



Great Seal of the United States

**by Denver sculptor
William Joseph**

**Byron G. Rogers Federal Building and U.S. Courthouse,
Denver, CO**

Photo courtesy of the U.S. General Services Administration

**PRACTICING AS NEW ATTORNEYS
IN FEDERAL COURT - WHAT YOU NEED TO
KNOW (2017)**

**First, always remain vigilant
about the Local Rules, and
annual revisions!**

Quick Links

[Calendars](#)

[Contact Us](#)



[Rules & Procedures](#)

[Local Rules Eff. 12/1/2015](#)

[Court Plans and General Orders](#)

[Comment on the Local Rules](#)

[E-Filing \(ECF\)](#)

[Case Locator \(PACER\)](#)

[RSS Feed from PACER](#) 

[FAQ](#)

[US Probation Office - Colorado](#)

[Attorney Services Portal](#)

[Attorney Status](#)

[CJA Information](#)

Local Rules of Practice

U.S. DISTRICT COURT LOCAL RULES REVISIONS EFFECTIVE DECEMBER 1, 2015

The United States District Court for the District of Colorado reviewed and approved revisions to its Local Rules which become effective December 1, 2015. The Advisory Committee on the Local Rules of Practice and Procedure in the 2015 rules cycle considered 16 proposals or suggestions from the bar and the public submitted in 2015, and addressed 9 matters continued from previous years. The Advisory Committee's work in the 2015 focused on conversion of the magistrate judge direct assignment pilot programs into corresponding local rules; and refinements to the criminal rules (sentencing and restricted documents), the AP rules (forms of pleadings and case management), and the court's attorney rules (discipline matters).

- [Download Local Rules Effective December 1, 2015](#)
- [Download Local Rules Effective December 1, 2015 \(Redline/Strikeout Version\)](#)

The Advisory Committee on the Local Rules always welcomes comments from court users, members of the bar, and the public at large. Please send your comments or suggestions to:

LocalRule_Comments@cod.uscourts.gov

**UNITED STATES DISTRICT
COURT FOR THE
DISTRICT OF COLORADO,
*Amendments eff. Dec. 1,
2016***

CIVIL RULES

D.C.COLO.LCivR 2.1 FORMS OF ACTION

A proceeding not defined as a civil action under Fed. R. Civ. P. 2 shall be filed as a civil miscellaneous ("mc") or registered judgment ("rj") action only if it is included in the List of Miscellaneous Cases provided [HERE](#) and on payment of the fee required in the Schedule of Fees [HERE](#).

The U.S. District Court is not a records depository. To use the miscellaneous case designation, you must have a document that qualifies as one, such as a motion to depose a witness in Colorado for an out-of-state case. See the Miscellaneous case list, <http://www.cod.uscourts.gov/CourtOperations/RulesProcedures/Forms.aspx>.

D.C.COLO.LCivR 5.3 ~~NON-FILED~~ DISCOVERY MATERIALS

(c) Written Discovery Requests and Responses.

Except in prisoner cases or unless otherwise ordered, Written discovery requests and responses shall be exchanged by private e-mail or other non-paper means.

You're sending it by e-mail anyway, so now you have official blessing to do so!

IMPORTANT NOTE: Revised Federal Civil Rule 6(d) now states:

(d) Additional Time After Certain Kinds of Service.

When a party may or must act within a specified time after ~~service~~**being served** and service is made under Rule 5(b)(2)(C) **(mail)**, (D) **(leaving with the clerk)**, ~~(E)~~, or (F) **(other means consented to)**, 3 days are added after the period would otherwise expire under Rule 6(a).

The revision eliminates the Three-Day Rule, i.e., providing an additional 3 days to any deadline, when service is effected electronically. The Three-Day provision continues to be applied to service effected by mail, delivery to the clerk, or other means consented to.

D.C.COLO.LCivR 15.1 AMENDED PLEADING

[The textual requirements for amendment of pleadings will now not apply to unrepresented prisoners, who often do not have the ability to electronically insert and mark redline and strikeout text in a redline version for the court, as required by this rule.]

