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

(Simplified procedure C.R.C.P. 16.1 Cases – Filed On or After September 1, 2018)

I. 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 and 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 civility among parties, both in and outside of the courtroom. The Court will not tolerate rudeness, 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. 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, 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 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 opposing counsel fewer than 24 hours before the pleading was intended to be filed and "no response" was received is per se **not** a good faith meaningful effort.

It is the expectation of the Court that counsel confer either face-to-face or on the telephone; the Court regards a letter or e-mail message to constitute "notice," but not a sufficient attempt to confer. 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 CONFERENCE

1. A Case Management Conference shall be scheduled to occur **no later than** 42 days after the case is "at issue" (as defined in C.R.C.P. 16(b)(1) in the following types of cases:

    a. **Pro Se/Self Represented Parties.** Under C.R.C.P. 16.1(j), the Court is required to conduct a Case Management Conference on any case with a *pro se* or self represented party. The Case Management Conference shall be scheduled by the "responsible attorney" as defined in C.R.C.P. 16(b)(2).

    b. **Cases with Trials Exceeding Five (5) Days or Setting More Than One (1) Year After Case at Issue.** In any case where any party is requesting to set the case for a trial of more than five (5) days, or where the case being set beyond one year from the filing of the complaint the Court will conduct an in-person Case Management Conference with lead counsel for all parties present.

    c. **Where Party Believes Case Management Conference Would Be Helpful.** The Court will conduct a Case Management Conference in any case where any party believes that it would be helpful to prompt and efficient resolution of the case, under C.R.C.P. 16.1(j).

2. Under C.R.C.P. 16.1(f) Case Management Orders are no longer required.

3. Per C.R.C.P. 16.1(g), all cases shall be set for trial (and a pre-trial conference) 14 days after the case is "at issue" (as defined in C.R.C.P. 16(b)(1).) **Trial settings may be obtained Tuesday through Thursday after the Notice to Set is filed, Counsel may contact the Court's division staff via e-mail 02Courtroom409@judicial.state.co.us**

   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.

IV. CASE PREPARATION CHECKLIST

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 purpose of this procedure is to ensure expedited and inexpensive resolution of discovery disputes. The following procedures will be in effect in this case:

   a. The Court prefers that discovery disputes are expeditiously resolved between the parties. To the extent resolution cannot be reached between the parties, the Court prefers to 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 a meaningful way, consistent with the provisions of this Order, to try to resolve it.

   c. If counsel cannot resolve the dispute, counsel 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 counsel are unable to jointly call the division staff, the attorney contacting the staff should have available dates on opposing counsel's calendar. If opposing counsel 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. With regard to 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 to do so 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, counsel 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. **Motions for Protective Order under C.R.C.P. 16.1(k)(1)(B)(i) and (ii).**

Motions for Protective Order will be treated as a disputed discovery issue. No written motions will be accepted. Instead, please use the following procedure.

Any party who is seeking not to produce specific records set forth in C.R.C.P. 16.1(k)(1)(B)(i) and/or (ii) shall:

a. E-file a Notice of a Request for Protective Order which will include a brief description of item(s) being withheld; the reason(s) the items are being withheld; and the relief requested;

b. Have paper copies of the items that are the subject of the Motion for Protective Order, **with the disputed entries highlighted in yellow,** delivered to Courtroom 409. These records will be uploaded by the Court to the

electronic court file as "sealed" documents, meaning that the documents will not be accessible except to the Court and for appellate purposes.

c. The Court will attempt to rule on all Motions for Protective Order within one (1) week. If you have not received a ruling within (10) days after the records are delivered, please contact the division staff of Courtroom 409 and advise them on the pending Motion for Protective Orders.

3. **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.

4. **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 counsel 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.

1. **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).

5. **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.

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 Clerk 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.

6. **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.**

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

8. **Affirmative Defenses.** 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 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)."

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 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**. By initial draft, the Court means a single document as determined by the Court at the Pre Trial Conference; the instructions to which all parties have stipulated; and any additional or disputed instructions of any party, as discussed below. Please note: the Court **does not** need, nor will it accept, basic introductory or closing instructions, oaths, admonitions, lengthy annotations, or like instructions.

