IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

IN THE MATTER OF LOCAL RULES OF PRACTICE FOR THE U.S. DISTRICT COURT DISTRICT OF COLORADO	))))	GENERAL ORDER 2002 -1

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
JAN 16, 2002
JAMES R. MANSPEAKER,
CLERK

Pursuant to 28 U.S.C. § 2701, Fed. R. Civ. P. 83, and Fed R. Crim. P. 57, it is

ORDERED that the attached Local Rules of Practice of the United States District Court for the District of Colorado – Civil and Local Rules of Practice of the United States District Court for the District of Colorado – Criminal are adopted to become effective on April 15, 2002, and will, so far as practicable, govern all civil and criminal proceedings in this court.

Dated this 16th day of January, 2002, at Denver, Colorado.

By the Court:

Lewis T. Babcock, Chief Judge

Wiley Y. Daniel, Judge

Richard P. Matsch, Judge

Walker D. Miller, Judge

Edward W. Nottingham, Judge

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JAMES R. MANSPEAKER,
CLERK

IN THE MATTER OF)
LOCAL RULES OF PRACTICE)

GENERAL ORDER 2002-2

ORDER CONCERNING ORDERS SUPERSEDED BY
LOCAL RULES OF PRACTICE EFFECTIVE APRIL 15, 2002

This Court having approved the amendments to the Local Rules of Practice for the District of Colorado, effective April 15, 2002, it is

ORDERED that the following orders are superseded by the Local Rules of Practice for the District of Colorado, effective April 15, 2002:

Procedural Order (March 6, 1997)	In the Matter of Habeas Corpus Proceedings Initiated Pursuant to 28 U.S.C. § 1915
Procedural Order (May 22, 1996)	In the Matter of Prisoner Litigation Initiated Pursuant to 28 U.S.C. § 1915
General Order 1993-5	In the Matter of Related Criminal Cases
General Order 1991-4	In the Matter of Federal Debt Collections Procedures Act of 1990
General Order 1989-1	In the Matter of Assignment of Criminal Cases
General Order 1989-2	In the Matter of Assignment of Magistrates
General Order 1989-3	In the Matter of Bankruptcy Appeals
General Order 1989-9	In the Matter of Reassignment of Cases to Magistrates
General Order 1985-1	In the Matter of Physical Evidence
Special Order 1984-A	In the Matter of Referral of Bankruptcy Cases
General Order 1984-1	In the Matter of Referral of Bankruptcy Cases
General Order 1984-3	In the Matter of Referral of Bankruptcy Cases

General Procedure Order 1983-2 In the Matter of A Uniform Pretrial Order and Pretrial Procedures

Dated this 16th day of January, 2002, at Denver, Colorado.

By the Court:

Lewis T. Babcock, Chief Judge

Wiley Y. Daniel, Judge

Richard P. Matsch, Judge

Walker D. Miller, Judge

Edward W. Nottingham, Judge

UNITED STATES DISTRICT COURT

FOR THE

DISTRICT OF COLORADO

***

LOCAL RULES OF PRACTICE

***

Effective April 15, 2002
with updates through August 30, 2002
(Appendix M and Administrative Order 2002-3)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CHIEF JUDGE LEWIS T. BABCOCK
JUDGE RICHARD P. MATSCH
SENIOR JUDGE JOHN L. KANE
SENIOR JUDGE ZITA L. WEINSHIENK
JUDGE EDWARD W. NOTTINGHAM
SENIOR JUDGE DANIEL B. SPARR
JUDGE WILEY Y. DANIEL
JUDGE WALKER D. MILLER
JUDGE MARSHA S. KRIEGER
JUDGE ROBERT E. BLACKBURN

* * * * * *

MAGISTRATE JUDGE O. EDWARD SCHLATTER
MAGISTRATE JUDGE PATRICIA A. COAN
MAGISTRATE JUDGE MICHAEL J. WATANABE
MAGISTRATE JUDGE BOYD N. BOLAND
MAGISTRATE JUDGE CRAIG B. SHAFFER
MAGISTRATE JUDGE GUDRUN J. RICE

James R. Manspeaker, Clerk
United States District Court
Alfred A. Arraj United States Courthouse
901 19th Street, Room A-105
Denver, Colorado 80294-3589
Civil: 303/844-3433
Criminal: 303/844-2115
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Web site: www.cod.uscourts.gov

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
CIVIL RULES

I. SCOPE, PURPOSE, AND CONSTRUCTION

D.C.COLO.LCivR 1.1
SCOPE OF THE LOCAL RULES

A. **Title and Citation.** These rules shall be known as the Local Rules of Practice of the United States District Court for the District of Colorado-Civil. They may be cited as "D.C.COLO.LCivR _____."

B. **Effective Date.** These rules shall become effective on April 15, 2002.

C. **Scope.** These rules apply in all civil actions filed in the United States District Court for the District of Colorado.

D. **Relationship to Prior Rules.** Except as otherwise provided in D.C.COLO.LCivR 83.4, concerning standards of professional responsibility governing conduct of attorneys, these rules supersede all previous local rules.

E. **Numbering and Indexing.** These rules are numbered and indexed in accordance with the Judicial Conference Uniform Numbering System.

F. **Judicial Officer.** A judicial officer refers to a district judge or to a magistrate judge.

G. **Clerk.** Reference in these rules to the clerk refers to the Clerk of the Court or a deputy clerk, unless otherwise specified.

H. **Appendices.** Appendices are subject to modification without notice.

D.C.COLO.LCivR 1.2
FORMS

The forms referred to in these rules may be modified by the court or a judicial officer at any time. Parties may refer to the court's web site or contact the clerk's office to confirm that they are using the most current form, if any, used by the judicial officer assigned to their action.

II. COMMENCEMENT OF ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS, AND ORDERS

D.C.COLO.LCivR 3.1
CIVIL COVER SHEET

A. **Civil Cover Sheet**. A properly completed Civil Cover Sheet (see Appendix A) shall be given to the clerk at the commencement of each civil action. If the filing party is represented by counsel, the Civil Cover Sheet shall be completed and signed by an attorney of record in the case.

B. **Supplemental Civil Cover Sheet for Notices of Removal.** A properly completed Supplemental Civil Cover Sheet for Notices of Removal (see Appendix B) shall be given to the clerk at the time a notice of removal is filed.

D.C.COLO.LCivR 3.2
NOTICE REGARDING JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

A party shall promptly file a notice of pendency of action or proceeding if a civil action filed in this court is the subject of, or related to, an action or proceeding pending before the Judicial Panel on Multidistrict Litigation.

D.C.COLO.LCivR 3.3
PAYMENT OF FEES

A. **Filing Fee.** The clerk shall require payment of a filing fee before a civil action, suit, or proceeding is filed. When a pleading is received for filing without the required fee, the clerk shall notify the filing party that the pleadings will be held and not accepted for filing until the required fee is received or an order allowing the party to proceed *in forma pauperis* is entered. When the filing fee or order is received, the clerk shall file the pleading.

B. **Fees.** See Schedule of Fees (Appendix C).

D.C.COLO.LCivR 5.1
FILING AND SERVICE OF PLEADINGS AND PAPERS

A. **Facsimile Filing.** A pleading or paper which does not require a filing fee and is no longer than ten pages, including all attachments, may be filed with the clerk by means of

facsimile at a telephone number that may be obtained from the court's web site or clerk's office. Upon receipt of a facsimile filing, the clerk will make the copies required under D.C.COLO.LCivR 10.1L. Facsimiles received by the clerk after 5:00 p.m. (Mountain Time) will be considered filed as of the next business day. Unless otherwise ordered by the court, a pleading or paper filed by facsimile shall be treated as an original for all court purposes.

B. **Facsimile Cover Sheet.** A pleading or paper filed with the clerk by facsimile must be accompanied by a facsimile cover sheet (see Appendix D) which includes the following:

1. the date of transmission;

2. the name, facsimile number, and telephone number of the attorney or *pro se* party making the transmission;

3. the case number, caption, and title of the pleading or paper; and

4. the number of pages of the pleading or paper being transmitted including the facsimile cover sheet.

C. **Confirmation of Facsimile Filing.** Confirmation that the clerk received a facsimile filing may be made by:

1. reviewing the docket entries, or

2. transmitting an additional copy of the first page of the pleading or paper, and requesting on the facsimile cover sheet that the first page of the pleading or paper be file stamped by the clerk and returned to the attorney or *pro se* party via facsimile.

D. **Original Pleading or Paper.** If a facsimile copy is filed in lieu of the original pleading or paper, the attorney or *pro se* party shall maintain the original document including the certificate of service. See D.C.COLO.LCivR 5.1F. At the direction of a judicial officer, the transmitting party may be required to file the original document accompanied by a letter noting that the original document is being filed after transmission by facsimile.

E. **Signatures.** Signatures on pleadings or papers filed by facsimile shall have the same legal effect as original signatures on pleadings actually filed with the court.

F. **Certificate of Service.** Each paper, other than one filed *ex parte*, shall be accompanied by a certificate of service indicating the date it was served, the name and address of the person to whom it was sent, and the manner of service. Where service is by electronic means, the electronic mail address or facsimile number used shall be listed.

D.C.COLO.LCivR 5.2
SERVICE BY OTHER MEANS, INCLUDING ELECTRONIC MEANS

A. **Form and Content of Consent.** A party's consent to accept service by other means, including electronic means, as authorized by Fed. R. Civ. P. 5(b), shall be expressly stated and filed in writing with the clerk. The consent shall include:

1. the persons to whom service should be made;

2. the appropriate address or location for such service, such as the electronic-mail address or facsimile number; and

3. the format to be used for attachments.

See Appendix M

B. **Duration of Consent.** A party's consent shall remain effective for all service authorized by Fed. R. Civ. P. 5 or Fed. R. Civ. P. 77(d) until expressly revoked or until the representation of a party changes through entry, withdrawal, or substitution of counsel.

C. **Notice of Change of Electronic-Mail Address or Facsimile Number.** Within ten days after any change of electronic-mail address or facsimile number of any attorney or *pro se* party that has consented to service by other means, including electronic means, notice of the new electronic-mail address or facsimile number shall be filed.

D.C.COLO.LCivR 5.5
CUSTODIAN OF NON-FILED DISCOVERY MATERIALS

Counsel or a *pro se* party noticing a deposition or responsible for serving other non-filed discovery materials shall act for the court as custodian of such material. Nonfiled discovery materials under Fed. R. Civ. P. 5(d) include notices to take depositions and discovery subpoenas. The original sealed deposition transcript shall be brought to trial and opened only upon court order.

D.C.COLO.LCivR 6.1
STIPULATIONS AND MOTIONS FOR EXTENSION OF TIME; MOTIONS FOR CONTINUANCE

A. **Extension on Stipulation.** The parties may stipulate in writing to a first extension of not more than 20 days beyond the time limits prescribed in the Federal Rules of Civil Procedure to respond to a complaint, cross-claim, counterclaim, third-party complaint, interrogatories, requests for production of documents, or requests for admissions. The stipulation must be filed before the expiration of the time limits to respond prescribed in

the Federal Rules of Civil Procedure, and shall be effective upon filing, unless otherwise ordered. No stipulation by the parties can affect a date or deadline established by court order, including hearing dates and case management deadlines.

B. **Extension Upon Motion.** Except as provided in section A. of this rule, all requests for extensions of time must be approved by court order upon motion.

C. **Content of Motion for Extension of Time.** A motion for extension of time shall state a date certain for the requested extension of time and set forth the total number of extensions previously obtained by the moving party, including those obtained under section A of this rule, as to the particular matter for which the extension is sought.

D. **Proof of Service.** A motion for extension of time or motion for continuance will not be considered without proof that a copy of the motion has been served upon the moving attorney's client, all counsel of record and *pro se* parties.

E. **Time Limitations.** Except as provided in section A. of this rule:

1. no agreement of the parties to shorten or extend any time limitation provided by the Federal Rules of Civil Procedure or these rules will be recognized or enforced, nor will such an agreement be considered just cause for failing to perform within the time limits established by those rules; and

2. only time variances specifically approved by court order upon motion made within the time limits prescribed by the Federal Rules of Civil Procedure or these rules will be recognized as having any binding or legal effect.

III. PLEADINGS AND MOTIONS

D.C.COLO.LCivR 7.1
MOTIONS

A. **Duty to Confer.** The court will not consider any motion, other than a motion under Fed. R. Civ. P. 12 or 56, unless counsel for the moving party or a *pro se* party, before filing the motion, has conferred or made reasonable, good-faith efforts to confer with opposing counsel or a *pro se* party to resolve the disputed matter. The moving party shall state in the motion, or in a certificate attached to the motion, the specific efforts to comply with this rule.

B. **Unopposed Motion.** If a motion is unopposed, it shall be entitled "Unopposed Motion for _____."

C. **Motion, Response, and Reply; Time for Serving and Filing; Length.** Excluding motions filed under Fed. R. Civ. P. 56 or 65, a motion involving a contested issue of law shall state under which rule or statute it is filed and be supported by a recitation of legal authority incorporated into the motion. The responding party shall have 20 days after the filing date of the motion, or such lesser or greater time as the court may allow, in which to file a response. The moving party may file a reply within 15 days after the filing date of the response, or such lesser or greater time as the court may allow. Nothing in this rule precludes a judicial officer from ruling on a motion at any time after it is filed.

A motion shall not be included in a response or reply to the original motion. A motion shall be made in a separate paper.

D. **Citations.** Every citation in a motion, response or reply shall include the specific page or statutory subsection to which reference is made. If an unpublished opinion is cited, a copy of the opinion must be attached to the motion, response, or reply in which it is cited.

E. **Supplemental Authority.** If the matter is set for hearing, supplemental authority must be filed at least five days before the hearing.

F. **Proposed Order.** A moving party may submit a proposed order with an unopposed motion or nondispositive motion. A general order attached to a motion (such as "it is ordered" or "so ordered") is not permitted. A proposed order must be on separate paper, bear a separate caption, and set out clearly the order's basis and terms.

G. **Hearings.** A motion may be decided on the papers unless oral argument, at the court's discretion, is ordered.

H. **Sanctions.** Motions, responses, and replies shall be concise. A verbose, redundant, ungrammatical, or unintelligible motion, response, or reply may be stricken or returned for revision, and its filing may be grounds for imposing sanctions.

D.C.COLO.LCivR 7.2
MOTIONS TO SEAL;
MOTIONS TO CLOSE COURT PROCEEDINGS

A. **Scope.** Upon motion and a showing of compelling reasons, a judicial officer may order that:

1. all or a portion of papers and documents filed in a case shall be sealed; or

2. all or a portion of court proceedings shall be closed to the public.

B. **Motion Open to Public Inspection.** A motion to seal or close court proceedings will be placed in the case file and open to public inspection.

C. **Proposed Filing.** A proposed filing of papers or documents will be submitted under seal until the motion to seal is decided by a judicial officer.

D. **Public Notice; Objections.** On the business day after the filing of a motion to seal or motion to close court proceedings, a public notice will be posted in the clerk's office and on the court's web site. The public notice will advise of such motion and state that any person or entity may file objections to the motion on or before the date set forth in such public notice. The date will be not less than three business days after the public notice is posted.

E. **Order.** No order to seal or close court proceedings will be entered before the date set forth in the public notice for filing objections, except in emergency circumstances shown or referred to in the motion.

D.C.COLO.LCivR 7.3
PROCEDURES FOR FILING PAPERS AND DOCUMENTS UNDER SEAL

A. **Manner of Filing.** The following papers or documents must be placed unfolded in a sealed envelope with a copy of a cover page (see section B. of this rule) affixed to the outside of the envelope:

1. papers or documents ordered sealed by the court;

2. proposed filings of papers or documents submitted under seal with a motion requesting that the documents be sealed; and

3. documents required to be sealed by law.

B. **Cover Page.** The cover page affixed to the outside of the sealed envelope must include:

1. the case caption;

2. the title of the paper or document;

3. the name, address, and telephone number of the attorney or *pro se* party filing the paper or document;

4. a notation that the paper or document is filed under seal;

5. the title and date of the court order pursuant to which the paper or document is sealed, if applicable; or

6. the citation of the statute or other authority pursuant to which the paper or document is sealed, if applicable.

C. **Copies.** Copies of the papers or documents in sealed envelopes shall be filed in accordance with D.C.COLO.LCivR 10.1L.

D.C. COLO.LCivR 7.4
DISCLOSURE STATEMENT

A. **Who Must File.** Any nongovernmental corporate party or other legal entity to a proceeding in a district court must file a statement identifying all its parent entities and listing any publicly held entity that owns ten percent or more of the party's stock.

B. **Time for Filing; Supplemental Filing.**

1. A party must file the disclosure statement upon its first appearance, pleading, petition, motion, response, or other request addressed to the court.

2. A party must promptly file a supplemental statement upon any change in the information that the statement requires.

D.C.COLO.LCivR 8.1
PRO SE PLEADINGS

A. **Forms and Instructions.** A *pro se* party shall use the forms established by this court to file an action. Upon request, the clerk shall provide copies of the necessary forms and instructions for filing an action.

B. **Fees.** A judicial officer shall grant or deny a motion to proceed without payment of fees.

C. **Review of *Pro Se* Pleadings.** A judicial officer designated by the Chief Judge shall review the pleadings of a *pro se* party who is allowed to proceed without prepayment of fees to determine whether the pleadings should be dismissed summarily. A judicial officer may request additional facts or documentary evidence necessary to make this determination.

D. **Assignment.** If an action is not dismissed summarily, the action shall be assigned to a district judge and to a magistrate judge in accordance with D.C.COLO.LCivR 40.1. A judicial officer to whom the action is assigned may order issuance of a summons.

D.C.COLO.LCivR 8.2
PRISONER PLEADINGS

A. **Forms and Instructions.** A *pro se* prisoner shall use the forms established by this court to file an action. Upon request, the clerk shall provide copies of the necessary forms and instructions for filing an action.

B. **Fees.** A judicial officer shall grant or deny a motion to proceed without prepayment of fees.

C. **Review of Prisoner Pleadings.** A judicial officer designated by the Chief Judge shall review the pleadings of a prisoner (regardless of representation by counsel) to determine whether the pleadings should be dismissed summarily if the prisoner is:

1. allowed to proceed without prepayment of fees;

2. challenging prison conditions;

3. seeking redress from a governmental entity, officer, or employee; or

4. asserting claims pertinent to his or her conviction or sentence, except in death penalty cases.

A judicial officer may request additional facts or documentary evidence necessary to make this determination.

D. **Assignment.** If an action is not dismissed summarily, the action shall be assigned to a district judge and to a magistrate judge in accordance with D.C.COLO.LCivR 40.1. A judicial officer to whom the action is assigned may order issuance of a summons, an order to answer, or an order to show cause.

D.C.COLO.LCivR 10.1
FORMAT AND COPIES OF PAPERS PRESENTED FOR FILING

A. **Definition.** The term "papers" includes pleadings, motions, briefs, or other filings made pursuant to the Federal Rules of Civil Procedure or these rules.

B. **Size.** All documents filed with the court shall be on 8½- by 11-inch, white paper. Use of recycled paper is acceptable.

C. **Margins.** Margins shall be 1½ inches at the top and 1 inch at the left, right, and bottom.

D. **Font.** Except in *pro se* cases or for good cause shown, all papers shall be typewritten using black ink and not less than 12-point font.

E. **Spacing.** All papers shall be double-spaced.

F. **Text.** Text shall be printed on one side of the page only.

G. **Legible.** All papers and signatures shall be legible.

H. **Exhibits.** Exhibits, other than documentary evidence in a different format, shall conform to this rule.

I. **Case Number; First Page.** All papers filed after commencement of a case shall bear the proper case number, including in sequence the case year; the initial(s) of the district judge assigned; the chronological number; and the initials of the magistrate judge assigned (for example 02-B-1234 (OES)). The first page of every paper shall reflect accurately its nature and on whose behalf it is filed.