D.C.COLO.LCivR 30.3 SANCTIONS FOR ABUSIVE DEPOSITION CONDUCT

(a) Prohibited Conduct. In addition to the conduct prohibited by Fed. R. Civ. P. 30(d)(3)(A), the following abusive deposition conduct is prohibited: (1) making an objection or a statement that has the effect of coaching the deponent or suggesting an answer; (2) interrupting examination by counsel except to determine whether to assert a privilege.

(b) Appointment of Master. A judicial officer may appoint a master under Fed. R. Civ. P. 53 to regulate deposition proceedings.

(c) Location of Deposition. If deposition abuse is anticipated, Aa judicial officer may order that a deposition be taken at a specific location ~~the courthouse or master's office so that, at the request of any party, deponent, or counsel, a dispute may be heard and decided immediately by a judicial officer or master~~

The rule now provides liberty to the court to specify any location for supervised deposition.

D.C.COLO.LCivR 40.1 ASSIGNMENT OF CASES

(c) Direct Assignment to Magistrate Judges.

-- Standardization of Consent form names to:

- Election of Consent or Non-Consent Form to United States Magistrate Judge Jurisdiction
- Instructions regarding Direct Assignment to United States Magistrate Judge Jurisdiction
- Instructions regarding Traditional Consent to United States Magistrate Judge Jurisdiction.

See USDC Forms page for the Consent Forms:
<http://www.cod.uscourts.gov/CourtOperations/RulesProcedures/Forms.aspx>

D.C.COLO.LCivR 42.1 MOTION TO CONSOLIDATE

A motion to consolidate shall be **filed in the lowest numbered case included in the proposed consolidation and shall be** decided by the district judge to whom the lowest numbered ~~case included in the proposed consolidation~~ is assigned. **A notice of filing of a motion to consolidate shall be filed by the movant as a party or, with the assistance of the clerk, as an interested party in all other cases proposed for consolidation.** A motion to consolidate shall be given priority. Consolidated cases shall be reassigned to the judicial officer(s) to whom the lowest numbered consolidated case was assigned.

These rule modifications provide an example of a court-originating rule revision designed to ease case flow and workload for judges' chambers.

D.C.COLO.LCivR 67.2 COURT REGISTRY

(e) Interpleader funds deposited under 28 U.S.C. § 1335 are defined by the IRS as a Disputed Ownership Fund (DOF), a taxable entity that requires tax administration. Unless otherwise ordered, interpleader funds shall be deposited in the DOF established in the CRIS and administered by the Administrative Office of the United States Courts (AO), which shall be responsible for meeting all DOF tax administration requirements. The Director of the AO is designated as the custodian of funds deposited in the DOF.

A technical rule for interpleader cases.

D.C.COLO.LCivR 72.1

GENERAL AUTHORITY AND DUTIES OF A MAGISTRATE JUDGE

(c) Other Duties. On reference or order by a district judge, a magistrate judge may:

- (1) conduct pretrial conferences, post-trial proceedings, early neutral evaluations, settlement conferences, other alternative dispute resolution proceedings, and other nondispositive pretrial proceedings;
- (2) act on petitions to perpetuate testimony under Fed. R. Civ. P. 27; and
- (3) hold hearings and make recommendations to the district judge on dispositive matters; and
- (4) and make determinations and enter orders or recommendations on discovery disputes in cases pending in other federal courts or courts of another country.

An administrative correction regarding magistrate judges' statutory authority.

D.C.COLO.LCivR 79.1

Custody Of Pleadings, Documents, Conventionally Submitted Materials, and Exhibits.

(a) Custody and Removal. Unless otherwise ordered, pleadings, documents, conventionally submitted materials, and exhibits in a court file or submitted to a judicial officer shall not be removed from the office or custody of the clerk or judicial officer.

(b) Disposition.

After 60 days of entry of final judgment in a civil action in which no appeal is taken, the clerk may notify counsel of record and any unrepresented party that the clerk intends to dispose of any conventionally submitted material or exhibit in the possession of the clerk. If no objection is filed within 14 days of the notice, the clerk may dispose of the conventionally submitted material or exhibit.

In a civil action on appeal, any conventionally submitted material or exhibit that was not transmitted as a part of the record on appeal may be transferred by the clerk to the offering attorney or unrepresented party who shall retain the conventionally submitted material or exhibit pending order of the appellate court.

This is a new protocol for disposition of exhibits.

