

**Proposed Rule Changes**  
**Colorado Rules of Civil Procedure**  
**January, 2015**  
(see separate document for proposed Comment changes)

**Rule 1. Scope of Rules**

(a) **Procedure Governed.** These rules govern the procedure in the supreme court, court of appeals, district courts, ~~and superior courts~~ and in the juvenile and probate courts of the City and County of Denver, in all actions, suits and proceedings of a civil nature, whether cognizable as cases at law or in equity, and in all special statutory proceedings, with the exceptions stated in Rule 81. ~~The~~ several rules shall be liberally construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action.

Rules of civil procedure governing county courts shall be in accordance with Chapter 25 of this volume. Rules of Procedure governing probate courts and probate proceedings in the district courts shall be in accordance with these rules and Chapter 27 of this volume. (In case of conflict between rules, those set forth in Chapter 27 shall control.) Rules of Procedure governing juvenile courts and juvenile proceedings in the district courts shall be in accordance with these rules and Chapter 28 made effective on the same date as these rules. In case of conflict between rules those set forth in Chapter 28 shall control. Rules of Procedure in Municipal Courts are in Chapter 30.

(b) - (c) [NO CHANGE]

**Rule 12. Defenses and Objections — When and How Presented — by Pleading or Motion — Motion for Judgment on Pleadings**

(a) **When Presented.**

(1) Unless a ~~A~~ defendant ~~shall~~ files a motion under subsections (b)(1), (b)(2), (b)(3), or (b)(4) of this Rule, the defendant shall file an ~~his~~ answer ~~or other response~~ within 21 days after the service of the ~~pleading asserting a claim~~ summons and complaint on ~~him~~ that defendant. Filing a motion under subsections (b)(5) or (b)(6) of this Rule does not affect the obligation also to file a timely answer. The court shall give priority to any motion presented pursuant to subsections (b)(1), (b)(2), (b)(3), or (b)(4) of this Rule. If the court denies any such motion, the defendant shall file an answer within 14 days after service of the order.

(2) If, pursuant to special order, a copy of the complaint is not served with the summons, or if the summons is served ~~without~~ side of Colorado ~~the state~~, or by publication, ~~a defendant shall file his answer or other response~~ the time limit for filings under subsection (a)(1) of this Rule shall be within 35 days after the service thereof ~~on him~~.

(3) A party served with a pleading stating a cross ~~claim~~ against ~~him~~ that party shall file an answer ~~or other response~~ thereto within 21 days after the service ~~thereof~~ upon him.

(4) In addition to filing any motions under subsections (b)(5) and (b)(6) of this Rule, tThe plaintiff shall file ahis reply to a counterclaim in the answer within 21 days after the service of the answer.

(5) If a reply is made to any affirmative defense such reply shall be filed within 21 days after service of the pleading containing such affirmative defense. If a pleading is ordered by the court, it shall be filed within 21 days after the entry of the order, unless the order otherwise directs. The filing of a motion permitted under this Rule alters these periods of time, as follows: (1) If the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleadings shall be filed within 14 days after notice of the court's action; (2) if the court grants a motion for a more definite statement, or for a statement in separate counts or defenses, the responsive pleadings shall be filed within 14 days after the service of the more definite statement or amended pleading.

**(b) How Presented.** Every defense, in law or in fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by separate motion filed on or before the date the answer or reply to a pleading under C.R.C.P. 12(a) is due: (1) Lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; (3) insufficiency of process; (4) insufficiency of service of process; (5) failure to state a claim upon which relief can be granted; or (6) failure to join a party under C.R.C.P. Rule 19. A motion making any of these defenses shall be made before pleading if a further pleading is permitted. No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or with any other motion permitted under this Rule 42 or C.R.C.P. Rule 98. If a pleading sets forth a claim for relief to which the adverse party is not required to file a responsive pleading, the adverse party may assert at the trial any defense in law or fact to that claim for relief. If, on a motion asserting the defense numbered (5) to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in C.R.C.P. Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by C.R.C.P. Rule 56.

(c) - (d) [NO CHANGE]

**(e) Motion for Separate Statement, or for More Definite Statement.** Before responding to a pleading or, if no responsive pleading is permitted by these rules, wWithin 21 days after the service of the pleading upon a partyhim, thea party may file a motion for a statement in separate counts or defenses, or for a more definite statement of any matter which is not averred with sufficient definiteness or particularity to enable the party him properly to prepare ahis responsive pleading. A motion filed under this section does not affect the obligation to file a timely answer. If the motion is granted and the order of the court is not obeyed within 14 days after notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just. If the motion is granted, an

amended responsive pleading shall be filed within 14 days after service of the more definite statement or amended pleading.

**(f) Motion to Strike.** Upon motion filed by a party ~~before~~ within the time for responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion filed by a party within 21 days after the service of any pleading, motion, or other paper, or upon the court's own initiative at any time, the court may order any redundant, immaterial, impertinent, or scandalous matter stricken from any pleading, motion, or other paper. The objection that a responsive pleading or separate defense therein fails to state a legal defense may be raised by motion filed under this section (f). A motion filed under this section does not affect the obligation to file a timely answer.

**(g) Consolidation of Defenses in Motion.** A party who makes a motion under this Rule may join with it any other motions herein provided for and then available to ~~that party~~him. If a party makes a motion under this Rule but omits therefrom any defense or objection then available to ~~that party~~him which this Rule permits to be raised by motion, ~~that party~~he shall not thereafter make a motion based on the defense or objection so omitted, except a motion as provided in section (h)(2) of this Rule on any of the grounds there stated.

