

PRACTICE STANDARDS
(Civil Cases)

**MAGISTRATE JUDGE KATHLEEN M. TAFOYA
UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO**

**Colorado Springs Courthouse
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PRACTICE STANDARDS CIVIL ACTIONS

Kathleen M. Tafoya, Magistrate Judge

I. INTRODUCTION

A. Purpose and Authority

These Practice Standards, with the exception of the Discovery Dispute Resolution Procedures, Section III.A, apply to cases assigned to the Magistrate Judge with consent of the parties. In civil cases where the primary judicial officer is a specifically designated Article III District Judge, these procedures are superseded by the Practice Standards adopted by the District Judge. In all cases assigned to the Magistrate Judge, whether on consent or referral, Section III.A applies to discovery disputes.

Consistent with Fed. R. Civ. P. 1, these Practice Standards are intended to secure the just, speedy, and inexpensive determination of every civil action.

Upon request and for good cause, these Practice Standards may be modified by orders entered in specific cases.

B. Relation to Local Rules

These Practice Standards supplement, but do not supplant or supersede, the Local Rules and the Electronic Case Filing Procedures. To the extent that there is a direct conflict between these Practice Standards and the requirements of the Electronic Case Filing Procedures, the Electronic Case Filing Procedures control. In circumstances in which these Practice Standards and Electronic Case Filing Procedures contain different, but not directly inconsistent, requirements, parties should comply with both sets of procedures to the extent possible.

C. Access to Local Rules & Electronic Case Filing Procedures

1. Copies of the local rules are available through the “Local Rules” link on the District of Colorado’s home page at <http://www.cod.uscourts.gov>, and/or from the Clerk of Court in the Alfred A. Arraj United States Courthouse, Room A105, 901 19th Street, Denver, CO 80294.
2. Copies of these Practice Standards are available through the “Judicial Officers’ Procedures” link on the District of Colorado’s home page at <http://www.cod.uscourts.gov> and/or from the Clerk of Court in Room A105.
3. The Court calendar for the pending week is available through the “Judicial Officers’ Calendars” link on the District of Colorado’s home page at <http://www.cod.uscourts.gov>.

II. GENERAL PROCEDURES

A. Applicable Rules

Those appearing before the Magistrate Judge must know and follow:

1. The Federal Rules of Civil Procedure;
2. The Federal Rules of Evidence;
3. The Local Rules of Practice of the United States District Court for the District of Colorado; and
4. The United States District Court for the District of Colorado Electronic Case Filing Procedures (Civil Cases).

B. Communications with Chambers

1. For information about the status of a motion or document, please use the CM/ECF system available at <https://ecf.cod.uscourts.gov> or at <http://www.cod.uscourts.gov/PACER.aspx>, or from the District Court's home page at <http://www.cod.uscourts.gov> under "United States District Court" at the link for PACER.
2. My chambers telephone number is 719-575-0328. My Courtroom Deputy is Kristina Senamontry. Please direct any questions concerning exhibits or courtroom equipment to her. Counsel may schedule times with Ms. Senamontry before a hearing or trial to familiarize themselves with the courtroom's technology. Ms. Senamontry also will facilitate the ordering of transcripts. You may also contact my law clerks, Jamie Hodges or Eleanor Kasper. My staff may not give you legal advice or grant oral requests over the telephone. Do not contact my law clerks concerning the status of any pending motion; all rulings will be made as expeditiously as possible.

C. Service by Electronic Means

1. NO MAIL OR FILINGS WILL BE ACCEPTED AT THE COLORADO SPRINGS COURTHOUSE. With the exception of those proposed orders permitted in the Local Rules, do not send documents directly to chambers unless requested by the Court to do so.
2. When directed by the Local Rules or these Practice Standards to submit a document directly to Chambers, *e.g.*, proposed orders, jury instructions, voir dire questions, etc., parties should submit documents as an email attachment addressed to: Tafoya_Chambers@cod.uscourts.gov. Documents submitted directly to Chambers in this manner should **NOT** be filed with the Clerk of Court using CM/ECF. Documents submitted to Chambers should be in MS Word or Adobe (pdf) format. The subject line of the email message should identify the case name, case number, and the title of the document attached. Document formatting for documents submitted to Chambers, *e.g.*,

typeface, margins, spacing, etc., should follow this Court's Local Rules and Practice Standards.

