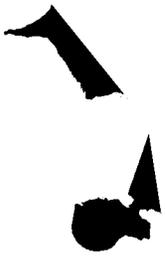


UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF COLORADO

LOCAL RULES OF PRACTICE

APPROVED DECEMBER 1, 1983
For Implementation
February 1, 1984
(WITH AMENDMENTS JULY 1984)



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P R E F A C E

"These rules govern the procedure in the United States district courts in all suits of a civil nature whether cognizable as cases at law or in equity or in admiralty, with the exceptions stated in Rule 81. They shall be construed to secure the just, speedy, and inexpensive determination of every action."

Rule 1, Federal Rules of Civil Procedure.

"These rules shall be construed to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined."

Rule 102, Federal Rules of Evidence.

These local rules are intended to complement the rules of procedure and evidence. Authority for the formulation and issuance of local rules of practice is set forth in Rule 83, F.R.Civ.P. which provides:

"each district court by action of a majority of the judges thereof may from time to time make and amend rules governing its practice not inconsistent with these rules. Copies of rules and amendments so made by any district court shall upon their promulgation be furnished to The Supreme Court of the United

States. In all cases not provided for by rule, the district courts may regulate their practice in any manner not inconsistent with these rules."

The language of these Local Rules of Practice for the District of Colorado is positive and mandatory. In all instances these rules are intended to provide the point of reference for any issue concerning the efficient and expeditious administration of cases filed with this court. We expect that litigants, lawyers, court personnel and the judges themselves will adhere to these rules and pursue their intent and purpose. It is to be remembered, of course, that in any individual situation where circumstances warrant, a judge is empowered, for good cause shown, to excuse or modify compliance with these rules provided such excuse or modification is entered as an order of record. Litigants and lawyers should expect, however, that sanctions will be imposed and attorney fees assessed for failure to comply with these rules or the rules of civil and criminal procedure.

We expect that as the needs and exigencies of this court require and technology changes these rules will be modified. In that regard, we welcome the constructive comments and suggestions which the bar and all others concerned with the administration of justice in this district may make.

A high level of performance in effecting the efficient administration of this court's business is expected from the bar, court personnel and the judges themselves. The very purpose of these rules is to provide the maximum opportunity for each case to receive the qualitative treatment which it deserves.

I. ADMINISTRATION

Rule 100. Business Hours of the Court

In accordance with Rule 77, F.R.Civ.P., the regular business hours of this court are from 8:00 A.M. to 5:00 P.M. each Monday through Friday. All pleadings to be filed pursuant to the Rules of Civil Procedure, the Rules of Criminal Procedure, these Local Rules of Practice, or orders of court shall be filed not later than 5:00 P.M. on the day required. After regular business hours, on Saturdays, Sundays and legal holidays the clerk of the court, when good cause is shown, may make arrangements to permit the filing of pleadings or other papers or the issuing and returning of mesne and final process at locations other than official courthouses within the district.

Rule 101. Deposits in the Registry

No funds may be deposited in or withdrawn from the registry of the court without a written order. Such an order shall specify in detail the amounts deposited by or to be paid to any party, and shall state the names and addresses of any person or company to whom funds are to be paid.

A party depositing money into the court registry must file with the clerk or his designated deputy a signed court order. That order shall specify the amount to be invested, the type of investment and the name of the court approved institution where the money is to be deposited. The clerk shall deposit the funds only in an interest bearing account or accounts designated by the court. The clerk of this court shall not serve as an investment broker seeking the maximum rate of return. Parties may suggest specific institutions where the money is to be deposited, but the selection of any such institution shall be made by the judge to whom the matter is assigned.

Those funds which were received before August 1, 1983, and deposited into the Treasury Registry Fund (CAN 200) shall remain on deposit with the Treasury until the case is either closed or a court order is served on the clerk directing him to deposit the

funds into an interest bearing account or instrument.

Criminal cash bail, cost bonds and other cash bonds such as removal cost bonds, admiralty cost bonds, injunction cost bonds, civil garnishments, etc., are not governed by the Federal Rules of Civil Procedure and therefore are not required to be deposited in interest bearing accounts. Upon court order, the clerk shall deposit such funds in an interest bearing account, accounts or instruments designated by the court.

Rule 102. Use of Camera and Recording Devices

Except when permitted by court order for ceremonial occasions such as the investiture of judges and naturalization proceedings, the use or operation of any camera, recording device or other mechanical means for the visual reproduction of the likeness of an individual or object, or for the auditory reproduction of a voice or sound is prohibited in the United States Courthouse, Denver, Colorado, in the area of the United States Post Office and Federal Courthouse Building adjacent to this courthouse which is occupied by this court and any other location within this district where a judge or magistrate of the court is sitting.

This rule is not applicable to court employees acting pursuant to official duties. It does not proscribe the use of videotape and audiotape recordings which are presented or otherwise used as part of a case in an evidentiary hearing or trial. Dictating equipment may be used by lawyers and their assistants in court facilities provided for such purpose.

Rule 103. Removal of Cases ✓

The bond required by 28 U.S.C. {1446 shall be in the amount of \$1,000.00. [The party effecting removal shall forthwith (1) serve copies of the removal petition on all other parties, and (2) file with the clerk of the court from which the case is

removed a copy of the removal petition. Proof of each shall be filed promptly with the clerk of this court.] If a hearing in the state court has been set when the case is removed, counsel effecting removal shall immediately notify the state judge of the removal and shall likewise notify the federal judge to whom the case is assigned of the time and place of the state court setting.

Rule 104. Bonds

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

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

C. No person, firm, association or corporation may act as his, her or its own surety in a civil case.

Rule 105. Costs and Judgments

A. Bills of cost and motions to tax costs including claims for attorney fees must be made on or before ten (10) days after entry of judgment. No attorney fees supplementary to a judgment will be awarded for any services rendered after the date of issuance of these rules unless the requesting party submits clear, meticulous, contemporaneous time and expense records reflecting all hours for which compensation is requested and the allotment of those hours to the specific tasks performed.

B. The clerk shall enter a satisfaction of a final judgment in whole or in part, upon the filing with the clerk of either:

1. The return of the execution by the United States Marshal showing the amount of the judgment collected by the marshal.

2. The answer on a writ of garnishment showing funds or personal property due the debtor after notice of levy is filed and all matters determined.

\ An acknowledgment or satisfaction executed and acknowledged by the judgment creditor in the manner provided by Colorado law for acknowledgment of instruments for the conveyance of real property. If the acknowledgment is filed within one year after judgment, it may be executed by the judgment creditor's attorney of record, unless a revocation of the attorney's authority has been filed with the clerk.

Rule 106. Official Reporter

All court reporting shall be accomplished in accordance with this court's reporting management plan on file with the Court of Appeals, Tenth Circuit.

II. ASSIGNMENT OF COURT BUSINESS

Rule 200. Policy, Forms and Drawings

It is the policy of this court insofar as practicable and efficient to provide for the assignment of cases among the judges of this district by random selection. It is the further policy of the court to provide for parity of work among the active judges of the district and to provide to the senior judges of this court the opportunity to participate in the business of the court to the fullest extent that each senior judge chooses to accept. In order to implement these policies, the following procedures shall obtain:

A. The clerk of the court shall provide a form which shall be completed by the person filing any civil case. In addition to such other information as may be required, the person filing the form shall indicate whether the case is related to any other action pending or terminated within the previous twelve (12) months and the nature of the relationship. If no such relationship is indicated, the case shall be assigned as provided in paragraph 1. below. If such relationship is indicated, the case shall be assigned as provided in paragraph 2. below.

1. The clerk shall maintain a block of assignment cards in a drawing wheel which shall begin with an equal number of the names of each active judge except that the name of the chief judge shall appear three-fourths the number of times as each of the other active judges. A senior judge may have his name cards placed in the drawing in any number he desires which does not exceed the number of cards for any active judge.

At 8:15 a.m. on each business day, the clerk, or his designated deputy, shall conduct a public drawing at the front counter of the clerk's office at which a card from the drawing wheel shall be drawn and a case shall be assigned to the judge named on that card. The cards shall be thoroughly mixed so that sequence shall be random and secret. Each case shall be assigned in the sequence in which it was filed during the previous business day. If, after having received a case by assignment, a senior judge chooses, he may return the case to the clerk for redrawing without stating any reason for such action.