**(h) [NO CHANGE]**

## **Rule 16. Case Management and Trial Management**

**(a) [NO CHANGE]**

**(b) Presumptive Case Management Order.** Not later than 42 days after the case is at issue and at least 7 days before the case management conference, the parties shall file in editable format a proposed Case Management Order consisting of the matters set forth in subsection (1) - (17) of this section and take the necessary actions to comply with those subsections. This proposed order, when approved by the court, shall constitute the Case Management Order and shall control the course of the action from the time the case is at issue until otherwise required pursuant to section (f) of this Rule. Use of the "Proposed Case Management Order" in the form and content of Appendix to Chapters 1 to 17, form (JDF 622), shall comply with this section. ~~Except as provided in sections (c)–(e) of this Rule, the parties shall not file a Case Management Order and subsections (1)–(10) of this section shall constitute the Case Management Order and shall control the course of the action from the time the case is at issue until otherwise required pursuant to section (f) of this Rule.~~

**(1) At Issue Date.** ~~For the purposes of this Rule,~~ A case shall be deemed at issue at such time as all parties have been served and all pleadings permitted by C.R.C.P. 7 have been filed or defaults or dismissals have been entered against all non-appearing parties, or at such other time as the court may direct. Except for a motion pursuant to C.R.C.P. 12(b)(1) through (b)(4), the filing of a motion permitted by C.R.C.P. 12 shall not affect the obligation also to file a timely answer. The proposed order shall state the at issue date.

(2) **The Responsible Attorney.** ~~For purposes of this Rule, “T~~the responsible attorney” shall mean plaintiff’s counsel, if the plaintiff is represented by counsel, or if not, the defense counsel who first enters an appearance in the case. The responsible attorney shall schedule conferences among the parties, and prepare and file the certificates of compliance, prepare and submit the Proposed Modified Case Management Order, if applicable, and prepare and submit the proposed Trial Management Order. The proposed order shall identify the responsible attorney and provide that attorney’s contact information.

(3) **Meet and Confer.** No later than 14 days after the case is at issue, lead counsel for each party and any party who is not represented by counsel shall confer with each other in person or by telephone about: (A) the nature and basis of the claims and defenses; (B) the matters to be disclosed pursuant to C.R.C.P. 26(a)(1); (C) the Proposed and whether a Modified Case Management Order; (D) mutually agreeable dates for the case management conference; and (E) based thereon shall obtain from the court a date for the case management conference. The proposed order shall state the date of and identify the attendees at any meet and confer conferences ~~is necessary pursuant to subsection (c) of this Rule.~~

(4) ~~Trial Setting~~**Description of the Case.** The proposed order shall provide a brief description of the case and identification of the issues to be tried which shall consist of not more than one page, double-spaced, per side. No later than 42 days after the case is at issue, the responsible attorney shall set the case for trial pursuant to C.R.C.P. 121 § 1-6, unless otherwise ordered by the Court.

(5) **Pending Motions**~~Disclosures.~~ The proposed order shall list all pending motions that have been filed and are unresolved. The court may decide any unresolved motion at the case management conference. No later than 35 days after the case is at issue, the parties shall serve their C.R.C.P. 26(a)(1) disclosures. The parties shall disclose expert testimony in accordance with C.R.C.P. 26(a)(2).

(6) **Evaluation of Proportionality Factors**~~Settlement Discussions.~~ The proposed order shall provide a brief assessment of each party’s position on the application of any factors to be considered in determining proportionality, including those factors identified in C.R.C.P. 26(b)(1). No later than 35 days after the case is at issue, the parties shall explore the possibilities of a prompt settlement or resolution of the case.

(7) **Initial Exploration of Prompt Settlement and Prospects for Settlement**~~Certificate of Compliance.~~ The proposed order shall confirm that settlement discussions were held, describe the prospects for settlement and list proposed dates for any agreed upon or court ordered mediation or other alternative dispute resolution. No later than 49 days after the case is at issue, the responsible attorney shall file a Certificate of Compliance. The Certificate of Compliance shall state that the parties have complied with all requirements of subsections (b)(3)-(6), inclusive, of this Rule or, if they have not complied with each requirement, shall identify the requirements which have not been fulfilled and set forth any reasons for the failure to comply.

**(8) Proposed Deadlines for Amendments**~~Time to Join Additional Parties and Amend Pleadings.~~ The proposed order shall provide proposed deadlines for amending or supplementing pleadings and for joinder of additional parties, which shall be not later than 105 days (15 weeks) after the case is at issue, and shall provide a deadline for identification of non-parties at fault, if any, pursuant to C.R.S. §13-21-111.5. ~~No later than 119 days (17 weeks) after the case is at issue, all motions to amend pleadings and add additional parties to the case shall be filed.~~

**(9) Disclosures**~~Pretrial Motions.~~ The proposed order shall state the dates when disclosures under C.R.C.P. 26(a)(1) were made and exchanged and describe any objections to the adequacy of the initial disclosures. ~~No later than 35 days before the trial date, pretrial motions shall be filed, except for motions pursuant to C.R.C.P. 56, which must be filed no later than 91 days (13 weeks) before the trial and except for motions challenging expert testimony pursuant to C.R.E. 702, which must be filed no later than 70 days (10 weeks) before the trial.~~

**(10) Computation and Discovery Relating to Damages**~~Discovery Schedule.~~ If any party asserts an inability to disclose fully the information on damages required by C.R.C.P. 26(a)(1)(C), the proposed order shall include a brief statement of the reasons for that party's inability as well as the expected timing of (A) full disclosure and (B) completion of discovery on damages. ~~Discovery shall be limited to that allowed by C.R.C.P. 26(b)(2). Except as provided in C.R.C.P. 26(d), discovery may commence 42 days after the case is at issue. The date for completion of all discovery shall be 49 days before the trial date.~~

**(11) Discovery Limits and Schedule.** Unless otherwise ordered by the court, discovery shall be limited to that allowed by C.R.C.P. 26(b)(2). Discovery may commence as provided in C.R.C.P. 26(d) upon service of the Case Management Order. The deadline for completion of all discovery, including discovery responses, shall be not later than 49 days before the trial date. The proposed order shall state any modifications to the amounts of discovery permitted in C.R.C.P. 26(b)(2), including limitations of awardable costs, and the justification for such modifications consistent with the proportionality factors in C.R.C.P. 26(b)(1).

**(12) Subjects for Expert Testimony.** The proposed order shall identify the subject areas about which the parties anticipate offering expert testimony; whether that testimony would be from an expert defined in C.R.C.P. 26(a)(2)(B)(I) or in 26(a)(2)(B)(II); and, if more than one expert as defined in C.R.C.P. 26(a)(2)(B)(I) per subject per side is anticipated, the proposed order shall explain the justification for such additional expert or experts consistent with the proportionality factors in C.R.C.P. 26(b)(1) and considering any differences among the positions of multiple parties on the same side as to experts.

