DISTRICT COURT, CITY AND COUNTY OF DENVER COLORADO **City and County Building** **1437 Bannock Street** **Denver, CO 80202**	
Plaintiff: **v.** **Defendant:**	**COURT USE ONLY** **Case Number:** **Courtroom: 409**

P R E T R I A L O R D E R

I. RESPECT & CIVILITY

This Court is, first and foremost, a civil court. In accordance with the Preamble to the Colorado Rules of Professional Conduct, attorneys are not only representatives of clients but are also officers of the legal system and public citizens having special responsibility for the quality of justice. Preamble [1]. The Colorado Rules of Professional Conduct contain guidance on attorney behavior and this Court will hold itself and all those before it to those high standards. By way of example, attorneys may not use the law's procedures for illegitimate purposes or to harass or intimidate others. Preamble [5]. RPC 4.4. Attorneys are expected to demonstrate respect for the legal system and for those who serve it, including judges, other lawyers, and public officials. Preamble [5]. Those before the Court may not engage in conduct that involves dishonesty, fraud, deceit, or misrepresentation, Colo. R. Prof. Cond. 8.4(c), and no person may engage in conduct that is prejudicial to the administration of justice. RPC 8.4(d).

No person before this Court may engage in conduct that "***exhibits or is intended to appeal to or engender bias*** against a person on account of that person's race, gender, religion, national origin, disability, age, sexual orientation, or socioeconomic status, whether that conduct is directed to other counsel, court personnel, witnesses, parties, judges, judicial officers, or any persons involved in the legal process." RPC 8.4(g) (emphasis added).

Consistent with RPC 8.4(g), this Court has the following expectations:

1. **Neutralized titles and honorifics will be used whenever practicable until a person has identified how that person wishes to be identified**. By way of example and until you know how a person wishes to be identified, consider using:

    a. "Counselor Garcia",
    b. "Witness Smith",
    c. "Juror Thompson",
    d. "people of the jury",
    e. "jurors"

    If an honorific, including, but not limited to, a gender-, rank-, or role-specific honorific, is appropriate under the circumstances, please ask the person what honorific they would like used. All those in the courtroom or in a case will respect that person's wishes and will use their best effort to comply with that person's wishes.

2. Use best efforts to pronounce all names correctly. If you are unsure as to pronunciation, please ask for a phonetic pronunciation respectfully and endeavor to properly pronounce everyone's name.

3. If personal identity characteristics (race, gender, gender identity and/or expression, religion, national origin, disability, age, sexual orientation, or socioeconomic status) are relevant to the matter, **please ask the person how they wish to be identified**. That person's answer will control, and all involved will use best efforts to comply with that person's wishes. **If personal identity characteristics are not relevant to the dispute and/or a pending matter, all efforts will be made to avoid using them**.

    The Court therefore always expects respect and civility among parties, both in and outside of the courtroom. The Court will not tolerate rudeness, unnecessary aggressive tactics, engendered bias, or personal attacks during the case. Counsel and parties are expected to treat the Court and its staff, opposing counsel, parties, witnesses, jurors, and the court staff with courtesy and respect consistent with this Order and the Colorado Rules of Professional Conduct at all times. This applies to all conduct and communications, verbal and nonverbal, written and oral, in and out of the courtroom. In addition, attempts to harass or intimidate by threatening to seek meritless sanctions are contrary to the Colorado Rules of Professional Conduct and will not be tolerated.

    Expressions of opinion that tend to denigrate another's integrity are not persuasive to this Court, will not be well-received, and are more likely to reflect more negatively on the author than on the object of the remark. Adjectives, both in written pleadings and oral communications, should be used sparingly and never in a manner that maligns, denigrates, engenders bias, or otherwise attacks opposing counsel, party, or any person involved in the case.

The Court will address conduct that is contrary to this Order and apply enforcement mechanisms as necessary.

II. DUTY TO CONFER

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

Parties are expected to initiate meaningful efforts to confer well enough before the anticipated filing date to enable two-way communication. Certification that a telephone call, e-mail, or fax was directed to the opposing party fewer than 24 hours before the pleading was intended to be filed and "no response" was received is *per se* **not** a good faith meaningful effort.

