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PROPOSED TIME CALCULATION CHANGES:
(EFFECTIVE JANUARY 1, 2012)

COLORADO RULES OF CIVIL PROCEDURE (RULES 1-122)

Rule 3. Commencement of Action.

(a) How Commenced. A civil action is commenced (1) by filing a complaint with the court, or (2) by service of a summons and complaint. If the action is commenced by the service of a summons and complaint, the complaint must be filed within ~~ten~~ 14 days after service. If the complaint is not filed within ~~ten~~ 14 days, the service of summons shall be deemed to be ineffective and void without notice. In such case the court may, in its discretion, tax a reasonable sum in favor of the defendant to compensate the defendant for expense and inconvenience, including attorney's fees, to be paid by the plaintiff or his attorney. The ~~ten~~ 14 day filing requirement may be expressly waived by a defendant and shall be deemed waived upon the filing of a responsive pleading or motion to the complaint without reserving the issue.

(b) Time of Jurisdiction. The court shall have jurisdiction from (1) the filing of the complaint, or (2) the service of the summons and complaint; provided, however, if more than ~~ten~~ 14 days elapses after service upon any defendant before the filing of the complaint, jurisdiction as to that defendant shall not attach by virtue of the service.

Rule 4. Process.

(e) Personal Service

(10) (C) For all purposes the date of service upon the officer, agent, employee, department, or agency shall control, except that failure to serve copies upon the attorney general within ~~three~~ 7 days of service upon the officer, agent, employee, department, or agency shall extend the time within which the officer, agent, employee, department, or agency must file a responsive pleading for ~~sixty~~ 63 days beyond the time otherwise provided by these rules.

(g) Other Service.

(2) Order publication of the process in a newspaper published in the county in which the action is pending. Such publication shall be made once each week for five successive weeks. Within ~~fifteen~~ 14 days after the order the party shall mail a copy of the process to each person whose address or last known address has been stated in the motion and file proof thereof. Service shall be complete on the day of the last publication. If no newspaper is published in the county, the court shall designate one in some adjoining county.

Rule 6 Time

(a) Computation. (1) In computing any period of time prescribed or allowed by these rules, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Thereafter, every day shall be counted, including holidays, Saturdays or Sundays. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a

Key: proposed insertion; ~~proposed deletion~~; ~~time period proposed to be unchanged~~.

legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. ~~The term "calendar days" shall mean consecutive days including holidays, Saturdays or Sundays. The "next day" is determined by continuing to count forward when the period is measured after an event and backward when measured before an event. Unless otherwise specifically ordered, when the period of time prescribed or allowed is less than eleven days and not specified as "calendar days", intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.~~

(2) As used in this Rule, "Legal holiday" includes the first day of January, observed as New Year's Day; the third Monday in January, observed as Martin Luther King Day; the third Monday in February, observed as Washington-Lincoln Day; the last Monday in May, observed as Memorial Day; the fourth day of July, observed as Independence Day; the first Monday in September, observed as Labor Day; the second Monday in October, observed as Columbus Day; the 11th day of November, observed as Veteran's Day; the fourth Thursday in November, observed as Thanksgiving Day; the twenty-fifth day of December, observed as Christmas Day, and any other day except Saturday or Sunday when the court is closed.

(c) **Unaffected by Expiration of Term. Repealed.** ~~The period of time provided for the doing of any act or the taking of any proceeding is not affected or limited by the continued existence or expiration of a term of court. The continued existence or expiration of a term of court in no way affects the power of a court to do any act or take any proceeding in any civil action which has been pending before it.~~

(d) **For Motions -- Affidavits. Repealed.** ~~A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not later than five days before the time specified for the hearing unless a different period is fixed by these rules or by order of the court. Such an order may for cause shown be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be filed and served within the time allowed for the moving party's brief; and, except as otherwise provided in Rule 59(d), opposing affidavits may be filed and served within the time allowed for filing and serving a responsive brief, unless the court orders some lesser or greater time.~~

(e) **Additional Time After Service Under C.R.C.P. 5(b)(2)(B), (C), or (D). Repealed.** ~~Unless otherwise specifically ordered, whenever a party must or may act within a prescribed period after service is made under C.R.C.P. 5(b)(2)(B), (C), or (D), three calendar days shall be added after the prescribed period would expire under the rule that defines the length of the prescribed period.~~

COMMITTEE COMMENT to Rule 6(e). Delete in full.

Rule 12 Defenses and Objections – When and How Presented – By Pleading or Motion – Motion for Judgment on Pleadings.

(a) **When Presented.** A defendant shall file his answer or other response within ~~twenty~~²¹ days after the service of the summons and complaint on him. If, pursuant to special order, a copy of the complaint is not served with the summons, or if the summons is served without the state, or by publication, a defendant shall file his answer or other response within ~~thirty~~³⁵ days after the service thereof on him. A party served with a pleading stating a cross claim against him shall file an answer or other response thereto within ~~twenty~~²¹ days after the service upon him. The

plaintiff shall file his reply to a counterclaim in the answer within ~~twenty~~21 days after the service of the answer. If reply is made to any affirmative defense such reply shall be filed within ~~twenty~~21 days after service of the pleading containing such affirmative defense. If a pleading is ordered by the court, it shall be filed within ~~twenty~~21 days after the entry of the order, unless the order otherwise directs. The filing of a motion permitted under this Rule alters these periods of time, as follows: (1) If the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleadings shall be filed within ~~ten~~14 days after notice of the court's action; (2) if the court grants a motion for a more definite statement, or for a statement in separate counts or defenses, the responsive pleadings shall be filed within ~~ten~~14 days after the service of the more definite statement or amended pleading.