**(13) Proposed Deadlines for Expert Disclosures.** If any party desires proposed deadlines for expert disclosures other than those in C.R.C.P. 26(a)(2)(C), the proposed order shall explain the justification for such modifications.

**(14) Oral Discovery Motions.** The proposed order shall state whether the court does or does not require discovery motions to be presented orally, without written motions or briefs, and may include such other provisions as the court deems appropriate.

**(15) Electronically Stored Information.** If the parties anticipate needing to discover a significant amount of electronically stored information, the parties shall discuss and include in the proposed order a brief statement concerning their agreements relating to search terms to be used, if any, and the production, continued preservation, and restoration of electronically stored information, including the form in which it is to be produced and an estimate of the attendant costs. If the parties are unable to agree, the proposed order shall include a brief statement of their positions.

**(16) Trial Date and Estimated Length of Trial.** The proposed order shall provide the parties' best estimate of the time required for probable completion of discovery and of the length of the trial. The court shall include the trial date in the Case Management Order, unless the court uses a different trial setting procedure.

**(17) Other Appropriate Matters.** The proposed order shall describe other matters any party wishes to bring to the court's attention at the case management conference.

**(18) Entry of Case Management Order.** The proposed order shall be signed by lead counsel for each party and by each party who is not represented by counsel and, after the court's review, shall be entered as an order of the court.

**(c) ~~Pretrial Motions Modified Case Management Order.~~** Unless otherwise ordered by the court, pretrial motions, including motions in limine, shall be filed no later than 35 days before the trial date, except for motions pursuant to C.R.C.P. 56, which must be filed no later than 91 days (13 weeks) before the trial and except for motions challenging the admissibility of expert testimony pursuant to C.R.E. 702, which must be filed no later than 70 days (10 weeks) before the trial. Any of the provisions of section (b) of this Rule may be modified by the entry of a Modified Case Management Order pursuant to this section and section (d) of this Rule. If a trial is set to commence less than 182 days (26 weeks) after the at-issue date as defined in C.R.C.P. 16(b)(1), and if a timely request for a modified case management order is made by any party, the case management order shall be modified to allow the parties an appropriate amount of time to meet case management deadlines, including discovery, expert disclosures, and the filing of summary judgment motions. The amounts of time allowed shall be within the discretion of the court on a case-by-case basis.

**(1) ~~Stipulated Modified Case Management Order.~~** No later than 42 days after the case is at issue, the parties may file a Stipulated proposed Modified Case Management Order, supported by a specific showing of good cause for each modification sought including, where applicable, the grounds for good cause pursuant to C.R.C.P. 26(b)(2). Such proposed order only needs to set forth the proposed provisions which would be changed from the presumptive Case Management Order set forth in section (b) of this Rule. The Court may approve and enter the Stipulated Modified Case Management Order, or may set a case management conference.

**(2) ~~Disputed Motions for Modified Case Management Orders.~~** If any party wishes to move for a Modified Case Management Order, lead counsel and any unrepresented parties shall confer and cooperate in the development of a proposed Modified Case Management Order. A motion for a Modified Case Management Order and one form of the proposed Order shall be filed no

~~later than 42 days after the case is at issue. To the extent possible, counsel and any unrepresented parties shall agree to the contents of the proposed Modified Case Management Order but any matter upon which all parties cannot agree shall be designated as “disputed” in the proposed Modified Case Management Order. The proposed Order shall contain specific alternate provisions upon which agreement could not be reached and shall be supported by specific showing of good cause for each modification sought including, where applicable, the grounds for good cause pursuant to C.R.C.P. 26(b)(2). Such motion only needs to set forth the proposed provisions which would be changed from the presumptive case management Order set forth in section (b) of this Rule. The motion for a modified case management order shall be signed by lead counsel and any unrepresented parties, or shall contain a statement as to why it is not so signed.~~

**(d) Case Management Conference.**

(1) The responsible attorney shall schedule the case management conference to be held no later than 49 days after the case is at issue, and shall provide notice of the conference to all parties.

(2) Lead counsel and unrepresented parties, if any, shall attend the case management conference in person, except as provided in subsection (d)(3) of this Rule. The court may permit the parties and/or counsel to attend the conference and any subsequent conferences by telephone. At that conference, the parties and counsel shall be prepared to discuss the proposed order, issues requiring resolution, and any special circumstances of the case.

(3) If all parties are represented by counsel, counsel may timely submit a proposed order and may jointly request the court to dispense with a case management conference. In the event that there appear to be no unusual issues, that counsel appear to be working together collegially, and that the information on the proposed order appears to be consistent with the best interests of all parties and is proportionate to the needs of the case, the court may dispense with the case management conference.

~~If there is a disputed modified case management order or if any counsel or unrepresented party believes that it would be helpful to conduct a case management conference, a notice to set case management conference shall be filed stating the reasons why such a conference is requested. If a Notice to Set Case Management conference is filed concerning a disputed Modified Case Management Order, or if the Court determines that such a conference should be held, the Court shall set a Case Management Conference. The conference may be conducted by telephone. The court shall promptly enter a Modified Case Management Order containing such modifications as are approved by the Court.~~

**(e) Amendment of the Case Management Order.** ~~At any time following the entry of the Case Management Order, a~~ A party wishing to extend a deadline or otherwise amend the presumptive Case Management Order ~~or a Modified Case Management Order~~ shall file a motion stating each proposed amendment and a specific showing of good cause for the timing and necessity for each modification sought including, where applicable, the grounds for good cause pursuant to C.R.C.P. 26(b)(2)(F).

**(f) - (g) [NO CHANGE]**

## Rule 16.1 Simplified Procedure for Civil Actions

(a) – (e) [NO CHANGE]

**(f) Case Management Orders.** In actions subject to Simplified Procedure pursuant to this Rule, the presumptive case management order requirements of C.R.C.P. 16(b)(1), (2), (3) ~~(5)~~ and ~~(76)~~ shall apply although a proposed Case Management Order is not required to be prepared or filed.

(g) [NO CHANGE]

**(h) Certificate of Compliance.** No later than 49 days after the case is at issue, the responsible attorney shall also file a Certificate of Compliance stating that the parties have complied with all the requirements of sections (f), ~~and~~ (g) and (k)(1) of this Rule or, if they have not complied with each requirement, shall identify the requirements which have not been fulfilled and set forth any reasons for the failure to comply.

