

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF COLORADO

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LOCAL RULES OF PRACTICE

* * *

April 15, 1994
with amendments/updates through
April 7, 1997



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

CHIEF JUDGE RICHARD P. MATSCH

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JUDGE ZITA L. WEINSHIENK

JUDGE LEWIS T. BABCOCK

JUDGE EDWARD W. NOTTINGHAM

JUDGE DANIEL B. SPARR

JUDGE WILEY Y. DANIEL

JUDGE WALKER D. MILLER

* * * * *

MAGISTRATE JUDGE DONALD E. ABRAM

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MAGISTRATE JUDGE BRUCE D. PRINGLE

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MAGISTRATE JUDGE PATRICIA A. COAN

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PREFACE

The Local Rules of Practice of the United States District Court for the District of Colorado complement the federal rules of procedure and evidence and legislation dealing with the administration of justice.

The local rules are intended to promote the fair and expedient administration of justice and to eliminate unnecessary and unjustifiable costs and delay in litigation. To this end, the local rules seek to foster a spirit of cooperation among attorneys and between the bench and bar. Cooperation of this nature improves the prospects for early and cost-effective resolution of disputes.

The language of the local rules is positive and mandatory, and provides the point of reference for any issue concerning the efficient and expeditious administration of cases filed with this court. We expect attorneys, court personnel, litigants, and the judges themselves to study and adhere to the local rules in all court matters. Of course, a judge may modify or excuse compliance with the local rules for good cause shown and where circumstances warrant, provided that such modification or excuse is entered as an order of record.

In the rapid development of the legal profession, we recognize the need to modify the local rules periodically. In that regard, we welcome constructive comments and suggestions that members of the bar and other concerned parties may wish to bring to the court's attention.

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**ARTICLE I.
SCOPE OF RULES**

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

These rules:

- A. Shall be known as the Local Rules of the United States District Court for the District of Colorado. They may be cited as "D.C.COLO.LR ____".
- B. Become effective on April 15, 1994.
- C. Shall apply in all civil and criminal actions.
- D. Supersede all previous rules promulgated by this court. They shall govern all proceedings in this court unless application would be unjust or impracticable.
- E. Are numbered and indexed in accordance with the Judicial Conference Uniform Numbering System.

Reference in these rules to a judicial officer refers to a district judge or magistrate judge.

**ARTICLE II.
COMMENCEMENT OF ACTION**

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

A properly completed Form JS-44 (Civil Cover Sheet) shall be given to the clerk at the commencement of each civil action.

**D.C.COLO.LR 4.1
SERVICE OF PROCESS**

Motions for appointment of special process servers filed in compliance with Fed.R.Civ.P.4(c) will be granted routinely by minute order entered by the clerk.

**D.C.COLO.LR 4.4
PREPAYMENT OF FEES**

The clerk shall require payment of fees before any civil action, suit, or proceeding is filed. When pleadings are received for filing without the required fee, the clerk shall notify the filing party that the pleadings will be held and not filed until the required fee is received or an 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. A notice of appeal shall be filed when received. Filing, copy, and service fees, fines, and other charges may be paid by credit card issued by a company approved by a general order of the court.

D.C.COLO.LR 5.1
FORMAT OF PAPERS PRESENTED FOR FILING

- A. All documents filed with the court shall be on 8-1/2" by 11" white paper.
- B. Margins shall be 1-1/2" at the top and 1" at the left, right, and bottom.
- C. Text shall be on the face side of the paper only; the back side shall not be used.
- D. An original and one copy of every paper shall be filed with the court.
- E. The caption format shall be as set forth in Appendix A.
- F. All papers shall be double-spaced.
- G. Except in pro se cases or for good cause shown, all papers shall be typewritten using black ink and not less than elite type (12 characters to the linear inch).
- H. Filing by facsimile machine is prohibited.
- I. All papers and signatures shall be legible.
- J. Exhibits, other than documentary evidence in a different format, shall conform to this rule.
- K. The name, current address, and telephone number of any attorney of record or pro se litigant filing a paper shall be legibly signed and typed on it and on the required copy. The address of a party shall appear on the first paper filed by an attorney on behalf of that party or by the party pro se. A post office box number will be accepted as a mailing address, but a street address also must be provided.
- L. Within ten days after any change of address or telephone number of any attorney or party, notice of the new address and telephone number shall be filed.
- M. All papers filed after commencement of a case shall bear the proper case number. The first page of every paper shall reflect accurately its nature and on whose behalf it is filed.
- N. 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 set out clearly the order's terms and content.
- O. The term "papers" includes pleadings, motions, briefs, or other filings made pursuant to the federal rules of civil or criminal procedure or these rules.