J. **Caption.** The caption format shall be as set forth in Appendix E. Parties shall be listed in a caption with one party per line. The proper name of a party shall be in capital letters, and any identifying text shall be in upper and lower case immediately following the proper name. For example:

XOXOXO, and
XOXOXO,

Plaintiffs,

v.

XOXOXO,
XOXOXO, individually, and in his official capacity as _____,
XOXOXO, d/b/a XOXOXO,
XOXOXO, a/k/a XOXOXO,
XOXOXO, INC., a Colorado corporation, and
XOXOXO whose true name is unknown.

Defendants.

K. **Signature Block.** The name, current mailing address, and telephone number of any attorney of record or *pro se* party filing a paper shall be typed in a signature block at the end of the paper. A post office box number will be accepted as a mailing address, but a street address also must be provided. A facsimile number and electronic-mail address are optional. A paper shall be legibly signed in the signature block by the attorney of record or *pro se* party filing the paper.

L. **Original and Copies.** Except for papers filed by facsimile pursuant to D.C.COLO.LCivR 5.1A., an original and two copies of every paper shall be filed with the court. The clerk shall transmit one copy to the assigned district judge and one copy to the assigned magistrate judge.

M. **Notice of Change of Address or Telephone Number.** Within ten days after any change of address or telephone number of any attorney or *pro se* party, notice of the new address and telephone number shall be filed.

D.C.COLO.LCivR 11.1
APPEARANCES

A. **Appearances.** An appearance by or on behalf of a party shall be made in open court or in a pleading, motion, entry of appearance, or other paper personally signed by the individual making the appearance. Only *pro se* individual parties and members of this court's bar may appear or sign pleadings, motions, or other papers. Any pleading, motion, or paper listing in a signature block, or purporting to enter an appearance by, any other person, partnership, professional corporation, limited liability company, or other entity may be stricken.

B. **Signature Not to Be Delegated.** The responsibility for signing pleadings, motions, or other papers shall not be delegated. A signature made pursuant to authority granted by an individual who has entered an appearance in the case shall be treated for all purposes as the signature of the individual authorizing the signature.

C. **Signatures and Signature Pages.** Facsimile signatures on documents filed with the court shall have the same legal effect as original signatures on documents filed with the court. If a facsimile signature page with the facsimile signature of a member of this court's bar is attached to a pleading, motion, or other paper filed with the court, the member of this court's bar shall maintain the original signature page. At the direction of a judicial officer, the member of this court's bar may be required to file the original signature page.

D. **Attorney for the United States Government.** This rule shall not be applied or construed in a manner inconsistent with any statute or federal rule governing an attorney for the United States government who appears in a case.

D.C.COLO.LCivR 16.1
SCHEDULING CONFERENCE

A scheduling conference will be convened by a judicial officer to develop a scheduling order. The order setting the scheduling conference will set the deadline for the parties to meet and attempt to agree on a scheduling order. Plaintiff shall prepare the proposed scheduling order,

unless counsel or the *pro se* parties have agreed otherwise. Any area of disagreement shall be set forth separately with brief statements of the reasons for disagreement. It should be expected that the court will make modifications in the proposed order and will discuss limitations on discovery, simplification of the issues, stipulations of fact, and other matters affecting the management of the litigation. Accordingly, counsel responsible for the trial of the case will be present. The schedule established by a scheduling order shall not be modified except upon a showing of good cause and by leave of court.

D.C.COLO.LCivR 16.2
SCHEDULING ORDERS

A. **Instructions for Preparation.** Unless otherwise instructed by a judicial officer, when a scheduling order is required, it shall be prepared in accordance with the Instructions for Preparation of Scheduling Order. See Appendix F.

B. **Limitations.** Unless otherwise ordered by a judicial officer, scheduling orders for discovery, joinder, and amendment of pleadings are unnecessary in:

1. appeals from the bankruptcy court (see D.C.COLO.LCivR 40.1E4); and

2. categories of proceedings listed in Fed. R. Civ. P. 26(a)(1)(E).

D.C.COLO.LCivR 16.3
FINAL PRETRIAL ORDERS

A. **Instructions for Preparation of Final Pretrial Order.** Unless otherwise instructed by a judicial officer, when a final pretrial order is required, it shall be prepared in accordance with the Instructions for Preparation of Final Pretrial Order. See Appendix G.

B. **Pretrial Disclosures.** The tendering of a proposed final pretrial order in the form specified in Appendix G shall satisfy the requirement of Fed. R. Civ. P. 26(a)(3) that pretrial disclosures be filed with the court.

D.C.COLO.LCivR 16.6
ALTERNATIVE DISPUTE RESOLUTION

Pursuant to 28 U.S.C. § 652, all litigants in civil cases shall consider the use of an alternative dispute resolution process. At any stage of the proceedings, on a district judge's initiative or pursuant to motion or stipulation of counsel or the *pro se* parties, a district judge may direct the parties to a suit to engage in an early settlement conference or other alternative dispute resolution proceeding. To facilitate settlement or resolution of the suit, the district judge or a magistrate judge exercising consent jurisdiction may stay the action in whole or in part during a time certain or until further order. Relief from an order under this section may be had upon

motion showing good cause. Unless otherwise ordered by a judicial officer, cases exempt from this rule are:

1. those in which the plaintiff is a prisoner proceeding *pro se*; and

2. habeas corpus actions.

IV. PARTIES

D.C.COLO.LCivR 24.1
CLAIM OF UNCONSTITUTIONALITY

A. **Act of Congress.** A party who questions the constitutionality of an Act of Congress in an action where neither the United States nor any of its agencies, officers, or employees is a party shall file with the court written notice stating the case title, identifying each questioned statute, and describing the grounds on which unconstitutionality is asserted. The party raising such question shall serve a copy of this written notice on the United States Attorney General and the United States Attorney by certified mail, return receipt requested, and file proof of service with the court.

B. **State Statute.** A party who questions the constitutionality of a state statute in an action where neither that state nor any of its agencies, officers, or employees is a party shall file with the court written notice stating the case title, identifying each questioned statute, and describing the grounds on which unconstitutionality is asserted. The party raising such question shall serve a copy of this written notice on the attorney general of the state involved by certified mail, return receipt requested, and file proof of service with the court.

C. **Certification.** Upon receipt of a notice of unconstitutionality, the court shall comply with the certification provisions of 28 U.S.C. § 2403.

V. DEPOSITIONS AND DISCOVERY

D.C.COLO.LCivR 26.1
COMPLIANCE WITH FED. R. CIV. P. 26 REQUIREMENTS

A. **Proposed Scheduling Order.** The tendering of a proposed scheduling order in the form specified in Appendix F shall satisfy the requirement of submitting a written report outlining the discovery plan pursuant to Fed. R. Civ. P. 26(f).

B. **Pretrial Disclosures.** The tendering of a proposed final pretrial order in the form specified in Appendix G shall satisfy the requirement of Fed. R. Civ. P. 26(a)(3) that pretrial disclosures be filed with the court.

D.C.COLO.LCivR 30.1
DEPOSITIONS

A. **Reasonable Notice; Scheduling.** Unless otherwise ordered by the court, "reasonable notice" for the taking of depositions shall be not less than 11 days, as computed under Fed. R. Civ. P. 6. Before sending a notice to take a deposition, counsel or the *pro se* party seeking the deposition shall make a good faith effort to schedule it by agreement at a time reasonably convenient and economically efficient to the proposed deponent, all counsel of record, and *pro se* parties.

B. **Limiting Time and Expense.** Prior to scheduling or noticing any deposition, all counsel and *pro se* parties involved shall confer in a good-faith effort to agree on reasonable means of limiting the time and expense to be spent for that deposition. During that conference, they shall attempt in good faith to agree on a less expensive and less time-consuming method of obtaining the evidence sought including, without limitation, interviewing the witness under oath by telephone or in person.

D.C.COLO.LCivR 30.2
EFFECT OF FILING MOTION FOR PROTECTIVE ORDER OR MOTION TO LIMIT EXAMINATION

Pending resolution of any motion under Fed. R. Civ. P. 26(c) or 30(d), no party, attorney, or witness is required to appear at the deposition to which the motion is directed until the motion has been resolved. The filing of a motion under either of these rules shall stay the discovery to which the motion is directed until further order of the court.

D.C.COLO.LCivR 30.3
SANCTIONS FOR ABUSIVE DEPOSITION CONDUCT

A. **Prohibited Conduct.** The following abusive deposition conduct is prohibited:

1. Making objections or statements which have the effect of coaching the witness, instructing the witness concerning the way in which he or she should frame a response, or suggesting an answer to the witness.

2. Interrupting examination for an off-the-record conference between counsel and the witness, except for the purpose of determining whether to assert a privilege. Any off-the-record conference during a recess may be a subject for inquiry by the opposing counsel or *pro se* party, to the extent the conference is not privileged.

3. Instructing a deponent not to answer a question except when necessary to preserve a privilege, to enforce a limitation on evidence directed by a judicial officer, or to present a motion under Fed. R. Civ. P. 30(d)(4).

4. Filing a motion for protective order or to limit examination without a substantial basis in law.

5. Questioning that unfairly embarrasses, humiliates, intimidates, or harasses the deponent, or invades his or her privacy absent a clear statement on the record explaining how the answers to such questions will constitute, or lead to, competent evidence admissible at trial.

B. **Standing Order; Special Master**. The prohibitions reflected in section A. of this rule shall be treated as a standing order of the court for purposes of Fed. R. Civ. P. 37(b). Whenever it comes to the attention of a judicial officer that an attorney or party has engaged in abusive deposition conduct, a judicial officer may appoint a special master under Fed. R. Civ. P. 53, at the expense of the attorney or person engaging in such conduct (or of both sides), to attend future depositions, exercise such authority, and prepare such reports as a judicial officer shall direct.

C. **Location of Deposition**. If deposition abuse is anticipated, a judicial officer may order that any deposition be taken at the courthouse or special master's office so that, at the request of any party, witness, or counsel, any dispute may be heard and decided immediately by a judicial officer or special master.

D. **Expenses, Costs, and Fees.** Whenever a judicial officer shall determine that any party or counsel unreasonably has interrupted, delayed, or prolonged any deposition, whether by excessive questioning, objecting, or other conduct, that party or its counsel, or both, may be ordered to pay each other party's expenses, including without limitation, reasonably necessary travel, lodging, reporter's fees, attorney fees, and videotaping expenses, for that portion of the deposition determined to be excessive. In addition, that party or its counsel, or both, may be required to pay all such costs and expenses for any additional depositions or hearing made necessary by its misconduct.

D.C.COLO.LCivR 37.1
FORM OF DISCOVERY MOTIONS

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

VI. TRIALS

D.C.COLO.LCivR 40.1
ASSIGNMENT OF CASES

A. **Assignment in General**. Insofar as practicable and efficient and except as provided in D.C.COLO.LCivR 8.1 and 8.2, cases shall be assigned to judicial officers by random draw. Work parity shall be maintained among active district judges. Whenever a majority of active district judges determines that a workload imbalance is affecting litigants adversely, the Chief Judge shall review the pending case loads of the active district judges and magistrate judges and suggest appropriate relief. All reassignments or transfers of cases from one district judge, or one magistrate judge exercising consent jurisdiction, to another shall be subject to the Chief Judge's approval. Except as otherwise provided under D.C.COLO.LR 72.2, all reassignments or transfers of cases from one magistrate judge to another shall be subject to the presiding judge's approval. Senior district judges shall be provided the opportunity to participate in the court's business and may request reassignment of a case without a statement of reason.

B. **Related Cases.** "Related" cases are those involving the same parties and common questions of law or fact. The parties shall notify the court in writing of a related case pending in federal or state courts, stating the names and addresses of all counsel and *pro se* parties, the caption of each such case, and the jurisdiction where it is pending.

1. The clerk shall provide a form on which an attorney or *pro se* party filing a civil case shall indicate, in addition to other information required, whether the case being filed is related to any other action or actions pending before the court or terminated within the previous 12 months. See Appendix H.

2. If a relationship is indicated, the case shall be referred to the judge with the earliest filed case who shall determine promptly if the case is related. If the case is related, that judge shall be assigned to handle it. If found not related, the case shall be returned to the clerk for assignment by random draw.

3. All new cases filed by the same *pro se* plaintiff shall be assigned to the district judge who was assigned by random draw to the first case filed by that plaintiff.

4. All new cases arising from bankruptcy appeals and motions to withdraw the reference from bankruptcy court that have the same debtor shall be assigned to the district judge who handled the most recent bankruptcy appeal or motion to withdraw the reference from bankruptcy court.

C. **Random Draw; Apportionment**. The clerk shall maintain a computerized program to assure assignment by random draw of unrelated civil cases to district judges and

magistrate judges, and equal apportionment of cases among the active district judges. A majority of active district judges may adjust the apportionment of civil cases to the Chief Judge as may be necessary for the performance of the duties of that office.

D. **Draw by Means of Computerized Program**. Contemporaneously with the filing of a case, the clerk shall publicly draw a district judge and magistrate judge for each new unrelated civil case by means of the computerized program described in D.C.COLO.LCivR 40.1C.

E. **"AP" Cases.** Upon the filing of any administrative agency or bankruptcy appeal, the clerk will assign a case number without random selection to a district judge designated by the Chief Judge. The case number shall bear the initials "AP" to identify it as an appeal. A separate listing of "AP" cases shall be maintained. The clerk shall confirm that the notice of appeal was timely filed or, in the case of administrative agency appeals, that final agency action is alleged. The clerk shall then set the case for a prebriefing conference before a magistrate judge. Conference dates will be on a fixed schedule and the clerk shall schedule each appeal. Notice advising counsel and any *pro se* party of the conference date shall describe the action to be taken at the prebriefing conference. During the pendency of the action, the clerk will docket all pleadings, briefs and orders, and will prepare the judgment in accordance with the court's decision on appeal.

1. At the prebriefing conference, the magistrate judge will determine whether the appeal can be resolved by stipulation, confession, or settlement. If not, the magistrate judge will narrow the issues on appeal, refine the designation of record on appeal, and set the briefing schedule. Reference to Bankruptcy Rule 8009 shall be made in appropriate cases. The clerk shall attend each conference and prepare a minute order setting forth the schedule of further proceedings including the briefing schedule. If, in the opinion of the magistrate judge, the appeal is filed for purposes of delay or other just cause appears, the magistrate judge shall include in the minute order a notation that the appeal should be expedited, and the clerk shall stamp the word "EXPEDITE" on the face of both court file jackets.

2. The clerk shall monitor each case on the "AP" docket. Each month the clerk shall prepare and distribute to the court a report showing:

    a. cases awaiting prebriefing conferences;

    b. cases awaiting filing of all briefs;

    c. cases at issue showing the district judge to whom the appeal has been assigned, and whether the case has been designated "EXPEDITE;" and

    d. cases at issue for 30 days, 60 days, 90 days, or more.

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

4. No scheduling order shall be prepared in cases governed by this subsection.

F. **Recusal.** Recusal of an active judicial officer shall be only by written order setting forth the reasons. Upon such recusal, the clerk, when necessary, shall adjust the computerized drawing program so as to maintain equal apportionment of cases among the active judicial officers.

D.C.COLO.LCivR 40.2
TRIAL CALENDARS AND EXPEDITED CASE HANDLING

A. **Calendar; Expedited Cases.** Each judicial officer shall maintain an individual trial calendar with due regard for the priorities and requirements of law. Selected cases may be expedited by the judicial officer on his or her own motion, or on the motion of any party.

B. **Notice of Scheduling Conflict.** Within three days of learning of a scheduling conflict among different courts within the District of Colorado, or between the United States District Court for the District of Colorado and any other federal or state court, counsel or a *pro se* party shall file a written notice with the court.

C. **Notice of Settlement or Resolution.** Whenever the parties have agreed to settle or otherwise resolve a pending matter, they shall immediately notify the court in writing. The court may provide a deadline for the filing of settlement papers or a stipulation for dismissal.

D.C.COLO.LCivR 41.1
DISMISSAL

A judicial officer may issue an order to show cause why a case should not be dismissed for lack of prosecution or for failure to comply with these rules, the Federal Rules of Civil Procedure, or any court order. If good cause is not shown within the time set in the show cause

order, a district judge or a magistrate judge exercising consent jurisdiction may enter an order of dismissal with or without prejudice.

D.C.COLO.LCivR 41.2
ADMINISTRATIVE CLOSURE

A district judge or a magistrate judge exercising consent jurisdiction may direct the clerk to close a civil action administratively subject to reopening for good cause.

D.C.COLO.LCivR 42.1
MOTIONS TO CONSOLIDATE

A motion to consolidate shall be decided by the district judge to whom the oldest numbered case involved in the proposed consolidation is assigned for trial. Rulings on motions to consolidate shall be given priority. Cases consolidated shall be assigned for all further purposes to the judicial officer to whom the lowest numbered consolidated case previously was assigned for trial. A case not consolidated shall remain assigned to the judicial officer before whom it was pending when the motion to consolidate was filed.

D.C.COLO.LCivR 43.1
HEARING AND TRIAL PROCEDURES

Procedures pertaining to the hearing in or trial of a particular case will be established by the judicial officer trying the case. The procedures shall be in accordance with any written instructions of that judicial officer.

D.C.COLO.LCivR 43.2
ACCOMMODATIONS

At least five days prior to the hearing or trial, counsel or a *pro se* party shall notify the court of any necessary Americans with Disabilities Act accommodations.

D.C.COLO.LCivR 45.1
SUBPOENA SERVICE

Unless otherwise ordered by the court, a subpoena shall be served at least 48 hours before the time for appearance set in the subpoena.

D.C.COLO.LCivR 47.1
COMMUNICATION WITH JURORS

No party or attorney shall communicate with, or cause another to communicate with, a juror or prospective juror before, during, or after any trial without written authority signed by the judicial officer to whom the case is assigned for trial.

VII. JUDGMENT

D.C.COLO.LCivR 54.1
TAXATION OF COSTS

Each judgment or final order shall indicate which party or parties are entitled to costs. A bill of costs must be filed on the form provided by the court within ten days after entry of the judgment or final order. Costs will be taxed by the clerk. Prior to appearance before the clerk, counsel or a *pro se* party seeking costs shall file a written statement that a reasonable effort has been made, in a conference with the opposing counsel or *pro se* party, to resolve disputes regarding costs. If costs are resolved, a stipulation setting forth the amount of costs shall be filed with the court.

D.C.COLO.LCivR 54.2
JURY COST ASSESSMENT

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

D.C.COLO.LCivR 54.3
ATTORNEY FEES

A. **Motion Supported by Affidavit.** Unless otherwise ordered by the court, a motion for attorney fees shall be supported by one or more affidavits.

B. **Content of Motion.** A motion shall include the following for each person for whom fees are claimed:

1. a detailed description of the services rendered, the amount of time spent, the hourly rate, and the total amount claimed; and

2. a summary of relevant qualifications and experience.

D.C.COLO.LCivR 56.1
SUMMARY JUDGMENT MOTIONS AND BRIEFS

A. **Briefs.** A motion under Fed. R. Civ. P. 56 shall be accompanied by an opening brief. A response brief shall be filed within 20 days after the date of filing of the motion and opening brief, or such other time as the court may order. A reply brief may be filed within 15 days of the date of filing of the opposing brief, or such other time as the court may order.