(i) – (l) [NO CHANGE]

## Rule 26. General Provisions Governing Discovery; Duty of Disclosure

**(a) Required Disclosures; ~~Methods to Discover Additional Matter.~~**

Unless otherwise ordered by the court or stipulated by the parties, provisions of this Rule shall not apply to domestic relations, juvenile, mental health, probate, water law, forcible entry and detainer, C.R.C.P. 120, or other expedited proceedings.

**(1) Disclosures.** Except to the extent otherwise directed by the court, a party shall, without awaiting a discovery request, provide to other parties the following information, whether or not supportive of the disclosing party's claims or defenses.:

Disclosures shall be served within 28 days after the case is at issue as defined in C.R.C.P. 16(b)(1). A party shall make the required disclosures based on the information then known and reasonably available to the party and is not excused from making such disclosures because the party has not completed investigation of the case or because the party challenges the sufficiency of another party's disclosure or because another party has not made the required disclosures. Parties shall make these disclosures in good faith and may not object to the adequacy of the disclosures until the case management conference pursuant to C.R.C.P. 16(d).

(A) The name and, if known, the address and telephone number of each individual likely to have discoverable information relevant to the claims and defenses of any party ~~disputed facts alleged with particularity in the pleadings, identifying who the person is and the subjects~~ and a brief description of the specific information that each such individual is known or believed to possess;



(B) A listing, together with a copy of, or a description by category, of the subject matter and location of, all documents, data compilations, and tangible things in the possession, custody, or control of the party that are relevant to ~~disputed facts alleged with particularity in the pleadings,~~ the claims and defenses of any party, making available for inspection and copying ~~such~~the documents ~~and~~ other evidentiary material, not privileged or protected from disclosure, as though a request for production of those documents had been served pursuant to C.R.C.P. 34;

(C) A description of the categories of damages sought and a computation of any category of economic damages claimed by the disclosing party, making available for inspection and copying pursuant to C.R.C.P. 34 the documents or other evidentiary material relevant to the damages sought, not privileged or protected from disclosure, as though a request for production of those documents had been served pursuant to C.R.C.P. 34; and

(D) Any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment, making such agreement available for inspection and copying pursuant to C.R.C.P. 34.

~~The timing of disclosures shall be within 35 days after the case is at issue as defined in C.R.C.P. 16(b). A party shall make the required disclosures based on the information then known and reasonably available to the party and is not excused from making such disclosures because the party has not completed investigation of the case or because the party challenges the sufficiency of another party's disclosures or because another party has not made the required disclosures.~~

## **(2) Disclosure of Expert Testimony.**

(A) In addition to the disclosures required by subsection (a)(1) of this Rule, a party shall disclose to other parties the identity of any person who may present evidence at trial, pursuant to Rules 702, 703, or 705 of the Colorado Rules of Evidence together with an identification of the person's fields of expertise.

(B) Except as otherwise stipulated or directed by the court, ~~this disclosure shall:~~

(I) **Retained Experts.** With respect to a witness who is retained or specially employed to provide expert testimony, or whose duties as an employee of the party regularly involve giving expert testimony, the disclosure shall be made accompanied by a written report ~~or summary signed by the witness~~. The report ~~or summary~~ shall include contain: (a) a complete statement of all opinions to be expressed and the basis and reasons therefor; (b) a list of the data or other information considered by the witness in forming the opinions; (c) references to literature that may be used during the witness's testimony; (d) copies of any exhibits to be used as a summary of or support for the opinions; (e) the qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years; (f) the ~~compensation~~ fee agreement or schedule for the study, preparation and testimony; (g) an itemization of the fees incurred and the time spent on the case, which shall be supplemented as of the first day of trial; and (h) a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding

four years. The witness's direct testimony shall be limited to matters disclosed in detail in the report. ~~In addition, if a report is issued by the expert it shall be provided.~~

(II) **Other Experts.** With respect to a party or witness who may be called to provide expert testimony but is not retained or specially employed within the description contained in subsection (a)(2)(B)(I) above, the disclosure shall be made by a written ~~the~~ report or statement which summary shall include~~contain~~: ~~(a) the qualifications of the witness and~~ a complete description ~~statement describing the substance~~ of all opinions to be expressed and the basis and reasons therefor; (b) a list of the qualifications of the witness; and (c) copies of any exhibits to be used as a summary of or support for the opinions. If the report has been prepared by the witness, it shall be signed by the witness. If the witness does not prepare a written report, the party's lawyer or the party, if unrepresented, may prepare a statement and shall sign it. The witness's direct testimony shall be limited to matters disclosed in detail in the report or statement.

(C) Unless otherwise provided in the Case Management Order, the timing of the disclosures shall be as follows:

(I) The disclosure by a claiming party under a complaint, counterclaim, cross-claim or third-party claim shall be made at least 126 days (18 weeks) before the trial date.

(II) The disclosure by a defending party shall be made within 28 days after service of the claiming party's disclosure, provided, however, that if the claiming party serves its disclosure earlier than required under subparagraph 26(a)(2)(C)(I), the defending party is not required to serve its disclosures until 98 days (14 weeks) before the trial date.

(III) If the evidence is intended to contradict or rebut evidence on the same subject matter identified by another party under subparagraph (a)(2)(C)(II) of this Rule, such disclosure shall be made no later than 77 days (11 weeks) before the trial date.

(3) [There is no Colorado Rule--see instead C.R.C.P. 16(c).]

**(4) Form of Disclosures; Filing.** All disclosures pursuant to subparagraphs (a)(1) and (a)(2) of this Rule shall be made in writing, in a form pursuant to C.R.C.P. 10, signed pursuant to C.R.C.P. 26(g)(1), and served upon all other parties. Disclosures shall not be filed with the court unless requested by the court or necessary for consideration of a particular issue.

**(5) Methods to Discover Additional Matters.** Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, pursuant to C.R.C.P. 34; physical and mental examinations; and requests for admission. Discovery at a place within a country having a treaty with the United States applicable to the discovery must be conducted by methods authorized by the treaty except that, if the court determines that those methods are inadequate or inequitable, it may authorize other discovery methods not prohibited by the treaty.