D. Citations

1. Citations shall be made pursuant to the most current edition of THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION.
2. Specific references in the form of pinpoint citations should be used to identify relevant excerpts from a document. All caselaw should be to the **Westlaw®** citation.
3. These Practice Standards should be cited as KMT Civ. Practice Standard, Part, Section, Subsection, Paragraph, and Subparagraph (*e.g.*, KMT Civ. Practice Standard II.D.3).

E. Typeface and Spacing

All papers filed with the court by anyone other than a judicial officer shall be double spaced and in an easily readable font such as Times New Roman 12 point.

F. Settlement

1. Settlement discussions are encouraged at all phases of the litigation process, especially early on.
2. If settlement of a contested motion or a matter to be tried to the court or to a jury is reached before the hearing or trial, please immediately advise one of my law clerks at 719-575-0328. A motion hearing or trial will be vacated only upon filing of documents sufficient to resolve the matter (*e.g.* motion or stipulation and proposed order). If counsel and any *pro se* party are unable to file the appropriate documents prior to the hearing or trial, counsel and any *pro se* party shall appear as scheduled to recite the settlement terms on the record.

G. Partial Case Settlement/Dismissal

If fewer than all claims, counterclaims, cross-claims, defenses, or parties are resolved or dismissed by settlement, the Court shall be notified promptly, and the notice of settlement and any paper requesting approval of the partial settlement or dismissal shall specify the claims, counterclaims, cross-claims, defenses, or parties which have been settled or dismissed and those that remain contested.

III. MOTIONS AND OBJECTIONS PRACTICE

A. Discovery Dispute Resolution Procedures

1. Counsel shall fully meet and confer in accordance with D.C.COLO.LCivR 7.1(a) in an attempt to narrow or resolve discovery-related disputes prior to contacting chambers to initiate an informal discovery conference.
2. If the dispute is not resolved or not resolved in full through conferral with opposing counsel, counsel then must agree on a mutually convenient time to call the Court to inquire about setting an informal discovery conference regarding all disputes about which they have fully conferred but failed to reach agreement. Requests to extend deadlines are not considered discovery disputes, and, as such, parties should not call my chambers to set an informal discovery conference to obtain an extension of deadlines.
3. Rules for Informal Discovery Conference:
 - a. No attorney can insist on insist on contacting the Court to discuss the potential setting of an informal discovery conference at a time when another attorney is not available. If an attorney is not available for a conference call to the Court, he/she must provide opposing counsel with alternate dates and times to contact the Court. This provision is designed to eliminate the possibility that one party will have an unfair advantage over another in preparation for an informal discovery conference.
 - b. When counsel call the Court they will be asked to briefly describe the dispute to the law clerk assigned to the case. You will be speaking with a highly competent and busy lawyer and you are expected to conduct the conversation accordingly. The assigned law clerk will review the contested issues with counsel and will set a recorded, telephonic informal conference if appropriate. If an informal conference with the court is to be held, it will be set at a mutually convenient date and time in the near future, ideally no more than 36 hours subsequent to the parties' request.
 - c. The Court will not assure that multiple counsel for the same party are on the line for a telephone conference. The Court requires only one attorney of record on the line for each party involved in the dispute. If counsel for a party want co-counsel for the same party to participate in the informal discovery conference, they are responsible for ensuring that co-counsel are available to participate on the date and time chosen for the conference.
 - d. The Court will not continue informal discovery conferences based on the sudden unavailability of co-counsel for a party. As long as each party involved in the dispute is represented by at least one attorney of record, the conference will proceed.