B. **Cross Motion.** A cross motion for summary judgment shall not be included in a response brief. A cross motion shall be made in a separate motion and be subject to section A. of this rule.

C. **Exhibits to Briefs.** Voluminous exhibits are discouraged. Parties shall limit exhibits to essential portions of documents. Unless otherwise ordered by the court:

1. Plaintiff's exhibits should be marked using numbers. Defendant's exhibits should be marked as A-1 through A-99 (A-1, A-2, A-3, etc.), then B-1 through B-99, etc. Double or triple letters should not be used.

2. Copies of documents attached as exhibits to an opening brief shall not be attached as exhibits to a response brief. A responding party shall refer to the exhibits attached to the opening brief. If it is necessary for a responding party to rely on additional exhibits, the additional exhibits shall be attached to the response brief.

3. Copies of documents attached as exhibits to the opening brief or response brief(s) shall not be attached as exhibits to a reply brief. If it is necessary for the moving party to rely on additional exhibits, the additional exhibits shall be attached to the reply brief and consecutively numbered or lettered from the last exhibit attached to the opening brief.

VIII. PROVISIONAL AND FINAL REMEDIES

D.C.COLO.LCivR 65.1
TEMPORARY RESTRAINING ORDERS

A. **Motion.** An application for temporary restraining order shall be made in a motion separate from the complaint. A motion shall be accompanied by a certificate of counsel or *pro se* party, or other proof satisfactory to the court, stating:

1. that actual notice of the time of filing the motion, and copies of all pleadings and papers filed in the action to date or to be presented to the court at the hearing, have been furnished to the adverse party; or

2. the efforts made by the moving party to give such notice and furnish such copies. The provisions of D.C.COLO.LCivR 7.1A. shall apply to any such motion. Except in accordance with Fed. R. Civ. P. 65(b), the court will not consider an ex parte motion for temporary restraining order.

B. **Proposed Order.** A proposed temporary restraining order shall be submitted with a motion for temporary restraining order.

C. **Information Sheet.** A properly completed temporary restraining order information sheet shall be given to the clerk at the time of filing of the motion for temporary restraining order. See Appendix I.

D.C.COLO.LCivR 67.1
BONDS AND OTHER SURETIES

A. **Personal Surety.** An attorney in any case, or a party or spouse of a party in a civil case, shall not be accepted as a personal surety on any bond filed in that case.

B. **Restriction.** No person, corporation, partnership, or other association or entity may act as his, her, or its own surety in a civil case.

C. **Surety Company; Power of Attorney.** Where the surety on a bond is a surety company approved by the United States Department of the Treasury, a power of attorney showing the authority of the agent signing the bond shall be on file with the clerk.

D.C.COLO.LCivR 67.2
COURT REGISTRY INVESTMENT SYSTEM (CRIS)

The following shall govern deposits into the registry of the court in all civil actions:

A. **Receipt of Funds**

1. Unless a statute requires the deposit of funds without leave of court, no money shall be sent to the court or its officers for deposit into the court's registry without a written court order. All proposed orders shall be reviewed initially by the clerk before submission to the assigned judicial officer.

2. The party making the deposit or transferring funds to the court's registry shall serve the written order permitting the deposit or transfer personally on the Clerk of the Court, or on a deputy clerk specifically designated. It shall be incumbent on the moving party to confirm that the appropriate action has been accomplished by the clerk in accordance with the provisions of the order. Failure of any party to comply with this rule will release the Clerk of the Court from any liability for the loss of earned interest on the funds.

B. Investment of Registry Funds

1. All funds (except funds obtained through garnishments) deposited into the registry of the court will be placed in a form of interest bearing account. Unless otherwise ordered by the court, the Court Registry Investment System (CRIS) shall be the authorized investment mechanism.

2. Under CRIS, monies deposited in each case under section A.1. of this rule will be pooled together with those on deposit with the United States Department of the Treasury to the credit of other courts in the CRIS and used to purchase treasury securities. The securities will be held at the Federal Reserve Bank of Dallas in a safekeeping account in the name and to the credit of the Clerk, United States District Court for the District of Colorado, hereby designated custodian for the CRIS.

3. An account for each case will be established in the CRIS titled in the name of the case giving rise to the investment in the system. Income received from fund investments will be distributed to each case based on the ratio each account's principal and income has to the aggregate principal and income total in the fund. Weekly reports showing the income earned and the principal amounts contributed in each case will be prepared and distributed to each court participating in the CRIS and made available, upon request, to parties and/or their counsel.

C. Registry Fee

1. Pursuant to the provisions of the miscellaneous fee schedule established by the Judicial Conference of the United States and as set forth in 28 U.S.C. § 1914, the clerk will assess and deduct registry fees according to the formula promulgated by the Director of the Administrative Office of the United States Courts.

2. No additional fee shall be assessed with respect to investments for which a fee has already been deducted prior to the establishment of the CRIS in this district.

D.C.COLO.LCivR 67.3
DISBURSEMENTS OF DEPOSITS

A court order to disburse funds must include the payee's full name, complete address, and amount to be disbursed to that payee. If at least $10.00 of interest is to be disbursed to the payee, the counsel or *pro se* party must provide to the Clerk, Attention: Financial Deputy, a separate memorandum stating the payee's social security or taxpayer identification number. The movant shall serve a copy of the order personally on the Clerk of the Court, or on a deputy clerk specifically designated. Failure of any party to comply with this rule will release the Clerk from any liability for loss.

IX. SPECIAL PROCEEDINGS

D.C.COLO.LCivR 72.1
GENERAL AUTHORITY AND DUTIES OF MAGISTRATE JUDGES

A. **General Authority.** Except as restricted by these rules, magistrate judges may exercise all powers and duties authorized by federal statutes, regulations, and the Federal Rules of Civil Procedure.

B. **Duties.** Each magistrate judge may:

1. issue administrative inspection warrants;

2. issue civil seizure warrants pursuant to 21 U.S.C. § 881 and 18 U.S.C. § 981;

3. issue search and seizure warrants for levy pursuant to the Internal Revenue Code;

4. act on postjudgment matters arising under Fed. R. Civ. P. 69, including:

    a. issue writs;

    b. issue orders directing funds to be paid into or disbursed from the registry of the court;

    c. hold hearings and make recommendations to the district judge on substantive issues including the liability of a party under a writ of garnishment or execution;

d. perform duties set forth in chapter 176 of Title 28 United States Code, as assigned by the court pursuant to the Federal Debt Collection Procedures Act, 28 U.S.C. § 3008;

5. make determinations and enter appropriate orders pursuant to 28 U.S.C. § 1915 with respect to any suit, action, or proceedings in which a request is made to proceed *in forma pauperis*;

6. perform duties set forth in D.C.COLO.LCivR 8.1 and 8.2;

7. make determinations and enter appropriate orders on discovery disputes in cases pending in other federal courts; and

8. exercise contempt authority as authorized by law.

C. Other Duties. Upon reference by a district judge, a magistrate judge may:

1. conduct pretrial conferences, settlement conferences, and other nondispositive pretrial proceedings;

2. handle petitions to perpetuate testimony pursuant to Fed. R. Civ. P. 27; and

3. hold hearings and make recommendations to the district judge on dispositive matters.

D.C.COLO.LCivR 72.2
CONSENT JURISDICTION OF MAGISTRATE JUDGES

A. Designation. Pursuant to 28 U.S.C. § 636(c)(1) and subject to the provisions of this rule, all full-time magistrate judges in the District of Colorado are specially designated to conduct any or all proceedings in any jury or nonjury civil matter and order the entry of judgment in the case. This rule, implementing 28 U.S.C. § 636(c) consent jurisdiction in the District of Colorado, does not affect assignments to magistrate judges under other court rules and orders of reference.

B. Prohibition. No judicial officer, court official, or court employee may attempt to influence the granting or withholding of consent to the reference of any civil matter to a magistrate judge under this rule. The form of notice of right to consent to disposition by a magistrate judge shall make reference to the prohibition and shall identify the rights being waived.

C. **Notice.** Upon the filing of any civil case, the clerk shall deliver to the plaintiff(s) written notice of the right of the parties to consent to disposition of the case by a magistrate judge pursuant to 28 U.S.C. § 636(c) and the provisions of this rule. The written notice shall be in such form as the district judges shall direct. The clerk shall also provide copies of such notice to be attached to the summons and thereafter served upon the defendant(s) in the manner provided by Fed. R. Civ. P. 4. A failure to serve a copy of such notice upon any defendant shall not affect the validity of the service of process or personal jurisdiction over the defendant(s).

D. **Unanimous Consent; Determination.** Written consent to proceed before a magistrate judge must be filed no later than ten days after the discovery cut-off date. In cases not requiring discovery, the parties shall have 40 days from the filing of the last responsive pleading to file their unanimous consent. When there is such consent, the magistrate judge shall forthwith notify the assigned district judge, who will then determine whether to enter an order of reference pursuant to 28 U.S.C. § 636(c).

E. **Reassignment.** Upon entry of an order of reference pursuant to 28 U.S.C. § 636(c), the civil action will be reassigned to a magistrate judge by random draw, excluding the magistrate judge previously assigned.

F. **Additional Parties.** Any party added to the action or served after reference to a magistrate judge under this rule shall be notified by the clerk of the right to consent to the exercise of jurisdiction by the magistrate judge pursuant to 28 U.S.C. § 636(c). If any added party does not file a consent to proceed before a magistrate judge within 20 days from the date of mailing of the notice, the action shall be returned to the assigned district judge for further proceedings.

G. **Vacating Reference.** The district judge, for good cause shown on the district judge's own initiative or under extraordinary circumstances shown by a party, may vacate a reference of a civil matter to a magistrate judge under this rule.

H. **Appeal.** Upon entry of a judgment in any civil action on consent of the parties under 28 U.S.C. § 636(c) authority, an appeal shall be directly to the United States Court of Appeals for the Tenth Circuit in the same manner as an appeal from any other judgment of this court.

D.C.COLO.LCivR 72.3
REFERENCE OF DISPOSITIVE MOTIONS TO MAGISTRATE JUDGES

A. **Designation.** Pursuant to 28 U.S.C. § 636(c)(1) and subject to the provisions of this rule, all full-time magistrate judges in the District of Colorado are specifically designated to make final determination of dispositive motions that have been pending for more than six months. Dispositive motions include motions to dismiss, motions for transfer or for

change of venue, motions to remand, motions for summary judgment, and motions for partial summary judgment.

B. **Unanimous Consent; Determination.** After a dispositive motion has been pending for more than six months, if all parties consent to the final determination of the dispositive motion by a magistrate judge, the parties shall file an appropriate notice. Upon receipt of such notice, the district judge shall determine whether to enter an order pursuant to 28 U.S.C. § 636(c).

C. **Prohibition.** No judicial officer, court official, or court employee may attempt to influence the granting or withholding of consent to the reference of a dispositive motion to a magistrate judge under this rule.

D. **Reference.** Upon entry of an order of reference of a dispositive motion pursuant to 28 U.S.C. § 636(c), the motion shall be referred to a magistrate judge by random draw, excluding the magistrate judge previously assigned.

E. **Vacating Reference**. A district judge, for good cause shown on the district judge's own initiative or under extraordinary circumstances shown by a party, may vacate a reference of a dispositive motion to a magistrate judge under this rule.

F. **Appeal.** In the event that a magistrate judge grants a dispositive motion and directs the entry of final judgment, an appeal shall be directly to the United States Court of Appeals for the Tenth Circuit in the same manner as an appeal from any other judgment of this court.

X. DISTRICT COURT AND CLERK

D.C.COLO.LCivR 77.1
BUSINESS HOURS

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

D.C.COLO.LCivR 77.2
EX PARTE COMMUNICATION WITH JUDICIAL OFFICERS

In the absence of previous authorization, no attorney or party to any proceeding shall send letters, pleadings, or other papers or copies directly to a judicial officer. Unless otherwise

instructed, all matters to be called to a judicial officer's attention shall be submitted through the clerk, with copies served on all other parties or their attorneys. No attorney or party shall contact orally a judicial officer regarding any case by telephone, in person, or through any other means, unless all other parties in the matter, or their attorneys, are present or on the telephone.

D.C.COLO.LCivR 79.1
CUSTODY OF FILES AND EXHIBITS

Pleadings, other papers, and exhibits in court files shall not be removed from the clerk's office or the court's custody except by written court order.

D.C.COLO.LCivR 79.2
INSPECTION OF EVIDENCE

Photographic negatives, tape recordings, contraband including drugs and narcotics, firearms, currency, negotiable instruments, computer disks or tapes, and other items designated by a judicial officer, while in the clerk's custody, shall not be available for inspection by any person except while in the presence of and under the control of the clerk. The clerk may limit or preclude access and copying in order to preserve such evidence.

XI. GENERAL PROVISIONS

D.C.COLO.LCivR 81.1
COPIES OF STATE COURT PROCEEDINGS IN REMOVED ACTIONS

If a hearing in the state court has been set before a case is removed, counsel or the *pro se* party removing the case shall notify the state judge forthwith of the removal and shall notify the federal judge to whom the case is assigned of the nature, time, and place of the state court setting. The removing party shall promptly file with this court copies of all state court pleadings, motions, and other papers.

D.C.COLO.LCivR 83.1
CAMERAS AND RECORDING DEVICES

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

D.C.COLO.LCivR 83.2
SECURITY

A. **Procedures.** All persons entering a building where court is being held shall be subject to security procedures provided for that building.

All briefcases, purses, parcels, bags, backpacks, and other items shall be passed through X-ray scanners and shall be subject to search. This rule shall apply at such other places as a judicial officer may direct.

Failure to obey this rule shall be grounds for refusing admission to the buildings where court is being held, and may subject the offender to detention, arrest, and prosecution as provided by law, or to a contempt proceeding.

B. **Identification or Information.** Upon request of a United States marshal, court security officer, federal protective service officer, or court official, anyone within or seeking entry to any court facility shall produce identification and state the nature of his or her business at court. Failure to provide identification or information shall be grounds for removal or exclusion from the facility.

C. **Purpose**. This rule and these procedures are necessary in the interest of public safety and to maintain orderly court procedures.

D.C.COLO.LCivR 83.3
THE BAR OF THE COURT

A. **Applicant Information.** An applicant for admission to the bar of this court must be a person of good moral character licensed by the highest court of a state, federal territory, or the District of Columbia where a written examination was required for admission and be a member of the bar in good standing in all courts and jurisdictions where he or she has been admitted. Each applicant for admission shall complete an approved form provided by the clerk. Each applicant shall pay to the clerk the fee prescribed by the court.

B. **Entry of Appearance**. An attorney's entry of appearance by signing a pleading, motion, or other paper does not constitute entry of appearance by that attorney's firm.

C. **Consent to Jurisdiction; Familiarity With Local Rules**. An attorney who applies for admission to the bar of this court:

1. consents to this court's exercise of disciplinary jurisdiction over any alleged misconduct, and

2. certifies familiarity with the local rules of this court.

D. Withdrawal of Appearance. An attorney who has appeared in a case may seek to withdraw on motion showing good cause. Withdrawal shall be effective only on court order entered after service of the notice of withdrawal on all counsel of record and on the withdrawing attorney's client. A motion to withdraw must state the reasons for withdrawal unless the statement would violate the rules of professional conduct. Notice to the attorney's client must include the warning that the client personally is responsible for complying with all court orders and time limitations established by any applicable rules. Where the withdrawing attorney's client is a corporation, partnership, or other legal entity, the notice shall state that such entity cannot appear without counsel admitted to practice before this court, and absent prompt appearance of substitute counsel, pleadings, motions, and other papers may be stricken, and default judgment or other sanctions may be imposed against the entity.

E. Member in Good Standing. An attorney admitted to this bar must remain in good standing in all courts where admitted. No attorney may practice before the bar of this court or continue to be an attorney of record in any pending case who is under suspension for any period or has been disbarred by any court where previously admitted. In the event a member of the bar of this court has been formally disciplined by any court, it is the duty of that attorney to give immediate written notice to the clerk of this court of the date and terms of discipline, the name and address of the court imposing the discipline, and the date of that court's action. Failure to provide notice or to cease practicing before the bar of this court as required by this section are themselves separate causes for disciplinary action. Application for reinstatement following suspension or disbarment under this rule shall be made in accordance with the terms of D.C.COLO.LCivR 83.5N.

F. Relief From Rule of Good Standing. It is presumed that discipline by another court against a member of this court's bar is appropriate. In order to obtain relief, the attorney so disciplined has the burden to establish, by clear and convincing evidence, that:

1. the procedure resulting in discipline by the court was so lacking in notice or opportunity to be heard as to deny due process,

2. the application of D.C.COLO.LCivR 83.3E would result in grave injustice, or

3. the kind of misconduct established has been held by this court to warrant substantially less severe discipline. Applications under this section shall be filed with or referred to the Committee on Conduct, which shall proceed in accordance with the provisions of D.C.COLO.LCivR 83.5D.

D.C.COLO.LCivR 83.4
STANDARDS OF PROFESSIONAL RESPONSIBILITY

Except as otherwise provided in attached Amended Administrative Order 1999-6 concerning unbundling of legal services, the rules of professional conduct adopted by the Colorado Supreme Court and in effect on the effective date of these rules are adopted as standards of professional responsibility applicable in this court.

D.C.COLO.LCivR 83.5
ATTORNEY DISCIPLINE

A. **Disciplinary Panel.** The Chief Judge shall appoint a panel of three district judges to constitute the disciplinary panel. The panel shall have jurisdiction over all judicial proceedings involving disbarment, suspension, censure, or other lawyer discipline. The Chief Judge at any time may designate additional judges to serve as alternates on the disciplinary panel.

B. **Committee on Conduct**. The court has established a standing Committee on Conduct consisting of 12 members of this court's bar, each appointed for three years and until his or her successor is appointed. Any member appointed to fill a vacancy shall serve the unexpired term of his or her predecessor. Where a member holds over after expiration of the term for which appointed, the time of additional service shall be deemed part of the successor member's term. The court shall designate a chairperson of the Committee on Conduct and a vice-chairperson who shall act during the chairperson's absence or disability. Members of the Committee on Conduct shall serve without compensation, but, insofar as possible, their necessary expenses shall be paid by the clerk from the fund in which admission and annual registration fees paid by members of the bar are deposited. No member of the Committee on Conduct shall serve more than two consecutive terms.

C. **Duties of the Committee.** The Committee on Conduct shall receive, investigate, consider, and act upon complaints against members of the bar, applications for reinstatement, and other similar actions concerning attorneys. The committee chairperson shall appoint one or more members to present and prosecute charges and to prepare and present orders and judgments as directed by the Disciplinary Panel. The committee is authorized and directed to report its findings concerning any disciplinary action to the grievance committee of any other bar or court of which the attorney in question may be a member. Additionally, the committee is authorized to reveal such information to any other court-authorized grievance clearing house as the committee deems appropriate and consistent with the objectives of this rule. The committee also may perform any additional duties implied by these rules or assigned by order of the Disciplinary Panel. All requests for investigation submitted to the court or Committee on Conduct and all complaints filed with the committee shall be privileged, and no lawsuit may be predicated

thereon. Persons performing official duties under this rule, including but not limited to members of the committee, staff, and members of the bar or others working under the committee's direction, shall be immune from suit for all acts and omissions occurring in the course of their official duties.

D. **Complaints.** Any complaint against a member of this court's bar for any cause or conduct which may justify any disciplinary action shall be filed in writing under oath. Complaints shall be filed with or referred to the Committee on Conduct. The committee also shall have power to inquire into all cases of alleged misconduct by members of this court's bar. All proceedings of the Committee on Conduct shall be confidential. The committee shall admonish all persons concerned with any complaint, investigation, or inquiry that absolute confidentiality must be maintained and that violation of this rule will be deemed contempt of this court.

