

**UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO
JUDGE EDWARD W. NOTTINGHAM
COURTROOM 14, TENTH FLOOR, ALFRED A. ARRAJ UNITED STATES COURTHOUSE
CHAMBERS A1041, TENTH FLOOR, ALFRED A. ARRAJ UNITED STATES COURTHOUSE**

PRACTICE STANDARDS — CRIMINAL

GENERAL INFORMATION

1. Counsel and unrepresented parties are expected to read and strictly observe the Federal Rules of Criminal Procedure, the current United States District Court for the District of Colorado Local Rules of Practice, and these Practice Standards — Criminal.

2. This is a summary of the procedures which I will use for motions, hearings, conferences, and trials in criminal cases. If you will take the time to read and follow the attached checklists and instructions, it will greatly assist me and my staff in providing you with a more effective and efficient opportunity to present your case.

3. **Do not deliver pleadings, motions, or correspondence to my chambers;** file all such materials directly with the clerk of the court in room A105. Rule 49.3L of the United States District Court for the District of Colorado Local Rules of Practice (Criminal) requires all such materials to be filed in duplicate — original for court file, copy for district judge, and the clerk several times each day delivers to my chambers all of the district judge's copies. If you are filing something which you think I need to see immediately, you may send a copy to my chambers by electronic mail. Adhere to the following rules:

- a. Send the electronic mail to NottinghamChambers@cod.uscourts.gov.
- b. Place the case number (and only the case number) in the "subject" or "re" line of the electronic mail.
- c. Put the title of the pleading, motion, or other paper in the body of the e-mail.
- d. Send the pleading, motion, or other paper as an attachment. The attachment should be in PDF, WordPerfect, or Rich Text Format (RTF), because I know I can retrieve those. Other formats may not work.
- e. As for attachments or exhibits to a pleading, motion, or paper, you're on your own. As a last resort, you might try scanning them. Do not ask me or the clerk's office to do so, however, because we don't have the staff or facilities. If I can retrieve and use the exhibits, I will do so; otherwise, I will just have to work with your paper (see next paragraph).

4. ***Nothing in the preceding paragraph relieves an litigant of the requirements of filing paper in compliance with the federal and local rules.*** I cannot waive those requirements.

5. If you want relief or action from the court, **you must, without exception, request the relief or action by a written motion, upon notice to all parties of record.** Do not expect that you can obtain action or

relief by a telephonic or other oral request to my secretary, courtroom deputy clerk, docket clerk, or any other person; it will gain you nothing, because their standing instructions are to direct that you file a motion.

6. If you have any questions, you may call my secretary, **Ms. Stacy Steinbrecher**, at (303) 844 5018, my courtroom deputy clerk, **Mr. Edward Butler**, at (303) 844 5018, or my docket clerk, **Ms. Elaine Quintana**, at (303) 335 2073. *The law clerks working with me are instructed that they may speak to counsel only pursuant to my specific instructions. Please do not call the law clerks on matters of any type.* Thank you for your cooperation in working with each other and with us to try to achieve the common objective of a fair trial of the issues in your case.

GENERAL INSTRUCTIONS FOR TRIAL, HEARINGS, OR CONFERENCES

1. ELECTRONIC COURTROOM TECHNOLOGY

a. Courtroom 14 is fully equipped with state-of-the-art courtroom technology. If properly used, this technology will improve the fact-finder's chances of understanding your case and shorten the time required for suitable presentation of the case. Proper use will require that you undertake an effort to learn about the technology and plan your pretrial discovery and document organization so as to take full advantage of the technology. The trial of all cases, not just the lengthy or the complex, will be improved by employing the technology.

b. The technology consists of the following components:

