

**CIVIL PRACTICE STANDARDS**

**JUDGE CHRISTINE M. ARGUELLO  
UNITED STATES DISTRICT COURT  
DISTRICT OF COLORADO**

**Courtroom A602  
Alfred A. Arraj United States Courthouse**

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*The administration of justice is the  
firmest pillar of government.*  
– George Washington

**PRACTICE STANDARDS  
CIVIL ACTIONS  
Judge Christine M. Arguello, United States District Judge**

**I. PURPOSE AND RELATION TO OTHER RULES**

**A.** The following is a summary of the practice standards to be followed with respect to civil cases in which I am the presiding judge. These practice standards supplement the Federal Rules of Civil Procedure and Local Rules of Practice of the United States District Court for the District of Colorado. These practice standards shall apply to all motions, petitions, applications, responses, replies, objections, orders, and all other papers filed on or after **May 24, 2010**, and to all hearings and trials conducted on or after **May 24, 2010**. They may be revised without notice and may be modified by orders entered in specific cases. These practice standards have the force and effect of the orders of this Court.

**B.** Copies of the Local Rules are available at <http://www.cod.uscourts.gov/LocalRules/Rules.aspx>, from the District Court's home page (<http://www.cod.uscourts.gov>) under "United States District Court" at "Local Rules" and from the Clerk of the Court in **Room A105**.

**C.** Copies of these Practice Standards are available at <http://www.cod.uscourts.gov/Judges/Judges.aspx>, from the District Court's home page (<http://www.cod.uscourts.gov>) under "United States District Court" at "Judicial Officers' Procedures" and from the Clerk of the Court in **Room A105**.

**II. GENERAL PROCEDURES**

**A. Applicable Rules**

1. Those appearing in the District Court must know and follow:
  - a. The Federal Rules of Civil Procedure;
  - b. The Federal Rules of Evidence;
  - c. The Local Rules of Practice of the United States District Court for the District of Colorado; and
  - d. The Electronic Case Filing Procedures.
  
2. Failure to comply with the foregoing rules and procedures and the Practice Standards of this Court may result in the imposition of appropriate sanctions, including, but not limited to, striking noncomplying papers, vacating hearings or trials, or dismissing claims or the action, with or without prejudice.

## **B. Communications With Chambers**

1. For information about the status of a motion or document, please use the CM/ECF system available at <https://ecf.cod.uscourts.gov>, or at <http://www.cod.uscourts.gov/PACER.aspx>, or from the District Court's home page at <http://www.cod.uscourts.gov> under "United States District Court" at the link for "PACER."
2. My Courtroom Deputy is **Valeri Barnes**. Please direct any questions concerning exhibits or courtroom equipment to her at **303-335-2087**. Counsel should schedule times with Ms. Barnes before a hearing or trial to familiarize themselves with the courtroom's technology.
3. My official Court Reporter is **Darlene Martinez**. Transcripts may be ordered directly from her at **303-335-2312**.
4. My Judicial Assistant is **Lee Ross**. We are sensitive to the anxieties of trial practice and we hope to minimize apprehension about local practices. If you have any questions, you may contact Ms. Ross at **303-335-2174**.

## **C. Service By Electronic Means**

1. **With the exception of those proposed orders permitted in the local rules, do not send documents directly to chambers unless requested by the Court to do so.**
2. When directed by Local Rules or these Practice Standards to submit a document directly to Chambers, *e.g.*, proposed orders, jury instructions, *voir dire* questions, etc., parties should submit documents as an e-mail attachment addressed to: [arguello\\_chambers@cod.uscourts.gov](mailto:arguello_chambers@cod.uscourts.gov). Documents submitted directly to Chambers in this manner should **NOT** be filed with the Clerk of Court using CM/ECF. Documents submitted to Chambers should be in Word Perfect 12 or MS Word format. **PDF format is not acceptable for documents submitted to Chambers.** The subject line of the e-mail message should identify the case name, number and the title of the document attached. Document formatting for documents submitted to Chambers, *e.g.*, typeface, margins, spacing, etc., should follow this Court's Local Rules and Practice Standards.

