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United States District Judge
Byron G. Rogers United States Courthouse
Courtroom C201
(303) 335-2124
Crews_Chambers@cod.uscourts.gov

STANDING ORDER FOR CIVIL CASES

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A. Introduction

1. The Uniform Civil Practice Standards

This Court subscribes to the United States District Court for the District of Colorado Uniform Civil Practice Standards. This Standing Order supplements the Uniform Civil Practice Standards. Civil litigants before this Court are expected to be familiar and comply with the Uniform Practice Standards, this Standing Order, the Local Rules of Practice, and the practice standards of the magistrate judge assigned to their case.

2. The Court's Mission

The mission of the United States District Court for the District of Colorado is “to serve the public by providing a fair and impartial forum that ensures equal access to justice in accordance with the rule of law, protects rights and liberties of all persons, and resolves cases in a timely and efficient manner.” Litigation is an emotional, stressful, time-consuming, and expensive process. The Court’s mission is best served when litigants treat each other with civility. Though litigation is understood to be an “adversarial” process, it is possible for counsel and parties to disagree and zealously advocate their positions while at the same time treating each other with courtesy and respect. The Court expects nothing less.

3. Statement Re: Attorney Mentoring & Training

The Preamble to the Colorado Rules of Professional Conduct acknowledge that lawyers should “seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession.” These goals are best achieved when experienced lawyers provide young and diverse lawyers opportunities to participate in judicial proceedings. “Stand up time” for young and inexperienced lawyers is critical to their development. Both non-evidentiary and evidentiary hearings before this Court are opportune moments to afford young and diverse lawyers “stand up time.” This Court welcomes and appreciates the active participation of young and inexperienced lawyers, and diverse attorneys, in its courtroom. The Court encourages seasoned lawyers to facilitate the mentoring and development of these lawyers that will enrich the legal profession and the work of the United States District Court.

B. Communications with Chambers

My Chambers includes my judicial assistant, career law clerk, and term law clerk. Your communications with my staff are expected to be professional and respectful. If I learn any attorney contacted my Chambers and was rude or otherwise disrespectful or inappropriate with my staff, I will take the matter up directly with the attorney or law firm involved. Please instruct your staff accordingly in the event members of your staff contact mine.

While the Court cannot engage in *ex parte* communications with counsel or parties, my staff is available to answer questions of an administrative or logistical nature. You should contact my Chambers only by a **joint email** to crews_chambers@cod.uscourts.gov. My staff is not permitted to provide legal advice, interpret orders or rules, grant oral requests, or provide specific information about the progress of any pending motion.

I also have a courtroom deputy assigned to Chambers. My courtroom deputy is Cathy Pearson. Please direct questions regarding courtroom proceedings, technology, or other equipment needs to her at (303) 335-2089 or cathy_pearson@cod.uscourts.gov.

Documents required to be submitted to Chambers pursuant to local rule, court order, or practice standards, shall be submitted via email to crews_chambers@cod.uscourts.gov. Please include the case number, case name, and document description in the subject line of the email.

C. Motions Practice

1. Duty to Confer Before Filing a Motion

I expect parties to take their conferral obligation seriously. Consistent with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice, parties have an affirmative obligation to meet and confer prior to filing certain motions. The duty to meet and confer requires the parties to discuss the specific dispute at issue and the requested relief, preferably by telephone or face-to-face, and **not solely** through email or written correspondence, and provide opposing counsel a reasonable amount of time to respond prior to filing a motion. The duty to meet and confer also requires the parties to react timely and to be responsive over the course of conferring. **I expect the parties to return each other's emails or voice messages within 24 hours barring extenuating circumstances.**

If your motion is opposed by the other side, your Certification of Conferral in the motion must substantively describe your conferral efforts and must state the reason given by opposing counsel or the opposing party for opposing the motion. Statements to the following effect are insufficient and will not be accepted: “Counsel certifies they conferred with opposing counsel before filing this motion. The motion is opposed.”

The duty to confer applies the same to those parties who are not represented by counsel (*pro se* parties) unless the party who is not represented by counsel is incarcerated. *Pro se* parties and attorneys who confer are expected to communicate with each other respectfully and professionally.

2. Certification Re: the Use of Artificial Intelligence (AI) for Drafting

In addition to a Certification of Conferral, every motion filed pursuant to Fed. R. Civ. P. 12, Fed. R. Civ. P. 56, and any opposed motion (to include the corresponding response and reply), shall contain a Certification regarding the use, or non-use, of generative artificial intelligence (AI) (such as ChatGPT, Harvey.AI, Google Bard, etc.) in preparing the filing.