- videoconferencing cameras which will permit witnesses and/or parties to participate in a trial or hearing from a remote location
- an Elmo evidence camera, which will allow any item placed on the camera to be displayed on video screens in front of counsel, the witness, the jury, and the judge
- a video evidence presentation system which will allow the playing of videotaped depositions and the projection of exhibits imaged on a laptop computer onto video screens in front of counsel, the witness, the jury, and the judge
- realtime reporting ports which, at a minimum, will allow participants instantaneously to view a rough transcript of testimony
- infrared receivers and transmitters which will permit the wireless transmission of a recording or an interpreter's voice to any or all trial participants

c. Subject to objections which will be heard on a case-by-case basis, I require, in any instance where a party intends to offer more than ten documents at a trial or evidentiary hearing of any kind, that the party image on a CD-ROM all documents to be offered and tender the CD-ROM to each other party and the court. Thus, there is no longer any need to supply either (1) a copy of all exhibits for the use of the judge and each other party or (2) a copy for each juror of any exhibit which is to be published to the jury. Eventually, I envision a paperless presentation where the official record of paper exhibits in the case would be a CD-ROM. At least during a transition period, however, litigants **must** bring **one** hard copy to make the official record and to be used by jurors during deliberations.

d. Court staff will answer your questions and provide the training necessary to use the equipment. If and when a case is set for a trial or hearing, training will be ordered and scheduled as part of the trial preparation process. If, before your case is set for trial, you think you would like to learn about the equipment in order to organize and preserve discovery materials so as to take advantage of the equipment, we will attempt to schedule periodic general training sessions. Questions about use of realtime reporting, the various levels of realtime service available, and the charges for each level should be directed to **Ms. Therese Lindblom**, (303) 628 7877, the realtime court reporter who usually works with me. All other questions about the equipment or technology should be put to my courtroom deputy clerk, **Mr. Edward Butler**, at (303) 844 5018. Since this technology is new to us, we are happy to consider your ideas as to how better to use it for the purpose of achieving a fair result in each case.

e. The judge's copy of electronic exhibits should be prepared according to the "Technical Specifications for Submission of Judge's Electronic Copies of Trial Exhibits," a copy of which may be obtained from my staff or downloaded from the court's web site.

2. RECORDING OF PROCEEDINGS

a. The official record of all trials, conferences, hearings, and other proceedings before me will be taken either by electronic sound (audiotape) recording or by a realtime court reporter. Generally, you may anticipate that short, routine scheduling or pretrial conferences will be taken by electronic sound (audiotape) recording. Trials, evidentiary hearings, and the like will be taken by a realtime court reporter. If you need to know in advance of the proceeding which technology will likely be used, you may call the clerk's court services supervisor, **Ms. Charlotte Hoard**, (303) 335 2100. Regardless of which technology is used, there are a number of steps you can take to facilitate record taking in the courtroom (or at the conference table in chambers).

- Give your business card to the court recorder operator or realtime reporter before the proceeding begins.
- Give the court recorder operator or realtime reporter a complete list of the witnesses you will call during the proceeding, to facilitate correct spelling
- If any of your witnesses will present testimony containing unusual vocabulary, prepare a list of such correctly spelled names and terms for the court recorder operator or realtime reporter.
- Make certain that *verbal* responses are elicited from all witnesses or that some audible indication is made by you through the microphone.
- You will address the court, witnesses, and the jury from a lectern to which a microphone is attached. **Please be sure to speak directly into the microphone.** When you are stating an objection during any proceeding, the court expects you to rise and speak loudly enough to be heard by everyone in the courtroom.
- If there is a sidebar conference during a proceeding which is being recorded electronically, remember to speak directly into the sidebar microphone (which is not connected to the amplifier system).

b. The realtime reporter working with me is **Ms. Therese Lindblom**, (303) 628 7877. Transcripts of proceedings may be ordered from Ms. Lindblom, or Ms. Hoard (303) 335 2100. Cost of audiotapes and realtime services are established by the Judicial Conference of the United States. Requests for daily copy must be made at least ten (10) days before the trial or hearing date.

c. Two levels of realtime reporting are available:

i. **View Only**

At the request of any party, or on her own initiative, the realtime reporter will turn on computers and monitors recessed in counsel table and give brief instruction concerning annotation of realtime text by use of the CaseView Software installed on the system. This will permit you to view the unedited transcript and your annotations, but only while you

are present in the courtroom. There is no charge for this level of service.

ii. **Full Service**

Any party may bring a laptop computer or similar device and connect to realtime ports at counsel tables. You must furnish your own viewer/annotation software. You may view the realtime text, annotate it, and capture it for use outside the courtroom. There is a charge for this level of service, and that charge is set by the Judicial Conference of the United States. Further details can be obtained from Ms. Lindblom.

