

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

LOCAL RULES OF PRACTICE

Effective December 1, 2011

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

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SENIOR JUDGE LEWIS T. BABCOCK
JUDGE MARCIA S. KRIEGER
JUDGE ROBERT E. BLACKBURN
JUDGE PHILIP A. BRIMMER
JUDGE CHRISTINE M. ARGUELLO
JUDGE WILLIAM J. MARTÍNEZ
JUDGE R. BROOKE JACKSON

* * * * *

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MAGISTRATE JUDGE BOYD N. BOLAND
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**SECTION I - CIVIL RULES
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

I. SCOPE, PURPOSE, AND CONSTRUCTION

**D.C.COLO.LCivR 1.1
SCOPE OF THE LOCAL RULES**

- A. Title and Citation.** These rules shall be known as the Local Rules of Practice of the United States District Court for the District of Colorado-Civil. These rules shall be cited as D.C.COLO.LCivR Rule, Section, Subsection, and Paragraph (e.g., D.C.COLO.LCivR 72.1A.1.a.).
- B. Effective Date.** These rules became effective on December 1, 2011.
- C. Scope.** These rules apply in all civil actions filed in the United States District Court for the District of Colorado except as specifically addressed in Section III - AP Rules. Section III - AP Rules apply to any social security appeal, a case commenced or reviewed under 5 U.S.C. § 706 concerning an action or final decision of an administrative agency, board, commission or officer, or a bankruptcy appeal ("AP Case").
- D. Relationship to Prior Rules.** Except as otherwise provided in D.C.COLO.LCivR 83.4, concerning standards of professional responsibility governing conduct of attorneys, these rules supersede all previous local rules.
- E. Numbering and Indexing.** These rules are numbered and indexed in accordance with the Judicial Conference Uniform Numbering System.
- F. Judicial Officer.** A judicial officer refers to a district judge or to a magistrate judge.
- G. Clerk.** Reference in these rules to the clerk refers to the Clerk of the Court or a deputy clerk, unless otherwise specified.
- H. Appendices.** Appendices are subject to modification without notice.

**D.C.COLO.LCivR 1.2
FORMS**

The forms referred to in these rules may be modified by the court or a judicial officer at any time. Parties may refer to the court's web site or contact the clerk's office to confirm that they are using the most current forms, if any, used by the judicial officer assigned to their action.

II. COMMENCEMENT OF ACTION, SERVICE OF PROCESS, PLEADINGS, MOTIONS, AND ORDERS

D.C.COLO.LCivR 3.1 CIVIL COVER SHEET

- A. Civil Cover Sheet.** A properly completed Civil Cover Sheet (see Appendix A) shall be filed at the commencement of each civil action. If the filing party is represented by counsel, the Civil Cover Sheet shall be completed and signed by an attorney of record in the case. In actions governed by Section III-AP Rules, the filing party shall add the phrase "AP docket" to the Brief Description field in Section VI of the Civil Cover Sheet. Disputes as to the AP docket designation shall be addressed by motion filed before an answer or other response is due.
- B. Supplemental Civil Cover Sheet for Notices of Removal.** A properly completed Supplemental Civil Cover Sheet for Notices of Removal (see Appendix B) shall be given to the clerk at the time a notice of removal is filed.

D.C.COLO.LCivR 3.2 NOTICE REGARDING JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

A party shall promptly file a notice of pendency of action or proceeding if a civil action filed in this court is the subject of, or related to, an action or proceeding pending before the Judicial Panel on Multidistrict Litigation.

D.C.COLO.LCivR 3.3 PAYMENT OF FEES

- A. Filing Fee.** The clerk shall require payment of a filing fee before a civil action, suit, or proceeding is filed. When a pleading is received for filing without the required fee, the clerk shall notify the filing party that the pleadings will be held and not accepted for filing until the required fee is received or an order allowing the party to proceed in forma pauperis is entered. When the filing fee or order is received, the clerk shall file the pleading.
- B. Fees.** See Schedule of Fees (Appendix C).

D.C.COLO.LCivR 5.1 FILING AND SERVICE OF PLEADINGS AND PAPERS

- A. Service Contemporaneous with Filing.** If a paper is filed, but service is not made by electronic means, service shall be made under Fed. R. Civ. P. 5(b) on the same date as the date of filing.

- B. Facsimile Filing.** A pleading or paper which does not require a filing fee and is no longer than ten pages, including all attachments, may be filed with the clerk by means of facsimile at a telephone number that may be obtained from the court's web site or clerk's office. On receipt of a facsimile filing, the clerk will make the copies required under D.C.COLO.LCivR 10.1L. Facsimiles received by the clerk after 5:00 p.m. (Mountain Time) will be considered filed as of the next business day. Unless otherwise ordered by the court, a pleading or paper filed by facsimile shall be treated as an original for all court purposes.
- C. Facsimile Cover Sheet.** A pleading or paper filed with the clerk by facsimile must be accompanied by a facsimile cover sheet (see Appendix D) which includes the following:
1. the date of transmission;
 2. the name, facsimile number, and telephone number of the attorney or pro se party making the transmission;
 3. the case number, caption, and title of the pleading or paper; and
 4. the number of pages of the pleading or paper being transmitted including the facsimile cover sheet.
- D. Confirmation of Facsimile Filing.** Confirmation that the clerk received a facsimile filing may be made by:
1. reviewing the docket entries, or
 2. transmitting an additional copy of the first page of the pleading or paper, and requesting on the facsimile cover sheet that the first page of the pleading or paper be file stamped by the clerk and returned to the attorney or pro se party via facsimile.
- E. Original Pleading or Paper.** If a facsimile copy is filed in lieu of the original pleading or paper, the attorney or pro se party shall maintain the original document including the certificate of service. See D.C.COLO.LCivR 5.1F. At the direction of a judicial officer, the transmitting party may be required to file the original document accompanied by a letter noting that the original document is being filed after transmission by facsimile.
- F. Signatures.** Signatures on pleadings or papers filed by facsimile shall have the same legal effect as original signatures on pleadings actually filed with the court.
- G. Certificate of Service.** Each paper, other than one filed ex parte, shall be accompanied by a certificate of service indicating the date it was served, the name and address of the person to whom it was sent, and the manner of service. Where service is by electronic means, the electronic mail address or facsimile number used shall be listed.

**D.C.COLO.LCivR 5.2
SERVICE BY OTHER MEANS, INCLUDING ELECTRONIC MEANS**

- A. Electronic Case Filing Registration.** Registration with the court's Electronic Case Filing system shall constitute consent to electronic service of all documents in accordance with the Federal Rules of Civil Procedure.
- B. Form and Content of Consent.** A party's consent to accept service by other means, as authorized by Fed. R. Civ. P. 5(b), shall be expressly stated and filed in writing with the clerk. The consent shall include:
1. the persons to whom service should be made; and
 2. the appropriate address or location for such service, as authorized by Fed. R. Civ. P. 5(b).
- C. Duration of Consent.** A party's consent shall remain effective for all service authorized by Fed. R. Civ. P. 5 or Fed. R. Civ. P. 77(d) until expressly revoked or until the representation of a party changes through entry, withdrawal, or substitution of counsel.
- D. Notice of Change of Electronic-Mail Address or Facsimile Number.** Within five days after any change of electronic-mail address or facsimile number of any attorney or pro se party who has consented to service by other means, including electronic means, notice of the new electronic-mail address or facsimile number shall be filed.
- E. Effect of Electronic Service.** If a document is electronically filed and thereby electronically served, the time to respond or reply shall be calculated from the date of electronic service, regardless of whether other means of service are also used by the filing party.

**D.C.COLO.LCivR 5.5
CUSTODIAN OF NON-FILED DISCOVERY MATERIALS**

Counsel or a pro se party noticing a deposition or responsible for serving other non-filed discovery materials shall act for the court as custodian of such material. Nonfiled discovery materials under Fed. R. Civ. P. 5(d) include notices to take depositions and discovery subpoenas. The original sealed deposition transcript shall be brought to trial and opened only upon court order.

**D.C.COLO.LCivR 5.6
ELECTRONIC CASE FILING**

- A. Electronic Filing.** Pursuant to Fed. R. Civ. P. 5(d), the court will permit materials to be filed, signed, and verified by electronic means. Parties filing by electronic means shall comply with standards and procedures set forth in a manual entitled "Electronic Case Filing Procedures for the District of Colorado (Civil Cases)." The current version of that manual shall be available in the clerk's office, and shall be posted on the court's web site.

- B. Paper Filings.** Parties authorized or directed to file in paper format, pursuant to exceptions enumerated in the Electronic Case Filing Procedures for the District of Colorado (Civil Cases), shall continue to file in accordance with all provisions of the local rules.
- C. Time.** Nothing in the Electronic Case Filing Procedures for the District of Colorado (Civil Cases) alters the rules governing the computation of the deadlines for filing and service of documents that are set forth in Fed. R. Civ. P. 6.
- D. Service.** Parties are authorized to make service under Fed. R. Civ. P. 5(b)(3) through the court's transmission facilities.

D.C.COLO.LCivR 6.1

STIPULATIONS AND MOTIONS FOR EXTENSION OF TIME; MOTIONS FOR CONTINUANCE

- A. Extension on Stipulation.** The parties may stipulate in writing to one extension of not more than 21 days beyond the time limits prescribed in the Federal Rules of Civil Procedure to respond to a complaint, cross-claim, counterclaim, third-party complaint, interrogatories, requests for production of documents, or requests for admissions. The stipulation must be filed before the expiration of the time limits to respond prescribed in the Federal Rules of Civil Procedure, and shall be effective upon filing, unless otherwise ordered.
- B. Judicial Enforcement of Extension on Stipulation.** Except as provided in Section A. above, or approved by order of the court, no stipulation by the parties shall be binding on or enforced by the court, including stipulations concerning a date or deadline established by court order, hearing dates, and case management deadlines.
- C. Extension on Motion.** Except as provided in Section A. of this rule, all requests for extensions of time must be approved by court order on motion.
- D. Content of Motion for Extension of Time.** Any motion for extension of time shall state the reason an extension is required, state a date certain for the requested extension of time, and state the total number of extensions previously granted, including those obtained under Section A. of this rule.
- E. Service on Client.** A stipulation or motion for extension of time or continuance shall be served simultaneously on the moving attorney's client.
- F. Time Limitations.** Except as provided in Section A. of this rule:
 - 1. no agreement of the parties to shorten or extend any time limitation provided by the Federal Rules of Civil Procedure or these rules will be recognized or enforced, nor will such an agreement be considered just cause for failing to perform within the time limits established by those rules; and

2. only time variances specifically approved by court order will be recognized as having any binding or legal effect.

III. PLEADINGS AND MOTIONS

D.C.COLO.LCivR 7.1 MOTIONS

- A. **Duty to Confer.** The court will not consider any motion, other than a motion under Fed. R. Civ. P. 12 or 56, unless counsel for the moving party or a pro se party, before filing the motion, has conferred or made reasonable, good-faith efforts to confer with opposing counsel or a pro se party to resolve the disputed matter. The moving party shall state in the motion, or in a certificate attached to the motion, the specific efforts to comply with this rule. This Section A. shall not apply to cases involving pro se prisoners.
- B. **Unopposed Motion.** If a motion is unopposed, it shall be entitled “Unopposed Motion for _____.”
- C. **Motion, Response and Reply; Time for Serving and Filing; Length.** Excluding motions filed under Fed. R. Civ. P. 56 or 65, a motion involving a contested issue of law shall state under which rule or statute it is filed and be supported by a recitation of legal authority incorporated into the motion. The responding party shall have 21 days after the date of service of a motion, or such lesser or greater time as the court may allow, in which to file a response. The moving party may file a reply within 14 days after the date of service of the response, or such lesser or greater time as the court may allow. The date of service of a motion which is electronically filed shall be determined in accordance with D.C.COLO.LCivR 5.2E. Nothing in this rule precludes a judicial officer from ruling on a motion at any time after it is filed.

A motion shall not be included in a response or reply to the original motion. A motion shall be made in a separate paper.
- D. **Citations.** Every citation in a motion, response or reply shall include the specific page or statutory subsection to which reference is made. If an unpublished opinion is cited, a copy of the opinion shall be provided to any party appearing pro se.
- E. **Supplemental Authority.** If the matter is set for hearing, any supplemental authority must be filed at least seven days before the hearing.
- F. **Proposed Order.** A moving party may submit a proposed order with an unopposed motion or nondispositive motion. A general order attached to a motion (such as “it is ordered” or “so ordered”) is not permitted. A proposed order must be on separate paper, bear a separate caption, and set out clearly the order’s basis and terms.

- G. **Hearings.** A motion may be decided on the papers unless oral argument, at the court's discretion, is ordered.
- H. **Sanctions.** Motions, responses, and replies shall be concise. A verbose, redundant, ungrammatical, or unintelligible motion, response, or reply may be stricken or returned for revision, and its filing may be grounds for imposing sanctions.

**D.C.COLO.LCivR 7.2
PUBLIC ACCESS TO DOCUMENTS AND PROCEEDINGS**

- A. **Policy.** The public shall have access to all documents filed with the court and all court proceedings, unless restricted by court order or as provided in Section D of this rule.
- B. **Motions to Restrict Access.** Any motion to restrict public access will be open to public inspection and must:
 - 1. Identify the document or the proceeding for which restriction is sought;
 - 2. Address the interest to be protected and why such interest outweighs the presumption of public access (stipulations between the parties or stipulated protective orders with regard to discovery, alone, are insufficient to justify restricted access);
 - 3. Identify a clearly defined and serious injury that would result if access is not restricted;
 - 4. Explain why no alternative to restricted access is practicable or why only restricted access will adequately protect the interest in question (e.g., redaction, summarization, restricted access to exhibits or portions of exhibits); and
 - 5. Identify the restriction level sought (i.e., Level 1 = access limited to the parties and the court; Level 2 = access limited to the filing party and the court; Level 3 = access limited to the court).
- C. **Public Notice of Motions to Restrict Access; Objections.** Notice of the filing of such motion will be posted on the court's website on the court business day following the filing of the motion. Any person may file an objection to the motion to restrict access within three court business days after posting. Absent exigent circumstances, no ruling on a motion to restrict access will be made until the time for objection has passed. The absence of objection shall not, alone, result in the granting of the motion.
- D. **Filing Restricted Documents.** Any document that is the subject of a motion to restrict access may be filed as a restricted document, and will be subject to restriction until the motion is determined by the court. If a document is filed as a restricted document without an accompanying motion to restrict access, it will retain a Level 1 restriction for fourteen days. If no motion to restrict access is filed within such time period, the access restriction will expire and the document will

be open to public inspection.

D.C.COLO.LCivR 7.3 [Reserved]

D.C.COLO.LCivR 7.4 DISCLOSURE STATEMENT

- A. Who Must File.** Any nongovernmental corporate party or other legal entity to a proceeding in a district court must file a disclosure statement identifying all its parent entities and listing any publicly held entity that owns ten percent or more of the party's stock.
- B. Time for Filing; Supplemental Filing.**
 - 1. A party must file the disclosure statement upon its first appearance, pleading, petition, motion, response, or other request addressed to the court.
 - 2. A party must promptly file a supplemental disclosure statement upon any change in the information that the statement requires.

D.C.COLO.LCivR 7.5 NOTICE OF RELATED CASES

- A. Who Must File.** A party to a case must file a notice identifying all cases pending in this or any other federal, state, or foreign jurisdiction that reasonably may be related to the case.
- B. Related Cases.** "Related" cases are cases that have at least one party in common and that have common questions of law and fact.
- C. Time for Filing; Supplemental Filing.**
 - 1. A party shall file the required notice at the time of its first appearance or at the time of the filing of its first pleading, petition, motion, response, paper, or other matter addressed to the court.
 - 2. A party shall file promptly a supplemental notice of any change in the information required under this rule.
- D. Notice to Judicial Officers.** The notice of a related case shall be provided by the clerk to all judicial officers to whom the related case or cases are assigned.
- E. Procedure on Receipt of Notice.** On receipt of notice of a related case, the judicial officers to whom the related cases are assigned shall confer to discuss whether the related cases should be submitted for special assignment or reassignment under D.C.COLO.LCivR 40.1A. or transfer under D.C.COLO.LCivR 40.1C.4.a.

D.C.COLO.LCivR 8.1 PRO SE PLEADINGS

- A. Forms and Instructions.** A pro se party shall use the forms established by this court to file an action. On request, the clerk shall provide copies of the necessary forms and instructions for filing an action.
- B. Fees.** A judicial officer shall grant or deny a motion to proceed without payment of fees.
- C. Review of Pro Se Pleadings.** A judicial officer designated by the Chief Judge shall review the pleadings of a pro se party who is allowed to proceed without prepayment of fees to determine whether the pleadings should be dismissed summarily. A judicial officer may request additional facts or documentary evidence necessary to make this determination.
- D. Assignment.** If an action is not dismissed summarily, the action shall be assigned to a district judge and to a magistrate judge in accordance with D.C.COLO.LCivR 40.1. A judicial officer to whom the action is assigned may order issuance of a summons.

D.C.COLO.LCivR 8.2 PRISONER PLEADINGS

- A. Forms and Instructions.** A pro se prisoner shall use the forms established by this court to file an action. On request, the clerk shall provide copies of the necessary forms and instructions for filing an action.
- B. Fees.** A judicial officer shall grant or deny a motion to proceed without prepayment of fees.
- C. Review of Prisoner Pleadings.** A judicial officer designated by the Chief Judge shall review the pleadings of a prisoner (regardless of representation by counsel) to determine whether the pleadings should be dismissed summarily if the prisoner is:
 - 1. allowed to proceed without prepayment of fees;
 - 2. challenging prison conditions;
 - 3. seeking redress from a governmental entity, officer, or employee; or
 - 4. asserting claims pertinent to his or her conviction or sentence, except in death penalty cases.

A judicial officer may request additional facts or documentary evidence necessary to make this determination.

- D. Assignment.** If an action is not dismissed summarily, the action shall be assigned to a district judge and to a magistrate judge in accordance with D.C.COLO.LCivR 40.1. A judicial officer to whom the action is assigned may order issuance of a summons, an order to answer, or an order to show cause.

**D.C.COLO.LCivR 10.1
FORMAT OF PAPERS PRESENTED FOR FILING**

- A. Definition.** The term "papers" includes pleadings, motions, briefs, or other filings made pursuant to the Federal Rules of Civil Procedure or these rules.
- B. Size.** All documents filed with the court shall be on 8½- by 11-inch, white paper. Use of recycled paper is acceptable.
- C. Margins.** Margins shall be 1½ inches at the top and 1 inch at the left, right, and bottom.
- D. Font.** Except in pro se cases or for good cause shown, all papers shall be typewritten using black ink and not less than 12-point font.
- E. Spacing.** All papers shall be double-spaced.
- F. Text.** Text shall be printed on one side of the page only.
- G. Legible.** All papers and signatures shall be legible.
- H. Exhibits.** Exhibits, other than documentary evidence in a different format, shall conform to this rule.
- I. First Page; Case Number.** The title of every paper shall reflect accurately its nature and the identity of the party on whose behalf it is filed. All papers filed in pending cases after commencement of the case shall bear the proper case number, the case year, the type of case, the chronological case number, the initials of the assigned district judge, and the initials of the assigned magistrate judge:

When the case is commenced, the clerk will select and designate the type of case, the assigned district judge and the assigned magistrate judge. The parties will thereafter use that designation as the case number. For the initials of the judicial officers, see Appendix N.

- 1. A civil case shall be designated "cv" (for example 05-cv-01234-WYD-MJW);
 - 2. Miscellaneous filing of papers shall be designated "mc" (for example 05-mc-00123); and
 - 3. Registration of judgment pursuant to 28 U.S.C. § 1963 shall be designated "rj" (for example 05-rj-00123).
- J. Caption.** The caption format shall be as set forth in Appendix E. Parties shall be listed in a caption with one party per line. The proper name of a party shall be in capital letters, and any identifying text shall be in upper and lower case immediately following the proper name. For example:

XOXOXO, and
XOXOXO,

Plaintiffs,

v.

XOXOXO,
XOXOXO, individually, and in his official capacity as _____,
XOXOXO, d/b/a XOXOXO,
XOXOXO, a/k/a XOXOXO,
XOXOXO, INC., a Colorado corporation, and
XOXOXO whose true name is unknown.

Defendants.

- K. Signature Block.** The name, current mailing address, and telephone number of any attorney of record or pro se party filing a paper shall be typed in a signature block at the end of the paper. A post office box number will be accepted as a mailing address, but a street address also must be provided. An electronic-mail address is required unless the filer is allowed to file in paper format pursuant to exceptions enumerated in the Electronic Case Filing Procedures of the District of Colorado (Civil Cases). A facsimile number is optional. A paper shall be legibly signed in the signature block by the attorney of record or pro se party filing the paper.
- L. Original Papers.** Except for papers filed by facsimile pursuant to D.C.COLO.LCivR 5.1A. and filings made electronically pursuant to D.C.COLO.LCivR 5.6A., an original paper shall be filed with the court.
- M. Notice of Change of Address, E-mail Address, or Telephone Number.** Within five days after any change of address, e-mail address (including any change of e-mail address to be used in the account maintenance link in ECF), or telephone number of any attorney or pro se party, notice of the new address, e-mail address, or telephone number shall be filed.

D.C.COLO.LCivR 11.1 APPEARANCES

- A. Appearances.** An appearance by or on behalf of a party shall be made in open court or in a pleading, motion, entry of appearance, or other paper personally signed by the individual making the appearance. Only pro se individual parties and members of this court's bar may appear or sign pleadings, motions, or other papers. Any pleading, motion, or paper listing in a signature block, or purporting to enter an appearance by, any other person, partnership, professional corporation, limited liability company, or other entity may be stricken.
- B. Signature Not to Be Delegated.** The responsibility for signing pleadings, motions, or other papers shall not be delegated.

- C. Signatures and Signature Pages.** Facsimile signatures on documents filed with the court shall have the same legal effect as original signatures on documents filed with the court. If a facsimile signature page with the facsimile signature of a member of this court's bar is attached to a pleading, motion, or other paper filed with the court, the member of this court's bar shall maintain the original signature page. At the direction of a judicial officer, the member of this court's bar may be required to file the original signature page.
- D. Attorney for the United States Government.** This rule shall not be applied or construed in a manner inconsistent with any statute or federal rule governing an attorney for the United States government who appears in a case.

D.C.COLO.LCivR 16.1 SCHEDULING CONFERENCE

A scheduling conference will be convened by a judicial officer to develop a scheduling order. The order setting the scheduling conference will set the deadline for the parties to meet and attempt to agree on a scheduling order. Plaintiff shall prepare the proposed scheduling order, unless counsel or the pro se parties have agreed otherwise. Any area of disagreement shall be set forth separately with brief statements of the reasons for disagreement. It should be expected that the court will make modifications in the proposed order and will discuss limitations on discovery, simplification of the issues, stipulations of fact, and other matters affecting the management of the litigation. Accordingly, counsel responsible for the trial of the case will be present. The schedule established by a scheduling order shall not be modified except upon a showing of good cause and by leave of court.

D.C.COLO.LCivR 16.2 SCHEDULING ORDERS

- A. Instructions for Preparation.** Unless otherwise instructed by a judicial officer, when a scheduling order is required, it shall be prepared in accordance with the Instructions for Preparation of Scheduling Order. See Appendix F.
- B. Limitations.** Unless otherwise ordered by a judicial officer, scheduling orders for discovery, joinder, and amendment of pleadings are unnecessary in:
1. AP Cases (see Section III - AP Rules); and
 2. categories of proceedings listed in Fed. R. Civ. P. 26(a)(1)(B).

D.C.COLO.LCivR 16.3 FINAL PRETRIAL ORDERS

Unless otherwise instructed by a judicial officer, when a final pretrial order is required, it shall be prepared in accordance with the Instructions for Preparation of Final Pretrial Order. See Appendix G.

D.C.COLO.LCivR 16.6 ALTERNATIVE DISPUTE RESOLUTION

- A. Alternative Dispute Resolution.** Pursuant to 28 U.S.C. § 652, all litigants in civil

cases shall consider the use of an alternative dispute resolution process. A district judge or a magistrate judge exercising consent jurisdiction may direct the parties to a suit to engage in an early neutral evaluation or other alternative dispute resolution proceeding. To facilitate settlement or resolution of the suit, the district judge or a magistrate judge exercising consent jurisdiction may stay the action in whole or in part during a time certain or until further order. Relief from an order under this section may be had upon motion showing good cause.