(e) Motion for Separate Statement, or for More Definite Statement. Before responding to a pleading or, if no responsive pleading is permitted by these rules, within ~~twenty~~21 days after the service of the pleading upon him, a party may file a motion for a statement in separate counts or defenses, or for a more definite statement of any matter which is not averred with sufficient definiteness or particularity to enable him properly to prepare his responsive pleading. If the motion is granted and the order of the court is not obeyed within ~~ten~~14 days after notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just.

(f) Motion to Strike. Upon motion filed by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion filed by a party within ~~twenty~~21 days after the service of any pleading, motion, or other paper, or upon the court's own initiative at any time, the court may order any redundant, immaterial, impertinent, or scandalous matter stricken from any pleading, motion, or other paper. The objection that a responsive pleading or separate defense therein fails to state a legal defense may be raised by motion filed under this section (f).

Rule 14. Third-Party Practice

(a) When Defendant May Bring in Third Party. At any time after commencement of the action a defending party, as a third-party plaintiff, may cause a summons and complaint to be served upon a person not a party to the action who is or may be liable to him for all or part of the plaintiff's claim against him. The third-party plaintiff need not obtain leave to make the service if he files the third-party complaint not later than ~~ten~~14 days after he serves his original answer. Otherwise he must obtain leave on motion upon notice to all parties to the action. The person served with the summons and third-party complaint, hereinafter called the third-party defendant, shall make his defenses to the third party plaintiff's claim as provided in Rule 12 and his counterclaim against the third-party plaintiff and cross claims against other third-party defendants as provided in Rule 13. The third-party defendant may assert against the plaintiff any defenses which the third-party plaintiff has to the plaintiff's claim. The third-party defendant may also assert any claim against the plaintiff arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff. The plaintiff may assert any claim against the third-party defendant arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff, and the third-party defendant thereupon shall assert his defenses as provided in Rule 12 and his counterclaim and cross claims as provided in Rule 13. Any party may move to strike the third-party claim, or for

its severance or separate trial. A third-party defendant may proceed under this Rule against any person not a party to the action who is or may be liable to him for all or part of the claim made in the action against the third-party defendant.

Rule 15. Amended and Supplemental Pleadings

(a) Amendments. A party may amend his pleading once as a matter of course at any time before a responsive pleading is filed or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, he may so amend it any time within ~~twenty~~21 days after it is filed. Otherwise, a party may amend his pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within ~~ten~~14 days after service of the amended pleading, whichever period may be the longer, unless the court otherwise orders.

Rule 16. Case Management and Trial Management

(b) Presumptive Case Management Order.

(3) Meet and Confer. No later than ~~15~~14 days after the case is at issue, lead counsel for each party and any party who is not represented by counsel shall confer with each other about the nature and basis of the claims and defenses; the matters to be disclosed pursuant to C.R.C.P. 26(a)(1); and whether a Modified Case Management Order is necessary pursuant to subsection (c) of this Rule.

(4) Trial Setting. No later than ~~30~~42 days after the case is at issue, the responsible attorney shall set the case for trial pursuant to C.R.C.P. 121 §1-6, unless otherwise ordered by the Court.

(5) Disclosures. No later than ~~30~~35 days after the case is at issue, the parties shall serve their C.R.C.P. 26(a)(1) disclosures. The parties shall disclose expert testimony in accordance with C.R.C.P. 26(a)(2).

(7) Certificate of Compliance. No later than ~~45~~49 days after the case is at issue, the responsible attorney shall file a Certificate of Compliance. The Certificate of Compliance shall state that the parties have complied with all requirements of subsections (b)(3)-(6), inclusive, of this Rule or, if they have not complied with each requirement, shall identify the requirements which have not been fulfilled and set forth any reasons for the failure to comply.

(8) Time to Join Additional Parties and Amend Pleadings. No later than ~~120~~119 days (17 weeks) after the case is at issue, all motions to amend pleadings and add additional parties to the case shall be filed.

(9) Pretrial Motions. No later than 35 days before the trial date, pretrial motions shall be filed, except for motions pursuant to C.R.C.P. 56, which must be filed no later than ~~85~~91 days (13 weeks) before the trial; and except for motions challenging expert testimony pursuant to C.R.E. 702, which must be filed no later than 63 days (9 weeks) before the trial.

(10) Discovery Schedule. Discovery shall be limited to that allowed by C.R.C.P. 26(b) (2). Except as provided in C.R.C.P. 26(d), discovery may commence ~~45~~42 days after the case is at issue. The date for completion of all discovery shall be ~~50~~49 days before the trial date.