- e. At the informal discovery conference, the Court will attempt to mediate the dispute and may provide guidance to the parties regarding the probable outcome of a more formal judicial review of the issues.
4. At the conclusion of the informal discovery conference, if all issues have not been conclusively resolved, counsel shall then again meet and confer in accordance with D.C.COLO.LCivR 7.1(a) in light of the insights gained during the informal discovery conference.
5. Should discovery issues remain unresolved by argument, either party may thereafter file appropriate motions in accordance with the Federal Rules of Civil Procedure and the District's Local Rules of Practice.

B. Motions for Summary Judgment

No party may file more than one motion pursuant to Rule 56 without first seeking permission from the Court.

C. Page Limitations

1. Except motions for summary judgment, all motions, objections, responses, replies, and briefs shall not exceed fifteen pages. Motions and briefs shall be combined and shall be considered one paper for purposes of computing page limitations. These page limitations shall include the cover page, jurisdictional statement, statement of facts, procedural history, argument, authority, closing, signature block, and all other matters, except the certificate of service.
2. Motions for summary judgment or partial summary judgment and response briefs shall not exceed twenty pages. Reply briefs shall not exceed ten pages. These page limitations shall include the motion, cover page, jurisdictional statement, statement of facts, procedural history, argument, closing, signature block, and all other matters, except the certificate of service.
3. Exceptions to the above page limitations will be granted only upon a showing of good cause, *e.g.*, due to the complexity or numerosity of the issues involved. Permission to exceed the page limitation shall be sought by way of an appropriate motion filed well in advance of the deadline for filing the pleading and shall indicate the number of pages of the proposed document and the reason why the additional pages are necessary.

D. Unopposed Motions

An unopposed motion shall be designated as required by D.C.COLO.LCivR 7.1(c). Proposed orders should be submitted via CM/ECF along with all motions. Proposed orders

should not be sent via email to Chambers unless requested. Do not submit proposed judgments, as judgments are prepared by the Clerk of the Court.

E. Responses and Replies

1. Deadlines - *See* D.C.COLO.LCivR 7.1 and D.C.COLO.LCivR 56.1 for applicable time limits for filing responsive and reply briefs. Rule 6 of the Federal Rules of Civil Procedure controls the computation of time.
2. A response, reply, or objection shall identify by title and CM/ECF docket number the pleading to which it responds.
3. No surreply or supplemental briefs shall be filed without leave of Court.

F. Untimely Noncomplying Motions, Objections, Responses, or Replies

1. A “non-complying” motion, response, reply, or objection is a filing that does not conform to the procedural, formatting, or technical requirements of applicable statutes, regulations, rules of civil procedure, local rules, and these Practice Standards.
2. Untimely or noncomplying motions, responses, replies, or objections may be denied in whole or part, or their determination may be delayed relative to compliant motions.
3. Motions without a certification required by D.C.COLO.LCivR 6.1(c) or 7.1(a) will be denied without prejudice sua sponte.

G. Forthwith Hearings on Motions (other than hearings subject to this Court’s Discovery Dispute Resolution Procedures)

1. A “forthwith hearing” is a hearing that cannot be handled in the normal course of notice and setting due to a need for immediate judicial intervention. A request for forthwith hearing must be made by separate motion stating the reason(s) warranting immediate action and whether notice was given to all parties or why such notice could not be given. A courtesy call to Chambers advising that such a motion is being filed is appreciated and will help facilitate prompt consideration.
2. Unless required by statute or rule of procedure, after reviewing the request for forthwith hearing, the court may order that the matter be heard as soon as possible on a forthwith basis, may require that notice and opportunity to respond be given to any opposing party, or may deny the request for forthwith hearing and require that the matter be set using normal setting procedures. If the court determines that a forthwith hearing is necessary, the hearing shall not occur without notice to all parties of record.

