

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

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Website: [Hon. Susan Prose | US District Court of Colorado](http://www.cod.uscourts.gov/JudicialOfficers/ArticleIMagistrateJudges/HonSusanProse.aspx)
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STANDING ORDER REGARDING TRIAL AND PRE-TRIAL PROCEDURES

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TRIAL AND PRE-TRIAL PROCEDURES

A. Title and Citation

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

B. Final Pretrial/Trial Preparation Conference

- a. Unless otherwise ordered, this Court will conduct one joint Final Pretrial/Trial Preparation Conference (calendared during the Scheduling Conference).
- b. The parties should be prepared to discuss the anticipated length of trial at the conference. **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.**
- c. The Final Pretrial/Trial Preparation Conference will be held approximately **six weeks** prior to the beginning of the trial. Counsel who will try the case **must** attend the Final Pretrial/Trial Preparation Conference in person. It is the expectation of the Court that, in cases in which one of the parties is an incarcerated pro se litigant, the incarcerated litigant will participate in the Final Pretrial/Trial Preparation Conference by telephone.
- d. **Seven days** prior to the Final Pretrial/Trial Preparation 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 Prose_Chambers@cod.uscourts.gov. In a case with a pro se litigant, counsel for represented parties shall take the lead in preparing the proposed Final Pretrial Order.
- e. The parties shall submit their respective proposed voir dire questions to the Court no later than **seven days** prior to the Final Pretrial/Trial Preparation Conference. The parties shall file their respective proposed voir dire questions via CM/ECF and shall send editable Microsoft Word versions to Prose_Chambers@cod.uscourts.gov. The parties shall be prepared to discuss their proposed voir dire at the Conference.

C. Jury Instructions and Verdict Form

- a. The parties shall submit their proposed jury instructions and proposed verdict form **fourteen days** prior to the Final Pretrial/Trial Preparation Conference, unless otherwise ordered. The parties shall jointly file their proposed jury instructions and proposed verdict form (in separate filings) via CM/ECF and shall also jointly send an editable Microsoft Word version of each document to Prose_Chambers@cod.uscourts.gov.
- b. Each proposed jury instruction must be submitted on a separate page, be numbered, and

identify the source of the instruction and supporting authority.

- c. 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 its 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.~~

- d. 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.
- e. 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.

D. Exhibits and Exhibit Lists

- a. For all trials, the parties shall use the format for joint exhibit lists located on the District Court's website at [Hon. Susan Prose | US District Court of Colorado](#).
- b. The parties must confer and stipulate to the authenticity and admissibility of as many exhibits as possible, marking the appropriate box on the proposed exhibit list. **Failure to appropriately stipulate to exhibits may lead to further conferences with the Court and/or a resetting of the trial date.** 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.
- c. For all trials, exhibit lists are due no later than **seven days** prior to the Final Pretrial/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 Prose_Chambers@cod.uscourts.gov.
- d. Two USB flash drives containing all pre-marked exhibits shall be provided to the Courtroom Deputy on the first day of trial.

E. Exhibit Notebooks

- a. Prior to a trial, the parties shall jointly provide to the courtroom deputy a copy of all exhibits in a notebook format. This notebook will be used for the witnesses and/or the jury. For all trials, the exhibit notebook is due no later than **seven days** prior to the Final Pretrial/Trial Preparation Conference, unless otherwise ordered.
- b. Exhibit notebooks should be labeled with the case caption and scheduled commencement date and time of the trial.
- 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.
- d. 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.

F. Demonstrative Exhibits

- a. To the extent any party wishes to use demonstrative exhibits during trial, those exhibits must be prepared in advance outside of court. The Court does not permit parties to create demonstratives during the trial (for example, writing on an easel pad during cross-examination).
- b. The Court does not permit the use of demonstrative exhibits that contain unadmitted documentary evidence, even if the parties have stipulated to that evidence.
- c. Demonstrative exhibits are permitted for in-court use only and will not be sent back to the jury for use during deliberations.
- d. To the extent any party intends to utilize PowerPoints, slides, or any other demonstrative items for opening 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 Prose_Chambers@cod.uscourts.gov.
- e. To the extent any party intends to use these demonstrative items for closing arguments, the parties shall exchange such items no later than 6:00 P.M. the evening before closing arguments and shall provide copies of the same to Prose_Chambers@cod.uscourts.gov.

G. Witness Lists

- a. For all trials, the parties shall use the format for joint witness lists located on the District Court's website at [Hon. Susan Prose | US District Court of Colorado](#).
- b. 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.

- c. For all trials, witness lists are due no later than **seven days** prior to the Final Pretrial/Trial Preparation Conference, unless otherwise ordered. The parties shall file their witness lists via CM/ECF and shall also jointly send editable Microsoft Word versions to Prose_Chambers@cod.uscourts.gov.
- d. On the morning of the first day of trial, each party shall provide the courtroom deputy with three 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.