(c) Modified Case Management Order. Any of the provisions of section (b) of this Rule may be modified by the entry of a Modified Case Management Order pursuant to this section and section (d) of this Rule. If a trial is set to commence less than ~~180~~ 182 days (26 weeks) after the at-issue date as defined in C.R.C.P. 16(b)(1), and if a timely request for a modified case management order is made by any party, the case management order shall be modified to allow the parties an appropriate amount of time to meet case management deadlines, including discovery, expert disclosures, and the filing of summary judgment motions. The amounts of time allowed shall be within the discretion of the court on a case-by-case basis.

(1) Stipulated Modified Case Management Order. No later than ~~45~~ 42 days after the case is at issue, the parties may file a Stipulated proposed Modified Case Management Order, supported by a specific showing of good cause for each modification sought including, where applicable, the grounds for good cause pursuant to C.R.C.P. 26(b)(2). Such proposed order only needs to set forth the proposed provisions which would be changed from the presumptive Case Management Order set forth in section (b) of this Rule. The Court may approve and enter the Stipulated Modified Case Management Order, or may set a case management conference.

(2) Disputed Motions for Modified Case Management Orders. If any party wishes to move for a Modified Case Management Order, lead counsel and any unrepresented parties shall confer and cooperate in the development of a proposed Modified Case Management Order. A motion for a Modified Case Management Order and one form of the proposed Order shall be filed no later than ~~45~~ 42 days after the case is at issue. To the extent possible, counsel and any unrepresented parties shall agree to the contents of the proposed Modified Case Management Order but any matter upon which all parties cannot agree shall be designated as "disputed" in the proposed Modified Case Management Order. The proposed Order shall contain specific alternate provisions upon which agreement could not be reached and shall be supported by specific showing of good cause for each modification sought including, where applicable, the grounds for good cause pursuant to C.R.C.P. 26(b)(2). Such motion only needs to set forth the proposed provisions which would be changed from the presumptive case management Order set forth in section (b) of this Rule. The motion for a modified case management order shall be signed by lead counsel and any unrepresented parties, or shall contain a statement as to why it is not so signed.

(e) Amendment of the Case Management Order. At any time following the entry of the Case Management Order, ~~later than 45 days after the case is at issue~~, a party wishing to amend the presumptive Case Management Order or a Modified Case Management Order shall file a motion stating each proposed amendment and a specific showing of good cause for the timing and necessity for each modification sought including, where applicable, the grounds for good cause pursuant to C.R.C.P. 26(b)(2).

(f) Trial Management Order. No later than ~~30~~ 28 days before the trial date, the responsible attorney shall file a proposed Trial Management order with the court. Prior to trial, a Trial Management Order shall be entered by the Court.

(2) All Parties Represented by Counsel.

(B) Not later than ~~40~~ 42 days before the trial date, each counsel shall exchange a draft of the lists of witnesses and exhibits required in subsections (f)(3)(VI)(A) and (B) of this Rule together with a copy of each documentary exhibit to be listed pursuant to subsection (f)(3)(VI)(B) of this Rule.

III. PRETRIAL MOTIONS.

IV. TRIAL BRIEFS. The parties shall indicate whether trial briefs will be filed, including a schedule for their filing. Trial briefs shall be filed no later than ~~40~~ 14 days before the trial date.

VI. IDENTIFICATION OF WITNESSES AND EXHIBITS--JUROR NOTEBOOKS. Each party shall provide the following information:

(D) Deposition and other preserved testimony. If the preserved testimony of any witness is to be presented the proponent of the testimony shall provide the other parties with its designations of such testimony at least ~~25~~ 28 days before the trial date. Any other party may provide all other parties with its designations and shall do so at least ~~40~~ 14 days before the trial date. The proponent may provide reply designations and shall do so at least ~~57~~ days before the trial date. A copy of the preserved testimony to be presented at trial shall be submitted to the court and include the proponent's and opponent's anticipated designations of the pertinent portions of such testimony or a statement why designation is not feasible at least ~~three~~ 3 days before the trial date. If any party wishes to object to the admissibility of the testimony or to any tendered question or answer therein, it shall be noted, setting forth the grounds therefor.

(g) Jury Instructions and Verdict Forms. Counsel for the parties shall confer to develop jointly proposed jury instructions and verdict forms to which the parties agree. No later than 37 days prior to the date scheduled for commencement of the trial or such other time as the court shall direct, a set of the proposed jury instructions and verdict forms shall be filed with the courtroom clerk. The first party represented by counsel to demand a jury trial pursuant to C.R.C.P. 38 and who has not withdrawn such demand shall be responsible for filing the proposed jury instructions and verdict forms. If any jury instruction or verdict form is disputed, the party propounding the instruction or verdict form shall separately file with the courtroom clerk a set of the disputed jury instructions and verdict forms. Each instruction or verdict form shall have attached a brief statement of the legal authority on which the proposed instruction or verdict form is based. Compliance with this Rule shall not deprive parties of the right to tender additional instructions or verdict forms or withdraw proposed instructions or verdict forms at trial. All jury instructions and verdict forms submitted by the parties shall be in final form and reasonably complete. The court shall permit the use of photocopied instructions and verdict forms, without citations, in its submission to the jury.

