

**Colorado Supreme Court Advisory Committee on the Rules of Civil Procedure
June 24, 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. in the Supreme Court Conference Room. Members present at the meeting were:

Name	Present	Not Present
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
Non-voting Participants		
Justice Richard Gabriel, Liaison	X	
Jeremy Botkins		X

I. Attachments & Handouts

- June 24, 2022, agenda packet.

II. Announcements from the Chair

- Chair Judge Jones recognized three new members: Judge Cathy Cheroutes, Andi Truett, and Alana Percy.
- The April 8, 2022, minutes were approved as submitted.

III. Present Business

A. C.R.C.P. 42.1

Judge Jones explained that this proposed change comes from the clerk's office and is intended to conform the rule to current practice. A motion was made, seconded, and passed unanimously.

B. C.R.C.P. 23

Judge Jones said that this proposal comes from the Colorado Rules of Appellate Procedure Committee. That Committee is proposing a rule change to C.A.R. 3.3 and recommends a similar change to C.R.C.P. 23, since the rules mirror each other. The appellate rule has not yet been sent to the court for consideration. A motion and second were taken to approve the proposed change to C.R.C.P. 23. It passed unanimously.

C. Colorado Rules for Magistrates

Magistrate Tims explained that the Subcommittee has met several times this year and that the proposal before the committee currently includes more specifics about what a magistrate has the authority to do. There are still issues about what should be on the list related to consent. Magistrate Tims noted that during the last legislative session, dozens more magistrates were added because magistrates cost less than do district court judges, and that judicial districts use magistrates in different ways.

Following the Committee's discussion, Judge Jones noted that members seemed to have some basic disagreements: Is the clarity gained by requiring everything to go through a district court before appeal to the Court of Appeals worth the potential increase in the district courts' workload? A few members noted that anything that makes everything go through the district court will disrupt the magistrate system to some degree (the possible "ping-pong" effect). One member suggested a middle ground whereby a limited class of things must go through the district court. Magistrate Tims noted the Subcommittee hasn't determined how to define a list of issues that must be appealed first through the district courts.

A motion and second were made to limit the class of orders yet to be defined that **must** be appealed through the district court; everything else **may** be appealed through the district court if desired, and those issues may still be appealed to the Court of Appeals.

This motion passed 17-5. The Subcommittee will take this back and come up with language. Judge Jones and Judge Berger offered to assist should the Subcommittee desire it.

Judge Jones then directed the committee to vote on the proposals offered by the Subcommittee:

1) Motion to reconsider – should magistrates have the authority to reconsider? The Subcommittee will rework the exact timeline given other changes made today. This motion passed 20-0.

2) Everything else – save for other issues, should the series of 15-20 proposed changes be adopted, subject to the Subcommittee needing to tweak something? This motion passed 20-0.

3) Standard of review – clarifies that factual findings are subject to the clearly erroneous test, but it also takes away the discretion of district courts to hear matters anew. A motion was taken and seconded to leave the last sentences of C.R.M. 7(i) in place. By a vote of 18-2, it passed.

D. C.R.C.P. 16.2

Judge Brody updated the Committee on the process of crafting a simplified Rule 16.2, which is a domestic relations civil procedure rule that governs the life cycle of domestic cases. The rule addresses case management, permitted motions, disclosures and discovery, trial prep, sanctions, etc. The Subcommittee has been working on difficult questions, such as should the rule be for the majority of people doing dissolutions themselves? Pro se litigants often have difficulty navigating this area and the current rule isn't being uniformly applied.

Judge Brody said that the idea to update this rule arose 4-5 years ago and was brought to a standing committee on family justice. From there, a subcommittee formed and worked on a proposal and sent it to this Committee for consideration. Judge Brody's Subcommittee does have some issues with the original proposal. For example, it would be possible to come into court with no exchange of financial information between a divorcing couple. This Subcommittee is looking at some minimum of financial disclosure but perhaps limited to the sworn financial statement. In developing the rule and forms, complicating issues exist: People seem to lie a lot in domestic cases; power imbalances often exist; and many cases also involve domestic violence concerns. The Subcommittee is also considering a two-tiered system for short- and long-term marriages. The Subcommittee hopes to bring a proposal to the Committee in September.

E. Proposed Amendments for FED Actions

Held over.

F. C.R.C.C.P. Forms 4 and 5

Held over.

G. C.R.C.C.P. Forms 29 and 30

Held over.

H. The Professionals and Legal Services Group

Held over.

Future Meetings

September 23, 2022; and November 4, 2022

The Committee adjourned at 4:02 p.m.