In cases of an emergency nature requiring immediate attention by a judge, the clerk shall determine the availability of a judge to act who, having acted, shall promptly return the case to the clerk for assignment at the next public drawing or advise the clerk that he or she intends to keep the case. Should the judge elect to keep the case, the clerk shall remove one of that judge's cards from the block of assignment cards then in

use. The clerk shall determine such availability by contacting each judge, senior or active, on a rotating basis. Any judge may notify the clerk of his or her availability for the handling of emergency matters and the clerk may direct the emergency matter to that judge without further or additional inquiry.

2. If it is indicated that a relationship to a pending case or one terminated within the previous twelve (12) months exists, the clerk shall deliver the case file to the judge assigned to the earlier related case or cases. That judge shall promptly review the determination of relationship and return the file to the clerk, if such relationship does not exist, for assignment at the next public drawing. If the judge determines that such relationship does exist, the case shall be assigned to that judge and the clerk shall remove one of that judge's cards from the block of assignment cards then in use.

B. Recusal and disqualification of a judge shall be only by formal order setting forth the reasons for that action. Upon such recusal or disqualification the chief judge shall order the case to be redrawn at the next regular draw. After the redrawing the clerk shall add an additional assignment card bearing the name of the recusing judge to the block of assignment cards then in use.

C. It shall be the responsibility of the chief judge to review, at least annually, the pending case loads of the judges in service and to suggest reassignment when it is determined by a majority of the active judges that there is an imbalance which is adversely affecting litigants. In considering the question of such reassignment this court will consider the categories of cases for which congress has mandated priorities. All reassignments or transfers of cases from one judge to another shall be only with the approval of the chief judge.

D. Filing and Assignment of Criminal Cases.

1. There will be a separate block of assignment cards for criminal cases. The number of cards for each judge shall be equal, except as may from time to time be determined by the chief judge, with the approval of the court. A senior judge may have his name cards placed in any number he desires. The assignment cards shall be thoroughly mixed by the clerk so that the sequence of the judges' names will be random and secret. If, after having received a criminal case by assignment, a senior judge chooses, he may return the case to the magistrate for redrawing without any reason for such action.

2. A criminal case will be publicly drawn in open court by the magistrate and assigned to a judge at the time of defendant's initial appearance or arraignment. Reassignments shall be made in accordance with 200.A.2. above except that the magistrate shall perform the redrawing in public.

3. If, at the time of filing, the U.S. Attorney or defense counsel shall advise the clerk that the case is related to any other pending case or one terminated within the previous twelve (12) months, the magistrate shall determine whether the case is related. The magistrate shall consult with the judge or judges involved. Criminal cases are deemed related when the case filed involves the same defendants or the same occurrence as another case pending within the previous twelve (12) months.

4. The transfer of probation jurisdiction is accepted by the chief judge when Probation Form 22 is signed by him. Transfer of probation jurisdiction may be accepted by a magistrate when the offense for which the probationer was convicted is a misdemeanor and the probationer in the district of prosecution consented to a magistrate's jurisdiction. After arrest of a probationer, all preliminary matters are handled by a magistrate pursuant to Rule 32.1, F.R.Crim.P. If it is determined that further hearing is necessary, the magistrate shall draw a judge from the block of assignment cards used for criminal cases and

refer the matter to the judge drawn for further proceedings.

5. Pursuant to the Pretrial Services Act of 1982 (18 U.S.C. {3152-3155), the court authorizes the United States Probation Office of the District of Colorado to establish all pretrial services as provided for by that Act. Personnel within the probation office in the performance of their duties, pursuant to this Act, shall be designated as pretrial service officers.

Upon notification that a defendant has been arrested, or is to appear on criminal summons, a pretrial services officer will conduct a prebail interview as soon as practicable. The judicial officer setting bail or reviewing bail determination shall receive and consider all reports submitted by a pretrial services officer as well as all other available information.

Pretrial services reports shall be made available to attorneys for the accused, and attorneys for the government. The reports shall be used only for the purpose of fixing conditions of release, including bail determinations. Upon review of such reports, the reports shall be immediately returned to the pretrial services office. Otherwise, the reports shall remain confidential, as provided in 18 U.S.C. {3153, subject to the exceptions therein.

Pretrial services officers shall supervise persons released on bail at the discretion of the judicial officer granting the release or modifications of the release. Reports regarding any supervision difficulties shall be made to the judge or magistrate having jurisdiction for appropriate action as deemed necessary.

E. Assignment Register and Reports.

1. The clerk shall maintain an assignment register (in form as approved by the court) containing an account of all

cases, civil and criminal, assigned to each of the judges of the court or to any visiting judge and all reassignments among judges.

2. At the end of each month the clerk will prepare a report showing the number of cases assigned to and pending before each judge and such other information as the chief judge may direct.

F. Naturalization and Citizenship.

Presiding over naturalization ceremonies and hearing contested applications for citizenship shall be assigned on a rotating basis by the chief judge. A senior judge, at his option, may be included in such assignments.

G. General Duty Judge.

The chief judge shall appoint a member of the court to serve as the general duty judge for a period of one month. Appointments shall be made on an equitable and rotating basis. Any matter brought before a judge while serving as general duty judge may be retained by that judge until the matter is terminated or placed for random assignment in accordance with A. above.

H. Petit Jury Matters.

The general duty judge shall handle matters relating to petit jurors.

I. Grand Jury Matters.

When a grand jury is impanelled the chief judge shall assign, on a rotating basis, a judge to handle all matters relating to that grand jury during its entire term including the

question of whether sealed indictments shall be kept sealed. No indictment shall be sealed without the written order of the judge assigned pursuant to this rule.

J. Calendars.

Each judge of this district will maintain an individual trial calendar with due regard for the priorities prescribed by law. It is the policy of this court to set definite trial dates with as much advance notice as circumstances permit. In attempting to resolve conflicts with the schedules of counsel, the judges will consider the certainty of conflicting settings, the number of counsel involved, the nature of the cases, the availability of other lawyers associated with counsel and any other relevant factors.

Rule 201. Dismissal for Lack of Prosecution

Any judge, at any time which is not inconsistent with the time requirements in Rule 4, F.R.Civ.P., may issue an order to show cause why a case assigned to him or her should not be dismissed for lack of prosecution. If good cause is not shown within the time prescribed by the show cause order, the court may enter an order of dismissal with or without prejudice. If on or before thirty (30) days, or such greater time as the court may allow, following notification by counsel for all parties of record, whether orally or in writing, that a case has settled, the court does not receive the necessary settlement documents and pleadings, the case may be deemed closed and removed from the docket without prejudice and without further notice to the parties.

Rule 202. General Rule in Criminal Cases

A. No plea agreements involving dismissal of charges will be accepted by this court unless written notification of the

agreement is received by the court no later than ten (10) days prior to the Monday of the week of trial.

B. All pleas of guilty or nolo contendere shall be made before the judge assigned to the case.

Rule 203. Determination of Motions to Consolidate

Whether in civil or criminal cases, whenever a motion or motions to consolidate may be filed and irrespective of case number or numbers denominated in such motion or motions, the decision granting or denying such motions in whole or in part shall be made by the judge to whom the oldest numbered case involved in the attempted consolidation is assigned. Rulings on motions to consolidate shall be given priority by the deciding judge.

Upon consolidation, those cases subject to the order of consolidation shall be assigned for all further purposes to the judge to whom the oldest numbered case of that category was previously assigned. Cases not consolidated shall be returned to the judges before whom they were pending at the time the motion or motions to consolidate were filed.

III. ATTORNEYS

Rule 300. Admission

Those persons admitted to practice in the courts of the State of Colorado who: (1) ~~reside or maintain an office in Colorado;~~ and (2) ~~are in good standing in any and all bars to which they have ever been admitted (or who have resigned from such a bar as a member in good standing, so long as such resignation was not made to avoid investigation or discipline)~~ may apply for admission to the bar of this court.

Admissions will be granted upon motion of a member of the bar of this court representing that the applicant: (1) is of good moral character; (2) meets the foregoing requirements; and (3) can demonstrate familiarity with the Local Rules of Practice of this Court, the Federal Rules of Civil and Criminal Procedure, the Federal Rules of Appellate Procedure, the Federal Rules of Evidence, and federal jurisdiction and venue. Such familiarity may be based upon course work completed, examination, experience, or such other evidence as the movant deems substantially equivalent. A motion under this rule is governed by Rule 11, F.R.Civ.P.