## **D. Settlement**

1. Settlement discussions are encouraged at all phases of the litigation process, especially early on.
2. If a settlement of a contested motion or a matter to be tried to the court or to a jury is reached before the hearing or trial, please immediately advise **Lee Ross (303-335-2174)**. A motion hearing or trial will be vacated only upon filing of pleadings sufficient to resolve the matter (*e.g.*, motion or stipulation, and

proposed order). If counsel and any *pro se* party are unable to file the appropriate documents prior to the hearing or trial, counsel and any *pro se* party shall appear as scheduled to recite the settlement terms on the record.

#### **E. Partial Case Settlement/Dismissal**

1. If fewer than all claims, counterclaims, cross-claims, defenses, or parties are resolved or dismissed by settlement, then the Court shall be notified promptly, and the notice of settlement and any paper requesting approval of the partial settlement or dismissal shall specify the claims, counterclaims, cross-claims, defenses, or parties which have been settled or dismissed and those which remain contested.

### **III. MOTIONS PRACTICE**

#### **A. Page Limitations and Citations**

1. Except motions for summary judgment, all other motions, objections (including objections to the recommendations or orders of United States Magistrate Judges), responses, and briefs shall not exceed **fifteen pages**. Motions and briefs shall be combined and will be considered one paper for purposes of computing page limitations. Replies shall not exceed **ten pages**. These page limitations include the cover page, jurisdictional statement, statement of facts, procedural history, argument, authority, closing, signature block, and all other matters, except the certificate of service. Upon appropriate motion, permission to file a brief of greater length may be granted in cases of extraordinary complexity.

2. Citations shall be made pursuant to the most current edition of **THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION** (currently the 18th ed. 2005).

3. General references to cases, pleadings, depositions, or documents are insufficient if the document is more than one page in length. Whenever possible, specific references in the form of pinpoint citations shall be used to identify relevant excerpts from a document.

4. Whenever practicable, a citation to an unpublished opinion should include its Westlaw® citation.

5. These Practice Standards should be cited as CMA Civ. Practice Standards, Section, Subsection, Paragraph, Subparagraph, and Sub-subparagraph (e.g., CMA Civ. Practice Standards III.A.5.).

#### **B. Typeface**

1. All papers filed with the Court by anyone other than a judicial officer shall be in Arial 12 point font (exclusive of footnotes and endnotes which should be in Arial 11 point font).

**C. Continuances of Hearings and Trials**

1. Motions to continue are strongly discouraged because of the adverse effects they have on case management. Motions to continue shall be submitted to the Court as far in advance as possible of the matter to be continued. Oral or written motions to continue made at the time of a hearing or trial are unacceptable. Motions to continue (including motions to vacate or reset) hearings and trials shall be determined pursuant to D.C.COLO.LCivR 6.1 and 7.1 and *United States v. West*, 828 F.2d 1468, 1469-70 (10th Cir. 1987). Stipulations for continuance shall not be effective unless and until approved by the Court.

**D. Motions for Extensions of Time**

1. Motions for extension of time will be granted only upon a showing of good cause (agreement by counsel **does not** constitute good cause) and only if the extension of time does not adversely affect case management. Unless the circumstances are truly **unanticipated and unavoidable**, the following do not constitute good cause: inconvenience to counsel or the parties; press of other business; and scheduling conflicts (especially when more than one attorney has entered an appearance for a party).

2. Any motion for extension of time shall be filed no later than **three (3)** business days prior to the date the motion, response, reply, or other paper to which the extension applies is due.

3. This practice standard is subject to D.C.COLO.LCivR 6.1A, which governs extension by stipulation.

**E. Motions Hearings** – Motions may be determined without a hearing or may be set for an evidentiary hearing or oral argument, or set for a law and motion hearing. Law and motion hearings are intended to hear brief oral argument or to set appropriate preparation deadlines for an evidentiary hearing.

**F. Special Instructions Concerning Motions To Dismiss** – All motions to dismiss shall state in the title or in the opening paragraph under which rule or subsection thereof such motion is filed.

**G. Special Instructions Concerning Motions for Summary Judgment**

1. These procedures contemplate the filing of a single motion for summary judgment by a party. A party may **NOT** file multiple motions for summary judgment without obtaining permission from the Court. Such permission will only be given in exceptional circumstances. However, motions for partial summary judgment, especially those which narrow the issues to be tried, are **NOT** discouraged by the Court.