Rule 16.1. Simplified Procedure for Civil Actions

(e) Election for Inclusion Under This Rule. In actions excluded by subsection (b)(2) of this Rule, within ~~45~~ 49 days after the case is at issue, as defined in C.R.C.P. 16(b)(1), the parties may file a stipulation to be governed by this Rule. In such event, they will not be bound by the \$100,000 limitation on judgments contained in section (c) of this Rule.

(g) Trial Setting. No later than ~~40~~ 42 days after the case is at issue, the responsible attorney shall set the case for trial pursuant to C.R.C.P. 121, section 1-6, unless otherwise ordered by the court.

(h) Certificate of Compliance. No later than ~~45~~ 49 days after the case is at issue, the responsible attorney shall also file a Certificate of Compliance stating that the parties have complied with all the requirements of sections (f) and (g) of this Rule or, if they have not complied with each

requirement, shall identify the requirements which have not been fulfilled and set forth any reasons for the failure to comply.

(k) Simplified Procedure.

(1) Required Disclosures.

(A) Disclosures in All Cases. Each party shall make disclosures pursuant to C.R.C.P. 26(a)(1), 26(a)(4), 26(b)(5), 26(c), 26(e) and 26(g), no later than ~~30~~35 days after the case is at issue as defined in C.R.C.P. 16(b)(1). In addition to the requirements of C.R.C.P. 26(g), the disclosing party shall sign all disclosures under oath.

(iii) Requested Disclosures. Before or after the initial disclosures, any party may make a written designation of specific information and documentation that party believes should be disclosed pursuant to C.R.C.P. 26(a)(1). The other party shall provide a response and any agreed upon disclosures within ~~20~~21 days of the request or at the time of initial disclosures, whichever is later. If any party believes the responses or disclosures are inadequate, it may seek relief pursuant to C.R.C.P. 37.

(2) Disclosure of Expert Witnesses. The provisions of C.R.C.P. 26(a)(2)(A) and (B), 26(a)(4), 26(a)(6), 26(c), 26(e) and 26(g) shall apply to disclosure for expert witnesses. Written disclosures of experts shall be served by parties asserting claims ~~90~~ 91 days (13 weeks) before trial; by parties defending against claims ~~60~~ 56 days (8 weeks) before trial; and parties asserting claims shall serve written disclosures for any rebuttal experts 35 days before trial.

(3) Disclosure of Non-expert Trial Testimony. Each party shall serve written disclosure statements identifying the name, address, telephone number, and a detailed statement of the expected testimony for each witness the party intends to call at trial whose deposition has not been taken, and for whom expert reports pursuant to subparagraph (k)(2) of this Rule have not been provided. For adverse party or hostile witnesses, written disclosure of the expected subject matters of the witness's testimony, rather than a detailed statement of the expected testimony, shall be sufficient. Written disclosure shall be served by parties asserting claims ~~90~~ 91 days (13 weeks) before trial; by parties defending against claims ~~60~~ 56 days (8 weeks) before trial; and parties asserting claims shall serve written disclosures for any rebuttal witnesses 35 days before trial.

(4) Depositions of Witnesses in Lieu of Trial Testimony. A party who intends to offer the testimony of an expert or other witness may, pursuant to C.R.C.P. 30(b)(1)-(4), take the deposition of that witness for the purpose of preserving the witness' testimony for use at trial. Such a deposition shall be taken at least ~~5~~ 7 days before trial. In that event, any party may offer admissible portions of the witness' deposition, including any cross-examination during the deposition, without a showing of the witness' unavailability. Any witness who has been so deposed may not be offered as a witness to present live testimony at trial by the party taking the deposition.

(6) Trial Exhibits. All exhibits to be used at trial which are in the possession, custody or control of the parties shall be identified and exchanged by the parties at least ~~30~~ 35 days before trial. Authenticity of all identified and exchanged exhibits shall be deemed admitted unless objected to in writing within ~~40~~ 14 days after receipt of the exhibits. Documents in the possession, custody and control of third persons that have not been obtained by the identifying party pursuant to document deposition or otherwise, to the extent possible shall be identified ~~30~~ 35 days before

trial and objections to the authenticity of those documents may be made at any time prior to their admission into evidence.

Rule 16.2. Court Facilitated Management of Domestic Relations Cases and General Provisions Governing Duty of Disclosure

(c) Scheduling and Case Management for New Filings.

(1) Initial status conferences/Stipulated Case Management Plans.

(E) The initial status conference shall take place, or the Stipulated Case Management Plan shall be filed with the court, as soon as practicable but no later than ~~40~~42 days from the filing of the petition.

(d) Scheduling and Case Management for post-decree/modification matters. Within ~~45~~ 49 days of the date a post decree motion or motion to modify is filed, the court shall review the matter and determine whether the case will be scheduled and resolved under the provisions of (c) or will be handled on the pleadings or otherwise.

(e) Disclosure.

