

<b>DISTRICT COURT, CITY AND COUNTY OF DENVER COLORADO</b>  <b>Address: City and County Building 1437 Bannock Street Denver, CO 80202</b>	<b>▲ COURT USE ONLY ▲</b>
<b>Plaintiff(s): ,</b>  <b>v.</b>  <b>Defendant(s): .</b>	<b>Case Number:</b>  <b>Courtroom: 215</b>
<b><u>PRETRIAL ORDER</u></b>	

**I. CIVILITY**

1. This Court is, first and foremost, a civil court. In accordance with the Preamble to the Colorado Rules of Professional Conduct, attorneys are not only representatives of clients, but are also officers of the legal system and public citizens having special responsibility for the quality of justice. Preamble [1]. Attorneys may not use the law's procedures for illegitimate purposes or to harass or intimidate others. Preamble [5]. Attorneys are expected to demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. Preamble [5].
2. The Court therefore expects civility among counsel at all times, both in and outside of the courtroom.
  - a. The Court will not tolerate rudeness, aggressive tactics, or personal attacks in the course of the case.
  - b. Counsel and parties are expected to treat the Court, opposing counsel, parties, witnesses, jurors and the court staff with courtesy and respect at all times. This applies to all conduct and communications, verbal and nonverbal, written and oral, in and out of the courtroom.

- c. Attempts to harass and/or intimidate by threatening to seek sanctions are contrary to the Preamble of the Rules of Professional Conduct and will not be tolerated.
3. Expressions of opinion that tend to denigrate another's integrity are not persuasive, will not be well received, and are more likely to reflect more negatively on the author than on the object of the remark. Adjectives, both in written pleadings and oral communications, should be used sparingly and never in a manner that maligns, denigrates, or otherwise attacks opposing counsel.
4. The Court will address conduct that is contrary to this order and apply enforcement mechanisms as necessary.

## II. DUTY TO CONFER

The Court expects complete and good faith compliance with C.R.C.P. 121 section 1-12(1) and (5), and section 1-15(8).

1. Counsel are expected to initiate efforts to confer well enough before the anticipated filing date to enable two-way communication. Certification that a telephone call, e-mail or fax was directed to opposing counsel fewer than 24 hours before the pleading was intended to be filed and "no response" was received is per se **not** a good faith effort.
2. It is the expectation of the Court that counsel confer either face-to-face or on the telephone; the Court regards a letter or e-mail message to constitute "notice," but not a sufficient attempt to confer.
3. If attempts to confer are unsuccessful, the certification must describe the attempts in detail.
4. Any pleading not in compliance with C.R.C.P. 121 and this Order will be stricken.

## III. MOTIONS

1. **Motions for summary judgment must be filed at least 91 days before trial.** Any Motion filed outside of this time limit may be summarily denied as untimely.
2. **All other pretrial motions, including motions *in limine*, must be filed no less than 28 days before trial** unless a different time is permitted by court order. A written response shall be filed no later than 14 days after the motion is filed, and no reply shall be allowed unless ordered by the Court. Any motion filed contrary to this time limit may be summarily denied as untimely.

3. If an expedited ruling is required, the moving party must specifically request an expedited schedule in the original motion and contact the Clerk of Courtroom 215 to advise of this request.
4. Do not combine motions or combine your own motions with a response or reply.
5. The requirements of C.R.C.P. 121(1-15) concerning the time for filing motions and the content and length of briefs will be strictly enforced. The Court may expedite the briefing schedule pursuant to C.R.C.P. 121(1-15) on its own motion, or by request of a party. The Court may rule on motions without a hearing pursuant to C.R.C.P. 121, or the Court may order a hearing prior to trial.

IV. **CASE MANAGEMENT ORDER**

The provisions of C.R.C.P. 16 concerning a presumptive case management order will apply. If all parties have not participated in the preparation of a Proposed Case Management Order, this shall be specifically noted in the title of the Proposed Case Management Order.

V. **TRIAL SETTINGS**

1. A setting date must be designated in the Case Management Order, as set forth in C.R.C.P. 16.
2. **Cases must be set for trial no later than 28 days after the case is at issue.**
3. No case will be set for trial later than one year after the case is at issue without the Court's permission. No case will be set for more than 5 days without the Court's permission. Before permission is granted as to either issue, there may be a conference between counsel and the Court as to the reasons for the request. The Court will require counsel responsible for trial of the case to attend any such conference.
4. Trial settings will be done Tuesdays, Wednesdays, and Thursdays between 10:00 a.m. and noon.

VI. **TRIAL MANAGEMENT ORDER**

The **Trial Management Order** must comply strictly with the requirements of C.R.C.P. 16, as amended and **must be filed at least 28 days before trial**. All parties must participate in the preparation of the Trial Management Order. If a Trial Management Order is not filed in compliance with this Order, the Court may make further Orders to compel compliance.