**ARTICLE III.
PLEADINGS AND MOTIONS
MOTIONS, BRIEFS, TIME LIMITS, AND ORDERS**

**D.C.COLO.LR 7.1
MOTIONS**

- A. 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, before filing the motion, has conferred or made reasonable, good faith efforts to confer with opposing counsel to resolve the disputed matter. Counsel for the moving party shall file a certificate describing specifically the efforts to comply with this rule.
- B. A motion seeking not more than twenty additional days to answer a complaint may be granted ex parte by the clerk. A motion seeking not more than three additional days in which to: (a) answer or object to interrogatories under Fed. R. Civ. P. 31 and 33; (b) respond to requests for production or inspection under Fed. R. Civ. P. 34; or (c) respond to requests for admission under Fed. R. Civ. P. 36, may be granted ex parte by the clerk. A motion for further extensions of time shall be presented to the court and must describe all previous extensions.
- C. A motion for continuance or request for extension of time will not be considered without proof that a copy of the motion has been served upon the moving attorney's client, all attorneys of record, and all pro se litigants.
- D. A motion to consolidate filed in either a civil or criminal case shall be decided by the judge to whom the oldest numbered case involved in the proposed consolidation is assigned. Rulings on motions to consolidate shall be given priority. Cases consolidated shall be assigned for all further purposes to the judge to whom the lowest numbered consolidated case previously was assigned. A case not consolidated shall remain assigned to the judge before whom it was pending when the motion to consolidate was filed.
- E. A certificate of service or mailing shall not be sufficient unless it specifies the date it was mailed or served and the name and address of the person to whom the pleading or document was sent.
- F. A motion filed under Fed. R. Civ. P. 56 shall be accompanied by a concise brief. An opposing brief shall be filed within twenty days after service of the motion or such additional time as the court may set. A reply brief may be filed only upon leave of court requested promptly after service of the opposing brief.
- G. Any criminal or civil motion, other than a Rule 56 motion, shall briefly cite in its text authority to support it. No separate brief is required or allowed without leave of court.

- H. Briefs and motions shall be concise. A verbose, redundant, ungrammatical, or unintelligible brief or motion may be stricken or returned for revision, and its filing may be grounds for imposing sanctions. Limitations may be imposed on the length of any brief or motion.
- I. Every citation in a motion or brief shall include the specific page and statutory subsection to which reference is made.
- J. A motion for leave to file an amicus curiae brief shall state the interest of the applicant and grounds for the motion. A copy of the motion and brief shall be served on the attorney of record for every other party.
- K. Counsel shall notify the court in writing of related cases pending in federal or state courts, stating the names and addresses of all counsel; the caption of each such case, and the jurisdiction where it is pending. "Related" cases are those involving common questions of law or fact.
- L. Oral argument will be at the court's discretion.
- M. No agreement of counsel to shorten or extend any time limitation provided by the federal rules of civil or criminal 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. Only time variances specifically approved by court order upon motion made within the time limits prescribed by those rules will be recognized as having any binding or legal effect.

D.C.COLO.LR 16.2 SCHEDULING ORDERS

- A. Required scheduling orders shall comply fully with Fed. R. Civ. P. 16(b).
- B. Scheduling orders for discovery, joinder and amendment of pleadings are unnecessary in:
 - 1. appeals from the bankruptcy court;
 - 2. appeals from decisions of administrative agencies;
 - 3. other cases where the action of the court is limited to reviewing a record;
 - 4. habeas corpus proceedings;
 - 5. pro se prisoner cases;
 - 6. forfeiture proceedings;
 - 7. government collection actions;
 - 8. IRS, SEC, EPA, HHS, and any other governmental agency administrative proceedings;
 - 9. actions to enforce or register judgments;
 - 10. proceedings to enforce/contest summons, subpoenas, and deposition proceedings in civil actions pending in other districts.

**ARTICLE IV.
PARTIES**

**D.C.COLO.LR 24.1
NOTIFICATION OF CLAIM
OF UNCONSTITUTIONALITY**

- A. 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 give written notice, in duplicate, to the court, stating the case title, identifying each questioned statute, and describing the grounds on which unconstitutionality is asserted.
- B. 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 give the court written notice in duplicate 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. Upon receipt of a notice of unconstitutionality, the court shall comply with the certification provisions of 28 U.S.C. § 2403.

**ARTICLE V.
DEPOSITIONS AND DISCOVERY**

**D.C.COLO.LR 26.1
GENERAL PROVISIONS GOVERNING DISCOVERY
DUTY OF DISCLOSURE**

- A. Prohibition on formal discovery:

Formal discovery under Fed. R. Civ. P. 30 - 36 is permissible in the following types of cases only with prior approval of a judge or upon the written stipulation of the parties:

- 1. appeals from the bankruptcy court;
- 2. appeals from decisions of administrative agencies;
- 3. other cases where the action of the court is limited to reviewing a record;
- 4. habeas corpus proceedings;
- 5. pro se prisoner cases;
- 6. forfeiture proceedings;
- 7. government collection actions;

8. IRS, SEC, EPA, HHS, and any other governmental agency administrative proceedings;
9. actions to enforce or register judgments;
10. proceedings to enforce/contest summons, subpoenas, and deposition proceedings in civil actions pending in other districts.

B. Fed. R. Civ. P. 26 (a)(1) Disclosures:

Unless otherwise ordered by the court in a particular case, the requirements of Fed. R. Civ. P. 26 (a)(1) do not apply in the categories of cases listed in paragraph C of this rule which are excepted from the requirements of Fed. R. Civ. P. 26 (f).