**UNITED STATES DISTRICT
COURT FOR THE
DISTRICT OF COLORADO**

***Amendments eff. Dec. 1,
2016***

CRIMINAL RULES

Revised [Federal Criminal Rule 45\(c\)](#) [mirroring *Fed. R. Civ. P. 6(d)*] now states:

(c) Additional Time After Certain Kinds of Service.

When a party may or must act within a specified ~~period~~ **time** after ~~service~~ being served and service is made ~~in the manner provided~~ under Federal Rule of Civil Procedure 5(b)(2)(C) (mailing), (D) (leaving with the clerk), ~~(E)~~, or (F) (other means consented to), 3 days are added after the period would otherwise expire under subdivision (a).

The “3-day rule” eliminated also applies to the criminal rules, when service is effected electronically, as was done in the civil rules.

D.C.COLO.LCrR 47.1

Public Access To Cases, Documents, and Proceedings

(f) Documents Subject to Presumptive Restriction.

The following documents shall be filed subject to the specified presumptive restriction levels without the order of a judicial officer:

(1) Documents that shall be filed with Level 2 restriction (access limited to the filing party, the affected defendant(s), the government, and the court):

*** * * * ***

(D) information provided by an owner of cash bail.

Additional Level 2 restriction for cash bail documents creates greater administrative efficiencies for the court.

**UNITED STATES DISTRICT
COURT FOR THE
DISTRICT OF COLORADO**

***Amendments eff. Dec. 1,
2016***

**LOCAL PATENT RULES (*New
Section*)**

Please note that the Local Patent Rules previously existed in as the Pilot Project on Local Patent Rules; they were adopted in modified form after completion of the pilot project and as a permanent fixture in the USDC’s official local rules on Dec. 1, 2016.

“The [Patent Rules] program is designed to facilitate the efficient management of patent cases through the use of local rules collaboratively developed with members of the local patent bar and with input from public comment.”

To view or to download a copy of the Local Patent Rules, please visit the District Court’s Local Rules page, available here:

(<http://www.cod.uscourts.gov/CourtOperations/RulesProcedures/LocalRules.aspx>).

Table of Contents – Local Patent Rules

I. SCOPE, PURPOSE, AND CONSTRUCTION

D.C.COLO.LPtR 1 SCOPE OF THE LOCAL RULES

II. SCHEDULING CONFERENCE AND ORDER

D.C.COLO.LPtR 2 INITIAL SCHEDULING CONFERENCE

III. DISCOVERY AND CONFIDENTIALITY

D.C.COLO.LPtR 3 DISCOVERY OBJECTION; PRESERVING CONFIDENTIALITY; ENTRY OF PROTECTIVE ORDER

IV. INFRINGEMENT

D.C.COLO.LPtR 4 DISCLOSURE OF ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS

D.C.COLO.LPtR 5 DOCUMENT PRODUCTION ACCOMPANYING INFRINGEMENT CONTENTIONS

D.C.COLO.LPtR 6 RESPONSE TO INFRINGEMENT CONTENTIONS

D.C.COLO.LPtR 7 DOCUMENT PRODUCTION ACCOMPANYING RESPONSE TO INFRINGEMENT CONTENTIONS

V. INVALIDITY

D.C.COLO.LPtR 8 INVALIDITY CONTENTIONS

D.C.COLO.LPtR 9 PRODUCTION OF PRIOR ART WITH INVALIDITY CONTENTIONS

D.C.COLO.LPtR 10 RESPONSE TO INVALIDITY CONTENTIONS

D.C.COLO.LPtR 11 DOCUMENTS ACCOMPANYING RESPONSE TO INVALIDITY CONTENTIONS

Table of Contents – Local Patent Rules (cont.)