2. Motions and response briefs shall not exceed **twenty pages**. Reply briefs shall not exceed **ten pages**. These page limitations shall include the motion for summary judgment, cover page, jurisdictional statement, statement of facts, procedural history, argument, closing, signature block, and all other matters, except the certificate of service. If a party elects to file more than one Rule 56 motion, then the motions and response briefs shall not exceed **twenty pages** total for all such motions (not each such motion) filed by that party. Upon appropriate motion, permission to file a brief of greater length may be granted in cases of extraordinary complexity.

3. The statement of fact sections described below are intended to set forth only **material** facts which are not in dispute. Excessive or prolix statement of facts sections will be **stricken**.

4. All motions for summary judgment must contain a "Statement of Undisputed Material Facts." This Statement shall set forth in simple, declarative sentences, which are separately numbered and paragraphed, each material fact which the movant believes is not in dispute and which supports movant's claim that movant is entitled to judgment as a matter of law. Each separately numbered and paragraphed fact must be accompanied by a specific reference to material in the record which establishes that fact.

5. Any party opposing the motion for summary judgment shall provide a "Response to Undisputed Material Facts" in its brief, admitting or denying the asserted material facts set forth by the movant. The admission or denial shall be made in paragraphs numbered to correspond to movant's paragraph numbering. Any denial shall be accompanied by a brief factual explanation of the reason(s) for the denial and a specific reference to material in the record supporting the denial.

6. If the party opposing the motion believes that there are additional disputed facts which have not been adequately addressed in the submissions made pursuant to this Section (for example, disputed facts concerning an affirmative defense), the party shall, in a separate section of the party's brief styled "Statement of Additional Disputed Facts," set forth in simple declarative sentences, separately numbered and paragraphed, each additional material disputed fact which undercuts movant's claim that movant is entitled to judgment as a matter of law. Each separately numbered and paragraphed fact shall be accompanied by specific reference to material in the record which establishes the fact or at least demonstrates that it is disputed.

7. If a reply brief is filed pursuant to D.C.COLO.LCivR 56.1, it shall contain:

- a. A separate section titled "Reply Concerning Undisputed Facts," containing any factual reply which movant cares to make regarding the facts asserted in movant's motion to be undisputed. Any such factual reply shall be made in separate paragraphs numbered

according to movant's motion and the opposing party's response and shall be supported by specific references to material in the record.

- b. A separate section titled "Response Concerning Disputed Facts" admitting or denying the disputed material facts set forth by the opposing party pursuant to Section III.G.5 above. The admission or denial shall be made in paragraphs numbered to correspond to opposing party's paragraph numbering. Any denial shall be accompanied by a brief factual explanation of the reason(s) for the denial and a specific reference to material in the record supporting the denial.

8. The sole purpose of these procedures is to establish facts and to determine what facts are in dispute. Legal argument is not permitted here and should be reserved for separate portions of the briefs. For example, if it is believed that an established fact is immaterial, that belief should be expressed in the part of the brief that is devoted to legal argument, and the fact should be admitted. If, conversely, it is believed that the reference to material in the record does not support the claimed fact, that factual argument may appropriately be made in this section.

#### **H. Motions *In Limine*, Motions Under Fed. R. Evid. 702, and Trial Briefs**

1. Motions *in Limine* are **NOT** discouraged by the Court. Parties should keep in mind that admissibility or inadmissibility of particular evidence often depends upon the context in which the evidence is offered, so the Court may be unable to rule on the Motion in Limine prior to trial. However, if the Court is forewarned about particular evidentiary disputes that are anticipated to arise during the course of the trial, the Court is much more likely to be able to make a more informed ruling on the evidentiary issue.

2. Parties should bear in mind that motions under Fed. R. Evid. 702 may require additional time for the Court to fully analyze. Thus, parties should file such motions as early as is practicable.

3. In order for the Court to be in a position to address Motions *in limine* at or before the Final Trial Preparation Conference, such motions should be filed sufficiently in advance of the date of the Final Trial Preparation Conference or the Trial that the motion is ripe for adjudication prior to the Final Trial Preparation Conference or Trial date.

4. Similarly, Trial Briefs are **NOT** discouraged by the Court. However, parties wishing to file trial briefs should keep in mind that the Court has a busy docket, so the earlier the Trial Brief is filed, the more likely the Court will have had time to read it prior to trial.