(2) A party shall, without a formal discovery request, provide the Mandatory Disclosures, as set forth in the form and content of Appendix to Chapters 1 to 17A, Form 35.1, C.R.C.P., and shall provide a completed Sworn Financial Statement and (if applicable) Supporting Schedules as set forth in the form and content of Appendix to Chapters 1 to 17A, Form 35.2 and Form 35.3, C.R.C.P, to the other party within ~~40~~42 days after service of a petition or a post decree motion involving financial issues. The parties shall exchange the required Mandatory Disclosures, the Sworn Financial Statement and (if applicable) Supporting Schedules by the time of the initial status conference to the extent reasonably possible.

(3) A party shall, without a formal discovery request, also provide a list of expert and lay witnesses whom the party intends to call at a contested hearing or final orders. This disclosure shall include the address, phone number and a brief description of the testimony of each witness. This disclosure shall be made no later than ~~60~~63 days (9 weeks) prior to the date of the contested hearing or final orders, unless the time for such disclosure is modified by the court.

(f) Discovery.

(5) All discovery shall be initiated so as to be completed not later than ~~30~~28 days before hearing, except that the court shall extend the time upon good cause shown or to prevent manifest injustice.

(g) Use of Experts. I

(5) Unless otherwise ordered by the court, expert reports shall be provided to the parties ~~60~~56 days (8 weeks) prior to hearing. Rebuttal reports shall be provided ~~20~~21 days thereafter.

(h) Trial Management Certificates.

(1) If both parties are not represented by counsel, then each party shall file with the court a brief statement identifying the disputed issues and that party's witnesses and exhibits including updated Sworn Financial Statements and (if applicable) Supporting Schedules, together with

copies thereof, mailed to the opposing party at least ~~40~~7 days prior to the hearing date or at such other time as ordered by the court.

(2) If at least one party is represented by counsel, the parties shall file a joint Trial Management Certificate ~~40~~7 days prior to the hearing date or at such other time as ordered by the court. Petitioner's counsel (or respondent's counsel if petitioner is pro se) shall be responsible for scheduling meetings among counsel and parties and preparing and filing the Trial Management Certificate. The joint Trial Management Certificate shall set forth stipulations and undisputed facts, any requests for attorney fees, disputed issues and specific points of law, lists of lay witnesses and expert witnesses the parties intend to call at hearing, and a list of exhibits, including updated Sworn Financial Statement, Supporting Schedules (if applicable) and proposed child support work sheets. The parties shall exchange copies of exhibits at least ~~40~~7 days prior to hearing.

Rule 25. Substitution of Parties.

(a) Death.

(1) If a party dies and the claim is not thereby extinguished, the court may order substitution of the proper parties. The motion for substitution may be made by any party or by the successors or representatives of the deceased party and, together with the notice of hearing, shall be served on the parties as provided in Rule 5 and upon persons not parties in the manner provided in Rule 4 for the service of process, and may be served in any county. Suggestion of death upon the record is made by service of a statement of the fact of death as provided herein for the service of the motion and by filing of proof thereof. If the motion for substitution is not made within ~~ninety~~91 days (13 weeks) after such service, the action shall be dismissed as to the deceased party.

Rule 26. General Provisions Governing Discovery; Duty of Disclosure

(a) Required Disclosures; Methods to Discover Additional Matter.

(1) Disclosures.

The timing of disclosures shall be within ~~30~~35 days after the case is at issue as defined in C.R.C.P.16(b). A party shall make the required disclosures based on the information then known and reasonably available to the party and is not excused from making such disclosures because the party has not completed investigation of the case or because the party challenges the sufficiency of another party's disclosures or because another party has not made the required disclosures.

(2) Disclosure of Expert Testimony.

(C) Unless otherwise provided in the Case Management Order, the timing of the disclosures shall be as follows:

(I) The disclosure by a claiming party under a complaint, counterclaim, cross-claim or third-party claim shall be made at least ~~420~~126 days (18 weeks) before the trial date.

(II) The disclosure by a defending party shall be made within ~~30~~35 days after service of the claiming party's disclosure, provided, however, that if the claiming party serves its disclosure earlier than required under subparagraph 26(a)(2)(C)(I), the defending party is not required to serve its disclosures until ~~90~~ 91 days (13 weeks) before the trial date.

(III) If the evidence is intended to contradict or rebut evidence on the same subject matter identified by another party under subparagraph (a)(2)(C)(II) of this Rule, such disclosure shall be made ~~within 20 days after the disclosure made by the other party~~ no later than 70 days (10 weeks) before the trial date.

Rule 27. Depositions Before Action or Pending Appeal

(a) Before Action.