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

F. **Hearing Panel.** When a complaint is received, it shall be referred by the chairperson of the Committee on Conduct to a hearing panel consisting of three committee members designated by the chairperson who shall appoint one of them as panel chairperson. The chairperson or vice-chairperson of the committee may be designated as a member of a hearing panel.

G. **Service of Complaint and Answer.** The hearing panel shall investigate complaints referred to it by the chairperson of the committee. If, in the opinion of a majority of the panel, an answer should be required, the panel shall serve a copy of the complaint by registered mail on the member of the bar against whom the complaint was made, addressed to his or her most current address on file with the clerk. Within 20 days after the date the complaint is mailed, the respondent bar member shall file with the hearing panel an answer signed under oath.

H. **Hearings, Subpoena of Witnesses, and Documents.** A hearing panel may sit as a panel of inquiry and, upon reasonable notice to the complainant and respondent, hold hearings. The chairperson of the hearing panel conducting the inquiry shall serve as a master with authority to order issuance of subpoenas commanding production of designated books, papers, documents, or other tangibles at the times and places stated in the subpoena. The panel chairperson, as master, is authorized to administer oaths. The name of any witness who fails or refuses to attend or testify under oath may be certified to the Disciplinary Panel which may initiate contempt proceedings and impose appropriate punishment.

I. **Submission of Charges to the Court.** After investigation, the hearing panel may prepare charges and submit them to the court or, with or without preparing charges, may refer the matter to the Grievance Committee of the Supreme Court of the State of Colorado. If charges are prepared and submitted to this court, and thereafter this court orders the charges filed, the clerk shall file them and forthwith issue a summons commanding the respondent to answer. Except as hereinafter provided, the summons and a copy of the charges shall be served by a United States marshal. The respondent shall answer the charges within 30 days from the date of service. Absent a timely answer, the charges may be taken as confessed and hearing may be held ex parte at a time set by the court.

J. **Service Outside the District of Colorado.** A respondent who cannot be served in Colorado may be served by filing a copy of the summons and charges with the clerk, who shall in turn send a copy of the summons and charges by registered mail to the last office address the respondent filed with the clerk.

K. **Disciplinary Panel Hearings and Orders.** When the respondent has filed an answer, a hearing shall be scheduled by the Disciplinary Panel. If the charges are sustained, the Disciplinary Panel may censure, suspend, disbar, or otherwise discipline the respondent. A respondent who is suspended or disbarred shall be enjoined from practicing law before this court and the judgment shall so recite. Any violation of the judgment shall be deemed a contempt of court. If the hearing panel concludes that the misconduct is sufficiently significant that the complaint should not be dismissed as without merit, but it does not warrant submitting charges to the court, the hearing panel may issue a letter of admonition to the respondent, with a copy to the complainant. An attorney receiving a letter of admonition shall be advised of the right to request in writing, within 20 days after receiving the letter, that formal disciplinary proceedings be initiated to adjudicate the propriety of the conduct upon which the admonition is based. Upon timely filing of a request, the letter of admonition shall be vacated and the hearing panel shall proceed with the formal procedures above provided.

L. **Rule Not to Deprive Court of Inherent Powers.** Nothing herein stated shall be deemed to negate or diminish this court's inherent disciplinary powers.

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

N. **Application for Reinstatement.** An attorney who has been disbarred or suspended may apply for readmission or reinstatement at the end of the disciplinary period. Readmission or reinstatement is neither automatic nor a matter of right. Every motion for readmission or reinstatement shall be investigated by one or more members of the Committee on Conduct appointed by the committee's chairperson. Following investigation, the

Committee on Conduct shall prepare a recommendation on the application. The recommendation and supporting documents shall be submitted to the Disciplinary Panel for decision. Readmission or reinstatement may be subject to conditions such as monitoring, reporting, testing, and education.

O. Attorney Convicted of a Felony. Any member of the bar convicted of a state or federal felony shall be suspended from practicing law in this court and, upon conviction becoming final, shall cease to be a member of this court's bar. Upon presentation of a certified copy of the judgment of conviction, the Disciplinary Panel shall order the respondent suspended from practice before this court. Upon proof that the conviction is final, and that direct appeal rights have been exhausted, the Disciplinary Panel shall order the respondent's name removed from the roll of members of this court's bar. In all disciplinary proceedings, the certificate of conviction shall constitute conclusive proof of guilt. A judgment entered on a plea of guilty or nolo contendere shall constitute conviction.

P. Attorney Under Investigation Resigning From Bar of Another Court.

1. Any member of this court's bar who resigns from the bar of any other federal or state court while an investigation into allegations of misconduct is pending shall cease to be a member of this court's bar.

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

Q. Duty of Attorney to Notify Court of Pendency of Criminal Offenses. Every member of this court's bar who is charged in any court with a criminal offense that may subject the attorney to discipline in this court shall so notify the clerk in writing within ten days after the charge is filed.

R. Mental Incompetence or Disability.

1. **Mental Incompetence.** Upon receiving proof that a member of this court's bar judicially has been declared incompetent or involuntarily committed to a mental hospital, the Disciplinary Panel may order that the attorney be suspended from practicing law immediately and indefinitely until further order. A copy of the order shall be served upon the attorney, his or her guardian, and the director of the mental hospital.

2. **Disability.** Upon petition by the Committee on Conduct suggesting that a member of this court's bar is incapable of practicing law because of mental illness

or substance abuse, the Disciplinary Panel may take or direct whatever action it deems appropriate to determine whether the attorney is disabled, including examination by medical experts the panel shall designate. Failure or refusal to submit to examination shall be prima facie evidence of disability. If the Disciplinary Panel concludes from the evidence that the attorney is disabled from practicing law competently, it shall order him or her suspended until further order. The Disciplinary Panel may provide respondent notice of the proceedings and may appoint an attorney to represent a respondent who is without representation.

3. **Claim of Disability During Disciplinary Proceedings.** If during a disciplinary proceeding the respondent attorney asserts a disability by reason of mental or physical illness or substance abuse, rendering adequate defense impossible, the Disciplinary Panel shall order the respondent suspended from practicing law until there can be a determination pursuant to D.C.COLO.LCivR 83.5R.2. of his or her capacity to practice law.

4. **Attorney Placed on Disability Inactive Status by Other Courts.** A member of this court's bar who is placed on disability inactive status by any state or federal court is prohibited from practicing before this court during such status. Reinstatement upon termination of disability inactive status shall be in accordance with D.C.COLO.LCivR 83.5R.5. through R.8.

5. **Reinstatement After Disability.**

   a. An attorney suspended for incompetency, mental illness, substance abuse, or other disability may apply to the Disciplinary Panel for reinstatement not more than once a year, or more frequently if the Disciplinary Panel so directs. The application shall be granted upon a showing by clear and convincing evidence that the attorney no longer is disabled and is fit to practice law. The Disciplinary Panel may take or direct such action as it deems appropriate to determine whether the attorney's disability has been remedied, including examination by such medical experts as the panel may designate. The panel may direct that any examination expenses be paid by the attorney.

   b. An attorney suspended because of a judicial declaration of incompetence or involuntary commitment to a mental hospital, who thereafter judicially is declared competent, may be reinstated upon proper proof of the latter declaration, under such conditions as the Disciplinary Panel may require.

6. **Evidentiary Hearing.** If the Disciplinary Panel holds an evidentiary hearing to determine whether an attorney is disabled or to consider an application for

reinstatement, the chairperson of the Committee on Conduct shall appoint one or more members to offer evidence, examine and cross-examine witnesses, and otherwise represent the committee.

7. **Waiver of Physician/Patient Privilege.** Filing an application for reinstatement constitutes waiver of any physician-patient privilege with respect to any treatment of the attorney during the period of disability. The attorney shall disclose the name and address of every psychiatrist, psychologist, physician, hospital, or other health-care provider that has examined or treated him or her since suspension and shall furnish the Disciplinary Panel written consent to obtain from these sources information and records requested by the Disciplinary Panel or its designated medical experts.

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

D.C.COLO.LCivR 84.1
BANKRUPTCY MATTERS

A. **Automatic Referral.** All cases under Title 11, United States Code, and all proceedings arising under Title 11 or arising in or related to cases under Title 11, shall be automatically referred to the bankruptcy judges of this district pursuant to 28 U.S.C. § 157 without further order. All papers in those cases shall be filed directly in the bankruptcy court, and the bankruptcy judges of this district shall exercise the jurisdiction of this court in bankruptcy matters as provided in 28 U.S.C. § 157(b).

B. **Personal Injury or Wrongful Death Claims.** Any claim arising in or related to a case under Title 11 involving claims of personal injury or wrongful death shall be tried in the district court of the district in which the bankruptcy case is pending, or in the district court of the district in which the claim arose, as may be determined by the district judge assigned pursuant to D.C.COLO.LCivR 40.1.

C. **Withdrawal of Reference.** The automatic referral to bankruptcy judges provided in section A. of this rule may be withdrawn by a district judge.

1. **Motion.** A motion for withdrawal of reference shall be filed with the clerk of the bankruptcy court in accordance with Bankruptcy Rule 5011 and Local Bankruptcy Rule 511.

2. **Response.** Within ten days after being served with a copy of a motion for withdrawal of reference, a party may file with the clerk of the bankruptcy court and serve on affected parties an objection to the motion and a designation of any

additional portions of the record necessary for the district court's determination of the motion.

3. **Supplementation of Record.** The record may be supplemented by additional portions of the record as determined by the bankruptcy judge.

4. **Order of Referral to District Court.** The bankruptcy judge shall enter an order directing the clerk of the bankruptcy court to refer the motion and/or matter to the district court.

5. **Assignment.** The clerk of the district court shall assign the matter to a district court judge pursuant to D.C.COLO.LCivR 40.1.

D. **Proceeding Under 28 U.S.C. § 157(c)(1).** When a bankruptcy judge hears a proceeding under 28 U.S.C. § 157(c)(1) that is not a "core proceeding" as defined by 28 U.S.C. § 157(b)(2), the bankruptcy judge shall submit the proposed findings of fact and conclusions of law to the district judge assigned pursuant to D.C.COLO.LCivR 40.1. Copies of those recommendations shall be mailed by the bankruptcy judge to all parties, who shall have ten days after the date of mailing of the recommendations (or such further time not to exceed 30 days as the bankruptcy judge may order) to file written objections. Objections lacking specificity as to factual findings or legal conclusions the objecting party claims to have been erroneously made and objections not timely filed may be summarily overruled. If no objection is filed, or if the parties consent in writing, the recommendations of the bankruptcy judge may be accepted by the district judge, and appropriate orders may be entered without further notice. Procedure for determining objections shall be as set forth in 28 U.S.C. § 157(c)(1).

E. **Filings.** The clerk of the bankruptcy court shall take in all pleadings in bankruptcy cases and related proceedings. Bankruptcy papers shall be filed with the bankruptcy court in accordance with the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules for the District of Colorado. Any bankruptcy papers filed with the clerk of the district court shall be transferred to the bankruptcy court.

F. **Postjudgment Matters.** The bankruptcy judges shall exercise jurisdiction over all postjudgment execution matters arising from a judgment or order entered by bankruptcy judges.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
CRIMINAL RULES

I. SCOPE, PURPOSE, AND CONSTRUCTION

D.C.COLO.LCrR 1.1
SCOPE OF THE LOCAL RULES

A. **Title and Citation.** These rules shall be known as the Local Rules of Practice of the United States District Court for the District of Colorado-Criminal. They may be cited as "D.C.COLO.LCrR _____."

B. **Effective Date.** These rules shall become effective on April 15, 2002.

C. **Scope.** These rules apply in all criminal actions filed in the United States District Court for the District of Colorado.

D. **Relationship to Prior Rules.** Except as otherwise provided in D.C.COLO.LCrR 57.6, concerning standards of professional responsibility governing conduct of attorneys, these rules supersede all previous local rules.

E. **Numbering and Indexing.** These rules are numbered and indexed in accordance with the Judicial Conference Uniform Numbering System.

F. **Judicial Officer.** A judicial officer refers to a district judge or to a magistrate judge.

G. **Clerk.** Reference in these rules to the clerk refers to the Clerk of the Court or a deputy clerk, unless otherwise specified.

H. **Appendices.** Appendices are subject to modification without notice.

II. PRELIMINARY PROCEEDINGS

[No local rules]

III. INDICTMENT AND INFORMATION

D.C.COLO.LCrR 6.1
GRAND JURY

Grand jury supervision shall be assigned equally among the active district judges. No indictment shall be sealed without the written order of a judicial officer. Unless otherwise ordered by the court, the indictment shall be unsealed upon the first defendant's arrest or initial appearance.

D.C.COLO.LCrR 7.1
INFORMATION SHEET

A properly completed information sheet shall be given to the clerk at the commencement of a criminal action.

IV. ARRAIGNMENT AND PREPARATION FOR TRIAL

D.C.COLO.LCrR 11.1
PLEAS

A. **Written Notice.** Unless otherwise ordered, notice of disposition shall be filed no later that 14 days before the date set for the trial.

B. **Pleas Before District Judge.** A plea of guilty or nolo contendere in a felony case shall be made before the district judge assigned to the case.

C. **Plea Agreement.** A plea agreement shall be presented in writing in accordance with the form entitled "Plea Agreement" (see Appendix J) and signed by the attorney for the government, defendant's counsel, and the defendant.

The written stipulation of facts relevant to sentencing from the plea agreement shall be included in the presentence investigation report required by Fed. R. Crim. P. 32(b)(1). The attorney for the government shall deliver a copy of the plea agreement to the chambers of the assigned judicial officer and the Probation Office no later than 48 hours prior to the change of plea hearing.

D. **Statement by Defendant in Advance of Plea of Guilty.** A statement by defendant in advance of plea of guilty shall be presented in writing in accordance with the form entitled "Statement by Defendant in Advance of Plea of Guilty" (see Appendix K), and signed by the defendant and defendant's counsel.

Defendant's counsel, or a *pro se* defendant, shall deliver the statement by defendant in advance of plea of guilty to the courtroom deputy in the courtroom before the change of plea hearing.

E. Translation of Change of Plea Documents. If a defendant requires an interpreter for a change of plea hearing:

1. defense counsel shall contact the deputy clerk designated as courtroom services specialist two weeks before the hearing to obtain the assistance of a designated interpreter in translating the plea agreement and the statement by defendant in advance of plea of guilty;

2. defense counsel shall coordinate with the designated interpreter to ensure that the plea agreement and the statement by defendant in advance of plea of guilty are translated, in writing, into the language of the defendant, furnished to defendant, and signed by defendant in advance of the hearing; and

3. a certificate that the written translation is a complete and correct interpretation shall be attached by the designated interpreter to the written translation of both the plea agreement and statement by defendant in advance of plea of guilty.

F. Documents Tendered to Courtroom Deputy. No later than the commencement of the change of plea hearing, the following documents shall be tendered to the courtroom deputy:

1. the original and a copy of both the plea agreement and statement in advance of plea of guilty; and

2. if applicable, the original and a copy of the written translation of both the plea agreement and statement in advance of plea of guilty.

D.C. COLO.LCrR 12.4
DISCLOSURE STATEMENT

A. Who Must File.

1. Defendant. Any nongovernmental party or other legal entity to a proceeding in a district court must file a statement identifying all its parent entities and listing any publicly held entity that owns ten percent or more of the party's stock.

2. Organization Victim. If an organization is a victim of the alleged criminal activity, the government must file a statement identifying the victim. If the

organizational victim is a corporation, the statement must also disclose the information required by section A.l. of this rule.

B. Time for Filing; Supplemental Filing.

1. A party must file the disclosure statement upon its first appearance, pleading, petition, motion, response, or other request addressed to the court.

2. A party must promptly file a supplemental statement upon any change in the information that the statement requires.

D.C.COLO.LCrR 17.1.1
PRETRIAL CONFERENCE

A magistrate judge shall conduct a discovery conference at the time of or within ten days after the arraignment and direct counsel to obtain a motion date and trial date from the district judge assigned to the case.

D.C.COLO.LCrR 17.2
SEALING OF EX PARTE MOTIONS AND ORDERS IN CRIMINAL JUSTICE ACT CASES

Unless otherwise directed by the court, the clerk will seal at the time of filing all ex parte motions and orders in Criminal Justice Act (CJA) cases for issuance of trial subpoenas, appointment of experts, authorization of travel, and other extraordinary expenses. Copies of such signed orders will be served by the clerk on the moving party only. Unless otherwise ordered, the clerk will retain such motions and orders under seal until the judgment is final.

V. VENUE

[No local rules]

VI. TRIAL

D.C.COLO.LCrR 24.1
COMMUNICATION WITH JURORS

No party or attorney shall communicate with, or cause another to communicate with, a juror or prospective juror before, during, or after any trial without written authority signed by the judicial officer to whom the case is assigned for trial.

VII. JUDGMENT

D.C.COLO.LCrR 26.1
HEARING AND TRIAL PROCEDURES

Procedures pertaining to the hearing in or trial of a particular case will be established by the judicial officer trying the case. The procedures shall be in accordance with any written instructions of that judicial officer.

D.C.COLO.LCrR 26.2
ACCOMMODATIONS

At least five days prior to the hearing or trial, counsel or a *pro se* party shall notify the court of any necessary Americans with Disabilities Act accommodations.

VIII. APPEAL

[No local rules]

IX. SUPPLEMENTARY AND SPECIAL PROCEEDINGS

[No local rules]

X. GENERAL PROVISIONS

D.C.COLO.LCrR 44.1
APPEARANCES

A. **Appearances.** An attorney appearing for a defendant in a criminal case shall file promptly a written entry of appearance and serve a copy on the United States Attorney. Only *pro se* individual parties and members of this court's bar may appear or sign pleadings, motions, or other papers.

B. **Signatures and Signature Pages.** Facsimile signatures on documents filed with the court shall have the same legal effect as original signatures on documents filed with the court. If a facsimile signature page with the facsimile signature of a member of this court's bar is attached to a pleading, motion, or other paper filed with the court, the member of this court's bar shall maintain the original signature page. At the direction of a judicial officer, the member of this court's bar may be required to file the original signature page.

D.C.COLO.LCrR 46.1
DEPOSITS

A. Investment in Interest-Bearing Accounts

1. No deposit into an interest-bearing account shall be permitted without court order.

2. The party obtaining an order to place funds in an interest-bearing account shall serve the written order permitting the investment personally on the Clerk of the Court, or on a deputy clerk specifically designated. It shall be incumbent on the moving party to confirm that the appropriate action has been accomplished by the clerk in accordance with the provisions of the order. Failure of any party to comply with this rule will release the Clerk of the Court from any liability for the loss of earned interest on the funds.

3. Unless otherwise ordered by the court, the Court Registry Investment System (CRIS) shall be the authorized investment mechanism.

4. Under CRIS, monies deposited in each case under section A.1. of this rule will be pooled together with those on deposit with the United States Department of the Treasury to the credit of other courts in the CRIS and used to purchase treasury securities. The securities will be held at the Federal Reserve Bank of Dallas in a safekeeping account in the name and to the credit of the Clerk, United States District Court for the District of Colorado, hereby designated custodian for the CRIS.

5. An account for each case will be established in the CRIS titled in the name of the case giving rise to the investment in the system. Income received from fund investments will be distributed to each case based on the ratio each account's principal and income has to the aggregate principal and income total in the fund. Weekly reports showing the income earned and the principal amounts contributed in each case will be prepared and distributed to each court participating in the CRIS and made available, upon request, to parties and/or their counsel.