H. Continuances of Hearings and Trials

Motions to continue (including motions to vacate or reset) hearings and trials are governed by D.C.COLO.LCivR 6.1 and 7.1, the Court's Electronic Case Filing Procedures, and *United States v. West*, 828 F.2d 1468, 1469-70 (10th Cir. 1987). Motions to continue shall be submitted in writing to the Court as far in advance as possible of the matter to be continued and should not be made at the time of a hearing or trial. Motions should include a selection of previously agreed upon dates and times for the future re-setting; the Court will endeavor to re-schedule on one of those dates, if possible. Stipulations for continuance are not effective unless and until approved by the court. To be granted, such motions must show good cause.

H. Motions for Extension of Time

1. Motions for extensions of time are governed by Fed. R. Civ. P. 6; D.C.COLO.LCivR 6.1 and 7.1(a) and the Court's Electronic Case Filing Procedures. Motions will be denied if they do not comply with these rules. To be granted, such motions require a showing of good cause. Unless the circumstances are unanticipatable and unavoidable, the following do not constitute good cause: inconvenience to counsel or parties, press of other business, scheduling conflicts (especially when more than one attorney has entered an appearance for a party), or agreements by counsel.
2. Requested extensions of time, even if stipulated, may be denied if the extension adversely affects the scheduling of the case or other cases.

I. Motions In Limine

Motions *in Limine* are **NOT** discouraged by the Court. Parties should keep in mind that admissibility or inadmissibility of particular evidence often depends upon the context in which the evidence is offered, so the Court may be unable to rule on the Motion *in Limine* prior to trial. However, if the Court is forewarned about particular evidentiary disputes that are anticipated to arise during the course of the trial, the Court is better able to make a more informed ruling at the appropriate time. Motions in Limine shall be filed not later than **45 days** prior to the Trial Preparation Conference.

J. Rule 702 Motions

A party objecting to the admissibility of opinion testimony by an expert witness shall file a written motion seeking its exclusion. The failure of an opponent to file such a motion, however, does not relieve the proponent of its burden to show that the proffered testimony is admissible at trial.

The deadline for filing all such motions shall be the same date as set for the filing of dispositive motions.

The motion shall identify, with specificity, each opinion the moving party seeks to exclude. The motion shall also identify the specific ground(s) on which each opinion is challenged, *e.g.*, relevancy, sufficiency of facts and data, methodology. *See* Fed. R. Evid. 702.

Upon the filing of a motion, the Court, in its discretion, may set a hearing to determine whether the challenged opinions are admissible under the relevant Federal Rules of Evidence. The setting of such hearing does not obviate the need for opposing counsel to respond to such motion. No later than seven days before the hearing, if such hearing is scheduled, the parties shall exchange any exhibits they intend to introduce at the hearing and provide a list of any witnesses which may be called.

IV. COURTROOM PROCEDURES

A. Court Appearances

1. Unless otherwise directed, all matters to be heard will take place in Colorado Springs Courthouse, 212 N. Wahsatch Ave., Suite 101, Colorado Springs.
2. Any party who wishes to attend the conference by telephone must file a motion to do so. However, **telephonic participation will only be allowed by a land line. No cellular, cordless or speaker phones will be permitted.**
3. Court time is valuable to litigants, counsel, and court staff. Counsel should arrive at least 10 minutes before any scheduled hearing or trial and confer to confirm what issues are in dispute and what stipulations can be made.

B. Courtroom Organization and Protocol

1. Plaintiff's table is closest to the jury box. There is one lectern in the courtroom at which all counsel and parties shall stand to make any statement or argument. Counsel may object by standing at counsel table.
2. Please observe traditional courtroom decorum: stand when addressing the court, address the court as "Your Honor," and request permission to approach the bench. It will not normally be necessary for counsel to approach a witness on the stand. The Courtroom Deputy, upon request of counsel, will hand a witness an exhibit. If you have a question about courtroom protocol, please contact the Judge's Courtroom Deputy, Kristina Senamontry.