Rule 301. Appearance for a Particular Case ✓

A. Subject to the provision of 28 U.S.C. {515, persons residing in a state other than Colorado or in the District of Columbia, who are members in good standing of the bar of another state or of the bar of another federal court or who are members of the bar of this court, but who no longer reside or maintain an office in Colorado may, upon motion made by a member of the bar of this court, be admitted for the purposes of a particular case only subject to the following conditions: (1) the motion shall be in writing and shall be filed in advance of the first court hearing or deposition in which the visiting lawyer seeks to participate; and (2) the motion shall be accompanied by an affidavit signed by the visiting lawyer which shall include: (a) the full name of the affiant; (b) the address and telephone numbers of the affiant; (c) the name of the firm or letterhead under which the affiant practices; (d) the date of law school graduation; (e) the dates and place of admission to all bars, state and federal, and registration numbers, if any; (f) a recitation that the affiant is in good standing in all bars of which he or she is a member and that no disciplinary or grievance proceedings have been filed, or are pending (if a grievance has been filed the case name, docket number and disposition shall be set forth); and (g) the names and addresses of three professional references who

are admitted to practice in the state in which the visiting attorney principally practices. An attorney who resides in this district but is not a member of the bar of this court may not be admitted under this rule.

B. All pleadings signed by the visiting lawyer shall also be signed by a member of the bar of this court. A member of the bar of this court who is otherwise eligible must participate meaningfully, substantially, and continuously in the preparation of the case and shall attend and participate in all court hearings.

C. By application, an attorney who applies for special admission under this rule consents to the exercise of disciplinary jurisdiction by this court over any alleged misconduct which occurs during the progress of the case in which the attorney so admitted participates. Further, by such application, the attorney certifies familiarity with the Local Rules of Practice of this court.

Rule 302. Registry of Trial Lawyers

(The effective date of this rule is postponed until further order of court.)

A. Except as modified by Rule 301., only members of the bar of this court who have earned the designation of Registered Trial Lawyer may appear without supervision and participate in any evidentiary proceeding. An evidentiary proceeding is defined as one at which evidence is or can be offered and in which testimony is or can be given under oath and a record made of the proceeding, the witness or witnesses are subject to cross-examination and a presiding officer is present who rules on the admissibility of evidence. A member of the bar of this court who is not a registered trial lawyer may appear in the company of and under the supervision of a registered trial lawyer and under such circumstances participate fully in the proceedings.

B. A member of the bar of this court may attain the designation of registered trial lawyer by presenting evidence to the Trial Lawyer Peer Review Board sufficient to meet the criteria established by that board and approved by general order of this court. A registered trial lawyer may make the fact of that designation known to the bar and to the public.

Rule 303. Trial Lawyer Peer Review Board ✓

A. The court has established a Trial Lawyer Peer Review Board consisting of fifteen (15) members of the bar of this court, of whom one-third of those first appointed serve for the term of three (3) years, one-third for four (4) years, and one-third for five (5) years. All hereafter appointed by the court shall serve for the term of three (3) years and until their successors have been appointed. In case of any vacancy, any successor appointed shall serve the unexpired term of the predecessor. Where a member shall hold over after the expiration of the term for which the appointment was made, the time of such additional service shall be deemed part of the new term.

B. The court shall designate a chairman and a vice-chairman of the board who shall act in the absence or disability of the chairman. Members of the review board shall serve without compensation except that, insofar as possible, their necessary expenses shall be paid by the clerk from the fund in which the admission fees and annual registration fees paid by members of the bar of this court are deposited. No member of this committee shall serve more than two consecutive terms.

C. Board. The Trial Lawyer Peer Review Board shall be charged with preparing and submitting to this court for approval the criteria necessary for an applicant to be placed on the registry of trial lawyers, the criteria for removal of an attorney's name from that registry and the criteria for maintaining annual registration. Upon the approval by the court of these

criteria, the board shall implement the system established and prepare and file such reports concerning its operation as are directed by the court.

Rule 304. Withdrawal of Appearance

Attorneys who have appeared in a case may withdraw for good cause shown. Withdrawal shall be effective only on order of court entered after service of notice of withdrawal on all counsel of record and on the withdrawing attorney's client. A motion to withdraw must specify the reasons therefor unless to do so would violate the Code of Professional Responsibility. Notice to the attorney's client must contain the admonition that the client is personally responsible for complying with all orders of court and time limitations established by the rules of procedure. This rule applies as well to those situations where the client has obtained substitute counsel.

Rule 305. Appearance in Criminal Cases

Attorneys appearing for defendants in criminal cases shall promptly file a written entry of appearance, a copy of which shall be served on the United States Attorney.

Rule 306. Code of Professional Responsibility

The Code of Professional Responsibility published as Appendix A to these Local Rules of Practice is adopted by the court as the standard of professional conduct.

Rule 307. Proceedings for the
Disbarment or Discipline of Attorneys

A. Disciplinary Panel.

The chief judge shall appoint a panel of three judges of

the court to be known as the Disciplinary Panel. The Disciplinary Panel shall have jurisdiction over all judicial proceedings involving the disbarment, suspension, censure or other discipline of members of the bar of this court. The chief judge may, from time to time, designate additional judges to serve as alternates on the Disciplinary Panel.

B. Committee on Conduct.

The court has established a standing committee known as the Committee on Conduct consisting of nine members of the bar of this court, of whom one-third of those first appointed serve for the term of one year, one-third for two years, with the remainder and all thereafter appointed by the court for the term of three years and until their successors have been appointed. In case of any vacancy, any successor appointed shall serve the unexpired term of the predecessor. Where a member shall hold over after expiration of the term for which the appointment was made, the time of such additional service shall be deemed part of the new term.

The court shall designate a chairman and a vice-chairman of the Committee on Conduct who shall act in the absence or disability of the chairman. Members of the Committee on Conduct shall serve without compensation except that, insofar as possible, their necessary expenses shall be paid by the clerk from the fund in which the admission fees and annual registration fees paid by members of the bar of this court are deposited. No member of the Committee on Conduct shall serve more than two consecutive terms.

C. Duties of the Committee.

The Committee on Conduct shall be charged with receiving, investigating, considering and acting upon complaints against members of the bar of this court, applications for reinstatement

and other disciplinary actions concerning attorneys. In such matters, the Committee on Conduct shall be guided by, but not limited to, the Code of Professional Responsibility published as Exhibit A to these Local Rules of Practice. The chairman of the Committee on Conduct shall appoint one or more members thereof to present and prosecute the charges and prepare and present all orders and judgments as directed by the Disciplinary Panel. The committee is authorized and directed to report its findings concerning any disciplinary action to the grievance committee of any other bar of which the disciplined attorney may be a member. Additionally, the committee is authorized to reveal such information to any other court authorized grievance organization and such national reporting organizations or grievance clearing houses as the committee deems appropriate and consistent with the objectives of this rule. The committee shall also perform such additional duties as may be implicit from these rules or as may be assigned by order of the Disciplinary Panel.

All requests for investigation submitted to the court or Committee on Conduct and all complaints filed with the committee, shall be absolutely privileged and no lawsuit may be predicated thereon. Persons performing official duties under the provisions of this rule, including but not limited to members of the committee, staff and members of the bar working under the direction of the committee, shall be immune from suit for all conduct in the course of their official duties.

D. Complaints Generally.

Any person seeking to complain against a member of the bar of this court for any cause or conduct which may justify disbarment, suspension, censure or other disciplinary action shall do so in writing and under oath. The complaint shall be filed with or referred to the Committee on Conduct. The committee also shall have power to inquire into all cases of misconduct of members of the bar of this court. All proceedings of the Committee on Conduct shall be confidential. The committee shall

advise all persons concerned with any complaint, investigation or inquiry that absolute confidentiality shall be maintained and that violation of this rule is deemed a contempt of court.

E. Complaints by a Judge or Judicial Officer.

Any judge or judicial officer of this court may make written complaint not under oath to the Committee on Conduct against any member of the bar that such member has conducted himself or herself in an unprofessional, unethical, or improper manner, whereupon the committee shall investigate the complaint in such manner as it deems appropriate. Should the matter be one which the committee believes should be presented to the court, it shall then proceed against the respondent as hereinafter provided.

F. Hearing Panel.

When a complaint is received, it shall be referred by the chairman of the Committee on Conduct to a hearing panel consisting of three members of the committee designated by the chairman who shall also appoint one of the three members as chairman of the panel. The chairman or vice-chairman of the committee may be designated as a member of a hearing panel.