B. Registry Fee

1. Pursuant to the provisions of the miscellaneous fee schedule established by the Judicial Conference of the United States and as set forth in 28 U.S.C. § 1914, the clerk will assess and deduct registry fees according to the formula promulgated by the Director of the Administrative Office of the United States Courts.

2. No additional fee shall be assessed with respect to investments for which a fee already has been deducted prior to the establishment of the CRIS in this district.

D.C.COLO.LCrR 46.2
DISBURSEMENTS OF DEPOSITS

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

B. **Disbursements.** Disbursements from an interest-bearing account shall be obtained only by court order.

C. **Interest-Bearing Account.** If funds are being disbursed from an interest-bearing account, a court order to disburse funds must include the payee's full name, complete address, and amount to be disbursed to that payee. If at least $10.00 of interest is to be disbursed to the payee, the counsel or *pro se* party must provide to the Clerk, Attention: Financial Deputy, a separate memorandum stating the payee's social security or taxpayer identification number. The movant shall serve a copy of the order personally on the Clerk of the Court, or on a deputy clerk specifically designated. Failure of any party to comply with this rule will release the Clerk of the Court from any liability for loss.

D.C.COLO.LCrR 47.1
MOTIONS TO SEAL;
MOTIONS TO CLOSE COURT PROCEEDINGS

A. **Scope.** Upon motion and a showing of compelling reasons, a judicial officer may order that:

1. all or a portion of papers and documents filed in a case shall be sealed; or

2. all or a portion of court proceedings shall be closed to the public.

B. **Motion Open to Public Inspection.** Except those motions covered by D.C.COLO.LCrR17.2 or unless otherwise ordered by a district judge in writing, a motion to seal or close court proceedings will be placed in the case file and open to public inspection.

C. **Proposed Filing.** A proposed filing of papers or documents will be submitted under seal until the motion to seal is decided by a judicial officer.

D. **Public Notice; Objections.** On the business day after the filing of a motion to seal or motion to close court proceedings, a public notice will be posted in the clerk's office and on the court's web site. The public notice will advise of such motion and state that any person or entity may file objections to the motion on or before the date set forth in such public notice. The date will be not less than three business days after the public notice is posted.

E. **Order.** No order to seal or close court proceedings will be entered before the date set forth in the public notice for filing objections, except in emergency circumstances shown or referred to in the motion or at the discretion of the judicial officer.

D.C.COLO.LCrR 47.2
PROCEDURES FOR FILING PAPERS AND DOCUMENTS UNDER SEAL

A. **Manner of Filing.** The following papers or documents must be placed unfolded in a sealed envelope with a copy of a cover page (see section B. of this rule) affixed to the outside of the sealed envelope:

1. papers or documents ordered sealed by the court;

2. proposed filings of papers or documents submitted under seal with a motion requesting that the documents be sealed; and

3. documents required to be sealed by law.

B. **Cover Page.** The cover page affixed to the outside of the sealed envelope must include:

1. the case caption;

2. the title of the paper or document;

3. the name, address, and telephone number of the attorney or *pro se* defendant filing the paper or document;

4. a notation that the paper or document is filed under seal;

5. the title and date of the court order pursuant to which the paper or document is sealed, if applicable; or

6. the citation of the statute, federal rule or other authority pursuant to which the paper or document is sealed, if applicable.

C. **Copies.** Copies of the papers or documents in sealed envelopes shall be filed in accordance with D.C.COLO.LCrR 49.3L.

D.C.COLO.LCrR 49.1
SERVICE AND FILING OF PLEADINGS AND PAPERS

A. **Facsimile Filing.** A pleading or paper which is no longer than ten pages, including all attachments, may be filed with the clerk by means of facsimile at a telephone number that may be obtained from the court's web site or clerk's office. Upon receipt of a facsimile filing, the clerk will make the copies required under D.C.COLO.LCrR 49.3L. Facsimiles received by the clerk after 5:00 p.m. (Mountain Time) will be considered filed as of the next business day. Unless otherwise ordered by the court, a paper filed by facsimile shall be treated as an original for all court purposes.

B. **Facsimile Cover Sheet.** A pleading or paper filed with the clerk by facsimile must be accompanied by a facsimile cover sheet (see Appendix D) which includes the following:

1. the date of transmission;

2. the name, facsimile number, and telephone number of the attorney or *pro se* party making the transmission;

3. the case number, caption, and title of the pleading or paper;

4. the number of pages of the pleading or paper being transmitted including the facsimile cover sheet; and

5. the name of the magistrate judge, if the case has been referred to a magistrate judge.

C. **Confirmation of Facsimile Filing.** Confirmation that the clerk received a facsimile filing may be made by:

1. reviewing the docket entries, or

2. transmitting an additional copy of the first page of the pleading or paper and requesting on the facsimile cover sheet that the first page of the pleading or paper be file stamped by the clerk and returned to the attorney or *pro se* defendant via facsimile.

D. **Original Pleading or Paper.** If a facsimile copy is filed in lieu of the original pleading or paper, the attorney or *pro se* defendant shall maintain the original document. At the

direction of a judicial officer, the transmitting party may be required to file the original document accompanied by a letter noting that the original document is being filed after transmission by facsimile.

E. **Signatures.** Signatures on pleadings or papers filed by facsimile shall have the same legal effect as original signatures on pleadings actually filed with the court.

F. **Certificate of Service.** Each paper, other than one filed *ex parte*, shall be accompanied by a certificate of service indicating the date it was served, the name and address of the person to whom it was sent, and the manner of service. Where service is by electronic means, the electronic mail address or facsimile number used shall be listed.

D.C.COLO.LCrR 49.2
SERVICE BY OTHER MEANS, INCLUDING ELECTRONIC MEANS

A. **Form and Content of Consent.** A party's consent to accept service by other means, including electronic means, as authorized by Fed. R. Crim. P. 49(b), shall be expressly stated, served in compliance with federal and local rules, and filed with the clerk. The consent shall include:

1. the persons to whom service should be made;

2. the appropriate address or location for such service, such as the electronic-mail address or facsimile number; and

3. the format to be used for attachments.

See Appendix M

B. **Duration of Consent.** A party's consent shall remain effective for all service authorized by Fed. R. Crim. P. 49(b) until expressly revoked or until the representation of a party changes through entry, withdrawal, or substitution of counsel.

C. **Notice of Change of Electronic-Mail Address or Facsimile Number.** Within ten days after any change of electronic mail address or facsimile number of any attorney or *pro se* party that has consented to service by other means, including electronic means, notice of the new electronic-mail address or facsimile number shall be filed.

D.C.COLO.LCrR 49.3
FORMAT AND COPIES OF PAPERS PRESENTED FOR FILING

A. **Definition**. The term "papers" includes pleadings, motions, briefs, or other filings made pursuant to the Federal Rules of Criminal Procedure or these rules.

B. **Size.** All documents filed with the court shall be on 8½- by 11-inch, white paper. Use of recycled paper is acceptable.

C. **Margins.** Margins shall be 1½ inches at the top and 1 inch at the left, right, and bottom.

D. **Font.** Except in *pro se* cases or for good cause shown, all papers shall be typewritten using black ink and not less than 12- point font.

E. **Spacing.** All papers shall be double-spaced.

F. **Text.** Text shall be printed on one side of the page only.

G. **Legible.** All papers and signatures shall be legible.

H. **Exhibits.** Exhibits, other than documentary evidence in a different format, shall conform to this rule.

I. **Case Number; First Page.** All papers filed after commencement of a case shall bear the proper case number, including in sequence the case year; "CR"; the chronological number; and the initial(s) of the district judge assigned (for example 02-CR-123-B). The first page of every paper shall reflect accurately its nature and on whose behalf it is filed.

J. **Caption.** The caption format shall be as set forth in Appendix L. Defendants shall be listed in a caption by consecutive numbers with one defendant per line. The proper name of a party shall be in capital letters, and any identifying text shall be in upper and lower case immediately following the proper name. For example:

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. XOXOXO,
2. XOXOXO, a/k/a XOXOXO and XOXOXO, and
3. XOXOXO INC., a Colorado corporation,

Defendants.

K. **Signature Block.** The name, current mailing address, and telephone number of any attorney of record or *pro se* defendant filing a paper shall be typed in a signature block at the end of the paper. A post office box number will be accepted as a mailing address, but

a street address also must be provided. A facsimile number and electronic-mail address are optional. A paper shall be legibly signed in the signature block by the attorney of record or *pro se* defendant filing the paper.

L. **Original and Copies.** Except for papers filed by facsimile pursuant to D.C.COLO.LCrR 49.1A., an original and one copy of every paper shall be filed with the court.

M. **Notice of Change of Address or Telephone Number.** Within five days after any change of address or telephone number of any attorney or *pro se* defendant, notice of the new address and telephone number shall be filed.

D.C.COLO.LCrR 50.1
ASSIGNMENT OF CASES

A. **Random Draw; Apportionment.** The clerk shall maintain a computerized program to assure assignment by random draw of unrelated criminal cases to district judges, and equal apportionment of cases among the active district judges. Whenever a majority of active district judges determines that a workload imbalance is affecting litigants adversely, the Chief Judge shall review the pending case loads of the active district judges and magistrate judges and suggest appropriate relief. A majority of active district judges may adjust the apportionment of criminal cases to the Chief Judge as may be necessary for the performance of the duties of that office.

B. **Draw by Means of Computerized Program.** Upon the filing of an indictment or information, the clerk shall publicly draw a district judge for each new unrelated case by means of the computerized program described in D.C.COLO.LCrR 50.1A.

C. **Related Cases.** Upon the filing of an indictment or information, the United States Attorney shall notify the court, in writing, if the action is related to any other criminal cases pending before the court or terminated within the previous 12 months. If a relationship is indicated, the case shall be referred to the district judge with the earliest filed case who shall determine promptly if the case is related. If the case is related, it shall be assigned to that district judge. If the district judge determines that the case is not related, or for other good cause stated, the case shall be returned to the clerk for random draw.

D. **Recusal**. Recusal of a judicial officer shall be only by written order setting forth the reasons. Upon such recusal, the clerk, when necessary, shall adjust the computerized drawing program so as to maintain equal apportionment of cases.

D.C.COLO.LCrR 55.1
CUSTODY OF FILES AND EXHIBITS

Pleadings, other papers, and exhibits in court files shall not be removed from the clerk's office or the court's custody except by written court order.

D.C.COLO.LCrR 55.2
INSPECTION OF EVIDENCE

Photographic negatives, tape recordings, contraband including drugs and narcotics, firearms, currency, negotiable instruments, computer disks or tapes, and other items designated by a judicial officer, while in the clerk's custody, shall not be available for inspection by any person except while in the presence of and under the control of the clerk. The clerk may limit or preclude access and copying in order to preserve such evidence.

D.C.COLO.LCrR 56.1
BUSINESS HOURS

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

D.C.COLO.LCrR 57.1
GENERAL AUTHORITY AND DUTIES OF MAGISTRATE JUDGES

A. **General Authority**. Except as restricted by these rules, magistrate judges may exercise all powers and duties authorized by federal statutes, regulations, and the Federal Rules of Criminal Procedure.

B. **Duties.** Each magistrate judge may:

1. issue orders authorizing the installation and use of a pen register or a trap and trace device pursuant to 18 U.S.C. §§ 3122-23, and issue related orders directing the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of the pen register or trap and trace device;

2. issue search warrants, including warrants based upon oral or telephonic testimony;

3. accept criminal complaints and issue arrest warrants or summonses;

4. accept waivers of indictment pursuant to Fed. R. Crim. P. 7(b);

5. receive the return of indictments by the grand jury and issue arrest warrants or summonses when necessary for the defendants named in the indictments;

6. enter orders sealing and unsealing indictments;

7. conduct preliminary proceedings incident to transfer cases pursuant to Fed. R. Crim. P. 20;

8. exercise powers and duties necessary for extraditing fugitives pursuant to 18 U.S.C. §§ 3181 -96;

9. conduct hearings and issue orders under the Bail Reform Act 1984.;

10. enter an order to forfeit bail when a defendant breaches his or her bail conditions by failing to appear in proceedings scheduled before the magistrate judge;

11. set bail for material witnesses;

12. schedule and conduct arraignments on indictments and informations by taking and entering not guilty pleas and making findings regarding time limits required by the Speedy Trial Act;

13. direct the United States Marshal to arrange for payment of basic transportation and subsistence expenses for defendants financially unable to bear the costs of travel to required court appearances;

14. issue subpoenas and writs of habeas corpus ad testificandum or other orders necessary to obtain the presence of parties, witnesses, or evidence necessary for court proceedings;

15. try petty offense or misdemeanor cases in accordance with the law;

16. conduct a jury trial in any petty offense or misdemeanor case as authorized by law;

17. direct the probation office to conduct a presentence investigation in any misdemeanor case;

18. perform the functions specified in 18 U.S.C. §§ 4107, 4108, and 4109, regarding proceedings for verification of consent by offenders to transfer to or from the United States and the appointment of counsel therein;

19. appoint counsel for persons subject to revocation of probation, parole, or supervised release (in which case preference shall be given to previously appointed counsel if such attorney still is available and willing to serve); for persons in custody as a material witness; persons seeking relief under 28 U.S.C. §§ 2241, 2254, or 2255 or 18 U.S.C. § 4245; or for any person for whom the Sixth Amendment to the Constitution requires the appointment of counsel or for whom, in a case in which the person faces loss of liberty, any federal law requires the appointment of counsel;

20. conduct preliminary hearings for the purpose of determining whether there is probable cause to hold a probationer or a person on supervised release for a revocation hearing;

21. exercise contempt authority as authorized by law; and

22. preside over petty offense and misdemeanor cases that involve juvenile defendants as authorized by law.

D.C.COLO.LCrR 57.2
EX PARTE COMMUNICATION WITH JUDICIAL OFFICERS

No attorney or party to any proceeding shall send letters, pleadings, or other papers or copies directly to a judicial officer. Unless otherwise instructed, all matters to be called to a judicial officer's attention shall be submitted through the clerk with copies served on all other parties or their attorneys. No attorney or party shall contact orally a judicial officer regarding any case by telephone, in person, or through any other means, unless all other parties in the matter, or their attorneys, are present or on the telephone.

D.C.COLO.LCrR 57.3
CAMERAS AND RECORDING DEVICES

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

D.C.COLO.LCrR 57.4
SECURITY

A. **Procedures.** All persons entering a building where court is being held shall be subject to security procedures provided for that building.

All briefcases, purses, parcels, bags, backpacks, and other items shall be passed through X-ray scanners and shall be subject to search. This rule shall apply at such other places as a judicial officer may direct.

Failure to obey this rule shall be grounds for refusing admission to the buildings where court is being held and may subject the offender to detention, arrest, and prosecution as provided by law, or to a contempt proceeding.

B. **Identification or Information.** Upon request of a United States marshal, court security officer, federal protective service officer, or court official, anyone within or seeking entry to any court facility shall produce identification and state the nature of his or her business at court. Failure to provide identification or information shall be grounds for removal or exclusion from the facility.

C. **Purpose**. This rule and these procedures are necessary in the interest of public safety and to maintain orderly court procedures.

D.C.COLO.LCrR 57.5
THE BAR OF THE COURT

A. **Applicant Information.** An applicant for admission to the bar of this court must be a person of good moral character licensed by the highest court of a state, federal territory, or the District of Columbia where a written examination was required for admission and be a member of the bar in good standing in all courts and jurisdictions where he or she has been admitted. Each applicant for admission shall complete an approved form provided by the clerk. Each applicant shall pay to the clerk the fee prescribed by the court..

B. **Entry of Appearance**. An attorney's entry of appearance by signing a pleading, motion, or other paper does not constitute entry of appearance by that attorney's firm.

C. **Consent to Jurisdiction; Familiarity With Local Rules**. An attorney who applies for admission to the bar of this court:

1. consents to this court's exercise of disciplinary jurisdiction over any alleged misconduct, and

2. certifies familiarity with the local rules of this court.

D. **Withdrawal of Appearance.** An attorney who has appeared in a case may seek to withdraw on motion showing good cause. Withdrawal shall be effective only on court order entered after service of the notice of withdrawal on all counsel of record and on the withdrawing attorney's client. A motion to withdraw must state the reasons for withdrawal unless the statement would violate the rules of professional conduct. Notice to the attorney's client must include the warning that the client personally is responsible for complying with all court orders and time limitations established by any applicable rules. Where the withdrawing attorney's client is a corporation, partnership, or other legal entity, the notice shall state that such entity cannot appear without counsel admitted to practice before this court, and absent prompt appearance of substitute counsel, pleadings, motions, and other papers may be stricken, and default judgment or other sanctions may be imposed against the entity.

E. **Member in Good Standing**. An attorney admitted to this bar must remain in good standing in all courts where admitted. No attorney may practice before the bar of this court or continue to be an attorney of record in any pending case who is under suspension for any period or has been disbarred by any court where previously admitted. In the event a member of the bar of this court has been formally disciplined by any court, it is the duty of that attorney to give immediate written notice to the clerk of this court of the date and terms of discipline, the name and address of the court imposing the discipline, and the date of that court's action. Failure to provide notice or cease practicing before the bar of this court are themselves separate causes for disciplinary action. Application for reinstatement following suspension or disbarment under this rule shall be made in accordance with the terms of D.C.COLO.LCrR 57.7N.

F. **Relief From Rule of Good Standing**. It is presumed that discipline by another court against a member of this court's bar is appropriate. In order to obtain relief, the attorney so disciplined has the burden to establish, by clear and convincing evidence, that:

1. the procedure resulting in discipline by the court was so lacking in notice or opportunity to be heard as to deny due process;

2. application of D.C.COLO.LCrR 57.5E.would result in grave injustice; or

3. the kind of misconduct established has been held by this court to warrant substantially less severe discipline. Applications under this section shall be filed with or referred to the Committee on Conduct, which shall proceed in accordance with the provisions of D.C.COLO.LCrR 57.7D.

D.C.COLO.LCrR 57.6
STANDARDS OF PROFESSIONAL RESPONSIBILITY

Except as otherwise provided in attached Amended Administrative Order 1999-6 concerning unbundling of legal services, the rules of professional conduct adopted by the Colorado Supreme Court and in effect on the effective date of these rules are adopted as standards of professional responsibility applicable in this court.

D.C.COLO.LCrR 57.7
ATTORNEY DISCIPLINE

A. **Disciplinary Panel.** The Chief Judge shall appoint a panel of three district judges to constitute the disciplinary panel. The panel shall have jurisdiction over all judicial proceedings involving disbarment, suspension, censure, or other lawyer discipline. The Chief Judge at any time may designate additional judges to serve as alternates on the disciplinary panel.

B. **Committee on Conduct**. The court has established a standing Committee on Conduct consisting of 12 members of this court's bar, each appointed for three years and until his or her successor is appointed. Any member appointed to fill a vacancy shall serve the unexpired term of his or her predecessor. Where a member holds over after expiration of the term for which appointed, the time of additional service shall be deemed part of the successor member's term. The court shall designate a chairperson of the Committee on Conduct and a vice-chairperson who shall act during the chairperson's absence or disability. Members of the Committee on Conduct shall serve without compensation, but, insofar as possible, their necessary expenses shall be paid by the clerk from the fund in which admission and annual registration fees paid by members of the bar are deposited. No member of the Committee on Conduct shall serve more than two consecutive terms.