(1) **Petition; Order; Notice.** A person who desires to perpetuate his own testimony or that of other persons may file in a district court a petition verified by his oath (or, if there be more than one petitioner, then by the oath of at least one of them) stating either: (1) That the petitioner expects to be a party to an action in a court in this state and, in such case, the name of the persons who he expects will be adverse parties; or (2) that the proof of some facts is necessary to perfect the title to property in which petitioner is interested or others similarly situated may be interested or to establish any other matter which it may hereafter become material to establish, including marriage, divorce, birth, death, descent or heirship, though no action may at any time be anticipated, or, if anticipated, the expected adverse parties to such action are unknown to petitioner. The petition shall also state the names of the witnesses to be examined and their places of residence and a brief outline of the facts expected to be proved, and if any person named in the petition as an expected adverse party is known to the petitioner to be an infant or incompetent person the petition shall state such fact. If the expected adverse parties are unknown, it shall be so stated. The court shall make an order allowing the examination and directing notice to be given, which notice, if the expected adverse parties are named in the petition, shall be personally served on them in the manner provided in Rule 4(e) and, if the expected adverse parties are stated to be unknown, and if real property is to be affected by such testimony a copy of such notice shall be served on the county clerk and recorder, or his deputy, of the county where the property to be affected by such testimony or some part of such property is situated but in any event said notice shall be published for not less than two weeks in some newspaper to be designated by the court making the order in such manner as may be designated by such court. If service of said notice cannot with due diligence be made, in the manner provided in Rule 4(e), upon any expected adverse party named in the petition, the court may make such order as is just for service upon him by publication or otherwise and shall appoint, for persons named in the petition as expected adverse parties who are not served in the manner provided in Rule 4(e), an attorney who shall represent them, and, in case they are not otherwise represented, shall cross-examine the witness. Such notice shall state the title of the proceeding, including the court and county in which it is pending, the time and place of the examination and either a brief outline of the facts expected to be proved or a description of the property to be affected by such testimony. Any notice heretofore given which contains the above required matters shall be deemed sufficient. Any personal service required by the provisions hereof shall be made at least ~~ten~~ 14 days before the testimony is taken. If any person named in the petition as an expected adverse party is stated in any paper filed in such proceeding to be an infant or

incompetent person, the provisions of Rule 17(c) apply, but no guardian ad litem need be appointed for any expected adverse party whose name is unknown.

(b) After Judgment or After Appeal. If an appeal of a judgment is pending, or, if none is pending, then at any time within ~~thirty~~ 35 days from the entry of such judgment, the court in which the judgment was rendered may allow the taking of the depositions of witnesses to perpetuate their testimony for use in the event of further proceedings in such court. In such case the party who desires to perpetuate the testimony may make a motion in such court for leave to take the depositions, upon the same notice and service thereof as if the action were pending in such court. The motion shall show: (1) The names and addresses of the persons to be examined and the substance of the testimony, so far as known, which he expects to elicit from each; (2) the reasons for perpetuating their testimony. If the court finds that the perpetuation of the testimony is proper to avoid a failure or delay of justice, it may make an order allowing the depositions to be taken, and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in these rules for depositions taken in actions pending in trial courts.

Rule 30. Depositions upon Oral Examination

(e) Review by Witness; Changes; Signing. If requested by the deponent or a party before completion of the deposition, the deponent shall be notified by the officer that the transcript or recording is available. Within ~~30~~ 35 days of receipt of such notification the deponent shall review the transcript or recording and, if the deponent makes changes in the form or substance of the deposition, shall sign a statement reciting such changes and the deponent's reasons for making them and send such statement to the officer. The officer shall indicate in the certificate prescribed by subsection (f)(1) of this rule whether any review was requested and, if so, shall append any changes made by the deponent.

Rule 31. Depositions Upon Written Questions

(a) Serving Questions; Notice.

(4) Within ~~15~~ 21 days after the notice and written questions are served, a party may serve cross questions upon all other parties. Within ~~10~~ 14 days after being served with cross questions, a party may serve redirect questions upon all other parties. Within ~~ten~~ 7 days after being served with redirect questions, a party may serve re-cross questions upon all other parties. The court may for cause shown enlarge or shorten the time.

Rule 32. Use of Depositions in Court Proceedings

(d) Effect of Errors and Irregularities in Depositions.

(3) As to Taking of Deposition.

(C) Objections to the form of written questions submitted under Rule 31 are waived unless served in writing upon the party propounding them within the time allowed for serving the

succeeding cross or other questions and within ~~five~~ 7 days after service of the last questions authorized.

Rule 33. Interrogatories to Parties

(b) Answers and Objections.

(3) The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within ~~30~~ 35 days after the service of the interrogatories. A shorter or longer time may be directed by the court or, in the absence of such an order, agreed to in writing by the parties pursuant to C.R.C.P. 29.

Rule 34. Production of Documents and Things and Entry Upon Land for Inspection and Other Purposes

(b) Procedure.

The party upon whom the request is served shall serve a written response within ~~30~~ 35 days after the service of the request. A shorter or longer time may be directed by the court or agreed to in writing by the parties pursuant to C.R.C.P. 29. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. The party submitting the request may move for an order pursuant to C.R.C.P. 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

Rule 36. Requests for Admission

(a) Request for Admission.

Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within ~~30~~ 35 days after service of the request, or within such shorter or longer time as the court may allow or as the parties may agree to in writing pursuant to C.R.C.P. 29, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by the party's attorney. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify an answer or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states that the party has made reasonable inquiry and that the information known or readily obtainable by the party is insufficient to enable the party to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; the party

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may, subject to the provisions of C.R.C.P. 37(c), deny the matter or set forth reasons why the party cannot admit or deny it.