It is the expectation of the Court that parties confer either face-to-face or on the telephone; the Court regards a letter or e-mail message to constitute "notice," but not a sufficient attempt to confer. If attempts to confer are unsuccessful, the certification must describe the attempts in detail. **Any pleading not in compliance with C.R.C.P. 121 and this Order will be stricken.**

III. CASE MANAGEMENT ORDER

The provisions of C.R.C.P. 16 concerning a Case Management Order will apply. If all parties have not participated in the preparation of a proposed Case Management Order, that fact shall be noted in the title of the Proposed Case Management Order.

In accordance with C.R.C.P. 16, the CMO shall contain a specific setting date or trial date and the case shall be set for trial not later than **14 days** from the date the case is at issue. The Case Management Order must also contain specific and certain dates for all deadlines. To help prevent continuances that could be avoided in advance, the Court strongly encourages the parties to double and triple check their schedules to ensure no conflicts with deadlines. Failure to include all specific dates in the proposed Case Management Order will require the parties to re-submit their proposed Case Management Order to include specific dates.

The Responsible Attorney as defined in C.R.C.P. 16(b)(2) must file and serve a Notice to Set the case for trial and must complete the setting of the trial no later than **14 days** from the date the case is at issue. **Trial settings may be obtained Tuesday through Thursday. After the Notice to Set is filed, a party may contact the Court's division staff via e-mail** 02Courtroom409@judicial.state.co.us **to obtain dates for CMC and Trial. Any case where the parties request more than five (5) trial days or be set beyond one year will require an in-person trial setting conference with lead trial counsel or party present.**

The Court adheres to the provisions of Chief Justice Directive (CJD) 08-05, which requires that 90% of all civil actions filed shall be concluded within one year of filing. Parties should prepare their cases accordingly.

IV. CASE PREPARATION REQUIREMENTS

1. **No Written Discovery Motions**. NO WRITTEN DISCOVERY MOTIONS WILL BE ACCEPTED. THE COURT WILL ADDRESS ALL DISCOVERY DISPUTES WITH AN **IN-PERSON DISCOVERY HEARING** INSTEAD OF WRITTEN MOTIONS. The Court has a specific dispute process that includes collaboratively drafting a chart for the Court's review. The purpose of this procedure is to ensure expedited and inexpensive resolution of discovery disputes, consistent with Colorado Rule of Civil Procedure 1. The following procedures will be in effect in this case:

    a. The Court expects that discovery disputes will be expeditiously resolved between the parties. To the extent resolution cannot be reached between the parties after negotiation, the Court will resolve the dispute in a timely matter. The Court does not appreciate parties who procrastinate the resolution of discovery disputes.

    b. If there is a discovery dispute, the attorneys are expected to confer in good faith, consistent with the provisions of this Order, to try to resolve it.

    c. If the parties cannot resolve the dispute, the parties shall place a joint conference call to the division staff at 303-606-2425 to schedule an in-person hearing on the Court's calendar, preferably within one week of the parties being unable to resolve the discovery dispute.

    d. If the parties are unable to jointly call the division staff, the attorney contacting the staff should have available dates on opposing party's calendar. If the opposing party does not cooperate in scheduling a hearing, advise the staff of the efforts made to obtain their input and the Court will set a hearing accordingly.

    e. Regarding written discovery, once the matter is set, the parties must jointly prepare a discovery dispute chart at least 48 hours before the hearing that contains a summary of the nature of the dispute. The elements of the chart are as follows:

Relevant Discovery Request Language	Disputed Response(s) or Objection(s)	Problem(s) with Response(s) and Relevant Authority	Justification for Response(s) and Relevant Authority

f. Parties shall not include lengthy legal or factual arguments in the discovery dispute chart. One or two sentences about the relevance of the cited authority will be sufficient. Be prepared to present a more thorough argument at the hearing. While the drafting of the discovery dispute chart should be completed collaboratively, the moving party shall file the discovery dispute chart. Do not submit documents for *in camera* review without first obtaining permission by the Court.

g. The dispute will be argued and resolved at the hearing or taken under advisement with a prompt ruling by the Court.

h. If the dispute involves a deposition, parties shall jointly place a call to the Court's clerk and to inform the Court that the parties have a dispute about taking a deposition or about deposition conduct. The Court will use its best efforts to resolve the deposition-related dispute in a timely fashion.

i. Failure to follow these procedures will result in a denial of a hearing until such time as the applicable procedures are followed.