VII. **BEFORE TRIAL**

1. All exhibits must be pre-marked. Plaintiffs will use numbers; defendants will use letters. Plaintiffs and defendants shall not mix numbers and letters, even for related exhibits (e.g. 1(a), 1(b), 1(c), etc.). The civil action number of the case should also be placed on each of the exhibit labels. Copies of exhibits must be exchanged as required by C.R.C.P. 16, and counsel shall determine whether an objection will be made as to the admissibility of the exhibit. Only where counsel has not had a reasonable opportunity to view an exhibit in advance will trial be interrupted for such a review.
2. If counsel intends to use depositions in lieu of live testimony, said counsel must notify opposing counsel no later than 49 days prior to trial. Counsel must make objections to all or part of the offered deposition testimony no later than 28 days prior to trial and must cite page, line, and the specific evidentiary grounds supporting the objection. The same rules apply to both videotape and written depositions. When applicable, counsel is required to provide someone to read testimony.
3. Original depositions will remain sealed until counsel request at trial that they be unsealed. Before trial begins, counsel must provide the Court with copies of all depositions likely to be used at the trial, as either direct evidence or impeachment.
4. If counsel needs an overhead projector, VCR, a monitor or any other form of audio-visual equipment, counsel must provide it.

VIII. **TRIAL BRIEFS**

Trial briefs may be filed. They should be concise and should not repeat previously filed pleadings or motions. Trial briefs must be filed no later than seven days before the trial date.

IX. **PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

For court trials, counsel should be prepared to file Proposed Findings of Fact and Conclusions of Law upon the conclusion of the presentation of evidence. The proposed factual findings shall be specific and supported by evidence elicited at trial.

Each counsel also shall email them to the Court's Administrative Assistant (karen.jurgensmeier@judicial.state.co.us). The Court uses **Microsoft Word**.

X. **INSTRUCTIONS FOR JURY TRIALS**

1. **Jury Instructions and Orders of Proof**. Counsels are required to meet regarding jury instructions. **The proposed jury instructions shall be delivered directly to the Court no later than 12:00 p.m., the Wednesday before the commencement of trial. The instructions shall also be e-mailed within the same time frame to the Court's Administrative Assistant (karen.jurgensmeier@judicial.state.co.us).** The party responsible for arranging the jury instruction conference shall be responsible for supplying one set of agreed upon instructions. This set should be designated as "Stipulated Instructions" and should not be annotated. Each party shall also supply those instructions they wish to tender but which are opposed. This set should be designated as "Disputed Instructions." Two copies of the disputed instructions shall be filed, one with annotations and one without annotations. The Court uses **Microsoft Word**.

The parties shall agree upon a 2:1 simple statement of the case that the Court can read to the jury at the beginning of the trial. If the parties cannot agree, one 2:1 instruction shall be submitted with highlights on the language upon which the parties cannot agree.

An example of proposed jury instructions may be found on the Colorado Judicial Branch website, [www.courts.state.co.us](http://www.courts.state.co.us) (under the following tabs: Courts; Second Judicial District; Judges and Staff; Martin F. Egelhoff)

2. **Exhibit lists**. Each counsel shall prepare an index of exhibits that counsel expects of offer, in a grid or spreadsheet format, that identifies with specificity the exhibit by number and description. The exhibit list shall specify whether or not the exhibit is received by stipulation, and shall allocate columns with the headings "Identified," Offered," and "Received." **The exhibit lists shall be delivered directly to the court no later than 12:00 p.m., the Wednesday before the commencement of trial. The exhibit lists shall also be e-mailed within the same time frame to the Court's Administrative Assistant ([karen.jurgensmeier@judicial.state.co.us](mailto:karen.jurgensmeier@judicial.state.co.us).)**

A sample Exhibit List may be found on the Colorado Judicial Branch website, [www.courts.state.co.us](http://www.courts.state.co.us) (under the following tabs: Courts; Second Judicial District; Judges and Staff; Martin F. Egelhoff)

3. **Witness lists and orders of proof**. Each counsel shall prepare a list of witnesses that will and may be called that the Court can read to the jury at the beginning of the trial. The list shall be in addition to any prior designation of witnesses. In

addition to listing the names of the witnesses, the list may also specify the witnesses' title or degree and employment (e.g. Dr. Murray, M.D., Children's Hospital) but no other identifying information should be included (e.g. address, phone number etc.). Additionally, counsel **shall confer** and prepare a joint order of proof which identifies each counsel's good-faith estimate of the order in which witnesses will be presented and shall specify separately the time required for direct and cross-examination of each witness. The time estimates must include re-direct and re-cross examination. In no event may the cumulative time for witness examination exceed the time allocated for presentation of the trial; the total time allocation shall also account for the time necessary for jury selection, opening statements, regularly scheduled breaks, the jury instruction conference, and closing arguments. The Court reserves the right to enforce the time estimates stated in the order of proof. **The witness lists and order of proof shall be delivered directly to the court no later than 12:00 p.m., the Wednesday before the commencement of trial. They shall also be e-mailed within the same time frame to the Court's Administrative Assistant (karen.jurgensmeier@judicial.state.co.us.).**

