

**Colorado Supreme Court Advisory Committee on the Rules of Civil Procedure  
November 3, 2023, Minutes**

A quorum being present, the Colorado Supreme Court Advisory Committee on the Rules of Civil Procedure was called to order by Chair Judge Jerry N. Jones at 1:30 p.m. in the Supreme Court Conference Room. Members present at the meeting were:

| <b>Name</b>                       | <b>Present</b> | <b>Not Present</b> |
|-----------------------------------|----------------|--------------------|
| Judge Jerry N. Jones, Chair       | X              |                    |
| Judge Michael Berger              | X              |                    |
| Judge Karen Brody                 | X              |                    |
| Miko Ando Brown                   |                | X                  |
| Judge Catherine Cheroutes         | X              |                    |
| Damon Davis                       | X              |                    |
| David R. DeMuro                   | X              |                    |
| Judge Stephanie Dunn              | X              |                    |
| Judge J. Eric Elliff              | X              |                    |
| Judge Adam Espinosa               | X              |                    |
| Peter Goldstein                   |                | X                  |
| Magistrate Lisa Hamilton-Fieldman | X              |                    |
| Michael J. Hofmann                | X              |                    |
| Judge Thomas K. Kane              |                | X                  |
| John Lebsack                      | X              |                    |
| Bradley A. Levin                  | X              |                    |
| Professor Christopher B. Mueller  |                | X                  |
| Brent Owen                        | X              |                    |
| John Palmeri                      |                | X                  |
| Alana Percy                       | X              |                    |
| Lucas Ritchie                     | X              |                    |
| Chief Judge Gilbert M. Román      |                | X                  |
| Judge (Ret.) Sabino Romano        | X              |                    |
| Judge Stephanie Scoville          |                | X                  |
| Lee N. Sternal                    | X              |                    |
| Magistrate Marianne Tims          | X              |                    |
| Andi Truett                       | X              |                    |
| Jose L. Vasquez                   | X              |                    |
| Judge Juan G. Villaseñor          | X              |                    |
| Ben Vinci                         | X              |                    |
| Judge (Ret.) John R. Webb         | X              |                    |
| J. Gregory Whitehair              | X              |                    |
| Judge Christopher Zenisek         | X              |                    |
| <b>Non-voting Participants</b>    |                |                    |
| Justice Richard Gabriel, Liaison  | X              |                    |
| Su Cho                            | X              |                    |

## **I. Attachments & Handouts**

- November 3, 2023, agenda packet.

## **II. Announcements from the Chair**

The September 22, 2023, minutes were approved as submitted. Judge Jones then announced that the Committee had intended to honor Judge Kane at this meeting, but he was unable to attend. Therefore, honoring Judge Kane will be postponed until a time at which Judge Kane is available.

## **III. Present Business**

### **A. C.R.C.P. 10—Proposed Changes from the Pathways to Access Standing Committee (PAC)**

Judge Jones asked Justice Hart to speak to the Committee today because she is part of the Pathways to Access Standing Committee (PAC) proposing these changes. Justice Hart explained that the new plain language forms for domestic relations cases are inconsistent with current Rule 10. The PAC proposes several changes; the biggest change moving the name from below the caption to the top, for improved accessibility. While the PAC was discussing this Rule, two other issues came up. First, the PAC suggests that the spacing rules are not enforced and should be eliminated. Second, the PAC explored the use of pronouns in the Rule. Judge Jones stated that there is a group made up of all the chairs of the standing rules committees considering a uniform way of amending Colorado's rules to use gender neutral language. Judge Jones noted that this instance of placing preferred pronouns in captions might be slightly different, though, and he will raise this issue with the committee working on the gender neutral language project.

Regarding the spacing issue, members noted that it protects district court judges from very long, single-spaced motions. Members generally observed that there are differences among jurisdictions in practice, and that having the spacing guidelines remain in the rule might prove helpful. Judge Jones also noted that word count rules do not come without trouble.

A motion and second were taken to consider a proposal to allow for alternative captions in e and f; strike language in section i; strike comment [2]; and insert [Reserved] where Comment 2 currently exists. The proposal passed unanimously.

### **B. C.R.C.P. 26—Proposed Cross-Reference Correction**

This proposal comes from a member who noticed an inaccurate cross-reference in Rule 26. The proposal corrects this error. It passed unanimously.

### **C. C.R.C.P. 58—Proposal from Judge Leith Regarding Written Court Orders**

Judge Leith proposes a change to Rule 58 regarding what constitutes a written court order. Judges in the room agreed that adopting such a proposal would eliminate a tool

that they use to complete their work in a timely manner. Some noted that adopting such a proposal would be inconsistent with access to justice goals and would increase attorney fees. Some noted that this could be a more substantial problem in the domestic relations realm.

Based on the discussion, Judge Jones suggested forwarding this issue to the domestic relations group. The motion passed unanimously.

**D. Licensed Legal Paraprofessional Program—Proposed Civil Rule Changes**

Subcommittee members Judge Espinosa and Magistrate Tims propose two approaches to implement the Court-approved Licensed Legal Paraprofessionals (LLP) Program into the Civil Rules. The first is a summary approach that adds a provision to Rule 1 indicating that Rules 2 through 121 apply to LLPs. The second approach is to change each related rule. Members generally liked the summary approach for its straightforwardness. One member suggested adding the language to Rule 11, as perhaps that would be a more consistent place for bar members to find it, and that placing the language there would maintain the integrity of the rules.

A motion and second were taken to approve the summary version but place the amendment in Rule 11(c) as opposed to Rule 1(d) and correct a typographical error. This proposal narrowly passed by a vote of 11 to 10; those voting no would have placed the language in Rule 1(d).

**E. Gender Neutral Language in Civil Rules**

Subcommittee Chair Luke Ritchie summed up the memo by stating that there are two approaches: the federal approach and the Washington approach. The federal version is a plain language approach that uses *it* on occasion, which can be confusing and offensive. The state approach does not use *it*, but can end up creating a mouthful because it repeats language. The Subcommittee looked at Washington, Minnesota, California, and Illinois and found the former two to have rules most similar to Colorado. The Subcommittee did consider *they/their*, but found it might lead to confusion and create unnecessary controversy.

**F. Proposed Changes to C.R.C.C.P. 310 in Light of Legislative Changes**

Judge Espinosa reported that the Subcommittee is still gathering data to understand why this is being proposed. With further information, they will be able to make a recommendation to the committee.

**Future Meetings**

January 26, April 5, June 28, September 27, and November 1

The Committee adjourned at 3:38 p.m.