2. **Non-Disputed Motions for Extension of Time**.

Stipulated agreements to extend the dates for filing discovery responses, objections, and disclosures of ***no more than 7 days*** do not need to be filed with the Court. THIS DOES NOT APPLY TO THE DEADLINES FOR FILING MOTIONS. PLEASE SEE § 4 BELOW.

3. **Other Written Motions**

Please remember the page and word limits under C.R.C.P. 121, section 1-15(1). The Court takes these limits seriously and the parties is expected to, as well. The appropriate page limits are as follows:

For all motions and responsive briefs not under C.R.C.P. 12(b)(1) or (2) or 56, the page limit is 15 pages, with reply briefs limited to 10 pages, not including the case caption, signature block, certificate of service, and attachments. For all

motions and responsive briefs under C.R.C.P. 12(b)(1) or (2) or 56, the page limit is 25 pages, with reply briefs limited to 10 pages, not including the case caption, signature block, certificate of service, and attachments.

Default. Application for a clerk's default pursuant to C.R.C.P. 55(a) shall be filed **within 14 days** after default has occurred. See this Court's Delay Reduction Order for further guidance regarding clerk's defaults pursuant to C.R.C.P. 55(a) and default judgment's pursuant to C.R.C.P. 55(b).

4. **Pretrial Motions**. The Court adheres strictly to C.R.C.P. 16(c) and its deadlines.

   a. Motions for summary judgment must be filed at **least 91 days (13 weeks)** before trial**.** The Court will generally not grant extensions of time to file summary judgment motions. The late filing of motions for summary judgment does not permit the Court sufficient time to rule in advance of trial. A motion filed outside of this time limit may be summarily denied as untimely. **Each motion for summary judgment shall include a statement of undisputed material facts, devoid of argument, with each distinct statement of fact placed in a separate individually numbered paragraph that contains a citation to the proper supporting summary judgment proof.** Facts stated in an argumentative manner are discouraged. Voluminous exhibits are discouraged. Parties shall limit exhibits to essential portions of the subject document.

   b. Motions challenging the admissibility of expert testimony pursuant to C.R.E. 702 must be filed no later than **70 days (10 weeks)** before the trial. Any response shall be filed within 21 days of the date of the filing of the motion. Any reply shall be filed within 7 days of the filing of the response. A motion filed outside of this time limit may be summarily denied as untimely.

   c. All other pretrial motions, including motions *in limine***,** must be filed **no less than 35 days** before trial. Written responses to motions *in limine* may be filed no later than 14 days after the motion is filed. No reply to motions *in limine* shall be allowed unless ordered by the Court. A motion filed outside of this time limit may be summarily denied as untimely.

   d. If an expedited ruling is required, the moving party must specifically request an expedited schedule in the original motion and contact the division staff for Courtroom 409 to advise of this request.

   e. Do not combine motions or combine your own motions with a response or reply.

   f. The requirements of C.R.C.P. 121 §1-15 concerning the time for filing motions and the content and length of briefs will be strictly enforced. The Court may expedite the briefing schedule pursuant to C.R.C.P. 121 § 1-15 on its own motion, or by request of a party. The Court may rule on motions

without a hearing pursuant to C.RC.P. 121, or the Court may order a hearing prior to trial.

5. **Service of Process**. Returns of Service on all defendants shall be filed within **63 days** after the date of the filing of the complaint. *See* C.R.C.P. 4(m), **failure to do so may result in a show cause order.**

6. **Default.** Application for default shall be filed **within 14 days** after default has occurred. Please see DRO for further information.