G. Service of Complaint and Answer.

The hearing panel shall investigate complaints referred to it by the chairman of the committee. If, in its opinion, an answer should be made thereto, it shall serve by registered mail, on the member of the bar of this court against whom the complaint is made, addressed to his or her most current address on file with the clerk of this court, a copy of the complaint. The respondent bar member shall file an answer with the hearing panel subscribed and under oath on or before twenty (20) days after the date of mailing.

H. Hearings: Subpoena of Witnesses and Documents.

A hearing panel may sit as a panel of inquiry and, upon reasonable notice to the complainant and respondent, may hold hearings on the issues made. The chairman of the hearing panel conducting the inquiry is hereby designated and appointed master with authority to cause subpoenas to be issued commanding the production of books, papers, documents or tangible things designated therein at such hearing or such other time designated in the subpoena. The chairman of the hearing panel, as such master, is further authorized to administer oaths to the parties and witnesses. Should any witness fail or refuse to attend or to testify under oath, the name of that witness may be certified to the Disciplinary Panel of this court whereupon the Disciplinary Panel may order contempt proceedings against such witness for so refusing and administer such punishment as may be appropriate.

I. Submission of Charges to the Court.

Should the hearing panel, after investigation, so decide, it shall prepare charges and submit them to the court, or, in its discretion, with or without preparing charges, refer the matter to the Grievance Committee of the Supreme Court of the State of Colorado. If charges are prepared and submitted to the court and if thereafter the court orders the charges to be filed, the clerk shall file them and forthwith issue a summons directed to the respondent commanding him or her to answer. The summons and a copy of the charges shall be served by the United States Marshal except as hereinafter provided. The respondent shall answer the charges on or before thirty (30) days after the date of service upon the respondent. Otherwise, the charges may be taken as confessed and hearing had thereon ex parte at a time fixed by the court.

J. Service Outside the District of Colorado.

If any respondent cannot be served in the District of Colorado, service may be had by filing a copy of the summons and charges with the clerk who shall in turn send by registered mail a copy of the summons and charges to the last office address of respondent filed with the clerk.

K. Hearings and Orders of the Disciplinary Panel.

When the respondent has filed an answer, the case shall be set down for hearing at a time fixed by the Disciplinary Panel. If the charges are sustained, the Disciplinary Panel may censure, suspend, disbar or otherwise discipline the respondent. If the respondent is suspended or disbarred, he or she shall also be enjoined and restrained from practicing law before this court and the judgment shall so recite. Any violation of the judgment shall be deemed a contempt of court.

L. Rule Not to Deprive Court of Inherent Powers.

Nothing herein shall be deemed to deprive the court of its inherent disciplinary powers.

M. Right to Counsel in Disciplinary Proceedings.

The respondent shall be entitled to be represented by counsel who may appear at any time after the complaint has been served.

N. Application for Reinstatement After Discipline.

An attorney who has been disbarred may not apply for reinstatement within five years of the effective date of the disbarment. An attorney who has been suspended may apply for reinstatement at the end of the period of suspension. Reinstatement is neither automatic nor a matter of right. Motions for reinstatement of attorneys shall be investigated by the Committee on

Conduct. In all proceedings upon such a motion, the investigation of the attorney's proof, the submission of evidence and, if any, recommendation of the Committee on Conduct in favor of or in opposition to the motion for reinstatement shall be conducted by one or more members of the Committee on Conduct appointed for such purpose by the chairman thereof. The recommendation and supporting documents shall be submitted to the Disciplinary Panel for its decision. Reinstatement may be subject to conditions such as monitoring, reporting, testing, or course work.

O. If the hearing panel determines that there has been misconduct which does not warrant the submission of charges to the court, but the matter is of sufficient significance that the complaint should not be dismissed as being without merit, the hearing panel may issue a letter of admonition to the attorney of whom complaint was made, with a copy to the person making complaint. An attorney receiving a letter of admonition shall be advised of the right on or before twenty (20) days after receipt of that letter to make a written request that formal disciplinary proceedings be initiated to adjudicate the propriety of the conduct upon which the admonition is based. Upon the timely filing of such a request, the letter of admonition will be vacated and the hearing panel shall proceed with the formal procedures provided within this rule.

Rule 308. Discipline of Attorneys Convicted of a Felony

Any member of the bar of this court who shall be convicted of a felony in this court or in any United States court or in a court of any state, territory, district, commonwealth or possession shall be suspended from practice before this court and, upon the judgment of conviction becoming final, shall cease to be a member of the bar of this court.

Upon presentation to the court of a certified copy of such judgment of conviction, it shall be referred to the Disciplinary

Panel and the respondent shall be suspended from practicing before this court by order of the Disciplinary Panel. Upon presentation of proof that the judgment of conviction is final, all rights of direct appeal having been exhausted, the name of the respondent so convicted shall be removed from the roll of members of the bar of this court by order of the Disciplinary Panel.

In all proceedings hereunder, the certificate of conviction shall constitute conclusive proof of the respondent's guilt of the conduct for which he or she was convicted.

Rule 309. Attorneys Disciplined by Other Courts

Any member of the bar of this court who shall be disciplined by any United States court or by a court in any state, territory, district, commonwealth or possession shall be subject to discipline by this court without further proof of misconduct unless:

A. The procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

B. There was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this court could not, consistent with its duty, accept as final the conclusion on that subject; or

C. The imposition of the same discipline by this court would result in grave injustice; or

D. The misconduct established has been held by this court to warrant substantially different discipline.

Upon presentation to the court of a certified copy of the order imposing such discipline, the matter shall be referred to the Committee on Conduct which shall treat such order as a complaint filed in accordance with Rule 307 E.

Rule 310. Attorneys Who Resign From the Bar
of Another Court During an Investigation of Misconduct

Any member of the bar of this court who shall resign from the bar of any other United States court or the court of any state, territory, district, commonwealth or possession while an investigation into allegations of misconduct of the attorney is pending shall cease to be a member of the bar of this court.

Upon presentation to the court of a certified copy of the order accepting such resignation, it shall be referred to the Disciplinary Panel and the name of the respondent so resigning shall by order of the Disciplinary Panel be removed from the roll of members of the bar of this court.

Rule 311. Duty of Attorneys to Notify the
Court of Convictions or Discipline by Other Courts

It shall be the duty of any member of the bar of this court or an attorney admitted pursuant to Rule 301 who is charged with commission of a felony, or a grievance such as would subject the attorney to discipline in this court, in any court of the United States or a court of any state, territory, district, commonwealth or possession to notify the clerk in writing on or before ten (10) days after the filing of such charge or grievance.

Rule 312. Preclusion of Visiting
Attorneys From Practice in This Court

An attorney who has been permitted to appear pursuant to Rule 301. of these rules, who is found guilty of misconduct by another court, may be precluded from continuing that special appearance and from appearing at the bar of this court in any other case.

Rule 313. Proceedings Where an Attorney is Declared to
be Mentally Incompetent or is Alleged to be Incapacitated

A. Attorneys Declared Mentally Incompetent.

Where an attorney who is a member of the bar of this court has been judicially declared incompetent or involuntarily committed to a mental hospital, the Disciplinary Panel, upon proper proof of the fact, shall enter an order suspending such attorney from the practice of law effective immediately and for an indefinite period until further order of the Disciplinary Panel. A copy of such order shall be served upon such attorney, his or her guardian, and the director of the mental hospital in such manner as the Disciplinary Panel may direct.

B. Attorneys Alleged to be Incapacitated.

Whenever the Committee on Conduct, through its chairman, shall petition the Disciplinary Panel to determine whether an attorney who is a member of the bar of this court is incapacitated from continuing the practice of law by reason of mental infirmity or illness or use of drugs or intoxicants, the Disciplinary Panel may take or direct such action as it deems necessary or proper to determine whether the attorney is so incapacitated, including the examination of the attorney by such qualified medical experts as the Disciplinary Panel shall designate. Failure or refusal to submit to such examination shall be prima facie evidence of incapacity. If upon due consideration of the matter, the Disciplinary Panel concludes that the attorney is incapacitated from continuing to practice law, it shall enter an order suspending him or her on the ground of such disability for an immediate period and until further order of the Disciplinary Panel.

The Disciplinary Panel may provide for such notice to the respondent attorney of proceedings in the matter as is deemed proper and advisable and may appoint an attorney to represent the respondent if he or she is without representation.

