

Denver County Court, City and County of Denver, Colorado 520 West Colfax Ave. Denver, CO 80204	<b>Courtroom: 3C</b>
<b>STANDING PRETRIAL ORDER FOR COURTROOM 3C</b>	

**APPLICABILITY**

This Pretrial Order (“Order”) applies to all cases in Courtroom 3C of the Denver County Court.

**DISPOSITION, PRETRIAL CONFERENCE AND JURY TRIAL**

Following a plea of not guilty the Court will set dates for disposition hearing (in approximately 30 days), a pretrial conference, and jury trial.

Prior to scheduling for jury trial, the parties shall notify the court of how many witnesses are expected, if the trial may last for more than one day, or if either party is making any setting requests.

**Disposition Hearing**

At the disposition hearing, one of the following will occur: 1) a plea will be entered, 2) the matter will be set for a disposition/motions date, or 3) the matter will proceed to the pretrial conference and jury trial. Unless otherwise ordered, all evidentiary motions are due **no later than the date of the disposition hearing**. If the case proceeds to a disposition/motions hearing or pretrial conference, 404(b) notices, motions in limine, notices and summaries of expert testimony, and reciprocal discovery notices under C.R.C.P. 16, Part I(d)(3) and II(b)-(c) are due **7 days before** the disposition/motions hearing. Notice of Alibi is due 35 days before trial. Late motions will not be accepted without leave. If no motions are filed, defense counsel may file a written motion requesting that the disposition/motion hearing be vacated.

**Disposition/Motions Hearing Day**

If motions are filed at the disposition hearing, a second disposition hearing in the morning, and for a motions hearing in the afternoon at 1:30 p.m. on the same day. At the morning’s disposition hearing, one of the following will occur: 1) a plea will be entered, 2) motions will be withdrawn and the case will proceed to the pretrial conference and jury trial, or 3) the matter will proceed to motions hearing in the afternoon. The parties are ordered to confer prior to the disposition and will inform the Court on the morning whether the matter will proceed to motions hearing that afternoon. The Court is not inclined to continue a disposition/motions hearing. If the parties proceed to the afternoon motions hearing, the parties are ordered to appear promptly at 1:30 p.m. If the defendant fails to appear in the morning and the parties

cannot advise the Court with certainty that the matter will proceed to motions hearing that afternoon, a warrant for the defendant's arrest will be issued, the motions hearing will be vacated and the parties will be permitted to release their witnesses. The Court will not permit the entry of a plea on the 1:30 p.m. docket without permission.

### **Pretrial Conference**

Pretrial conferences are scheduled at 10:00 a.m., usually the Friday before the jury trial. At the pretrial conference, the parties will state whether they are proceeding to jury trial as scheduled, the approximate number of witnesses, any requests for interpreters, and any other pertinent trial issues. The pretrial conference is the final deadline for any plea bargains. The Court does not intend to accept a plea agreement after that date.

### **DISCOVERY AND REQUIREMENT TO CONSULT ON MOTIONS**

The purpose of this procedure is to ensure expedited resolution of disputes, to encourage communication between the parties, and to avoid clogging the docket with unnecessary filings. The Court finds these procedures save the Court valuable time and resources.

Rule 16 of the Colorado Rules of Criminal Procedure ("Crim. P. 16") is self-executing and binding on all parties. **NO WRITTEN DISCOVERY MOTIONS WILL BE ACCEPTED** unless the below procedures are followed. The Court will address any discovery disputes, including allegations of destruction of evidence, only after the parties have determined they cannot resolve the issue by consultation. The party seeking discovery must then file a motion outlining the discovery dispute, efforts to resolve the dispute, and the opposing party's position on the motion. The opposing party may file a response within a reasonable time, but not to exceed 3 business days. The Court will either rule on the papers or set the matter for hearing.

Failure to adhere to disclosure requirements, including insufficient or untimely disclosure of statements, documents or opinions, is a potential violation of Crim. P. 16. Similarly, delaying discovery until the eve of deadlines is a potential violation of Crim. P. 16.

For all other motions except for constitutional motions, the parties are directed to confer before filing and are ordered to state the opposing party's position on the motion.

Failure to follow any of these procedures could result in improperly-filed motions being stricken, denied, or may result in an order to show cause.