7. **Pleadings and Affirmative Defenses.** Please be aware of C.R.C.P. 8 and its requirements for pleading. C.R.C.P. 8(b) requires a party to "state in short and plain terms [their] defense to each claim asserted." Please also be aware of C.R.C.P. 9 and its requirements for pleadings and affirmative defenses. Finally, please note the 2015 Comment to Rule 12: "[t]he practice of pleading every affirmative defense listed in Rule 8(c), irrespective of a factual basis, is improper under C.R.C.P. 11(a)."

8. **Trial Management Order**. The proposed Trial Management Order must comply with the requirements of C.R.C.P. 16, as amended, and **must be filed at least 35 days before trial**. All parties must participate in the preparation of the proposed Trial Management Order. If a proposed Trial Management Order is not filed in compliance with this Order, the Court may make further Orders to compel compliance. The Court will hold an in-person hearing before trial to go over this order and to finalize trial procedures. All lead counsel or party must attend this hearing.

9. **Discovery.** Discovery in all cases will be conducted subject to the provisions of the Court ordered Discovery Protocol attached.

V. TRIAL PREPARATION CHECKLIST

1. **Jury Instructions**. To the maximum extent possible, the parties shall agree on one stipulated set of proposed jury instructions; only true conflict or uncertainty is binding substantive law should prevent such agreement. Attorneys are required to meet and confer in good faith, preferably in person, regarding jury instructions. The Court has already prepared the following instructions: 3:1, 3:4, 3:8, 3:9, 3:12, 3:14, 3:15, 3:16, 4:1, 4:2, 4:2A, 5:1 and 5:6. Counsel for the plaintiff or *pro se* plaintiff is required to submit a joint proposed initial draft of the final jury instructions directly to the court **via e-mail** to the Court's division staff at 02courtroom409@judicial.state.co.us and **file it** no later than **21 days prior to the scheduled trial or as determined by the Court in the Trial Management Conference**. By initial draft, the Court means a single document jointly drafted by the parties, with a brief description of any dispute between the parties. Please note: the Court **does not** need, nor will it accept, basic introductory or closing instructions, oaths, admonitions, lengthy annotations, or like instructions.

The parties are also encouraged to stipulate to a proposed 2:1 instruction. Where disputes exist, the jointly drafted 2:1 instruction should also contain a brief description of the disputes of the parties at the bottom of the instruction, along with a description of any supporting case law.

Competing instructions are those instructions about which all parties agree that an instruction is necessary but disagree about the content of that instruction. "Non-stipulated" instructions are those instructions requested by a party to which any other party objects but does not request/tender a competing instruction. Please provide a label at the bottom of each proposed instruction (immediately preceding the legal authority), identifying the proposed instruction as "Stipulated," "Competing," or "Non-Stipulated," and, in the case of Competing or Non-Stipulated instructions, to also identify the party tendering the instruction (e.g., "Plaintiff's Competing Instruction," "Defendant's Non-Stipulated Instruction").

The Court **does not** favor, and rarely gives, special instructions patterned after caselaw. Any such instructions shall be accompanied by a *brief* statement of authority, in compliance with the requirements for the initial draft. If either partyde has an objection to a submitted instruction, the nature of the objection shall be *briefly* stated on the initial draft submitted to the Court, along with a *brief* statement of authority.

At the same time, the Parties shall also submit proposed verdict forms that conform to the proposed instructions.

2. **Exhibit lists**. Parties shall prepare a joint index of exhibits that party expects to offer. On this joint filing, please indicate which exhibits are stipulated. Please also allow space for the Court to notate which exhibits are admitted at trial. The joint exhibit list shall be filed and submitted directly to the court **via e-mail** to the Court's division staff at 02courtroom409@judicial.state.co.us **no later than 28 days prior to the scheduled trial**. Exhibits shall be identified on the lists in accordance with paragraph 3, below. Please indicate which exhibits are stipulated and include a column for admitted exhibits.