**(b) Discovery Scope and Limits.** Unless otherwise ~~modified~~limited by order of the court in accordance with these rules, the scope of discovery is as follows:

**(1) In General.** Subject to the limitations and considerations contained in subsection (b)(2) of this Rule, parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party; and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. ~~including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. For good cause, the court may order discovery of any matter relevant to the subject matter involved in the action. Relevant information within the scope of discovery need not be admissible in evidence to be discoverable. at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.~~

**(2) Limitations.** Except upon order for good cause shown and subject to the proportionality factors in subsection (b)(1) of this Rule, discovery shall be limited as follows:

(A) A party may take one deposition of each adverse party and of two other persons, exclusive of persons expected to give expert testimony disclosed pursuant to subsection 26(a)(2). The scope and manner of proceeding by way of deposition and the use thereof shall otherwise be governed by C.R.C.P. Rules 26, 28, 29, 30, 31, 32 and 45.

(B) A party may serve on each adverse party 30 written interrogatories, each of which shall consist of a single question. The scope and manner of proceeding by means of written interrogatories and the use thereof shall otherwise be governed by C.R.C.P. Rules 26 and 33.

(C) A party may obtain a physical or mental examination (including blood group) of a party or of a person in the custody or under the legal control of a party pursuant to C.R.C.P. 35.

(D) A party may serve each adverse party requests for production of documents or tangible things or for entry, inspection or testing of land or property pursuant to C.R.C.P. 34, except such requests for production shall be limited to 20 in number, each of which shall consist of a single request.

(E) A party may serve on each adverse party 20 requests for admission, each of which shall consist of a single request. A party may also serve requests for admission of the genuineness of up to 50 separate documents that the party intends to offer into evidence at trial. The scope and manner of proceeding by means of requests for admission and the use thereof shall otherwise be governed by C.R.C.P. 36.

(F) In determining good cause to modify the limitations of this subsection (b)(2), the court shall consider the following:

(i) Whether the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive;

(ii) Whether the party seeking discovery has had ample opportunity by disclosure or discovery in the action to obtain the information sought;

(iii) Whether the ~~burden or expense of the~~ proposed discovery is outside the scope permitted by C.R.C.P. 26(b)(1) outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, the importance of the issues in the litigation, and the importance of the proposed discovery in resolving the issues; and

(iv) Whether because of the number of parties and their alignment with respect to the underlying claims and defenses, the proposed discovery is reasonable.

~~[Subsections (E)(i)–(iv) are moved to new paragraph (F).]~~

**(3) Trial Preparation: Materials.** Subject to the provisions of subsection (b)(4) of this Rule, a party may obtain discovery of documents and tangible things otherwise discoverable under subsection (b)(1) of this Rule and prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including the party's attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of the case and is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the court shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation.

A party may obtain without the required showing a statement concerning the action or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement concerning the action or its subject matter previously made by that person. If the request is refused, the person may move for a court order. The provisions of C.R.C.P. 37(a)(4) apply to the award of expenses incurred in relation to the motion. For purposes of this paragraph, a statement previously made is:

(A) A written statement signed or otherwise adopted or approved by the person making it, or

(B) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

**(4) Trial Preparation: Experts.**

(A) A party may depose any person who has been identified as an expert disclosed pursuant to subsection 26(a)(2)(B)(I) of this Rule whose opinions may be presented at trial. Each deposition shall not exceed three hours. On the application of any party, the court may decrease or increase the time permitted, after considering the proportionality criteria in subsection (b)(1) of this Rule.

Except to the extent otherwise stipulated by the parties or ordered by the court, no discovery, including depositions, concerning either the identity or the opinion of experts shall be conducted until after the disclosures required by subsection (a)(2) of this Rule.

(B) A party may, through interrogatories or by deposition, discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial only as provided by C.R.C.P. 35(b) or upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.

(C) Unless manifest injustice would result, (i) the court shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under this subsection (b)(4); and (ii) with respect to discovery obtained pursuant to subsection (b)(4)(B) of this Rule, the court shall require the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert.

(D) Rule 26(b)(3) protects from disclosure and discovery drafts of any report or disclosure required under Rule 26(a)(2), regardless of the form in which the draft is recorded, and protects communications between the party's attorney and any witness disclosed under Rule 26(a)(2)(B), regardless of the form of the communications, except to the extent that the communications:  
(i) Relate to the compensation for the expert's study, preparation, or testimony;

(ii) Identify facts or data that the party's attorney provided and which the expert considered in forming the opinions to be expressed; or

(iii) Identify the assumptions that the party's attorney provided and that the expert relied on in forming opinions to be expressed.

**(5)(A) Claims of Privilege or Protection of Trial Preparation Materials.** When a party withholds information required to be disclosed or provided in discovery by claiming that it is privileged or subject to protection as trial preparation material, the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

~~{This subsection has been moved from section (a)(6) and amended.}~~

**(B)** If information produced in disclosures or discovery is subject to a claim of privilege or of protection as trial-preparation material the party making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must not review, use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and shall give notice to the party making the claim within 14 days if it contests the claim. If the claim is not contested within the 14-day period, or is timely contested but resolved in favor of the party claiming privilege or

protection of trial-preparation material, then the receiving party must also promptly return, sequester, or destroy the specified information and any copies that the receiving party has. If the claim is contested, the party making the claim shall within 14 days after receiving such notice present the information to the court under seal for a determination of the claim, or the claim is waived. The producing party must preserve the information until the claim is resolved, and bears the burden of proving the basis of the claim and that the claim was not waived. All notices under this Rule shall be in writing.

**(c) Protective Orders.** Upon motion by a party or by the person from whom disclosure is due or discovery is sought, accompanied by a certificate that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without court action, and for good cause shown, the court may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) that the disclosure or discovery not be had;

(2) that the disclosure or discovery may be had only on specified terms and conditions, including a designation of the time or place or the allocation of expenses;

(3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;

(4) that certain matters not be inquired into, or that the scope of the disclosure or discovery be limited to certain matters;

(5) that discovery be conducted with no one present except persons designated by the court;

(6) that a deposition, after being sealed, be opened only by order of the court;

(7) that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a designated way; and

(8) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

**(d) Timing and Sequence of Discovery.** Except when authorized by these Rules, by order, or by agreement of the parties, a party may not seek discovery from any source before service submission of the proposed Case Management Order pursuant to C.R.C.P. 16**(b)(18)**. Any discovery conducted prior to issuance of the Case Management Order shall not exceed the limitations established by C.R.C.P. 26(b)(2). Unless the parties stipulate or the court upon motion, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence, and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery.