### **RECIPROCAL DISCOVERY and EXPERTS**

In all cases in which a plea of not guilty is entered, the Court orders reciprocal discovery pursuant to Crim. P. 16. *The Court specifically orders both parties to disclose medical and scientific reports or statements as set forth in Crim. P. 16 Part I(d)(3) and II(b)(1).* The underlying facts or data supporting such opinion testimony shall also be disclosed pursuant to Crim. P. 16 Part I(d)(3) and Part II(b)(2). The parties are required to endorse all expert witnesses clearly and shall include the expert's area of expertise on the endorsement. The parties shall provide a curriculum vitae for the expert witness along with the expert's report. If an expert report has not been prepared, the party calling that expert shall provide a written summary of the testimony describing the witness's opinions and the bases and reasons therefor, including results of physical or mental examinations and of scientific tests, experiments, or comparisons.

## **JURY INSTRUCTIONS**

The District Attorney shall prepare an original of all stock instructions for the Court and email the instructions to the clerk at dcccourtroom3C@denvercountycourt.org and opposing counsel, **by close of business the Monday immediately before trial** unless the parties reasonably anticipate the case will not proceed to trial. The District Attorney shall also prepare all special instructions including those relating to any reasonably foreseeable lesser included offenses and affirmative defenses. Defense counsel shall prepare and file **by close of business the Monday before trial** any special instructions including those relating to any proposed lesser included and non-included offenses, affirmative defenses and any proposed theory of the case. All instructions, including instructions tendered by defense counsel, shall be in 12-point Times New Roman, double spaced, and contain the heading “INSTRUCTION NO \_\_\_\_\_”. Both parties shall prepare verdict forms as necessary which track the proposed instructions, including verdict forms for lesser or non-included offenses.

The instructions will refer to the defendant as “Mr.” or “Ms.”, followed by the defendant’s last name. Unless otherwise ordered, the parties shall track identically the language in the stock 2018 Colorado Jury Instructions. If either party has objections to those stock instructions, those objections and proposed alternative instructions with relevant authority must be filed in writing by the close of business on the Monday before trial.

By tendering proposed instructions, the attorney certifies that:

1. The attorney has personally reviewed and proof-read the instructions and that they conform to the known facts of the case and the applicable law.
2. All necessary changes in form were made to ensure that the instructions are grammatically correct and gender appropriate.

All non-stock instructions/language shall contain a copy of the relevant authority, including citation(s) of cases, upon which the party tendering the special instruction relies.

## **EXHIBITS**

All exhibits shall be pre-marked before trial. People’s exhibits shall be marked in numerical sequence. Defendant’s exhibits shall be marked in alphabetical sequence. Parties shall not mix numbers and letters, even for related exhibits (e.g. 1(a), 1(b), 1(c), etc.). If there are more than 26 exhibits for the defendant, exhibits shall thereafter be marked as “AA”, “BB”, “CC”, etc.

Defense counsel is ordered to view opposing party’s exhibits before trial. Trial will not be interrupted for examination of exhibits. Posters, photography enlargements and large items may be used during trial. However, photographic copies shall be made of the above-mentioned items before trial; alternatively, posters may be prepared in a fashion in which the poster is removable from the poster board and is capable of being folded for storage.

## **WITNESSES**

On the first day of trial, parties shall tender to the Court before the start of trial a typewritten list of the witnesses who are expected to testify (submission of the list of witnesses on the Complaint or

Information is insufficient). It is the obligation of the parties to have witnesses scheduled to prevent any delay in the presentation of testimony.

**VOIR DIRE**

The Court will ask the jury background and disqualification questions pursuant to C.R.S. § 13-71-105 and Crim. P. 24(a)(3). Counsel will be limited to 15 minutes on voir dire unless, upon request of counsel before voir dire, the Court deems that in the interests of justice additional time should be permitted.

**SENTENCING**

All parties shall have their affairs in order prior to the date scheduled for sentencing. Sentencing hearing briefs or materials shall be provided to the court in advance of hearing.

**AUDIO-VISUAL EQUIPMENT**

Any party intending to use courtroom equipment, such as video, audio, movies, slides, or computer presentations, is responsible for making the necessary arrangements for the equipment to be set up, tested, and operational before the start of trial. No modification or rearrangement of the courtroom is permitted without prior approval of the Court.

**COMMUNICATION WITH CLERKS OF COURT**

Only ministerial matters such as scheduling shall be addressed via electronic mail. All substantive matters will be addressed on the record and based upon written motion(s).

**REQUIREMENT TO CONSULT ON MOTIONS**

The parties are ordered to confer with counsel and state opposing counsel's position on all motions. Failure to comply with this order may result in the motions being stricken or denied.

**SO ORDERED** August 19, 2020

**BY THE COURT:**

**/s/Judith A. Smith**

**Judith A. Smith**

**County Court Judge, Ctrm 3C**