## IV. COURTROOM PROCEDURES

**A. Court Appearances** – Court time is valuable to litigants, counsel, and court staff. The Court expects counsel and parties to be prompt and prepared when they appear for a conference, hearing, or trial. If a scheduled matter is called for hearing and a party or a party's counsel is not present, the matter may be moved to the end of the docket, reset for hearing, a default entered, sanctions imposed, or other orders entered as appropriate. If a party is not prepared as required by the order setting the hearing, the matter may be reset without deference to the parties' needs; the request for relief, defense(s), or objection(s) may be denied; or other sanctions imposed. Unless otherwise directed, all matters will be heard in Courtroom A602 located on the sixth floor of the Arraj Courthouse. Matters heard by a Magistrate Judge will be in the courtroom assigned to that Magistrate Judge.

### **B. Courtroom Organization and Protocol**

1. The Court is punctual and counsel and parties are expected to arrive at least ten minutes before scheduled hearing. **Turn off all cell phones and pagers before entering the courtroom.** If an attorney's tardiness delays the scheduled time of a proceeding or if an attorney's cell phone or pager goes off during proceedings, the Court is likely to give counsel the opportunity to perform needed public service through a *pro bono* assignment.
2. No soda, coffee or food is allowed in the courtroom. Water bottles are permitted, and water and cups are provided.
3. Counsel and represented parties are seated at the front tables closest to the bench, with plaintiff seated at the table closest to the jury box. Support staff should be seated at the tables directly behind counsel. There is one lectern in the courtroom from which attorneys will address the Court, witnesses, and the jury.
4. In jury trials, bench conferences are strongly discouraged and will be minimized. Matters that may otherwise justify a bench conference should be raised either before or after the trial day or during a break.
5. The administration of an oath or affirmation is a solemn public ritual and an integral part of any judicial proceeding. Any public oath-taking administered to witnesses, interpreters, and Court Security Officers **requires the undivided attention of counsel as well as all others in the courtroom.**
6. Please observe courtroom decorum, e.g., dress appropriately, rise to address the Court and request permission to approach the bench and any witness.
7. Please advise the Courtroom Deputy of any late or anticipated filings to ensure that all necessary documents are present during a hearing or trial.

8. As a matter of courtesy, it is the Court's policy that everyone stand when the jury enters or leaves. (EXCEPTION: Do not stand for the jury panel members as they come into the courtroom initially for jury selection.)

9. As a sign of respect for the institution, you will refer to the judge as "Your Honor" or "the Court." Please refer to all other persons by their surnames, prefaced by Mr. or Ms., unless referencing a quote in which only a first name was used or where a surname cannot be recalled. You may refer to physicians as "Doctor," and law enforcement officials as "Agent," "Officer," "Detective," etc., as appropriate.

10. If you have a question about courtroom protocol, contact the Courtroom Deputy, **Valeri Barnes (303-335-2087)**.

### **C. Recording of Proceedings**

1. The official record of all trials and proceedings will be taken by either electronic sound recording (audiotape) or by a realtime reporter. Prior to the beginning of any proceeding, please provide the Courtroom Technician, if any, or Court Reporter with your business card.

2. The realtime reporter assigned to the Court is **Darlene Martinez**. Copies of forms to be filed that relate to transcripts should be mailed to Darlene Martinez, Court Reporter, U.S. District Courthouse, 901 19th Street, Denver, Colorado 80294. If counsel requires special services such as daily copy or real time, they should make such request **at least 2 weeks in advance of the trial or hearing date**.

**D. Exhibits** – Each party should follow the following procedures regarding exhibits they intend to use during evidentiary hearings and trials. Exhibits not prepared before an evidentiary hearing or trial may not be admitted. See *also* CMA Civ. Practice Standards V.F.

1. The Court **REQUIRES** counsel to meet and confer **at least two (2) weeks** before an evidentiary hearing and the Final Trial Preparation Conference to prepare a **joint** list of exhibits that they expect to offer. The parties must stipulate to the authenticity and admissibility of as many exhibits as possible, marking the appropriate boxes on the attached Exhibit List form. If the parties are unable to reach a stipulation as to authenticity and admissibility of any exhibit(s), the party opposing the admission of the exhibit(s) is **required** to file his/her written objections (this is a separate document from the "objections" specified in the Exhibit List form) specifying the supporting legal authority for the opposition to each such exhibit **no later than one (1) week before** the evidentiary hearing or the Final Trial Preparation Conference. The Proponent of the exhibit shall file his/her response to the objections **no later than three (3) days before** the evidentiary hearing or the Final Trial Preparation Conferenc.