**(e) Supplementation of Disclosures, ~~and Responses,~~ and Expert Reports and Statements.** A party is under a duty to supplement its disclosures under section (a) of this Rule when the party learns that ~~in some material respect~~ the information disclosed is incomplete or incorrect in some material respect and if the additional or corrective information has not otherwise been made known to the other parties during the disclosure or discovery process. A party is under a duty to amend a prior response to an interrogatory, request for production or request for admission when the party learns that the prior response is ~~in some material respect~~ incomplete or incorrect in some material respect and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process. With respect to experts, the duty to supplement or correct extends both to information contained in the expert's report or statement summary disclosed pursuant to section ~~(a)(2)(B)~~ of this Rule and to information provided through any deposition of ~~or interrogatory responses by~~ the expert. If a party intends to offer expert testimony on direct examination that has not been disclosed pursuant to section (a)(2)(B) of this Rule on the basis that the expert provided the information through a deposition, the report or statement previously provided shall be supplemented to include a specific description of the deposition testimony relied on. Nothing in this section requires the court to permit an expert to testify as to opinions other than those disclosed in detail in the initial expert report or statement. Supplementation shall be performed in a timely manner.

**(f) - (g) [NO CHANGE]**

### **Rule 30. Depositions Upon Oral Examination**

**(a) – (c) [NO CHANGE]**

**(d) Schedule and Duration; Motion to Terminate or Limit Examination.** (1) Any objection during a deposition shall be stated concisely and in a non-argumentative and non-suggestive manner. An instruction not to answer may be made during a deposition only when necessary to preserve a privilege, to enforce a limitation directed by the court, or to present a motion pursuant to subsection (d)(3) of this Rule.

(2) (a) Unless otherwise authorized by the court or stipulated by the parties, a deposition of a person other than a retained expert disclosed pursuant to C.R.C.P. 26(a)(2)(B)(I) whose opinions may be offered at trial is limited to one day of ~~six~~seven hours. Upon the motion of any party By order, the court may limit the time permitted for the conduct of a deposition to less than ~~six~~seven hours, or may allow additional time if needed for a fair examination of the deponent and consistent with C.R.C.P. 26(b)(2), or if the deponent or another person impedes or delays the examination, or if other circumstances warrant. If the court finds such an impediment, delay, or other conduct that frustrates the fair examination of the deponent, it may impose upon the person responsible therefor an appropriate sanction, including the reasonable costs and attorney fees incurred by any parties as a result thereof.

(b) Depositions of a retained expert disclosed pursuant to C.R.C.P. 26(a)(2)(B)(I) whose opinions may be offered at trial are governed by C.R.C.P. 26(b)(4).

(3) At any time during the taking of the deposition, on motion of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the court in the district where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in C.R.C.P. 26(c). If the order made terminates the examination, it may be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. The provisions of C.R.C.P. 37(a)(4) apply to the award of expenses incurred in relation to the motion.

(e) – (g) [NO CHANGE]

### Rule 31. Depositions Upon Written Questions

**(a) Serving Questions; Notice.** (1) A party may take the testimony of any person, including a party, by deposition upon written questions without leave of court except as provided in paragraph (2) of this section. The attendance of witnesses may be compelled by the use of subpoena as provided in C.R.C.P. 45.

(2) A party must obtain leave of court, and the court must grant leave to the extent consistent with C.R.C.P. 26(b)(2) ~~Leave of court must be obtained pursuant to C.R.C.P. Rules 16(B)(1) and 26(B)~~, if:

(A) A proposed deposition, if taken, would result in more depositions than set forth in the Case Management Order;

(B) The person to be examined already has been deposed in the case;

(C) A party seeks to take a deposition before the time specified in C.R.C.P. 26(d); or

(D) The person to be examined is confined in prison.

(3) A party desiring to take a deposition upon written questions shall serve them upon every other party with a notice stating: (1) the name and address of the person who is to answer them, if known, and if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs; and (2) the name or descriptive title and address of the officer before whom the deposition is to be taken. A deposition upon written questions may be taken of a public or private corporation, or a partnership, or association, or governmental agency in accordance with the provision of C.R.C.P. 30(b)(6).

(4) Within 21 days after the notice and written questions are served, a party may serve cross questions upon all other parties. Within 14 days after being served with cross questions, a party



may serve redirect questions upon all other parties. Within 7 days after being served with redirect questions, a party may serve re-cross questions upon all other parties. The court may for cause shown enlarge or shorten the time.

(b) – (c) [NO CHANGE]

### **Rule 34. Production of Documents and Things and Entry Upon Land for Inspection and Other Purposes**

(a) [NO CHANGE]

**(b) Procedure.** The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts.

The party upon whom the request is served shall serve a written response within 35 days after the service of the request. A shorter or longer time may be directed by the court or agreed to in writing by the parties pursuant to C.R.C.P. 29. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, or state with specificity the grounds for objecting to the request unless the request is objected to, in which event the reasons for objection shall be stated. The responding party may state that it will produce copies of information instead of permitting inspection. The production must then be completed no later than the time for inspection stated in the request or another reasonable time stated in the response.

An objection must state whether any responsive materials are being withheld on the basis of that objection. If objection is made to part of an item or category, the part shall be specified. A timely objection to a request for production stays the obligation to produce which is the subject of the objection until the court resolves the objection. No separate motion for protective order pursuant to C.R.C.P. 26(c) is required. The party submitting the request may move for an order pursuant to C.R.C.P. 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

A party who produces documents for inspection shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

**(c) Persons Not Parties.** As provided in C.R.C.P. 45, ~~t~~<sup>F</sup>his ~~R~~<sup>R</sup>ule does not preclude an independent action against a person not a party for production of documents and things and permission to enter upon land.

### **Rule 37. Failure to Make Disclosure or Cooperate in Discovery: Sanctions**

**(a) Motion for Order Compelling Disclosure or Discovery.** A party, upon reasonable notice to other parties and all persons affected thereby, may apply for an order compelling disclosure or discovery and imposing sanctions as follows:

(1) **Appropriate Court.** An application for an order to a party or to a person who is not a party shall be made to the court in which the action is pending.