C. **Duties of the Committee.** The Committee on Conduct shall receive, investigate, consider, and act upon complaints against members of the bar, applications for reinstatement, and other similar actions concerning attorneys. The committee chairperson shall appoint one or more members to present and prosecute charges and to prepare and present orders and judgments as directed by the Disciplinary Panel. The committee is authorized and directed to report its findings concerning any disciplinary action to the grievance committee of any other bar or court of which the attorney in question may be a member. Additionally, the committee is authorized to reveal such information to any other court-authorized grievance clearing house as the committee deems appropriate and consistent with the objectives of this rule. The committee also may perform any additional duties implied by these rules or assigned by order of the Disciplinary Panel. All requests for investigation submitted to the court or Committee on Conduct and all complaints filed with the committee shall be privileged, and no lawsuit may be predicated thereon. Persons performing official duties under this rule, including but not limited to

members of the committee, staff, and members of the bar or others working under the committee's direction, shall be immune from suit for all acts and omissions occurring in the course of their official duties.

D. **Complaints.** Any complaint against a member of this court's bar for any cause or conduct which may justify any disciplinary action shall be filed in writing under oath. Complaints shall be filed with or referred to the Committee on Conduct. The committee also shall have power to inquire into all cases of alleged misconduct by members of this court's bar. All proceedings of the Committee on Conduct shall be confidential. The committee shall admonish all persons concerned with any complaint, investigation, or inquiry that absolute confidentiality must be maintained and that violation of this rule will be deemed contempt of this court.

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

F. **Hearing Panel.** When a complaint is received, it shall be referred by the chairperson of the Committee on Conduct to a hearing panel consisting of three committee members designated by the chairperson who shall appoint one of them as panel chairperson. The chairperson or vice-chairperson of the committee may be designated as a member of a hearing panel.

G. **Service of Complaint and Answer.** The hearing panel shall investigate complaints referred to it by the chairperson of the committee. If, in the opinion of a majority of the panel, an answer should be required, the panel shall serve a copy of the complaint by registered mail on the member of the bar against whom the complaint was made, addressed to his or her most current address on file with the clerk. Within 20 days after the date the complaint is mailed, the respondent bar member shall file with the hearing panel an answer signed under oath.

H. **Hearings, Subpoena of Witnesses, and Documents.** A hearing panel may sit as a panel of inquiry and, upon reasonable notice to the complainant and respondent, hold hearings. The chairperson of the hearing panel conducting the inquiry shall serve as a master with authority to order issuance of subpoenas commanding production of designated books, papers, documents, or other tangibles at the times and places stated in the subpoena. The panel chairperson, as master, is authorized to administer oaths. The name of any witness who fails or refuses to attend or testify under oath may be certified to the Disciplinary Panel which may initiate contempt proceedings and impose appropriate punishment.

I. **Submission of Charges to the Court.** After investigation, the hearing panel may prepare charges and submit them to the court, or, with or without preparing charges, may refer the matter to the Grievance Committee of the Supreme Court of the State of Colorado. If charges are prepared and submitted to this court, and thereafter this court orders the charges filed, the clerk shall file them and forthwith issue a summons commanding the respondent to answer. Except as hereinafter provided, the summons and a copy of the charges shall be served by a United States marshal. The respondent shall answer the charges within 30 days from the date of service. Absent a timely answer, the charges may be taken as confessed and hearing may be held ex parte at a time set by the court.

J. **Service Outside the District of Colorado.** A respondent who cannot be served in Colorado may be served by filing a copy of the summons and charges with the clerk, who shall in turn send a copy of the summons and charges by registered mail to the last office address the respondent filed with the clerk.

K. **Disciplinary Panel Hearings and Orders.** When the respondent has filed an answer, a hearing shall be scheduled by the Disciplinary Panel. If the charges are sustained, the Disciplinary Panel may censure, suspend, disbar, or otherwise discipline the respondent. A respondent who is suspended or disbarred shall be enjoined from practicing law before this court and the judgment shall so recite. Any violation of the judgment shall be deemed a contempt of court. If the hearing panel concludes that the misconduct is sufficiently significant that the complaint should not be dismissed as without merit, but it does not warrant submitting charges to the court, the hearing panel may issue a letter of admonition to the respondent, with a copy to the complainant. An attorney receiving a letter of admonition shall be advised of the right to request in writing, within 20 days after receiving the letter, that formal disciplinary proceedings be initiated to adjudicate the propriety of the conduct upon which the admonition is based. Upon timely filing of a request, the letter of admonition shall be vacated and the hearing panel shall proceed with the formal procedures above provided.

L. **Rule Not to Deprive Court of Inherent Powers.** Nothing herein stated shall be deemed to negate or diminish this court's inherent disciplinary powers.

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

N. **Application for Reinstatement.** An attorney who has been disbarred or suspended may apply for readmission or reinstatement at the end of the disciplinary period. Readmission or reinstatement is neither automatic nor a matter of right. Every motion for readmission or reinstatement shall be investigated by one or more members of the Committee on Conduct appointed by the committee's chairperson. Following investigation, the Committee on Conduct shall prepare a recommendation on the application. The

recommendation and supporting documents shall be submitted to the Disciplinary Panel for decision. Readmission or reinstatement may be subject to conditions such as monitoring, reporting, testing, and education.

O. Attorney Convicted of a Felony. Any member of the bar convicted of a state or federal felony shall be suspended from practicing law in this court and, upon conviction becoming final, shall cease to be a member of this court's bar. Upon presentation of a certified copy of the judgment of conviction, the Disciplinary Panel shall order the respondent suspended from practice before this court. Upon proof that the conviction is final, and that direct appeal rights have been exhausted, the Disciplinary Panel shall order the respondent's name removed from the roll of members of this court's bar. In all disciplinary proceedings, the certificate of conviction shall constitute conclusive proof of guilt. A judgment entered on a plea of guilty or nolo contendere shall constitute conviction.

P. Attorney Under Investigation Resigning From Bar of Another Court.

1. Any member of this court's bar who resigns from the bar of any other federal or state court while an investigation into allegations of misconduct is pending shall cease to be a member of this court's bar.

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

Q. Duty of Attorney to Notify Court of Pendency of Criminal Offenses. Every member of this court's bar who is charged in any court with a criminal offense that may subject the attorney to discipline in this court shall so notify the clerk in writing within ten days after the charge is filed.

R. Mental Incompetence or Disability.

1. **Mental Incompetence.** Upon receiving proof that a member of this court's bar judicially has been declared incompetent or involuntarily committed to a mental hospital, the Disciplinary Panel may order that the attorney be suspended from practicing law immediately and indefinitely until further order. A copy of the order shall be served upon the attorney, his or her guardian, and the director of the mental hospital.

2. **Disability.** Upon petition by the Committee on Conduct suggesting that a member of this court's bar is incapable of practicing law because of mental illness or substance abuse, the Disciplinary Panel may take or direct whatever action it deems appropriate to determine whether the attorney is disabled, including

examination by medical experts the panel shall designate. Failure or refusal to submit to examination shall be prima facie evidence of disability. If the Disciplinary Panel concludes from the evidence that the attorney is disabled from practicing law competently, it shall order him or her suspended until further order. The Disciplinary Panel may provide respondent notice of the proceedings and may appoint an attorney to represent a respondent who is without representation.

3. **Claim of Disability During Disciplinary Proceedings.** If during a disciplinary proceeding the respondent attorney asserts a disability by reason of mental or physical illness or substance abuse, rendering adequate defense impossible, the Disciplinary Panel shall order the respondent suspended from practicing law until there can be a determination pursuant to D.C.COLO.LCrR 57.7 R.2. of his or her capacity to practice law.

4. **Attorney Placed on Disability Inactive Status by Other Courts.** A member of this court's bar who is placed on disability inactive status by any state or federal court is prohibited from practicing before this court during such status. Reinstatement upon termination of disability inactive status shall be in accordance with D.C.COLO.LCrR 57.7 R.5. through R.8.

5. **Reinstatement After Disability.**

   a. An attorney suspended for incompetency, mental illness, substance abuse, or other disability may apply to the Disciplinary Panel for reinstatement not more than once a year, or more frequently if the Disciplinary Panel so directs. The application shall be granted upon a showing by clear and convincing evidence that the attorney no longer is disabled and is fit to practice law. The Disciplinary Panel may take or direct such action as it deems appropriate to determine whether the attorney's disability has been remedied, including examination by such medical experts as the panel may designate. The panel may direct that any examination expenses be paid by the attorney.

   b. An attorney suspended because of a judicial declaration of incompetence or involuntary commitment to a mental hospital, who thereafter judicially is declared competent, may be reinstated upon proper proof of the latter declaration, under such conditions as the Disciplinary Panel may require.

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

7. **Waiver of Physician/Patient Privilege.** Filing an application for reinstatement constitutes waiver of any physician-patient privilege with respect to any treatment of the attorney during the period of disability. The attorney shall disclose the name and address of every psychiatrist, psychologist, physician, hospital, or other health-care provider that has examined or treated him or her since suspension and shall furnish the Disciplinary Panel written consent to obtain from these sources information and records requested by the Disciplinary Panel or its designated medical experts.

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

D.C.COLO.LCrR 58.1
FORFEITURE OF COLLATERAL IN LIEU OF APPEARANCE AND NOTICE OF CONVICTION

A. **Scheduled Offenses; Collateral.** For certain scheduled offenses committed within the jurisdiction of this court, collateral may be posted in the scheduled amount set by the court. The collateral schedule for assimilated state-law offenses shall be the same as set forth by the statutes or regulations of the state unless modified by order of a judicial officer.

B. **Petty Offenses; Collateral.** With respect to any petty offense, a judicial officer shall have the authority to specify a collateral forfeiture amount different from that set out in this rule so long as an attorney or other representative of the government consents.

C. **Forfeiture Amount; Payment.** The collateral forfeiture amount set by a judicial officer pursuant to this section shall not be less than the minimum nor greater than the maximum fine that could be imposed upon conviction for violation of the particular regulation. Collateral may be posted by mail. Payment is authorized by cash, check, money order, draft, or court-approved credit card.

D. **Forfeiture.** If a defendant fails to appear before a judicial officer after posting collateral, the collateral shall be forfeited to the United States, and that forfeiture shall be accepted in lieu of appearance and shall terminate the proceeding.

E. **Increase in Amount of Collateral.** If a defendant fails to post collateral and fails to appear before a judicial officer, a judicial officer may increase the amount of collateral. The increased amount of collateral shall not exceed double the maximum fine which could be imposed upon conviction.

F. **Forfeiture Not Permitted; Appearance Required.** Notwithstanding section D. above, forfeiture of collateral will not be permitted, and the defendant is required to appear before a judicial officer in person or by counsel for:

1. an offense arising from an accident causing personal injury or death;

2. operation of a motor vehicle while impaired by or under the influence of alcohol or a drug or controlled substance as defined by federal or state statutes;

3. driving while a driver's license is suspended, denied, or revoked;

4. reckless driving;

5. any offense where appearance is required by state or federal statute or regulation;

6. illegal use or possession of a weapon; and

7. assault or crime of violence.

G. **Notice of Conviction.** When the defendant is convicted of a motor-vehicle offense that requires a mandatory appearance, the clerk shall send notice of that conviction to the appropriate state agency concerned with motor-vehicle violations.

JS 44 (3/99)
(Rev. 3/99)

APPENDIX A

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet (SEE INSTRUCTIONS ON THE REVERSE OF THIS FORM).

I.(a) PLAINTIFFS

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____
(IN U.S. PLAINTIFF CASES)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION TRACT OF LAND INVOLVED

(C) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN 'X' IN ONE BOX ONLY)

- ☐ 1 U.S. GOVERNMENT PLAINTIFF
- ☐ 3 FEDERAL QUESTION (U.S. Government Not a Party)
- ☐ 2 U.S. GOVERNMENT DEFENDANT
- ☐ 4 DIVERSITY (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN 'X' IN ONE BOX FOR PLAINTIFF AND ONE FOR DEFENDANT))

(For Diversity Cases Only)

	PTF	DEF
Citizen of This State	☐ 1	☐ 1
Citizen of Another State	☐ 2	☐ 2
Citizen or Subject of a Foreign Country	☐ 3	☐ 3
Incorporated *or* Principal Place of Business in This State	☐ 4	☐ 4
Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (*PLACE AN "X" IN ONE BOX ONLY)*

CONTRACTS

- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholder's Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury – Med. Malpractice
- ☐ 365 Personal Injury – Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage – Product Liability

FORFEITURE/PENALTY

- ☐ 610 Agriculture
- ☐ 620 Other Food and Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

BANKRUPTCY

- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawl 28 USC 157

PROPERTY RIGHTS

- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

OTHER STATUTES

- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce/ICC Rates/ etc.
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 810 Selective Service
- ☐ 850 Securities/ Commodities/Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900 Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes
- ☐ 890 Other Statutory Actions

REAL PROPERTY

- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease and Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

CIVIL RIGHTS

- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accomodations
- ☐ 444 Welfare
- ☐ 440 Other Civil Rights

PRISONER PETITIONS

- ☐ 510 Motions to Vacate Sentence

HABEAS CORPUS:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Order
- ☐ 550 Civil Rights
- ☐ 555 Prisoner Conditions

LABOR

- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt. Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc Security Act

SOCIAL SECURITY

- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS

- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS – Third Party 26 USC 7609

V. ORIGIN (*PLACE AN "X" IN ONE BOX ONLY)*

- ☐ **Original Proceeding**
- ☐ **Removal from State Court**
- ☐ **Remanded from Appellate Court**
- ☐ **Reinstated or Reopened**
- ☐ **Transfer from another district (specify)**
- ☐ **Multidistrict Litigation**
- ☐ **Appeal to District Judge from Mag. Judgment**

VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A **CLASS ACTION** UNDER F.R.C.P. 23

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (SEE INSTRUCTIONS)

JUDGE _____ DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ **AMOUNT** _____ **APPLYING IFB** _____ **JUDGE** _____ **MAG. JUDGE** _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44
Authority For Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. **(a) Plaintiffs – Defendants.** Enter names (Last, First, Middle Initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved).

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When box 4 is checked, the citizenship of the different parties must be checked. (See section III below; federal question actions take precedence over diversity cases.)

III. **Residence (citizenship) of Principal Parties.** This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of the suit cannot be determined, be sure the cause of action, in Section V below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of the suit. If the cause fits more than one nature of suit, select the most definitive.

V. **Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed form State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date remanded as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District (5) For cases transferred under Title 28 U.S.C., Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of title 28 U.S.C., Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause.

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P. Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS-44 is used to reference related pending cases if any. If there are pending cases, insert the docket numbers and the corresponding judge names for such cases. If filing a related case you must file the form entitled: Information Regarding Related Case(s) in this Court. Contact the Clerk's office for a copy of the form or see court's web site.

Date and Attorney Signature. Date and sign the civil cover sheet.

Appendix B

SUPPLEMENTAL CIVIL COVER SHEET FOR NOTICES OF REMOVAL

Pursuant to 28 U.S.C. §§ 1446 - 47 and D.C.COLO.LCivR 81.1, the removing party shall promptly file three sets of copies of all state court pleadings not attached to the notice of removal.

Section A - Plaintiffs

Plaintiffs remaining in action at the time of filing the notice of removal

_____
_____
_____
_____
_____

Section B - Defendants

Defendants remaining in action at the time of filing the notice of removal

_____
_____
_____
_____
_____

Section C - Pending Motions As of Date of Removal

Title of Motion:	Date Motion Filed:
1) _____	_____
2) _____	_____
3) _____	_____
4) _____	_____

(Use reverse for additional information if necessary)

Section D - Hearings

Are hearings set on any motions? If yes, please list motion, date of hearing, and the assigned judge:

_____
_____
_____
_____
_____
_____
_____

_____
Signature of Attorney for Removing Party
Telephone Number: _____
Date: _____
Case No. _____

(Rev. 04/15/02)

Appendix C

SCHEDULE OF FEES

Filing civil complaint or notice of removal	$150.00
Jury fee	NONE
Filing responsive pleading, motion, or third-party pleadings	NONE
Certification of any document or paper	$ 7.00
Certificate of Judgment	$ 7.00
Certificate of Search	$ 20.00
Registering judgment from another district (X case)	$ 30.00
Filing or indexing any paper not in a case or proceeding for which a case filing fee has been paid (X cases)	$ 30.00
Reproduction of any record or paper (per sheet)	$ .50
Production of a document from computer system (per page)	$ .10
Duplicate certificate of admission/certificate of good standing	$ 15.00
Admission of attorney to practice in U. S. District Court for the District of Colorado	$ 60.00
Notice of Appeal (fees to be paid together)	
Filing Fee	$ 5.00
Docket Fee	$100.00
Appeal to a district judge from conviction by magistrate judge/misdemeanor case	$ 25.00
Witness fee per day	$ 40.00
Witness mileage, round-trip (per mile)	$ .36
Retrieval from Federal Records Center	$ 35.00
Tape recording of proceedings	$ 20.00
Fee for returned check	$ 35.00
Power of Attorney	$ 30.00
Exemplifications	$ 14.00

(Rev. 01/10/03)

Appendix D

UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO
FACSIMILE COVER SHEET

Pursuant to D.C.COLO.LCivR 5.1 and D.C.COLO.LCrR 49.1, this cover sheet must be submitted with any facsimile filing. A pleading or paper not requiring a filing fee and no longer than ten pages, including all attachments, may be filed with the clerk by means of facsimile during a business day. Upon receipt of a facsimile filing, the clerk will make the copies required under D.C.COLO.LCivR 10.1L and D.C.COLO.LCrR 49.3L. Facsimiles received by the clerk after 5:00 p.m. (Mountain Time) will be considered filed as of the next business day.

Clerk's Office facsimile telephone number: 303-335-2714

1. Date of transmission: _____

2. Name of attorney or *pro se* party making the transmission: _____

   Facsimile number: _____ Telephone number: _____

3. Case number, caption, and title of pleading or paper: _____

_____

_____

4. Number of pages being transmitted, including the facsimile cover sheet: _____

Instructions, if any: _____

_____

(Rev. 04/16/02)

Appendix E

**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. _____

Plaintiff,

v.

Defendant.

(Title of Pleading or Paper)

** Space should be provided for the court filing stamp in the upper right corner of the first page of each document.

(Rev. 04/15/02)

Appendix F

INSTRUCTIONS FOR PREPARATION OF SCHEDULING ORDER

When the court has set a scheduling conference pursuant to Fed. R. Civ. P. 16 and D.C.COLO.LCivR 16.1 and 16.2 , a scheduling order shall be prepared in accordance with these instructions. In accordance with Fed. R. Civ. P. 26(f), no discovery shall be done by the parties until the parties meet and attempt to agree on a scheduling order. The rule 26(f) meeting shall be held at least 21 days before the proposed scheduling order is due to be tendered. The disclosures required by Fed. R. Civ. P. 26(a)(1) shall be exchanged at or within 14 days after the rule 26(f) meeting. Do not file any disclosure statements with the court.

Five days before the scheduling conference (see Fed. R. Civ. P. 6 for all computations of time), counsel are to tender a proposed scheduling order which shall include the signatures of counsel and *pro se* parties and shall provide for approval by the court as specified on the attached form. Counsel and *pro se* parties should try, in good faith, to agree upon matters covered in the scheduling order. Any area of disagreement should be set forth with a brief statement concerning the basis for the disagreement. The parties should expect that the court will make modifications in the proposed scheduling order and will want to discuss all issues affecting management of the case.

D.C.COLO.LCivR 72.2 authorizes magistrates judges to exercise jurisdiction of civil matters upon the consent of the parties. If all parties have consented to the exercise of jurisdiction by a magistrate judge pursuant to D.C.COLO.LCivR 72.2, the "Notice of Availability of a United States Magistrate Judge to Exercise Jurisdiction and Consent to the Exercise of Jurisdiction by a United States Magistrate Judge" form and a proposed order of reference are to be filed promptly with the Clerk of the Court and the consent indicated in section 6. of the proposed scheduling order. Note that D.C.COLO.LCivR 72.2D. provides, in part: "Written consent to proceed before a magistrate judge must be filed no later than ten days after the discovery cut-off date. In cases not requiring discovery, the parties shall have 40 days from the filing of the last responsive pleading to file their unanimous consent." Refer to D.C.COLO.LCivR 72.2F. if all parties have not been served or in the event additional parties are added after the scheduling conference.