VI. DECLARATORY JUDGMENT

D.C.COLO.LPtR 12 DISCLOSURE REQUIREMENT IN PATENT
CASES SEEKING DECLARATORY JUDGMENT

VII. RELIANCE ON OPINION OF COUNSEL

D.C.COLO.LPtR 13 OPINION OF COUNSEL

VIII. CLAIM CONSTRUCTION

D.C.COLO.LPtR 14 JOINT CLAIM TERMS CHART
D.C.COLO.LPtR 15 CLAIM CONSTRUCTION BRIEFING

IX. FINAL INFRINGEMENT AND INVALIDITY CONTENTIONS

D.C.COLO.LPtR 16 FINAL PATENT CONTENTION DISCLOSURES

X. WORD LIMITS

D.C.COLO.LPtR 17 WORD LIMITS; CERTIFICATE OF COMPLIANCE

**UNITED STATES DISTRICT
COURT FOR THE
DISTRICT OF COLORADO**

Amendments eff. Dec. 1, 2016

**AP (Administrative Agency
Appeal) RULES *[No Changes]***

**UNITED STATES DISTRICT
COURT FOR THE
DISTRICT OF COLORADO**

***Amendments eff. Dec. 1,
2016***

ATTORNEY RULES

D.C.COLO.LAttyR 2 - STANDARDS OF PROFESSIONAL CONDUCT

(a) Standards of Professional Conduct. Except as provided by Subdivision (b) or order or rule of the United States Bankruptcy Court for the District of Colorado, the Colorado Rules of Professional Conduct (Colo. RPC) are adopted as standards of professional responsibility for the United States District Court and the United States Bankruptcy Court for the District of Colorado.

(b) Exceptions. The following provisions of the Colorado Rules of Professional Conduct (Colo. RPC) are excluded from the standards of professional responsibility for the United States District Court and the United States Bankruptcy Court for the District of Colorado:

(1) Colo. RPC 1.2(c) (limiting scope of representation), except that, if ordered, and subject to D.C.COLO.LAttyR 5(a) and (b), an attorney may provide limited representation to an unrepresented party or an unrepresented prisoner in a civil action;

(2) Colo. RPC 1.2(d), Comment [14] (counseling and assisting client regarding Colorado Constitution art. XVIII, §§ 14 and 16 and related statutes, regulations, or orders, and other state or local provisions implementing them), except that a lawyer may advise a client regarding the validity, scope, and meaning of Colorado Constitution art. XVIII, §§ 14 and 16 and the statutes, regulations, orders, and other state or local provisions implementing them, and, in these circumstances, the lawyer shall also advise the client regarding related federal law and policy.

(continued on next screen.)

(cont.)

~~(3) Colo. RPC 4.2, Comment [9A] (communicating with person to whom counsel is providing limited representation);~~

~~(4) Colo. RPC 4.3, Comment [2A] (dealing with person to whom counsel is providing limited representation);~~

~~(5) Colo. RPC 4.4(b) (notifying sender of inadvertently disclosed document);
and~~

~~(6) Colo. RPC 6.5 (limiting scope of representation).~~

The U.S. District Court now authorizes entry of parties and counsel into limited representation – “unbundling” / “discrete task”-- agreements, for both civil prisoner rights litigation and unrepresented, non-prisoner civil litigation; the parties, however, must follow the court’s requirements regarding entry and withdrawal from such arrangements in civil cases by court approval. See also LAttyR 5(a) and (b).

D.C.COLO.LAttyR 5

ENTRY AND WITHDRAWAL OF APPEARANCE AND MAINTENANCE OF CONTACT INFORMATION

(a) Entry of Appearance.

(1) Unless otherwise ordered, an attorney shall not appear in a matter before the court unless the attorney has filed an Entry of Appearance or an [Entry of Appearance to Provide Limited Representation](#) or signed and filed a pleading or document.

(2) As permitted under [D.C.COLO.LAttyR 2\(b\)\(1\)](#), an attorney may provide limited representation to an unrepresented party or an unrepresented prisoner in a civil action by order granting a motion which defines the scope of limited representation with reasonable particularity and certifies the approval of the unrepresented party or unrepresented prisoner. Any change in the scope of limited representation must be approved by the court.

(23) An Entry of Appearance, [Entry of Appearance to Provide Limited Representation](#), initial pleading, or initial document shall include

- (A) the identity of the party for whom the appearance is made;
- (B) the firm name, office address, telephone number, and primary CM/ECF e-mail address of the attorney; and
- (C) the certification of the attorney that the attorney is a member in good standing of the bar of this court.

LAttyR 5(a) provides for the mechanics for entry of appearance for limited representation through motion.

(34) A form of Entry of Appearance [or Entry of Appearance to Provide Limited Representation](#) is available on the court's website [HERE](#) or in the office of the clerk of court.

