



**20TH JUDICIAL DISTRICT OF COLORADO
ADMINISTRATIVE ORDER 13-101**

SUBJECT: Discovery Motions – District Court Civil Cases

To: All Interested Parties

**From: Maria Berkenkotter
Chief Judge, 20th Judicial District Judge**

Date: February 20, 2015

This order, effective March 2, 2015, replaces the previous version of Administrative Order 13-101 dated August 1, 2013.

In an effort to more efficiently resolve discovery disputes, the 20th Judicial District initiated a pilot project on August 1, 2013 (Administrative Order 13-101). Due to the success of the project in expediting the resolution of discovery disputes in personal injury actions, and in decreasing the cost and delay associated with such disputes, the 20th Judicial District has elected to expand the project to all pending District Court Civil Cases.

For all civil actions pending in the 20th Judicial District Court that receive a Scheduling Order on or after March 2, 2015, the Court will not accept any written discovery motions absent court order. For purposes of this Order, discovery motions include motions such as motions to compel, motions for protective order, C.R.C.P. 35 examination motions, motions to quash discovery related subpoenas, motions to strike or exclude based on discovery or disclosure violations, and motions for sanctions for discovery or disclosure violations. The Court will address these discovery disputes at a hearing. Following the hearing, the Court may request the parties to submit succinct briefs on any unresolved issues. The purpose of this procedure is to ensure expedited and inexpensive resolutions of discovery disputes.

- (1) If a discovery dispute arises in a District Court civil action, counsel must interactively confer with opposing counsel or pro se party, or make a reasonable, good faith effort to do so. Interactive conferral requires an in-person meeting or telephone call. Although parties are also encouraged to make a written record of the conferral (such as through email), conferral by email or letter alone is insufficient. Additionally, counsel must discuss each and every discovery dispute at issue in an effort to resolve as many issues as possible without Court involvement.

- (2) If, after such meaningful conferral, or reasonable, good faith effort to do so, counsel and/or pro se parties are unable to resolve the dispute(s), they are directed to contact Division T to set the matter for hearing. If the parties cannot agree on a date, the Court may set the hearing in its discretion. A notice of the discovery hearing will be issued.
- (3) Each party may file a Summary of Discovery Dispute at least two days before the hearing. This document shall concisely identify the discovery issues in dispute, and specify the relief sought. It may include citations to pertinent legal authority. The Summary shall be no longer than two pages in length, double-spaced. This document shall be filed in lieu of filing a written motion or response. Documents that are not in substantial compliance with this requirement will be stricken.
- (4) Each party may also file copies of any proposed exhibits through ICCES at any time prior to the hearing. In its discretion, the Court may also accept exhibits tendered at the hearing. If accepted, any such exhibits must be filed through ICCES within 7 business days of the hearing.
- (5) The Court will hear argument and will either issue a ruling at the hearing or take the matter under advisement and issue a written order shortly thereafter. The Court may use its discretion to request additional information, including written briefs, to clarify the issues.
- (6) If a party seeks a protective order under C.R.C.P. 26(c), the request for hearing (paragraph 2 above) shall constitute a C.R.C.P. 26(c) motion for purposes of staying the discovery sought under C.R.C.P. 121, § 1-12(1).



Hon. Maria Berkenkotter
Chief Judge
Twentieth Judicial District

SAMPLE SCHEDULING ORDER

- A. Trial Setting. This case has been set for a **X** day **jury/court** trial on the trailing docket for the week of _____. You will be contacted during the preceding week concerning the specific date and time that the trial will begin.
- B. Trial Management Conference. The Court will conduct a Trial Management Conference within approximately 28 days of the trial date. You will be contacted by the Division's Judicial Assistant to schedule the TMC as the trial date approaches.
- C. Case Management Conference. The Court may set a Case Management Conference in its discretion. If you think a Case Management Conference or Status Conference will be helpful, please contact the Division T Judicial Assistant to schedule a CMC.
- D. Alternative Dispute Resolution. In accordance with § 13-22-313, C.R.S., you are ordered to participate in a form of alternative dispute resolution of your choosing. If you are unable to agree upon the form of ADR, mediation with the Office of Dispute Resolution (303-837-3672) is ordered. You must file a Supplemental Case Management Order re ADR within 119 days (17 weeks) of this Order, stating the confirmed ADR date and the agency, person, or business conducting the ADR. Although you are encouraged to engage in ADR as soon as feasible, you must complete ADR no later than 35 days before trial. A certificate of ADR completion shall be filed with the proposed Trial Management Order at least 28 days before trial.
- E. Motions.
1. The requirements of C.R.C.P. 121, § 1-15(8) (duty to confer) will be enforced, and apply to both counsel and self-represented litigants.
 2. All motions for summary judgment, for determinations of questions of law, or for other dispositive motions, shall be filed at least 91 days (13 weeks) before trial, unless a different time is expressly permitted by court order. Unless the Court expedites the briefing schedule, the C.R.C.P. 121, § 1-15(1) briefing schedule applies.
 3. Motions for challenging expert testimony pursuant to C.R.E. 702, including *Shreck* motions for which an evidentiary hearing may be needed, shall be filed at least 70 days (10 weeks) before trial, unless a different time is expressly permitted by court order. Regular motions *in limine* may not be used to raise

