury selection will begin at 9:00 a.m. Commencing the second day of trial, the normal trial day will begin at **8:00 a.m.** and continue until **3:00 p.m.** The trial day will have a morning recess of approximately fifteen minutes and a lunch break of approximately thirty minutes.
2. Unless otherwise ordered, each side shall be permitted voir dire examination of fifteen minutes after voir dire examination by the Court.

## **V. PLEA AGREEMENTS**

### **A. Treatment of Notice of Disposition**

1. Any notice of disposition filed pursuant to D.C.COLO.LCrR 11.1A shall be considered to be a pretrial motion within the meaning of 18 U.S.C. § 3161(h)(1)(D) for the purpose of computing time under the Speedy Trial Act of 1974, 18 U.S.C. §§ 3161-74.

### **B. Plea Agreement Content Restriction**

1. No plea agreement shall identify whether a defendant has agreed to cooperate with the United States or other jurisdiction with respect to the investigation or prosecution of others.
2. Consequently, no plea agreement shall contain any reference to any cooperation agreement between the defendant and the government, to any potential for a motion under 5K.1.1 of the United States Sentencing Guidelines ("U.S.S.G."), or to any other statutory or guideline calculation or adjustment predicated on such cooperation.

### **C. Change of Plea Haring**

1. The order setting the trial and pretrial dates also sets the change of plea

hearing date on the same day as the Trial Preparation Conference. If a notice of disposition is filed, the Change of Plea hearing will be held on the date already scheduled for the trial preparation conference (in lieu of the trial preparation conference).

2. The AUSA who negotiated the plea agreement and defense counsel who reviewed the plea agreement with the defendant must be present in person at the Change of Plea hearing.