(2) **Motion.** (A) If a party fails to make a disclosure required by C.R.C.P. 26(a), any other party may move to compel disclosure and for appropriate sanctions. The motion shall be accompanied by a certification that the movant in good faith has conferred or attempted to confer with the party not making the disclosure in an effort to secure the disclosure without court action.

(B) If a deponent fails to answer a question propounded or submitted pursuant to C.R.C.P. Rules 30 or 31, or a corporation or other entity fails to make a designation pursuant to C.R.C.P. Rules 30(b)(6) or 31(a), or a party fails to answer an interrogatory submitted pursuant to C.R.C.P. 33, or if a party, in response to a request for inspection submitted pursuant to C.R.C.P. 34, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested, the discovering party may move for an order compelling an answer, or a designation, or an order compelling inspection in accordance with the request. The motion shall be accompanied by a certification that the moving party in good faith has conferred or attempted to confer with the person or party failing to make the discovery in an effort to secure the information or material without court action. When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before applying for an order.

(3) **Evasive or Incomplete Disclosure, Answer, or Response.** For purposes of this subsection an evasive or incomplete disclosure, answer, or response shall be deemed a failure to disclose, answer, or respond.

(4) **Expenses and Sanctions.** (A) If a motion is granted or if the disclosure or requested discovery is provided after the motion was filed, the court may, after affording an opportunity to be heard if requested, require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in making the motion, including attorney fees, unless the court finds that the motion was filed without the movant's first making a good faith effort to obtain the disclosure or discovery without court action, or that the opposing party's nondisclosure, response, or objection was substantially justified or that other circumstances make an award of expenses manifestly unjust.

(B) If a motion is denied, the court may make such protective order as it could have made on a motion filed pursuant to C.R.C.P. 26(c) and may, after affording an opportunity to be heard if requested, require the moving party or the attorney filing the motion or both of them to pay to the party or deponent who opposed the motion the reasonable expenses incurred in opposing the

motion, including attorney's fees, unless the court finds that the making of the motion was substantially justified or that other circumstances make an award of expenses manifestly unjust.

(C) If the motion is granted in part and denied in part, the court may make such protective order as it could have made on a motion filed pursuant to C.R.C.P. 26(c) and may, after affording an opportunity to be heard, apportion the reasonable expenses incurred in relation to the motion among the parties and persons in a just manner.

**(b) Failure to Comply with Order.**

(1) **Non-Party Deponents-Sanctions by Court.** If a deponent fails to be sworn or to answer a question after being directed to do so by the court in which the action is pending or from which the subpoena is issued, the failure may be considered a contempt of court.

(2) **Party Deponents-Sanctions by Court.** If a party or an officer, director, or managing agent of a party, or a person designated under Rule 30(b)(6) or 31(a) to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under section (a) of this Rule or Rule 35, the court in which the action is pending may make such orders in regard to the failure as are just, and among others the following:

(A) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence;

(C) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;

(D) In lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of court the failure to obey any orders except an order to submit to a physical or mental examination;

(E) Where a party has failed to comply with an order under Rule 35(a) requiring the party to produce another for examination, such orders as are listed in subparagraphs (A), (B), and (C) of this subsection (2), unless the party failing to comply shows that he is unable to produce such person for examination.

In lieu of any of the foregoing orders or in addition thereto, the court shall require the party failing to obey the order, or the attorney advising the party, or both, to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

**(c) Failure to Disclose; False or Misleading Disclosure; Refusal to Admit.** (1) A party that without substantial justification fails to disclose information required by C.R.C.P. Rules 26(a) or 26(e) shall not, ~~unless such failure is harmless,~~ be permitted to present any evidence not so disclosed at trial or on a motion made pursuant to C.R.C.P. 56, unless such failure has not caused and will not cause significant harm, or such preclusion is disproportionate to that harm. ~~In addition to or in lieu of this sanction, the court, on motion after affording an opportunity to be heard, may impose other appropriate sanctions, which, in addition to requiring payment of reasonable expenses including attorney fees caused by the failure, may include any of the actions authorized pursuant to subsections (b)(2)(A), (b)(2)(B), and (b)(2)(C) of this Rule.~~ The court, after holding a hearing if requested, may impose any other sanction proportionate to the harm, including any of the sanctions authorized in subsections (b)(2)(A), (b)(2)(B) and (b)(2)(C) of this Rule, and the payment of reasonable expenses including attorney fees caused by the failure.

(2) If a party fails to admit the genuineness of any document or the truth of any matter as requested pursuant to C.R.C.P. 36, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, the requesting party may apply to the court for an order requiring the other party to pay the reasonable expenses incurred in making that proof, including reasonable attorney fees. The court shall make the order unless it finds that

(A) the request was held objectionable pursuant to C.R.C.P. 36(a), or

(B) the admission sought was of no substantial importance, or

(C) the party failing to admit had reasonable ground to believe that the party might prevail on the matter, or

(D) there was other good reason for the failure to admit.

(d) [NO CHANGE]

#### **Rule 54. Judgments; Costs**

(a) – (c) [NO CHANGE]

**(d) Costs.** Except when express provision therefor is made either in a statute of this state or in these rules, reasonable costs shall be allowed as of course to the prevailing party considering any relevant factors which may include the needs and complexity of the case, the amount in controversy, and the importance of incurring the costs in the litigation ~~unless the court otherwise directs;~~ but costs against the state of Colorado, its officers or agencies, shall be imposed only to the extent permitted by law. Unless the trial court makes specific findings that the interests of justice require otherwise, costs for experts shall be limited to reasonable compensation fixed by the court for the value of time spent testifying at trial, and for testifying in depositions admitted in evidence in lieu of testifying at trial.

(e) – (h) [NO CHANGE]

**Rule 121. Local Rules – Statewide Practice Standards**

**Section 1-1 through 1-21 [NO CHANGE]**

**Section 1-22**

**COSTS AND ATTORNEY FEES**

**1. COSTS.** A party claiming costs shall file a Bill of Costs within 21 days of the entry of order or judgment, or within such greater time as the court may allow. The Bill of Costs shall itemize and total costs being claimed. Taxing and determination of costs shall be in accordance with C.R.C.P. 54(d) and Practice Standard § 1-15. Any party which may be affected by the Bill of Costs may request a hearing within the time permitted to file a reply. Any request shall identify those issues which the party believes should be addressed at the hearing. When required to do so by law, the court shall grant a party’s timely request for a hearing. In other cases where a party has made a timely request for a hearing, the court shall hold a hearing if it determines in its discretion that a hearing would materially assist the court in ruling on the motion.