3. **Witness lists and orders of proof**. The parties shall jointly prepare a list of witnesses that will and may be called that the Court can read to the jury at the beginning of the trial. The list shall be in addition to any prior designation of witnesses. In addition to listing the names of the witnesses, the list may also specify the witnesses' title or degree and employment (e.g. Dr. Matinez, M.D., Children's Hospital) but no other identifying information should be included (e.g. address, phone number etc.). Additionally, the parties **shall confer and prepare a joint order of proof** that identifies each party's good-faith estimate of the order in which witnesses will be presented and shall specify separately the time required for direct and cross-examination of each witness. The time estimates must include re-direct examination. In no event may the cumulative time for witness examination exceed

the time allocated for presentation of the trial; the total time allocation shall also account for the time necessary for jury selection, opening statements, regularly scheduled breaks, the jury instruction conference, and closing arguments. Please also indicate on the joint order of proof those witnesses that are to be called by each party in their respective cases-in-chief. The Court reserves the right to enforce the time estimates stated in the order of proof. The witness lists and order of proof shall be filed and emailed to the Court's division staff at 02courtroom409@judicial.state.co.us **no later than 28 days prior to the scheduled trial.**

4. **Exhibits**. All exhibits must be pre-marked. Plaintiffs will use numbers; defendants will use letters. Plaintiffs and defendants shall not mix numbers and letters, even for related exhibits (e.g. 1(a), 1(b), 1(c), etc.). The civil action number of the case should also be placed on each of the exhibit labels. Copies of exhibits must be exchanged as required by C.R.C.P. 16, and parties shall determine whether an objection will be made as to the admissibility of the exhibit. To the greatest extent possible, the parties should stipulate to as many exhibits as possible. Only where parties have not had a reasonable opportunity to view an exhibit in advance will trial be interrupted for such a review.

5. **Depositions**. If a party intends to use depositions in lieu of live testimony, said party must notify the opposing party no later than 28 days prior to trial. A party must make objections to all or part of the offered deposition testimony no later than 21 days prior to trial and must cite page, line, and the specific evidentiary grounds supporting the objection. The same rules apply to both videotape and written depositions. When applicable, a party is required to provide someone to read testimony.

   Original depositions will remain sealed until a party requests at trial that they be unsealed. Before trial begins, a party must provide the Court with copies of all depositions likely to be used at the trial, as either direct evidence or impeachment.

6. **Audio-Visual Technology.** If a party needs any form of audio-visual equipment, that party must provide it. Courtroom 409 has limited technological offerings and it is the responsibility of the parties to understand those limitations prior to trial.

7. **Trial Briefs.** Trial briefs may be filed. They should be concise and should not repeat previously filed pleadings or motions. Trial briefs must be filed no later than 7 days before the trial date and shall not exceed five pages in length.

VI. CONDUCT OF THE TRIAL

1. **Scheduling/Use of Time**.

   a. Courtroom will be open at 7:30 a.m. each morning of trial. The trial generally starts at 8:30 a.m. and end at 5:00 p.m. There will be a morning and an afternoon

break of 15 to 20 minutes each. Lunch will normally run from approximately noon to 1:00 or 1:30 p.m.

b. Unless otherwise provided by Court order, parties should expect to be in court by 8:00 a.m. on the first day of trial and 8:15 a.m. thereafter so that the parties may discuss any pressing issues with the Court before trial begins or resumes.

c. It is the obligation of the parties to have witnesses scheduled and communicate to witnesses the timing of trial testimony to prevent any delay in the presentation of testimony or running out of witnesses before 5:00 p.m. on any trial day. Accordingly, there should be no more than five minutes delay between witnesses. A party should not expect the Court to take lengthy recesses or otherwise unduly interrupt the trial because of scheduling issues with witnesses. Failure to have witnesses available may result in a party being required to call witnesses out of order or rest prematurely.

2. **Jury Selection**

a. Each side will normally have 30 minutes for *voir dire,* unless additional time is requested and permitted in advance of the first day of trial. At the request of a party in the Trial Management Order and at the Court's discretion, the Court will permit up to an additional 10 minutes for *voir dire* per side if specifically used for debiasing. For additional information on jury de-biasing, the American Bar Association has compiled a debiasing toolbox. You can find the materials here: https://www.americanbar.org/content/dam/aba/publications/criminaljustice/voirdire_toolchest.pdf In multi-party cases, time must be divided between all parties on one side of the case. The parties should be prepared to discuss timing with the Court at the in-person Pre-Trial Conference.

b. Normally, challenges for cause will be exercised at the bench upon the conclusion of all parties' *voir dire*. Peremptory challenges will be done on paper unless otherwise provided for by the Court at the Pre-Trial Conference.

