

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-00838-KLM

OSVALDO BARRIENTOS-SANABRIA,

Plaintiff,

v.

EDWARD HOLTE, in his individual and official capacity,
ROD FENSKE, in his official capacity,
ANTONIO LOBATO, in his individual and official capacity, and
AARON D'MIZE, in his individual and official capacity,

Defendants.

AMENDED¹ CIVIL TRIAL PROCEDURES ORDER
(effective September 1, 2011)

The following procedures and orders supplement the Federal Rules of Civil Procedure and the local rules of this court. In order to fairly and efficiently try the merits of each case, the Court **ORDERS** as follows:

I. General Trial Preparation

1. Exhibit lists. The parties shall exchange their pre-marked exhibits on the date set forth in the Final Pretrial Order. Plaintiff shall use numbers and Defendants shall use letters. The parties shall electronically file their exhibit lists pursuant to the Court's Electronic Filing Procedures² **and** e-mail copies to me in Word or WordPerfect format at Mix_Chambers@cod.uscourts.gov **three business days before** the trial. Stipulations as to authenticity and admissibility shall be set forth on the exhibit lists.

2. Joint exhibits. Prior to the trial, the parties shall agree on joint exhibits to avoid duplication, and shall stipulate to the authenticity and admissibility of as many exhibits as possible. If there are joint exhibits, Plaintiff shall electronically file one copy of a joint exhibit

¹ The Civil Trial Procedures Order is amended only to clarify that trial shall be by jury.

² See the Court's Electronic Case Filing Procedures, Civil Version 4.0, which may be accessed on the Court's website, www.cod.uscourts.gov.

list **three business days before** the trial and e-mail a copy to me in Word or WordPerfect format at Mix_Chambers@cod.uscourts.gov.

3. Objections to exhibits. Each party shall electronically file objections to exhibits and e-mail copies to me in Word or WordPerfect format at Mix_Chambers@cod.uscourts.gov **three business days before** the trial. The objections shall state in a clear and concise fashion the evidentiary grounds for the objections and the legal authority supporting each objection.

4. Witness lists. Three business days before the trial, counsel shall provide opposing counsel and the court with their final witness lists, including an estimate of each witness' direct examination testimony time. Each witness designated as a "will call" witness shall be counsel's representation, upon which opposing counsel can rely, that the witness will be present and available for testimony at trial.

5. Video-taped deposition testimony. In the event that videotaped deposition testimony will be used at trial, counsel shall provide notice of each page and line intended to be used to opposing counsel **ten business days prior** to the trial. Any objections to the testimony must be marked on a copy of the deposition transcript and e-mailed to me at Mix_Chambers@cod.uscourts.gov **three business days before** the trial. Objections to videotaped testimony will be ruled on prior to trial to allow for editing of the tape to be presented to the jury.

6. Jury instructions and verdict forms. The parties shall electronically file proposed jury instructions and verdict forms and e-mail copies to me in Word or WordPerfect format at Mix_Chambers@cod.uscourts.gov no later than **five business days before the trial**. All proposed jury instructions and verdict forms shall include references to legal authority.

II. Prior to Trial

1. Special accommodations. **Thirty days before trial**, counsel shall notify my courtroom deputy of any need for special accommodations for any attorney, party or witness, any need for technological equipment, such as videoconferencing, or equipment needed for the presentation of evidence using CD-ROM or other electronic presentation of evidence.

2. Voir dire. Counsel will be permitted to conduct voir dire of potential jurors, if trial is to a jury, for no longer than twenty (20) minutes. Accordingly, counsel should be prepared to conduct voir dire at trial as they deem appropriate.

3. Findings of fact and conclusions of law. For **trials to the Court**, no later than **five business days prior to trial**, parties shall electronically file proposed findings of fact and conclusions of law and e-mail copies to me in Word or WordPerfect format at

[Mix Chambers@cod.uscourts.gov](mailto:Mix_Chambers@cod.uscourts.gov).

4. **Trial briefs.** Trial briefs, if any, are to be electronically filed and e-mailed to me in Word or WordPerfect format at [Mix Chambers@cod.uscourts.gov](mailto:Mix_Chambers@cod.uscourts.gov) no later than **five business days prior to trial**. Trial briefs are limited to no more than ten pages in length.

5. **Settlement.** Pursuant to D.C.COLO.LCivR 54.2, counsel must notify the court clerk and my Chambers of a settlement before twelve o'clock noon on the last court business day before the scheduled trial date. The assessment of jury costs may be imposed as a consequence of noncompliance with this instruction.

6. **Deposition testimony.** Counsel shall advise each other of proposed deposition testimony by page and line reference **at least five business days** before the trial so that opposing counsel can prepare objections and offer additional portions of the transcript. The proposing party must provide a person to read the deposition responses.

III. First Day of Trial

1. **Witness lists.** Three copies of each party's witness list shall be provided to the courtroom deputy and one copy to opposing counsel.

2. **Exhibit lists.** Three copies of each party's exhibit list shall be provided to the courtroom deputy and one copy to opposing counsel.

3. **Exhibit notebooks.** Each party shall prepare an exhibit notebook containing original exhibits, properly marked and tabbed, with pages of each exhibit numbered. These notebooks shall be provided to the courtroom deputy. Similar notebooks with exhibit copies shall be provided to the court and to opposing counsel. Exhibits with more than one page shall have each page numbered.

4. **Copies of exhibits for jurors.** Each party shall provide notebooks for juror exhibits. Those exhibits which have been stipulated to may be placed in the jurors' notebooks prior to trial. Additional exhibits may be published to the jury for placement in juror notebooks following the exhibit's admission into evidence at trial. Blank pages may be inserted into juror notebooks so that jurors may take notes of the proceedings.

5. **List of stipulated facts.** Plaintiff shall provide an original list of any stipulated facts to the court and two copies to the courtroom deputy.

IV. General Information

1. **Courtroom Deputy.** My courtroom deputy's name is Monique Wiles. She can be reached at (303) 335-2054. Any questions concerning exhibits or courtroom equipment may be directed to her. The proceedings will be digitally recorded. Any request for

transcripts should be directed to the courtroom deputy. Extraordinary requests, such as for daily copy, should be made at least 30 days in advance of the trial date.

2. Law Clerks. My law clerks can be reached at (303) 335-2770. Please do not call them about issues which are handled by the courtroom deputy, as indicated in this Order.

3. Witness salutations. At trial, all parties and witnesses shall be addressed as "Mr.", "Mrs.", "Ms.", "Dr.", etc. Informal references are not permitted except when children are testifying.

4. Timing of jury instructions. In jury trials, instructions will be given prior to closing arguments. Copies of written instructions will be given to the jury for its deliberations.

5. Trial dates. Trial is set for five days to a jury beginning at **9:00 a.m.** on **December 10, 2012** in Courtroom C-204, Second Floor, Byron G. Rogers U.S. Courthouse, 1929 Stout Street, Denver, Colorado.

Dated and entered at Denver, Colorado, this 2nd day of July, 2012.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kristen L. Mix". The signature is written in a cursive, flowing style.

Kristen L. Mix
United States Magistrate Judge