- B. Definition of Early Neutral Evaluation.** Early neutral evaluation means a nonbinding, non-adjudicative assessment of a case by a magistrate judge.
- C. Disqualification of Neutrals.** A magistrate judge serving as a neutral providing early neutral evaluation may be disqualified under the provisions of 28 U.S.C. §§ 144 or 455.
- D. Designation of Court ADR Administrator.** Pursuant to 28 U.S.C. § 651(d), the Clerk of the Court is designated to implement, administer, oversee, and evaluate the court's alternative dispute resolution program.

IV. PARTIES

D.C.COLO.LCivR 24.1 CLAIM OF UNCONSTITUTIONALITY

- A. Act of Congress.** A party who questions the constitutionality of an Act of Congress in an action where neither the United States nor any of its agencies, officers, or employees is a party shall file with the court written notice stating the case title, identifying each questioned statute, and describing the grounds on which unconstitutionality is asserted. The party raising such question shall serve a copy of this written notice on the United States Attorney General and the United States Attorney by certified mail, return receipt requested, and file proof of service with the court.
- B. State Statute.** A party who questions the constitutionality of a state statute in an action where neither that state nor any of its agencies, officers, or employees is a party shall file with the court written notice stating the case title, identifying each questioned statute, and describing the grounds on which unconstitutionality is asserted. The party raising such question shall serve a copy of this written notice on the attorney general of the state involved by certified mail, return receipt requested, and file proof of service with the court.
- C. Certification.** On receipt of a notice of unconstitutionality, the court shall comply with the certification provisions of 28 U.S.C. § 2403.

V. DEPOSITIONS AND DISCOVERY

D.C.COLO.LCivR 26.1 COMPLIANCE WITH FED. R. CIV. P. 26 REQUIREMENTS

- A. Proposed Scheduling Order.** The tendering of a proposed scheduling order in

the form specified in Appendix F shall satisfy the requirement of submitting a written report outlining the discovery plan pursuant to Fed. R. Civ. P. 26(f).

- B. **Pretrial Disclosures.** The tendering of a proposed final pretrial order in the form specified in Appendix G shall satisfy the requirement of Fed. R. Civ. P. 26(a)(3) that pretrial disclosures be filed with the court.

D.C.COLO.LCivR 30.1 DEPOSITIONS

- A. **Reasonable Notice; Scheduling.** Unless otherwise ordered by the court, “reasonable notice” for the taking of depositions shall be not less than 14 days, as computed under Fed. R. Civ. P. 6. Before sending a notice to take a deposition, counsel or the pro se party seeking the deposition shall make a good faith effort to schedule it by agreement at a time reasonably convenient and economically efficient to the proposed deponent, all counsel of record, and pro se parties.
- B. **Limiting Time and Expense.** Prior to scheduling or noticing any deposition, all counsel and pro se parties involved shall confer in a good-faith effort to agree on reasonable means of limiting the time and expense to be spent for that deposition. During that conference, they shall attempt in good faith to agree on a less expensive and less time-consuming method of obtaining the evidence sought including, without limitation, interviewing the witness under oath by telephone or in person.

D.C.COLO.LCivR 30.2 EFFECT OF FILING MOTION FOR PROTECTIVE ORDER, MOTION TO LIMIT EXAMINATION, OR OBJECTION TO DISCOVERY ORDER BY MAGISTRATE JUDGE

- A. **Motion for Protective Order or to Limit Examination.** Pending resolution of any motion under Fed. R. Civ. P. 26(c) or 30(d), no party, attorney, or witness is required to appear at the deposition to which the motion is directed until the motion has been resolved. The filing of a motion under either of these rules shall stay the discovery to which the motion is directed until further order of the court.
- B. **Objection to Discovery Order by Magistrate Judge.** The filing of an objection, pursuant to Fed. R. Civ. P. 72(a), to an order by a magistrate judge concerning a discovery issue does not stay the discovery to which the order is directed. Any stay of the magistrate judge’s order must be sought and obtained separately by motion filed initially with the magistrate judge, and if denied, then with the assigned district court judge. The motion shall be supported by good cause.

D.C.COLO.LCivR 30.3 SANCTIONS FOR ABUSIVE DEPOSITION CONDUCT

- A. **Prohibited Conduct.** The following abusive deposition conduct is prohibited:
 - 1. Making objections or statements which have the effect of coaching the witness, instructing the witness concerning the way in which he or she should frame a response, or suggesting an answer to the witness.

2. Interrupting examination for an off-the-record conference between counsel and the witness, except for the purpose of determining whether to assert a privilege. Any off-the-record conference during a recess may be a subject for inquiry by the opposing counsel or pro se party, to the extent the conference is not privileged.
 3. Instructing a deponent not to answer a question except when necessary to preserve a privilege, to enforce a limitation on evidence directed by a judicial officer, or to present a motion under Fed. R. Civ. P. 30(d)(3)(A).
 4. Filing a motion for protective order or to limit examination without a substantial basis in law.
 5. Questioning that unfairly embarrasses, humiliates, intimidates, or harasses the deponent, or invades his or her privacy absent a clear statement on the record explaining how the answers to such questions will constitute, or lead to, competent evidence admissible at trial.
- B. Standing Order; Special Master.** The prohibitions reflected in Section A. of this rule shall be treated as a standing order of the court for purposes of Fed. R. Civ. P. 37(b). Whenever it comes to the attention of a judicial officer that an attorney or party has engaged in abusive deposition conduct, a judicial officer may appoint a special master under Fed. R. Civ. P. 53, at the expense of the attorney or person engaging in such conduct (or of both sides), to attend future depositions, exercise such authority, and prepare such reports as a judicial officer shall direct.
- C. Location of Deposition.** If deposition abuse is anticipated, a judicial officer may order that any deposition be taken at the courthouse or special master's office so that, at the request of any party, witness, or counsel, any dispute may be heard and decided immediately by a judicial officer or special master.
- D. Expenses, Costs, and Fees.** Whenever a judicial officer determines that any party or counsel unreasonably has interrupted, delayed, or prolonged any deposition, whether by excessive questioning, objecting, or other conduct, that party or its counsel, or both, may be ordered to pay each other party's expenses, including without limitation, reasonably necessary travel, lodging, reporter's fees, attorney fees, and videotaping expenses, for that portion of the deposition determined to be excessive. In addition, that party or its counsel, or both, may be required to pay all such costs and expenses for any additional depositions or hearing made necessary by its misconduct.

D.C.COLO.LCivR 37.1 FORM OF DISCOVERY MOTIONS

A motion under Fed. R. Civ. P. 26 or 37 directed to an interrogatory, request, or response under Fed. R. Civ. P. 33 or 34 shall either set forth in the text of the motion the specific interrogatory, request, or response to which the motion is directed, or an exhibit that contains the interrogatory, request, or response shall be attached.

VI. TRIALS

D.C.COLO.LCivR 40.1 ASSIGNMENT OF CASES

- A. Assignment in General.** Except as provided in this rule and in D.C.COLO.LCivR 8.1 and 8.2, and Section III - AP Rules, civil cases shall be assigned to judicial officers by random draw. Work parity shall be maintained among active district judges, provided that a majority of active district judges may adjust the assignment of cases to the Chief Judge as may be necessary for the performance of the duties of that office, and may, for good cause, approve special assignment or reassignment of cases among the judicial officers of the court. All other transfers of cases from one judicial officer to another shall be subject to the Chief Judge's approval.
- B. Random Draw by Computer.** The clerk shall maintain a computerized program to assure random and public assignment of new cases on an equal basis among the judicial officers. A senior judge may decline assignment of cases and, on written notice to the Chief Judge, limit participation in the random draw by a stated percentage.
- C. Special Assignment.**
1. If the pro se plaintiff filing a new case already has a case pending or had a case terminated within 12 months of the new filing, the new case shall be assigned to the district judge who was assigned the earlier case.
 2. Once a bankruptcy appeal or motion to withdraw the reference has been assigned to a district judge by random draw, any case subsequently filed concerning the same debtor in bankruptcy shall be assigned to the same district judge. The party filing the subsequent case shall notify the clerk in writing of the pending bankruptcy matter.
 3. On filing a civil forfeiture proceeding, the United States Attorney shall notify the clerk in writing when a potential claimant is a defendant in a pending criminal case. The civil case shall be assigned to the judge to whom the criminal case was assigned.
 4. A new case that is related under D.C.COLO.LCivR 7.5 to a pending case may be assigned to the same judicial officers:
 - a. by special reassignment on a majority vote of the active district judges under D.C.COLO.LCivR 40.1A.; or
 - b. by transfer with approval of the Chief Judge under D.C.COLO.LCivR 40.1A.; or
 - c. by entry of an order granting a motion to consolidate pursuant to Fed. R. Civ. P. 42(a) and D.C.COLO.LCivR 42.1.
- D. "AP" Cases.** On the filing of any AP Case, the clerk will assign a case number without random selection to a district judge designated by the Chief Judge for pre-merits management in accordance with Section III of these rules.

- E. **Recusal.** Recusal of an active judicial officer shall be only by written order setting forth the reasons.
- F. **Adjustments.** On recusal or special assignment of a case to a judicial officer pursuant to this rule or D.C.COLO.LCivR 42.1, the clerk shall adjust the computerized drawing program to maintain the equal assignment of cases among active district judges.

D.C.COLO.LCivR 40.2 TRIAL CALENDARS AND EXPEDITED CASE HANDLING

- A. **Calendar; Expedited Cases.** Each judicial officer shall maintain an individual trial calendar with due regard for the priorities and requirements of law. Selected cases may be expedited by the judicial officer on his or her own motion, or on the motion of any party.
- B. **Notice of Scheduling Conflict.** Within three days of learning of a scheduling conflict among different courts within the District of Colorado, or between the United States District Court for the District of Colorado and any other federal or state court, counsel or a pro se party shall file a written notice with the court.
- C. **Notice of Settlement or Resolution.** Whenever the parties have agreed to settle or otherwise resolve a pending matter, they shall immediately notify the court in writing. The court may provide a deadline for the filing of settlement papers or a stipulation for dismissal.

D.C.COLO.LCivR 41.1 DISMISSAL

A judicial officer may issue an order to show cause why a case should not be dismissed for lack of prosecution or for failure to comply with these rules, the Federal Rules of Civil Procedure, or any court order. If good cause is not shown within the time set in the show cause order, a district judge or a magistrate judge exercising consent jurisdiction may enter an order of dismissal with or without prejudice.

D.C.COLO.LCivR 41.2 ADMINISTRATIVE CLOSURE

A district judge or a magistrate judge exercising consent jurisdiction may direct the clerk to close a civil action administratively subject to reopening for good cause.

D.C.COLO.LCivR 42.1 MOTIONS TO CONSOLIDATE

A motion to consolidate shall be decided by the district judge to whom the oldest numbered case involved in the proposed consolidation is assigned for trial. Rulings on motions to consolidate shall be given priority. Cases consolidated shall be assigned for all further purposes to the judicial officer to whom the lowest numbered consolidated case previously was assigned for trial. A case not consolidated shall remain assigned to the judicial officer before whom it was pending when the motion to consolidate was filed.

D.C.COLO.LCivR 43.1 HEARING AND TRIAL PROCEDURES

Procedures pertaining to the hearing in or trial of a particular case will be established by the judicial officer trying the case. The procedures shall be in accordance with any written instructions of that judicial officer.

D.C.COLO.LCivR 43.2 ACCOMMODATIONS

At least seven days prior to a hearing or trial, counsel or a pro se party shall notify the court of any necessary Americans with Disabilities Act accommodations.

D.C.COLO.LCivR 45.1 SUBPOENA SERVICE

Unless otherwise ordered by the court, a subpoena shall be served at least 48 hours before the time for appearance set in the subpoena. The 48 hours shall be calculated in accordance with Fed. R. Civ. P. 6(a)(2).

D.C.COLO.LCivR 47.1 COMMUNICATION WITH JURORS

No party or attorney shall communicate with, or cause another to communicate with, a juror or prospective juror before, during, or after any trial without written authority signed by the judicial officer to whom the case is assigned for trial.

VII. JUDGMENT

D.C.COLO.LCivR 54.1 TAXATION OF COSTS

Each judgment or final order shall indicate which party or parties are entitled to costs. A bill of costs must be filed on the form provided by the court within 14 days after entry of the judgment or final order. Costs will be taxed by the clerk. Prior to appearance before the clerk, counsel or a pro se party seeking costs shall file a written statement that a reasonable effort has been made, in a conference with the opposing counsel or pro se party, to resolve disputes regarding costs. If costs are resolved, a stipulation setting forth the amount of costs shall be filed with the court.

D.C.COLO.LCivR 54.2 JURY COST ASSESSMENT

Whenever any civil action scheduled for jury trial is settled or otherwise resolved after noon on the last day before trial, jury costs may be assessed against any of the parties and/or counsel. The last day before trial shall be calculated in accordance with Fed. R. Civ. P. 6(a)(1). Likewise, when any civil action is settled during jury trial before verdict, jury costs may be assessed against any of the parties and/or counsel.

D.C.COLO.LCivR 54.3 ATTORNEY FEES

- A. Motion Supported by Affidavit.** Unless otherwise ordered by the court, a motion for attorney fees shall be supported by one or more affidavits.
- B. Content of Motion.** A motion shall include the following for each person for whom fees are claimed:
 - 1. a detailed description of the services rendered, the amount of time spent, the hourly rate, and the total amount claimed; and
 - 2. a summary of relevant qualifications and experience.

D.C.COLO.LCivR 56.1

SUMMARY JUDGMENT MOTIONS AND BRIEFS

- A. Motion.** A motion under Fed. R. Civ. P. 56 for summary judgment or partial summary judgment shall include a statement of undisputed facts and be supported by argument and a recitation of legal authority incorporated into the motion in lieu of a separate opening brief. A response brief shall be filed within 21 days after the date of service of the motion, or such other time as the court may order. A reply brief may be filed within 14 days of the date of service of the opposing brief, or such other time as the court may order.
- B. Cross Motion.** A cross motion for summary judgment shall not be included in a response brief. A cross motion shall be made in a separate motion and be subject to Section A. of this rule.
- C. Exhibits to Motion or Briefs.** Voluminous exhibits are discouraged. Parties shall limit exhibits to essential portions of documents. Unless otherwise ordered by the court:
 - 1. Copies of documents attached as exhibits to an opening brief shall not be attached as exhibits to a response brief. A responding party shall refer to the exhibits attached to the opening brief. If it is necessary for a responding party to rely on additional exhibits, the additional exhibits shall be attached to the response brief.
 - 2. Copies of documents attached as exhibits to the opening brief or response brief(s) shall not be attached as exhibits to a reply brief. If it is necessary for the moving party to rely on additional exhibits, the additional exhibits shall be attached to the reply brief and consecutively numbered or lettered from the last exhibit attached to the opening brief.

VIII. PROVISIONAL AND FINAL REMEDIES

D.C.COLO.LCivR 65.1

TEMPORARY RESTRAINING ORDERS

- A. Motion.** An application for temporary restraining order shall be made in a motion separate from the complaint. A motion shall be accompanied by a certificate of counsel or pro se party, or other proof satisfactory to the court, stating:
 - 1. that actual notice of the time of filing the motion, and copies of all pleadings

and papers filed in the action to date or to be presented to the court at the hearing, have been furnished to the adverse party; or

2. the efforts made by the moving party to give such notice and furnish such copies. The provisions of D.C.COLO.LCivR 7.1A. shall apply to any such motion. Except in accordance with Fed. R. Civ. P. 65(b), the court will not consider an ex parte motion for temporary restraining order.

B. Proposed Order. A proposed temporary restraining order shall be submitted with a motion for temporary restraining order.

C. Information Sheet. A properly completed temporary restraining order information sheet shall be given to the clerk at the time of filing of the motion for temporary restraining order. See Appendix I.

D.C.COLO.LCivR 67.1 BONDS AND OTHER SURETIES

A. Personal Surety. An attorney in any case, or a party or spouse of a party in a civil case, shall not be accepted as a personal surety on any bond filed in that case.

B. Restriction. No person, corporation, partnership, or other association or entity may act as his, her, or its own surety in a civil case.

C. Surety Company; Power of Attorney. Where the surety on a bond is a surety company approved by the United States Department of the Treasury, a power of attorney showing the authority of the agent signing the bond shall be on file with the clerk.

D.C.COLO.LCivR 67.2 COURT REGISTRY

A. Deposit of Funds in Registry

Unless a statute requires the deposit of funds without leave of court, no money shall be sent to the court or its officers for deposit into the court's registry except pursuant to court order. On depositing the funds, the depositing person must identify in writing the order authorizing deposit by the relevant docket entry in the court's Electronic Case Filing system.

B. Investment of Registry Funds

All funds deposited into the registry of the court will be placed in a form of interest bearing account. Unless otherwise ordered by the court, the Court Registry Investment System (CRIS) shall be the authorized investment mechanism.

C. Registry Fee

Registry fees will be deducted in accordance with 28 U.S.C. § 1914 and regulations promulgated thereunder.

D. Disbursement of Registry Funds

No funds in the registry shall be disbursed except by order of court. Any proposed court order to disburse funds must include the payee's full name, complete address and amount to be disbursed to that payee. If more than \$10.00 of interest is to be disbursed, the proposed order must be accompanied by a completed IRS Form W-9 (which shall be filed subject to restricted access). For disbursement of funds, the clerk must be provided in writing the order authorizing disbursement by reference to the relevant docket entry in the court's Electronic Case Filing system.

IX. SPECIAL PROCEEDINGS

D.C.COLO.LCivR 72.1

GENERAL AUTHORITY AND DUTIES OF MAGISTRATE JUDGES

- A. General Authority.** Except as restricted by these rules, magistrate judges may exercise all powers and duties authorized by federal statutes, regulations, and the Federal Rules of Civil Procedure.
- B. Duties.** Each magistrate judge may:
1. issue administrative inspection warrants;
 2. issue civil seizure warrants pursuant to 21 U.S.C. § 881 and 18 U.S.C. § 981-983.
 3. issue search and seizure warrants for levy pursuant to the Internal Revenue Code;
 4. act on postjudgment matters arising under Fed. R. Civ. P. 69, including:
 - a. issue writs;
 - b. issue orders directing funds to be paid into or disbursed from the registry of the court;
 - c. hold hearings and make recommendations to the district judge on substantive issues including the liability of a party under a writ of garnishment or execution;
 - d. perform duties set forth in chapter 176 of Title 28 United States Code, as assigned by the court pursuant to the Federal Debt Collection Procedures Act, 28 U.S.C. § 3008;
 5. make determinations and enter appropriate orders pursuant to 28 U.S.C. § 1915 with respect to any suit, action, or proceedings in which a request is made to proceed in forma pauperis;
 6. perform duties set forth in D.C.COLO.LCivR 8.1 and 8.2;
 7. make determinations and enter appropriate orders on discovery disputes in cases pending in other federal courts or courts of another country;

8. exercise contempt authority as authorized by law; and
9. issue administrative subpoenas as authorized by law.

C. Other Duties. On reference by a district judge, a magistrate judge may:

1. conduct pretrial conferences, settlement conferences, and other nondispositive pretrial proceedings;
2. handle petitions to perpetuate testimony pursuant to Fed. R. Civ. P. 27; and
3. hold hearings and make recommendations to the district judge on dispositive matters.

D.C.COLO.LCivR 72.2

CONSENT JURISDICTION OF MAGISTRATE JUDGES

- A. Designation.** Pursuant to 28 U.S.C. § 636(c)(1) and subject to the provisions of this rule, all full-time magistrate judges in the District of Colorado are specially designated to conduct any or all proceedings in any jury or nonjury civil matter and order the entry of judgment in the case. This rule, implementing 28 U.S.C. § 636(c) consent jurisdiction in the District of Colorado, does not affect assignments to magistrate judges under other court rules and orders of reference.
- B. Prohibition.** No judicial officer, court official, or court employee may attempt to influence the granting or withholding of consent to the reference of any civil matter to a magistrate judge under this rule. The form of notice of right to consent to disposition by a magistrate judge shall make reference to the prohibition and shall identify the rights being waived.
- C. Notice.** On the filing of any civil case, the clerk shall deliver to the plaintiff(s) written notice of the right of the parties to consent to disposition of the case by a magistrate judge pursuant to 28 U.S.C. § 636(c) and the provisions of this rule. The written notice shall be in such form as the district judges shall direct. The clerk shall also provide copies of such notice to be attached to the summons and thereafter served upon the defendant(s) in the manner provided by Fed. R. Civ. P. 4. A failure to serve a copy of such notice upon any defendant shall not affect the validity of the service of process or personal jurisdiction over the defendant(s).
- D. Unanimous Consent; Determination.** To consent to the jurisdiction of a magistrate judge under 28 U.S.C. § 636(c), all parties shall complete and file a Consent to the Exercise of Jurisdiction by a United States Magistrate Judge form (see Appendix M). Written consent to proceed before a magistrate judge must be filed no later than 14 days after the discovery cut-off date. In cases not requiring discovery, the parties shall have 40 days from the filing of the last responsive pleading to file their unanimous consent. When there is such consent, the magistrate judge shall forthwith notify the assigned district judge, who will then determine whether to enter an order of reference pursuant to 28 U.S.C. § 636(c).
- E. Assignment.** On entry of an order of reference pursuant to 28 U.S.C. § 636(c), the civil action will be assigned to the magistrate judge then assigned to the case.

- F. **Additional Parties.** Any party added to the action or served after reference to a magistrate judge under this rule shall be notified by the clerk of the right to consent to the exercise of jurisdiction by the magistrate judge pursuant to 28 U.S.C. § 636(c). If any added party does not file a consent to proceed before a magistrate judge within 21 days from the date of mailing of the notice, the action shall be returned to the assigned district judge for further proceedings.
- G. **Vacating Reference.** The district judge, for good cause shown on the district judge's own initiative or under extraordinary circumstances shown by a party, may vacate a reference of a civil matter to a magistrate judge under this rule.
- H. **Appeal.** On entry of a judgment in any civil action on consent of the parties under 28 U.S.C. § 636(c) authority, an appeal shall be directly to the United States Court of Appeals for the Tenth Circuit in the same manner as an appeal from any other judgment of this court.

D.C.COLO.LCivR 72.3

REFERENCE OF DISPOSITIVE MOTIONS TO MAGISTRATE JUDGES

- A. **Designation.** Pursuant to 28 U.S.C. § 636(c)(1) and subject to the provisions of this rule, all full-time magistrate judges in the District of Colorado are specifically designated to make final determination of dispositive motions that have been pending for more than six months. Dispositive motions include motions to dismiss, motions for transfer or for change of venue, motions to remand, motions for summary judgment, and motions for partial summary judgment.
- B. **Unanimous Consent; Determination.** After a dispositive motion has been pending for more than six months, if all parties consent to the final determination of the dispositive motion by a magistrate judge, the parties shall file an appropriate notice. On receipt of such notice, the district judge shall determine whether to enter an order pursuant to 28 U.S.C. § 636(c).
- C. **Prohibition.** No judicial officer, court official, or court employee may attempt to influence the granting or withholding of consent to the reference of a dispositive motion to a magistrate judge under this rule.
- D. **Reference.** On entry of an order of reference of a dispositive motion pursuant to 28 U.S.C. § 636(c), the motion shall be referred to a magistrate judge by random draw, excluding the magistrate judge previously assigned.
- E. **Vacating Reference.** A district judge, for good cause shown on the district judge's own initiative or under extraordinary circumstances shown by a party, may vacate a reference of a dispositive motion to a magistrate judge under this rule.
- F. **Appeal.** In the event that a magistrate judge grants a dispositive motion and directs the entry of final judgment, an appeal shall be directly to the United States Court of Appeals for the Tenth Circuit in the same manner as an appeal from any other judgment of this court.

X. DISTRICT COURT AND CLERK

D.C.COLO.LCivR 77.1 TIME AND PLACE OF FILING

If filed electronically, all pleadings, motions, briefs, and other papers shall be filed not later than 11:59:59 p.m. (Mountain Time) on the day required, unless otherwise directed by a judicial officer. If filed otherwise, such pleadings, motions, briefs, and other papers shall be filed during the business hours of the office of the clerk from 8:00 a.m. to 5:00 p.m. (Mountain Time) Monday through Friday.