C.R.E. 702 issues. Unless the Court expedites the briefing schedule, the C.R.C.P. 121, § 1-15(1) briefing schedule applies.

4. Motions *in limine* shall be filed at least 35 days (5 weeks) before trial, unless a different time is expressly permitted by court order. Motions in limine are discouraged when the motion is evidence driven and cannot be resolved until evidence is presented at trial. Instead, the issue can be flagged in a trial brief.
5. Prior to filing a motion *in limine*, counsel must interactively confer, or make a good faith effort to do so. Interactive conferral requires an in-person meeting or telephone call. The Court encourages a simple bullet point format on the issues raised and concise argument of law. The Court does not find detailed briefing to be helpful or relevant in all but the most unusual situations. If a motion in limine presents a complex issue that a party reasonably believes warrants briefing, responses must be filed within 7 days after the motion is filed. Any reply must be filed within 3 days after the response is filed. The Court generally will rule on motions *in limine* at the Trial Management Conference. Parties are encouraged to file one motion in limine each containing subparts with particular issues rather than multiple filings containing one issue each.
6. Counsel must make a good faith effort to confer before filing motions for extension of time. If the motion for extension of time is unopposed, the caption and body of the motion shall clearly indicate the relief is unopposed. If a motion for extension of time is opposed, the response in opposition must be filed within 7 days after the motion is filed. No reply is permitted absent court order. This compressed briefing schedule is imposed to enhance the likelihood that opposed motions for extension of time will be ruled on before the expiration of the period requested.
7. All other pre-trial motions shall be filed at least 35 days (5 weeks) before trial, unless a different time is expressly permitted by court order. Unless the Court expedites the briefing schedule or another briefing schedule is specified herein, the C.R.C.P. 121, § 1-15(1) briefing schedule applies.

F. Discovery.

1. In most cases, discovery matters are handled by the District Court Magistrate (Division T).
2. The Court will not accept any written discovery motions absent court order. For purposes of this Order, discovery motions include motions such as motions to compel, motions for protective order, C.R.C.P. 35 examination motions, motions to quash discovery related subpoenas, motions to strike or exclude

based on discovery or disclosure violations, and motions for sanctions for discovery or disclosure violations. The Court will address these discovery disputes at a hearing. Following the hearing, the Court may request the parties to submit succinct briefs on any unresolved issues. The purpose of this procedure is to ensure expedited and inexpensive resolutions of discovery disputes.

3. If a discovery dispute arises, counsel must interactively confer with opposing counsel or pro se party, or make a good faith effort to do so. Interactive conferral requires an in-person meeting or telephone call. Although you are also encouraged to make a written record of the conferral (such as through email), conferral by email or letter alone is insufficient. Additionally, counsel must discuss each and every discovery dispute at issue in an effort to resolve as many issues as possible without Court involvement.
4. If, after such meaningful conferral, or good faith effort to do so, you are unable to resolve the dispute(s), contact Division T to set the matter for hearing. If you cannot agree on a date, the Court may set the hearing in its discretion. A notice of the discovery hearing will be issued.
5. Each party may file a Summary of Discovery Dispute (no longer than two pages in length, double spaced) at least two days before the hearing. This document shall concisely identify the discovery issues in dispute, and specify the relief sought. It may include citations to pertinent legal authority. The Summary of Discovery Dispute shall be filed in lieu of filing a written motion or response. Documents that are not in substantial compliance with this requirement will be stricken.
6. Each party may also file copies of any proposed exhibits through ICCES at any time prior to the hearing. In its discretion, the Court may also accept exhibits tendered at the hearing. If accepted, any such exhibits must be filed through ICCES following the hearing.
7. The Court will hear argument and will either issue a ruling at the hearing or take the matter under advisement and issue a written order shortly thereafter. The Court may use its discretion to request additional information, including written briefs, to clarify the issues.
8. If a party seeks a protective order under C.R.C.P. 26(c), the request for hearing (¶ 4 above) shall constitute a C.R.C.P. 26(c) motion for purposes of staying the discovery sought under C.R.C.P. 121, § 1-12(1).

9. If a dispute occurs during a deposition for which Court involvement is necessary, please contact Division T.