C. Claim of Disability During Disciplinary Proceedings.

If, during the course of a disciplinary proceeding, the respondent attorney contends that he or she is suffering from a disability by reason of mental or physical infirmity or illness or use of drugs or intoxicants which makes it impossible for the respondent adequately to defend himself or herself, the Disciplinary Panel thereupon shall enter an order immediately suspending the respondent from continuing to practice law until a determination is made of the respondent's capacity to continue to practice law in a proceeding instituted in accordance with the provisions of section B. above.

D. Application for Reinstatement After Infirmity.

1. Any attorney suspended for incompetency, mental illness or because of use of drugs or intoxicants may apply to the Disciplinary Panel for reinstatement once a year, or at such shorter intervals as the Disciplinary Panel may direct in the order of suspension. The application shall be granted by the Disciplinary Panel upon a showing by clear and convincing evidence that the attorney's disability has been removed and that he or she is fit to resume the practice of law. The Disciplinary Panel may take or direct such action as it deems necessary or proper to a determination of whether the attorney's disability has been remedied including a direction for an examination of the attorney by such qualified medical experts as the Disciplinary Panel shall designate. The Disciplinary Panel may direct that expenses of such an examination shall be paid by the attorney.

2. When an attorney has been suspended because of a judicial declaration of incompetence or involuntary commitment to a mental hospital and has thereafter been judicially declared to be competent, the Disciplinary Panel may dispense with further evidence and direct the reinstatement of the attorney upon such terms as are deemed proper and advisable.

E. Evidentiary Hearing.

If the Disciplinary Panel holds an evidentiary hearing to determine whether an attorney is incapacitated or to consider an attorney's application for reinstatement, the chairman of the Committee on Conduct shall appoint one or more members of the committee to appear for the purpose of examining and cross-examining witnesses and offering proof pertinent to the issues.

F. Waiver of Physician - Patient Privilege.

The filing of an application for reinstatement by an attorney who has been suspended for disability shall constitute a waiver of any physician-patient privilege with respect to any treatment of the attorney during the period of his or her disability. The attorney shall be required to disclose the name of every psychiatrist, psychologist, physician and hospital by whom or in which the attorney has been examined or treated since suspension and shall furnish the Disciplinary Panel with written consent for such psychiatrists, psychologists, physicians or hospitals to divulge such information or records as may be requested by the medical experts designated by the Disciplinary Panel.

IV. PLEADINGS, MOTIONS AND CONFERENCES

Rule 400. Filing of Papers - Withdrawal of Exhibits

A. A properly completed Form JS-44(c) (Civil Cover Sheet) shall be given to the clerk at the commencement of each civil action. The clerk shall file all papers presented for filing upon payment of the appropriate fee, if any. In the event of a failure to comply with these rules, he may require the prompt refileing of the paper in a form complying with these rules, or bring the failure to comply to the attention of the filing party and the judge to whom the action or proceeding is assigned.

Attorneys or parties to any action or proceeding shall not write letters or forward pleadings directly to the judge. All matters to be called to a judge's attention shall be submitted to the clerk of the court.

The clerk shall require advance payment of fees before any civil action, suit or proceeding is filed. A notice of appeal shall be filed when received. When pleadings are received for filing and the required filing fee is not included with the pleadings, the clerk shall note "received" thereon and notify counsel or the parties that the pleadings are being held and will not be filed until the required filing fee is received or order allowing the party to proceed in forma pauperis is obtained. When the filing fee or order is received, the clerk shall file the pleadings nunc pro tunc as of the date received.

B. All papers after the complaint required to be served upon a party shall be filed in duplicate with the court either before service or within a reasonable time thereafter. Depositions, interrogatories, requests for documents, requests for admissions, answers and responses thereto and certificates of mailing or service of such documents shall only be filed in accordance with Rule 403.E.

The originals of all stenographically reported depositions shall be delivered to the party taking the deposition,

1. Upon signature by the deponent, or
2. Upon completion if signature is waived on the record by the deponent and all interested parties, or,
3. Upon certification by the shorthand reporter that, following reasonable notice to the deponent and deponent's attorney (if any) of the availability of the transcript for signature, the deponent has failed or refused to sign it.

The original of a deposition shall be retained by the party to whom it is delivered to be available for appropriate use by any party at a hearing or trial of the case. All discovery items covered by this rule and not filed shall be held by the party retaining them as custodian of such records for the court.

C. No pleading or exhibit belonging in the files of the court shall be taken from the office or custody of the court except on court order.

D. All exhibits received and offered into evidence at any hearing shall be delivered to the clerk, who shall keep them in custody until released by court order; except that the clerk shall permit United States magistrates and court reporters to have custody as may be necessary to expedite the business of the court. It is the intent of this rule that exhibits shall not be removed from the office of the clerk except in extreme cases. All rejected exhibits (exhibits tendered but not admitted into evidence) will be retained by the clerk the same as exhibits that are admitted. Rejected exhibits shall be identified as being rejected both on the exhibit list and on the exhibits themselves. Exhibits that are withdrawn or not tendered will not be retained by the clerk but will be shown on the exhibit list as being withdrawn or not tendered.

Any party or an attorney who has custody of an exhibit shall keep it available during the pendency of the case and, upon request of the clerk, return specified exhibits to the clerk for appeal or other purposes and shall be responsible for the transport of heavy and bulky exhibits to the appellate court, if required. The party or any attorney who has custody of an exhibit shall, upon leave of the court, grant a reasonable request of any party to examine the exhibit for use in the proceeding.

Rule 401. Size and Style of Pleadings

A. All papers filed with the court shall be on 8 1/2" by 11" paper.

B. Margins shall be set at 1 1/2" at the top; 1" at the left, right and bottom.

C. Typing shall be on the face side of the paper only and both sides of the paper shall not be used.

D. The caption format shall be as set forth in Appendix B.

E. The following spacing guideline shall be followed:

1. Single spacing:

Criminal informations, complaints and indictments
Pleading forms (all case types)
Minute orders
Probation reports
Interrogatories
Motions
Notices
Complaints
Answers
Petitions

2. Double or 1 1/2 spacing:

Affidavits
Briefs and legal memoranda
Transcripts
Jury instructions and requested voir dire questions
Depositions
Pre-trial orders and pre-trial statements
Documents and pleadings that are extremely complex or technical in nature

All other papers

F. Except in pro se cases and in all other cases by special order for good cause shown, all papers shall be typewritten in black ink and not less than elite type (12 characters to the linear inch).

G. All pleadings shall be legible and shall be without erasures or interlineations materially defacing them. Exhibits attached to pleadings shall conform to this rule.

H. The name and current addresses and telephone numbers of all attorneys and pro se litigants shall be typed or printed on all pleadings. The address of a party shall appear on the first pleading filed by an attorney on behalf of that party. A post office box number will be regarded as a mailing address, but a street address must also be provided.

I. All pleadings filed after commencement of a case shall bear the proper case number. Each caption shall accurately show the nature of the pleading and on whose behalf it is filed.

J. A general order attached to a motion such as "it is ordered" or "so ordered" is not permitted. The tendered order must be on separate paper, bear a separate caption and specify the terms and extent of the order.

Rule 402. Extensions of Time, Briefs
and Certificates of Mailing ✓

A. Motions for the appointment of a special process server, filed in compliance with Rule 4(c), F.R.Civ.P., will be granted routinely by minute order entered by the clerk.

B. Except for those cases described in Rules 12.a. and in 81(a)(6), F.R.Civ.P. in which sixty (60) days is permitted after

service for filing an answer, motions for extension of time of not more than twenty (20) days within which to answer a complaint may be granted ex parte and routinely by minute order entered by the clerk, subject to the right of the opposing party to move or set aside the order so extending time. Motions for extension of time of not more than three (3) days within which to: (a) answer or object to interrogatories under Rules 31 and 33, F.R.Civ.P., (b) respond to requests for production or inspection under Rule 34, F.R.Civ.P., and (c) respond to requests for admission under Rule 36, F.R.Civ.P. will be granted ex parte and routinely by minute order entered by the clerk. Motions for further extensions of time theretofore granted by the clerk and motions for extensions of time to file any briefs shall be presented to the court and will only be granted upon good cause being shown. All motions for extensions of time must specify the previous extensions granted.

C. No motion for continuance or request for extension of time will be considered without proof that a copy of such motion has been served upon the moving attorney's client as well as all other attorneys of record.

D. A certificate of service or mailing shall not be effective unless it specifies the name and address of the person to whom the pleading or document is sent. A general certification of mailing "to counsel of record" is not permitted. A certificate of service or mailing shall be attached to all documents filed in accordance with Rule 5, F.R.Civ.P.