Listed on the following pages is the format for the proposed scheduling order. The bracketed and italicized information on the form explains what the court expects.

Scheduling orders shall be double-spaced in accordance with D.C.COLO.LCivR 10.1E., even though the instructions in the following format for the proposed scheduling order are single-spaced.

Appendix F
(Continued)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. _____

Plaintiff(s),

v.

Defendant(s).

SCHEDULING ORDER

---

1. DATE OF CONFERENCE
AND APPEARANCES OF COUNSEL AND *PRO SE* PARTIES

[Provide the date of the conference and the names, addresses, and telephone numbers of counsel for each party and each pro se *party. Identify by name the party represented by each counsel.]*

2. STATEMENT OF CLAIMS AND DEFENSES

a. Plaintiff(s):

b. Defendant(s):

c. Other Parties:

[Provide concise statements of all claims or defenses. Each party, in light of formal or informal discovery undertaken thus far, should take special care to eliminate frivolous claims or defenses. Fed. R. Civ. P. 16(c)(1), 11. Do not summarize the pleadings. Statements such as "defendant denies the material allegations of the complaint" are not acceptable.]

3. UNDISPUTED FACTS

The following facts are undisputed:

[When the parties have their rule 26(f) meeting, they should make a good-faith attempt to determine which facts are not in dispute.]

4. COMPUTATION OF DAMAGES

[Include a computation of all categories of damages sought and the basis and theory for calculating damages. See Fed. R. Civ. P. 26(a)(1)(C). This should include the claims of all parties. It should also include a description of the economic damages, noneconomic damages, and physical impairment claimed, if any.]

5. REPORT OF PRECONFERENCE DISCOVERY AND MEETING UNDER FED. R. CIV. P. 26(f)

a. Date of rule 26(f) meeting.

b. Names of each participant and party he/she represented.

c. Proposed changes, if any, in timing or requirement of disclosures under Fed. R. Civ. P. 26(a)(1).

d. Statement as to when rule 26(a)(1) disclosures were made or will be made.

[If a party's disclosures were not made within the time provided in Fed. R. Civ. P. 26(a)(1), the party must provide here an explanation showing good cause for the omission.]

e. Statement concerning any agreements to conduct informal discovery, including joint interviews with potential witnesses, exchanges of documents, and joint meetings with clients to discuss settlement. If there is agreement to conduct joint interviews with potential witnesses, list the names of such witnesses and a date and time for the interview which has been agreed to by the witness, all counsel, and all *pro se* parties.

6. CONSENT

[Pursuant to D.C.COLO.LCivR 72.2, all full-time magistrate judges in the District of Colorado are specially designated under 28 U.S.C. §636(c)(1) to conduct any or all proceedings in any jury or nonjury civil matter and to order the entry of judgment. Upon consent of the parties and an order of reference from the district judge, the magistrate judge assigned the case under 28 U.S.C. § 636(a) and (b) will hold the scheduling conference and retain settlement jurisdiction, whereas pretrial case management, jurisdiction of dispositive motions, and trial will be assigned to the magistrate judge drawn at random under D.C.COLO.LCivR 72.2.]

[Indicate below the parties' consent choice.]

All parties *[have or have not]* consented to the exercise of jurisdiction of a magistrate judge.

7. CASE PLAN AND SCHEDULE

a. Deadline for Joinder of Parties and Amendment of Pleadings:

[Set time period within which to join other parties and to amend all pleadings. This portion of the scheduling order relates to timing only. It does not eliminate the necessity to file an appropriate motion and to otherwise comply with Fed. R. Civ. P. 15. Unless otherwise ordered in a particular case, for good cause, these dates should be no later than 45 days after the date of the scheduling conference, so as to minimize the possibility that late amendments and joinder of parties will precipitate requests for extensions of discovery cutoff, final pretrial conference, and dispositive motion dates. Counsel and pro se *parties should plan discovery so that discovery designed to identify additional parties or claims is completed before these deadlines.]*

b. Discovery Cut-off:

c. Dispositive Motion Deadline:

[Set time periods in which discovery is to be completed and dispositive motions are to be filed.]

d. Expert Witness Disclosure

[(1) State anticipated fields of expert testimony, if any.

(2) State any limitations proposed on the use or number of expert witnesses.

(3) The parties shall designate all experts and provide opposing counsel and any pro se party with all information specified in Fed. R. Civ. P. 26(a)(2) on or before _____, 200__.

(4) The parties shall designate all rebuttal experts and provide opposing counsel and any pro se party with all information specified in Fed. R. Civ. P. 26(a)(2) on or before _____, 200__.

(5) Notwithstanding the provisions of Fed. R. Civ. P. 26(a)(2)(B), no exception to the requirements of the rule will be allowed by stipulation of the parties unless the stipulation is approved by the court.]

e. Deposition Schedule:

Name of Deponent	*Date of Deposition*	*Time of Deposition*	*Expected Length of Deposition*

[List the names of persons to be deposed and a schedule of any depositions to be taken, including (i) a good faith estimate of the time needed for the deposition and (ii) time(s) and date(s)for the deposition which have been agreed to by the deponent and persons signing the scheduling order.]

f. Interrogatory Schedule

[Set a schedule for the submission of and response to written interrogatories, if any are desired.]

g. Schedule for Request for Production of Documents

[Set a schedule for the submission of and response to requests for documents, if any are desired.]

h. Discovery Limitations:

(1) Any limits which any party wishes to propose on the number of depositions.

(2) Any limits which any party wishes to propose on the length of depositions.

(3) Modifications which any party proposes on the presumptive numbers of depositions or interrogatories contained in the federal rules.

(4) Limitations which any party proposes on number of requests for production of documents and/or requests for admissions.

[At the rule 26(f) meeting, the parties should make a good-faith attempt to agree to limit the number of depositions, interrogatories, requests for admissions, and requests for production. In the majority of cases, the parties should anticipate that discovery, will be limited as specified in Fed. R. Civ. P. 30(a)(2)(A), 33.]

(5) Other Planning or Discovery Orders

[Set forth any other proposed orders concerning scheduling or discovery.]

8. SETTLEMENT

[The parties must certify here that, as required by Fed. R. Civ. P. 26(f), they have discussed the possibilities for a prompt settlement or resolution of the case by alternate dispute resolution. They must also report the result of any such meeting, and any similar future meeting, to the magistrate judge within ten days of the meeting.]

9. OTHER SCHEDULING ISSUES

a. A statement of those discovery or scheduling issues, if any, on which counsel, after a good-faith effort, were unable to reach an agreement.

b. Anticipated length of trial and whether trial is to the court or jury.

10. DATES FOR FURTHER CONFERENCES

[The magistrate judge will complete this section at the scheduling conference if he or she has not already set deadlines by an order filed before the conference.]

a. A settlement conference will be held on_____ at _____ o'clock __.m.

It is hereby ordered that all settlement conferences that take place before the magistrate judge shall be confidential.

( ) *Pro se* parties and attorneys only need be present.

( ) *Pro se* parties, attorneys, and client representatives with authority to settle must be present. (NOTE: This requirement is not fulfilled by the presence of counsel. If an insurance company is involved, an adjustor authorized to enter into settlement must also be present.)

( ) Each party shall submit a Confidential Settlement Statement to the magistrate judge on or before _____ outlining the facts and issues in the case and the party's settlement position.

b. Status conferences will be held in this case at the following dates and times:

_____

_____

c. A final pretrial conference will be held in this case on _____at _____ o'clock __.m. A Final Pretrial Order shall be prepared by the parties and submitted to the court no later than five days before the final pretrial conference.

11. OTHER MATTERS

[*The following paragraph shall be included in the scheduling order:]*

In addition to filing an appropriate notice with the clerk's office, counsel must file a copy of any notice of withdrawal, notice of substitution of counsel, or notice of change of counsel's address or telephone number with the clerk of the magistrate judge assigned to this case.

In addition to filing an appropriate notice with the clerk's office, a *pro se* party must file a copy of a notice of change of his or her address or telephone number with the clerk of the magistrate judge assigned to this case.

With respect to discovery disputes, parties must comply with D.C.COLO.LCivR 7.1A.

The parties filing motions for extension of time or continuances must comply with D.C.COLO.LCivR 6.1D. by submitting proof that a copy of the motion has been served upon the moving attorney's client, all attorneys of record, and all *pro se* parties.

12. AMENDMENTS TO SCHEDULING ORDER

[Include a statement that the scheduling order may be altered or amended only upon a showing of good cause.]

DATED this _____ day of _____ 200__.

BY THE COURT:

_____
United States Magistrate Judge

APPROVED:

_____	_____
(Name)	(Name)
(Address)	(Address)
(Address)	(Address)
(Telephone Number)	(Telephone Number)
Attorney for Plaintiff (or Plaintiff, *Pro Se*)	Attorney for Defendant (or Defendant, *Pro Se*)

[Please affix counsels' and any pro se *party's signatures before submission of the scheduling order to the court.]*

Appendix G

INSTRUCTIONS FOR PREPARATION OF FINAL PRETRIAL ORDER

Counsel and any *pro se* party are directed to meet in advance of the pretrial conference and jointly to develop the contents of the proposed final pretrial order, which shall be presented for the court's approval no later than five days before the final pretrial conference. Also, attention is directed to Fed. R. Civ. P. 16(d), which provides, in pertinent part, that "[t]he conference shall be attended by at least one of the attorneys who will conduct the trial for each of the parties and by any unrepresented parties."

Listed on the following pages is a format for matters to be included in the final pretrial order. For convenience of the court, counsel, and any *pro se* party, the sequence and terminology in this format should be used in the preparation of the final pretrial order. The bracketed and italicized information on the form explains what the court expects.

Final pretrial orders shall be double-spaced in accordance with D.C.COLO.LCivR 10.1E., even though the instructions in the following format for the proposed final pretrial order are single-spaced.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No.

Plaintiff(s),

v.

Defendant(s).

FINAL PRETRIAL ORDER

---

1. DATE AND APPEARANCES

2. JURISDICTION

[Include a statement of the basis for subject matter jurisdiction with appropriate statutory citations. If jurisdiction is denied, give the specific reason for the denial.]

3. CLAIMS AND DEFENSES

[Summarize the claims and defenses of all parties, including the respective versions of the facts and legal theories. Do not copy the pleadings. Identify the specific relief sought. Eliminate claims and defenses which are unnecessary, unsupported, or no longer asserted.]

4. STIPULATIONS

[Set forth all stipulations concerning facts, evidence, and the applicability of statutes, regulations, rules, ordinances, etc.]

5. PENDING MOTIONS

[List any pending motion to be decided before trial, giving the filing date and the filing date of any briefs in support or opposition. Include any motions on which the court expressly has postponed ruling until trial on the merits. If there are no pending motions, please state, "None."]

6. WITNESSES

a. List the nonexpert witnesses to be called by each party. List separately:

(1) witnesses who will be present at trial (see Fed. R. Civ. P. 26(a)(3)(A));

(2) witnesses who may be present at trial if the need arises (see Fed. R. Civ. P. 26(a)(3)(A)); and

(3) witnesses where testimony is expected to be presented by means of a deposition and, if not taken stenographically, a transcript of the pertinent portions of the deposition testimony. See Fed. R. Civ. P. 26(a)(3)(B).

b. List the expert witnesses to be called by each party. List separately:

(1) witnesses who will be present at trial (see Fed. R. Civ. P. 26(a)(3)(A));

(2) witnesses who may be present at trial (see Fed. R. Civ. P. 26(a)(3)(A)); and

(3) witnesses where testimony is expected to be presented by means of a deposition and, if not taken stenographically, a transcript of the pertinent portions of the deposition testimony. See Fed. R. Civ. P. 26(a)(3)(B).

[With each witness' name, set forth (1) the witness' address and telephone number if not previously disclosed, (2) a short statement as to the nature and purpose of the witness' testimony, and (3) whether he or she is expected to testify in person or by deposition.]

7. EXHIBITS

[a. List the exhibits to be offered by each party and identify those to be stipulated into evidence. This list should be specific enough so that other parties and the court can understand, merely by referring to the list, each separate exhibit which will be offered. General references such as "all deposition exhibits"or"all documents produced during discovery"are unacceptable.]

(1) Plaintiff(s):

(2) Defendant(s):

(3) Other parties:

[The following paragraph shall be included in the final pretrial order.]

b. Copies of listed exhibits must be provided to opposing counsel and any *pro se* party no later than five days after the final pretrial conference. The objections contemplated by Fed. R. Civ. P. 26(a)(3) shall be filed with the clerk and served by hand delivery or facsimile no later than 11 days after the exhibits are provided.

8. DISCOVERY

[Use the following language:]

Discovery has been completed.

[Unless otherwise ordered, upon a showing of good cause in an appropriate motion, there will be no discovery after entry of the final pretrial order.]

9. SPECIAL ISSUES

[List any unusual issues of law which the court may wish to consider before trial. If none, please state, "None."]

10. SETTLEMENT

[Include a certification by the undersigned counsel for the parties and any pro se *party that:]*

a. Counsel for the parties and any *pro se* party met (in person) (by telephone) on _____, 200__, to discuss in good faith the settlement of the case.

b. The participants in the settlement conference, included counsel, party representatives, and any *pro se* party.

c. The parties were promptly informed of all offers of settlement.

d. Counsel for the parties and any *pro se* party (do) (do not) intend to hold future settlement conferences.

e. It appears from the discussion by all counsel and any *pro se* party that there is *[select one]:*
(a good possibility of settlement.)
(some possibility of settlement.)
(little possibility of settlement.)
(no possibility of settlement.)

f. The date of the next settlement conference before the magistrate judge or other alternative dispute resolution method.

g. Counsel for the parties and any *pro se* party considered ADR in accordance with D.C.COLO.LCivR.16.6.

11. OFFER OF JUDGMENT

[The following paragraph shall be included in the final pretrial order:]

Counsel and any *pro se* party acknowledge familiarity with the provision of rule 68 (Offer of Judgment) of the Federal Rules of Civil Procedure. Counsel have discussed it with the clients against whom claims are made in this case.

12. EFFECT OF FINAL PRETRIAL ORDER

[The following paragraph shall be included in the final pretrial order:]

Hereafter, this Final Pretrial Order will control the subsequent course of this action and the trial, and may not be amended except by consent of the parties and approval by the court or by order of the court to prevent manifest injustice. The pleadings will be deemed merged herein. This Final Pretrial Order supersedes the Scheduling Order. In the event of ambiguity in any provision of this Final Pretrial Order, reference may be made to the record of the pretrial conference to the extent reported by stenographic notes and to the pleadings.

13. TRIAL AND ESTIMATED TRIAL TIME; FURTHER TRIAL PREPARATION PROCEEDINGS

[State:

1. whether trial is to the court or a jury or both,

2. estimated trial time,

3 situs of trial, and

4 any other orders pertinent to the trial proceedings.]

[Counsel and the parties should note that the procedures for setting and conducting trial and for further conferences before trial vary according to the district judge assigned to the case. The judges all have written procedures which can be obtained from the clerk's office.]

DATED this _____ day of _____ 200__.

BY THE COURT:

_____
United States Magistrate Judge

APPROVED:

_____	_____
(Name)	(Name)
(Address)	(Address)
(Telephone Number)	(Telephone Number)
Attorney for Plaintiff (or Plaintiff, *Pro Se*)	Attorney for Defendant (or Defendant, *Pro Se*)

[Please affix counsels' and any pro se *party's signatures before submission of the final pretrial order to the court.]*

Appendix H

INFORMATION REGARDING
RELATED CASES IN THIS COURT

Case Number of action being filed: _____

Case Number of related case in this Court: _____

Judge assigned to related case: _____

Type of action of related case: _____

Status: _____

_____

State reasons this case is related and should be assigned to the same judge: _____

_____

_____

OTHER RELATED CASES:

OTHER COURT: STATE ( ) FEDERAL ( )
Name of Court: _____
Case Number: _____
Judge assigned: _____
Status: _____

_____

OTHER COURT: STATE ( ) FEDERAL ( )
Name of Court: _____
Case Number: _____
Judge assigned: _____
Status: _____

_____

OTHER COURT: STATE ( ) FEDERAL ( )
Name of Court: _____
Case Number: _____
Judge assigned: _____
Status: _____

_____

(Rev. 04/15/02)

Appendix I

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. _____

_____,
Plaintiff,
v.

_____,
Defendant.

INFORMATION FOR TEMPORARY RESTRAINING ORDER

Attorney for Plaintiff _____

_____ Telephone number _____

Attorney for Defendant _____

_____ Telephone number _____

Concise statements as to type of claim _____
_____
_____

Jurisdiction (cite statute) _____

Hearing: See D.C.COLO.LCivR. 7.1A

Date Motion for Temporary Restraining Order filed _____

Estimated length of hearing _____

Request hearing be set for ____ today ____ tomorrow ____ within one week

Reason why immediate action is required _____

Notice:
Has opposing party and/or attorney been notified? ____ Yes ____ No

If "yes", state when _____ and by what means _____

If "no", state reason _____

(Rev. 04/15/02)

Appendix J

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Action No.

UNITED STATES OF AMERICA,

Plaintiff,

v.

1.

Defendant.

PLEA AGREEMENT AND STATEMENT OF FACTS
RELEVANT TO SENTENCING

The United States of America (the government), by and through _____, Assistant United States Attorney for the District of Colorado, and the defendant, _____, personally and by counsel, _____, submit the following Plea Agreement and Statement of Facts Relevant to Sentencing pursuant to D.C.COLO.LCrR 11.1.

I. PLEA AGREEMENT

The defendant agrees to plead guilty to _____ of the Indictment *[or Information]* charging a violation of ___ U.S.C. § ____, _____. *[Insert additional charges, if any.]*

[Set forth the complete agreement between the parties, including whether the agreement is pursuant to Fed. R. Crim. P. 11(e)(1)(A), (B), or (C), and whether there are agreements regarding departure from the guideline range and the amount of restitution.]

II. STATUTORY PENALTIES

The maximum statutory penalty for a violation of _____ U.S.C. § _____ is: not more than ____ months imprisonment; not more than $_____ fine, or both; not more than ____ years supervised release; $ _____ special assessment fee; plus _____ restitution. *[If the exact amount of restitution is not known, explain the parties' position on how restitution should be determined.] [Insert, if applicable: The minimum statutory penalty is _____ months imprisonment.]*

The conviction may cause the loss of civil rights, including but not limited to the rights to possess firearms, vote, hold elected office, and sit on a jury. *[Insert if applicable: If the defendant is an alien, the conviction may cause the defendant to be deported or confined indefinitely if there is no country to which the defendant may be deported.]*

A violation of the conditions of probation or supervised release may result in a separate prison sentence.

III. STIPULATION OF FACTUAL BASIS AND FACTS RELEVANT TO SENTENCING

The parties agree that there is no dispute as to the material elements which establish a factual basis of the offense of conviction.

Pertinent facts are set out below in order to provide a factual basis of the plea and to provide facts which the parties believe are relevant, pursuant to § 1B1.3, for computing the

appropriate guideline range. To the extent the parties disagree about the facts relevant to sentencing, the statement of facts identifies which facts are known to be in dispute at the time of the plea. (§ 6B1.4(b))

The statement of facts herein does not preclude either party from presenting and arguing, for sentencing purposes, additional facts or factors not included herein which are relevant to the guideline computation (§ 1B1.3) or to sentencing in general (§ 1B1.4). In "determining the factual basis for the sentence, the court will consider the stipulation [of the parties], together with the results of the presentence investigation, and any other relevant information." (§ 6B1.4 Comm.)