C. Fed. R. Civ. P. 26 (f) Meeting of Parties:

Unless otherwise ordered by the court in a particular case, the provisions of Fed. R. Civ. P. 26 (f), requiring a meeting of and report from the parties, apply to all civil actions in this court, subject to the following modifications. The requirement of a meeting and report does not apply in:

1. cases in which, under paragraph A of this rule, discovery is permitted only with prior approval of a judge;
2. cases consolidated with a case in which the parties have met, as provided in Fed. R. Civ. P. 26 (f), or in which a scheduling order under Fed. R. Civ. P. 16 (b) has been entered; and
3. cases transferred to this court under 28 U.S.C. 1407 or consolidated with cases so transferred, and cases subject to potential transfer to another court under 28 U.S.C. § 1407 pursuant to a motion pending before the Judicial Panel on Multidistrict Litigation or a conditional transfer order of that Panel.

D.C.COLO.LR 29.1 DISCOVERY

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 counsel to meet and attempt to agree on a scheduling order. Any area of disagreement shall be set forth separately with brief statements of the reasons for disagreement. Plaintiff's counsel shall prepare the proposed scheduling order, unless counsel have agreed otherwise. 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 by leave of court for cause shown.

The following matters will be included in the scheduling order:

1. Concise statements of all claims or defenses and identification by any party of those claims or defenses which, under the requirements of Fed. R. Civ. P. 11, are or should be withdrawn.
2. A plain, concise statement of all facts which are undisputed.
3. A limit on the time to join other parties or amend the pleadings.
4. A statement of damages with a description of the basis for calculating the damages claimed.
5. A statement concerning any agreements to conduct informal discovery, including joint interviews with potential witnesses, exchanges of documents, and joint meetings with clients to discuss settlement.
6. Limit on the time for completion of discovery and limits on the number of depositions, interrogatories, requests for admissions, and requests for production.
7. A list of the names of the persons to be deposed and a prospective schedule for taking depositions.
8. A schedule for interrogatories and requests for production of documents.
9. A statement with respect to a need for expert witnesses, including areas of expertise being considered and the names of potential expert witnesses.
10. The desirability of convening status conferences and a pretrial conference.
11. Limits on time in which to file motions.
12. The extent of discovery to be permitted.
13. Any other matters appropriate in the circumstances of the case.

D.C.COLO.LR 30.1A
REASONABLE NOTICE FOR DEPOSITIONS

Unless otherwise ordered by the court, "reasonable notice" for the taking of depositions shall be not less than eleven days, as computed under Fed. R. Civ. P. 6. Before sending a notice to take a deposition, counsel 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 and counsel for all parties.

Prior to scheduling or noticing any deposition, all counsel 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 time-consuming method of obtaining the evidence sought, including without limitation, interviewing the witness under oath by telephone or in person.

D.C.COLO.LR 30.1B
EFFECT OF FILING MOTION
FOR PROTECTIVE ORDER
OR MOTION 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.

D.C.COLO.LR 30.1C
SANCTIONS FOR ABUSIVE DEPOSITION CONDUCT

A. The following abusive deposition conduct is prohibited:

1. 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 opposing counsel, to the extent it 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 the court, or to present a motion under Rule 30(d)(3) of the Federal Rules of Civil Procedure.
 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. 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 the court that an attorney or party has engaged in abusive deposition conduct, the court 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 the court shall direct.

The court, if it anticipates deposition abuse, 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 the court or special master.

Whenever the presiding judicial officer shall determine 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, attorneys' 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.LR 31
NON-FILING OF DISCOVERY MATERIALS
IN CIVIL CASES

Except as otherwise directed by a judicial officer:

- A. Depositions shall not be filed with the court except as provided in subsection C of this rule.
- B. Other discovery materials (including interrogatories, requests for production, requests for admission, certificates of mailing thereof and responses thereto, disclosures made pursuant to Fed. R. Civ. P. 26 (a)(1), (a)(2), and (a)(3), as well as notices of depositions and discovery subpoenas) shall be served in accordance with the Federal Rules of Civil Procedure, but shall not be filed with the court except as provided in subsection C of this rule.
- C. Discovery materials shall be filed with the court:
 - 1. when directed by a judge;
 - 2. when and to the extent needed by any party
 - a. in connection with any motion or response thereto, or
 - b. for use at trial.
- D. Counsel noticing a deposition or responsible for serving other non-filed discovery materials shall act for the court as custodian of such material. The original sealed transcript shall be opened only upon court order.

D.C.COLO.LR 37.2
FORM OF DISCOVERY MOTIONS

A motion under Fed. R. Civ. P. 26(c) or 37(a) directed to interrogatories or requests under Fed. R. Civ. P. 33 or 34 or to responses thereto, shall set forth verbatim the interrogatory, request, and response to which the motion is directed.