3. **Opening Statements**. For the convenience of the jury, opening statements more than 30 minutes are strongly discouraged; the Court may terminate an opening statement longer than that or that is repetitive or argumentative. The Court will specify the limit at the Pre-Trial Conference.

4. **Questioning Witnesses**. The parties may agree to retain a court reporter for trial. If no court reporter is retained by the parties, the Court will use its FTR system. If the Court utilizes FTR, all questioning must be done from the podium. If a party arranges for a court reporter, the Court will address this issue prior to the commencement of trial.

5. **Closing Arguments**. The Court may impose limits on closing argument. In multiple-party cases, this time may be divided between the parties. The Court will specify the limit at the Pre-Trial Conference.

6. **Proposed Findings of Fact and Conclusions of Law**. For court trials, the parties should be prepared to file proposed findings of fact and conclusions of law upon the conclusion of the presentation of evidence. The proposed factual findings shall be specific, cited, and supported by evidence elicited at trial. Findings of fact must not be argumentative. The Court will discuss its expectations with the parties at the conclusion of evidence.

7. **Withdrawal of Exhibits**. Because this courtroom no longer has a court reporter unless the parties so arrange and because of a reduced work force in the clerk's office, the court will no longer maintain custody of exhibits at the conclusion of a trial or hearing. Unless all parties agree on the record that exhibits need not be maintained, the following procedure will be followed:

    a. When the trial or hearing is concluded, each party will withdraw any exhibits or depositions which that party marked and/or admitted, whether or not admitted into evidence;

    b. Each party will maintain in its custody the withdrawn exhibits and/or depositions without modification of any kind until sixty days after the time for the need of such exhibits for appellate or other review purposes has expired, unless all parties stipulate otherwise on the record or in writing. It will be the responsibility of the withdrawing parties to determine when the appropriate time period has expired.

VII. SETTLEMENT

The parties are to **notify the Court within 24 hours of settlement or resolution of the case**. **All documents confirming settlement shall be filed not later than 14 days from the date of settlement**, unless otherwise ordered by the Court. The Court will not vacate or continue any previously scheduled trial in anticipation of resolution.

VIII. GENERAL RULES

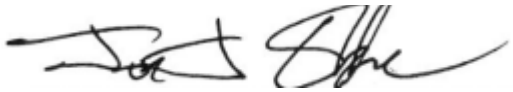
1. This Order shall apply to *pro se* parties. If any party has any questions about these rules, please raise them with the Court in a hearing. The Court is happy to discuss these rules to ensure understanding and compliance.

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

3. This Pre-Trial Order applies to **ALL** cases without exception and supersedes any prior pre-trial order that may have issued. Each party is expected to familiarize themselves with the provisions of this order. Failure to comply with this Order will not be excused due to lack of familiarity with the requirements set forth herein.

DATED: November 25, 2024

BY THE COURT:



JON J. OLAFSON
District Court Judge

DISCOVERY PROTOCOL

All parties are reminded that all discovery responses shall be made with the understanding that the purpose of discovery is to elicit facts and to get to the truth. The Colorado Rules of Civil Procedure are directed toward securing a just, speedy, and inexpensive determination of every action. C.R.C.P. 1. The discovery process shall not be employed to hinder or obstruct these goals nor to harass, unduly delay, or needlessly increase the cost of litigation. The parties are reminded of the Rules' requirement for proportionality and at any relevant time the parties should be able to discuss with the Court how Rules' proportionality requirements are satisfied. All discovery shall be conducted pursuant to the Colorado Rules of Civil Procedure.

WRITTEN DISCOVERY

These discovery protocols shall be considered as part of the responsibility of parties and counsel to comply with the Colorado Rules of Civil Procedure (C.R.C.P.) relating to discovery, specifically including C.R.C.P. 26-37.