3. EXHIBIT LISTS. Please prepare an index of exhibits which you expect to offer, using the [attached form](#). A computerized version of the form (in WordPerfect version 9.0) can be obtained by delivering a 3½" diskette to my secretary or courtroom deputy clerk and asking for a copy of the form. The form is also the last page of both my Civil Trial Procedures and Criminal Trial Procedures posted on the court's web site, www.cod.uscourts.gov. Click first on the "United States District Court" button and then on the "Judges' Information" button to navigate to both sets of trial procedures. If you will provide two copies of this form for the court and a copy for opposing counsel, there will be no requirement to offer exhibits in sequence.

4. EXHIBITS. The ELECTRONIC COURTROOM TECHNOLOGY described earlier in these procedures will impact the preparation of exhibits. **Please read that section.** (Return to the section by clicking [here](#).) For real exhibits or paper copies of documents, exhibit labels can be obtained from the clerk's office before an evidentiary hearing or trial. Plaintiff's exhibits should be marked with the yellow labels, using numbers. Defendant's exhibits should be marked with the blue labels, and, to differentiate them from plaintiff's exhibits, the numbers should be preceded by the letter "A." (A-1, A-2, A-3 . . . A-1000, etc.) Additional parties should differentiate their exhibits using different alphabetical letters preceding the exhibit number. **Do not use double or triple letters.** The civil action number should also be placed on each of the exhibit stickers.

5. COPIES OF EXHIBITS. To facilitate the proceedings, it is expected that, if you intend to offer more than ten exhibits, copies of all exhibits will be placed on CD-ROM and that copies of the CD-ROM will be given to the court and counsel. Any publication to the jury will occur by means of the video evidence presentation system.

6. WITNESSES. Please provide the court with three copies of the list of your witnesses. One copy will be provided to the realtime reporter or recorder operator.

7. VOIR DIRE QUESTIONS, VERDICT FORMS, AND PROPOSED INSTRUCTIONS. I require the filing of jury instructions, voir dire questions, and verdict forms no later than the Trial Preparation Conference. There will also be an additional opportunity to submit proposed instructions during the trial, if those instructions could not be reasonably anticipated. **Written instructions will not be given to the jury, so the authority and/or source for an instruction should be noted on the original and all copies. Please number the proposed instructions – e.g., "Plaintiff's Instruction No. 1" – to facilitate reference to them during the instructions conference.**

8. WRITTEN CURRICULUM VITAE. In trial to the court, a written curriculum vitae, marked as an exhibit, will usually suffice for the qualification of an expert witness.

9. DEPOSITIONS. Counsel are reminded that, pursuant to Fed. R. Civ. P. 5(d), depositions, interrogatories, requests for production, requests for admissions, and the responses thereto, are not filed with the

clerk unless on special order of the court. The original deposition transcripts should be in the possession of the party to whom they were delivered and *must be brought* to the trial. You are requested to provide a person (who may be co-counsel) to read answers.

10. SPECIAL EQUIPMENT. If you intend to use any special equipment such as models, videotapes, movies, slides, or tape recorders, you are asked to call **Mr. Edward Butler at (303) 844 5018** to make appropriate arrangements.