H. Depositions

- a. Together with Fed. R. Civ. P. 32, this Practice Standard governs the use of both regular and videotaped depositions in court proceedings.
- b. If the parties intend to offer deposition testimony in lieu of a live witness at trial or at an evidentiary hearing:
- c. No later than **twenty-one days** prior to the Final Pretrial/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. The deposition designations should be provided to the opposing party but should not be filed on the docket.
- d. Counter-designations must be made no later than **fourteen days** prior to the Final Pretrial/Trial Preparation Conference. The counter-designations should be provided to the opposing party but should not be filed on the docket.
- e. The parties should be prepared to address any anticipated objections at the Final Pretrial/Trial Preparation Conference. Prior to the Final Pretrial/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 jointly submit a chart that sets forth (1) the page and line citations of the deposition testimony subject to objection; (2) an explanation for each objection; and (3) any relevant or supporting case law. The objection chart shall be filed on CM/ECF and submitted to Prose_Chambers@cod.uscourts.gov no later than **seven days** prior to the Final Pretrial/Trial Preparation Conference. In addition, no later than **seven days** prior to the Final Pretrial/Trial Preparation Conference, the parties shall jointly submit a copy of the deposition transcript(s) to Prose_Chambers@cod.uscourts.gov.
- f. 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.

- g. 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.
- h. 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.

I. Glossary

- a. Not later than **five business days** before trial, the parties shall confer and jointly **email to Chambers** a Glossary of any difficult, unusual, scientific, or technical words, names, terms (including acronyms), or phrases.
- b. The parties shall submit to the Courtroom Deputy **three paper copies** of the Glossary and provide a copy of the Glossary to opposing counsel and any pro se party **on the first day of trial**.

J. Motions in Limine

- a. Each party may file **one** omnibus motion in limine, not to exceed **twenty pages**.
- b. Motions in limine shall be filed no later than **forty-two (42) days** prior to the Final Pretrial/Trial Preparation Conference, unless otherwise ordered. Responses shall be filed no later than **twenty-eight (28) days** prior to the Final Pretrial/Trial Preparation Conference, or **fourteen (14) days** after the motion is filed, whichever is earlier. No replies will be permitted absent leave of Court and good cause shown.

K. Trial Briefs

- a. Trial briefs are encouraged but not required absent a specific Court order. If filed, trial briefs shall not exceed ten pages and shall be filed no later than five days before the combined Final Pretrial/Trial Preparation Conference. A trial brief may not be used as a substitute for a motion.

L. Jury Trials

- a. 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 4:45 p.m., with a fifteen-minute break in the morning, an hour break for lunch, and a fifteen-minute break in the afternoon. However, counsel and witnesses should be aware that the general schedule may be modified to promote the efficiency of the trial.
- b. Unless otherwise ordered, civil juries will consist of at least 7 jurors.
- c. Jurors will be permitted to take notes during the trial.

- d. After the close of evidence but before closing arguments, 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.

M. 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 30 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.

N. Opening Statements and Closing Arguments:

- a. Opening statements will generally be limited to thirty minutes per party. Should the parties believe that they require more time, the parties should be prepared to discuss their request at the Final Pretrial/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. The courtroom deputy will provide a five-minute warning before time expires.
 - i. To the extent any party intends to utilize PowerPoints, slides, or any other demonstrative items for opening 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 Prose_Chambers@cod.uscourts.gov.
- 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.
 - i. To the extent any party intends to use these demonstrative items for closing arguments, the parties shall exchange such items no later than **6:00 P.M.** the evening before closing arguments and shall provide copies of the same to Prose_Chambers@cod.uscourts.gov.
- c. Counsel shall not use any documents that have not been stipulated to in their opening statements and shall not use any documents not admitted in evidence in their closing arguments. The Court will generally consider objections to the use of such items on the morning of the first day of trial for opening statements, or at a break preceding the presentation of closing arguments, respectively.

O. Bench Trials

- a. Generally, the Court will permit no more than twenty minutes for opening statements and thirty minutes for closing arguments. To the extent that the parties agree, they may substitute a written submission of no more than ten pages in lieu of closing arguments.
- b. No later than three business days before the Final Pretrial/Trial Preparation Conference, the parties shall submit Proposed Findings of Fact, Conclusions of Law, and Orders. A Joint Proposed Findings of Fact, Conclusions of Law, and Orders shall be submitted that reflects stipulated facts and/or law to which the parties agree. Each party may then file separate proposed Findings of Fact, Conclusions of Law, and Orders with respect to any disputed points. The proposed Findings of Fact shall include citations to the trial exhibits, and the proposed Conclusions of Law shall include legal citations. The documents shall be filed via CM/ECF and shall also be submitted as an editable Microsoft Word version to Prose_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.
- c. 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.