

**Colorado Supreme Court Advisory Committee on the Rules of Civil Procedure  
January 28, 2022, Minutes**

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

<b>Name</b>	<b>Present</b>	<b>Not Present</b>
Judge Jerry N. Jones, Chair	X	
Mandy Allen	X	
Judge Michael Berger	X	
Judge Karen Brody	X	
Miko Ando Brown	X	
Chief Judge (Ret.) Janice Davidson	X	
Damon Davis	X	
David R. DeMuro	X	
Judge Paul R. Dunkelman	X	
Judge Stephanie Dunn	X	
Judge J. Eric Elliff	X	
Judge Adam Espinosa	X	
Peter Goldstein		X
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	
Chief Judge Gilbert M. Román	X	
Judge (Ret.) Sabino Romano	X	
Genevieve Rotella		X
Judge Stephanie Scoville	X	
Lee N. Sternal	X	
Magistrate Marianne Tims	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	
Jeremy Botkins	X	

**I. Attachments & Handouts**

- January 28, 2022, agenda packet.

**II. Announcements from the Chair**

- The November 12, 2021, minutes were approved as submitted.
- Chair Judge Jones thanked Judge Berger for all his work as the former Chair of this Committee and announced new member Chief Judge Román from the Court of Appeals.

**III. Present Business**

**A. Committee Records Policy**

Chair Judge Jones said that the Supreme Court has directed its standing committees to come up with a records policy. Judge Jones requested additional volunteers for the Subcommittee.

**B. C.R.C. P. 6**

John Lebsack presented proposed language to the Committee to add the Juneteenth holiday to Rule 6. Mr. Lebsack shared that the Rules of Appellate Procedure Committee has already proposed this exact language in the corollary appellate rule to the Supreme Court. Justice Gabriel said that Juneteenth is a federal holiday, which is why it was also added as a state holiday. The Committee unanimously approved these proposed changes.

**C. FED Actions**

Judge Espinosa, Subcommittee Chair, shared that the group had been working hard to consider feedback regarding recent changes to certain rules and forms for eviction matters. The Subcommittee today brings proposed changes to C.R.C.P. 55 and 355 to include specific references to the new statutory language. The Subcommittee will perfect the proposals and will then submit these rules and a revised Summons for an email vote. The Committee also discussed the meaning of “close of business” in the age of e-filing. Justice Gabriel noted that the statutory language is “close of business.” One Subcommittee member noted that there are at least three semantical errors made by the legislature in drafting, and this group is trying to square the statutory language with the rule and form language—not an easy task. Chair Judge Jones thanked the Subcommittee for its work.

**D. The Professionals and Legal Services Group**

Judge Espinosa introduced Judge Arkin, who explained that in 2019, the Colorado Supreme Court created the Paraprofessionals and Legal Services Subcommittee (PALS) to study whether licensed paralegals specializing in domestic relations matters could provide limited legal services to family law litigants, and then asked PALS to develop a proposal for consideration by the Advisory Committee and the Colorado Supreme Court. The Subcommittee’s purpose is to substantially decrease the number of self-represented litigants in domestic relations cases to help increase access to justice. Many civil rules will need to be changed if the Supreme Court approves the next step of this process. Chair Judge Jones formed a subcommittee and asked people to volunteer via email.

**E. C.R.C.P. 15(a)**

John Lebsack, Subcommittee Chair, shared that the Subcommittee recommends not changing the rule after the Committee rejected earlier proposals. Judge Jones tabled this issue indefinitely. The Subcommittee also noted that several civil rules contain gendered pronouns. Judge Jones formed a subcommittee to consider how the rules can be updated to remove gender-specific pronouns. Members should email Judge Jones to join.

**F. C.R.C.P. 5(g) and 305(g)**

Subcommittee Chair David DeMuro reminded the Committee that these two proposals were approved by the Committee in 2020. Other issues arose to delay submitting them to the Court, such as the Court adopting Crim. P. 51.1 and another Subcommittee looking at the issue of public access in civil cases. Further, in November 2021, the Court adopted changes to CJD 05-01 that may impact 5(g) and 305(g). Additionally, Court Clerks have expressed concerns about how the adoption of the proposed changes might impact their work. Mandy Allen noted that the federal filing system is sufficiently different from the state system to make this rule proposal very difficult to implement. For example, the federal rules have three security levels, but the state has five. Chair Judge Jones said that he chairs the Public Access Committee and, on that group, many of the clerks said they would like to shift the burden of redaction from clerks to parties. Mr. DeMuro said that these proposals might have created some unintended consequences, and a simple rule change is a bit more complicated than once thought. Judge Jones will reach out to some clerks who are on the Public Access Committee to see if they will join this Subcommittee. Justice Gabriel noted that there is already a criminal rule in this arena, so having a similar rule might be worth considering. Judge Jones also noted that there is a Subcommittee considering a rule like Crim. P. 55.1 already formed, and he is the chair of that group. Judge Jones will follow this Subcommittee's work to make sure the two groups are working together.

**G. C.R.C.P. 16.2**

Judge Brody said that the rule originally sent to the Committee needs a lot of thought and noted that the details will be very important. The purpose of these proposed rule changes is to simplify divorce proceedings for those with low assets and few complications. The Subcommittee is meeting soon and looks forward to bringing a proposal to the full Committee soon.

**H. C.R.C.P. 30(b)(7)**

Lee Sternal noted that the question is, if you can be under oath or under affirmation, can you do it virtually at that time as well, and if you can, should that be put into Rule 7? Chair Judge Jones said that this might not require a rule change because it does not seem necessary. Chair Judge Jones tabled this issue indefinitely.

**I. Crim. P. 55.1**

Passed over.

**J. C.R.C.P. 4(m)**

Passed over.

At the request of a member, Magistrate Tims offered a brief update on the Magistrate Rules project. The Subcommittee is working and should have a draft for the next meeting.

**Future Meetings**

April 8, 2022; June 24, 2022; September 23, 2022; and November 4, 2022

The Committee adjourned at 3:34 p.m.