1. Discovery objections must be based on law, consistent with the mandates of the Colorado Rules of Civil Procedure and should be clearly articulated. The parties should refrain from interposing repeated boilerplate type objections such as "overbroad, unduly burdensome, vague, ambiguous, not reasonably calculated to lead to the discovery of admissible evidence" and other similar objections. In the event any such objections are made, they shall be followed by a clear and precise explanation of the legal and factual justification for raising such an objection. Additionally, if the objecting party otherwise responds to the discovery request but does so subject to or without waiving such an objection, that party shall describe with reasonable specificity the information that may be available but is not provided because of the objection raised.

2. When a responding party claims not to understand either a discovery request or the meaning of any words or terms used in a discovery request, that party shall, within fourteen (14) days of receiving the discovery request, seek clarification of the meaning from the party who served the discovery. A failure to seek such clarification shall be considered a violation of this Order.

3. A discovery response that does not provide the information or material requested but promises to do so at some point in the future will be treated as the equivalent of no response unless the party so responding provides a specific reason for the information not being produced as required by the Colorado Rules of Civil Procedure, and also provides a specific date by which such information will be produced.

4. A response to a discovery request that does not provide the information or material requested but rather states that the party is continuing to look for or search for such

information or material will be treated as the same as no response unless that party provides a clear description of where such information or material is normally located, who is normally in custody of such information or material, where the party has searched, the results of the search, as well as the identity of all persons who have engaged in such a search. The responding party shall also provide a clear explanation of the ongoing search and a specific date by which the search will be complete.

5. Whenever a party objects to discovery based upon a claim of attorney/client privilege, work product protection, or any other privilege or protection, that party shall produce a detailed privilege/protection log that includes at least the following for each such item for which privilege is claimed:

    a. The information required by C.R.C.P. 26(b)(5);

    b. The date of the information or material;

    c. All authors and recipients; and

    d. The specific privilege or protection which is claimed.

    The proponent of the privilege has the burden of establishing that privilege. Failure to comply with this paragraph 5 and Order for Discovery Protocol will constitute a waiver of the claimed privilege.

DEPOSITIONS

1. Depositions shall be conducted in compliance with the Colorado Rules of Civil Procedure.

2. During all depositions, a party shall adhere strictly to C.R.C.P. 30(d) (1) and (3). No objections may be made, except those which would be waived if not made under C.R.C.P. 32(d)(3)(B) (errors, irregularities), and those necessary to assert a privilege, to enforce a limitation on evidence directed by the Court, or to present a C.R.C.P. 30(d)(3) motion (to terminate a bad faith deposition). Objections to form shall be stated: "Objection as to form." Any further explanation is inappropriate and prohibited unless specifically requested by the attorney asking the question.

3. There shall be no narrative objections. It is inappropriate and prohibited for an attorney, during questioning, to advise a witness to answer, "if you know," or "if you remember." It is similarly prohibited for an attorney during questioning to advise a witness not to speculate. All such questions shall be considered narrative objections. All deponent

preparation shall be conducted prior to the commencement of the deposition and shall not take place during the deposition.

4. It is appropriate for the deponent to request clarification of a question. However, it is not appropriate for counsel to do so.

5. A deponent and an attorney may not confer during the deposition while questions are pending. Similarly, neither a deponent nor counsel for a deponent may interrupt a deposition when a question is pending or a document is being reviewed, except as permitted by C.R.C.P. 30(d)(1).

6. A party shall refrain from excessive objections that have the purpose or effect of disrupting the flow of questioning or the elicitation of testimony.

7. A party may instruct the deponent not to answer only when necessary to preserve a privilege, to enforce a limitation on evidence directed by the Court, or to present a motion under paragraph 3 of C.R.C.P. 30(d). Whenever a party instructs a witness not to answer a question, the objecting party shall state on the record the specific reason for such an instruction, the specific question, part of a question or manner of asking the question upon which counsel is basing the instruction not to answer the question.

8. The parties are reminded of Colorado Rules of Professional Conduct 4.4 and 8.4. This Court takes seriously the professional requirements imposed by these Rules and expects all parties to strictly follow them.

9. Violations of these Discovery Protocols may result in the Court limiting or prohibiting additional discovery in the case.