The preparer of the filing must certify either that (a) no portion of the filing was drafted by AI, or that (b) any language drafted by AI (even if later edited by a human being) was personally reviewed by the filer or another human being for accuracy using print reporters or traditional legal databases and attesting that the legal citations are to actual existing cases or cited authority. The Court will strike any filing from a party who fails to include this certification in the above-mentioned motions.

3. Format of Pleadings and Documents Presented for Filing

The parties should follow Uniform Practice Standard 10.1 **except that** all papers filed with this Court shall be in **Century Schoolbook 12-point font, including footnotes**, and conform to the other formatting requirements (margins, line spacing, etc.) of D.C.COLO.LCivR 10.1.

4. Motions for Summary Judgment

These rules apply over Uniform Practice Standard 7.1D:

- a. **Single Motion.** Absent leave of Court and exceptional circumstances, a party may file only one motion for summary judgment.

- b. **Page Limitations.** Motions and responses shall not exceed 20 pages. Replies shall not exceed 10 pages. These page limits shall not include the cover page, table of contents (if any), signature block, certificate of service, conferral certification, or AI certification.

- c. **Statement of Undisputed Material Facts.** The parties shall file separate Statements of Undisputed Material Facts using the three-column chart found at **Attachment 1**, as follows:
 - 1. **For the Moving Party:** A Statement of Undisputed Material Facts in support of the motion must separately identify each material fact claimed to be without dispute. Absent prior leave of Court, a movant shall not file more than 80 separately-numbered statements of undisputed material facts. In a three-column format, the statement must state in numerical sequence the undisputed material facts in the first column, followed by a specific reference to material in the record that establishes those undisputed facts in that same column. The pages of the chart are not included in the page limits for motions for summary judgment. There is no page limit on the evidence/exhibits attached in support of the motion.

 - 2. **For the Non-moving Party:** A separate Statement of Undisputed Material Facts in opposition to the motion for summary judgment must contain the following in a three-column format: (a) in the first column, the verbatim entries that were prepared by the movant at step one; (b) in the second column, directly opposite the recitation of the movant’s material facts and supporting evidence, the response must state whether the fact is “disputed” or “undisputed.” An opposing party who contends the fact is “disputed” must state, in the second column of the page directly opposite the fact in dispute, the nature of the dispute followed by a specific reference to material in the record that supports the position that the fact is controverted. Also in the second column, after the Movant’s verbatim entries, the opposing party shall set forth any additional material facts which it contends are undisputed, followed by a specific reference to material in the record that establishes those additional material facts as undisputed in that same column. Absent prior leave of Court, a respondent to a summary judgment motion shall not file more than 40 separately-numbered statements of additional facts. The pages of the chart are not included in the page limits for the response. There

is no page limit on the evidence/exhibits attached in support of the motion.

3. **For the Movant's Reply Filing:** A separate Statement of Undisputed Material Facts in support of the motion must contain the following in a three-column format: (a) the first two columns shall contain the verbatim entries prepared by movant at step one, and the verbatim entries prepared by the responding party at step two; (b) in the third column, directly opposite the recitation of the opposing party's material facts and supporting evidence, the reply must state whether the fact is "disputed" or "undisputed." The moving party who contends the fact is "disputed" must state, in the third column of the page directly opposite the fact in dispute, the nature of the dispute followed by a specific reference to material in the record that supports the position that the fact is controverted. Also in the third column, if the moving party contests the opposing party's dispute of the moving party's recitation of undisputed material fact, the moving party may make specific reference to any additional supporting material in the record.
4. **Citing the Record:** When making a specific reference to material in the record which establishes a fact, general references are insufficient if the document is longer than one page. A "specific reference" means reference to: a page number; a line number; a paragraph number; a CM/ECF Docket entry number (with additional internal specific reference provided); or any combination of these references to assist the Court to easily locate the pertinent information. The effort at specificity may be further aided by highlighting, underlining, or manually underscoring the pertinent information.
5. **Editable Copy of the Chart for the Opposing Party:** In addition to filing its Statement of Undisputed Material Facts with the Court, each party shall provide to the opposing party an editable electronic version of its Statement in Word format for the opposing party's use in preparing its Statement. Thus, for example, the moving party shall provide its Statement to the opposing party, with the first column completed, and the opposing party shall provide its Statement to the moving party, with the first and second columns completed.