The parties agree that the government's evidence would show that the date on which conduct relevant to the offense (§ 1B1.3) began is _____.

The parties agree that the government's evidence would be: *[Insert evidence]*

IV. SENTENCING COMPUTATION

The parties stipulate that sentencing in this case will be determined by application of the sentencing guidelines, issued pursuant to 28 U.S.C. § 994(a).

[Insert, if applicable: Any estimation by the parties regarding the estimated appropriate guideline application does not preclude either party from asking the court to depart from the otherwise appropriate guideline range at sentencing, if that party believes that there exists an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the Sentencing Commission in formulating the sentencing guidelines. (§ 5K2.0)

The parties understand that the court may impose any sentence, up to the statutory maximum, regardless of any guideline range computed, and that the court is not bound by any position of the parties. (§ 6B1.4(d)) The court is free, pursuant to §§ 6A1.3 and 6B1.4, to reach its own findings of facts and sentencing factors considering the parties' stipulations, the presentence investigation, and any other relevant information. (§ 6B1.4 Comm.; § 1B1.4)

To the extent the parties disagree about the sentencing factors, the computations below identify the factors which are in dispute. (§ 6B1.4(b))

A. The base guideline is § ____, with a base offense level of ____.

B. *[Insert specific offense characteristics.]*

C. *[Insert victim-related, role-in-offense obstruction and/or multiple count adjustments.]*

D. The adjusted offense level would therefore be ____.

E. The defendant *[should or should not]* receive the adjustment for acceptance of responsibility. The resulting offense level would therefore be ____.

F. The parties understand that the defendant's criminal history computation is tentative. The criminal history category is determined by the court. Known facts regarding the criminal history are as follows: *[insert facts]*. Based on that information, if no other information were discovered, the defendant's criminal history category would be ____ .

G. Assuming the (tentative) criminal history facts of F. above, the career offender/criminal livelihood/armed career criminal adjustments *[would or would not]* apply. *[If any of these adjustments applies, include the final offense level and/or criminal history category.]*

H. The guideline range resulting from the estimated offense level(s) of *[E. or G.]* above, and the (tentative) criminal history category of *[F. or G.]* above, is _____ months. However, in order to be as accurate as possible, with the criminal history category undetermined at this time, the estimated offense level(s) of *[E. or G.]* above could conceivably result in a range from _____ months (bottom of Category I), to _____ months (top of Category VI). The sentence would be limited, in any case, by the statutory maximum.

I. Pursuant to guideline § 5E1.2, assuming the estimated offense level of *[E. or G.]* above, the fine range for this offense would be $ _____ to $ _____, plus applicable interest and penalties.

J. Pursuant to guideline § 5D1.2, if the court imposes the term of supervised release, that term shall be *[insert if applicable: at least ___ years, but]* not more than ____ years.

[K. Describe any restitution orders or conditions required by guideline § 5E1.1.]

V. WHY THE PROPOSED PLEA DISPOSITION IS APPROPRIATE

The parties believe the sentencing range resulting from the proposed plea agreement is appropriate because all relevant conduct is disclosed, the sentencing guidelines take into account all pertinent sentencing factors with respect to this defendant, and the charges to which the defendant has agreed to plead guilty adequately reflect the seriousness of the actual offense behavior.

This document states the parties' entire agreement. There are no other promises, agreements (or "side agreements"), terms, conditions, understandings, or assurances, express or implied. In entering this agreement, neither the government nor the defendant has relied, or is relying, on any terms, promises, conditions, or assurances not expressly stated in this agreement.

Date: _____ _____

[insert name]
Defendant

Date: _____ _____

[insert name]
Attorney for Defendant

Date: _____ _____

[insert name]
Assistant U.S. Attorney

Appendix K

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Action No.

UNITED STATES OF AMERICA,

Plaintiff,

v.

1.

Defendant.

STATEMENT BY DEFENDANT IN ADVANCE OF PLEA OF GUILTY
(In Accordance With the Sentencing Guidelines)

I hereby acknowledge and certify that I have been advised of and that I understand the following facts and rights, that all representations contained herein are true and correct, and that my attorney has assisted me as I have reviewed and completed this form.

1. The nature of the charge(s) against me has been explained to me by my attorney and the court. I have had an opportunity to discuss with my attorney and with the court the nature of the charge(s) and the elements which the government is required to prove.

2. I know that when the court sentences me, the court will consider many factors, including certain sentencing guidelines established by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(a), as those sentencing guidelines pertain to the crime I admit I committed, my degree of involvement in that crime, and my personal history and background. I

understand that the court has discretion with respect to the application of the sentencing guidelines, and that I could be sentenced to serve the maximum term and pay the maximum fine, as set out in paragraph 3 below.

3. I know that the following penalties may be imposed upon me under the law, as a result of my guilty plea(s):

Count _____

a. Imprisonment for a term of *[insert if applicable: not less than _____ years, but]* not more than _____ years;

b. A term of supervised release of *[insert if applicable: not less than _____ years, but]* not more than _____ years, pursuant to 18 U.S.C. § 3583;

c. A fine of not more than $ _____, pursuant to the statute that I admit I violated and/or the alternative fine schedule set out at 18 U.S.C. § 3571;

d. Restitution to the victim(s) of my crime(s) of not more than $ _____, pursuant to 18 U.S.C. §§ 3663, 3663A, and 3664;

e. A special assessment of $ _____, pursuant to 18 U.S.C. § 3013;

f. A prison sentence that may be imposed for a violation of the conditions of probation or supervised release;

g. Loss of civil rights, including but not limited to the rights to possess firearms, vote, hold elected office, and sit on a jury; and

h. Deportation from the United States if I am not a U. S. citizen and my crime satisfies one of the conditions in 8 U.S.C. § 1227(a)(2), or indefinite confinement if there is no country to which I may be deported.

[REPEAT a. THROUGH h. FOR ALL REMAINING COUNTS.]

4. I know that if I am convicted of more than one count, the sentences may be either concurrent or consecutive.

5. I know that the information set out in Attachment A concerning the collection of fines and restitution applies to me, and I acknowledge that I have read Attachment A.

6. _____ I know that if the blank at the beginning of this sentence is checked, the information set out in Attachment B concerning the payment and collection of restitution applies to me, and I acknowledge that I have read Attachment B.

7. I know that I can be represented by an attorney at every stage of this proceeding, and I know that, if I cannot afford an attorney, one will be appointed to represent me at the government's expense.

8. I know that I have a right to plead "not guilty," and I know that if I do plead "not guilty," I can persist in that plea.

9. I know that I have a right to a trial by jury, and I know that if I choose to stand trial:

a. I have a right to the assistance of an attorney at every stage of the proceeding;

b. I have a right to see and observe the witnesses who testify against me;

c. My attorney can cross-examine all witnesses who testify against me;

d. I can call such witnesses as I desire, and I can obtain subpoenas to require the attendance and testimony of those witnesses;

e. If I cannot afford to pay the expenses that witnesses incur, the government will pay those expenses, including mileage and travel expenses, and including reasonable fees charged by expert witnesses;

f. I cannot be forced to incriminate myself and I do not have to testify at any trial;

g. I can testify at my trial if I choose to, and I do not have to decide whether to testify until after I have heard the government's evidence against me;

h. If I do not want to testify, the jury will be told that no inference adverse to me may be drawn from my failure to testify;

i. The government must prove each and every element of the offense(s) with which I am charged, beyond a reasonable doubt;

j. In order for me to be convicted, the jury must reach a unanimous verdict of guilty; and

k. If I were to be convicted, I could appeal, and if I could not afford an appeal, the government would pay the cost of the appeal, including the cost of the services of an appointed attorney.

10. I know that if I plead guilty, there will not be a trial of any kind.

11. I know that if I plead guilty, there will be no appellate review of the question of whether or not I am guilty of the offense(s) to which I have pled guilty.

12. I know that once this court sentences me, both the government and I may be able to seek appellate review of the sentence imposed, pursuant to 18 U.S.C. § 3742. I understand that any such appellate review will extend only to the question of whether a proper sentence was

imposed. I understand that the Court of Appeals will not take up the question of whether I am guilty of the offense(s) to which I have pled guilty. I understand that I will have to serve the sentence that is imposed by this court, subject to modification of the sentence by order of the Court of Appeals and/or the United States Supreme Court.

13. No agreements have been reached and no representations have been made to me as to what the sentence in this case will be, except that which is explicitly detailed in the document entitled "Plea Agreement and Statement of Facts Relevant to Sentencing," which will be tendered to the court during this proceeding. I further understand that any agreements and stipulations in the document entitled "Plea Agreement and Statement of Facts Relevant to Sentencing" are binding on the court only if the parties ask the court in that document to be so bound and only if the court agrees to be so bound when it accepts my guilty plea(s).

14. The only plea agreement which has been entered into with the government is that which is set out in the document entitled "Plea Agreement and Statement of Facts Relevant to Sentencing," which will be tendered by the government and me in this case and which I incorporate herein by reference.

15. I understand that the court can make no decision as to what my sentence will be until the presentence report has been received and reviewed by the court.

16. I know that when I enter my plea(s) of guilty, the court may ask me questions under oath about the offense(s) to which I have pled guilty. The questions, if asked of me on the record and in the presence of my attorney, must be answered by me, and if I give false answers, I can be prosecuted for perjury.

17. I know that I have the right to ask the court any questions that I have concerning my rights, these proceedings, and my plea(s) to the charge(s).

18. I am _____ years of age. My education consists of_____

_____.

I [can] [cannot] understand the English language. (Circle either "can" or "cannot")

19. Other than the promises of the government set out in the document entitled "Plea Agreement and Statement of Facts Relevant to Sentencing," no promises and no threats of any sort have been made to me by anyone to induce me or to persuade me to enter my plea(s) in this case.

20. No one has promised me that I will receive probation or any other form of leniency because of my plea(s) of guilty.

21. I have had sufficient opportunity to discuss this case and my intended plea(s) of guilty with my attorney. I do not wish to consult with my attorney any further before I enter my plea(s) of guilty.

22. I am satisfied with my attorney. I believe that I have been represented effectively and competently in this case.

23. My decision to enter the plea(s) of guilty is made after full and careful thought, with the advice of my attorney, and with full understanding of my rights, the facts and circumstances of the case, and the potential consequences of my plea(s) of guilty. I was not under the influence of any drugs, medication, or intoxicants when I made the decision to enter my guilty plea(s). I am not now under the influence of any drugs, medication or intoxicants.

24. I have no mental reservations concerning the entry of my plea(s).

25. Insofar as it shows conduct on my part, the summary of facts set out in the document entitled "Plea Agreement and Statement of Facts Relevant to Sentencing" is true and correct, except as I have indicated in that document.

26. I know that I am free to change or delete anything contained in this statement and that I am free to list my objections and my disagreements with anything contained in the document entitled "Plea Agreement and Statement of Facts Relevant to Sentencing." I accept both documents as they are currently drafted.

27. I wish to plead guilty to the following charge(s):

_____

_____

_____

(Specify which counts and relevant statute citations.)

Dated this _____ day of _____, _____.

_____
Defendant

I certify that I have discussed this statement and the document entitled "Plea Agreement and Statement of Facts Relevant to Sentencing" with the defendant. I certify that I have fully explained the defendant's rights to him or her and have assisted him or her in completing this form. I believe that the defendant understands his or her rights and this statement. I believe that the defendant is knowingly and voluntarily entering his or her plea(s) with full knowledge of his or her legal rights, and with full knowledge of the possible consequences of his or her plea(s) of guilty. I believe that there is a factual basis for the plea(s) entered.

Dated this _____ day of _____, _____.

_____
Attorney for Defendant

ATTACHMENT A

COLLECTION OF FINE OR RESTITUTION BY GOVERNMENT
AND PENALTY FOR FAILURE TO PAY
(See 18 U.S.C. §§ 3611-15)

1. I understand that I will be required to pay interest on any fine or restitution of more than $2,500 unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment or unless interest is waived by the court.

2. I understand that unless modified by the court, interest will be computed daily at a rate equal to the weekly average one-year constant maturity treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the first day on which I am liable for interest.

3. I understand that if a fine or restitution becomes delinquent, I shall be required to pay, as a penalty, an amount equal to ten percent of the principal amount that is delinquent.

4. I understand that if a fine or restitution becomes in default, I shall be required to pay, as a penalty, an amount equal to 15 percent of the principal amount that is delinquent.

5. I understand that in addition to any other collection procedures, any fine or restitution may give rise to the creation of a lien in favor of the United States upon my property and rights of property for payment of such fine or restitution as if my liability were a liability for a tax assessed under the Internal Revenue Code.

6. I understand that if I willfully fail to pay my fine or restitution, the court may revoke my probation or term of supervised release, modify the conditions of my supervision, or resentence me to any sentence which originally might have been imposed.

7. I understand that if I willfully fail to pay my fine, I may be guilty of a separate offense in addition to the offense(s) to which I am pleading guilty. I understand that if I am convicted of this new offense, which is called "Criminal Default" and is set out in 18 U.S.C. § 3615, I may be fined not more than twice the amount of the unpaid balance of the fine or $10,000, whichever is greater, imprisoned not more than one year, or both.

ATTACHMENT B

RESTITUTION
(See 18 U.S.C. §§ 3663, 3663A, and 3664)

1. I understand that in addition to any incarceration, supervised release, probation, fine and other penalties which may be imposed by the court, I also may be required to make restitution to any victim(s) of the offense(s) which I admit I committed, to compensate the victim(s) for any losses they may have sustained as a result of my conduct.

2. I understand that an order of restitution may be enforced by the government in the manner provided for the collection of fines and restitution under 18 U.S.C. §§ 3611-15 (see Attachment A), or in the same manner as a judgment in a civil action. I further understand that any victim named in the restitution order may enforce the order in the same manner as he/she would enforce a judgment in a civil action.

Appendix L

**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Action No. _____

UNITED STATES OF AMERICA,

Plaintiff,

v.

1.
2.
3.

Defendants.

(Title of Pleading or Paper)

** Space should be provided for the court filing stamp in the upper right corner of the first page of each document.

(Rev. 04/15/02)

Appendix M

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil/Criminal Action No. _____

*,
Plaintiff,
v.

*,
Defendant.

CONSENT TO SERVICE BY ELECTRONIC MEANS

The undersigned party hereby consents to service of pleadings and orders by electronic means as designated below in accordance with D.C.COLO.LCivR 5.2A or D.C.COLO.LCrR 49.2.

☐ Facsimile transmission

☐ Electronic mail

The format to be used for attachments to e-mail is _____

The undersigned party also acknowledges that this consent does not require service of orders or papers by the specified means unless the judicial officer or serving party elects to serve by that means.

Dated this _____ day of _____, 20____

Party name:

_____

Facsimile and/or E-mail address for service:

_____

Signature and mailing address:

_____
(Signature)

_____
_____
_____
_____
(Typed Name, Address & Telephone Number)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

IN THE MATTER OF
RULES OF PROFESSIONAL CONDUCT

AMENDED ADMINISTRATIVE ORDER 1999-6

Under D.C.COLO.LR 83.6, the rules of professional conduct, as adopted by the Colorado Supreme Court are adopted as standards of professional responsibility applicable in this court. On June 17, 1999, the Colorado Supreme Court, en banC, adopted Colo.R.P.C. 1.2 Scope and Objectives of Representation; Colo.R.P.C. 4.2 Communication with Person Represented by Counsel; Colo.R.P.C. 4.3 Dealing with Unrepresented Person and C.R.C.P. 11 Signing of Pleadings as new rules. Those rules were adopted to permit limited representation by counsel. These changes are not consistent with Fed.R.Civ.P. 11, and are also inconsistent with the view of the judges of this court concerning the ethical responsibility of members of the bar of this court. Accordingly, it is now

ORDERED that the above described changes to the Colorado Rules of Professional Responsibility are not applicable:

a) in this court; and

b) in the United States Bankruptcy Court for the District of Colorado in adversary proceedings or matters governed by Fed.R.Bankr.P.9014. In addition, any limitation in the scope of representation of a Debtor, whether in a bankruptcy case or adversary proceeding, shall be disclosed in the statement required by 11 U.S.C. § 329 and Fed.R.Bankr.P. 2016(b).

Dated this 10th day of April, 2000, at Denver, Colorado.

BY THE COURT:

Richard P. Matsch, Chief Judge
Lewis T. Babcock, Judge
Edward W. Nottingham, Judge
Daniel B. Sparr
Wiley Y. Daniel, Judge
Walker D. Miller, Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
JAN 16, 2002
JAMES R. MANSPEAKER,
CLERK

IN THE MATTER OF)
LOCAL RULES OF PRACTICE)

GENERAL ORDER 2002-3

ORDER CONCERNING PROCEDURES FOR GUIDELINE SENTENCING UNDER THE SENTENCING REFORM ACT OF 1984

The court finding it necessary for the orderly administration of justice that procedures concerning the procedures for guideline sentencing under the Sentencing Reform Act of 1984 be established, hereby

ORDERS as follows:

A. Within five days after a conviction is obtained by jury verdict or court finding, the attorney for the government shall submit to the Probation Office, and serve upon the defendant and defendant's counsel, a sentencing statement setting forth sentencing factors to be considered at sentencing.

B. Within 14 days after the sentencing statement is submitted by the government, the defendant may submit to the Probation Office, and serve upon counsel for the attorney for the government, a sentencing statement setting forth factors to be considered at sentencing.

C. If a defendant requires an interpreter for a sentencing hearing, defense counsel shall contact the deputy clerk designated as courtroom services specialist two weeks before the hearing to obtain the assistance of a designated interpreter in translating the presentence investigation report.

IT IS FURTHER ORDERED that this order supersedes General Order 1994-3.

GENERAL ORDER 2002-3

Dated this 16th day of January, 2002, at Denver, Colorado.

By the Court:

Lewis T. Babcock, Chief Judge

Wiley Y. Daniel, Judge

Richard P. Matsch, Judge

Walker D. Miller, Judge

Edward W. Nottingham, Judge

UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
05/29/02
JAMES R. MANSPEAKER,
CLERK

IN THE MATTER OF)
D.C.COLO.LCrR 47.1 and 47.2) Administrative Order 2002-3

Effective April 15, 2002, D.C.COLO.LCrR 47.1 and 47.2 concern motions to seal -- motions to close court proceedings and procedures for filing the papers and documents under seal, respectively. D.C.COLO.LCrR 47.1 E provides:

> "No order to seal or close court proceedings will be entered before the date set forth in the public notice for filing objections, except in emergency circumstances shown or referred to in the motion or at the discretion of the judicial officer."

The Court finding it necessary to clarify the scope of these rules hereby

ORDERS that the following documents are exempt from D.C.COLO.LCrR 47.1 and 47.2: (A) unexecuted arrest warrants and supporting documents; (B) unexecuted search warrants and supporting documents; (C) unexecuted criminal and civil forfeiture seizure warrants and supporting documents; (D) unexecuted ex parte bond revocation orders and supporting documents; (E) Title III and clone pager orders and supporting documents; (F) pen register and trap/trace orders and supporting documents; (G) orders and supporting documents regarding access to electronic communications; and (H) ex parte applications and orders for tax or bank account information; provided, however, where more than one defendant is named in the charging document these rules become applicable upon the first arrest of a named defendant.

Done and effective this 29th day of May, 2002.

BY THE COURT:

Lewis T. Babcock
Chief Judge