

Here are our subcommittee updates for Rule 15 and Rule 55.

Rule 15: We would propose the following language for 15(d): All depositions shall be videotaped at the expense of the requesting party. A copy shall be provided to the opposing party.

Rule 55: We are not at the point where we can propose written changes to the rule. Changes to all of the sections except section e should be fairly easy. The civil rules committee and the clerks are working on this. Most likely, the proposed changes will refer to standards set forth in manuals for records retention and procedures that have been approved by the Supreme Court.

Understanding that the Civil Rules committee may amend Rule 80 to require that the party requesting the court reporter be responsible for payment and that our rule refers specifically to theirs, we will need to amend ours. We would like the entire committee to think about and discuss the following issues:

1. The issue of the Court being required to have a reporter present is currently being litigated in a felony case in the 12th Judicial District. Can we make a rule change when there is pending litigation on the issue that may end up in the appellate court?
2. CJD 5-03 (amended March 2017) addresses the “preferred method of making an accurate record” being with the assistance of a realtime court reporter. The CJD states “all proceedings conducted before a district judge may be reported by a court reporter using a stenotype machine on a realtime basis.” The CJD also allows for electronic recording and allows the Chief Judge to determine which methods of recording are to be used based on current economic issues, availability of reporters and other relevant factors. Do we need to consider this CJD when writing subsection e and does the rule change we decide upon need to be consistent with the CJD?
3. There are two statutes that we need to look at and the rule change may require legislative changes. C.R.S. § 13-5-127 addresses court reporters and C.R.S. § 13-1-101 addresses clerk issues.
4. What happens if we debate this too long and the civil committee changes their rule quickly. One subcommittee member suggested that we use the first line of the current civil rule which states: **Unless the parties stipulate to the contrary, a district court shall direct that evidence be taken stenographically and appoint a reporter for that purpose.** If we did this, would this apply to all case types and would it apply to all proceedings in the case?

I think I sent you a copy of Claire Walker’s e-mail with the proposed changes on the ‘keeping a record’ issue. If not, I can forward that to you.

Susan

Rule 55. Records.

(a) Register of actions ~~(criminal docket)~~. The clerk shall keep a record known as the register of actions and shall enter ~~therein~~ those items set forth below. The register of actions may be in any of the following forms or styles:

(1) ~~A page, sheet, or printed form in a book, case jacket, or separate file, or the cover of the case jacket for county court cases.~~ Repeal.

(2) ~~A microfilm roll, film jacket, or microfiche card.~~ Repeal.

(3) ~~Computer magnetic tape or magnetic disc storage, where the register of actions items appear on the terminal screen, or on a paper print-out of the screen display.~~ Repeal.

(4) Any ~~other~~ form or style prescribed by approved by the State Court Administrator, or supreme court directive or order.

A register of actions shall be prepared for each case or matter filed. The file number of each case or matter shall be ~~not entered in the court case management system on every page, jacket cover, film, or computer record whereon the first and all subsequent entries of actions are made.~~ All papers documents filed with the clerk, ~~all process issued and returns made thereon~~ electronic data transfers submitted or received, all costs, appearances, orders, verdicts, and judgments shall be ~~not entered~~ chronologically in the register of actions. These ~~notations~~ entries shall be brief but shall show the date and complete title nature of of each ~~paper document~~ document filed, order issued, or writ issued and data transfer submitted or received. ~~the substance of each order or judgment of the court and of the returns showing execution of process. The notation of an order or judgment shall show the date the notation is made. The notation of the judgment in the register of actions shall constitute the entry of judgment. When trial by jury has been demanded or ordered, the clerk shall enter the word jury on the page, jacket cover, film, or computer record assigned to that action.~~

(b) Criminal Record. Repealed effective September 4, 1974.

(c) Indices; Calendars. The clerk shall keep ~~suitable~~ indices of all records, ~~as directed by the court. The clerk shall also keep as directed by the court, calendars of all hearings and all cases ready for trial, which shall distinguish trials to a jury from trials to the court.~~ Indices ~~and calendars~~ may be in any of the following forms or styles:

(1) ~~A page or sheet in a book or separate file.~~ Repeal.

(2) ~~A mechanical or hand-operated index machine or card file.~~ Repeal.

(3) ~~Computer magnetic tape or magnetic storage, where the information appears on the terminal screen, or on a print-out of the screen display.~~ Repeal.

(4) ~~Microfilm copies of (1), (2), and (3) above.~~ Repeal.

(5) Any ~~other~~ form or style prescribed by approved by the State Court Administrator, or supreme court directive or order.

~~(d) **Files.** All papers filed in a case shall be filed in a separate file folder except that "Summons and Complaint" documents may be filed otherwise but only as may be authorized by the Supreme Court.~~Repeal.

(e) Reporter's Notes; Custody, Use, Ownership, Retention. The practice and procedure concerning reporter's notes and electronic or mechanical recordings shall be as prescribed in Rule 80, C.R.C.P., for district courts and Rule 380, C.R.C.P., for county courts.

(f) Retention and Disposition of Records. The clerk shall retain and dispose of all court records, ~~including those created under Rule 55(b) prior to its repeal,~~ in accordance with ~~instructions provided in~~ the manual entitled, Colorado judicial department, ~~r~~Records Retention Manual.~~management.~~

Rule 55. Records.

(a) Register of actions. The clerk shall keep a record known as the register of actions and shall enter those items set forth below. The register of actions may be in any of the following forms or styles:

(1) Repeal.

(2) Repeal.

(3) Repeal.

(4) Any form or style approved by the State Court Administrator, or supreme court directive or order.

A register of actions shall be prepared for each case or matter filed. The file number of each case or matter shall be entered in the court case management system. All documents filed with the clerk, electronic data transfers submitted or received, all costs, appearances, orders, verdicts, and judgments shall be entered chronologically in the register of actions. The entries shall be brief but shall show the date and complete title of each document filed, order issued, and data transfer submitted or received.

(b) Criminal Record. Repealed effective September 4, 1974.

(c) Indices. The clerk shall keep indices of all records. Indices may be in any of the following forms or styles:

(1) Repeal.

(2) Repeal.

(3) Repeal.

(4) Repeal.

(5) Any form or style approved by the State Court Administrator, or supreme court directive or order.

(d) Repeal.

(e) Reporter's Notes; Custody, Use, Ownership, Retention. The practice and procedure concerning reporter's notes and electronic or mechanical recordings shall be as prescribed in [Rule 80, C.R.C.P.](#), for district courts and [Rule 380, C.R.C.P.](#), for county courts.

(f) Retention and Disposition of Records. The clerk shall retain and dispose of all court records in accordance with the manual entitled, Colorado Judicial Department Records Retention Manual.