C. Recording of Proceedings

The official record of all trials and proceedings will be taken by electronic sound recording. Prior to the beginning of any proceeding, please provide the Courtroom Deputy with your business card. Transcripts of proceedings may be ordered by contacting Patterson Transcription Company at (303) 755-4536 or AB Court Reporting & Video, Inc. at (303)

629-8534. Requests for real time, daily, or hourly copy must be made at least fourteen days before the trial or hearing.

D. Audio Visual Aids

The court has a VCR, DVD player, monitors, screens, white board, easels, and an ELMO, available upon specific request. Other equipment must be provided by counsel. The Courtroom Deputy can answer questions and provide assistance concerning technology in the courtroom. To the extent counsel will be using court provided technology, please advise the Courtroom Deputy at least five business days in advance of the hearing. All set up should be done outside the presence of the jury and without causing down time for the jury.

E. Exhibits

Each party should follow these procedures regarding exhibits they intend to use during evidentiary hearings and trials. Exhibits not prepared before an evidentiary hearing or trial may not be admitted.

1. The Court **REQUIRES** parties to prepare **joint** list of exhibits, each sequentially numbered, that they expect to offer at trial. The parties must stipulate to the authenticity and admissibility of as many exhibits as possible, marking the appropriate boxes on the attached Exhibit List form. If the parties are unable to reach a stipulation as to authenticity and admissibility of any exhibit(s), the party opposing the admission of the exhibit(s) is required to file his/her written objections (this is a separate document from the “objections” specified in the Exhibit List form) specifying the supporting legal authority for the opposition to each such exhibit no later than one week before the evidentiary hearing or the combined Final Pretrial/Trial Preparation Conference. The proponent of the exhibit shall file a response to the objections no later than three days before the evidentiary hearing or the Final Pretrial/Trial Preparation Conference.
2. **Marking of Exhibits** – The parties should pre-mark all exhibits numerically with the exhibit label also including the appropriate case number.
3. **Presentation of exhibits by electronic means is required unless the parties obtain leave of the Court to present exhibits in another format.** A complete set of electronic exhibits, in .pdf format, shall be provided to the Court on a separate storage device (i.e. hard drive, stick drive, DVD disk, etc.) at least two days before commencement of trial. Each exhibit shall be saved as a separate file and not page-by-page. Each electronic file shall be titled in accordance with its exhibit number. Exhibits should be in one of the following formats depending upon whether it is a document or photograph or audio or video recordings.
 - a. Documents and Photographs - .pdf, .jpg, .bmp, .tif, .gif
 - b. Video and Audio Recordings - .avi, .wmv, .mpg, .mp3, .wma, .wav

4. Original exhibits should be bound in three-ring notebooks or folders whether or not exhibits are presented electronically. The original exhibit notebook or folder should include all exhibits that the parties plan to use or introduce, including those that are stipulated, contested, and demonstrative. The notebook or folder should be labeled with the case caption and number. Pages of multi-page exhibits must be numbered consecutively.
5. If exhibits are not presented electronically, **three exhibit notebooks**, one containing the original exhibits and two containing a copy of the exhibits in proper sequence, shall be delivered to the Courtroom Deputy before commencement of the hearing or trial.
6. If exhibits are not to be presented electronically, the Courtroom Deputy will place the original exhibit notebook(s) in the witness box. Thus, when asking a witness to look at an exhibit, counsel or a *pro se* party may simply say, "Please look at Exhibit No. ___ in the notebook in front of you," and the witness will be able to refer to the exhibit in the Original Exhibit Notebook. If the exhibits are to be presented electronically, the witness will refer to a monitor placed on the witness stand for this purpose.
7. Demonstrative exhibits and documents used to refresh memory must also be marked with an exhibit number.
8. Prior to commencement of the evidential hearing, each party shall provide the Courtroom Deputy with three paper copies of a final list of its exhibits.