11. MISCELLANEOUS MATTERS

a. During all proceedings, the courtroom deputy clerk will present the exhibits to the witnesses or assist you in putting them on the video screen. Instead of saying, "I hand you what has been marked as exhibit number one . . .", you may simply say, "Please look at exhibit number one . . ." and the exhibit will be placed before the witness or appear on the witness's video screen. You need not move from the microphone at the lectern. The courtroom deputy clerk will also control video display of the exhibits to the jury. An exhibit will not be displayed on the jurors' video screens unless (1) the exhibit has been received in evidence and (2) the examining counsel requests that it be displayed.

b. Counsel are ordinarily expected to rise when addressing the court or making an objection.

c. On the first day of trial, counsel are expected to be present, *ready to proceed*, at 8:45 o'clock a.m. If there is a variance from this time in a given case, you will be notified in advance and should take care to comply with that specific notice. On other days, trials ordinarily begin at 9:00 o'clock a.m., unless otherwise ordered in specific cases.

d. In cases where trial is expected to last more than four days, counsel should be aware that the trial week will ordinarily commence on Monday and end on Thursday. Hearings and conferences in matters other than the one being tried will be scheduled (1) on Fridays or (2) before the trial day commences. Criminal sentencings and arraignments will be held on Fridays.

OTHER PROCEDURES — CRIMINAL CASES

12. Pursuant to local criminal rule 57.1, magistrates in this district schedule and conduct arraignments by taking and entering pleas of not guilty. They also schedule and conduct discovery conferences, pursuant to local criminal rule 17.1.1. Unless otherwise permitted by the magistrate, for good cause shown, the discovery conference will occur within ten days of the date of arraignment.

13. In preparing for the discovery conference the parties will follow and complete the standard “Discovery Hearing Report” utilized in this district, copies of which are available from the criminal division of the clerk's office. At the discovery conference, the parties and the magistrate will review the report and determine discovery matters as to which there is no dispute. **At the conclusion of the conference, they will, by way of an Addendum to Discovery Hearing Report, specify those matters concerning which the parties have not reached agreement.**

14. No later than the discovery conference, the magistrate will, after consulting with the parties, decide whether the case is “protracted” or “routine.” This determination will govern further scheduling and handling of the case, as specified below.

15. Protracted Cases.

a. At the conclusion of the discovery conference, the parties should appear in my chambers to obtain from my secretary a date for an initial pretrial conference, pursuant to rule 17.1 of the Federal Rules of Criminal Procedure, if such a conference has not already been scheduled. Unless otherwise ordered, upon the filing of a written motion showing good cause, this conference will be set for a date not more than ten days after the discovery conference.

b. At the initial pretrial conference, the following matters may be considered:

- i. unresolved discovery or production issues;
- ii. deadlines and constraints imposed by the Speedy Trial Act, including the matters set forth in 18 U.S.C. § 3161(h)(8);
- iii. deadlines for completion of discovery and production, filing of motions, and hearing of motions;
- iv. other matters appropriately considered under rule 17.1.

c. Unless otherwise ordered, upon the filing of a written motion showing good cause, the parties will, in order to avoid subsequent discovery disputes during pretrial proceedings or at trial, sequentially mark each page of all documents produced during discovery (including witness statements, reports, documentary evidence, etc.) by means of a Bates stamp or similar marking system. They will likewise sequentially mark, label, or tag all tangible objects produced. The producing party will have the burden of notifying the other parties, in writing, concerning what documents or objects it is producing (*e.g.*, “documents numbered 1 through 100,000” or “objects numbered 1 through 150”), with specificity sufficient to facilitate a determination concerning whether a particular document or object is among those produced. The other party will have the burden of inspecting what has been produced, comparing it with what

the producing party claims to have produced, and promptly bringing discrepancies to the producing party's (and, if necessary, the court's) attention. Failure to satisfy these burdens will generally result in my drawing an inference adverse to the party bearing the burden, in the event of a dispute.

16. Routine Cases.

a. The magistrate will, in the Discovery Hearing Report, set deadlines for objecting to the discovery hearing and producing discovery materials which are not the subject of dispute. Unless I otherwise order, upon the filing of a written motion showing good cause, the date set for objecting to the discovery hearing and making discovery materials which are not the subject of dispute available to opposing parties will be not more than five days from the date of the discovery hearing.

b. At the conclusion of the discovery conference, the parties should appear in my chambers to obtain from my secretary dates and deadlines for the hearing of motions, changes of plea, and trial. If the parties have not reached agreement as to all pending discovery matters, that circumstance should be reported to my secretary as well. Those disputed matters will, unless otherwise ordered, be heard at 7:00 o'clock a.m. on the Thursday of the week following the week during which the discovery conference is held.