(45) Only an unrepresented party or a member of the bar of this court as defined in D.C.COLO.LAttyR 3 may appear in a matter before the court, sign and file a pleading or document, or participate in a deposition, hearing, or trial. The provision restricting the signing of a document shall not apply to a witness, deponent, declarant, or affiant.

(56) The responsibility for signing a pleading or document shall not be delegated.

(67) This rule shall not be applied or construed in a manner inconsistent with any statute or rule governing an attorney appearing for the United States.

(b) Withdrawal of Appearance. An attorney who [has filed an Entry of Appearance or an Entry of Appearance to Provide Limited Representation](#) or has appeared [otherwise](#) in a case may seek to withdraw on motion showing good cause. Withdrawal shall be effective only on court order entered after service of the motion to withdraw on all counsel of record, any unrepresented party, and the client of the withdrawing attorney. A motion to withdraw must state the reasons for withdrawal, unless the statement would violate the rules of professional conduct. Notice to the client of the attorney must include the warning that the client is personally responsible for complying with all court orders and time limitations established by applicable statutes and rules. Where the client of the withdrawing attorney is a corporation, partnership, or other legal entity, the notice shall state that such entity may not appear without counsel admitted to the bar of this court, and that absent prompt appearance of substitute counsel, pleadings and papers may be stricken, and default judgment or other sanctions may be imposed against the entity.

LAttyR 5(b) provides for the mechanics for withdrawal of appearance for limited representation through motion.

IX. STUDENT PRACTICE

D.C.COLO.LAttyR 14 STUDENT PRACTICE

(a) General Provisions.

With the approval of the ~~presiding judicial officer~~ ~~district judge (or~~ ~~magistrate judge exercising consent jurisdiction under~~ ~~D.C.COLO.LCivR 72.2)~~, to whom a matter has been assigned, an eligible law student may appear, under the supervision of an attorney ~~who is a member of the bar admitted to practice in~~ ~~of~~ this court ~~and employed in a law school clinical program or by a~~ ~~government agency~~, in a ~~an~~ ~~civil~~ action ~~or non-felony criminal~~ ~~case~~ on behalf of ~~any~~ party who has consented in writing.

LAttyR 14 no longer limits student practitioners to just those students enrolled in clinical programs, or interns in government agencies – all student practitioners are now welcome, provided there is a supervisory attorney and client consent.

Practice Tips for New Lawyers **– from Judges, through their** **Chambers Staff**

(These tips are not meant to scold, but to offer suggestions for “best practices.”)

- ***When the court has designed procedures to facilitate matters for counsel, don't be afraid to take advantage of those procedures – and don't overthink things!***
 - D.C.COLO.LCivR 6.1(a): If counsel stipulate and it falls within the rule, they should just file a stipulation - no motion or court order is needed;
 - Similarly, D.C.COLO.LCivR 15.1: If a motion to amend is unopposed or is submitted “as a matter of course,” counsel can just file the amended complaint without filing a motion, but they still need to file the notice and attach a redline. We frequently see either a party file an unopposed motion OR file the amended complaint as a matter of course, but don't file the notice and redline.
 - FRCP Rule 5(d) filing exclusions (serve, but don't file until needed in court proceedings, R 26(a) disclosures and listed discovery requests and responses).
 - Notice of (deposition, trial, etc.) Settings -- don't file

- ***Probably the most frequent suggestion offered from judges' staff – “READ THE JUDGES' PRACTICE STANDARDS!! Can't stress it enough!!”***
 - “We actually have an order we enter now at the onset of every case that directs the parties to our practice standards and there's a hyperlink in the order that they can download the practice standards from the order. “
 - An illustration of the need to carefully read and follow both the Local Rules and the specific judge's Practice Standards. “Notwithstanding Local Rule 7.1(b), Judge Martinez requires a meet & confer before filing a 12(b)(6) motion, to confirm that the disputed issues cannot be fixed by amendment. (WJM Revised Practice Standards III.D.1.) Skipping this will get often get your motion stricken, which can lead to considerable heartburn if your client then believes you have blown your Rule 12 deadline to respond.)

- ***Motions Practice***

- Do not include a motion in a response or reply, or bury it anywhere else. It's prohibited in the local rules. Also, do not add a footnote that says "hey, if you're doing to dismiss, please allow me to amend."
- Follow and comply with the rules governing motions to amend ; again, compliance does not equate to requesting amendment in a footnote.
- Local Rule 7.2 requires more support to restrict a filing than just "these documents were designated under the protective order."
- When amending, remember to file a redline of your pleading, per Local Rule 15(a).