D.C.COLO.LCivR 77.2 EX PARTE COMMUNICATION WITH JUDICIAL OFFICERS

In the absence of previous authorization, no attorney or party to any proceeding shall send letters, pleadings, or other papers or copies directly to a judicial officer. Unless otherwise instructed, all matters to be called to a judicial officer's attention shall be submitted through the clerk, with copies served on all other parties or their attorneys. No attorney or party shall contact orally a judicial officer regarding any case by telephone, in person, or through any other means, unless all other parties in the matter, or their attorneys, are present or on the telephone.

D.C.COLO.LCivR 79.1 CUSTODY OF FILES AND EXHIBITS

Pleadings, other papers, and exhibits in court files shall not be removed from the clerk's office or the court's custody except by written court order.

D.C.COLO.LCivR 79.2 INSPECTION OF EVIDENCE

Photographic negatives, tape recordings, contraband including drugs and narcotics, firearms, currency, negotiable instruments, computer disks or tapes, and other items designated by a judicial officer, while in the clerk's custody, shall not be available for inspection by any person except while in the presence of and under the control of the clerk. The clerk may limit or preclude access and copying in order to preserve such evidence.

XI. GENERAL PROVISIONS

D.C.COLO.LCivR 81.1 PROCEDURE FOR REMOVAL

- A.** A notice of removal shall comply with 28 U.S.C. § 1446(a).
- B.** Within 14 days of the filing of the notice of removal, the removing party shall file a current docket sheet (register of actions) and shall separately file each pending motion, petition, and related response, reply, and brief.

- C. If a hearing in the state court has been set before a case is removed, counsel or the pro se party removing the case shall notify the state judge forthwith of the removal and shall notify the federal judge to whom the case is assigned of the nature, time, and place of the state court setting.

D.C.COLO.LCivR 83.1 CAMERAS AND RECORDING DEVICES

- A. **Permissible Devices.** After clearing security, an electronic device, including, but not limited to, a cellular telephone, a smartphone, a laptop computer, or a personal data assistant (PDA), regardless of the technology used or the name by which the device is marketed, may be brought into any public area in the United States Courthouse or any location in which court business and proceedings are conducted.
- B. **Impermissible Uses of Permissible Devices.** No person shall use a permissible device defined in Section A to take photographs or to make audio or video recordings in any public area in the United States Courthouse or any other location in which court business and proceedings are conducted. No person shall use a permissible device defined in Section A to take photographs or to make audio or video recordings in any courtroom or chambers except as authorized by the judicial officer having direct control of that space.

D.C.COLO.LCivR 83.2 SECURITY

- A. **Procedures.** All persons entering a building where court is being held shall be subject to security procedures provided for that building.
- All briefcases, purses, parcels, bags, backpacks, and other items shall be passed through X-ray scanners and shall be subject to search. This rule shall apply at such other places as a judicial officer may direct.
- Failure to obey this rule shall be grounds for refusing admission to the buildings where court is being held, and may subject the offender to detention, arrest, and prosecution as provided by law, or to a contempt proceeding.
- B. **Identification or Information.** On request of a United States marshal, court security officer, federal protective service officer, or court official, anyone within or seeking entry to any court facility shall produce identification and state the nature of his or her business at court. Failure to provide identification or information shall be grounds for removal or exclusion from the facility.
- C. **Purpose.** This rule and these procedures are necessary in the interest of public safety and to maintain orderly court procedures.

D.C.COLO.LCivR 83.3 THE BAR OF THE COURT

- A. **Applicant Information.** An applicant for admission to the bar of this court must be a person licensed by the highest court of a state, federal territory, or the District of Columbia, be on active status in a state, federal territory or the District

of Columbia, and be a member of the bar in good standing in all courts and jurisdictions where he or she has been admitted. Each applicant for admission shall complete an approved form provided by the clerk. Each applicant shall pay to the clerk the fee prescribed by the court.

- B. Entry of Appearance.** An attorney's entry of appearance by signing a pleading, motion, or other paper does not constitute entry of appearance by that attorney's firm.
- C. Consent to Jurisdiction; Familiarity With Local Rules.** An attorney who applies for admission to the bar of this court:
1. consents to this court's exercise of disciplinary jurisdiction over any alleged misconduct, and
 2. certifies familiarity with the local rules of this court.
- D. Withdrawal of Appearance.** An attorney who has appeared in a case may seek to withdraw on motion showing good cause. Withdrawal shall be effective only on court order entered after service of the notice of withdrawal on all counsel of record and on the withdrawing attorney's client. A motion to withdraw must state the reasons for withdrawal unless the statement would violate the rules of professional conduct. Notice to the attorney's client must include the warning that the client personally is responsible for complying with all court orders and time limitations established by any applicable rules. Where the withdrawing attorney's client is a corporation, partnership, or other legal entity, the notice shall state that such entity cannot appear without counsel admitted to practice before this court, and absent prompt appearance of substitute counsel, pleadings, motions, and other papers may be stricken, and default judgment or other sanctions may be imposed against the entity.
- E. Member in Good Standing.** An attorney admitted to the bar of this court must remain in good standing in all courts where admitted. "In good standing" means not subject to suspension or disbarment by any court for any reason. An attorney who is not in good standing shall not practice before the bar of this court or continue to be an attorney of record in any pending case. On notice to this court of lack of good standing from the suspending or disbarring jurisdiction, or otherwise, the clerk of this court shall make a notation in the court record of such lack of good standing.
1. **Self-Reporting Requirements.** Whenever a member of the bar of this court has been suspended or disbarred for any reason by any court, including when the suspension is stayed, the attorney shall, within 10 days of the date the disciplinary order enters, give written notice to the clerk of this court of the terms of discipline, the name and address of the court imposing the discipline, and the effective date of that court's action.
 2. **Separate Violation.** Failure to self-report or to cease practicing before the bar of this court as required by this rule are themselves separate causes for disciplinary action, except that failure to self-report administrative suspensions for failure to pay an annual registration fee or to comply with mandatory continuing legal education requirements shall not be cause for further disciplinary action by this court.

3. **Reinstatement or Readmission.** Reinstatement following administrative suspension for failure to pay an annual fee or to comply with mandatory continuing legal education requirements shall be automatic upon receipt by this court of written proof of reinstatement by the original suspending jurisdiction. Application for reinstatement or readmission following suspension or disbarment from practice as a member of the bar of this court for any other reason shall be made in accordance with the terms of D.C.COLO.LCivR 83.5I.

- F. Relief From Rule of Good Standing.** It is presumed that discipline by another court against a member of this court's bar is appropriate. In order to obtain relief, the attorney so disciplined has the burden to establish, by clear and convincing evidence, that:
1. the procedure resulting in discipline by the court was so lacking in notice or opportunity to be heard as to deny due process,
 2. the application of D.C.COLO.LCivR 83.3E. would result in grave injustice, or
 3. the kind of misconduct established has been held by this court to warrant substantially less severe discipline. Applications under this section shall be filed with or referred to the Committee on Conduct, which shall proceed in accordance with the provisions of D.C.COLO.LCivR 83.5D.

D.C.COLO.LCivR 83.4 STANDARDS OF PROFESSIONAL RESPONSIBILITY

Except as otherwise provided by Administrative Order, the Colorado Rules of Professional Conduct adopted by the Colorado Supreme Court on April 12, 2007, and effective January 1, 2008, are adopted as standards of professional responsibility applicable in this court (Appendix O).

D.C.COLO.LCivR 83.5 ATTORNEY DISCIPLINE

- A. Disciplinary Panel.** The Chief Judge shall appoint a panel of three district judges to constitute the Disciplinary Panel (the "Panel"). The Panel shall have jurisdiction over all judicial proceedings involving disbarment, suspension, censure, or other lawyer discipline. The Chief Judge at any time may designate additional judges to serve as alternates on the Panel.
- B. Committee on Conduct.** The court has established a standing Committee on Conduct (the "Committee") consisting of 12 members of this court's bar, each appointed for three years and until his or her successor is appointed. Any member appointed to fill a vacancy shall serve the unexpired term of his or her predecessor. Where a member holds over after expiration of the term for which appointed, the time of additional service shall be deemed part of the successor member's term. The court shall designate a chairperson of the Committee and a vice-chairperson who shall act during the chairperson's absence or disability. Members of the Committee shall serve without compensation, but, insofar as

possible, their necessary expenses shall be paid by the clerk from the fund in which admission and annual registration fees paid by members of the bar are deposited. No member of the Committee shall serve more than two consecutive terms.

- C. Duties of the Committee.** The Committee shall receive, investigate, consider, and act upon complaints against members of the bar, applications for reinstatement or readmission, allegations that a member of this court's bar is incapable of practicing law due to physical or mental disability or substance abuse, and other similar matters concerning attorneys. The Committee chairperson shall appoint one or more members to present and prosecute charges and to prepare and present orders and judgments as directed by the Panel. The Committee is authorized and directed to report its findings concerning any disciplinary action to the grievance committee of any other bar or court of which the attorney in question may be a member. Additionally, the Committee is authorized to reveal such information to any other court-authorized grievance body as the Committee deems appropriate and consistent with the objectives of this rule. The Committee also may perform any additional duties implied by these rules or assigned by order of the Panel. All requests for investigation submitted to the court or Committee and all complaints filed with the Committee shall be privileged, and no lawsuit may be predicated thereon. Persons performing official duties under this rule, including but not limited to members of the Committee, staff, and members of the bar or others working under the Committee's direction, shall be immune from suit for all acts and omissions occurring in the course of their official duties. All proceedings of the Committee shall be confidential.
- D. Complaints.** Any complaint against a member of this court's bar for any conduct which may justify any disciplinary action (not limited to suspension or disbarment) shall be filed in writing under oath, except that complaints filed by a judicial officer of this court need not be under oath. Complaints shall be filed with or referred to the Committee. The Committee shall admonish all persons concerned with any complaint, investigation, or inquiry that absolute confidentiality must be maintained and that violation of this rule will be deemed contempt of this court.
- E. Investigation of Complaints.** When a complaint is received, it shall be referred by the chairperson of the Committee to a Subcommittee consisting of three Committee members designated by the chairperson who shall appoint one of them as Subcommittee chairperson. The chairperson or vice-chairperson of the Committee may be designated as a member of a Subcommittee.
- 1. Service of Complaint and Answer.** The Subcommittee shall investigate complaints referred to it by the chairperson of the Committee. A copy of the complaint shall be served on the member of the bar against whom the complaint has been made (the "respondent") by certified mail, return receipt requested, addressed to his or her most current address on file with the clerk. No answer shall be required unless specifically requested of the respondent by the Subcommittee investigating the complaint. If an answer is requested by the Subcommittee, the respondent shall file an answer under oath with the Subcommittee within 20 days of the date of the request or such later date as agreed upon by a majority of the Subcommittee.
 - 2. Hearings, Witnesses, and Documents.** A Subcommittee may hold hearings upon reasonable notice to the complainant and respondent. The chairperson of the Subcommittee conducting the inquiry shall serve as a master with authority to order issuance of subpoenas commanding the

presence of witnesses and/or production of designated books, papers, documents, or other tangibles at the times and places stated in the subpoena. The Subcommittee chairperson, as master, is authorized to administer oaths. The name of any witness who fails or refuses to attend or testify under oath may be certified to the Panel, which may initiate contempt proceedings and impose appropriate punishment.

F. Resolution of the Complaint by the Committee on Conduct. On completion of its investigation, the Subcommittee shall report its recommendations to the full Committee. The Committee may, by a vote of a majority of the Committee in attendance, instruct the Subcommittee in any one of the following ways:

1. **Dismissal of the Complaint.** If the Committee concludes that the complaint is without merit or other grounds justify its dismissal (e.g., the claims are best handled in a different forum), the Committee shall instruct the Subcommittee to prepare a letter so advising the complainant and the respondent, to be signed by the chairperson or vice-chairperson of the Committee.
2. **Letter of Admonition.** If the Committee concludes, based on the report of the Subcommittee, that the misconduct or, in the case of alleged disability or substance abuse, the cause for concern, is sufficiently significant that the complaint should not be dismissed as without merit, but it does not warrant submitting charges to the Panel, the Committee may issue a letter of admonition to the respondent, with a copy to the complainant. An attorney receiving a letter of admonition shall be advised of the right to request in writing, within 20 days after receiving the letter, that formal disciplinary proceedings be initiated to adjudicate the propriety of the conduct upon which the admonition is based. On timely filing of such a request, the letter of admonition shall be vacated and the Subcommittee shall proceed to prepare charges in accordance with the formal procedures provided in these rules.
3. **Submission of Charges to the Court.** The Committee may instruct the Subcommittee to prepare charges and submit them to the Panel or, with or without preparing charges, may refer the matter to Colorado Attorney Regulation Counsel or another court-authorized grievance body. If charges are prepared and submitted to the Panel, and thereafter the Panel orders the charges filed, the clerk shall file them and forthwith issue a summons commanding the respondent to answer. Except as hereinafter provided, the summons and a copy of the charges shall be served by a United States marshal. A respondent who cannot be served in Colorado may be served by filing a copy of the summons and charges with the clerk, who shall in turn send a copy of the summons and charges by certified mail, return receipt requested, to the last office address the respondent filed with the clerk. The respondent shall answer the charges within 30 days from the date of service. Absent a timely answer, the charges may be taken as confessed and hearing may be held ex parte at a time set by the Panel.

G. Disciplinary Panel Hearings and Orders. A respondent against whom charges have been filed shall be entitled to be represented by counsel, at his or her own expense unless indigent. When the respondent has filed an answer, an evidentiary hearing shall be scheduled by the Panel. The Panel may ask the chairperson of the Committee to appoint one or more members of the Committee to offer evidence, examine and cross-examine witnesses, and otherwise represent the Committee in prosecuting the charges. If the charges are sustained

by clear and convincing evidence, the Panel may censure, suspend, disbar, or otherwise discipline the respondent. A respondent who is suspended or disbarred shall be enjoined from practicing law before this court and the judgment shall so recite. Any violation of the judgment shall be deemed a contempt of court.

H. Rule Not to Deprive Court of Inherent Powers. Nothing herein stated shall be deemed to negate or diminish this court's inherent disciplinary powers.

I. Application for Reinstatement or Readmission.

1. **General Procedure.** An attorney who has been suspended or disbarred may apply for reinstatement or readmission at the end of the disciplinary period. Each applicant for readmission or reinstatement shall complete an approved form provided by the clerk. Reinstatement or readmission is neither automatic nor a matter of right. Every application for reinstatement or readmission shall be investigated by one or more members of the Committee appointed by the Committee's chairperson. Following investigation, the Committee shall prepare a recommendation on the application. The recommendation and supporting documents shall be submitted to the Panel for decision. Reinstatement or readmission may be subject to conditions such as monitoring, reporting, testing, and education.
2. **Relationship to D.C.COLO.LCivR 83.3E. and D.C.COLO.LCrR 57.5E.** Suspension or disbarment of an attorney by any court may result in suspension or disbarment in a court other than the original disciplining court. An attorney applying for reinstatement or readmission to this court following reinstatement or readmission by the original disciplining court who remains suspended or disbarred in a court other than the original disciplining court or this court is subject to D.C.COLO.LCivR 83.3E. and D.C.COLO.LCrR 57.5E. requiring attorneys to be in good standing in all courts where admitted in order to be or remain admitted to the bar of this court. An attorney suspended or disbarred automatically in a court other than the original disciplining court or this court as a result of suspension or disbarment by the original disciplining court may petition this court for relief from the rule of good standing pursuant to D.C.COLO.LCivR 83.3F. or D.C.COLO.LCrR 57.5F., stating appropriate grounds for such relief.

J. Effect of Conviction or Resignation from Another Bar While Under Investigation, and Duty to Report Pendency of Criminal Offenses.

1. **Attorney Subject to a Criminal Conviction.** Any member of this court's bar who is convicted of a crime punishable by a term of imprisonment of more than one year, shall, within 10 days of the conviction, give written notice to the clerk of this court of the conviction including the terms of the conviction, the court entering the conviction and the date of conviction. On notice to the court by the attorney or otherwise, the convicted attorney shall be suspended from practicing law in this court. On the conviction becoming final with no further right of appeal, the Panel shall disbar the attorney from practicing as a member of the bar of this court. For purposes of this rule, "conviction" shall include any ultimate finding of fact in a criminal proceedings that the individual is guilty of a crime punishable by a term of imprisonment of more than one year, whether the judgment rests on a verdict of guilty, a plea of guilty, or a plea of nolo contendere, and irrespective of whether the entry of judgment or imposition of sentence is suspended or deferred by the court.

2. **Attorney Under Investigation Resigning from Bar of Another Court.** Any member of this court's bar who resigns from the bar of any other federal or state court while an investigation into allegations of misconduct is pending shall, within 10 days of resigning, give written notice of such resignation to the clerk of this court. On receipt of notice of resignation from the attorney or otherwise, the Panel shall disbar the attorney from practicing as a member of the bar of this court.
3. **Duty of Attorney to Notify Court of Pendency of Criminal Charges.** Any member of this court's bar who is charged in any court with a criminal offense that may subject the attorney to discipline in this court shall so notify the clerk in writing within 10 days after the charge is filed.

K. Mental or Physical Incompetence or Disability, or Substance Abuse.

1. **Declaration of Mental Incompetence.** On receiving proof that a member of this court's bar judicially has been declared incompetent or involuntarily committed to a mental hospital, the Panel may order that the attorney be suspended from practicing law immediately and indefinitely until further order. A copy of the order shall be served upon the attorney, his or her guardian, and the director of the mental hospital.
2. **Role of the Committee on Conduct.** In matters involving an allegation that a member of this court's bar is incapable of practicing law because of mental or physical disability or substance abuse, the Subcommittee assigned by the Chair of the Committee may take or direct whatever action it deems appropriate to determine whether the attorney is disabled or is adversely affected by substance abuse, including examination by such experts the Subcommittee shall designate. The cost of such examination shall be borne by the court. Failure or refusal to submit to examination shall result in certification of the name of the attorney to the Panel, which may initiate contempt proceedings and impose appropriate punishment. Any attorney who submits to examination may obtain a second opinion from expert(s) of his or her choice at his or her sole expense and may submit the results of such additional examination(s) to the Committee for consideration along with all other evidence. If the Committee determines that the attorney is incapable of practicing law, the Committee shall petition the Panel for an order of suspension. As an alternative to examination an attorney may elect to go on disability inactive status, and the Committee shall advise the attorney of this option prior to ordering examination. Any attorney who makes such an election shall be required to apply for reinstatement pursuant to D.C.COLO.LCivR 83.5I. and 83.5K.5. before practicing again in this court.
3. **Role of the Disciplinary Panel.** On petition by the Committee suggesting that a member of this court's bar is incapable of practicing law because of mental or physical disability or substance abuse, the Panel may take or direct whatever action it deems appropriate to determine whether the attorney is disabled, including examination by medical experts who the Panel shall designate if no such examination had been ordered previously by the Committee or if the Panel desires further examination. The cost of such examination shall be borne by the court. Failure or refusal to submit to examination shall be prima facie evidence of disability. Any attorney

who submits to examination may obtain a second opinion from expert(s) of his or her choice at his or her sole expense and may submit the results of such additional examination(s) to the Panel for consideration along with all other evidence. If the Panel concludes from the evidence that the attorney is incapable of practicing law competently, it shall order him or her suspended until further order. Prior to ordering suspension the Panel may, in its sole discretion, offer the attorney an opportunity to go on disability inactive status voluntarily. The Panel may provide respondent notice of the proceedings and may appoint an attorney to represent a respondent who is without representation. Any attorney who elects disability inactive status or is suspended because of mental or physical disability or substance abuse must apply for reinstatement pursuant to D.C.COLO.LCivR 83.5I. and 83.5K.5. before practicing again in this court.

4. **Claim of Disability During Disciplinary Proceedings.** If during a disciplinary proceeding the respondent attorney asserts a disability by reason of mental or physical illness or substance abuse, rendering adequate defense impossible, the Panel shall order the respondent suspended from practicing law until there can be a determination pursuant to D.C.COLO.LCivR 83.5K.2. and 3. of his or her capacity to practice law.
5. **Attorney Placed on Disability Inactive Status by Other Courts.** A member of this court's bar who is placed on disability inactive status by any state or federal court is prohibited from practicing before this court during such status. Reinstatement upon termination of disability inactive status shall be in accordance with D.C.COLO.LCivR 83.5K.5. through K.9.
6. **Reinstatement After Disability Inactive Status or Suspension Because of Disability.**
 - a. An attorney who has elected to go on disability inactive status or who has been suspended for mental or physical disability or substance abuse may apply to the Panel for reinstatement not more than once a year, or more frequently if the Panel so directs. The application shall be granted upon a showing by clear and convincing evidence that the attorney no longer is disabled and is fit to practice law. The Panel, or the Committee if the Panel chooses to delegate initial consideration of the application for reinstatement to the Committee pursuant to D.C.COLO.LCivR 83.5I., may take or direct such action as it deems appropriate to determine whether the attorney's disability has been remedied, including examination by such medical experts as the Panel or Committee may designate. The Panel or Committee may direct that any examination expenses be paid by the attorney.
 - b. An attorney suspended because of a judicial declaration of incompetence or involuntary commitment to a mental hospital, who thereafter judicially is declared competent, may apply for reinstatement upon proper proof of the latter declaration, and reinstatement may be subject to such conditions as the Panel may require.

7. **Evidentiary Hearing.** If the Panel holds an evidentiary hearing to determine whether an attorney is disabled or to consider an application for reinstatement, the chairperson of the Committee shall appoint one or more members to offer evidence, examine and cross-examine witnesses, and otherwise represent the Committee.
 8. **Waiver of Physician/Patient Privilege.** Filing an application for reinstatement constitutes waiver of any physician-patient privilege with respect to any related treatment of the attorney. The attorney shall disclose the name and address of every psychiatrist, psychologist, physician, hospital, or other health-care provider that has examined or treated him or her since three (3) years prior to his or her suspension and shall furnish the Panel or the Committee written consent to obtain from these sources information and records requested by the Panel or the Committee or its designated medical experts.
 9. **Orders Transferring.** Orders transferring attorneys to or from disability inactive status are matters of public record.
- L. Complaint against Sitting Member of the Committee on Conduct.** If a complaint is lodged against a sitting member of the Committee, in lieu of investigation by any other sitting member of the Committee the court shall appoint a Special Subcommittee consisting of three members of the bar of the court who in the past have served on the Committee but not as co-members with the member against whom the complaint is lodged, or such other members of the bar of the court as the court may choose. The court shall designate one of the three as chair of the Special Subcommittee. The Special Subcommittee shall follow the procedures set out in 83.5E., F., and G., with the exception that the Special Subcommittee shall work directly with the Panel rather than the full Committee.
- M. Costs.**
1. **Disciplinary Proceedings.** In all cases where discipline is imposed by the Disciplinary Panel, it may assess against the respondent all or part of the costs incurred in connection with the disciplinary proceedings.
 2. **Reinstatement and Readmission Proceedings.** An attorney who petitions for reinstatement from a suspension or readmission after disbarment shall bear the cost of such proceedings.
 3. **Disability Proceedings.** The Disciplinary Panel may order an attorney to bear the cost of all or any part of the disability proceedings, including the cost of any examinations ordered.

D.C.COLO.LCivR 84.1 BANKRUPTCY MATTERS

- A. Automatic Referral.** All cases under Title 11, United States Code, and all proceedings arising under Title 11 or arising in or related to cases under Title 11, shall be automatically referred to the bankruptcy judges of this district pursuant to 28 U.S.C. § 157 without further order. All papers in those cases shall be filed directly in the bankruptcy court, and the bankruptcy judges of this district shall exercise the jurisdiction of this court in bankruptcy matters as provided in 28

U.S.C. § 157(b).