E. Briefs, supporting or opposing motions under Rule 12 or Rule 37, F.R.Civ.P. or under any of the Federal Rules of Criminal Procedure may be filed only with permission of the judge to whom the case has been assigned, but case authority may be cited in a motion.

F. A motion under Rule 56, F.R.Civ.P. or a motion seeking

remand under 28 U.S.C. {1447 shall be supported by a brief filed with the motion. A brief opposing a motion under Rule 56, F.R. Civ.P. shall be filed on or before twenty (20) days after service of the motion or within such extended time as may be allowed by the court. Briefs opposing a motion to remand under 28 U.S.C. {1447 may be filed only with permission of the court. Reply briefs to a motion under Rule 56, F.R.Civ.P. or 28 U.S.C. {1447 may be filed only with permission of the court.

G. Oral argument will be at the court's discretion. ✓

H. No agreements by, between or among counsel to vary, shorten or extend the time limitations provided by these Local Rules of Practice, the Federal Rules of Civil Procedure or the Federal Rules of Criminal Procedure will be recognized or enforced nor will such variances be considered just cause for failing to perform within the time limits established by such rules. Only variances specifically approved by the court upon motion and order made within the time limits prescribed by the rules will be recognized as having any binding or legal effect.

Rule 403. Discovery

A. Rule 6, F.R.Civ.P. governs the computation of time. ✓ Unless otherwise ordered by the court, "reasonable notice" for the taking of depositions under Rule 30(b)(1), ✓ F.R.Civ.P. shall be not less than five (5) days. Pending resolution of any motion under Rule 26(c) or Rule 30(d), F.R.Civ.P., neither the objecting party, witness, nor any attorney is required to appear at the deposition to which the motion is directed until the motion is ruled upon. The filing of a motion under either of these rules shall stay the discovery to which the motion is directed pending further order of the court.

B. Unless otherwise ordered by the court, depositions which have been filed are public documents.

C. Fees for taking depositions shall be plainly endorsed on the notary's certificate.

D. Motions under Rules 26(c) and 37(a), F.R.Civ.P. directed to interrogatories or requests under Rules 33 or 34, F.R.Civ.P., or to responses thereto, shall set forth the interrogatory, request and response constituting the subject matter of the motion.

E. Interrogatories under Rule 33, F.R.Civ.P., and answers thereto, requests for production or inspection under Rule 34, F.R.Civ.P. and requests for admissions under Rule 36, F.R.Civ.P., and responses thereto shall be served upon other counsel or parties, but shall not be filed with the court. If relief is sought under Rule 26(c), F.R.Civ.P. or Rule 37, F.R.Civ.P. concerning any interrogatories, requests for production or inspection, requests for admissions, answers to interrogatories or responses to requests for admissions, copies of the portions of the interrogatories, requests, answers or responses in dispute shall be filed with the court contemporaneously with any motion filed under Rule 26(c), F.R.Civ.P. or Rule 37, F.R.Civ.P. If interrogatories, requests, answers or responses are to be used at trial, the portions to be used shall be filed with the clerk at the outset of the trial insofar as their use reasonably can be anticipated.

F. A request for production or inspection under Rule 34, F.R.Civ.P. shall fix the date, time, and place therefor. The party to whom the request is made shall comply, unless such party has already responded, objected or sought relief under Rule 26(c), F.R.Civ.P., within the times fixed by the Federal Rules of Civil Procedure.

G. Unless otherwise ordered, the court will not entertain any motion under Rules 26(c) and 37, F.R.Civ.P. unless counsel for the moving party has conferred or has made reasonable effort to confer with opposing counsel concerning the matter in dispute

before to the filing of the motion. Counsel for the moving party shall file a certificate of compliance with this rule with any motion filed under Rules 26(c) and 37(a), F.R.Civ.P.

Rule 404. Uniform Pre-Trial Order

All pre-trial orders shall follow the "Instructions for Preparation and Submission of Pre-Trial Order" which is attached to these Local Rules of Practice as Appendix C.

Rule 405. Rule 16(b) F.R.Civ.P. Implementation

A. This court gives full implementation to Rule 16, F.R. Civ.P. in scheduling and managing all pending cases. Scheduling orders shall comply fully with Rule 16(b).

B. The court deems it inappropriate to include scheduling orders for discovery, joinder and amendment of pleadings in appeals from the bankruptcy court, appeals from decisions of administrative agencies and other cases where the action of the court is limited to a review of a previously prepared record, habeas corpus proceedings and all pro se prisoner cases. In addition, the court deems it inappropriate to enter scheduling orders in cases where service has been obtained by publication and no responsive pleading has been filed and in forfeiture proceedings.

Rule 406. Notification of Claim of Unconstitutionality

To enable the court to comply with 28 U.S.C. {2403 providing for intervention by the United States or a state, the following shall apply:

A. Whenever in any action, suit, or proceeding in which the United States or any agency, officer or employee thereof is not a party, the constitutionality of any act of congress affecting the

public interest is drawn in question, the party raising such question shall give written notice to the court, in duplicate, giving the title of the cause, a reference to the questioned statutes sufficient for its identification, and the respects in which it is claimed to be unconstitutional.

B. Whenever the constitutionality of any statute of a state of the union is drawn in question in any action, suit or proceeding in which that state or any agency, officer or employee thereof is not a party, the party raising such question shall give written notice to the court, in duplicate, giving the title of the cause, a reference to the questioned statute sufficient for its identification, and the respects in which it is claimed to be unconstitutional. 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 such service with the court.

Rule 407. Brief Amicus Curiae

A brief amicus curiae may be filed only by leave of court. A motion for leave shall identify the interest of the applicant and shall state the reasons why such a brief is desirable. Copies of such motion shall be served on all attorneys of record.

Rule 408. Briefs and Citations

A. Any motion filed shall cite the specific section and subsection in the Rules of Civil Procedure, Criminal Procedure or Evidence which it is asserted gives the movant authority to move for the requested relief.

B. All citations in motions and briefs shall include the specific page and subsection to which reference is made.

C. Briefs are expected to be concise and not repetitive.

Briefs which are verbose, ungrammatical or unintelligible may be stricken or returned for revision. Excessive or prolix briefs will cause the court to consider the imposition of sanctions authorized by 28 U.S.C. {1927. Because briefs in excess of ten (10) pages in length are usually verbose and unpersuasive, they are discouraged. In any case, the court may order limitations on the length of briefs which are otherwise permitted to be filed.

D. Briefs shall not be filed fewer than seventy-two (72) hours before a scheduled hearing or trial and, if so filed, will be stricken. Trial briefs shall not be filed unless requested by the court.

V. TRIALS

Rule 500. Jury Trials

A. Subject to the provisions of Rule 47, F.R.Civ.P. and Rule 24, F.R.Crim.P., examination of prospective jurors shall be by the court. Insofar as counsel reasonably can anticipate a need for specific questions, such questions shall be submitted in writing before the selection of the jury commences.

B. The court may be recessed during jury deliberations. If the jury reaches a verdict during such recess, it may seal the verdict and deliver it to the marshal or court clerk. In such event, the jury will return to court at a predetermined time for opening and reading of the verdict.

C. Number of jurors in civil cases. Unless specifically set forth in the pre-trial order, other order of the court, or a stipulation approved by the court, civil jury trials shall be tried to a jury of six.

Rule 501. Instructions

No later than five (5) days before commencement of any jury

trial, each party shall file with the court in duplicate all instructions (other than stock instructions) which reasonably can be anticipated in advance of trial. Copies thereof shall be served on all parties. The original of a tendered instruction shall contain nothing other than the instruction itself. The copy to be submitted to the court and to opposing counsel shall, in addition, identify the party submitting the instruction and specifically cite the authority or authorities upon which it is based. In all civil cases each party shall submit a "statement of the case" instruction.

Rule 502. Jury Cost Assessment

Whenever any civil action scheduled for jury trial is settled or otherwise disposed of in advance of the actual trial, then, except for good cause shown, jury costs, including marshal's fees, mileage, and per diem, shall be assessed against the parties and their counsel, or otherwise assessed as directed by the court unless the clerk is notified of the settlement before twelve noon of the last business day preceding the time when the action is scheduled for trial; in time to advise the jurors that it will not be necessary for them to attend. Likewise, when any civil action, proceeding as a jury trial, is settled at trial in advance of the verdict, then, except for good cause shown, jury costs, including marshal's fees, mileage, and per diem, may be assessed against the parties and their counsel, or otherwise assessed as directed by the court.