2. **Marking of Exhibits** – The parties should pre-mark all exhibits numerically with the exhibit label also including the appropriate case number.
3. The exhibits should be bound in three-ring notebooks or folders. The exhibit notebook or folder should include all exhibits that the parties plan to use or introduce, including those that are stipulated, contested, and demonstrative. The notebook or folder should be labeled with the following information: (i) case caption and number, and (ii) “original” or “copy.” Pages of multi-page exhibits must be numbered consecutively to avoid having the pages separated or omitted.
4. **Two exhibit notebooks**, one containing the original exhibits and one containing a copy of the exhibits in proper sequence, shall be delivered to the Courtroom Deputy before commencement of the hearing or trial.
5. The Courtroom Deputy will place the original exhibit notebook(s) in the witness box. Thus, when asking a witness to look at an exhibit, counsel or a *pro se* party may simply say, “Please look at Exhibit No. \_\_\_ in the notebook in front of you,” and the witness will be able to refer to the exhibit in the Original Exhibit Notebook.
6. In addition to exhibit notebooks/folders for the Court and witness, counsel should provide copies of its marked exhibits to the opposing party.
7. Demonstrative exhibits and documents used to refresh memory must also be marked.
8. All exhibits are to be displayed on the Elmo and must fit on the Elmo. No over-sized exhibits are to be used **unless requested by prior motion and approved by the Court.**
9. **Trial Exhibit Lists** – for trials, each party should follow the procedures described in CMA Civ. Practice Standards V.F.

#### **E. Witnesses**

1. Parties should have witnesses ready to testify in order to expedite the hearing or trial.
2. **Trial Witness Lists** – for trials, each party should follow the procedures described in CMA Civ. Practice Standards V.G.

#### **F. Depositions** – The use of depositions in Court proceedings is governed by Fed. R. Civ. P. 32 and the following procedures.

1. **At the beginning of a hearing or trial, a party shall deliver to the Courtroom Deputy the original transcripts of all depositions the party intends to use.** To allow the Court to better rule on any objections to deposition testimony,

the offering party should also provide the Court with a notebook containing copies of any deposition transcripts to be used with tabs that identify the relevant depositions.

2. If the parties intend to offer deposition testimony in lieu of a live witness at trial, the parties must provide the Court with copies of their respective page and line designations and cross-designations pursuant to the schedule set forth below.

3. Initial designations of deposition testimony, with specific page and line designations, must be submitted by the offering party directly to Chambers, with a copy to opposing counsel, **no later than three (3) weeks before** the Final Trial Preparation Conference. Counter-designations must be submitted by the offering party directly to Chambers, with a copy to opposing counsel, **no later than two (2) weeks before** the Final Trial Preparation Conference. Objections to any properly designated portion of a deposition shall be submitted directly to Chambers, with a copy to opposing counsel, **no later than one (1) week before** the Final Trial Preparation Conference. Designations, counter-designations and objections should **NOT** be filed using CM/ECF. Rather, per Section II.C.2 above, these documents should be submitted as an e-mail attachment addressed to: arguello\_chambers@cod.uscourts.gov.

4. Objections shall be presented in a table that has four columns (see sample table below): 1) item number; 2) testimony (identified with specificity, *i.e.*, by page(s) and line(s)); 3) objection; and 4) ruling. **No later than two (2) weeks before** the Trial, the parties may also file legal briefs in support of any designations which are objected to and in support of any objections being made. The Court will attempt to resolve disputes regarding the admissibility of properly designated deposition testimony prior to trial to facilitate appropriate redaction.

Item #	Testimony	Objection	Ruling
1.			

5. In a jury trial, the proponent of the deposition testimony must provide a person to read the deponent's answers.

6. For bench trials, depositions will not be read in open court. Instead, the Court will read them in chambers in any requested sequence. The offering party should provide the Court with a notebook containing copies of any deposition transcripts to be used with tabs and highlighting (plaintiff in yellow and defendant in blue) that identify the designated testimony.

## G. Videotape Depositions

1. The use of videotaped depositions in Court proceedings is governed by Fed. R. Civ. P. 32 and these Procedures.

2. Evidence to be presented by videotaped deposition shall be designated with as much specificity as possible.
3. The use of videotape depositions will generally follow the timelines and procedures noted above for written depositions. Designations and objections should be marked in the same format as described above, using a copy of the written transcript.