- B. Personal Injury or Wrongful Death Claims.** Any claim arising in or related to a case under Title 11 involving claims of personal injury or wrongful death shall be tried in the district court of the district in which the bankruptcy case is pending, or in the district court of the district in which the claim arose, as may be determined by the district judge assigned pursuant to D.C.COLO.LCivR 40.1.
- C. Withdrawal of Reference.** The automatic referral to bankruptcy judges provided in Section A. of this rule may be withdrawn by a district judge.
1. **Motion.** A motion for withdrawal of reference shall be filed with the clerk of the bankruptcy court in accordance with Bankruptcy Rule 5011 and Local Bankruptcy Rule 5011-1.
 2. **Response.** Within 14 days after being served with a copy of a motion for withdrawal of reference, a party may file with the clerk of the bankruptcy court and serve on affected parties an objection to the motion and a designation of any additional portions of the record necessary for the district court's determination of the motion.
 3. **Supplementation of Record.** The record may be supplemented by additional portions of the record as determined by the bankruptcy judge.
 4. **Order of Referral to District Court.** The bankruptcy judge shall enter an order directing the clerk of the bankruptcy court to refer the motion and/or matter to the district court.
 5. **Assignment.** The clerk of the district court shall assign the matter to a district court judge pursuant to D.C.COLO.LCivR 40.1.
- D. Proceeding Under 28 U.S.C. § 157(c)(1).** When a bankruptcy judge hears a proceeding under 28 U.S.C. § 157(c)(1) that is not a "core proceeding" as defined by 28 U.S.C. § 157(b)(2), the bankruptcy judge shall submit the proposed findings of fact and conclusions of law to the district judge assigned pursuant to D.C.COLO.LCivR 40.1. Copies of those recommendations shall be mailed by the bankruptcy judge to all parties, who shall have 14 days after the date of mailing of the recommendations (or such further time not to exceed 30 days as the bankruptcy judge may order) to file written objections. Objections lacking specificity as to factual findings or legal conclusions the objecting party claims to have been erroneously made and objections not timely filed may be summarily overruled. If no objection is filed, or if the parties consent in writing, the recommendations of the bankruptcy judge may be accepted by the district judge, and appropriate orders may be entered without further notice. Procedure for determining objections shall be as set forth in 28 U.S.C. § 157(c)(1).
- E. Filings.** The clerk of the bankruptcy court shall take in all pleadings in bankruptcy cases and related proceedings. Bankruptcy papers shall be filed with the bankruptcy court in accordance with the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules for the District of Colorado. Any bankruptcy papers filed with the clerk of the district court shall be transferred to the bankruptcy court.

F. Post-judgment Matters. The bankruptcy judges shall exercise jurisdiction over all post-judgment execution matters arising from a judgment or order entered by bankruptcy judges.

SECTION II - CRIMINAL RULES UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

I. SCOPE, PURPOSE, AND CONSTRUCTION

D.C.COLO.LCrR 1.1 SCOPE OF THE LOCAL RULES

- A. **Title and Citation.** These rules shall be known as the Local Rules of Practice of the United States District Court for the District of Colorado-Criminal. These rules shall be cited as, D.C.COLO.LCrR Rule, Section, Subsection, and Paragraph (e.g., D.C.COLO.LCrR 57.1B.23.a.).
- B. **Effective Date.** These rules became effective on December 1, 2011.
- C. **Scope.** These rules apply in all criminal actions filed in the United States District Court for the District of Colorado.
- D. **Relationship to Prior Rules.** Except as otherwise provided in D.C.COLO.LCrR 57.6, concerning standards of professional responsibility governing conduct of attorneys, these rules supersede all previous local rules.
- E. **Numbering and Indexing.** These rules are numbered and indexed in accordance with the Judicial Conference Uniform Numbering System.
- F. **Judicial Officer.** A judicial officer refers to a district judge or to a magistrate judge.
- G. **Clerk.** Reference in these rules to the clerk refers to the Clerk of the Court or a deputy clerk, unless otherwise specified.
- H. **Appendices.** Appendices are subject to modification without notice.

II. PRELIMINARY PROCEEDINGS

[No local rules]

III. INDICTMENT AND INFORMATION

D.C.COLO.LCrR 6.1 GRAND JURY

Grand jury supervision shall be assigned equally among the active district judges. Access to an indictment shall be restricted at Level 3 without the written order of a judicial officer. Unless otherwise ordered by the court, the indictment shall be publicly available upon the first defendant's arrest or initial appearance.

D.C.COLO.LCrR 7.1 INFORMATION SHEET

A properly completed information sheet shall be given to the clerk at the commencement of a criminal action.

IV. ARRAIGNMENT AND PREPARATION FOR TRIAL

D.C.COLO.LCrR 11.1 PLEAS

- A. **Written Notice.** Unless otherwise ordered, notice of disposition shall be filed no later than 14 days before the date set for the trial.
- B. **Pleas Before District Judge.** A plea of guilty or nolo contendere in a felony case shall be made before the district judge assigned to the case.
- C. **Plea Agreement.** A plea agreement shall be presented in writing in accordance with the form entitled "Plea Agreement" (see Appendix J) and signed by the attorney for the government, defendant's counsel, and the defendant.

The written stipulation of facts relevant to sentencing from the plea agreement shall be included in the presentence investigation report required by Fed. R. Crim. P. 32(b)(1). The attorney for the government shall deliver a copy of the plea agreement to the chambers of the assigned judicial officer and the Probation Office no later than 48 hours prior to the change of plea hearing. The 48 hours shall be calculated in accordance with Fed. R. Crim. P. 45(a).

- D. **Statement by Defendant in Advance of Plea of Guilty.** A statement by defendant in advance of plea of guilty shall be presented in writing in accordance with the form entitled "Statement by Defendant in Advance of Plea of Guilty" (see Appendix K), and signed by the defendant and defendant's counsel.

Defendant's counsel, or a pro se defendant, shall deliver the statement by defendant in advance of plea of guilty to the courtroom deputy in the courtroom before the change of plea hearing.

- E. **Translation of Change of Plea Documents.** If a defendant requires an interpreter for a change of plea hearing:
 - 1. defense counsel shall contact the deputy clerk designated as courtroom services specialist two weeks before the hearing to obtain the assistance of a designated interpreter in translating the plea agreement and the statement by defendant in advance of plea of guilty;
 - 2. defense counsel shall coordinate with the designated interpreter to ensure that the plea agreement and the statement by defendant in advance of plea of guilty are translated, in writing, into the language of the defendant, furnished to defendant, and signed by defendant in advance of the hearing; and

3. a certificate that the written translation is a complete and correct interpretation shall be attached by the designated interpreter to the written translation of both the plea agreement and statement by defendant in advance of plea of guilty.

F. Documents Tendered to Courtroom Deputy. No later than the commencement of the change of plea hearing, the following documents shall be tendered to the courtroom deputy:

1. the original and a copy of both the plea agreement and statement in advance of plea of guilty; and
2. if applicable, the original and a copy of the written translation of both the plea agreement and statement in advance of plea of guilty.

D.C.COLO.LCrR 12.1 MOTIONS TO JOIN MOTIONS PROHIBITED

- A. No party may file a motion to join a motion filed by another party.
- B. The government and each defendant shall file its, his, or her own motions. Each motion shall request specific relief and include a title that identifies the relief requested. In a motion, the party may indicate that the party approves, adopts, or may incorporate by reference any or all of the reasons stated, arguments advanced, and/or authorities cited by a party in another motion. The party shall identify the related motion of another party by providing the following information:
1. the name of the other party;
 2. the precise title of the motion filed by the other party;
 3. the document number assigned to the other motion by the court's CM/ECF docketing system; and
 4. the date the other motion was filed.

D.C. COLO.LCrR 12.4 DISCLOSURE STATEMENT

A. Who Must File.

1. **Defendant.** Any nongovernmental party or other legal entity to a proceeding in a district court must file a statement identifying all its parent entities and listing any publicly held entity that owns ten percent or more of the party's stock.
2. **Organization Victim.** If an organization is a victim of the alleged criminal activity, the government must file a statement identifying the victim. If the organizational victim is a corporation, the statement must also disclose the information required by Section A.1. of this rule.

B. Time for Filing; Supplemental Filing.

1. A party must file the disclosure statement upon its first appearance, pleading, petition, motion, response, or other request addressed to the court.
2. A party must promptly file a supplemental statement upon any change in the information that the statement requires.

D.C.COLO.LCrR 17.1.1 PRETRIAL CONFERENCE

A magistrate judge shall conduct a discovery conference at the time of or within 14 days after the arraignment and direct counsel to obtain a motion date and trial date from the district judge assigned to the case.

V. VENUE

[No local rules]

VI. TRIAL

D.C.COLO.LCrR 24.1 COMMUNICATION WITH JURORS

No party or attorney shall communicate with, or cause another to communicate with, a juror or prospective juror before, during, or after any trial without written authority signed by the judicial officer to whom the case is assigned for trial.

VII. JUDGMENT

D.C.COLO.LCrR 26.1 HEARING AND TRIAL PROCEDURES

Procedures pertaining to the hearing in or trial of a particular case will be established by the judicial officer trying the case. The procedures shall be in accordance with any written instructions of that judicial officer.

D.C.COLO.LCrR 26.2 ACCOMMODATIONS

At least seven days prior to a hearing or trial, counsel or a pro se party shall notify the court of any necessary Americans with Disabilities Act accommodations.

D.C.COLO.LCrR 32.1 SENTENCING DOCUMENTS

A. Sentencing Statements.

1. Within 30 days after a verdict of guilty is returned by a jury or the court, the attorney for the government shall file a sentencing statement that analyzes the sentencing factors to be considered at sentencing.
2. Within 14 days after the government files its sentencing statement, a defendant may file a sentencing statement that analyzes the sentencing factors to be considered at sentencing.

B. Objections to Presentence Report.

1. Objections to a presentence report shall be filed electronically.
2. Objections to a presentence report shall not be included in or combined with a motion for a sentence departure or a motion for a sentence variance.

C. Motions for Departure or Variance. No fewer than 14 days before sentencing, the parties may file motions for a departure or a variance from the applicable sentencing guideline range.

D. Restricted Access. A motion for a sentence departure or a motion for a sentence variance may not be filed as a restricted document without leave of the sentencing court.

VIII. APPEAL

[No local rules]

IX. SUPPLEMENTARY AND SPECIAL PROCEEDINGS

[No local rules]

X. GENERAL PROVISIONS

D.C.COLO.LCrR 44.1 APPEARANCES

- A. Appearances.** An attorney appearing for a defendant in a criminal case shall file promptly an entry of appearance. Only pro se parties and members of the bar of this court as defined in D.C.COLO.LCrR 57.5, may appear or sign pleadings, motions, or other papers, or participate in a court hearing or deposition.
- B. Signatures and Signature Pages.** Facsimile signatures on documents filed with the court shall have the same legal effect as original signatures on documents filed with the court. If a facsimile signature page with the facsimile signature of a member of this court's bar is attached to a pleading, motion, or other paper filed with the court, the member of this court's bar shall maintain the original signature page. At the direction of a judicial officer, the member of this court's bar may be required to file the original signature page.

D.C.COLO.LCrR 46.1 COURT REGISTRY

A. Deposit of Funds in Registry

Unless a statute requires the deposit of funds without leave of court, no money shall be sent to the court or its officers for deposit into the court's registry except pursuant to court order. On depositing the funds, the depositing person must identify in writing the order authorizing deposit by the relevant docket entry in the court's Electronic Case Filing system.

B. Investment of Registry Funds

No deposit into an interest-bearing account shall be permitted without court order. Unless otherwise ordered by the court, the Court Registry Investment System (CRIS) shall be the authorized investment mechanism.

C. Registry Fee

With regard to funds in an interest bearing account, registry fees will be deducted in accordance with 28 U.S.C. § 1914 and regulations promulgated thereunder.

D. Disbursement of Registry Funds

No funds in the registry shall be disbursed except by order of court. Any proposed court order to disburse funds must include the payee's full name, complete address and amount to be disbursed to that payee. If more than \$10.00 of interest is to be disbursed, the proposed order must be accompanied by a completed IRS Form W-9 (which shall be filed subject to restricted access). For disbursement of funds, the clerk must be provided in writing the order authorizing disbursement by reference to the relevant docket entry in the court's Electronic Case Filing system.

D.C.COLO.LCrR 47.1 PUBLIC ACCESS TO DOCUMENTS AND PROCEEDINGS

A. Policy. The public shall have access to all documents filed with the court and all court proceedings, unless restricted by court order or as provided in Sections D or E of this rule.

B. Motions to Restrict Access. Any motion to restrict public access will be open to public inspection or as otherwise ordered. It shall identify the document or the proceeding for which restriction is sought. It shall be accompanied by a brief that will be filed as a restricted document (Level 1 or 2). The brief must:

1. Address the interest to be protected and why such interest outweighs the presumption of public access (stipulations between the parties or stipulated protective orders with regard to discovery, alone, are insufficient to justify restricted access);
2. Identify a clearly defined and serious injury that would result if access is not restricted;

3. Explain why no alternative to restricted access is practicable or why only restricted access will adequately protect the interest in question (e.g., redaction, summarization, restricted access to exhibits or portions of exhibits); and
 4. Identify the restriction level sought (i.e., Level 1 = access limited to the parties and the court; Level 2 = in a multi-defendant case access limited to the affected defendant, the filing party, government and the court; Level 3 = access limited to the filing party and the court; Level 4 = access limited to the court).
- C. Public Notice of Motions to Restrict Access; Objections.** Notice of the filing of such motion will be posted on the court's website on the court business day following the filing of the motion. Any person may file an objection to the motion to restrict access within three court business days after posting. Absent exigent circumstances, no ruling on a motion to restrict access will be made until the time for objection has passed. The absence of objection shall not, alone, result in the granting of the motion.
- D. Filing Restricted Documents.** Any document that is the subject of a motion to restrict access may be filed as a restricted document, and will be subject to restriction until the motion is determined by the court. If a document is filed as a restricted document without an accompanying motion to restrict access, it will retain a Level 1 restriction for fourteen days. If no motion to restrict access is filed within such time period, the access restriction will expire and the document will be open to public inspection.
- E. Presumptive Restriction.** The following documents will be filed using the presumptive restriction levels set forth below without the order of a judicial officer:
1. The following documents shall be filed with Level 2 access:
 - a. Presentence reports.
 - b. Probation or supervised release violation reports.
 2. The following documents shall be filed with Level 3 access:
 - a. Unexecuted arrest warrants and supporting documents.
 - b. Unexecuted search warrants and supporting documents.
 - c. Unexecuted criminal and civil forfeiture seizure warrants and supporting documents.
 - d. Unexecuted bond revocation orders and supporting documents.
 - e. Unexecuted petitions for arrest warrants based upon petitions for revocation of probation or supervised release.
 - f. Pen register and trap/trace orders and supporting documents.
 - g. Orders and supporting documents regarding access to electronic

communications.

- h. Title III and clone pager orders and supporting documents.
- i. Grand Jury, pre-indictment and other documents with restricted access pursuant to statute.
- j. Applications, motions and orders made pursuant to the Criminal Justice Act.

With regard to items a - e of subpart 2, above, the access restriction will expire upon the filing of a document evidencing execution of the warrant or petition. With regard to item j of subpart 2, above, the access restriction will expire upon the entry of final judgment. All other items will remain subject to Level 3 access unless otherwise ordered.

- 3. The following documents shall be filed with Level 4 access:
Pretrial services reports (bail reports).

D.C.COLO.LCrR 47.2 [Reserved]

D.C.COLO.LCrR 49.1

SERVICE AND FILING OF PLEADINGS AND PAPERS

- A. Facsimile Filing.** A pleading or paper which is no longer than ten pages, including all attachments, may be filed with the clerk by means of facsimile at a telephone number that may be obtained from the court's web site or clerk's office. On receipt of a facsimile filing, the clerk will make the copies required under D.C.COLO.LCrR 49.3L. Facsimiles received by the clerk after 5:00 p.m. (Mountain Time) will be considered filed as of the next business day. Unless otherwise ordered by the court, a paper filed by facsimile shall be treated as an original for all court purposes.
- B. Facsimile Cover Sheet.** A pleading or paper filed with the clerk by facsimile must be accompanied by a facsimile cover sheet (see Appendix D) which includes the following:
 - 1. the date of transmission;
 - 2. the name, facsimile number, and telephone number of the attorney or pro se party making the transmission;
 - 3. the case number, caption, and title of the pleading or paper;
 - 4. the number of pages of the pleading or paper being transmitted including the facsimile cover sheet; and
 - 5. the name of the magistrate judge, if the case has been referred to a magistrate judge.
- C. Confirmation of Facsimile Filing.** Confirmation that the clerk received a facsimile filing may be made by:

1. reviewing the docket entries, or
 2. transmitting an additional copy of the first page of the pleading or paper and requesting on the facsimile cover sheet that the first page of the pleading or paper be file stamped by the clerk and returned to the attorney or pro se defendant via facsimile.
- D. Original Pleading or Paper.** If a facsimile copy is filed in lieu of the original pleading or paper, the attorney or pro se defendant shall maintain the original document. At the direction of a judicial officer, the transmitting party may be required to file the original document accompanied by a letter noting that the original document is being filed after transmission by facsimile.
- E. Signatures.** Signatures on pleadings or papers filed by facsimile shall have the same legal effect as original signatures on pleadings actually filed with the court.
- F. Certificate of Service.** Each paper, other than one filed ex parte, shall be accompanied by a certificate of service indicating the date it was served, the name and address of the person to whom it was sent, and the manner of service. Where service is by electronic means, the electronic mail address or facsimile number used shall be listed.

D.C.COLO.LCrR 49.2

SERVICE BY OTHER MEANS, INCLUDING ELECTRONIC MEANS

- A. Electronic Case Filing Registration.** Registration with the court's Electronic Case Filing system shall constitute consent to electronic service of all documents in accordance with the Federal Rules of Criminal Procedure.
- B. Form and Content of Consent.** A party's consent to accept service by other means, as authorized by Fed. R. Crim. P. 49(b), shall be expressly stated and filed in writing with the clerk. The consent shall include:
1. the persons to whom service should be made; and
 2. the appropriate address or location for such service, as authorized by Fed. R. Crim. P. 49(b).
- C. Duration of Consent.** A party's consent shall remain effective for all service authorized by Fed. R. Crim. P. 49(b) until expressly revoked or until the representation of a party changes through entry, withdrawal, or substitution of counsel.
- D. Notice of Change of Electronic-Mail Address or Facsimile Number.** Within five days after any change of electronic-mail address or facsimile number of any attorney or pro se party that has consented to service by other means, including electronic means, notice of the new electronic-mail address or facsimile number shall be filed.

D.C.COLO.LCrR 49.3

FORMAT AND COPIES OF PAPERS PRESENTED FOR FILING

- A. **Definition.** The term "papers" includes pleadings, motions, briefs, or other filings made pursuant to the Federal Rules of Criminal Procedure or these rules.
- B. **Size.** All documents filed with the court shall be on 8½- by 11-inch, white paper. Use of recycled paper is acceptable.
- C. **Margins.** Margins shall be 1½ inches at the top and 1 inch at the left, right, and bottom.
- D. **Font.** Except in pro se cases or for good cause shown, all papers shall be typewritten using black ink and not less than 12-point font.
- E. **Spacing.** All papers shall be double-spaced.
- F. **Text.** Text shall be printed on one side of the page only.
- G. **Legible.** All papers and signatures shall be legible.
- H. **Exhibits.** Exhibits, other than documentary evidence in a different format, shall conform to this rule.
- I. **First Page; Case Number.** The title of every paper shall reflect accurately its nature and the identity of the party on whose behalf it is filed. All papers filed in pending cases after commencement of the case shall bear the proper case number, including in sequence the case year, the notation of the case type, the chronological case number, the initials of the district judge assigned, or the initials of the magistrate judge assigned:
 - 1. criminal case types shall be designated "cr" (for example 05-cr-00123-WYD);
 - 2. criminal miscellaneous filings of papers case types shall be designated "y" (for example 05-y-00123-WYD);
 - 3. magistrate judge case types shall be designated "mj" (for example 05-mj-00123-MJW);
 - 4. petty offense case types shall be designated "po" (for example 05-po-00123-MJW);
 - 5. search warrant case types shall be designated "sw" (for example 05-sw-00123-MJW).

When the case is commenced, the clerk will select and designate the case type and the assigned district judge or the assigned magistrate judge. The parties will thereafter use that designation as the case number. For the initials of the judicial officers, see Appendix N.

- J. **Caption.** The caption format shall be as set forth in Appendix L. Defendants shall be listed in a caption by consecutive numbers with one defendant per line. The proper name of a party shall be in capital letters, and any identifying text shall be in upper and lower case immediately following the proper name. For example:

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. XOXOXO,
2. XOXOXO, a/k/a XOXOXO and XOXOXO, and
3. XOXOXO, INC., a Colorado corporation,

Defendants.

- K. Signature Block.** The name, current mailing address, and telephone number of any attorney of record or pro se defendant filing a paper shall be typed in a signature block at the end of the paper. A post office box number will be accepted as a mailing address, but a street address also must be provided. An electronic-mail address is required unless the filer is allowed to file in paper format pursuant to exceptions enumerated in the Electronic Case Filing Procedures of the District of Colorado (Criminal Cases). A facsimile number is optional. A paper shall be legibly signed in the signature block by the attorney of record or pro se defendant filing the paper.
- L. Original Papers.** Except for papers filed by facsimile pursuant to D.C.COLO.LCrR 49.1A. and filings made electronically pursuant to D.C.COLO.LCrR 49.4A., an original paper shall be filed with the court.
- M. Notice of Change of Address, E-mail Address, or Telephone Number.** Within five days after any change of address, e-mail address (including any change of e-mail address to be used in the account maintenance link in ECF), or telephone number of any attorney or pro se party, notice of the new address, e-mail address, or telephone number shall be filed.

D.C.COLO.LCrR 49.4 ELECTRONIC CASE FILING

- A. Electronic Filing.** Pursuant to Fed. R. Crim. P. 49, the court will permit papers to be filed, signed, and verified by electronic means. Parties filing by electronic means shall comply with standards and procedures set forth in a manual entitled "Electronic Case Filing Procedures for the District of Colorado (Criminal Cases)." The current version of that manual shall be available in the clerk's office and shall be posted on the court's web site.
- B. Paper Filings.** Parties authorized or directed to file in paper format, pursuant to exceptions enumerated in the Electronic Case Filing Procedures for the District of Colorado (Criminal Cases), shall continue to file in accordance with all provisions of the local rules.
- C. Time.** Nothing in the Electronic Case Filing Procedures for the District of Colorado (Criminal Cases) alters the rules governing the computation of deadlines for filing and service of documents that are set forth at Fed. R. Crim. P. 45.
- D. Service.** Pursuant to Fed. R. Crim. P. 49, parties are authorized to make service

through the court's transmission facilities.

D.C.COLO.LCrR 50.1 ASSIGNMENT OF CASES

- A. Assignment in General.** Except as provided in this rule, criminal cases shall be assigned to judicial officers by random draw. Work parity shall be maintained among active district judges, provided that a majority of active district judges may adjust the assignment of cases to the Chief Judge as may be necessary for the performance of the duties of that office, and may, for good cause, approve special assignment or reassignment of cases among the judicial officers of the court. All other transfers of cases from one judicial officer to another shall be subject to the Chief Judge's approval.
- B. Random Draw by Computer.** The clerk shall maintain a computerized program to assure random and public assignment of new cases on an equal basis among the judicial officers. A senior judge may decline assignment of cases and, on written notice to the Chief Judge, limit participation in the random draw by a stated percentage.
- C. Special Assignments.**
1. On filing a new criminal case, the United States Attorney shall notify the clerk in writing when that defendant is involved in a pending civil forfeiture proceeding. The criminal case shall be assigned to the judicial officer to whom the civil case was assigned.
 2. On filing a new criminal case, including new cases filed pursuant to 18 U.S.C. § 3605, Transfer of Jurisdiction Over a Probationer, and criminal cases transferred to the court pursuant to Fed. R. Crim. P. 20, the United States Attorney shall notify the clerk in writing when that defendant is currently serving, or has served, a sentence of probation or supervised release. The new criminal case shall be assigned to the district judge presiding in the case in which the previous sentence of probation or supervised release was imposed. In the event the defendant has had multiple cases before this court, the new case shall be reassigned to the judge who handled the oldest case.
- D. Recusal.** Recusal of a judicial officer shall be only by written order setting forth the reasons.
- E. Adjustments.** On recusal or special assignment of a case to a judge pursuant to this rule, the clerk shall adjust the computerized drawing program to maintain the equal assignment of cases among active district judges.