- ***Etiquette and Protocols***

- Do not call a judge's chambers to ask when an order will be issued or when a motion will be ruled upon. The parties will be duly notified when the order is issued. There are ex parte concerns if one side has information about a court's actions and the other side does not
- - On the other hand, contacting a court's chambers as a *reminder* of a pending motion may be wise: "At least in our chambers, it's ok to call and say, 'hey we've got a motion pending since a certain date' - to remind us it's pending. We already know, but we don't mind if you need to call so you can tell your client, hey we checked, but we don't know when the court will rule. But, please don't do this repeatedly in a case; once is enough."

- ***Duty to Confer***

- Local Rule 7.1 pre-motion conferral requirements. Absent exigent circumstances, a single email is generally not considered to be sufficient.
- Request from a district judge: "Duty to confer means doing so by phone or in person, not by email. It applies to every motion except Rule 12(b)(6) and Rule 56 motions."
- Lack of a meaningful meet & confer/7.1(a) certification (e.g., "I e-mailed and didn't hear back within two hours, so I went ahead and filed...") will both get your motion stricken or denied, and also earn you a reputation in chambers as the kind of lawyer who wastes our time and who we presume is not co-operating with opposing counsel and thereby making everyone's life unnecessarily difficult.

- ***Notice and Service Issues***

- If your opposing party is pro se -- unless that person specifically shows up on the docket as a registered pro se E-Filer, they must be served by U.S. mail, and the Certificate of Service should reflect that. Or obtain their agreement in writing to be served by email, and then reflect that in the COS. Even if they don't agree to be served by email, sending a courtesy copy by email (if they provide one) is great.

- ***District Judge/Magistrate Judge Interaction***

- If their case has both a district judge and a magistrate judge, even if your district judge enters a broad "all nondispositive motions and pretrial" type of reference, the judge typically also issues a "memorandum" to refer each motion that he/she wants the magistrate judge to decide. So if a party files for example a motion for extension of time, they should not be surprised if it takes a while for the district judge to issue the memorandum referring it to the magistrate judge.
- Western Slope cases: Consent Jurisdiction under D.C.COLO.LCivR 40.1(c) applies only to *full-time* magistrate judges, so it does not apply to the magistrate judges based in Grand Junction and Durango. A case may be specially referred under a district judge to a Western Slope magistrate judge, based on the locality of the party(ies) and witnesses, especially if it is the subject of a motion, or request at the scheduling conference, or by some other notification to the court, and special referrals most often result in the Western Slope magistrate judges assisting the court with pretrial matters.

- ***Discovery Issues***

- Provide full, complete, by the rule disclosure of expert testimony.

- ***Substantive Issues***

Diversity Jurisdiction.

- Well-established but little-known rule: When pleading diversity jurisdiction for an LLC (or LLP, or trusts, or most other entities other than corporations), you must identify the citizenship of the entity's underlying members. If the members are also LLCs, you must "go all the way down" to establish citizenship for the underlying individuals or corporations. See, *e.g.*, *Siloam Springs Hotel, L.L.C. v. Century Sur. Co.*, 781 F.3d 1233, 1237 (10th Cir. 2015) ("only those state-created entities that are corporations, in the traditional understanding of that word, will be treated as a person for purposes of diversity jurisdiction"). At least if you draw Judge Martinez, failing to set this out in an initial pleading or a notice of removal will typically win you an Order to Show Cause threatening dismissal for lack of jurisdiction.

Fed. R. Civ. P. 5.2 - Privacy Protection For Filings Made with the Court - Obligations.