Rule 503. Service of Subpoenas

No subpoena or subpoena duces tecum shall be served later than forty-eight (48) hours before the time for appearance set out in said subpoena for any trial, hearing or deposition.

Rule 504. Expedited Trials and Simplified Proceedings

Since all cases do not require the full range of pretrial preparation, discovery and motion practice, selected cases may be expedited by the court. On his or her own motion or on the motion of any party, the judge to whom the case is assigned may order the case to proceed on an expedited basis which can include simplified proceedings, a modified pre-trial order, stipulations of counsel and abbreviated scheduling of deadlines and hearing dates.

VI. MAGISTRATES

Rule 600. Commissioner Duties

Each United States Magistrate serving in this district shall have within the territorial jurisdiction prescribed by his or her appointment:

A. All powers and duties conferred upon or imposed upon United States Commissioners by law or by the Rules of Criminal Procedure for the United States District Courts;

B. The power to administer oaths and affirmations, impose conditions of release under 18 U.S.C. {3146, take acknowledgments, affidavits, depositions; and

C. The power to conduct non-jury trials under 18 U.S.C. {3401, in conformity with and subject to the limitations of that section and under the Rules of Procedure for Trial of Minor Offenses before United States Magistrates.

D. The power to declare forfeitures and exonerations of bonds and order return of bail funds deposited in the registry of the court.

Rule 601. Criminal Cases

Each magistrate shall also have the following additional duties in criminal cases:

A. Accepting complaints, determining issues of probable cause, and issuing proper arrest warrants or summonses for the named defendants.

B. Issuing search warrants upon a determination of the existence of probable cause. The magistrate issuing the search warrant shall have authority to suppress the affidavit and warrant on the motion of the United States Attorney.

C. Conducting initial appearance proceedings for defendants, informing them of their rights, admitting them to bail and imposing conditions of release.

D. Appointing attorneys for indigent defendants, assisting in the administration of the court's Criminal Justice Act Plan, maintaining a register of eligible attorneys, and approving attorneys' expense vouchers in appropriate cases.

E. Conducting full preliminary examinations.

F. Conducting preliminary proceedings and holding such hearings as may be required under Rules 32.1 and 40 of the Federal Rules of Criminal Procedure.

G. Setting bail for material witnesses.

H. Conducting extradition proceedings under 18 U.S.C. {3184.

I. Scheduling and conducting all arraignments on indictments and informations by taking and entering pleas of not guilty, assigning cases to district judges by draw, and making findings of time limits required by the Speedy Trial Act.

J. Scheduling and conducting discovery conferences, setting ten (10) day filing dates for pre-trial motions and sending attorneys to assigned judges for trial settings.

K. Issuing subpoenas, writs of habeas corpus ad testificandum or ad prosequendum, or other orders necessary to obtain the presence of parties or witnesses or evidence needed for court proceedings.

Rule 602. Civil Cases - Non-Dispositive Pre-Trial Matters

A. Pursuant to 28 U.S.C. {636(b)(1)(A), a district judge may designate a magistrate to hear and determine any pre-trial matter, including Rule 16(b), F.R.Civ.P. scheduling conferences, in any pending civil action, except for the following:

1. A motion for injunctive relief,
2. A motion for judgment on the pleadings,
3. A motion for summary judgment,
4. A motion to dismiss for failure to state a claim upon which relief may be granted, and
5. A motion to dismiss involuntarily an action for failure to comply with an order of court.

B. Such a designation shall be made by written order with copies served upon attorneys of record or pro se litigants. Unless otherwise provided in the order of designation, the decision of the magistrate shall be final, subject only to reconsideration by the district judge on a showing that a magistrate's order is clearly erroneous or contrary to law; provided, however, that the designating district judge has the inherent power to rehear or reconsider any matter sua sponte and all such

preliminary rulings during the pre-trial stage of a case are subject to review and change by the district judge at a later stage if conditions warrant.

C. Any party requesting reconsideration of a magistrate's order as a result of a designation made pursuant to 28 U.S.C. {636(b)(1)(A) must file a motion for reconsideration with the clerk of the district court on or before ten (10) days after the date of the order, or such additional time as the magistrate may allow, which motion shall set forth the ruling or order for which reconsideration is sought, and a concise statement of the basis upon which it is claimed that such ruling or order is clearly erroneous or contrary to law. The failure to file such a motion is a waiver of the party's right to seek reconsideration by the district judge. The procedure to be followed after timely filing of a motion for reconsideration shall be as directed by the district judge to whom the case is assigned, except that no de novo hearing shall be provided as a matter of right. Parties seeking or responding to a reconsideration of a magistrate's order should expect that attorney fees will be awarded to the prevailing party on such review.

Rule 603. Civil Cases - Dispositive Matters

Pursuant to 28 U.S.C. {636(b)(1)(B), a district judge may designate a magistrate to conduct hearings, including evidentiary hearings, and to submit proposed findings of fact and recommendations for disposition of any of the motions excepted from Rule 602.A., and the magistrate shall file his proposed findings and recommendations with the court, mailing copies thereof to all parties who shall have ten (10) days after service thereof to serve and file written, specific objections thereto. If no such objections are timely filed, the magistrate's proposed findings and recommendations may be accepted by the district judge and appropriate orders entered without further notice.

Rule 604. Service as Special Master

Pursuant to 28 U.S.C. {636(b)(2), a district judge may designate a magistrate to serve as a special master in any civil case, upon consent of the parties. The magistrate shall then proceed according to Rule 53 of the Federal Rules of Civil Procedure. In the absence of consent of the parties, appointment of a magistrate as special master may be made only upon a showing of the exceptional conditions required by Rule 53(b).

Rule 605. Prisoner Petitions

A. Subject to provisions of the United States Supreme Court Rules governing {2254 and {2255 cases, the uniform rules of ancillary forms for use in the district courts within the Tenth Circuit have been adopted. These rules apply to pro se petitions for writs of habeas corpus pursuant to 28 U.S.C. {2241 and {2254 and motions under Rule 35, Federal Rules of Criminal Procedure, and to civil rights complaints under 42 U.S.C. {1983. Copies of the uniform rules and ancillary forms shall be made available upon request made to the clerk.

B. When presented for filing, pro se petitions under 28 U.S.C. {2241, {2254, and pro se complaints under 42 U.S.C. {1983 shall be delivered to a magistrate who shall review the motion and affidavit to proceed in forma pauperis and rule thereon in accordance with 28 U.S.C. {1915. If the motion is granted, the magistrate shall promptly review the file and, if there is any basis for jurisdiction and possible merit, the magistrate shall direct the clerk to make service of process.

C. If the magistrate determines that the case may be dismissed pursuant to 28 U.S.C. {1915(d) or F.R.Civ.P. 12, the magistrate shall prepare a recommendation and appropriate order for consideration by a district judge, who shall at that time be selected as provided in Rule 200.

D. These cases shall be assigned to a district judge drawn by lot and to a designated magistrate. The assigned magistrate shall review promptly all further pleadings and may:

1. Issue such orders as may be needed to obtain a complete record.

2. Conduct such evidentiary hearings as may be necessary, including the conduct of on-site depositions and investigations.

3. Prepare appropriate findings and recommendations for consideration by the district judge, copies of which shall be mailed to the parties who shall have ten (10) days after service thereof to serve and file specific written objections thereto. If no such objections are timely filed, the magistrate's proposed findings and recommendations may be accepted by the district judge and appropriate orders entered without further notice.

4. Obtain the expected release date of inmates filing complaints under 42 U.S.C. {1983 to determine when plaintiffs may be available for trial.

Rule 606. Civil Cases - Miscellaneous

Each magistrate shall have the authority to:

A. Issue administrative inspection warrants.

B. Issue search and seizure warrants for levy under provisions of the Internal Revenue Code.

C. Handle post-judgment matters arising under Rule 69 of the Federal Rules of Civil Procedure including:

1. Issuance of all necessary writs.

2. Making necessary orders directing that funds be paid into the registry of this court.

3. Making necessary orders directing that funds be disbursed from the registry of this court.

4. Holding of hearings necessary on writs and pursuant to Rule 69 of the Colorado Rules of Civil Procedure.

Rule 607. Forfeiture of Collateral in Lieu of Appearance

For certain scheduled offenses committed within the territorial and subject matter jurisdiction of the United States Magistrates for the District of Colorado, collateral may be posted in the scheduled amount in lieu of an accused's appearance before the magistrate.