D.C.COLO.LCrR 55.1 CUSTODY OF FILES AND EXHIBITS

Pleadings, other papers, and exhibits in court files shall not be removed from the clerk's office or the court's custody except by written court order.

D.C.COLO.LCrR 55.2 INSPECTION OF EVIDENCE

Photographic negatives, tape recordings, contraband including drugs and narcotics, firearms, currency, negotiable instruments, computer disks or tapes, and other items designated by a judicial officer, while in the clerk's custody, shall not be available for inspection by any person except while in the presence of and under the control of the clerk. The clerk may limit or preclude access and copying in order to preserve such evidence.

D.C.COLO.LCrR 56.1 TIME AND PLACE OF FILING

If filed electronically, all pleadings, motions, briefs, and other papers shall be filed not later than 11:59:59 p.m. (Mountain Time) on the day required, unless otherwise directed by a judicial officer. If filed otherwise, such pleadings, motions, briefs, and other papers shall be filed during the business hours of the office of the clerk from 8:00 a.m. to 5:00 p.m. (Mountain Time) Monday through Friday.

D.C.COLO.LCrR 57.1 GENERAL AUTHORITY AND DUTIES OF MAGISTRATE JUDGES

- A. General Authority.** Except as restricted by these rules, magistrate judges may exercise all powers and duties authorized by federal statutes, regulations, and the Federal Rules of Criminal Procedure.
- B. Duties.** Each magistrate judge may:
1. issue orders authorizing the installation and use of a pen register or a trap and trace device pursuant to 18 U.S.C. §§ 3122-23, and issue related orders directing the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of the pen register or trap and trace device;
 2. issue search warrants;
 3. accept criminal complaints and issue arrest warrants or summonses;
 4. accept waivers of indictment pursuant to Fed. R. Crim. P. 7(b);
 5. receive the return of indictments by the grand jury and issue arrest warrants or summonses when necessary for the defendants named in the indictments;
 6. enter orders restricting and granting access to an indictment;
 7. conduct preliminary proceedings incident to transfer cases pursuant to Fed. R. Crim. P. 20;
 8. exercise powers and duties necessary for extraditing fugitives pursuant to 18 U.S.C. §§ 3181-96;

9. conduct hearings and issue orders under the Bail Reform Act of 1984;
10. enter an order to forfeit bail when a defendant breaches his or her bail conditions by failing to appear in proceedings scheduled before the magistrate judge;
11. set bail for material witnesses;
12. schedule and conduct arraignments on indictments and informations by taking and entering not guilty pleas and making findings regarding time limits required by the Speedy Trial Act;
13. direct the United States Marshal to arrange for payment of basic transportation and subsistence expenses for defendants financially unable to bear the costs of travel to required court appearances;
14. issue subpoenas and writs of habeas corpus ad testificandum or other orders necessary to obtain the presence of parties, witnesses, or evidence necessary for proceedings;
15. try petty offense or misdemeanor cases in accordance with the law;
16. conduct a jury trial in any petty offense or misdemeanor case as authorized by law;
17. direct the probation office to conduct a presentence investigation in any misdemeanor case;
18. perform the functions specified in 18 U.S.C. §§ 4107, 4108, and 4109, regarding proceedings for verification of consent by offenders to transfer to or from the United States and the appointment of counsel therein;
19. appoint counsel for persons subject to revocation of probation, parole, or supervised release (in which case preference shall be given to previously appointed counsel if such attorney still is available and willing to serve); for persons in custody as a material witness; persons seeking relief under 28 U.S.C. §§ 2241, 2254, or 2255 or 18 U.S.C. § 4245; or for any person for whom the Sixth Amendment to the Constitution requires the appointment of counsel or for whom, in a case in which the person faces loss of liberty, any federal law requires the appointment of counsel;
20. conduct preliminary hearings for the purpose of determining whether there is probable cause to hold a probationer or a person on supervised release for a revocation hearing;
21. exercise contempt authority as authorized by law;
22. preside over petty offense and misdemeanor cases that involve juvenile defendants as authorized by law;
23. act on post judgment matters:
 - a. to issue writs;

- b. to issue orders directing funds to be paid into or disbursed from the registry of the court;
- c. to hold hearings and make recommendations to the district judge on substantive issues including the liability of a party under a writ of garnishment or execution; and
- d. to perform duties set forth in chapter 176 of Title 28 United States Code, as assigned by the court pursuant to the Federal Debt Collection Procedures Act, 28 U.S.C. § 3008.

D.C.COLO.LCrR 57.2 EX PARTE COMMUNICATION WITH JUDICIAL OFFICERS

No attorney or party to any proceeding shall send letters, pleadings, or other papers or copies directly to a judicial officer. Unless otherwise instructed, all matters to be called to a judicial officer's attention shall be submitted through the clerk with copies served on all other parties or their attorneys. No attorney or party shall contact orally a judicial officer regarding any case by telephone, in person, or through any other means, unless all other parties in the matter, or their attorneys, are present or on the telephone.

D.C.COLO.LCrR 57.3 CAMERAS AND RECORDING DEVICES

- A. Permissible Devices.** After clearing security, an electronic device, including, but not limited to, a cellular telephone, a smartphone, a laptop computer, or a personal data assistant (PDA), regardless of the technology used or the name by which the device is marketed, may be brought into any public area in the United States Courthouse or any location in which court business and proceedings are conducted.
- B. Impermissible Uses of Permissible Devices.** No person shall use a permissible device defined in Section A to take photographs or to make audio or video recordings in any public area in the United States Courthouse or any other location in which court business and proceedings are conducted. No person shall use a permissible device defined in Section A to take photographs or to make audio or video recordings in any courtroom or chambers except as authorized by the judicial officer having direct control of that space.

D.C.COLO.LCrR 57.4 SECURITY

- A. Procedures.** All persons entering a building where court is being held shall be subject to security procedures provided for that building.

All briefcases, purses, parcels, bags, backpacks, and other items shall be passed through X-ray scanners and shall be subject to search. This rule shall apply at such other places as a judicial officer may direct.

Failure to obey this rule shall be grounds for refusing admission to the buildings where court is being held and may subject the offender to detention, arrest, and prosecution as provided by law, or to a contempt proceeding.

- B. Identification or Information.** On request of a United States marshal, court security officer, federal protective service officer, or court official, anyone within or seeking entry to any court facility shall produce identification and state the nature of his or her business at court. Failure to provide identification or information shall be grounds for removal or exclusion from the facility.
- C. Purpose.** This rule and these procedures are necessary in the interest of public safety and to maintain orderly court procedures.

D.C.COLO.LCrR 57.5
THE BAR OF THE COURT

- A. Applicant Information.** An applicant for admission to the bar of this court must be a person licensed by the highest court of a state, federal territory, or the District of Columbia, be on active status in a state, federal territory or the District of Columbia, and be a member of the bar in good standing in all courts and jurisdictions where he or she has been admitted. Each applicant for admission shall complete an approved form provided by the clerk. Each applicant shall pay to the clerk the fee prescribed by the court.
- B. Entry of Appearance.** An attorney's entry of appearance by signing a pleading, motion, or other paper does not constitute entry of appearance by that attorney's firm.
- C. Consent to Jurisdiction; Familiarity With Local Rules.** An attorney who applies for admission to the bar of this court:
 - 1. consents to this court's exercise of disciplinary jurisdiction over any alleged misconduct, and
 - 2. certifies familiarity with the local rules of this court.
- D. Withdrawal of Appearance.** An attorney who has appeared in a case may seek to withdraw on motion showing good cause. Withdrawal shall be effective only on court order entered after service of the notice of withdrawal on all counsel of record and on the withdrawing attorney's client. A motion to withdraw must state the reasons for withdrawal unless the statement would violate the rules of professional conduct. Notice to the attorney's client must include the warning that the client personally is responsible for complying with all court orders and time limitations established by any applicable rules. Where the withdrawing attorney's client is a corporation, partnership, or other legal entity, the notice shall state that such entity cannot appear without counsel admitted to practice before this court, and absent prompt appearance of substitute counsel, pleadings, motions, and other papers may be stricken, and default judgment or other sanctions may be imposed against the entity.
- E. Member in Good Standing.** An attorney admitted to the bar of this court must remain in good standing in all courts where admitted. "In good standing" means not subject to suspension or disbarment by any court for any reason. An attorney who is not in good standing shall not practice before the bar of this court or continue to be an attorney of record in any pending case. On notice to this court

of lack of good standing from the suspending or disbarring jurisdiction, or otherwise, the clerk of this court shall make a notation in the court record of such lack of good standing.

1. **Self-Reporting Requirements.** Whenever a member of the bar of this court has been suspended or disbarred for any reason by any court, including when the suspension is stayed, the attorney shall, within ten days of the date the disciplinary order enters, give written notice to the clerk of this court of the terms of discipline, the name and address of the court imposing the discipline, and the effective date of that court's action.
2. **Separate Violation.** Failure to self-report or to cease practicing before the bar of this court as required by this rule are themselves separate causes for disciplinary action, except that failure to self-report administrative suspensions for failure to pay an annual registration fee or to comply with mandatory continuing legal education requirements shall not be cause for further disciplinary action by this court.
3. **Reinstatement or Readmission.** Reinstatement following administrative suspension for failure to pay an annual fee or to comply with mandatory continuing legal education requirements shall be automatic upon receipt by this court of written proof of reinstatement by the original suspending jurisdiction. Application for reinstatement or readmission following suspension or disbarment from practice as a member of the bar of this court for any other reason shall be made in accordance with the terms of D.C.COLO.LCrR 57.7I.

- F. **Relief From Rule of Good Standing.** It is presumed that discipline by another court against a member of this court's bar is appropriate. In order to obtain relief, the attorney so disciplined has the burden to establish, by clear and convincing evidence, that:
1. the procedure resulting in discipline by the court was so lacking in notice or opportunity to be heard as to deny due process;
 2. application of D.C.COLO.LCrR 57.5E. would result in grave injustice; or
 3. the kind of misconduct established has been held by this court to warrant substantially less severe discipline. Applications under this section shall be filed with or referred to the Committee on Conduct, which shall proceed in accordance with the provisions of D.C.COLO.LCrR 57.7D.

D.C.COLO.LCrR 57.6 STANDARDS OF PROFESSIONAL RESPONSIBILITY

Except as otherwise provided by Administrative Order, the Colorado Rules of Professional Conduct adopted by the Colorado Supreme Court on April 12, 2007, and effective January 1, 2008, are adopted as standards of professional responsibility applicable in this court (Appendix O).

D.C.COLO.LCrR 57.7 ATTORNEY DISCIPLINE

- A. Disciplinary Panel.** The Chief Judge shall appoint a panel of three district judges to constitute the Disciplinary Panel (the "Panel"). The Panel shall have jurisdiction over all judicial proceedings involving disbarment, suspension, censure, or other lawyer discipline. The Chief Judge at any time may designate additional judges to serve as alternates on the Panel.
- B. Committee on Conduct.** The court has established a standing Committee on Conduct (the "Committee") consisting of 12 members of this court's bar, each appointed for three years and until his or her successor is appointed. Any member appointed to fill a vacancy shall serve the unexpired term of his or her predecessor. Where a member holds over after expiration of the term for which appointed, the time of additional service shall be deemed part of the successor member's term. The court shall designate a chairperson of the Committee and a vice-chairperson who shall act during the chairperson's absence or disability. Members of the Committee shall serve without compensation, but, insofar as possible, their necessary expenses shall be paid by the clerk from the fund in which admission and annual registration fees paid by members of the bar are deposited. No member of the Committee shall serve more than two consecutive terms.
- C. Duties of the Committee.** The Committee shall receive, investigate, consider, and act upon complaints against members of the bar, applications for reinstatement or readmission, allegations that a member of this court's bar is incapable of practicing law due to physical or mental disability or substance abuse, and other similar matters concerning attorneys. The Committee chairperson shall appoint one or more members to present and prosecute charges and to prepare and present orders and judgments as directed by the Panel. The Committee is authorized and directed to report its findings concerning any disciplinary action to the grievance committee of any other bar or court of which the attorney in question may be a member. Additionally, the Committee is authorized to reveal such information to any other court-authorized grievance body as the Committee deems appropriate and consistent with the objectives of this rule. The Committee also may perform any additional duties implied by these rules or assigned by order of the Panel. All requests for investigation submitted to the court or Committee and all complaints filed with the Committee shall be privileged, and no lawsuit may be predicated thereon. Persons performing official duties under this rule, including but not limited to members of the Committee, staff, and members of the bar or others working under the Committee's direction, shall be immune from suit for all acts and omissions occurring in the course of their official duties. All proceedings of the Committee shall be confidential.
- D. Complaints.** Any complaint against a member of this court's bar for any conduct which may justify any disciplinary action (not limited to suspension or disbarment) shall be filed in writing under oath, except that complaints filed by a judicial officer of this court need not be under oath. Complaints shall be filed with or referred to the Committee. The Committee shall admonish all persons concerned with any complaint, investigation, or inquiry that absolute confidentiality must be maintained and that violation of this rule will be deemed contempt of this court.

- E. Investigation of Complaints.** When a complaint is received, it shall be referred by the chairperson of the Committee to a Subcommittee consisting of three Committee members designated by the chairperson who shall appoint one of them as Subcommittee chairperson. The chairperson or vice-chairperson of the Committee may be designated as a member of a Subcommittee.
- 1. Service of Complaint and Answer.** The Subcommittee shall investigate complaints referred to it by the chairperson of the Committee. A copy of the complaint shall be served on the member of the bar against whom the complaint has been made (the “respondent”) by certified mail, return receipt requested, addressed to his or her most current address on file with the clerk. No answer shall be required unless specifically requested of the respondent by the Subcommittee investigating the complaint. If an answer is requested by the Subcommittee, the respondent shall file an answer under oath with the Subcommittee within 20 days of the date of the request or such later date as agreed upon by a majority of the Subcommittee.
 - 2. Hearings, Witnesses, and Documents.** A Subcommittee may hold hearings upon reasonable notice to the complainant and respondent. The chairperson of the Subcommittee conducting the inquiry shall serve as a master with authority to order issuance of subpoenas commanding the presence of witnesses and/or production of designated books, papers, documents, or other tangibles at the times and places stated in the subpoena. The Subcommittee chairperson, as master, is authorized to administer oaths. The name of any witness who fails or refuses to attend or testify under oath may be certified to the Panel, which may initiate contempt proceedings and impose appropriate punishment.
- F. Resolution of the Complaint by the Committee on Conduct.** On completion of its investigation, the Subcommittee shall report its recommendations to the full Committee. The Committee may, by a vote of a majority of the Committee in attendance, instruct the Subcommittee in any one of the following ways:
- 1. Dismissal of the Complaint.** If the Committee concludes that the complaint is without merit or other grounds justify its dismissal (e.g., the claims are best handled in a different forum), the Committee shall instruct the Subcommittee to prepare a letter so advising the complainant and the respondent, to be signed by the chairperson or vice-chairperson of the Committee.
 - 2. Letter of Admonition.** If the Committee concludes, based on the report of the Subcommittee, that the misconduct or, in the case of alleged disability or substance abuse, the cause for concern, is sufficiently significant that the complaint should not be dismissed as without merit, but it does not warrant submitting charges to the Panel, the Committee may issue a letter of admonition to the respondent, with a copy to the complainant. An attorney receiving a letter of admonition shall be advised of the right to request in writing, within 20 days after receiving the letter, that formal disciplinary proceedings be initiated to adjudicate the propriety of the conduct upon which the admonition is based. On timely filing of such a request, the letter of admonition shall be vacated and the Subcommittee shall proceed to prepare charges in accordance with the formal procedures

provided in these rules.

3. **Submission of Charges to the Court.** The Committee may instruct the Subcommittee to prepare charges and submit them to the Panel or, with or without preparing charges, may refer the matter to Colorado Attorney Regulation Counsel or another court-authorized grievance body. If charges are prepared and submitted to the Panel, and thereafter the Panel orders the charges filed, the clerk shall file them and forthwith issue a summons commanding the respondent to answer. Except as hereinafter provided, the summons and a copy of the charges shall be served by a United States marshal. A respondent who cannot be served in Colorado may be served by filing a copy of the summons and charges with the clerk, who shall in turn send a copy of the summons and charges by certified mail, return receipt requested, to the last office address the respondent filed with the clerk. The respondent shall answer the charges within 30 days from the date of service. Absent a timely answer, the charges may be taken as confessed and hearing may be held ex parte at a time set by the Panel.
- G. Disciplinary Panel Hearings and Orders.** A respondent against whom charges have been filed shall be entitled to be represented by counsel, at his or her own expense unless indigent. When the respondent has filed an answer, an evidentiary hearing shall be scheduled by the Panel. The Panel may ask the chairperson of the Committee to appoint one or more members of the Committee to offer evidence, examine and cross-examine witnesses, and otherwise represent the Committee in prosecuting the charges. If the charges are sustained by clear and convincing evidence, the Panel may censure, suspend, disbar, or otherwise discipline the respondent. A respondent who is suspended or disbarred shall be enjoined from practicing law before this court and the judgment shall so recite. Any violation of the judgment shall be deemed a contempt of court.
- H. Rule Not to Deprive Court of Inherent Powers.** Nothing herein stated shall be deemed to negate or diminish this court's inherent disciplinary powers.
- I. Application for Reinstatement or Readmission.**
1. **General Procedure.** An attorney who has been suspended or disbarred may apply for reinstatement or readmission at the end of the disciplinary period. Each applicant for readmission or reinstatement shall complete an approved form provided by the clerk. Reinstatement or readmission is neither automatic nor a matter of right. Every application for reinstatement or readmission shall be investigated by one or more members of the Committee appointed by the Committee's chairperson. Following investigation, the Committee shall prepare a recommendation on the application. The recommendation and supporting documents shall be submitted to the Panel for decision. Reinstatement or readmission may be subject to conditions such as monitoring, reporting, testing, and education.
 2. **Relationship to D.C.COLO.LCivR 83.3E. and D.C.COLO.LCrR 57.5E.** Suspension or disbarment of an attorney by any court may result in suspension or disbarment in a court other than the original disciplining court. An attorney applying for reinstatement or readmission to this court following reinstatement or readmission by the original disciplining court who

remains suspended or disbarred in a court other than the original disciplining court or this court is subject to D.C.COLO.LCivR 83.3E. and D.C.COLO.LCrR 57.5E. requiring attorneys to be in good standing in all courts where admitted in order to be or remain admitted to the bar of this court. An attorney suspended or disbarred automatically in a court other than the original disciplining court or this court as a result of suspension or disbarment by the original disciplining court may petition this court for relief from the rule of good standing pursuant to D.C.COLO.LCivR 83.3F. or D.C.COLO.LCrR 57.5F., stating appropriate grounds for such relief.

J. Effect of Conviction or Resignation from Another Bar While Under Investigation, and Duty to Report Pendency of Criminal Offenses.

1. **Attorney Subject to a Criminal Conviction.** Any member of this court's bar who is convicted of a crime punishable by a term of imprisonment of more than one year, shall, within 10 days of the conviction, give written notice to the clerk of this court of the conviction including the terms of the conviction, the court entering the conviction and the date of conviction. On notice to the court by the attorney or otherwise, the convicted attorney shall be suspended from practicing law in this court. On the conviction becoming final with no further right of appeal, the Panel shall disbar the attorney from practicing as a member of the bar of this court. For purposes of this rule, "conviction" shall include any ultimate finding of fact in a criminal proceedings that the individual is guilty of a crime punishable by a term of imprisonment of more than one year, whether the judgment rests on a verdict of guilty, a plea of guilty, or a plea of nolo contendere, and irrespective of whether the entry of judgment or imposition of sentence is suspended or deferred by the court.
2. **Attorney Under Investigation Resigning from Bar of Another Court.** Any member of this court's bar who resigns from the bar of any other federal or state court while an investigation into allegations of misconduct is pending shall, within 10 days of resigning, give written notice of such resignation to the clerk of this court. On receipt of notice of resignation from the attorney or otherwise, the Panel shall disbar the attorney from practicing as a member of the bar of this court.
3. **Duty of Attorney to Notify Court of Pendency of Criminal Charges.** Any member of this court's bar who is charged in any court with a criminal offense that may subject the attorney to discipline in this court shall so notify the clerk in writing within 10 days after the charge is filed.

K. Mental or Physical Incompetence or Disability, or Substance Abuse.

1. **Declaration of Mental Incompetence.** On receiving proof that a member of this court's bar judicially has been declared incompetent or involuntarily committed to a mental hospital, the Panel may order that the attorney be suspended from practicing law immediately and indefinitely until further order. A copy of the order shall be served upon the attorney, his or her guardian, and the director of the mental hospital.
2. **Role of the Committee on Conduct.** In matters involving an allegation

that a member of this court's bar is incapable of practicing law because of mental or physical disability or substance abuse, the Subcommittee assigned by the Chair of the Committee may take or direct whatever action it deems appropriate to determine whether the attorney is disabled or is adversely affected by substance abuse, including examination by such experts the Subcommittee shall designate. The cost of such examination shall be borne by the court. Failure or refusal to submit to examination shall result in certification of the name of the attorney to the Panel, which may initiate contempt proceedings and impose appropriate punishment. Any attorney who submits to examination may obtain a second opinion from expert(s) of his or her choice at his or her sole expense and may submit the results of such additional examination(s) to the Committee for consideration along with all other evidence. If the Committee determines that the attorney is incapable of practicing law, the Committee shall petition the Panel for an order of suspension. As an alternative to examination an attorney may elect to go on disability inactive status, and the Committee shall advise the attorney of this option prior to ordering examination. Any attorney who makes such an election shall be required to apply for reinstatement pursuant to D.C.COLO.LCrR 57.7I. and 57.7K.5. before practicing again in this court.

3. **Role of the Disciplinary Panel.** On petition by the Committee suggesting that a member of this court's bar is incapable of practicing law because of mental or physical disability or substance abuse, the Panel may take or direct whatever action it deems appropriate to determine whether the attorney is disabled, including examination by medical experts the Panel shall designate if no such examination had been ordered previously by the Committee or if the Panel desires further examination. The cost of such examination shall be borne by the court. Failure or refusal to submit to examination shall be prima facie evidence of disability. Any attorney who submits to examination may obtain a second opinion from expert(s) of his or her choice at his or her sole expense and may submit the results of such additional examination(s) to the Panel for consideration along with all other evidence. If the Panel concludes from the evidence that the attorney is incapable of practicing law competently, it shall order him or her suspended until further order. Prior to ordering suspension the Panel may, in its sole discretion, offer the attorney an opportunity to go on disability inactive status voluntarily. The Panel may provide respondent notice of the proceedings and may appoint an attorney to represent a respondent who is without representation. Any attorney who elects disability inactive status or is suspended because of mental or physical disability or substance abuse must apply for reinstatement pursuant to D.C.COLO.LCrR 57.7I. and 57.7K.5. before practicing again in this court.
4. **Claim of Disability During Disciplinary Proceedings.** If during a disciplinary proceeding the respondent attorney asserts a disability by reason of mental or physical illness or substance abuse, rendering adequate defense impossible, the Panel shall order the respondent suspended from practicing law until there can be a determination pursuant to D.C.COLO.LCrR 57.7K.2. and 3. of his or her capacity to practice law.
5. **Attorney Placed on Disability Inactive Status by Other Courts.** A member of this court's bar who is placed on disability inactive status by any

state or federal court is prohibited from practicing before this court during such status. Reinstatement upon termination of disability inactive status shall be in accordance with D.C.COLO.LCrR 57.7K.5. through K.9.

6. **Reinstatement After Disability Inactive Status or Suspension Because of Disability.**

- a. An attorney who has elected to go on disability inactive status or who has been suspended for mental or physical disability or substance abuse may apply to the Panel for reinstatement not more than once a year, or more frequently if the Panel so directs. The application shall be granted upon a showing by clear and convincing evidence that the attorney no longer is disabled and is fit to practice law. The Panel, or the Committee if the Panel chooses to delegate initial consideration of the application for reinstatement to the Committee pursuant to D.C.COLO.LCrR 57.7I., may take or direct such action as it deems appropriate to determine whether the attorney's disability has been remedied, including examination by such medical experts as the Panel or Committee may designate. The Panel or Committee may direct that any examination expenses be paid by the attorney.
- b. An attorney suspended because of a judicial declaration of incompetence or involuntary commitment to a mental hospital, who thereafter judicially is declared competent, may apply for reinstatement upon proper proof of the latter declaration, and reinstatement may be subject to such conditions as the Panel may require.