- Redact! Budget enough time to comply strictly with FRCP 5.2(a) and to review every page of your motion exhibits for this purpose. This most commonly arises when filing deposition excerpts, medical documents, or financial materials as exhibits to a motion. ***In most cases, it's pretty clearly an instance of the following seven-word synonym for malpractice: lawyer-overdelegated-to-paralegal-without-sufficient-review.*** Since various websites trawl and republish PACER filings, failing to redact can mean you have inadvertently published your client's SSN or other personal information to the web for all to see. Oops. Setting aside HIPAA and professional liability, this will win you some combination of a stricken pleading, a court order, a phone call from docketing staff requiring that you immediately correct the problem at chambers' direction, and/or a reputation for being the kind of lawyer who is careless with your client's sensitive information. I should not be the first person who has looked closely enough at your exhibits to discover there's a stray SSN, child's name, or DOB buried somewhere in the middle that you didn't notice before filing. *Clerk's Note: the last point also often occurs with the filing of invoices as substantiation documentation in Proposed Bills of Costs – remember to use redaction tools, or at the very least, a black marker to cover checking account or hand urn credit card slips, etc.*

- **Extensions of Time**

Essentially, you (the parties jointly) get one free pass - by filing a stipulation, of no more than 21 days, court permission is not required. After the first stipulation, a motion - preferably unopposed – is necessary, showing good cause and seeking the court's permission. The court emphasizes that the client must be aware of requests for continuances.

D.C.COLO.LCivR 6.1 EXTENSION OF TIME OR CONTINUANCE

(a) Extension of Time. The parties may stipulate in writing to **one extension of not more than 21 days** beyond the time limits prescribed by the Federal Rules of Civil Procedure to respond to a pleading or amended pleading, interrogatories, requests for production of documents, or requests for admissions. The stipulation must be filed before the expiration of the time limits to respond prescribed in the Federal Rules of Civil Procedure, and shall be effective on filing, unless otherwise ordered. **Any other request for an extension of time or continuance must be approved by court order on motion.**

(b) Content of Motion for Extension of Time or Continuance. A motion for extension of time or continuance shall state the reason for an extension or continuance, the length of the requested extension of time or continuance, and the total number of extensions or continuances granted previously.

(c) Service on Client. When a stipulation or motion for extension of time or continuance is filed, it shall be served contemporaneously by counsel on his or her client.

- **Advice from chambers:**
- ***“Local Rule 6.1 trips people in requiring service to the client - their COS should say that they've done so. Also, many parties do not take advantage of the stipulation option. If it's an agreed extension that the rule allows you to file as a stipulation - that is self-executing and thus more efficient.”***
- ***“Don't forget to serve your client if requesting an extension of time, per Local Rule 6.1(c). This will commonly get your motion stricken or denied without prejudice, sometimes meaning the original deadline is past before you can re-file, which creates additional problems.”***

Requests for Entry of Default

The Entry of Default and Default Judgment is a two-step process: an Entry of Default is performed by the clerk, per Fed. R. Civ. P. 55(a). See Williams v. Smithson, 57 F.3d 1081, at *1 (10th Cir. June 20, 1995) (table decision); U.S. Commodity Futures Trading Com'n v. Trimble, Civil Action No. 11-cv-02887-PAB-KMT, 2013 WL 317576, at *1 (D.Colo. Jan. 28, 2013). The instructions regarding entry of default are followed strictly by the Clerk's Office, especially that an affidavit or declaration **by counsel** must accompany the Motion (Request) for **Entry of Default (a separate affidavit will be necessary for the Motion for Default Judgment)**. This is in addition to the affidavit of the process server (Fed. R. Civ. P. 4(l)). Please also note that this district requires the party filing the request to ALSO include in the affidavit that an individual subject to default is not a military servicemember under **50 U.S.C. app. § 521, the Service Member's Civil Relief Act of 2003**.

A motion for Default Judgment is usually determined by a judicial officer under Fed. R. Civ. P. 55(b)(2), though the clerk can award a sum certain default judgment pursuant to Fed. R. Civ. P. 55(b)(1) and the court's local rule D.C.COLO.LCivR 55.1 [**see next screen**]. The local rule is styled after, again, the Colorado Rules of Civil Procedure, 121, § 1-14. The requirements of the rule are fairly straightforward, but perhaps it helps to keep in mind that you must file an affidavit explaining the facts set forth in subdivision (a), and a proposed form of judgment setting forth ALL the details in subdivision (b).

D.C.COLO.LCivR 55.1 DEFAULT JUDGMENT FOR A SUM CERTAIN

(a) Required Showing. To obtain a default judgment under Fed. R. Civ. P. 55(b)(1), **a party shall show by motion supported by affidavit:**

(1) that the defendant who has been defaulted:

(A) is not a minor or an incompetent person;

(B) is **not in the military service**, as set forth in the Servicemembers Civil Relief Act, 50 App. U.S.C. § 521, Protection of Servicemembers Against Default Judgments;

(C) has not made an appearance; and

(2) **the sum certain** or the sum that can be made certain by computation.