ARTICLE VI. TRIALS

D.C.COLO.LR 40.1 ASSIGNMENT OF CASES

- A. Insofar as practicable and efficient, cases shall be assigned to judges by random selection. Work parity shall be maintained among active judges, and senior judges shall be provided the opportunity to participate in the court's business. Whenever a majority of active judges determines that a workload imbalance is affecting litigants adversely, the chief judge shall review the pending case loads of the judges and suggest appropriate reassignment of existing cases. All reassignments or transfers of cases from one judge to another shall be subject to the chief judge's approval.
- B. The clerk shall provide a form on which the attorney or pro se party filing a civil case shall indicate, in addition to other information required, whether the case being filed is related to any other action or actions pending before the court or terminated within the previous twelve months. After screening under 42 U.S.C. § 1915(d), all new case filings made pro se by the same plaintiff shall be assigned to the district judge who was assigned, by random selection, to the first case filed by that plaintiff.
- C. If a relationship is indicated, the case shall be referred to the judge with the earliest filed case who shall determine if the case is related. If the case is related, that judge shall be assigned to handle it. If found not related, the case shall be returned to the clerk for assignment by random draw. "Related" cases are those involving common questions of law or fact.
- D. The clerk shall maintain a computerized program to assure (1) random selection of unrelated civil cases to district judges and magistrate judges, and (2) equal apportionment of cases among the active judges. A majority of active judges may adjust the apportionment of civil cases to the chief judge as may be necessary for the performance of the duties of that office.
- E. Contemporaneously with the filing of a case, the clerk or a designated deputy shall publicly draw a district judge and magistrate judge for each new unrelated civil case by means of the computerized program described in D.C.COLO.LR 40.1D.

Upon the filing of any administrative agency or bankruptcy appeal, the clerk will assign a case number without random selection to a judge designated by the chief judge. The case number shall bear the initials "AP" to identify it as an appeal. A separate listing of "AP" cases shall be maintained. The clerk shall confirm that the notice of appeal was timely filed or, in the case of administrative agency appeals, that final agency action is alleged. The clerk shall then set the case for a pre-briefing conference before a magistrate judge. Conference dates will be on a fixed schedule and the clerk shall schedule each appeal. Notice advising counsel of the conference date shall describe the action to be

taken at the pre-briefing conference. During the pendency of the action, the clerk will docket all pleadings, briefs and orders, and will prepare the judgment in accordance with the court's decision on appeal.

At the pre-briefing conference, the magistrate judge will determine whether the appeal can be resolved by stipulation, confession, or settlement. If not, the magistrate judge will narrow the issues on appeal, refine the designation of record on appeal, and set the briefing schedule and page limits of briefs to be filed. Briefs filed in excess of the limitations may be stricken by the court with or without motion being filed. (Reference to Bankruptcy Rule 8009 shall be made in appropriate cases.) The clerk or his authorized deputy shall attend each conference and prepare a minute order setting forth the schedule of further proceedings including the briefing schedule. If, in the opinion of the magistrate judge, the appeal is filed for purposes of delay or other just cause appears, the magistrate judge shall include in the minute order a notation that the appeal should be expedited, and the clerk shall stamp the word "EXPEDITE" on the face of both court file jackets.

The clerk shall monitor each case on the "AP" docket. Each month the clerk shall prepare and distribute to the court a report showing: (1) cases awaiting pre-briefing conferences; (2) cases awaiting filing of all briefs; (3) cases at issue showing the judge to whom the appeal has been assigned, and whether the case has been designated "EXPEDITE"; and (4) cases at issue for thirty days, sixty days, ninety days, or more.

The clerk shall refer any motions for extensions of time, permission to exceed briefing limits, supplement the record, strike or impose sanctions, etc., to the district judge assigned to administer cases filed pursuant to this rule. When all briefs are filed and the appeal is at issue, the clerk will draw, using the automated random selection procedure, a district judge to whom the case will be reassigned. The case will be renumbered, changing the "AP" designation to the assigned judge's identification initial, and the copy file will be delivered to that judge. The clerk will advise counsel of record of this reassignment.

- F. The clerk shall also maintain a separate computerized program to assure (1) random selection of unrelated criminal cases to district judges, and (2) equal apportionment of cases among the active judges. A majority of active judges may adjust the apportionment of criminal cases to the chief judge as may be necessary for the performance of the duties of that office.
- G. Assignment of a judge to a criminal case shall be made by draw, using the computerized program described in D.C.COLO.LR 40.1F, upon the filing of an indictment or information. The Assistant United States Attorney responsible for the prosecution of the case shall, at the time of filing, indicate whether the case is related to any other criminal case pending before the court or terminated within the previous twelve months. If a relationship is indicated, the case will be referred to the judge assigned to that case, who shall determine forthwith whether to proceed with it as a related case or return it to the clerk for assignment by draw.

- H. No plea agreement involving dismissal of charges will be accepted unless written notification of the agreement is received by the court no later than ten days before the Monday of the week set for the trial.
- I. All pleas of guilty or nolo contendere shall be made before the judge assigned to the case.
- J. The chief judge may remove temporarily a judge from the draw for civil or criminal cases because of illness, disability, incapacity, or emergency.
- K. Recusal of a judge shall be only by written order setting forth the reasons. Upon such recusal, the clerk shall, when necessary, adjust the computerized drawing program so as to maintain equal apportionment of cases among the active judges.
- L. **CITIZENSHIP**
Hearing contested applications for citizenship shall be assigned on a rotating basis by the chief judge.
- M. **GRAND JURY MATTERS**
Grand jury supervision shall be assigned equally among the active judges. No indictment shall be sealed without the written order of a judicial officer. Upon the first defendant's initial appearance the indictment shall be unsealed.
- N. Upon the filing of a criminal action by indictment or information, the United States Attorney shall notify the court, in writing, if the action is related to any other pending or recently completed criminal case. The magistrate judge shall then refer the case to the district judge to whom the prior case was assigned. If the district judge determines that the case is not related, or for other good cause stated, the case shall be returned to a magistrate judge for assignment by random draw.