F. Witnesses

1. Parties shall use the form of witness list for this Court available in the District Court website under Judicial Practice Standards for Magistrate Judge Kathleen M. Tafoya.
2. Each party shall submit a list of its proposed witnesses at the time and in the manner set forth in the Court's orders or, if no time or manner has been specified, as set forth below:
 - a. Motion hearings, other than Rule 702 hearings: filed via CM/ECF two business days before the hearing.
 - b. Rule 702 motion hearings: *See* Civ. Practice Standard III.J.
3. Prior to commencement of trial, each party shall provide the Courtroom Deputy with three paper copies of a final list of its witnesses and include an estimate of the time anticipated for the witnesses' testimony.

G. Depositions

The use of depositions in Court proceedings is governed by Fed. R. Civ. P. 32 and the following procedures.

1. At the beginning of a hearing or trial, a party shall deliver to the Courtroom Deputy the original transcripts of all depositions the party intends to use. To allow the Court to better rule on any objections to deposition testimony, the offering party should also provide the Court with a notebook containing copies of any deposition transcripts to be used with tabs that identify the relevant depositions.
2. If the parties intend to offer deposition testimony in lieu of a live witness at trial, the parties must provide the Court with copies of their respective pages and line designations and cross-designations pursuant to the schedule set forth below.
3. Initial designations of deposition testimony, with specific page and line designations, must be submitted by the offering party directly to Chambers, with a copy to opposing counsel, no later than three weeks before the Final Pretrial/Trial Preparation Conference. Counter-designations must be submitted by the opposing party directly to Chambers, with a copy to opposing counsel, no later than two weeks before the Final Pretrial/Trial Preparation Conference. Objections to any properly designated portion of a deposition shall be submitted directly to Chambers, with a copy to opposing counsel, no later than one week before the Final Pretrial/Trial Preparation Conference. Designations, counter-designations and objections should NOT be filed using CM/ECF. Rather per Section II.C.2 above, these documents should be submitted as an email attachment addressed to: Tafoya_Chambers@cod.uscourts.gov.
4. Objections shall be presented in a table that has four columns (see sample table below):

1. item number
2. testimony (identified with specificity, i.e., by page(s) and line(s))
3. objection
4. ruling

Item #	Testimony	Objection	Ruling
1.			

No later than two weeks before the Trial, the parties may also file legal briefs in support of any designations that are objected to and in support of any objections being made. The Court will attempt to resolve disputes regarding the admissibility of properly designated deposition testimony prior to trial to facilitate appropriate redaction.

5. In a jury trial, the proponent of the deposition testimony must provide a person to read the deponent's answers.
6. For bench trials, depositions will not be read in open court. Instead, the Court will read them in chambers in any requested sequence. At the beginning of trial, the offering party shall provide the Courtroom Deputy with two copies of the relevant deposition

transcript marked as an exhibit with tabs and highlighting (plaintiff in yellow, defendant in blue, and any other parties in green) that identify the designated testimony.

H. Videotaped Depositions

The use of videotaped depositions in Court proceedings is governed by Fed. R. Civ. P. 32 and these Practice Standards.

I. Glossary

Not later than five business days before commencement of a hearing, a bench trial, a jury trial, or any other proceeding, counsel and any *pro se* party shall file and provide the Court, the Courtroom Deputy, opposing counsel, and any *pro se* party with a glossary of any difficult, unusual, scientific, technical, and/or medical jargon, words, names, terms and/or phrases.

V. TRIALS

The Court will issue a separate Trial Preparation Order governing many of the unique issues surrounding trials. Additionally, the following procedures apply.