(b) Form of Judgment. The moving party **shall submit a proposed form of judgment** that recites:

(1) the party or parties in favor of whom judgment shall be entered;

(2) the party or parties against whom judgment shall be entered;

(3) when there are multiple parties against whom judgment is entered, whether the judgment is entered jointly, severally, or jointly and severally;

(4) the sum certain consisting of the principal amount, prejudgment interest, and the rate of postjudgment interest; and

(5) the sum certain of attorney fees enumerated in the document on which the judgment is based.

- **General Advice**

- ‘A big thank you to all the lawyers and parties who do comply with the rules, properly cite to evidence/record, and provide us relevant case law. It makes our job easier - and it'll make deciding your case faster.’
- Generally minor or technical problems are usually not hard to fix, but time-saving to get it right the first time. Remember that it's better to potentially avoid the embarrassment and annoyance of having filings stricken, re-filing, responding to orders to show cause, having to explain yourself to clients or senior lawyers, etc.
- Don't be afraid of federal court practice (i.e., don't feel obligated to get your client new counsel when an insurance company or other defendant removes to federal court. You can do it.).

Other Important Sources of Practice Information:

Electronic Case Filing Procedures:

As mentioned previously, the court's electronic filing procedures page on the court's ECF website: <http://www.cod.uscourts.gov/CourtOperations/CMECF.aspx> is a highly valuable tool and necessary for effective practice in this court. The local rules specify that the electronic case filing system is the means to file documents in cases, and counsel are required to register in the system. See D.C.COLO.LCivR 5.1 Formatting, Signatures, Filing, and Serving Pleadings and Documents. Numerous special instructions and guidelines are provided on the page, but refresher training is available through the page. The most important two documents are the following:

[Electronic Case Filing Procedures \(Civil Version 6.0\)](#)

[Electronic Case Filing Procedures \(Criminal Version 6.0\)](#)

Judicial Practice Standards:

Under D.C.COLO.LCivR 43.1 Hearing and Trial Procedures, judicial officers (both district and magistrate judges) may establish specific practice standards. Those standards may, and will, change periodically, so it is valuable to reference the standards of the particular judge(s) presiding over your case periodically, or better, before you have a specific filing or event pending (a hearing involving expert testimony; a dispositive motion; a trial or evidentiary hearing, etc.).

See the Judicial Officers' pages on the district court website for the specific standards:

<http://www.cod.uscourts.gov/JudicialOfficers.aspx>

Forms and Instructions:

The Forms page:

(<http://www.cod.uscourts.gov/CourtOperations/RulesProcedures/Forms.aspx>)

contains the district's specific, or the federal judiciary's generally-used forms, covering such matters as the forms particular to specific local rules; general civil; filing civil actions; general criminal; Criminal Justice Act; bonds; waivers; special proceedings, miscellaneous, and court records order forms from the National Archives.

Miscellaneous Technical and Practical Applications:

On the court's website, attorney information is contained in two areas – the Attorney Services Portal:

<https://www.cod.uscourts.gov/CMECF/Register/Login.aspx>,

which posts a User Guide, and the Attorney Information menu tab on the website:

<http://www.cod.uscourts.gov/AttorneyInformation.aspx> Criminal Justice Act, the Civil Pro Bono program, Attorney Discipline, and other attorney-centric information is available on that page.

Numerous sub-pages of the website are worth exploring: from the list of mediators prepared by the Faculty of Federal Advocates ...

<http://www.cod.uscourts.gov/CourtOperations/RosterofMediators.aspx>

... to the posting of the district court's operations plans and general orders in effect:

<http://www.cod.uscourts.gov/CourtOperations/OrdersandOpinions/CourtPlansandGeneralOrders.aspx>

Please take the time to familiarize yourself with the court's local website.

Judicial Conference Policies:

It is also worth exploring the federal judiciary's website, for nationwide policies, practices, forms, rulemaking, and regulations – all of which may apply to this district's operations.

See <http://www.uscourts.gov/>.

**THANK
YOU.**