**D.C.COLO.LR 40.3
TRIAL CALENDARS AND
EXPEDITED CASE HANDLING**

Each judge shall maintain an individual trial calendar with due regard for the priorities and requirements of law. Selected cases may be expedited by the judge sua sponte or on motion of any party.

D.C.COLO.LR 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, federal rules of civil or criminal procedure, or any court order. If good cause is not shown within the time set in the show cause order, a district judge may enter an order of dismissal with or without prejudice.

D.C.COLO.LR 41.1A ADMINISTRATIVE CLOSURE

A judge may direct the clerk to close a civil action administratively subject to reopening for good cause.

D.C.COLO.LR 47.2 ATTORNEY COMMUNICATION WITH JURORS

Notwithstanding any provision or practice applicable in any other court, 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 judge to whom the case is assigned.

D.C.COLO.LR 53.2 ALTERNATIVE DISPUTE RESOLUTION

At any stage of the proceedings, on a district judge's motion or pursuant to motion or stipulation of counsel, a district judge may direct the parties to a suit to engage in an early settlement conference or other alternative dispute resolution proceeding. To facilitate settlement

or resolution of the suit, the judge 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.

ARTICLE VII. JUDGMENT

D.C.COLO.LR 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 ten days after entry of the judgment or final order. Costs will be taxed by the clerk or a designated deputy. Prior to appearance before the clerk, counsel for the party seeking costs shall file a written statement that a reasonable effort has been made, in a conference with opposing counsel, 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.LR 54.2 JURY COST ASSESSMENT

Whenever any civil action scheduled for jury trial is settled or otherwise disposed of after noon on the last court business day before trial, jury costs may be assessed against any of the parties and/or counsel. 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.

**ARTICLE VIII.
PROVISIONAL AND FINAL REMEDIES**

**D.C.COLO.LR 67.1
BONDS AND OTHER SURETIES**

- A. 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. No person, corporation, partnership, or other association or entity may act as his, her, or its own surety in a civil case.
- C. 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.LR 67.2
DEPOSITS**

- A. Deposits in interest-bearing accounts are subject to a registry fee of ten percent of their income. Further information on the required fee is available in the clerk's office.
- B. No deposit into an interest-bearing account shall be permitted without court order. All orders shall be approved initially by the clerk or a designated deputy before submission to the assigned judge.
- C. Funds may be deposited only in banking institutions approved by the court.

**D.C.COLO.LR 67.3
WITHDRAWAL OF A DEPOSIT
PURSUANT TO FED. R. CIV. P. 67**

No cash or other funds on deposit with the court shall be refunded or returned to anyone other than the person or entity named on the receipt. When appropriate, the clerk may require a certified copy of valid letters of administration, or a notarized power of attorney, from the person or association named in the receipt unless exempted by order of a judicial officer. Refunds or returns may be obtained only by court order.

D.C.COLO.LR 72.1
MAGISTRATE JUDGES' GENERAL AUTHORITY

Except as restricted by these rules, United States magistrate judges may exercise all powers and duties authorized by federal statutes, regulations, and rules of criminal or civil procedure.

D.C.COLO.LR 72.2
CRIMINAL CASE DUTIES

In criminal matters each magistrate judge shall:

- A. Exercise powers and duties necessary for extraditing fugitives pursuant to 18 U.S.C. §§ 3181-3196;
- B. 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;
- C. Schedule and conduct a discovery conference, pursuant to Fed. R. Crim. P. 17.1, within ten working days after the arraignment, set filing deadlines for pretrial motions, and direct counsel to obtain a trial date from the judge assigned to the case;
- D. Issue subpoenas, writs of habeas corpus ad testificandum or ad prosequendum, or other orders necessary to obtain the presence of parties, witnesses, or evidence needed for court proceedings;
- E. Issue orders for mobile tracking devices, pen registers, and trap and trace devices, and extensions of such orders; and
- F. Try misdemeanor or petty offense cases in accordance with Fed.R.Crim.P. 54 and 58.

D.C.COLO.LR 72.3
CIVIL CASE DUTIES

In civil cases each magistrate judge shall:

- A. Issue administrative inspection warrants;
- B. Issue civil seizure warrants pursuant to 21 U.S.C. § 881 and 18 U.S.C. § 981;

- C. Issue search and seizure warrants for levy pursuant to the Internal Revenue Code;
- D. Act on post-judgment matters arising under Fed. R. Civ. P. 69 including:
 - 1. Issuing writs;
 - 2. Issuing orders directing funds to be paid into or disbursed from the registry of the court; and
 - 3. Holding hearings and making recommendations to the district judge on substantive issues including the liability of a party under a writ of garnishment or execution.