D. Proposed Final Pretrial Order

This Court presides over the Final Pretrial Conference which it combines with the Trial Preparation Conference. The parties proposed Final Pretrial Order is due at least seven days before the combined Final Pretrial Conference/Trial Preparation Conference, and a Word version should also be emailed to chambers at crews_chambers@cod.uscourts.gov.

The proposed Final Pretrial Order should reflect the narrowing of issues to those that will actually be tried, the witnesses that will be called, and the exhibits that will be presented. The form proposed Final Pretrial Order available on our district court's website should be used, incorporating the following changes to that form:

- a. **Section 3: Claims and Defenses:** Parties are discouraged from submitting a narrative summary of the claims, defenses, facts, and legal theories. If a narrative summary is included, it should not exceed one page, and shall be in addition to the following: Separately enumerate **each claim and affirmative defense** (a defense on which the Defendant bears the burden of proof) that will be tried. (An example is at **Attachment 2**.) For each claim and affirmative defense designate:¹
 - i. the standard of proof and controlling law; and,
 - ii. each element that must be proved. Under each element, identify the facts that establish that element, and reference the witness whose testimony, or the exhibit the contents of which, will establish that fact at trial.
- b. **Section 4: Stipulations:** To save time and expense, and to focus the trial, the parties shall stipulate to all material facts that are not in dispute.² Stipulated facts will be included in a jury instruction given to the jury prior to opening statements.
- c. **Section 6: Witnesses:** In addition to listing witnesses as required by the form, the parties should also attach their witness lists using the form found

¹ Any claims or affirmative defenses not specifically identified may be deemed waived.

² Please be cognizant of the difference between disputing the existence of a fact and disputing the significance of that fact. A stipulation to the existence of a fact (*e.g.*, that the sun set at 7:00 p.m. on the day in question) does not prevent the party from arguing the significance of that fact (*e.g.*, that there was or was not adequate daylight at 7:00 p.m.).

on the Court's website on the page for Judge Crews.

- d. **Section 7: Exhibits:** Only the parties' exhibit lists should be attached, using the form found on the Court's website on the page for Judge Crews.

E. Trial Information

1. **Motions in Limine:** These motions are allowed and should be filed within **seven days after** the Final Pretrial Conference/Trial Preparation Conference.

2. **Fed. R. Evid. 702 Motions:** These motions must be filed 30 days after the rebuttal expert witness designation deadline unless a different date is provided in the Scheduling Order.

3. **Trial Briefs:** Trial briefs are encouraged **only** where there are unusual issues of law. They should be filed 14 days before trial. They should not exceed 10 pages and should not attach exhibits.

4. **Final Witness and Exhibit Lists:** By no later than Noon on the Friday before the start of trial, the parties shall submit their respective final witness and exhibit lists via CM/ECF.

5. **Access to the Courtroom Prior to Trial:** The courtroom will be made available to all parties before the start of trial so they may bring in items for trial or to test technical equipment. My Courtroom Deputy is Cathy Pearson. She can be reached at (303) 335-2089 or cathy_pearson@cod.uscourts.gov. Please contact Ms. Pearson in advance if you would like to access the courtroom before trial.

6. **Jury Trials:**

- a. Proposed Jury Instructions and Verdict Forms: Jury instructions and verdict forms shall be both e-filed on CM/ECF, and e-mailed to my chambers (crews_chambers@cod.uscourts.gov) in Word format, by no later than 14 days prior to the Final Pretrial and Trial Preparation Conference. Counsel (and any *pro se* parties) shall confer and stipulate to as many instructions as possible. Up to four sets of instructions should be submitted to the Court, as necessary: (1) one set of stipulated jury instructions; (2) one set of opposed or disputed jury instructions; (3) one set of stipulated verdict forms (if any); and/or (4) one set of disputed or opposed verdict forms (if any). **Jury instructions should be**

appropriately titled and must include citations to relevant authority in footnotes.

b. Exhibits:

- i. Plaintiff's exhibits should be marked using numbers. Defendant's exhibits should be marked using letters A through Z, then using A-1 through A-99, then B-1 through B-99, etc. **The parties should avoid duplicate exhibits between their respective lists. The parties must confer and stipulate to the admissibility of as many exhibits as possible.**
 - ii. There will be no juror exhibit notebooks. Instead, the Court will provide an Elmo projector and television screen, or other technology, for purposes of publishing admitted exhibits to the jury. The parties may use the Elmo system provided by the Court or may bring in their own technology for purposes of publishing exhibits. Questions concerning exhibits and courtroom equipment/technology may be directed to Ms. Pearson.
 - iii. Only one exhibit notebook is required as a backup for the witness stand and which will also be the notebook the jury receives during deliberations. Your single exhibit notebook should contain that party's original exhibits, properly marked and tabbed, with the pages of each exhibit numbered. You should also bring **two** electronic copies of your exhibits on a thumb drive on the first trial day to provide to my courtroom deputy and court reporter. The court reporter does not need media files such as videos or photos, only document exhibits.
- c. Voir Dire: If trial is to a jury, the Court will conduct an initial orientation and voir dire. The Court's voir dire is designed to address issues of juror hardship. The Court will leave the inquiry of impartiality and potential juror bias to the parties during their voir dire. Unless the Court is persuaded otherwise, the parties will be permitted 20 minutes each to conduct voir dire. In most circumstances, the Court does not condone inculcating the jury pool with specific facts of the case during voir dire. If there are questions about whether intended voir dire approaches that line, those questions should be raised in advance.
- d. Number of Jurors: The jury will normally consist of at least nine jurors, with each side afforded three peremptory challenges. The Court will

inform the parties of the intended number of jurors for their specific case during the Trial Preparation Conference. The Court does not seat alternate jurors in civil cases.

- e. Notes by Jurors: Jurors will be permitted to take notes during trial.
- f. Time for Giving Jury Instructions: Preliminary instructions will be given prior to opening statements. Final instructions will be given *after* closing arguments.
- g. Court Reporter:
 - i. Transcript of Proceedings: The proceedings will be transcribed by my Court Reporter, Mary George. Any request for transcripts should be directed to her at mary_george@cod.uscourts.gov, or (303) 335-2109.
 - ii. Hard Copy Transcripts: If you require hourly or daily transcripts for a trial, you must make arrangements with my Court Reporter at least 14 days before trial. If you require hourly or daily copy transcripts for a hearing or oral argument, my Court Reporter appreciates as much advance notice as possible.
 - iii. Realtime Reporting: If you require realtime reporting to your laptop or other electronic device for a trial, you must make arrangements with my Court Reporter at least 10 days before trial. If you require realtime reporting for a hearing or oral argument, you must consult with my Court Reporter **prior** to the date of the proceeding to ensure that all technical issues have been resolved prior to the commencement of the proceeding.
 - iv. Word List: If the trial contains technical or medical terms, a list containing these words shall be provided to my Court Reporter by email to mary_george@cod.uscourts.gov, no later than 8:00 a.m. the Friday before trial.

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[Attachments 1 and 2 follow.]

ATTACHMENT 1
Format for Separate Statement of Undisputed Material Facts

Movant's Statement

Moving Party's Undisputed Material Facts and Supporting Evidence	Opposing Party's Response/Additional Facts and Supporting Evidence	Moving Party's Reply and Supporting Evidence
<p>1. Plaintiff was hired by Defendant on July 1, 2010. Ex. 1, Plaintiff's Depo., page 5, lines 8-12.</p>		
<p>2. Plaintiff received five reviews from her supervisor, Jane Smith, all of which rated her performance as "superior." Ex. 2, Plaintiff's Performance Reviews.</p>		
<p>3. On July 1, 2012, Plaintiff applied for a promotion to supervisor. Ex. 3, Plaintiff's application for Supervisor II position.</p>		

Opposing Party's Statement

Moving Party's Undisputed Material Facts and Supporting Evidence	Opposing Party's Response/Additional Facts and Supporting Evidence	Moving Party's Reply and Supporting Evidence
1. Plaintiff was hired by Defendant on July 1, 2010. Ex. 1, Plaintiff's Depo., page 5, lines 8-12.	Undisputed.	
2. Plaintiff received five reviews from her supervisor, Jane Smith, all of which rated her overall performance as "superior." Ex. 2, Plaintiff's Performance Reviews.	Disputed. Plaintiff received four such reviews. The fifth review rated some elements as superior, but her <i>overall</i> performance as "above average." Ex. A, Plaintiff's Performance Review of December 1, 2010, page 5.	
3. On July 1, 2012, Plaintiff applied for a promotion to supervisor. Ex. 3, Plaintiff's application for Supervisor II position.	Undisputed.	
	1. On July 15, 2012, Plaintiff appeared 20 minutes late for her interview for the supervisor position. Ex. B, Jane Smith Declaration, ¶5.	
	2. On July 30, 2012, after completing all interviews, Defendant selected external candidate John Doe for the position. Ex. C, Jane Smith Depo., page 56, lines 1-7.	

