

<p>Denver County Court, City and County of Denver, Colorado          Court Address:          520 West Colfax Ave.          Denver, CO 80204          720-337-0481  <a href="mailto:Dcccourtroom3b@denvercountycourt.org">Dcccourtroom3b@denvercountycourt.org</a>  <a href="http://www.denvercountycourt.org">www.denvercountycourt.org</a> for virtual link</p>	<p>COURT USE ONLY</p>
<hr/> <p>PEOPLE OF THE STATE OF COLORADO,           Plaintiff,           v.           Defendant.</p>	
<p><b>3B PRETRIAL ORDER</b></p>	

**APPLICABILITY**

This Pretrial Order (“Order”) applies to all cases in Courtroom 3B 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), pretrial conference and jury trial.

**Disposition Hearing**

At the disposition hearing, one of the following will occur: 1) a plea will be entered, 2) motions will be filed and the matter set for a disposition/motions hearing, or 3) the matter will proceed to the pretrial conference and jury trial. Motions are due at the disposition hearing. Late motions will not be accepted without leave for late filing. If no substantive motions are filed, defense counsel may file a written motion requesting that the disposition hearing be vacated. The matter will then proceed to the scheduled pretrial conference and jury trial.

**Disposition/Motions Hearing**

The disposition/motions hearing will be set at 8:30 a.m. and 1:30 p.m. on the same date. At the disposition/motions hearing, one of the following will occur: 1) a plea will be entered in the morning, 2) motions will be withdrawn in the morning and the case will proceed to the pretrial

conference and jury trial, or 3) the matter will proceed to motions hearing in the afternoon. If there is a plea agreement, the parties are ordered to appear at 8:30 a.m. If the parties are proceeding to motions hearing, the parties are ordered to appear promptly at 1:30 p.m. for the motions hearing. The parties are ordered to confer prior to the disposition/motions hearing and either party will inform the Court on the morning of the disposition/motions hearing whether the matter will proceed to motions hearing that afternoon. 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 the Friday before the jury trial. If the Court is closed the Friday before the trial, the pretrial conference will be scheduled on the Thursday before the trial or the earliest practical date available. At the pretrial conference, the parties will state whether they are proceeding to jury trial as scheduled.

### **DISCOVERY**

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.** The Court will address all discovery disputes, including allegations of destruction of evidence, with a discovery hearing. The purpose of this procedure is to ensure expedited resolution of discovery disputes.

The following discovery dispute procedures will be in effect in this case:

1. If there is a discovery dispute, counsel is required to confer in a meaningful way to try to resolve before notifying the Court.
2. If counsel cannot resolve the dispute, they shall contact a Courtroom 3B clerk during business hours to set a hearing date.

The Court orders the prosecution to provide notice of its intent to introduce evidence pursuant to C.R.E. 404(b).

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.

### **RECIPROCAL DISCOVERY**

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 the disclosure of medical and scientific*

*reports or statements as set forth in Crim. P. 16 Part II(b)(1).* The underlying facts or data supporting such opinion testimony shall also be disclosed pursuant to Crim. P. 16 Part II(b)(2). 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. All disclosures pursuant to Crim. P. 16 Part II (a) – (d) shall be completed no later than 35 days before trial. Should medical or scientific reports or statements be introduced at an evidentiary hearing, the disclosures required by Crim. P. 16 Part I and II and this Order shall be completed no less than 14 days before the hearing.

## **JURY INSTRUCTIONS**

The District Attorney shall prepare an original of all stock instructions for the Court and email the instructions to the clerk at [dcccourtroom3b@denvercountycourt.org](mailto:dcccourtroom3b@denvercountycourt.org), the judge at [Kerri.Lombardi@denvercountycourt.org](mailto:Kerri.Lombardi@denvercountycourt.org) and opposing counsel, one (1) day before 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 an original of all 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 Times New Roman 12-point font, 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.

By tendering such 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 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.

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 not sufficient). 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.

### **AUDIO-VISUAL EQUIPMENT**

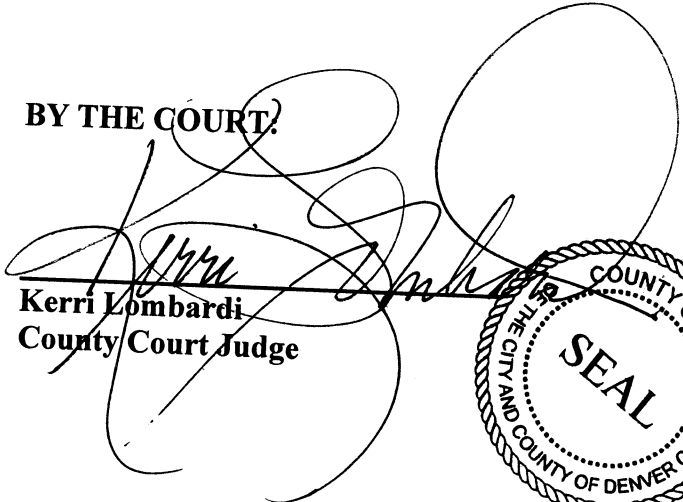
Any party intending to use courtroom equipment, such as video, audio, movies, slides, or computer presentations, is responsible for making the necessary arrangements for the equipment to be set up, tested, and operational before the start of trial. No modification or rearrangement of the courtroom is 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).

**SO ORDERED** this 21st day of March 2023.

**BY THE COURT:**

  
**Kerri Lombardi**  
County Court Judge