D.C.COLO.LR 72.4 PRISONER PETITIONS

- A. A pro se prisoner shall use the ancillary forms established by the United States Court of Appeals for the Tenth Circuit when filing a petition for a writ of habeas corpus pursuant to 28 U.S.C. §§ 2241, 2254 or 2255; a motion pursuant to Fed. R. Crim P. 35; or a civil rights complaint pursuant to 42 U.S.C. § 1983. Upon request, the clerk shall provide copies of the Tenth Circuit uniform rule and ancillary forms.
- B. A magistrate judge shall review each motion and affidavit to proceed in forma pauperis and may grant or deny it pursuant to 28 U.S.C. § 1915(a) or as otherwise provided by law.
- C. When a pro se petition or complaint is filed, the case shall be assigned to a district judge in accordance with D.C.COLO.LR 40.1.
- D. A magistrate judge shall review the petition or complaint pursuant to 28 U.S.C. § 1915(d) and may request from the prisoner additional facts or documentary evidence to determine if the petition or complaint is frivolous or malicious pursuant to 28 U.S.C. § 1915(d).
- E. In cases filed pursuant to 28 U.S.C. § 1915(d), the magistrate judge shall proceed in accordance with the rules governing § 2254 or § 2255 proceedings, or shall order issuance of a summons or order to show cause.
- F. Pursuant to 28 U.S.C. § 636(b)(1)(B), after a return has been filed to a 28 U.S.C. § 2241 petition, a district judge may order a magistrate judge to hold a hearing and make a recommendation.
- G. Pursuant to 28 U.S.C. § 636(b)(1)(A), after a response has been filed in a 42 U.S.C. § 1983 case, a magistrate judge shall conduct a Fed. R. Civ. P. 16 conference and rule on discovery motions. Where the complaint challenges conditions of confinement, the magistrate judge shall hold a hearing pursuant to 28 U.S.C. § 636(b)(1)(B) and make a recommendation to the court. Upon consent of the parties or upon determination that exceptional conditions so require, the district judge may designate a magistrate judge as a special master pursuant to 28 U.S.C. § 636(b)(2) and Fed. R. Civ. P. 53.

D.C.COLO.LR 72.5
FORFEITURE OF COLLATERAL
IN LIEU OF APPEARANCE
AND NOTICE OF CONVICTION

- A. 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. 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. The collateral forfeiture amount set by a judicial officer pursuant to this paragraph 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 by cash, check, money order, draft, or court-approved credit card is authorized.
- D. 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.
- E. Notwithstanding paragraph 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.

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.

**ARTICLE IX.
FOR YOUR INFORMATION**

**D.C.COLO.LR 77.1
BUSINESS HOURS**

This court's business hours are from 8:00 AM to 5:00 PM Monday through Friday. All pleadings, motions, briefs, and other papers shall be filed not later than 5:00 PM on the day required. After business hours and on Saturdays, Sundays, and legal holidays, the clerk, when good cause shown, may permit filing of pleadings or other papers at any other location within the district.

Your cooperation in this regard is greatly appreciated.

**D.C.COLO.LR 77.7
EX PARTE COMMUNICATION WITH JUDGES**

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.LR 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.LR 79.1A
INSPECTION OF EVIDENCE**

Photographic negatives, tape recordings, contraband including drugs and narcotics, firearms, currency, negotiable instruments, computer 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 and control of the clerk or a designated deputy. The clerk may limit or preclude access and copying in order to preserve such evidence.

**ARTICLE X.
GENERAL PROVISIONS**

**D.C.COLO.LR 81.2
COPIES OF STATE COURT PROCEEDINGS
IN REMOVED ACTIONS**

If a hearing in the state court has been set before a case is removed, counsel 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. The removing party shall promptly file with this court copies of all state court pleadings, motions, and other papers.

**D.C.COLO.LR 83.3
CAMERAS, RECORDING DEVICES**

The possession or use of cameras or recording devices is prohibited in the United States courthouse or anywhere that a judicial officer is holding a court proceeding. This rule does not apply to court employees performing official duties.

D.C.COLO.LR 83.4
SECURITY

- A. All persons entering the United States Courthouse, 1929 Stout Street, Denver, Colorado, or that portion of the second floor of the Byron White United States Courthouse, 1823 Stout Street, Denver, Colorado, that is assigned to the district court shall pass through security devices operated by court security officers or United States marshals. 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.
- B. Failure to obey this rule shall be grounds for refusing admission to the buildings and may subject the offender to detention, arrest, and prosecution as provided by law, or to a contempt proceeding.
- C. Upon 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.
- D. This rule and these procedures are necessary in the interest of public safety and to maintain orderly court procedures.

D.C.COLO.LR 83.5
THE BAR OF THE COURT

- A. **APPLICANT INFORMATION**
An applicant for admission to the bar of this court must be a person of good moral character licensed by the highest court of a state, federal territory or the District of Columbia where a written examination was required for admission 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 of court such fee as is prescribed by General Order of 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 specify the reasons for withdrawal unless that 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. APPEARANCE IN CRIMINAL CASES

An attorney appearing for a defendant in a criminal case shall file promptly a written entry of appearance and serve a copy on the United States Attorney.

F. MEMBER IN GOOD STANDING

An attorney admitted to this bar must remain in good standing in all courts where admitted. No attorney may practice before the bar of this court or continue to be an attorney of record in any pending case who is under suspension for any period or has been disbarred by any court where previously admitted. In the event a member of the bar of this court has been formally disciplined by any court, it is the duty of that attorney to give immediate written notice to the clerk of this court of the date and terms of discipline, the name and address of the court imposing the discipline and the date of that court's action. Failure to provide notice or to cease practicing before the bar of this court as required by this subsection are themselves separate causes for disciplinary action. Application for Reinstatement following suspension or disbarment under this rule shall be made in accordance with the terms of D.C.COLO.LR 83.6 N.