7. **Evidentiary Hearing.** If the Panel holds an evidentiary hearing to determine whether an attorney is disabled or to consider an application for reinstatement, the chairperson of the Committee shall appoint one or more members to offer evidence, examine and cross-examine witnesses, and otherwise represent the Committee.

8. **Waiver of Physician/Patient Privilege.** Filing an application for reinstatement constitutes waiver of any physician-patient privilege with respect to any related treatment of the attorney. The attorney shall disclose the name and address of every psychiatrist, psychologist, physician, hospital, or other health-care provider that has examined or treated him or her since three (3) years prior to his or her suspension and shall furnish the Panel or the Committee written consent to obtain from these sources information and records requested by the Panel or the Committee or its designated medical experts.

9. **Orders Transferring.** Orders transferring attorneys to or from disability inactive status are matters of public record.

- L. Complaint against Sitting Member of the Committee on Conduct.** If a complaint is lodged against a sitting member of the Committee, in lieu of investigation by any other sitting member of the Committee the court shall appoint a Special Subcommittee consisting of three members of the bar of the court who in the past have served on the Committee but not as co-members with the member against whom the complaint is lodged, or such other members of the bar of the court as the court may choose. The court shall designate one of the three as chair of the Special Subcommittee. The Special Subcommittee shall follow the procedures set out in D.C.COLO.LCrR 57.7E., F., and G., with the exception that the Special Subcommittee shall work directly with the Panel rather than the full Committee.
- M. Costs.**
- 1. Disciplinary Proceedings.** In all cases where discipline is imposed by the Disciplinary Panel, it may assess against the respondent all or part of the costs incurred in connection with the disciplinary proceedings.
 - 2. Reinstatement and Readmission Proceedings.** An attorney who petitions for reinstatement from a suspension or readmission after disbarment shall bear the cost of such proceedings.
 - 3. Disability Proceedings.** The Disciplinary Panel may order an attorney to bear the cost of all or any part of the disability proceedings, including the cost of any examinations ordered.

D.C.COLO.LCrR 58.1

FORFEITURE OF COLLATERAL IN LIEU OF APPEARANCE AND NOTICE OF CONVICTION

- A. Scheduled Offenses; Collateral.** For certain scheduled offenses committed within the jurisdiction of this court, collateral may be posted in the scheduled amount set by the court. The collateral schedule for assimilated state-law offenses shall be the same as set forth by the statutes or regulations of the state unless modified by order of a judicial officer.
- B. Petty Offenses; Collateral.** With respect to any petty offense, a judicial officer shall have the authority to specify a collateral forfeiture amount different from that set out in this rule so long as an attorney or other representative of the government consents.
- C. Forfeiture Amount; Payment.** The collateral forfeiture amount set by a judicial officer pursuant to this section shall not be less than the minimum nor greater than the maximum fine that could be imposed upon conviction for violation of the particular regulation. Collateral may be posted by mail. Payment is authorized by cash, check, money order, draft, or court-approved credit card.
- D. Forfeiture.** If a defendant fails to appear before a judicial officer after posting collateral, the collateral shall be forfeited to the United States, and that forfeiture shall be accepted in lieu of appearance and shall terminate the proceeding without entry of judgment.

- E. Increase in Amount of Collateral.** If a defendant fails to post collateral and fails to appear before a judicial officer, a judicial officer may increase the amount of collateral. The increased amount of collateral shall not exceed double the maximum fine which could be imposed upon conviction.
- F. Forfeiture Not Permitted; Appearance Required.** Notwithstanding Section D. above, forfeiture of collateral will not be permitted, and the defendant is required to appear before a judicial officer in person or by counsel for:
1. an offense arising from an accident causing personal injury or death;
 2. operation of a motor vehicle while impaired by or under the influence of alcohol or a drug or controlled substance as defined by federal or state statutes;
 3. driving while a driver's license is suspended, denied, or revoked;
 4. reckless driving;
 5. any offense where appearance is required by state or federal statute or regulation;
 6. illegal use or possession of a weapon; and
 7. assault or crime of violence.
- G. Notice of Conviction.** When the defendant is convicted of a motor-vehicle offense that requires a mandatory appearance, the clerk shall send notice of that conviction to the appropriate state agency concerned with motor-vehicle violations.

**SECTION III - AP RULES
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

I. SCOPE, PURPOSE, AND CONSTRUCTION

**D.C.COLO.LAPR 1.1
SCOPE OF THE LOCAL RULES**

- A. Title and Citation.** These rules shall be known as the Local Rules of Practice of the United States District Court for the District of Colorado - AP Rules. These rules shall be cited as D.C.COLO.LAPR Rule, Section, and Subsection (e.g. D.C.COLO.LAPR 3.1B.3.a).
- B. Effective Date.** These rules became effective on December 1, 2011.
- C. Scope.** These rules apply to pre-merits management and briefing in a social security appeal, a case commenced or reviewed under 5 U.S.C. § 706 concerning an action or final decision of an administrative agency, board, commission or officer, or a bankruptcy appeal ("AP Case").
- D. Numbering and Indexing.** These rules are numbered and indexed in accordance with the Judicial Conference Uniform Numbering System.
- E. Appendices.** Appendices are subject to modification without notice.

**II. COMMENCEMENT OF ACTION, FORM OF PLEADING,
SERVICE OF PROCESS, AND ASSIGNMENT OF AP CASES**

**D.C.COLO.LAPR 3.1
CIVIL COVER SHEET**

A properly completed Civil Cover Sheet (see Appendix A) shall be filed at the commencement of every AP Case. The filing party shall add the phrase "AP docket" to the Brief Description field in Section VI of the Civil Cover Sheet regarding Cause of Action.

**D.C.COLO.LAPR 10.2
COMMENCEMENT OF ACTION AND FORM OF PLEADING**

- A. Social Security Appeals.** Review of a decision of the Commissioner of Social Security is commenced by filing a "Complaint and Petition for Review" which shall identify the specific order or decision for which review is sought and the date of issuance.

- B. Bankruptcy Appeals.** Appeals to the United States District Court for the District of Colorado from the Bankruptcy Court must be commenced and administered as prescribed in Part VIII of the Federal Rules of Bankruptcy Procedure 8001-8020.
- C. Administrative Appeals/Actions for Review of Final Agency Orders, Decisions, or Rulemaking.** Review of an order, decision, rulemaking, or other final action of an administrative agency pursuant to an agency's establishing statute or the Administrative Procedure Act is commenced by filing a properly denominated complaint or petition for relief as specified by the statute under which relief is requested. The complaint or petition for relief shall include factual allegations relating to the grounds on which the agency action is being challenged and the legal basis for plaintiff/petitioner's entitlement to relief.

**D.C.COLO.LAPR 10.3
AP DOCKET**

Opening an AP Case. On proper commencement of any AP case under Section A, B, or C of D.C.COLO.LAPR 10.2, the clerk will open a case and assign a case number without random selection to a district judge in accordance with D.C.COLO.LCivR 40.1D. The case number shall bear the initials "AP" to identify the case as an appeal.

**III. THE RECORD, PRE-MERITS BRIEFING
AND MOTIONS PRACTICE**

**D.C.COLO.LAPR 16.1
AP CASE MANAGEMENT**

- A. Joint Case Management Plan.** A scheduling conference pursuant to D.C.COLO.LCivR 16.1 will not be conducted. In all AP cases, except bankruptcy appeals, the parties will be directed to file a Joint Case Management Plan (JCMP). The form of JCMP for social security appeals is found in Appendix F.3. The form of JCMP for review of agency action in other AP cases, including environmental cases, is found in Appendix F.4.
- B.** Motions for summary judgment shall not be filed.

SECTION IV

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SECTION V

APPENDICES

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p>PLAINTIFFS</p> <p>(b) County of Residence of First Listed _____ (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number) _____</p>	<p>DEFENDANTS</p> <p>County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known) _____</p>
---	--

<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:25%;">PTF</td> <td style="width:25%;">DEF</td> <td style="width:25%;">PTF</td> <td style="width:25%;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4 <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5 <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3 Foreign Nation</td> <td><input type="checkbox"/> 6 <input type="checkbox"/> 6</td> </tr> </table>	PTF	DEF	PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3 Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6
PTF	DEF	PTF	DEF														
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4														
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5														
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3 Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6														

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract/Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<p>PERSONAL INJURY</p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <p>IMMIGRATION</p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <p>SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<input type="checkbox"/> 510 Motions to Vacate Sentence <p>Habeas Corpus:</p> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): _____

Brief description of cause: _____ AP Docket

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

JS 44 Reverse (Rev. 12/11)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.**

Example:

U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

Or: "AP Docket"

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

Date and Attorney Signature. Date and sign the civil cover sheet.

**SUPPLEMENTAL CIVIL COVER SHEET FOR
NOTICES OF REMOVAL**

The removing party shall complete the SUPPLEMENTAL CIVIL COVER SHEET FOR NOTICES OF REMOVAL and follow D.C.COLO.LCivR 81.1. and 28 U.S.C. § 1446(a).

Section A - Plaintiffs

Plaintiffs remaining in action at the time of filing the notice of removal.

1.
2.
3.
4.
5.
6.

Section B - Defendants

Defendants remaining in action at the time of filing the notice of removal.

1.
2.
3.
4.
5.
6.

**Section C - Pending State Court Motions
As of Date of Removal**

Title of State Court Motion	Date Motion Filed
1.	
2.	
3.	
4.	
5.	
6.	
7.	

**Section D - Scheduled State Court Hearings
As of Date of Removal**

Title of State Court Scheduled Hearing	Date of Hearing	Time of Hearing	Assigned State Judge
1.			
2.			
3.			
4.			

Signature _____

Printed Name _____

Telephone Number: _____

Date: _____

State Court Case Number: _____

SCHEDULE OF FEES

Filing civil complaint or notice of removal	\$350.00
Jury fee	NONE
Filing responsive pleading, motion, or third-party pleadings	NONE
Certification of any document or paper	\$ 11.00
Certificate of Judgment	\$ 11.00
Certificate of Search	\$ 30.00
Registering judgment from another district (rj case)	\$ 46.00
Filing or indexing any paper <u>not</u> in a case or proceeding for which a case filing fee has been paid (mc and y cases)	\$ 46.00
Registration or revocation of power of attorney (sureties)	\$ 46.00
Reproduction of any record or paper (per sheet)	\$.50
Production of a document from computer system (per page)	\$.10
Duplicate certificate of admission/certificate of good standing	\$ 18.00
Admission of attorney to practice in U. S. District Court for the District of Colorado	\$ 186.00
Notice of Appeal (fees to be paid together)	
Filing Fee	\$ 5.00
Docket Fee	\$450.00
Appeal to a district judge from conviction by magistrate judge/misdemeanor case	\$ 37.00
Witness fee per day	\$ 40.00
Witness mileage, round-trip (per mile)	\$.555
Retrieval from Federal Records Center	\$ 53.00
Reproduction of proceedings	\$ 30.00
Fee for returned check	\$ 53.00
Exemplifications	\$ 18.00
.....	[\$21.00 effective June 1, 2012]

**UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO
FACSIMILE COVER SHEET**

Pursuant to D.C.COLO.LCivR 5.1, this cover sheet must be submitted with any facsimile filing. A pleading or paper not requiring a filing fee and **no longer than ten pages**, including all attachments, may be filed with the clerk by means of facsimile during a business day. Facsimiles received by the clerk after 5:00 p.m. (Mountain Time) will be considered filed as of the next business day.

Clerk's Office facsimile telephone number: 303-335-2714

1. Date of transmission: _____

2. Name of attorney or *pro se* party making the transmission: _____

Facsimile number: _____ Telephone number: _____

3. Case number, caption, and title of pleading or paper: _____

4. Number of pages being transmitted, including the facsimile cover sheet: _____

Instructions, if any: _____

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

Civil Action No. _____

Plaintiff,

v.

Defendant.

(Title of Pleading or Paper)

** Space should be provided for the court filing stamp in the upper right corner of the first page of each document.

INSTRUCTIONS FOR PREPARATION OF SCHEDULING ORDER

When the court has set a scheduling conference pursuant to Fed. R. Civ. P. 16 and D.C.COLO.LCivR 16.1 and 16.2 , a scheduling order shall be prepared in accordance with these instructions. The rule 26(f) meeting shall be held at least 21 days before the proposed scheduling order is due to be tendered. The disclosures required by Fed. R. Civ. P. 26(a)(1) shall be exchanged at or within 14 days after the rule 26(f) meeting. Do not file any disclosure statements with the court.

Seven days before the scheduling conference (see Fed. R. Civ. P. 6 for all computations of time), counsel are to tender a proposed scheduling order which shall include the signatures of counsel and *pro se* parties and shall provide for approval by the court as specified on the attached form. Counsel and *pro se* parties should try, in good faith, to agree upon matters covered in the scheduling order. Any area of disagreement should be set forth with a brief statement concerning the basis for the disagreement. The parties should expect that the court will make modifications in the proposed scheduling order and will want to discuss all issues affecting management of the case.

D.C.COLO.LCivR 72.2 authorizes magistrate judges to exercise jurisdiction of civil matters upon the consent of the parties. If all parties have consented to the exercise of jurisdiction by a magistrate judge pursuant to D.C.COLO.LCivR 72.2, the "Notice of Availability of a United States Magistrate Judge to Exercise Jurisdiction and Consent to the Exercise of Jurisdiction by a United States Magistrate Judge" form and a proposed order of reference are to be filed promptly with the Clerk of the Court and the consent indicated in section 6. of the proposed scheduling order. Note that D.C.COLO.LCivR 72.2D. provides, in part: "Written consent to proceed before a magistrate judge must be filed no later than 14 days after the discovery cut-off date. In cases not requiring discovery, the parties shall have 40 days from the filing of the last responsive pleading to file their unanimous consent." Refer to D.C.COLO.LCivR 72.2F. if all parties have not been served or in the event additional parties are added after the scheduling conference.

Listed on the following pages as **Appendix F.1.** is the format for the proposed scheduling order. The bracketed and italicized information on the form explains what the court expects.

Also listed on the following pages as **Appendix F.2.** is the format for the proposed scheduling order in an ERISA action. The bracketed and italicized information on the form explains what the court expects.

Also listed on the following pages as **Appendix F.3.** is the format for the

proposed joint case management plan for social security cases. The bracketed and italicized information on the form explains what the court expects.

Also listed on the following pages as **Appendix F.4.** is the format for the proposed joint case management plan for petitions for review of agency action in environmental cases. The bracketed and italicized information on the form explains what the court expects.

Scheduling orders shall be double-spaced in accordance with D.C.COLO.LCivR 10.1E., even though the instructions in the following format for the proposed scheduling order are single-spaced.

PARTIES AND COUNSEL ARE DIRECTED TO THE COURT'S WEBSITE, <http://www.cod.uscourts.gov/Home.aspx>, FOR ITS LOCAL RULES AND THE GENERAL PROCEDURES OF EACH JUDICIAL OFFICER.

(Rev. 12/01/11)

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

Civil Action No. _____

Plaintiff(s),

v.

Defendant(s).

SCHEDULING ORDER

**1. DATE OF CONFERENCE
AND APPEARANCES OF COUNSEL AND PRO SE PARTIES**

[Provide the date of the conference and the names, addresses, and telephone numbers of counsel for each party and each pro se party. Identify by name the party represented by each counsel.]

2. STATEMENT OF JURISDICTION

[Provide a concise statement of the basis for subject matter jurisdiction with appropriate statutory citations. If jurisdiction is denied, give the specific reason for the denial.]

3. STATEMENT OF CLAIMS AND DEFENSES

- a. Plaintiff(s):
- b. Defendant(s):
- c. Other Parties:

[Provide concise statements of all claims or defenses. Each party, in light of formal or informal discovery undertaken thus far, should take special care to eliminate frivolous claims or defenses. Fed. R. Civ. P. 11 and 16(c)(2)(A). Do not summarize the pleadings. Statements such as "defendant denies the material allegations of the complaint" are not acceptable.]

4. UNDISPUTED FACTS

The following facts are undisputed:

[When the parties have the Rule 26(f) meeting, they should make a good-faith attempt to determine which facts are not in dispute.]

5. COMPUTATION OF DAMAGES

[Include a computation of all categories of damages sought and the basis and theory for calculating damages. See Fed. R. Civ. P. 26(a)(1)(A)(iii). This should include the claims of all parties. It should also include a description of the economic damages, non-economic damages, and physical impairment claimed, if any.]

6. REPORT OF PRECONFERENCE DISCOVERY AND MEETING UNDER FED.R.CIV.P. 26(f)

- a. Date of Rule 26(f) meeting.
- b. Names of each participant and party he/she represented.
- c. Statement as to when Rule 26(a)(1) disclosures were made or will be made.

[If a party's disclosures were not made within the time provided in Fed. R. Civ. P. 26(a)(1)(C) or by the date set by court order, the parties must provide an explanation showing good cause for the omission.]

- d. Proposed changes, if any, in timing or requirement of disclosures under Fed. R. Civ. P. 26(a)(1).

- e. Statement concerning any agreements to conduct informal discovery:

[State what processes the parties have agreed upon to conduct informal discovery, such as joint interviews with potential witnesses or joint meetings with clients to discuss settlement, or exchanging documents outside of formal discovery. If there is agreement to conduct joint interviews with potential witnesses, list the names of such witnesses and a date and time for the interview which has been agreed to by the witness, all counsel, and all pro se parties.]

f. Statement concerning any other agreements or procedures to reduce discovery and other litigation costs, including the use of a unified exhibit numbering system.

[Counsel and pro se parties are strongly encouraged to cooperate in order to reduce the costs of litigation and expedite the just disposition of the case. Discovery and other litigation costs may be reduced, for example, through telephone depositions, joint repositories for documents, use of discovery in other cases, and extensive use of expert affidavits to support judicial notice. Counsel and pro se parties also will be expected to use a unified exhibit numbering system if required by the practice standards of the judicial officer presiding over the trial of this case.]

g. Statement as to whether the parties anticipate that their claims or defenses will involve extensive electronically stored information, or that a substantial amount of disclosure or discovery will involve information or records maintained in electronic form.

[In such cases, the parties must indicate what steps they have taken or will take to (i) preserve electronically stored information; (ii) facilitate discovery of electronically stored information; (iii) limit the associated discovery costs and delay; (iv) avoid discovery disputes relating to electronic discovery; and (v) address claims of privilege or of protection as trial-preparation materials after production of computer-generated records. Counsel should describe any proposals or agreements regarding electronic discovery made at the Rule 26(f) conference and be prepared to discuss issues involving electronic discovery, as appropriate, at the Scheduling Conference.]

[When the parties have their Rule 26(f) meeting, they must discuss any issues relating to the disclosure and discovery of electronically stored information, including the form of production, and also discuss issues relating to the preservation of electronically stored information, communications, and other data. At the Rule 26(f) meeting, the parties should make a good faith effort to agree on a mutually acceptable format for production of electronic or computer-based information. In advance of the Rule 26(f) meeting, counsel carefully investigate their client's information management systems so that they are knowledgeable as to its operation, including how information is stored and how it can be retrieved.]

h. Statement summarizing the parties' discussions regarding the possibilities for promptly settling or resolving the case.

[The parties are required by Fed. R. Civ. P. 26(f)(2) to have discussed the possibilities for a prompt settlement or resolution of the case by alternate dispute resolution. They must also report the result of any such meeting, and any similar future meeting, to the magistrate judge within 14 days of the meeting.]

7. CONSENT

[Pursuant to D.C.COLO.LCivR 72.2, all full-time magistrate judges in the District of Colorado are specially designated under 28 U.S.C. § 636(c)(1) to conduct any or all proceedings in any jury or nonjury civil matter and to order the entry of judgment. Parties consenting to the exercise of jurisdiction by a magistrate judge must complete and file the court-approved Consent to the Exercise of Jurisdiction by a United States Magistrate Judge form.]

[Indicate below the parties' consent choice. Upon consent of the parties and an order of reference from the district judge, the magistrate judge assigned the case under 28 U.S.C. § 636(a) and (b) will conduct all proceedings related to the case.]

All parties [have or have not] consented to the exercise of jurisdiction of a magistrate judge.

8. DISCOVERY LIMITATIONS

[In the majority of cases, the parties should anticipate that the court will adopt the presumptive limitations on depositions established in Fed. R. Civ. P. 30(a)(2)(A)(i) and 33(a)(i). The parties are expected to engage in pretrial discovery in a responsible manner consistent with the spirit and purposes of Fed. R. Civ. P. 1 and 26 through 37. The parties are expected to propose discovery limits that are proportional to the needs of the case, the amount in controversy, and the importance of the issues at stake in the action. See Fed. R. Civ. P. 26(g)(1)(B)(iii). The court must limit discovery otherwise permitted by the Federal Rules of Civil Procedure if it determines that "the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the action, and the importance of the discovery in resolving the action." See Fed. R. Civ. P. 26(b)(2)(C).]

a. Modifications which any party proposes to the presumptive numbers of depositions or interrogatories contained in the Federal Rules.

[If a party proposes to exceed the numerical limits set forth in Fed. R. Civ. P. 30(a)(2)(A)(i), at the scheduling conference they should be prepared to support that request by reference to the factors identified in Fed. R. Civ. P. 26(b)(2)(C).]

b. Limitations which any party proposes on the length of depositions.

c. Limitations which any party proposes on the number of requests for production and/or requests for admission.

[If the parties propose more than twenty-five (25) requests for production and/or requests for admission, at the scheduling conference they should be prepared to support that proposal by reference to the factors identified in Fed. R. Civ. P. 26(b)(2)(C).]

d. Other Planning or Discovery Orders

[Set forth any other proposed orders concerning scheduling or discovery. For example, the parties may wish to establish specific deadlines for submitting protective orders or for filing motions to compel.]

9. CASE PLAN AND SCHEDULE

a. Deadline for Joinder of Parties and Amendment of Pleadings:

[Set time period within which to join other parties and to amend all pleadings. This deadline refers to timing only and does not eliminate the necessity to file an appropriate motion and to otherwise comply with Fed. R. Civ. P. 15. Unless otherwise ordered in a particular case, for good cause, this deadline should be no later than 45 days after the date of the scheduling conference, so as to minimize the possibility that late amendments and joinder of parties will precipitate requests for extensions of discovery cutoff, final pretrial conference, and dispositive motion dates. Counsel and pro se parties should plan discovery so that discovery designed to identify additional parties or claims is completed before these deadlines.]

b. Discovery Cut-off:

c. Dispositive Motion Deadline:

[Set time periods in which discovery is to be completed and dispositive motions are to be filed.]

d. Expert Witness Disclosure

1. The parties shall identify anticipated fields of expert testimony, if any.
2. Limitations which the parties propose on the use or number of expert witnesses.
3. The parties shall designate all experts and provide opposing counsel and any *pro se* parties with all information specified in Fed. R. Civ. P. 26(a)(2) on or before _____, 201___. *[This includes disclosure of information applicable to “Witnesses Who Must Provide A Written Report” under Rule 26(a)(2)(B) and information applicable to “Witnesses Who Do Not Provide a Written Report” under Rule 26(a)(2)(C).]*

4. The parties shall designate all rebuttal experts and provide opposing counsel and any *pro se* party with all information specified in Fed. R. Civ. P. 26(a)(2) on or before _____, 201___. *[This includes disclosure of information applicable to “Witnesses Who Must Provide A Written Report” under Rule 26(a)(2)(B) and information applicable to “Witnesses Who Do Not Provide a Written Report” under Rule 26(a)(2)(C).]*

[Notwithstanding the provisions of Fed. R. Civ. P. 26(a)(2)(B), no exception to the requirements of the Rule will be allowed by stipulation unless the stipulation is in writing and approved by the court. In addition to the requirements set forth in Rule 26(a)(2)(B)(i)-(vi), the expert’s written report also must identify the principles and methods on which the expert relied in support of his/her opinions and describe how the expert applied those principles and methods reliably to the facts of the case relevant to the opinions set forth in the written report.]