Rule 38. Right to Trial by Jury

(b) Demand. Any party may demand a trial by jury of any issue triable by a jury by filing and serving upon all other parties, pursuant to Rule 5(d), a demand therefor at any time after the commencement of the action but not later than ~~ten~~14 days after the service of the last pleading directed to such issue, except that in actions subject to mandatory arbitration under Rule 109.1 the demand for trial by jury shall be filed and served not later than ~~ten~~14 days following a demand for trial de novo. A demand for trial by jury may be endorsed upon a pleading. The demanding party shall pay the requisite jury fee upon the filing of the demand.

(c) Jury Fees. When a party to an action has exercised the right to demand a trial by jury, every other party to such action shall also pay the requisite jury fee unless such other party, pursuant to Rule 5(d), files and serves a notice of waiver of the right to trial by jury within ~~ten~~14 days after service of the demand.

(d) Specification of Issues. A demand may specify the issues to be tried to the jury; in the absence of such specification, the party filing the demand shall be deemed to have demanded trial by jury of all issues so triable. If a party demands trial by jury on fewer than all of the issues so triable, any other party, within ~~ten~~14 days after service of the demand, may file and serve a demand for trial by jury of any other issues so triable.

Rule 42.1. Consolidated Multidistrict Litigation

(c) Initiation of Proceedings.:

(2) Upon a motion filed with the Panel by a party in any action in which transfer under this rule may be appropriate, which motion shall not be entertained unless filed more than ~~ninety (90)~~91 days (13 weeks) next preceding any trial date set in the affected actions, unless a showing of good cause is made. A copy of such motion shall be filed in the district court in which the moving party's action is pending.

(d) Order to Show Cause; Hearing; Response. When the transfer of multidistrict litigation is being considered, an order shall be entered by the Panel directing the parties in each action to show cause why the action or actions should not be transferred. A hearing shall be set at the time the show cause order is entered. Any party may file a response to the show cause order and an accompanying brief within ~~fifteen (15)~~ 14 days after the order is entered, unless otherwise provided in the order. Within ~~five (5)~~ 7 days of receipt of a party's response or brief, any party may file a reply brief limited to new matters.

(i) Appellate Review; Assignment of Judge. No proceedings for review of any certification order or other order entered by the Panel shall be permitted except as permitted by Rule 21 C.A.R. If no original proceedings are commenced in the Supreme Court or a show cause order is not issued by the Supreme Court within ~~twenty (20)~~ 21 days after entry of the certification order by the Panel, the Chief Justice shall assign the actions to a judge.

(j) Other Cases; Transfer by Clerk. Upon learning of the pendency of a civil action apparently sharing common questions of law or fact with actions previously transferred under this rule, an order may be entered by the Clerk transferring the action to the assigned judge. A copy of the order shall be served on each party to the litigation. The order shall not become final until ~~fifteen~~ ~~(15)~~ 14 days after entry thereof. Any party opposing the transfer shall file a notice of opposition with the Clerk within ~~fifteen~~ ~~(15)~~ 14 days from the date the order is entered. The notice of opposition shall be supported by a brief. Any party shall have ~~ten~~ ~~(10)~~ 14 days to file an answer brief. The filing of a notice of opposition and brief shall suspend the finality of the Clerk's order pending action by the Panel.

Rule 45. Subpoena

(c) Service. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and by tendering to such person the fees for ~~one~~ 1 day's attendance and the mileage allowed by law. Service is also valid if the person named in the subpoena has signed a written admission or waiver of personal service. When the subpoena is issued on behalf of the state of Colorado, or an officer or agency thereof, fees and mileage need not be tendered. Proof of service shall be made as in Rule 4(h). Unless otherwise ordered by the court for good cause shown, such subpoena shall be served no later than **forty-eight (48) hours** before the time for appearance set out in said subpoena. The party issuing or causing the issuance of the subpoena pursuant to this rule, except in post-judgment proceedings, shall serve a copy of the subpoena (including a complete list of documents and things requested to be provided pursuant to the subpoena) upon all parties of record, including pro se parties, in the manner prescribed by C.R.C.P. 5(b). Service on the other parties shall be made promptly after the service of the subpoena upon the person named therein. Original subpoenas and returns of service of such subpoenas need not be filed with the court.

(d) Subpoena for Taking Depositions; Place of Examination.

(1) A Deposition subpoena, upon notice to all parties to the action, may require the production of documentary evidence which is within the scope of discovery permitted by Rule 26. Any party, the person to whom a deposition subpoena is directed, or any other person claiming an interest in the documents affected, may move for a protective order under Rule 26, in addition to any other remedy available under Rule 45. The person to whom the subpoena is directed may, within ~~ten~~ 14 days after the service thereof or on or before the time specified in the subpoena for compliance if such time is less than ~~ten~~ 14 days after service, serve upon the attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials. If objection is made, the party serving the subpoena is not entitled to inspect and copy the materials except pursuant to an order of the court from which the subpoena was issued. The party serving the subpoena may, if objection has been made, move upon notice to the deponent for an order at any time before or during the taking of the deposition.