G. 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; or (2) application of D.C.COLO.LR 83.5 F 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 subsection shall be filed with or referred to the Committee on Conduct which shall proceed in accordance with the provisions of D.C.COLO.LR 83.6 D.

D.C.COLO.LR 83.6 ATTORNEY DISCIPLINE

The rules of professional conduct, as adopted by the Colorado Supreme Court, are adopted as standards of professional responsibility applicable in this court.

A. DISCIPLINARY PANEL

The chief judge shall appoint a panel of three district judges to constitute the disciplinary panel. The disciplinary 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 disciplinary panel.

B. COMMITTEE ON CONDUCT

The court has established a standing Committee on Conduct consisting of twelve 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 on Conduct and a vice-chairperson who shall act during the chairperson's absence or disability. Members of the Committee on Conduct 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 on Conduct shall serve more than two consecutive terms.

C. DUTIES OF THE COMMITTEE

The Committee on Conduct shall receive, investigate, consider, and act upon complaints against members of the bar, applications for reinstatement, and other similar actions 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 Disciplinary 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 clearing house 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 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 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.

D. COMPLAINTS

Any complaint against a member of this court's bar for any cause or conduct which may justify any disciplinary action shall be filed in writing under oath. Complaints shall be filed with or referred to the Committee on Conduct. The committee also shall have power to inquire into all cases of alleged misconduct by members of this court's bar. All proceedings of the Committee on Conduct shall be confidential. 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. COMPLAINTS BY A JUDICIAL OFFICER

Any judicial officer of this court may complain in writing not under oath to the Committee on Conduct that any member of the bar has acted in an unprofessional, unethical, or otherwise improper manner. The committee shall investigate the complaint as it deems appropriate. If the committee believes the matter should be presented to the court, it shall proceed as hereinafter provided.

F. HEARING PANEL

When a complaint is received, it shall be referred by the chairperson of the Committee on Conduct to a hearing panel consisting of three committee members designated by the chairperson who shall appoint one of them as panel chairperson. The chairperson or vice-chairperson 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 chairperson of the committee. If, in the opinion of a majority of the panel, an answer should be required, the panel shall serve a copy of the complaint by registered mail on the member of the bar against whom the complaint was made, addressed to his or her most current address on file with the clerk. Within twenty days after the date the complaint is mailed, the respondent bar member shall file with the hearing panel an answer signed under oath.

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, hold hearings. The chairperson of the hearing panel conducting the inquiry shall serve as a master with authority to order issuance of subpoenas commanding production of designated books, papers, documents, or other tangibles at the times and places stated in the subpoena. The panel 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 Disciplinary Panel which may initiate contempt proceedings and impose appropriate punishment.

I. SUBMISSION OF CHARGES TO THE COURT

After investigation, the hearing panel may prepare charges and submit them to the court, or, with or without preparing charges, may refer the matter to the Grievance Committee of the Supreme Court of the State of Colorado. If charges are prepared and submitted to this court, and thereafter this court 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. The respondent shall answer the charges within thirty 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 court.

J. SERVICE OUTSIDE THE DISTRICT OF COLORADO

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 registered mail to the last office address the respondent filed with the clerk.

K. DISCIPLINARY PANEL HEARINGS AND ORDERS

When the respondent has filed an answer, a hearing shall be scheduled by the Disciplinary Panel. If the charges are sustained, the Disciplinary 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. If the hearing panel concludes that the misconduct is sufficiently significant that the complaint should not be dismissed as without merit, but it does not warrant submitting charges to the court, the hearing panel 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 twenty days after receiving the letter, that formal disciplinary proceedings be initiated to adjudicate the propriety of the conduct upon which the admonition is based. Upon timely filing of a request, the letter of admonition shall be vacated and the hearing panel shall proceed with the formal procedures above provided.

L. RULE NOT TO DEPRIVE COURT OF INHERENT POWERS

Nothing herein stated shall be deemed to negate or diminish this court's inherent disciplinary powers.

M. RIGHT TO COUNSEL

A respondent shall be entitled to be represented by counsel, at his or her own expense unless indigent.

N. APPLICATION FOR REINSTATEMENT

An attorney who has been disbarred or suspended may apply for readmission or reinstatement at the end of the disciplinary period. Readmission or reinstatement is neither automatic nor a matter of right. Every motion for readmission or reinstatement shall be investigated by one or more members of the Committee on Conduct appointed by the committee's chairperson. Following investigation, the Committee on Conduct shall prepare a recommendation on the application. The recommendation and supporting documents shall be submitted to the Disciplinary Panel for decision. Readmission or reinstatement may be subject to conditions such as monitoring, reporting, testing, and education.