17. Motions. Every motion filed shall be supported by specific citation to relevant legal authority, either in the motion itself or in a contemporaneously filed brief. The moving party must also state whether, in that party's view, the court should hold an evidentiary hearing to resolve the motion and indicate the anticipated length of any such hearing. Any party opposing the motion must likewise state whether that party believes an evidentiary hearing is necessary and estimate the length of such a hearing. The parties should anticipate that hearings on motions will ordinarily be set on Fridays, if possible.

18. Changes of Plea. I strictly enforce the provisions of local criminal rule 11.1A and require that a notice of disposition be filed no later than fourteen days before the date on which trial is set to commence. In order to avoid last-minute uncertainty in the scheduling, travel, and appearance of trial witnesses and jurors in the event that the plea of guilty is not accepted, hearings on any disposition involving a guilty plea will ordinarily be set for the Friday before the week of trial. A copy of the "Plea Agreement and Statement of Facts Relevant to Sentencing" (*see* General Order 2002-3 [D. Colo. Jan. 16, 2002], attached as Appendix J to local rules) shall be delivered to my chambers no later than (a) 5:00 o'clock p.m. on the Wednesday preceding a Friday hearing or (b) forty-eight hours before any hearing which may, because of extraordinary circumstances, be scheduled at another time.

19. Trial Settings in Criminal Cases. My secretary will make every attempt to accommodate the schedules of the parties and counsel in setting criminal trials. Flexibility may be limited, however, by the constraints of the Speedy Trial Act and by long-established dates for the trial of civil cases, as to which I ordinarily give definite, first settings. In cases where there is an unavoidable conflict, I will vacate a previously set civil trial in favor of a criminal trial only where the conflict involves (a) a previously set trial in another court which is a "first" or otherwise definite setting or (b) an extraordinary or urgent circumstance which is brought to my attention and documented.

20. Sentencing. In preparing objections to the pre-sentence investigation report and/or sentencing statements, the parties will state whether an evidentiary hearing is required to resolve disputed matters and indicate the anticipated length of such a hearing.

21. Trial Preparation Conference. I will try to hold a Trial Preparation Conference the week before the trial is set to commence. It will be set as soon as it appears likely that the case will definitely go to trial. This is

counsel's opportunity to invite the court's attention to any problems which need to be resolved before trial commences or which may arise during the course of the trial.

22. In preparing for the Trial Preparation Conference, parties should follow the INSTRUCTIONS CONCERNING TRIAL PREPARATION CONFERENCE Use the attached form in preparing exhibit lists. Copies of both the instructions and the form may be obtained from my staff or the web site

CASE CAPTION _____ v. _____

EX. NO./LTR.	DESCRIPTION	STIP?	REC	REJ	RUL. RES.	COMMENTS
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List First Plaintiff's Exhibits by Number (1, 2, etc . . . 1000), First Defendant's Exhibits by Letter A (A-1, A-2, etc., . . .A-1000), Second Defendant's Exhibits by Letter B (B-1, B-2, etc., . . .B-1000), etc. Other parties in a multi-party case (including additional plaintiffs) should simply use an additional letter to designate the party and differentiate that party from others)

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INSTRUCTION NOTE TO USERS OF THIS FORM: Everything above the bottom of the double-underlined boxes constitutes a header. To complete the information in the header, you will need to edit it, by clicking on it or otherwise getting access to it. After exiting the header, you can start completing the exhibit list, which is simply a table. Place the cursor in the far-left cell for the first exhibit. The TAB button moves horizontally along the row and, at the end of a row, inserts a new row for the next exhibit. The form was created in WordPerfect Version 9 and probably works best in that program and format.