**H. Special Equipment (Audio/Video)** – The Court has audio, video, evidentiary presentation and other special equipment that may be used by the parties. A listing of available equipment can be found on the District Court’s website at <http://www.cod.uscourts.gov/Judges/Judges.aspx>, under “Courtroom Technology Manual for Attorneys.” Parties should notify the Courtroom Deputy, **Valeri Barnes (303-335-2087)**, no later than **two (2) weeks** before a hearing or trial of the date and time if they need such equipment or need equipment to be brought through security for use in the courtroom.

## V. TRIALS

**A. Final Pretrial Conference** – Unless otherwise ordered by the Court, Final Pretrial Conferences will be conducted by the Magistrate Judge assigned to the case.

**B. Trial Settings** – The case will be set for trial immediately following the Final Pretrial Conference. Unless otherwise instructed by the Magistrate Judge, counsel and *pro se* parties shall report to this Court’s Chambers (Room A638 located on the sixth floor) immediately following the Final Pretrial Conference to set the case for trial and for a Final Trial Preparation Conference. See D.C.COLO.LCivR 16.1.

**C. Length of Trial** – Should the parties request a **trial lasting longer than five (5) days**, before a trial date can be set, counsel and/or *pro se* parties shall report to this Court’s Chambers following the Final Pretrial Conference to set a status conference date, at which time the parties may present argument to the Court as to why a trial longer than five days is necessary.

**D. Final Trial Preparation Conference** – The Court will preside over the Final Trial Preparation Conference which will be scheduled **approximately three (3) weeks** before trial. Counsel who will try the case must attend the Final Trial Preparation Conference. At this conference, counsel and/or any *pro se* party should raise outstanding issues for the Court. The parties should anticipate discussing witnesses, exhibits, *voir dire*, jury instructions, verdict forms, and outstanding motions or issues.

### **E. Trials**

1. **Bench Trials** usually begin at 9:00 a.m. and counsel and/or *pro se* parties should be present to check in with the Courtroom Deputy at 8:30 a.m.

2. **Civil Jury Trials** normally begin on Mondays at 1:30 p.m., unless otherwise specified by the Court. Counsel should be present **one-half hour before** the scheduled trial time to go over any last minute preparation that may be necessary. Jury selection will begin as close to 1:30 p.m. as possible. Subsequent trial days will normally begin at 9:00 a.m. and continue until 4:30-5:00 p.m. A lunch recess of approximately 75 minutes will usually begin between noon and 12:30 p.m. A mid-morning and mid-afternoon break of approximately 15 minutes will be taken.

**F. Exhibit Lists** (See *also* CMA Civ. Practice Standard IV.D.)

1. **Stipulated Exhibits** – The Court requires counsel to meet and confer **no later than two (2) weeks before** the Final Trial Preparation Conference to prepare a joint list of exhibits that they expect to offer. See Section IV.D.1, *supra*.

2. **Exhibit Lists** – Using the form provided with this Court’s Practice Standards on the District Court’s home page, the parties should e-mail their joint proposed Exhibit List directly to Chambers (arguello\_chambers@cod.uscourts.gov) **no later than one (1) week before** the Final Trial Preparation Conference.

3. On the first day of trial, the parties shall provide the Courtroom Deputy with **three (3) paper copies** of the final list of exhibits. The Court does not require that exhibits be offered in sequence.

4. **There will be no juror notebooks of exhibits.** Jurors will deliberate with the admitted exhibits in the original exhibit notebook(s).

5. **Before trial**, all exhibits should be marked and organized as described above in Section IV.D.

**G. Witness Lists**

1. **No later than one (1) week before** the Final Trial Preparation Conference, each side must submit to Chambers a list of its proposed witnesses (using the form listed with this Court’s Practice Standards on the District Court’s home page; see Section I.B. above). The parties should **NOT** file this list using CM/ECF, but should e-mail the witness list directly to Chambers e-mail address as an attachment.

2. Prior to commencement of trial, each party shall provide the Courtroom Deputy with **three (3) paper copies** of a final list of its witnesses and include an estimate of the time anticipated for the witnesses’ testimony. One copy will be made available to the Court Reporter to assist her in the transcription of Court proceedings, so please be sure that names are spelled correctly.

**H. Trials To Court**

1. Unless otherwise ordered by the Court, **not less than two (2) weeks after trial**, each party shall file proposed findings of fact, conclusions of law, and

proposed orders. The parties should state their proposed findings of fact as nearly as possible in the same order as their anticipated order of proof at trial. The parties should focus their closing arguments on the evidence on which they rely to support their positions.