**2. [NO CHANGE]**

**Section 1-23 through 1-26 [NO CHANGE]**

District Court _____ County, Colorado Court Address: <hr/> Plaintiff(s): <hr/> v. Defendant(s): <hr/>	▲ <b>COURT USE ONLY</b> ▲
Responsible attorney or if no responsible attorney pursuant to C.R.C.P. 16(b)(2), Plaintiff's name and address:    Phone Number:                      E-mail: FAX Number:                         Atty. Reg. #:	Case Number:    Division                      Courtroom
<b>PROPOSED CASE MANAGEMENT ORDER</b>	

Pursuant to C.R.C.P. 16(b), the parties should discuss each item below. If they agree, the agreement should be stated. If they cannot agree, each party should state its position briefly. If an item does not apply, it should be identified as not applicable.

This form shall be submitted to the court in editable format. When approved by the court, it shall constitute the Case Management Order for this case unless modified by the court upon a showing of good cause.

This form must be filed with the court no later than 42 days after the case is at issue and at least 7 days before the date of the Case Management Conference.

The Case Management Conference is set for \_\_\_\_\_, 20\_\_\_\_ at \_\_:\_\_\_.m.

1. The “at issue date” is:

\_\_\_\_\_.

2. Responsible Attorney’s name, address, phone number and email address:

\_\_\_\_\_

3. The lead counsel for each party, \_\_\_\_\_,  
and any party not represented by counsel, \_\_\_\_\_,  
met and conferred in person or by telephone concerning this Proposed Order and each of the  
issues listed in Rule 16(b)(3)(A) through (E) on \_\_\_\_\_, 20\_\_\_\_\_.

4. Brief description of the case and identification of the issues to be tried (not more than one  
page, double-spaced, for each side):

\_\_\_\_\_

5. The following motions have been filed and are unresolved:

\_\_\_\_\_

6. Brief assessment of each party’s position on the application of the proportionality factors,  
including those listed in C.R.C.P. 26(b)(1): \_\_\_\_\_

7. The lead counsel for each party, \_\_\_\_\_,  
and any party not represented by counsel, \_\_\_\_\_,  
met and conferred concerning possible settlement. The prospects for settlement are:

\_\_\_\_\_

**8. Deadlines for:**

a. Amending or supplementing pleadings: (Not more than 105 days (15 weeks) from at issue date.) \_\_\_\_\_

b. Joinder of additional parties: (Not more than 105 days (15) weeks from at issue date.)  
\_\_\_\_\_

c. Identifying non-parties at fault: \_\_\_\_\_

**9. Dates of initial disclosures:** \_\_\_\_\_

Objections, if any, about their adequacy: \_\_\_\_\_

**10. If full disclosure of information under C.R.C.P. 26(a)(1)(C) was not made because of a party's inability to provide it, provide a brief statement of reasons for that party's inability and the expected timing of full disclosures \_\_\_\_\_, and completion of discovery on damages: \_\_\_\_\_**

**11. Proposed limitations on and modifications to the scope and types of discovery, consistent with the proportionality factors in C.R.C.P. 26(b)(1):**

Number of depositions per party (C.R.C.P. 26(b)(2)(A) limit 1 of adverse party + 2 others + experts per C.R.C.P. 26(b)(4)(A)): \_\_\_\_\_

Number of interrogatories per party (C.R.C.P. 26(b)(2)(B) limit of 30): \_\_\_\_\_



Number of requests for production of documents per party (C.R.C.P. 26(b)(2)(D) limit of 20):

---

Number of requests for admission per party (C.R.C.P. 26(b)(2)(E) limit of 20): \_\_\_\_\_

Any physical or mental examination per C.R.C.P. 35: \_\_\_\_\_

Any limitations on awardable costs: \_\_\_\_\_

State the justifications for any modifications in the foregoing C.R.C.P. 26(b)(2) limitations:

---

**12.** Number of experts, subjects for anticipated expert testimony, and whether experts will be under C.R.C.P. 26(a)(2)(B)(I) or (B)(II):

---

If more than one expert in any subject per side is anticipated, state the reasons why such expert is appropriate consistent with proportionality factors in C.R.C.P. 26(b)(1) and any differences among the positions of multiple parties on the same side:

---

**13.** Proposed deadlines for expert witness disclosure if other than those in C.R.C.P. 26(a)(2):

a. production of expert reports:

i. Plaintiff/claimant: \_\_\_\_\_

ii. Defendant/opposing party: \_\_\_\_\_

b. production of rebuttal expert reports: \_\_\_\_\_

c. production of expert witness files: \_\_\_\_\_

State the reasons for any different dates from those in C.R.C.P. 26(a)(2)(C): \_\_\_\_\_

\_\_\_\_\_

**14. Oral Discovery Motions.** The court (does)(does not) require discovery motions to be presented orally, without written motions or briefs.

\_\_\_\_\_

**15. Electronically Stored Information.** The parties (do)(do not) anticipate needing to discover a significant amount of electronically stored information. The following is a brief report concerning their agreements or positions on search terms to be used, if any, and relating to the production, continued preservation, and restoration of electronically stored information, including the form in which it is to be produced and an estimate of the attendant costs.

\_\_\_\_\_

16. Parties' best estimate as to when discovery can be completed: \_\_\_\_\_

Parties' best estimate of the length of the trial: \_\_\_\_\_

Trial will commence on (or will be set by the court later): \_\_\_\_\_

17. Other appropriate matters for consideration:

\_\_\_\_\_

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

Signature

\_\_\_\_\_

Attorney for Plaintiff

\_\_\_\_\_

Signature

\_\_\_\_\_

Attorney for Defendant

**CASE MANAGEMENT ORDER**

IT IS HEREBY ORDERED that the foregoing, including any modifications made by the court, is and shall be the Case Management Order in this case.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BY THE COURT:

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District Court Judge