- e. Identification of Persons to Be Deposed:

[List the names of persons to be deposed and provide a good faith estimate of the time needed for each deposition. All depositions must be completed on or before the discovery cut-off date and the parties must comply with the notice and scheduling requirements set for in D.C.COLOLCivR 30.1.]

- f. Deadline for Interrogatories:

[The parties are expected to serve interrogatories on opposing counsel or a pro se party on a schedule that allows timely responses on or before the discovery cut-off date.]

- g. Deadline for Requests for Production of Documents and/or Admissions

[The parties are expected to serve requests for production and/or requests for admission on opposing counsel or a pro se party on a schedule that allows timely responses on or before the discovery cut-off date.]

10. DATES FOR FURTHER CONFERENCES

[The magistrate judge will complete this section at the scheduling conference if he or she has not already set deadlines by an order filed before the conference.]

- a. An early neutral evaluation will be held on _____ at _____ o'clock __.m.
- () *Pro se* parties and attorneys only need be present.
- () *Pro se* parties, attorneys, and client representatives must be present.

- () Each party shall submit a Confidential Statement to the magistrate judge on or before _____ outlining the facts and issues, as well as the strengths and weaknesses of their case.

- b. Status conferences will be held in this case at the following dates and times: _____.

- c. A final pretrial conference will be held in this case on _____ at _____ o'clock ____ m. A Final Pretrial Order shall be prepared by the parties and submitted to the court no later than seven (7) days before the final pretrial conference.

11. OTHER SCHEDULING MATTERS

- a. Identify those discovery or scheduling issues, if any, on which counsel after a good faith effort, were unable to reach an agreement.

- b. Anticipated length of trial and whether trial is to the court or jury.

- c. Identify pretrial proceedings, if any, that the parties believe may be more efficiently or economically conducted in the District Court's facilities at 212 N. Wahsatch Street, Colorado Springs, Colorado; Wayne Aspinall U.S. Courthouse/Federal Building, 402 Rood Avenue, Grand Junction, Colorado; or the U.S. Courthouse/Federal Building, 103 Sheppard Drive, Durango, Colorado. *[Determination of any such request will be made by the magistrate judge based on the individual needs of the case and the availability of space and security resources.]*

12. NOTICE TO COUNSEL AND PRO SE PARTIES

[The following paragraphs shall be included in the scheduling order:]

The parties filing motions for extension of time or continuances must comply with D.C.COLO.LCivR 6.1D. by submitting proof that a copy of the motion has been served upon the moving attorney's client, all attorneys of record, and all *pro se* parties.

Counsel will be expected to be familiar and to comply with the Pretrial and Trial Procedures or Practice Standards established by the judicial officer presiding over the trial of this case.

With respect to discovery disputes, parties must comply with D.C.COLO.LCivR 7.1A.

In addition to filing an appropriate notice with the clerk's office, a *pro se* party must file a copy of a notice of change of his or her address or telephone number with the clerk of the magistrate judge assigned to this case.

In addition to filing an appropriate notice with the clerk's office, counsel must file a copy of any motion for withdrawal, motion for substitution of counsel, or notice of change of counsel's address or telephone number with the clerk of the magistrate judge assigned to this case.

13. AMENDMENTS TO SCHEDULING ORDER

[Include a statement that the scheduling order may be altered or amended only upon a showing of good cause.]

DATED this _____ day of _____, 20 ____.

BY THE COURT:

United States Magistrate Judge

APPROVED:

(Name)
(Address)
(Telephone Number)
Attorney for Plaintiff (or Plaintiff, *Pro Se*)

(Name)
(Address)
(Telephone Number)
Attorney for Defendant (or Defendant,
Pro Se)

[Please affix counsels' and any pro se party's signatures before submission of the final pretrial order to the court.]

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

Civil Action No. _____

Plaintiff(s)

v.

Defendant(s).

SCHEDULING ORDER IN AN ERISA ACTION

**1. DATE OF CONFERENCE
AND APPEARANCES OF COUNSEL AND *PRO SE* PARTIES**

[Provide the date of the conference and the names, addresses, and telephone numbers of counsel for each party and each pro se party. Identify by name the party represented by each counsel.]

2. STATEMENT OF JURISDICTION

[Provide a concise statement of the basis for subject matter jurisdiction with appropriate statutory citations. If jurisdiction is denied, give the specific reason for the denial.]

3. STATEMENT OF CLAIMS AND DEFENSES

a. *Plaintiff(s):*

b. *Defendant(s):*

[Provide concise statements of all claims or defenses. Each party, in light of formal or informal discovery undertaken thus far, should take special care to eliminate frivolous claims or defenses. Fed. R. Civ. P. 16(c)(1), 11. Do not summarize the pleadings. Statements such as "defendant denies the material allegations of the complaint" are not acceptable.]

4. COMPUTATION OF DAMAGES

[Include a computation of all categories of damages sought and the basis and theory for calculating damages. See Fed. R. Civ. P. 26(a)(1)(C). This should include the claims of all parties. It should also include a description of the economic damages, non-economic damages, and physical impairment claimed, if any.]

5. CONSENT

[Pursuant to D.C.COLO.LCivR 72.2, all full-time magistrate judges in the District of Colorado are specially designated under 28 U.S.C. § 636(c)(1) to conduct any or all proceedings in any jury or nonjury civil matter and to order the entry of judgment. Upon consent of the parties and an order of reference from the district judge, the magistrate judge assigned the case under 28 U.S.C. § 636(a) and (b) will conduct all proceedings related to the case.]

[Indicate below the parties consent choice. Parties consenting to the exercise of jurisdiction by a magistrate judge must complete and file the court-approved Consent to the Exercise of Jurisdiction by a United States Magistrate Judge form.]

All parties *[have or have not]* consented to the exercise of jurisdiction of a magistrate judge.

6. CASE PLAN AND SCHEDULE

[In non-FOIA cases, the parties should provide a brief statement indicating whether they agree upon the administrative record and the applicable standard review. If there is a disagreement on the applicable standard of review, each party shall concisely set forth the bases for their position.]

- a. Deadline for submission of the Administrative Record or Index pursuant to *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973):

- b. Deadline for filing any Motion Requesting Discovery:

[A party moving for discovery must set forth in their motion the factual and legal bases for the requested discovery, and must append to their motion proposed interrogatories and/or requests for production . A party requesting depositions should also provide a list of proposed deponents and a brief summary of the information to be sought from each deponent.]

- c. Deadline for Filing a Motion to Supplement the Administrative Record

[A party moving to supplement the administrative record must set forth in their motion the factual and legal bases for the requested relief and must identify the documents, materials or facts they wish to incorporate in the administrative record.]

- d. Deadline for filing Plaintiff's Opening Brief:

- e. Deadline for filing Defendant's Response Brief:

- f. Deadline for filing Plaintiff's Reply Brief:

[The parties must file, contemporaneously with the filing of Plaintiff's Reply Brief, a "Joint Motion for Determination" which will serve as notice to the court that briefing has been completed.]

7. CONFERENCES

[The parties must certify here that, as required by Fed. R. Civ. P. 26(f), they have discussed the possibilities for a prompt settlement or resolution of the case by alternate dispute resolution. They must also report the result of any such meeting, and any similar future meeting, to the magistrate judge within 14 days of the meeting.]

[The magistrate judge will complete this section at the scheduling conference if he or she has not already set deadlines by an order filed before the conference.]

- a. An early neutral evaluation will be held on _____ at _____ o'clock __.m.

() *Pro se* parties and attorneys only need be present.

() *Pro se* parties, attorneys, and client representatives must be present.

() Each party shall submit a Confidential Statement to the magistrate judge on or before _____ outlining the facts and issues, as well as the strengths and weaknesses of their case.

b. Status conferences will held in this case at the following dates and times:

8. OTHER MATTERS

[The following paragraphs shall be included in the scheduling order:]

In addition to filing an appropriate notice with the clerk's office, counsel must file a copy of any motion for withdrawal, motion for substitution of counsel, or notice of change of counsel's address or telephone number with the clerk of the magistrate judge assigned to this case.

Counsel will be expected to be familiar and to comply with the Pretrial and Trial Procedures established by the judicial officer presiding over the trial of this case.

In addition to filing an appropriate notice with the clerk's office, a *pro se* party must file a copy of a notice of change of his or her address or telephone number with the clerk of the magistrate judge assigned to this case.

The parties filing motions for extension of time or continuances must comply with D.C.COLO.LCivR 6.1D. by submitting proof that a copy of the motion has been served upon the moving attorney's client, all attorneys of record, and all *pro se* parties.

DATED this _____ day of _____, 20_____.

BY THE COURT:

United States Magistrate Judge

APPROVED:

(Name)

(Name)

(Address)

(Address)

(Telephone Number)

(Telephone Number)

Attorney for Plaintiff (or Plaintiff, *Pro Se*)

Attorney for Defendant (or Defendant,

Pro Se)

[Please affix counsels' and any pro se party's signatures before submission of the final pretrial order to the court.]

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 00-cv-00000-AP [*place AP docket number here*]

XXXXX,

Plaintiff,

v.

YYYYY,

Defendant.

JOINT CASE MANAGEMENT PLAN FOR SOCIAL SECURITY CASES

1. APPEARANCES OF COUNSEL AND *PRO SE* PARTIES

For Plaintiff:

For Defendant:

Special Assistant United States Attorney

2. STATEMENT OF LEGAL BASIS FOR SUBJECT MATTER JURISDICTION

The Court has jurisdiction based on Section 205(g) of the Social Security Act, 42 U.S.C. 405(g).

3. DATES OF FILING OF RELEVANT PLEADINGS

A. Date Complaint Was Filed:

B. Date Complaint Was Served on U.S. Attorney's Office:

C. Date Answer and Administrative Record Were Filed:

4. STATEMENT REGARDING THE ADEQUACY OF THE RECORD

[Provide concise statements regarding the completeness or accuracy of the administrative record. Do not summarize the pleadings or make statements about the merits, or lack thereof, of the case or the defenses.]

5. STATEMENT REGARDING WHETHER THIS CASE RAISES UNUSUAL CLAIMS OR DEFENSES

[Provide concise statements regarding whether the case involves unusually complicated or out-of-the-ordinary claims, such as a constitutional challenge to a statute or regulation, an alleged due process violation, a request for injunctive or emergency relief, etc. It would be the unusual case that has any information in this section.]

6. OTHER MATTERS

[Describe any other matters either party believes should be brought to the attention of the Court.]

7. PROPOSED BRIEFING SCHEDULE

[The plaintiff's opening brief should be due no later than 30-40 days from the filing of this Joint Case Management Plan; the response brief due 30 days thereafter; and the reply brief (if any) due 15 days thereafter.]

- A. Plaintiff's Opening Brief Due:**

- B. Defendant's Response Brief Due:**

- C. Plaintiff's Reply Brief (If Any) Due:**

8. STATEMENTS REGARDING ORAL ARGUMENT

[The parties should state whether they request oral argument. If oral argument is requested, the requesting party(ies) should explain the need for oral argument. Even if oral argument is requested by one or both parties, it will be the decision of the Judge to whom the case is randomly drawn to determine whether there is a need for such argument.]

- A. Plaintiff's Statement:**

- B. Defendant's Statement:**

9. CONSENT TO EXERCISE OF JURISDICTION BY MAGISTRATE JUDGE

[The parties should state whether they intend to consent to the exercise of jurisdiction by a magistrate judge in accordance with D.C.COLO.LCivR 72.2. Pursuant to this Rule, all full-time magistrate judges in the District of Colorado are specially designated under 28 U.S.C. § 636(c)(1) to conduct any or all proceedings in any jury or nonjury civil matter and order the entry of judgment. If all parties consent to the exercise of jurisdiction by a magistrate judge under D.C.COLO.LCivR 72.2, they must file a completed "Notice of Availability . . . and Consent to Exercise Jurisdiction" form, which Plaintiff should have received from the clerk upon filing, NO LATER THAN 40 days after the date of Defendant's Answer, or within 21 days of the filing of the proposed Plan.

Upon consent of the parties and an order of reference from the district judge, the magistrate judge assigned the case under 28 U.S.C. § 636(a) and (b) will conduct all proceedings in the case.]

Indicate below the parties' consent choice.

- A. () **All parties have consented to the exercise of jurisdiction of a United States Magistrate Judge.**

- B. () **All parties have not consented to the exercise of jurisdiction of a United States Magistrate Judge.**

10. OTHER MATTERS

[The parties filing motions for extension of time or continuances must comply with D.C.COLO.LCivR 7.1(C) by submitting proof that a copy of the motion has been served upon the Moving Attorney's Client, all attorneys of record, and all pro se parties.]

11. AMENDMENTS TO JOINT CASE MANAGEMENT PLAN

[The parties agree that the Joint Case Management Plan may be altered or amended only upon a showing of good cause.]

DATED this _____ day of _____, 20__.

BY THE COURT:

U.S. DISTRICT COURT JUDGE

APPROVED:

UNITED STATES ATTORNEY

By:

(Name)
(Address)

Telephone:
e-mail address

Attorney(s) for Plaintiff(s)
(or Plaintiff, *pro se*)

By:

Special Assistant U.S. Attorney

(Name)
(Address)

Telephone:
e-mail address
Attorney for Defendant(s)

Please affix counsel's signatures and any *pro se* party's signatures before submission of the proposed Joint Case Management Plan to the court.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 00-cv-0000-AP [*place AP docket number here*]

XXXXX,

Petitioner,

v.

YYYYY,

Respondent.

**JOINT CASE MANAGEMENT PLAN FOR PETITIONS FOR REVIEW OF AGENCY
ACTION IN [ENVIRONMENTAL] CASES**

1. APPEARANCES OF COUNSEL

For Plaintiff:

For Defendant:

Special Assistant United States Attorney

2. STATEMENT OF LEGAL BASIS FOR SUBJECT MATTER JURISDICTION

The Court has jurisdiction based on the presentation of federal question, 28 U.S.C. § 1331.

[If jurisdiction is also based on a specific statutory provision, i.e. the citizen-suit provision of the Endangered Species Act, parties should so state in this section. Additionally, the Respondent should identify any anticipated jurisdictional defenses (i.e., justiciability, ripeness, standing, failure to exhaust remedies, etc.)]

3. DATES OF FILING OF RELEVANT PLEADINGS

A. Date Petition for Review Was Filed:

B. Date Petition for Review Was Served on U.S. Attorney's Office:

C. Date Answer or Other Response Was Filed:

4. STATEMENT(S) REGARDING WHETHER THIS CASE RAISES UNUSUAL CLAIMS OR DEFENSES

[Provide concise statements regarding whether the case involves unusually complicated or out-of-the-ordinary claims, such as a constitutional challenge to a statute or regulation, an alleged due process violation, a request for emergency relief, etc. It would be the unusual case that has any information in this section.]

5. OTHER MATTERS

[Describe any other matters either party believes should be brought to the attention of the Court.]

6. PROPOSED BRIEFING SCHEDULE

[This briefing schedule is intended to provide reasonable default deadlines which expedite the review process without compromising the ability of Petitioners or Respondents to adequately develop their arguments. The schedule may be modified by agreement of the parties upon a showing of good cause. If parties have reached agreement on page limits for their merits briefs, they should so state here.]

A. Deadline for Filing Administrative Record:

[The Deadline for Filing the Administrative Record should be 30 days from the date of the Response to the Petition. When possible, the record shall be filed in a searchable electronic format , i.e. .pdf]

B. Deadline for Parties to Confer on Record Disputes:

[The Deadline for Parties to Confer on Record Disputes should be 30 days from the date the Administrative Record is filed.]

C. Deadline for Filing Motions to Complete and/or Supplement the Administrative Record:

[The Deadline for Filing Motions to Complete and/or Supplement the Administrative Record should be 30 days from the Deadline for Parties to Confer on Record Disputes. Response and Reply deadlines for such motions are governed by D.C.COLO.L.Civ.R. 7.1(C). The parties should review and familiarize themselves with the Court's decisions in CNE v. Salazar, 711 F. Supp.2d 1267; WildEarth Guardians v. USFS: 713 F.Supp.2d 1243.]

D. Petitioner's Opening Brief Due:

[Petitioner's Opening Brief is due 30 days after the Deadline for Filing Motions to Complete and/or Supplement the Administrative Record. If there are challenges to the record, the briefing schedule will be modified accordingly.]

E. Respondent's Response Brief Due:

[Respondent's Response Brief is due 30 days after the filing of Petitioner's Opening Brief.]

F. Petitioner's Reply Brief (If Any) Due:

[Petitioner's Reply Brief is due 15 days after the filing of Respondent's Response Brief.]

7. STATEMENTS REGARDING ORAL ARGUMENT

[The parties should state whether they request oral argument. If oral argument is requested, the requesting party(ies) should explain the need for oral argument. Even if oral argument is requested by one or both parties, it will be the decision of the Judge to whom the case is randomly drawn to determine whether there is a need for such argument.]

A. Petitioner's Statement:

B. Respondent's Statement:

8. CONSENT TO EXERCISE OF JURISDICTION BY MAGISTRATE JUDGE

[The parties should state whether they intend to consent to the exercise of jurisdiction by a magistrate judge in accordance with D.C.COLO.LCivR 72.2. Pursuant to this Rule, all full-time magistrate judges in the District of Colorado are specially designated under 28 U.S.C. § 636(c)(1) to conduct any or all proceedings in any jury or nonjury civil matter and order the entry of judgment. If all parties consent to the exercise of jurisdiction by a magistrate judge under D.C.COLO.LCivR 72.2, they must file a completed "Notice of Availability . . . and Consent to Exercise Jurisdiction" form, which Plaintiff should have received from the clerk upon filing, NO LATER THAN 40 days after the date of Defendant's Answer, or within 21 days of the filing of the proposed Plan. Upon consent of the parties and an order of reference from the district judge, the magistrate judge assigned the case under 28 U.S.C. § 636(a) and (b) will conduct all proceedings in the case.]

Indicate below the parties' consent choice.

- A. () **All parties have consented to the exercise of jurisdiction of a United States Magistrate Judge.**

- B. () **All parties have not consented to the exercise of jurisdiction of a United States Magistrate Judge.**

9. OTHER MATTERS

[Parties filing motions for extension of time or continuances must comply with D.C.COLO.LCivR 5.1G. by submitting proof that a copy of the motion has been served upon all attorneys of record and all pro se parties. Parties filing motions for extension of time or continuances must comply with D.C.COLO.LCivR 6.1E. by serving such motion on the Moving Attorney's Client.]

10. AMENDMENTS TO JOINT CASE MANAGEMENT PLAN

[The parties agree that the Joint Case Management Plan may be altered or amended only upon a showing of good cause.]

DATED this ____ day of _____, 20__.

BY THE COURT:

U.S. DISTRICT COURT JUDGE

UNITED STATES ATTORNEY

APPROVED:

(Name)
(Address)
e-mail address
Telephone:

Attorney(s) for Petitioner(s)
(or Petitioner, *pro se*)

By:
Name
U.S. Department of Justice
Environmental and Natural Resources
Division
e-mail address
Mailing Address:

Street Address:
United States Attorney's Office

Attorney for Respondent(s)

Please affix counsel's signatures and any *pro se* party's signatures before submission of the proposed Joint Case Management Plan to the court.

**INSTRUCTIONS FOR PREPARATION OF
FINAL PRETRIAL ORDER**

Counsel and any *pro se* party are directed to meet in advance of the pretrial conference and jointly to develop the contents of the proposed final pretrial order, which shall be presented for the court's approval no later than seven days before the final pretrial conference. Also, attention is directed to Fed. R. Civ. P. 16(d), which provides, in pertinent part, that "[t]he conference shall be attended by at least one of the attorneys who will conduct the trial for each of the parties and by any unrepresented parties."

Listed on the following pages is a format for matters to be included in the final pretrial order. For convenience of the court, counsel, and any *pro se* party, the sequence and terminology in this format should be used in the preparation of the final pretrial order. The bracketed and italicized information on the form explains what the court expects.

Final pretrial orders shall be double-spaced in accordance with D.C.COLO.LCivR 10.1E., even though the instructions in the following format for the proposed scheduling order are single-spaced.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No.

Plaintiff(s),

v.

Defendant(s).

FINAL PRETRIAL ORDER

1. DATE AND APPEARANCES

2. JURISDICTION

[Include a statement of the basis for subject matter jurisdiction with appropriate statutory citations. If jurisdiction is denied, give the specific reason for the denial.]

3. CLAIMS AND DEFENSES

[Summarize the claims and defenses of all parties, including the respective versions of the facts and legal theories. Do not copy the pleadings. Identify the specific relief sought. Eliminate claims and defenses which are unnecessary, unsupported, or no longer asserted.]

4. STIPULATIONS

[Set forth all stipulations concerning facts, evidence, and the applicability of statutes, regulations, rules, ordinances, etc.]

5. PENDING MOTIONS

[List any pending motion to be decided before trial, giving the filing date and the filing date of any briefs in support or opposition. Include any motions on which the court expressly has postponed ruling until trial on the merits. If there are no pending motions, please state, "None."]

6. WITNESSES

- a. List the nonexpert witnesses to be called by each party. List separately:
- (1) witnesses who will be present at trial (see Fed. R. Civ. P. 26(a)(3)(A));
 - (2) witnesses who may be present at trial if the need arises (see Fed. R. Civ. P. 26(a)(3)(A)); and
 - (3) witnesses where testimony is expected to be presented by means of a deposition and, if not taken stenographically, a transcript of the pertinent portions of the deposition testimony. See Fed. R. Civ. P. 26(a)(3)(B).
- b. List the expert witnesses to be called by each party. List separately:
- (1) witnesses who will be present at trial (see Fed. R. Civ. P. 26(a)(3)(A));
 - (2) witnesses who may be present at trial (see Fed. R. Civ. P. 26(a)(3)(A)); and
 - (3) witnesses where testimony is expected to be presented by means of a deposition and, if not taken stenographically, a transcript of the pertinent portions of the deposition testimony. See Fed. R. Civ. P. 26(a)(3)(B).

[With each witness' name, set forth (1) the witness' address and telephone number if not previously disclosed, (2) a short statement as to the nature and purpose of the witness' testimony, and (3) whether he or she is expected to testify in person or by deposition.]

7. EXHIBITS

[a. List the exhibits to be offered by each party and identify those to be stipulated into evidence. This list should be specific enough so that other parties and the court can understand, merely by referring to the list, each separate exhibit which will be offered. General references such as "all deposition exhibits" or "all documents produced during discovery" are unacceptable.]

- (1) Plaintiff(s):
- (2) Defendant(s):
- (3) Other parties:

[The following paragraph shall be included in the final pretrial order.]

b. Copies of listed exhibits must be provided to opposing counsel and any pro se party no later than 30 days before trial. The objections contemplated by Fed. R. Civ. P. 26(a)(3) shall be filed with the clerk and served by hand delivery or facsimile no later than 14 days after the exhibits are provided.

8. DISCOVERY

[Use the following language:]

Discovery has been completed.

[Unless otherwise ordered, upon a showing of good cause in an appropriate motion, there will be no discovery after entry of the final pretrial order.]

9. SPECIAL ISSUES

[List any unusual issues of law which the court may wish to consider before trial. If none, please state, "None."]

10. SETTLEMENT

[Include a certification by the undersigned counsel for the parties and any pro se party that:]

- a. Counsel for the parties and any pro se party met (in person) (by telephone) on _____, 200__, to discuss in good faith the settlement of the case.
- b. The participants in the settlement conference, included counsel, party representatives, and any pro se party.
- c. The parties were promptly informed of all offers of settlement.
- d. Counsel for the parties and any pro se party (do) (do not) intend to hold future settlement conferences.
- e. It appears from the discussion by all counsel and any pro se party that there is *[select one]*:
(a good possibility of settlement.)
(some possibility of settlement.)
(little possibility of settlement.)
(no possibility of settlement.)
- f. Counsel for the parties and any pro se party considered ADR in accordance with D.C.COLO.LCivR.16.6.

11. OFFER OF JUDGMENT

[The following paragraph shall be included in the final pretrial order:]

Counsel and any pro se party acknowledge familiarity with the provision of rule 68 (Offer of Judgment) of the Federal Rules of Civil Procedure. Counsel have discussed it with the clients against whom claims are made in this case.