2. For a trial to the Court, a proper resumé or *curriculum vitae*, marked and introduced as an exhibit, generally will suffice for the determination of an expert witness' qualification.

## I. Jury Trials

1. **Jury selection** – In accordance with Fed. R. Civ. P. 47(a) and (b), the Court will use the following jury selection process:

a. The jury in a civil matter shall consist of ten (10) jurors with no designated alternates.

b. Prior to the jurors being brought up to the Courtroom, the Clerk's office will provide the Court with a list of juror names in an order that was randomly selected by a computer program used by the Clerk's office. The **first sixteen (16)** prospective jurors on the list will be seated in the jury box.

c. *Voir dire* will be conducted by the Court and counsel and will be directed to those sixteen prospective jurors seated in the jury box.

d. The Court will conduct *voir dire* first. Any juror excused by the Court for hardship will be replaced by the next numerically identified prospective juror in the jury pool who has not already been seated in the jury box, e.g., if juror number 7 is the first juror excused, then juror number 17 will replace juror number 7. Following the Court's *voir dire*, each party will be permitted fifteen minutes for *voir dire*, as described below.

e. After *voir dire* is completed, the Court will entertain challenges for cause. Any juror excused for cause will be replaced by the next numerically identified prospective juror in the jury pool who has not already been seated in the jury box. *Voir dire* of any replacement jurors shall be conducted by the Court.

f. Pursuant to Fed. R. Civ. P. 47(b) and 28 U.S.C. § 1870, each party is entitled to three peremptory challenges which shall be exercised in alternating fashion beginning with Plaintiff.

g. Peremptory challenges shall be made using a strike sheet.

h. *Batson* challenges are to be made at the conclusion of the exercise of peremptory challenges immediately prior to the jury being seated and sworn.

2. ***Voir dire***

a. **No later than one (1) week before** the Final Trial Preparation Conference, the parties shall submit their proposed *voir dire* questions to Chambers (arguello\_chambers@cod.uscourts.gov), with a copy to opposing counsel, in Word Perfect format (or MS Word format). Parties should **NOT** file their proposed *voir dire* questions on the CM/ECF system. All proposed *voir dire* questions must be written in a format that can be asked of the jury panel as a whole, *i.e.*, the question must be able to be answered either “yes” or “no.”

b. Unless ordered otherwise, each side will have *voir dire* examination of **fifteen (15) minutes** following *voir dire* examination by the Court. Such *voir dire* examination shall be limited to questions submitted by the parties and follow-up questions based on previous answers.

3. **Jury instructions and verdict forms**

a. **PLEASE NOTE:** The Court has developed standard preliminary and final jury instructions (see link to “Preliminary Jury Instructions - Standard Civil” and “Final Jury Instructions - Standard Civil”) dealing with instructions that are generic to all cases. These are the standard instructions that will be used at trial and the parties need not submit instructions covering these issues. If the parties wish to modify or add to the Court’s Standard Instructions, the parties should follow the instructions set forth in paragraphs b-g below. With respect to nonstandard instructions which the parties wish to have submitted to the jury, to the maximum extent possible, the parties shall agree on one stipulated set of proposed jury instructions. Only true conflict or uncertainty in binding substantive law should prevent such agreement. The Court generally follows the form of instructions on substantive legal claims contained in the most current editions of the FEDERAL JURY PRACTICE AND INSTRUCTIONS (federal claims and introductory instructions) and the COLORADO JURY INSTRUCTIONS – CIVIL (state claims).

b. The Court contemplates **three categories of jury instructions and/or verdict forms**, which are described below. Each category of instruction and/or form must be submitted directly to Chambers, with a copy to opposing counsel, via e-mail attachment in Word Perfect (or MS Word) format **no later than two (2) weeks before** the Final Trial Preparation Conference. The purpose of submitting the instructions in Word Perfect format is to allow the Court to edit the proposed instructions as necessary. Parties should **NOT** file their proposed instructions and/or verdict forms on the CM/ECF system.