Moving Party's Reply Statement

Moving Party's Undisputed Material Facts and Supporting Evidence	Opposing Party's Response/Additional Facts and Supporting Evidence	Moving Party's Reply and Supporting Evidence
4. Plaintiff was hired by Defendant on July 1, 2010. Ex. 1, Plaintiff's Depo., page 5, lines 8-12.	Undisputed.	
5. Plaintiff received five reviews from her supervisor, Jane Smith, all of which rated her overall performance as "superior." Ex. 2, Plaintiff's Performance Reviews.	Disputed. Plaintiff received four such reviews. The fifth review rated some elements as superior, but her <i>overall</i> performance as "above average." Ex. A, Plaintiff's Performance Review of December 1, 2010, page 5.	Plaintiff's December 1, 2010 review was subsequent amended, as shown by the review submitted as part of Ex. 2. Ex. 2, Plaintiff's Performance Reviews, page 18.
6. On July 1, 2012, Plaintiff applied for a promotion to supervisor. Ex. 3, Plaintiff's application for Supervisor II position.	Undisputed.	
	3. On July 15, 2012, Plaintiff appeared 20 minutes late for her interview for the supervisor position. Ex. B, Jane Smith Declaration, ¶5.	Disputed. Plaintiff was not late because Defendant had orally advised her that her interview was at 3:30 p.m. She arrived at 3:20 p.m., ten minutes early. Ex. 4, Plaintiff's Responses to Interrogatory, page 6, ¶7.
	4. On July 30, 2012, after completing all interviews, Defendant selected external candidate John Doe for the position. Ex. C, Jane Smith Depo., page 56, lines 1-7.	Undisputed.

ATTACHMENT 2

Format for Section 3 of Proposed Final Pretrial Order Form

Example:

Claim 1: Breach of contract under Colorado law: Plaintiff has burden of proof by a preponderance of the evidence

Elements: (1)-(3) offer, acceptance, consideration

(a) the parties stipulate that these elements are satisfied

(4) performance by the plaintiff

(a) On March 3, 2004, Peter Plaintiff delivered one crate of widgets to Widget Packers, Inc. (Testimony of Peter Plaintiff; Don Defendant; Exhibits 1, 4)

(b) The widgets conformed to the specifications in the contract. (Testimony of Peter Plaintiff; Exhibit 2)

(c) The widgets were delivered on the date set by the contract. (Exhibit 2)

(5) non-performance by the defendant

(a) Widget Packers, Inc. failed to remit payment on the terms set by the contract. (Testimony of Barry Bookkeeper; Exhibit 2)

(b) Peter Plaintiff has made several written demands for payment. (Peter Plaintiff; Exhibits 3, 5, 7)

(6) damages

(a) Peter Plaintiff has been damaged in the contract amount of \$10,000. (Testimony of Peter Plaintiff; Exhibit 2).

Claim 2: Unjust Enrichment under Colorado law: Plaintiff has burden of proof on all elements by a preponderance of the evidence

Elements: (1) Defendant has received a benefit

(a) On March 3, 2004, Peter Plaintiff delivered one crate of widgets to Widget Packers, Inc. pursuant to a contractual agreement. (Testimony of Peter

Plaintiff; Don Defendant; Exhibits 1, 2, 4).

(2) the benefit is at the Plaintiff's expense

(a) Widget Packers, Inc. failed to remit payment on the terms set by the contract. (Testimony of Barry Bookkeeper, Exhibit 2)

(3) justice requires that Defendant reimburse the Plaintiff for the benefit received

(a) The widgets have a market value of \$15,000. (Testimony of Peter Plaintiff)

(b) Don Defendant is in breach of the contract. (Testimony of Peter Plaintiff)

Affirmative Defense to Claim 2: Failure to mitigate under Colorado law: Defendant has burden of proof on all elements by a preponderance of the evidence

Elements:

(1) Plaintiff had a reasonable opportunity to avoid injury

(a) On March 5, 2004, Don Defendant left a message on Peter Plaintiff's voice mail offering to return the crate of widgets unopened. (Testimony of Don Defendant; Peter Plaintiff)

(b) On March 8, 2004, Don Defendant wrote to Peter Plaintiff, offering to assign the contract for the purchase of widgets to WidgetCo. (Don Defendant; Warren Widget; Exhibit 6)

(2) Plaintiff unreasonably failed to avail itself of opportunities to avoid injury

(a) Peter Plaintiff did not respond to the March 5, 2004 message. (Don Defendant)

(b) Peter Plaintiff did not respond to the March 8, 2004 (Don Defendant)