12. EFFECT OF FINAL PRETRIAL ORDER

[The following paragraph shall be included in the final pretrial order:]

Hereafter, this Final Pretrial Order will control the subsequent course of this action and the trial, and may not be amended except by consent of the parties and approval by the court or by order of the court to prevent manifest injustice. The pleadings will be deemed merged herein. This Final Pretrial Order supersedes the Scheduling Order. In the event of ambiguity in any provision of this Final Pretrial Order, reference may be made to the record of the pretrial conference to the extent reported by stenographic notes and to the pleadings.

13. TRIAL AND ESTIMATED TRIAL TIME; FURTHER TRIAL PREPARATION PROCEEDINGS

[State:

1. *whether trial is to the court or a jury or both,*
2. *estimated trial time,*
3. *situs of trial, and*
4. *any other orders pertinent to the trial proceedings.]*

[Counsel and the parties should note that the procedures for setting and conducting trial and for further conferences before trial vary according to the district judge assigned to the case. The judges all have written procedures which can be obtained from the clerk's office.]

DATED this _____ day of _____ 20____.

BY THE COURT:

United States Magistrate Judge

APPROVED:

(Name)
(Address)
(Telephone Number)
Attorney for Plaintiff (or Plaintiff, Pro Se)

(Name)
(Address)
(Telephone Number)
Attorney for Defendant (or Defendant,
Pro Se)

[Please affix counsels' and any pro se party's signatures before submission of the final pretrial order to the court.]

[RESERVED]

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

Civil Action No. _____

Plaintiff,

v.

Defendant.

INFORMATION FOR TEMPORARY RESTRAINING ORDER

Attorney for Plaintiff _____

_____ Telephone number _____

Attorney for Defendant _____

_____ Telephone number _____

Concise statement as to type of claim _____

Jurisdiction (cite statute) _____

Hearing: See D.C.COLO.LCivR.7.1A

Date Motion for Temporary Restraining Order filed _____

Estimated length of hearing _____

Request hearing be set for _____ today _____ tomorrow _____ within one week

Reason why immediate action is required _____

Notice:

Has opposing party and/or attorney been notified? _____ Yes _____ No

If "yes," state when _____ and by what means _____

If "no," state reason _____

(Rev. 11/04)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Action No.

UNITED STATES OF AMERICA,

Plaintiff,

v.

1.

Defendant.

PLEA AGREEMENT AND STATEMENT OF FACTS
RELEVANT TO SENTENCING

The United States of America (the government), by and through _____,
Assistant United States Attorney for the District of Colorado, and the defendant,
_____, personally and by counsel, _____, submit the
following Plea Agreement and Statement of Facts Relevant to Sentencing pursuant to
D.C.COLO.LCrR 11.1.

I. PLEA AGREEMENT

The defendant agrees to plead guilty to _____ of the Indictment *[or Information]*
charging a violation of ___ U.S.C. § _____, _____. *[Insert additional
charges, if any.]*

*[Set forth the complete agreement between the parties, including whether the agreement is pursuant
to Fed. R. Crim. P. 11(e)(1)(A), (B), or (C), and whether there are agreements regarding departure
from the guideline range and the amount of restitution.]*

II. ELEMENTS OF THE OFFENSE(S)

[Set forth each essential element required by law for the commission of each criminal offense to which the defendant intends to enter a plea of guilty or nolo contendere.]

III. STATUTORY PENALTIES

[Parties should make every effort to resolve restitution issues prior to entering a plea agreement.]

The maximum statutory penalty for a violation of _____ U.S.C. § _____ is: not more than _____ months imprisonment; not more than \$_____ fine, or both; not more than _____ years supervised release; \$ _____ special assessment fee; plus _____ restitution. *[If the exact amount of restitution is not known, explain the parties' position on how restitution should be determined.]* *[Insert, if applicable: The minimum statutory penalty is _____ months imprisonment.]*

The conviction may cause the loss of civil rights, including but not limited to the rights to possess firearms, vote, hold elected office, and sit on a jury. *[Insert if applicable: If the defendant is an alien, the conviction may cause the defendant to be deported or confined indefinitely if there is no country to which the defendant may be deported.]*

A violation of the conditions of probation or supervised release may result in a separate prison sentence.

IV. STIPULATION OF FACTUAL BASIS AND FACTS RELEVANT TO SENTENCING

The parties agree that there is no dispute as to the material elements which establish a factual basis of the offense of conviction.

Pertinent facts are set out below in order to provide a factual basis of the plea and to provide facts which the parties believe are relevant, pursuant to § 1B1.3, for computing the appropriate guideline range. To the extent the parties disagree about the facts relevant to sentencing, the statement of facts identifies which facts are known to be in dispute at the time of the plea. (§ 6B1.4(b))

The statement of facts herein does not preclude either party from presenting and arguing, for sentencing purposes, additional facts or factors not included herein which are relevant to the guideline computation (§ 1B1.3) or to sentencing in general (§ 1B1.4). In "determining the factual basis for the sentence, the court will consider the stipulation [of the parties], together with the results of the presentence investigation, and any other relevant information." (§ 6B1.4 Comm.)

The parties agree that the government's evidence would show that the date on which conduct relevant to the offense (§ 1B1.3) began is _____.

The parties agree that the government's evidence would be: *[Insert evidence]*

V. SENTENCING COMPUTATION

[Insert, if applicable: Any estimation by the parties regarding the estimated appropriate guideline application does not preclude either party from asking the court to depart from the otherwise appropriate guideline range at sentencing, if that party believes that there exists an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the Sentencing Commission in formulating the sentencing guidelines. (§ 5K2.0)]

The parties understand that the court may impose any sentence, up to the statutory maximum, regardless of any guideline range computed, and that the court is not bound by any position of the parties. (§ 6B1.4(d)) The court is free, pursuant to §§ 6A1.3 and 6B1.4, to reach its own findings of facts and sentencing factors considering the parties' stipulations, the presentence investigation, and any other relevant information. (§ 6B1.4 Comm.; § 1B1.4)

To the extent the parties disagree about the sentencing factors, the computations below identify the factors which are in dispute. (§ 6B1.4(b))

- A. The base guideline is § ____, with a base offense level of ____.
- B. *[Insert specific offense characteristics.]*
- C. *[Insert victim-related, role-in-offense obstruction and/or multiple count adjustments.]*
- D. The adjusted offense level would therefore be ____.

E. The defendant *[should or should not]* receive the adjustment for acceptance of responsibility. The resulting offense level would therefore be ____.

F. The parties understand that the defendant's criminal history computation is tentative. The criminal history category is determined by the court. Known facts regarding the criminal history are as follows: *[insert facts]*. Based on that information, if no other information were discovered, the defendant's criminal history category would be ____.

G. Assuming the (tentative) criminal history facts of F. above, the career offender/criminal livelihood/armed career criminal adjustments *[would or would not]* apply. *[If any of these adjustments applies, include the final offense level and/or criminal history category.]*

H. The guideline range resulting from the estimated offense level(s) of *[E. or G.]* above, and the (tentative) criminal history category of *[F. or G.]* above, is ____ months. However, in order to be as accurate as possible, with the criminal history category undetermined at this time, the estimated offense level(s) of *[E. or G.]* above could conceivably result in a range from ____ months (bottom of Category I), to ____ months (top of Category VI). The sentence would be limited, in any case, by the statutory maximum.

I. Pursuant to guideline § 5E1.2, assuming the estimated offense level of *[E. or G.]* above, the fine range for this offense would be \$ _____ to \$ _____, plus applicable interest and penalties.

J. Pursuant to guideline § 5D1.2, if the court imposes the term of supervised release, that term shall be *[insert if applicable: at least ____ years, but]* not more than ____ years.

[K. Describe any restitution orders or conditions required by guideline § 5E1.1.]

VI. WHY THE PROPOSED PLEA DISPOSITION IS APPROPRIATE

The parties believe the sentencing range resulting from the proposed plea agreement is appropriate because all relevant conduct is disclosed, the sentencing guidelines take into account all pertinent sentencing factors with respect to this defendant, and the charges to which the defendant has agreed to plead guilty adequately reflect the seriousness of the actual offense behavior.

This document states the parties' entire agreement. There are no other promises, agreements (or "side agreements"), terms, conditions, understandings, or assurances, express or implied. In entering this agreement, neither the government nor the defendant has relied, or is relying, on any terms, promises, conditions, or assurances not expressly stated in this agreement.

Date: _____
_____ [insert name]
Defendant

Date: _____
_____ [insert name]
Attorney for Defendant

Date: _____
_____ [insert name]
Assistant U.S. Attorney

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

Criminal Action No.

UNITED STATES OF AMERICA,

Plaintiff,

v.

1.

Defendant.

STATEMENT BY DEFENDANT IN ADVANCE OF PLEA OF GUILTY
(In Accordance With the Sentencing Guidelines)

I hereby acknowledge and certify that I have been advised of and that I understand the following facts and rights, that all representations contained herein are true and correct, and that my attorney has assisted me as I have reviewed and completed this form.

1. The nature of the charge(s) against me has been explained to me by my attorney and the court. I have had an opportunity to discuss with my attorney and with the court the nature of the charge(s) and the elements which the government is required to prove.

2. I know that when the court sentences me, the court will consider many factors, including certain sentencing guidelines established by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(a), as those sentencing guidelines pertain to the crime I admit I committed, my degree of involvement in that crime, and my personal history and background. I understand that the court has discretion with respect to the application of the sentencing guidelines, and that I could be sentenced to serve the maximum term and pay the maximum fine, as set out in paragraph 3 below.

3. I know that the following penalties may be imposed upon me under the law, as a result of my guilty plea(s):

Count _____

- a. Imprisonment for a term of *[insert if applicable: not less than _____ years, but]* not more than _____ years;
- b. A term of supervised release of *[insert if applicable: not less than _____ years, but]* not more than _____ years, pursuant to 18 U.S.C. § 3583;
- c. A fine of not more than \$ _____, pursuant to the statute that I admit I violated and/or the alternative fine schedule set out at 18 U.S.C. § 3571;
- d. Restitution to the victim(s) of my crime(s) of not more than \$ _____, pursuant to 18 U.S.C. §§ 3663, 3663A, and 3664;
- e. A special assessment of \$ _____, pursuant to 18 U.S.C. § 3013;
- f. A prison sentence that may be imposed for a violation of the conditions of probation or supervised release;
- g. Loss of civil rights, including but not limited to the rights to possess firearms, vote, hold elected office, and sit on a jury; and
- h. Deportation from the United States if I am not a U. S. citizen and my crime satisfies one of the conditions in 8 U.S.C. § 1227(a)(2), or indefinite confinement if there is no country to which I may be deported.

[REPEAT a. THROUGH h. FOR ALL REMAINING COUNTS.]

4. I know that if I am convicted of more than one count, the sentences may be either concurrent or consecutive.
5. I know that the information set out in Attachment A concerning the collection of fines and restitution applies to me, and I acknowledge that I have read Attachment A.
6. _____ I know that if the blank at the beginning of this sentence is checked, the information set out in Attachment B concerning the payment and collection of restitution applies to me, and I acknowledge that I have read Attachment B.
7. I know that I can be represented by an attorney at every stage of this proceeding, and I know

that, if I cannot afford an attorney, one will be appointed to represent me at the government's expense.

8. I know that I have a right to plead "not guilty," and I know that if I do plead "not guilty," I can persist in that plea.

9. I know that I have a right to a trial by jury, and I know that if I choose to stand trial:

a. I have a right to the assistance of an attorney at every stage of the proceeding;

b. I have a right to see and observe the witnesses who testify against me;

c. My attorney can cross-examine all witnesses who testify against me;

d. I can call such witnesses as I desire, and I can obtain subpoenas to require the attendance and testimony of those witnesses;

e. If I cannot afford to pay the expenses that witnesses incur, the government will pay those expenses, including mileage and travel expenses, and including reasonable fees charged by expert witnesses;

f. I cannot be forced to incriminate myself and I do not have to testify at any trial;

g. I can testify at my trial if I choose to, and I do not have to decide whether to testify until after I have heard the government's evidence against me;

h. If I do not want to testify, the jury will be told that no inference adverse to me may be drawn from my failure to testify;

i. The government must prove each and every element of the offense(s) with which I am charged, beyond a reasonable doubt;

j. In order for me to be convicted, the jury must reach a unanimous verdict of guilty; and

k. If I were to be convicted, I could appeal, and if I could not afford an appeal, the government would pay the cost of the appeal, including the cost of the services of an appointed attorney.

10. I know that if I plead guilty, there will not be a trial of any kind.

11. I know that if I plead guilty, there will be no appellate review of the question of whether or not I am guilty of the offense(s) to which I have pled guilty.

12. I know that once this court sentences me, both the government and I may be able to seek appellate review of the sentence imposed, pursuant to 18 U.S.C. § 3742. I understand that any such appellate review will extend only to the question of whether a proper sentence was imposed. I understand that the Court of Appeals will not take up the question of whether I am guilty of the offense(s) to which I have pled guilty. I understand that I will have to serve the sentence that is imposed by this court, subject to modification of the sentence by order of the Court of Appeals and/or the United States Supreme Court.

13. No agreements have been reached and no representations have been made to me as to what the sentence in this case will be, except that which is explicitly detailed in the document entitled "Plea Agreement and Statement of Facts Relevant to Sentencing," which will be tendered to the court during this proceeding. I further understand that any agreements and stipulations in the document entitled "Plea Agreement and Statement of Facts Relevant to Sentencing" are binding on the court only if the parties ask the court in that document to be so bound and only if the court agrees to be so bound when it accepts my guilty plea(s).

14. The only plea agreement which has been entered into with the government is that which is set out in the document entitled "Plea Agreement and Statement of Facts Relevant to Sentencing," which will be tendered by the government and me in this case and which I incorporate herein by reference.

15. I understand that the court can make no decision as to what my sentence will be until the presentence report has been received and reviewed by the court.

16. I know that when I enter my plea(s) of guilty, the court may ask me questions under oath about the offense(s) to which I have pled guilty. The questions, if asked of me on the record and in the presence of my attorney, must be answered by me, and if I give false answers, I can be prosecuted for perjury.

17. I know that I have the right to ask the court any questions that I have concerning my rights, these proceedings, and my plea(s) to the charge(s).

18. I am _____ years of age. My education consists of _____
_____. I
[can] [cannot] understand the English language. (Circle either “can” or “cannot”)

19. Other than the promises of the government set out in the document entitled “Plea Agreement and Statement of Facts Relevant to Sentencing,” no promises and no threats of any sort have been made to me by anyone to induce me or to persuade me to enter my plea(s) in this case.

20. No one has promised me that I will receive probation or any other form of leniency because of my plea(s) of guilty.

21. I have had sufficient opportunity to discuss this case and my intended plea(s) of guilty with my attorney. I do not wish to consult with my attorney any further before I enter my plea(s) of guilty.

22. I am satisfied with my attorney. I believe that I have been represented effectively and competently in this case.

23. My decision to enter the plea(s) of guilty is made after full and careful thought, with the advice of my attorney, and with full understanding of my rights, the facts and circumstances of the case, and the potential consequences of my plea(s) of guilty. I was not under the influence of any drugs, medication, or intoxicants when I made the decision to enter my guilty plea(s). I am not now under the influence of any drugs, medication or intoxicants.

24. I have no mental reservations concerning the entry of my plea(s).

25. Insofar as it shows conduct on my part, the summary of facts set out in the document entitled “Plea Agreement and Statement of Facts Relevant to Sentencing” is true and correct, except as I have indicated in that document.

26. I know that I am free to change or delete anything contained in this statement and that I am free to list my objections and my disagreements with anything contained in the document entitled

“Plea Agreement and Statement of Facts Relevant to Sentencing.” I accept both documents as they are currently drafted.

27. I wish to plead guilty to the following charge(s):

_____ (Specify which counts and relevant statute citations.)

Dated this _____ day of _____, _____.

Defendant

I certify that I have discussed this statement and the document entitled “Plea Agreement and Statement of Facts Relevant to Sentencing” with the defendant. I certify that I have fully explained the defendant’s rights to him or her and have assisted him or her in completing this form. I believe that the defendant understands his or her rights and this statement. I believe that the defendant is knowingly and voluntarily entering his or her plea(s) with full knowledge of his or her legal rights, and with full knowledge of the possible consequences of his or her plea(s) of guilty. I believe that there is a factual basis for the plea(s) entered.

Dated this _____ day of _____, _____.

Attorney for Defendant

ATTACHMENT A

COLLECTION OF FINE OR RESTITUTION BY GOVERNMENT AND PENALTY FOR FAILURE TO PAY (See 18 U.S.C. §§ 3611-15)

1. I understand that I will be required to pay interest on any fine or restitution of more than \$2,500 unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment or unless interest is waived by the court.
2. I understand that unless modified by the court, interest will be computed daily at a rate equal to the weekly average one-year constant maturity treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the first day on which I am liable for interest.
3. I understand that if a fine or restitution becomes delinquent, I shall be required to pay, as a penalty, an amount equal to ten percent of the principal amount that is delinquent.
4. I understand that if a fine or restitution becomes in default, I shall be required to pay, as a penalty, an amount equal to 15 percent of the principal amount that is delinquent.
5. I understand that in addition to any other collection procedures, any fine or restitution may give rise to the creation of a lien in favor of the United States upon my property and rights of property for payment of such fine or restitution as if my liability were a liability for a tax assessed under the Internal Revenue Code.
6. I understand that if I willfully fail to pay my fine or restitution, the court may revoke my probation or term of supervised release, modify the conditions of my supervision, or resentence me to any sentence which originally might have been imposed.
7. I understand that if I willfully fail to pay my fine, I may be guilty of a separate offense in addition to the offense(s) to which I am pleading guilty. I understand that if I am convicted of this new offense, which is called "Criminal Default" and is set out in 18 U.S.C. § 3615, I may be fined not more than twice the amount of the unpaid balance of the fine or \$10,000, whichever is greater, imprisoned not more than one year, or both.

ATTACHMENT B

RESTITUTION

(See 18 U.S.C. §§ 3663, 3663A, and 3664)

1. I understand that in addition to any incarceration, supervised release, probation, fine and other penalties which may be imposed by the court, I also may be required to make restitution to any victim(s) of the offense(s) which I admit I committed, to compensate the victim(s) for any losses they may have sustained as a result of my conduct.
2. I understand that an order of restitution may be enforced by the government in the manner provided for the collection of fines and restitution under 18 U.S.C. §§ 3611-15 (see Attachment A), or in the same manner as a judgment in a civil action. I further understand that any victim named in the restitution order may enforce the order in the same manner as he/she would enforce a judgment in a civil action.

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

Criminal Action No. _____

UNITED STATES OF AMERICA,

Plaintiff,

v.

- 1.
- 2.
- 3.

Defendants.

(Title of Pleading or Paper)

** Space should be provided for the court filing stamp in the upper right corner of the first page of each document.

(Rev. 04/15/02)

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Civil Action No. _____

Plaintiff(s),

v.

Defendant(s).

NOTICE OF AVAILABILITY OF A UNITED STATES MAGISTRATE JUDGE TO EXERCISE JURISDICTION

In accordance with the provisions of 28 U.S.C. § 636(c), Fed. R. Civ. P. 73, and D.C.COLO.LCivR 72.2, you are hereby notified that a United States magistrate judge of this district court is available to handle all dispositive matters in this civil action, including a jury or nonjury trial, and to order the entry of a final judgment. Exercise of this jurisdiction by a magistrate judge, however, is permitted only if all parties voluntarily consent and the district judge orders the reference to a magistrate judge under 28 U.S.C. § 636(c).

You may, without adverse substantive consequences, withhold your consent, but this will prevent the court's jurisdiction from being exercised by a magistrate judge. If any party withholds consent, the identity of the parties consenting or withholding consent will not be communicated to any magistrate judge or to the district judge to whom the case has been assigned.

Pursuant to D.C.COLO.LCivR 72.2, no district judge or magistrate judge, court official, or court employee may attempt to influence the granting or withholding of consent to the reference of any civil matter to a magistrate judge under this rule.

An appeal from a judgment entered by a magistrate judge shall be taken directly to the appropriate United States Court of Appeals in the same manner as an appeal from any other judgment of a district court.

If this civil action has been referred to a magistrate judge to handle certain nondispositive matters, that reference shall remain in effect. Upon entry of an order of reference pursuant to 28 U.S.C. § 636(c), the civil action will be assigned to the magistrate judge then assigned to the case.

CONSENT TO THE EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE

In accordance with the provisions of 28 U.S.C. § 636(c), Fed. R. Civ. P. 73, and D.C.COLO.LCivR 72.2, the parties in this civil action hereby voluntarily consent to have a United States magistrate judge conduct any and all further proceedings in the case, including the trial, and order the entry of a final judgment.

Signatures

Party Represented

Date

Print _____

Print _____

Print _____

JUDICIAL OFFICER INITIALS

Chief Judge Wiley Y. Daniel	WYD
Senior Judge Richard P. Matsch	RPM
Senior Judge John L. Kane	JLK
Senior Judge Lewis T. Babcock	LTB
Judge Marcia S. Krieger	MSK
Judge Robert E. Blackburn	REB
Judge Philip A. Brimmer	PAB
Judge Christine M. Arguello	CMA
Judge William J. Martínez	WJM
Judge R. Brooke Jackson	RBJ
Magistrate Judge Michael J. Watanabe	MJW
Magistrate Judge Boyd N. Boland	BNB
Magistrate Judge Craig B. Shaffer	CBS
Magistrate Judge Michael E. Hegarty	MEH
Magistrate Judge Kristen L. Mix	KLM
Magistrate Judge Kathleen M. Tafoya	KMT
Magistrate Judge David L. West	DLW
Magistrate Judge Gudrun J. Rice	GJR
Senior Circuit Judge David M. Ebel	DME

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

IN THE MATTER OF)
RULES OF PROFESSIONAL CONDUCT) Administrative Order 2007-6

D.C.COLO.LCivR 83.4 and D.C.COLO.LCrR 57.6 set forth the standards of professional responsibility applicable in this court. Those standards incorporate the Colorado Rules of Professional Conduct, as adopted by the Colorado Supreme Court, en banc, on April 12, 2007, and scheduled to take effect January 1, 2008. This court, however, will not incorporate or adopt the following provisions adopted by the Colorado Supreme Court:

- (1) Colo. RPC 1.2(c) (limiting scope of representation);
- (2) Colo. RPC 4.2, Comment [9A] (communication with person to whom counsel is providing limited representation);
- (3) Colo. RPC 4.3, Comment [2A] (dealing with person to whom counsel is providing limited representation); and
- (4) Colo. RPC 6.5 – Nonprofit and Court-Annexed Limited Legal Services Programs (*See Comment [2] [“A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c).”]*)

Those rules were adopted to permit limited representation by counsel. They are not consistent with Fed. R. Civ. P. 11 and are also inconsistent with the view of the judges of this court concerning the ethical responsibility of members of the bar of this court.

Additionally, the Colorado Supreme Court adopted on April 12, 2007, Colo. RPC 1.16(b)(1) – Declining or Terminating Representation by Counsel – Permissive Withdrawal. The rule is inconsistent with D.C.COLO.LCivR 83.3D and D.C.COLO.LCrR 57.5D, Withdrawal of Appearance.

Finally, the Colorado Supreme Court adopted on April 12, 2007, Colo. RPC 4.4(b) – Respect for Rights of Third Persons – Inadvertent Disclosure. This court will not require adherence to Rule 4.4(b). Rule 26 of the Federal Rules of Civil Procedure and interpretive case law provide comprehensive procedures regarding the issue of inadvertent production of privileged and protected information. Accordingly, it is now

ORDERED that the above described changes to the Colorado Rules of Professional Conduct are not applicable:

- a) in this court; and
- b) in the United States Bankruptcy Court for the District of Colorado in adversary proceedings or matters governed by Fed. R. Bankr. P. 9014. In addition, any limitation in the scope of representation of a Debtor, whether in a bankruptcy case or adversary proceeding, shall be disclosed in the statement required by 11 U.S.C. § 329 and Fed. R. Bankr. P. 2016(b).

This Administrative Order supersedes Administrative Order 1999-6 and shall take effect January 1, 2008.

Dated this 15th of October, 2007.

BY THE COURT:

s/ Edward W. Nottingham
Edward W. Nottingham, Chief Judge