c. **Stipulated Instructions** – The parties shall meet and confer well in advance of the Final Trial Preparation Conference and stipulate to the form

of verdict and as many proposed jury instructions as possible. The parties shall exchange their proposed jury instructions and verdict forms at least one (1) week before this meeting. It is the responsibility of Plaintiff's counsel (if Plaintiff is *pro se*, it shall be the responsibility of Defendant's counsel) to schedule the meeting(s) and to submit the stipulated jury instructions and verdict form directly to Chambers' e-mail address, with a copy to opposing counsel/party. In order to assist the Court in distinguishing between the various instructions submitted, stipulated instructions should contain the word "STIPULATED" at the bottom of each stipulated instruction immediately preceding the legal authority for the instruction. There should be no duplication of stipulated instructions or verdict forms, *i.e.*, if the parties stipulate to a particular instruction or verdict form, then that instruction should be submitted as stipulated only, and no similar instruction or verdict form should appear in any party's competing or non-stipulated instructions.

d. **Competing Instructions** are those instructions and verdict forms about which all parties agree that an instruction or form is necessary, but disagree about the wording of the instruction or form. In order to assist the Court in distinguishing between the various instructions submitted, at the bottom of each competing instruction immediately preceding the legal authority for the instruction, competing instructions should identify the party tendering the competing instruction and the fact that it is a competing instruction, *e.g.*, "Plaintiff's Competing Instruction" or "Defendant's Competing Verdict Form."

e. **Non-Stipulated Instructions** are those instructions and verdict forms requested by a party (or parties) to which any other party objects, but does not request/tender a competing instruction or verdict form. In order to assist the Court in distinguishing between the various instructions submitted, at the bottom of each non-stipulated instruction immediately preceding the legal authority for the instruction, non-stipulated instructions should identify the party tendering the competing instruction and the fact that it is a non-stipulated instruction, *e.g.*, "Plaintiff's Non-Stipulated Instruction" or "Defendant's Non-stipulated Instruction."

f. With respect to competing or non-stipulated instructions, the Court expects that, with the submission of such instructions, each party will provide the Court with brief legal argument and citation to the legal authority upon which that party relies for the instruction tendered. Each party may file a brief or memorandum with objections to another party's competing and/or non-stipulated instructions and verdict forms **no later than one (1) week before** the Final Trial Preparation Conference.

g. **Format of proposed jury instructions and verdict forms:**

i. Each proposed instruction and verdict form should contain a title, which shall be centered in bold, all caps typeface on the top of the page corresponding to the instruction, *e.g.*,

**INSTRUCTION NO.  
ELEMENTS OF OFFENSE**

Proposed instructions should **NOT** be numbered.

ii. Each proposed instruction and verdict form should contain citations to authority supporting its use.

iii. Proposed instructions and verdict forms should be submitted with hard page breaks between each separate instruction and verdict form.

iv. **Stylistic conventions** – When referring to this Court in the body of the instructions, always capitalize the word “Court.” In addition, do not use articles when referring to the parties. Do capitalize the parties. The preferred format is: “Plaintiff Jones” or “Defendant Smith,” rather than “the Defendant” or “plaintiff Jones.” Please proofread submissions carefully.

h. **Jury instruction conference:** Assuming the parties are cooperating in good faith and have reached stipulations as to many of the instructions, the Court attempts to finalize the proposed instructions and provide them to the parties prior to the start of trial. The Court will hold a charging conference before the case goes to the jury. At the charging conference, the Court will review the proposed final instructions and verdict forms with the parties and they will have an opportunity to request changes to the proposed instructions and to state their objections to the final instructions on the record. The Court will address unanticipated matters that arise during trial and that require changes to the jury instructions at the charging conference or after the close of evidence.

i. The Court will consider only those jury instructions and verdict forms tendered using the procedures described above. Court staff will prepare a final, clean set of instructions and verdict form for the jury.

j. Unless otherwise ordered by the Court, jurors will be permitted to take notes during the trial. The Court will instruct the jury before closing argument. Each juror will be given a copy of the written jury instructions for his/her use and consideration during deliberations.

4. **Miscellaneous trial matters**

a. **Sequestration Order** – Sequestration orders should be strictly observed. Expert witnesses may not observe trials in which sequestration orders have been entered except with express prior authorization. Witnesses should not be “prepped” or their testimony reviewed during breaks after they have been sworn in. Witnesses who have not yet testified at trial should not be provided transcripts of trial proceedings. However, they may be prepared by asking them questions based upon hypothetical. Once excused, witnesses may sit in the courtroom, unless a party has a good faith belief that the witness will be called again for rebuttal purposes and makes an ongoing exclusion request with the Court.