O. ATTORNEY CONVICTED OF A FELONY

Any member of the bar convicted of a state or federal felony shall be suspended from practicing law in this court and, upon conviction becoming final, shall cease to be a

member of this court's bar. Upon presentation of a certified copy of the judgment of conviction, the Disciplinary Panel shall order the respondent suspended from practice before this court. Upon proof that the conviction is final, and that direct appeal rights have been exhausted, the Disciplinary Panel shall order the respondent's name removed from the roll of members of this court's bar. In all disciplinary proceedings, the certificate of conviction shall constitute conclusive proof of guilt. A judgment entered on a plea of guilty or nolo contendere shall constitute conviction.

P. ATTORNEY DISCIPLINED BY OTHER COURTS

1. Upon notice that any member of this court's bar has been disciplined by any state or other federal court, simultaneous and identical discipline shall be imposed by this court nunc pro tunc from the date of the other court's judgment. Within ten days of receiving letter notice of the automatic imposition of discipline, the attorney may show cause in writing why such discipline should not have been imposed.

2. It is presumed that any disciplinary action by another court against a member of this court's bar is appropriate, and the attorney has the burden to establish that this court should not impose simultaneous, identical punishment by proving, through clear and convincing evidence, that:

- a. the procedure was so lacking in notice or opportunity to be heard that it denied due process; or
- b. imposition by this court of the same discipline would result in grave injustice; or
- c. the kind of misconduct established has been held by this court to warrant substantially less severe discipline.

3. For purposes of these disciplinary rules, the term "state or federal court" includes without limitation all courts of the United States, its states, commonwealths, territories, and possessions.

4. An attorney whose license has been suspended may apply for reinstatement in accordance with D.C.COLO.LR 83.5 upon completion of the suspension.

Q. ATTORNEY UNDER INVESTIGATION RESIGNING FROM BAR OF ANOTHER COURT

1. 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 cease to be a member of this court's bar.

2. Upon receiving a certified copy of the order accepting such a resignation, the Disciplinary Panel shall order the name of the attorney who has thus resigned removed from the roll of this court's bar.

R. DUTY OF ATTORNEY TO NOTIFY COURT OF PENDENCY OF CRIMINAL OFFENSES

Every member of this court's bar and any attorney admitted pursuant to D.C.COLO.LR 83.5 C 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 ten days after the charge is filed.

S. PRECLUSION OF VISITING ATTORNEY FROM PRACTICE IN THIS COURT

An attorney found guilty of misconduct by another court, after having been permitted to appear pursuant to D.C.COLO.LR 83.5 C of these rules, may be precluded from continuing that special appearance and from appearing at the bar of this court in any other case.

T. MENTAL INCOMPETENCE OR DISABILITY

1. Mental Incompetence

Upon receiving proof that a member of this court's bar judicially has been declared incompetent or involuntarily committed to a mental hospital, the Disciplinary 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. Disability

Upon petition by the Committee on Conduct suggesting that a member of this court's bar is incapable of practicing law because of mental illness or substance abuse, the Disciplinary 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. Failure or refusal to submit to examination shall be prima facie evidence of disability. If the Disciplinary Panel concludes from the evidence that the attorney is disabled from practicing law competently, it shall order him or her suspended until further order. The Disciplinary Panel may provide respondent notice of the proceedings and may appoint an attorney to represent a respondent who is without representation.

3. 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 Disciplinary Panel shall order the respondent suspended from practicing law until there can be a determination pursuant to D.C.COLO.LR 83.6 T 2 of his or her capacity to practice law.

4. 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.LR 83.6 T 5 through T 8.

5. Reinstatement After Disability

- a. An attorney suspended for incompetency, mental illness, substance abuse, or other disability may apply to the Disciplinary Panel for reinstatement not more than once a year, or more frequently if the Disciplinary 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 Disciplinary Panel 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 may designate. The Panel 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 be reinstated upon proper proof of the latter declaration, under such conditions as the Disciplinary Panel may require.

6. Evidentiary Hearing

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

7. Waiver of Physician/Patient Privilege

Filing an application for reinstatement constitutes waiver of any physician-patient privilege with respect to any treatment of the attorney during the period of disability. 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 suspension and shall furnish the Disciplinary Panel written consent to obtain from these sources information and records requested by the Disciplinary Panel or its designated medical experts.

8. Orders Transferring

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

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

**

Civil Action No. _____

Plaintiff,

v.

Defendant.

(Title of Pleading)

** Space should be provided for the Court Filing Stamp in the upper right corner of the first page of each document.



APPENDIX B**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO****SCHEDULE OF FEES**

Filing civil complaint or notice of removal	\$150.00
Filing responsive pleading, motion, or third party pleadings	NONE
Jury fee	NONE
Certification of any document or paper	\$5.00
Certificate of judgment	\$5.00
Registering judgment from another district	\$20.00
Filing or indexing any paper <u>not</u> in a case or proceeding for which a case filing fee has been paid	\$20.00
Reproduction of any record or paper (per sheet)	\$.50
Duplicate certificate of admission/certificate of good standing	\$15.00
Admission of attorney to practice in U. S. District Court for the District of Colorado	\$60.00
Notice of Appeal	\$5.00
Docketing Notice of Appeal (to be paid together)	\$100.00
Witness fee per day	\$40.00
Witness mileage, round-trip (per mile)	\$.31
Retrieval from Federal Records Center	\$25.00
Tape recording of proceedings	\$15.00
Fee for returned check	\$25.00

12/18/96