Unless a stipulation can be reached, counsel for both parties shall be responsible for submitting their own version of a proposed 2:1 instruction under the "Claims of the Parties" instruction, and the Court will either choose between those submitted instructions or prepare its own. Where disputes exist, each disputed instruction should contain, at the bottom of the instruction, a brief statement describing the dispute, identifying any supporting case law, and quoting the specific portion of the case supporting the parties' respective position(s). 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").

It is also helpful for the parties to jointly prepare an appendix, in chart form, of the disputed instructions that includes the following columns: (a) disputed instruction number, (b) the language of Plaintiff's proposed instruction (with authority citations, but no arguments), and (c) the language of Defendant's proposed instruction (with authority citations, but no arguments).

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 counsel 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**. Counsel shall prepare a joint index of exhibits that counsel expects to offer. The exhibit lists 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**. Each counsel 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, counsel **shall confer and prepare a joint order of proof** which identifies each counsel's good-faith estimate of the order in which witnesses will be presented and shall specify separately the time required for direct and cross-examination of each witness. The time estimates must include re-direct examination. In no event may the cumulative time for witness examination exceed the time allocated for presentation of the trial; the total time allocation shall also account for the time necessary for jury selection, opening statements, regularly scheduled breaks, the jury instruction conference, and closing arguments. The Court reserves the right to enforce the time estimates stated in the order of proof. The witness lists and order of proof shall be 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 counsel 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 counsel has not had a reasonable opportunity to view an exhibit in advance will trial be interrupted for such a review.

5. **Depositions**. If counsel intends to use depositions in lieu of live testimony, said counsel must notify opposing counsel no later than 28 days prior to trial. Counsel 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, counsel is required to provide someone to read testimony.

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

6. **Audio-Visual Technology.** If counsel needs any form of audio-visual equipment, counsel must provide it.

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 7:30a.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, Counsel and parties will be in court by 8:00 a.m. on the first day of trial and 8:15 a.m. thereafter so that counsel may discuss anything with the Court that needs to be dealt with before the trial begins.

   c. It is the obligation of counsel to have witnesses scheduled to prevent any delay in the presentation of testimony or running out of witnesses before 5:00 p.m. on any trial day. Accordingly, there shall be no more than five minutes delay between witnesses. Counsel 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 counsel 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.

   b. Normally, challenges for cause will be exercised at the bench upon the conclusion of all parties' *voir dire*. Preemptory challenges will be announced orally in open court and indicated on the list of jurors remaining.

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

4. **Questioning Witnesses**. Because the Court utilizes FTR, all questioning must be done from the podium. If counsel 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. Court will specify the limit at the Pre-Trial Conference.

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

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

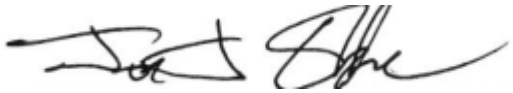
1. This Order shall apply to pro se parties.

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. Counsel are 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

Counsel are reminded that all discovery responses shall be made in the spirit and 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. 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.

WRITTEN DISCOVERY

These discovery protocols shall be considered as part of the responsibility of parties and counsel to comply with the Rules of Civil Procedure relating to discovery.

1. Discovery objections must be based on law 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 which is not being provided as a result 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 counsel who served the discovery. A failure to seek such clarification shall be considered a violation of this Order for Discovery Protocol.

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, counsel 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 speaking objections. It is inappropriate and prohibited for an attorney, during the course of 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 speaking objections. All deponent preparation shall be conducted prior to the commencement of the deposition and shall not take place during the course of 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. Counsel shall refrain from excessive objections that have the purpose or effect of disrupting the flow of questioning or the elicitation of testimony.

7. Counsel 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 counsel instructs a witness not to answer a question, counsel 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 RPC 4.4 and 8.4. This Court takes seriously the professional requirements imposed by the Colorado RPC and expects all parties to strictly follow them.

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