If the accused fails to appear before the magistrate after posting collateral in the scheduled amount, the collateral shall be forfeited to the United States and such forfeiture shall be accepted in lieu of appearance and as authorizing the termination of the proceedings.

No forfeiture of collateral will be permitted for the following:

A. An offense resulting in an accident causing personal injury or causing property damage in excess of \$300.

B. Operation of a motor vehicle while under the influence of intoxicating liquor or of a narcotic or habit-forming drug.

C. Permitting the operation of a vehicle under the custody and control of the accused by another person under the influence of intoxicating liquor or of a narcotic or habit-forming drug.

D. Leaving the scene of an accident.

E. Driving during the period of suspension or revocation of the driver's license.

F. Exceeding the speed limit by more than nineteen (19) miles per hour.

Copies of current schedules of offenses for which collateral may be posted in lieu of appearance, and of the amounts of required collateral shall be available for public inspection at the office of each magistrate and at the office of the clerk of this court.

ORDER ADOPTING LOCAL RULES OF PRACTICE
FOR THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

It is ordered that the foregoing Local Rules of Practice for the United States District Court for the District of Colorado are hereby adopted in accordance with the provisions of Rule 83 of the Federal Rules of Civil Procedure, Rule 57 of the Federal Rules of Criminal Procedure, and Rule 11 of the Rules of Procedure for the trial of minor offenses before the United States Magistrates. Copies of these rules shall be filed with the Clerk of this Court and copies shall be furnished to the Supreme Court of the United States and to the Administrative Office of the United States Courts. The effective date of these rules shall be February 1, 1984.

DATED this 1st day of December 1983.

SHERMAN G. FINESILVER
CHIEF JUDGE

JOHN L. KANE, JR.
U. S. DISTRICT JUDGE

ALFRED A. ARRAJ
U. S. DISTRICT JUDGE

JIM R. CARRIGAN
U. S. DISTRICT JUDGE

HATFIELD CHILSON
U. S. DISTRICT JUDGE

ZITA L. WEINSHIENK
U. S. DISTRICT JUDGE

RICHARD P. MATSCH
U. S. DISTRICT JUDGE

JOHN P. MOORE
U. S. DISTRICT JUDGE

Appendix A

The Code of Professional Responsibility adopted by the Supreme Court of Colorado (as amended) applies to all attorneys appearing in this court. For purposes of interpreting DR 7-107 of that Code of Professional Responsibility, all officers and employees of the United States Government are agents of government counsel: DR 7-107 (D) is expanded to include a period of thirty days prior to the scheduled trial date: DR 7-108 (B)(1) is amended to read, "Without prior permission of the judge to whom a case is assigned, during and after the trial of a case a lawyer connected therewith shall not communicate with or cause another to communicate with any member of the jury", and DR 7-108 (D) is deleted.

Local Rules of Practice
For the District of Colorado

APPENDIX B

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

CIVIL ACTION NO.

[JOHN SMITH,]

Plaintiff,

vs.

[TOM JONES,]

Defendant.

[COMPLAINT]

Space shall be allowed for the court filing stamp in the upper right corner of the first page of each document.

APPENDIX C

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

INSTRUCTIONS FOR PREPARATION AND SUBMISSION OF PRETRIAL ORDER

UNLESS OTHERWISE ORDERED, COUNSEL FOR PLAINTIFF IS RESPONSIBLE FOR PREPARING THE PRETRIAL ORDER.

Counsel are directed to meet in advance of the Pretrial Conference and jointly develop the contents of the Proposed Pretrial Order. The Proposed Pretrial Order shall be presented for court approval at the Pretrial Conference.

Listed below are matters to be included in the Pretrial Order. For convenience of Court and counsel, it is suggested that the following sequence and terminology be used in the preparation of the Pretrial Order, WITH EACH OF THE ITEMS LISTED BELOW CAPITALIZED AS A HEADING:

I. DATE AND APPEARANCES

Date of the Pretrial Conference and appearances for the parties.

II. JURISDICTION

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

III. 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.

IV. STIPULATIONS

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

V. PENDING MOTIONS

List any pending motion to be decided before trial, giving the dates of filing. Include any motions on which the court postponed ruling until trial on the merits. If there are no pending motions, please state "none".

VI. WITNESSES

List the witnesses to be called by each party. List separately:

- (a) non-expert witnesses; and
- (b) expert witnesses.

Specify those who will definitely be present at trial and those who may be called.

The following paragraph shall be included in the Pretrial Order:

Written summaries of opinions of expert witnesses and a description of expert's qualifications must be provided to opposing counsel no later than thirty (30) days after the entry of the Pretrial Order. The names of any additional witnesses must be disclosed to opposing counsel within ten (10) days of their becoming known or their existence should have become known. In addition, a final written list of witnesses must be filed at the Status Conference referred to in Section XII (b).

VII. EXHIBITS

List the exhibits to be offered by each party and identify those to be stipulated into evidence.

The following paragraph shall be included in the Pretrial Order:

Copies of exhibits must be provided to opposing counsel no later than the Status Conference referred to in Section XII (b).

VIII. DISCOVERY

Set forth applicable language:

Discovery has been completed. OR: Discovery is to be completed by _____ . OR: Further discovery is limited to _____ .
OR: The following provisions were made for discovery: (Specify).

IX. SPECIAL ISSUES

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

X. OFFER OF JUDGMENT

The following paragraph shall be included in the Pretrial Order:

Counsel acknowledge familiarity with the provisions of Rule 68, Federal Rules of Civil Procedure (Offer of Judgment) and have discussed it with the clients against whom claims are made in this case.

XI. EFFECT OF PRETRIAL ORDER

The following paragraphs shall be included in the Pretrial Order:

(a) Counsel acknowledge familiarity with the provisions of Rule 16, Federal Rules of Civil Procedure (Pre-Trial Procedure; Formulating Issues).

(b) Hereafter, this 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. In the event of ambiguity in any provision of this Order, reference may be made to the records of the Pretrial Conference to the extent reported by stenographic notes and to the pleadings.

XII. TRIAL AND ESTIMATED TRIAL TIME; STATUS CONFERENCE

(a) State whether trial to Court or Jury, estimated trial time and any other orders pertinent thereto.

The following paragraph shall be included in the Pretrial Order:

(b) A Status Conference will be held by the Court no later than thirty (30) days before the trial date. At this Status Conference counsel are directed to file final lists of all exhibits and witnesses. The court may also consider motions in limine, if any, on particular issues and other matters to expedite the trial.

The following format and language shall be used in the Pretrial Order:

DATED this _____ day of _____ 198 _____.

BY THE COURT:

Name of Judge or Magistrate.

Pretrial Order Approved:

(Provide signature lines listing name, address and phone number of counsel. Signatures of counsel are to be affixed before submission of the Pretrial Order to the Judge or Magistrate.)

* * * INFORMATIONAL NOTE TO ATTORNEYS * * *

The practices vary among the judges with respect to the time for submission of jury instructions, jury instructions, voir dire questions, trial briefs, proposed findings of fact and conclusions of law and other matters. Individual Judges may cover these items in an Addendum to the Pretrial Order or in other Court orders. If the case has been referred to a Magistrate, the Pretrial Order shall be signed by the Magistrate. The Order and any objections thereto shall be made in accordance with Local Rule 17(c)(3) [United States Magistrates (Civil Cases - Non-dispositive Pretrial Matters.)].

SCHEDULE OF FEES FOR THE UNITED STATES DISTRICT COURT

Fee for filing a civil complaint or petition for removal	\$ 60.00
Bond required for petition for removal, cash or surety	\$1,000.00
Fee for filing responsive pleading, motions or third party pleadings	NONE
Jury fee	NONE
Fee for certifying any document or paper	\$ 2.00
Fee for certificate of judgment	\$ 2.00
Fee for registering judgment from another district	\$ 10.00
Fee for filing or indexing any paper not in a case or proceeding for which a case filing fee has been paid	\$ 3.00
Fee per page for reproducing any record or paper	\$.50
Fee for duplicate certificate of admission or certificate of good standing	\$ 3.00
Fee for admission of attorney to practice in the United States District Court, District of Colorado	\$ 25.00
Fee for notice of appeal	\$ 5.00) to be paid
Fee for docketing notice of appeal	\$ 65.00) simultaneously
Witness fee per day	\$ 30.00
Witness mileage, round trip	\$.20½ per mile