#### XI. **JUROR NOTEBOOKS**

Each trial juror will be provided with a juror notebook. In each civil jury trial, there will be at least 1 and possibly 2 alternate jurors seated. The court will provide the one-inch binder notebooks, but the parties must prepare the contents. Each page must be three-hole punched in advance so it can be placed in a notebook and all exhibits must be tabbed so that the jurors can easily refer to them. All notebook materials must be submitted at the same time as jury instructions. No more than 50 pages per side shall be included in the juror notebooks without permission of the Court. All other exhibits shall be presented to the jury either by projector or other visual aids. Counsel must also provide three complete sets of exhibits, whether stipulated or not: 1 for the Court, 1 for the witness stand, and 1 for the use of the jury for exhibits that are not contained in the juror's notebooks.

1. **Exhibits or Excerpts of Exhibits**. Copies of stipulated exhibits may be put in the juror notebooks before trial, subject to the limitations above. If exhibits are lengthy, stipulated excerpts may be used. Eight (8) copies of each exhibit shall be submitted, with three-hole punches, for the jury.

If a party wants a copy of an exhibit in the juror notebooks (subject to the page limitations above) and the parties have not stipulated to its inclusion, the party should bring to trial eight (three hole-punched) copies of the exhibit; copies will be placed in the notebook if and when the exhibit is admitted, along with the tabs for the exhibit.

2. **Glossary of Terms**. If there are any scientific or other specialized terms which will be used repeatedly, those should be set forth, with an agreed-upon

definition. If the parties have a legitimate dispute about the definition of any term, just the term should be listed.

## XII. **JURY SELECTION**

1. Each side will normally have 20 minutes for *voir dire*, unless additional time is requested and permitted in advance of the first day of trial. In multi-party cases, time must be divided between all parties on one side of the case.
2. *Voir dire* will be conducted from the podium.
3. For most trials, there will be one alternate juror seated, but for lengthier trials, the Court may seat two alternate jurors. The Court will advise counsel on the first day of trial how the alternate will be designated.
4. Normally, challenges for cause will be exercised at the bench upon the conclusion of all parties' *voir dire*. Preemptory challenges will be announced orally in open court and indicated on the list of jurors remaining.

## XIII. **CONDUCT OF TRIAL**

1. **Scheduling/Use of Time.**
  - a. The trial day will start at 8:30 a.m. and end at 5:00 p.m. There will be a morning and an afternoon break of 15 to 20 minutes each. Lunch will normally run from approximately noon to 1:30 p.m.
  - b. Counsel and parties will be in court by 8:00 a.m. on the first day of trial and 8:15 a.m. thereafter so that counsel may discuss anything with the Court that needs to be dealt with before the trial begins.
  - c. It is the obligation of counsel to have witnesses scheduled to prevent any delay in the presentation of testimony or running out of witnesses before 5:00 p.m. on any trial day. Accordingly, there shall be no more than five minutes delay between witnesses.
2. **Opening Statements.** The Court generally does not limit the time for opening statements. However, opening statements in excess of 30 minutes are strongly discouraged; the Court may terminate an opening statement longer than that or which is repetitive or argumentative.
3. **Questioning Witnesses.** Because the Court utilizes FTR, all questioning must be done from the podium. If counsel arrange for a court reporter, the Court will address this issue prior to the commencement of trial.

4. **Closing Arguments.** The Court may impose limits on closing argument. In multiple-party cases, this time may be divided between the parties.
  
5. **Withdrawal of Exhibits.** Because this courtroom no longer has a court reporter and because of a reduced work force in the clerk's office, the court will no longer maintain custody of exhibits at the conclusion of a trial or hearing. Unless all parties agree on the record that exhibits need not be maintained, the following procedure will be followed:
  - a. When the trial or hearing is concluded, each party will withdraw any exhibits or depositions which that party marked and/or admitted, whether or not admitted into evidence;
  
  - b. Each party will maintain in its custody the withdrawn exhibits and/or depositions without modification of any kind until sixty days after the time for the need of such exhibits for appellate or other review purposes has expired, unless all parties stipulate otherwise on the record or in writing. It will be the responsibility of the withdrawing parties to determine when the appropriate time period has expired.

XIV. **SETTLEMENT**

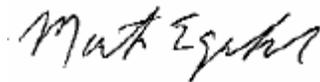
The parties are to **notify the Court within 24 hours of settlement or resolution of the case. All documents confirming settlement shall be filed not later than 15 days from the date of settlement**, unless otherwise ordered by the Court. The Court will not vacate or continue any previously scheduled trial in anticipation of resolution.

XV. **GENERAL RULES**

1. This Order shall apply to pro se parties.
  
2. Counsel for the plaintiff or the pro se plaintiff shall send copies of this order to all future counsel/parties in this case, except where the Court has e-filed this Order to the parties. A certification of compliance with this portion of the Order shall be filed.

Dated:

BY THE COURT:



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Martin F. Egelhoff  
District Court Judge