A. Jury Instructions and Verdict Forms

1. Fourteen days before the Final Pretrial/Trial Preparation Conference, counsel and any *pro se* party shall submit stipulated and proposed jury instructions and verdict forms. The jury instructions shall identify the source of the instruction and supporting authority, *e.g.* § 103, Fed. Jury Practice, O'Malley, Grenig, and Lee (5th ed.). The parties shall submit their instructions and verdict forms both via CM/ECF and by electronic mail to Tafoya_Chambers@cod.us.courts.gov. Verdict forms shall be submitted in a separate file from jury instructions. Within the jury instruction file, each jury instruction shall begin on a new page. Documents submitted to Chambers pursuant to this standard shall be in MS Word format.
2. Each instruction should be numbered (*e.g.*, "Plaintiff's Instruction No. 1") for purposes of making a record at the jury instruction conference. The parties shall attempt to stipulate to the jury instructions, particularly "stock" instructions and verdict forms.
3. In diversity cases where Colorado law applies, please submit instructions and verdict forms that conform to the most recent edition of CJI-Civ.
4. Exhibit and Witness Lists: Seven days before the Final Pretrial/Trial Preparation Conference, the parties shall file their proposed witness and exhibit lists via CM/ECF. For additional matters regarding exhibit and witness lists, see Sections IV.E and IV.F. above.

5. Voir Dire: Seven days before the Final Pretrial/Trial Preparation Conference, the parties shall file their proposed voir dire questions.

B. Trial Times

Unless instructed otherwise, trials are normally set to begin at 9:00 a.m. On the first day of trial, counsel are normally expected to be present at 8:30 a.m. to go over any final matters before the commencement of trial. The normal trial day begins at 9:00 a.m. and continues until 5:00 p.m. The Court will recess for a lunch break as well as short mid-morning and mid-afternoon breaks.

C. Bench Trials

1. Trials to court will begin at 9:30 a.m. on the first day of trial.
2. Not less than two business days before the Final Pretrial/Trial Preparation Conference, counsel and any *pro se* party shall file proposed findings of fact, conclusions of law, and orders. A copy shall also be emailed to chambers. Counsel and any *pro se* party are requested to state their proposed findings of fact in the same order as their anticipated order of proof at trial.
3. Counsel and any *pro se* party are requested to key their closing arguments to their proposed findings of fact and conclusions of law and to emphasize the evidence on which they rely to support their positions.
4. For a trial to the Court, a proper resumé or curriculum vitae, marked and introduced as an exhibit, generally will suffice for the determination of an expert witness's qualification.

D. Jury Trials

1. Jury Selection Process
 - a. Unless otherwise ordered by the Court, the jury in civil cases will normally consist of eight jurors.
 - b. Prior to the jurors being brought to the Courtroom, the Clerk's office will provide the Court with a list of juror names that was randomly selected by a computer program used by the Clerk's office. The prospective jurors on the list will be seated in the jury box in the order in which they were drawn. The total number seated in the box will be the number of jurors the judge intends to seat plus six additional jurors. If alternate jurors are to be selected, the number of additional jurors will be adjusted accordingly.

- c. Voir dire will be directed to the prospective jurors seated in the jury box and will be conducted by the Court.
 - d. Any juror excused by the Court for hardship will be replaced by the next numerically identified prospective juror in the jury pool who has not already been seated in the jury box.
 - e. After voir dire is completed, the Court will entertain challenges for cause. Any juror excused for cause will be replaced by the next numerically identified prospective juror in the jury pool who has not already been seated in the jury box. Voir dire of any replacement jurors shall be conducted by the Court.
 - f. Pursuant to Fed. R. Civ. P. 47(b) and 28 U.S.C. § 1870, each side shall have three peremptory challenges, which shall be exercised in alternating fashion beginning with Plaintiff, using oral strikes. *Batson* challenges are to be made at the conclusion of the exercise of peremptory challenges immediately prior to the jury being seated and sworn.
2. Jurors will be permitted to take notes during the trial. The jurors' notes will be destroyed after the jury is discharged.
 3. The jury will be instructed following closing arguments.
 4. The jury will be given a copy of the written jury instructions for their use and consideration during deliberations.

E. Trial Briefs

Trial briefs are encouraged, but not required absent specific court order. If filed, trial briefs shall not exceed ten pages and shall be filed not later than five business days before trial.