Rule 53. Masters.

(d) Proceedings.

(1) **Meetings.** When a reference is made, the clerk shall forthwith furnish the master with a copy of the order of reference. Upon receipt thereof unless the order of reference otherwise provides,

Key: proposed insertion; ~~proposed deletion~~; time period proposed to be unchanged.

the master shall forthwith set a time and place for the first meeting of the parties or their attorneys to be held within ~~twenty~~ 21 days after the date of the order of reference and shall notify the parties or their attorneys. It is the duty of the master to proceed with all reasonable diligence. Either party, on notice to the parties and master, may apply to the court for an order requiring the master to speed the proceedings and to make his or her report. If a party fails to appear at the time and place appointed, the master may proceed ex parte or, in the master's discretion, adjourn the proceedings to a future day, giving notice to the absent party of the adjournment.

(e) Report.

(2) In Nonjury Actions. In an action to be tried without a jury the court shall accept the master's finding of fact unless clearly erroneous. Within ~~ten~~ 14 days after being served with notice of the filing of the report any party may serve written objections thereto upon the other parties. Application to the court for action upon the report and upon objections thereto shall be by motion, ~~and upon notice as prescribed in Rule 6(d).~~ The court, after hearing, may adopt the report or may modify it or may reject it in whole or in part or may receive further evidence or may recommit it with instructions.

Rule 54. Judgments; Costs

(d) Costs. Except when express provision therefor is made either in a statute of this state or in these rules, costs shall be allowed as of course to the prevailing party unless the court otherwise directs; but costs against the state of Colorado, its officers or agencies, shall be imposed only to the extent permitted by law. ~~Costs may be taxed by the clerk on one days notice. On motion served within five days thereafter, the action of the clerk may be reviewed by the court.~~

(h) Revival of Judgments. A judgment may be revived against any one or more judgment debtors whether they are jointly or severally liable under the judgment. To revive a judgment a motion shall be filed alleging the date of the judgment and the amount thereof which remains unsatisfied. Thereupon the clerk shall issue a notice requiring the judgment debtor to show cause within ~~ten~~ 14 days after service thereof why the judgment should not be revived. The notice shall be served on the judgment debtor in conformity with Rule 4. If the judgment debtor answer, any issue so presented shall be tried and determined by the court. A revived judgment must be entered within twenty years after the entry of the judgment which it revives, and may be enforced and made a lien in the same manner and for like period as an original judgment. If a judgment is revived before the expiration of any lien created by the original judgment, the filing of the transcript of the entry of revivor in the register of actions with the clerk and recorder of the appropriate county before the expiration of such lien shall continue that lien for the same period from the entry of the revived judgment as is provided for original judgments. Revived judgments may themselves be revived in the manner herein provided.

Rule 55. Default

(b) Judgment. A party entitled to a judgment by default shall apply to the court therefor; but no judgment by default shall be entered against an infant or incompetent person unless represented in the action by a general guardian, guardian ad litem, conservator, or such other representative who has appeared in the action. If the party against whom judgment by default is sought has appeared in the action, the party (or, if appearing by representative, the party's representative)

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shall be served with written notice of the application for judgment at least ~~three~~ 7 days prior to the hearing on such application. If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearings or order such references as it deems necessary and proper. However, before judgment is entered, the court shall be satisfied that the venue of the action is proper under Rule 98.

Rule 56. Summary Judgment and Rulings on Questions of Law

(a) For Claimant. A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory judgment may, after the expiration of ~~20~~ 21 days from the commencement of the action or after filing of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in the claiming party's favor upon all or any part thereof.

(c) Motion and Proceedings Thereon. Unless otherwise ordered by the court, any motion for summary judgment shall be filed no later than ~~85~~ 91 days (13 weeks) prior to trial. A cross-motion for summary judgment shall be filed no later than 70 days (10 weeks) prior to trial. The motion may be determined without oral argument. The opposing party may file and serve opposing affidavits within the time allowed for the responsive brief, unless the court orders some lesser or greater time. The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.

Rule 58. Entry Of Judgment

(a) Entry. Subject to the provisions of C.R.C.P. 54(b), upon a general or special verdict of a jury, or upon a decision by the court, the court shall promptly prepare, date, and sign a written judgment and the clerk shall enter it on the register of actions as provided in C.R.C.P. 79(a). The term "judgment" includes an appealable decree or order as set forth in C.R.C.P. 54(a). The effective date of entry of judgment shall be the actual date of the signing of the written judgment. The notation in the register of actions shall show the effective date of the judgment. Entry of the judgment shall not be delayed for the taxing of costs. Whenever the court signs a judgment and a party is not present when it is signed, a copy of the signed judgment shall be immediately mailed or e-served by the court, pursuant to C.R.C.P. 5, to each absent party who has previously appeared.

Rule 59. Motions for Post-Trial Relief

a) Post-Trial Motions. Within ~~15~~ 14 days of entry of judgment as provided in C.R.C.P. 58 or such greater time as the court may allow, a party may move for post-trial relief including:

Motions for post-trial relief may be combined or asserted in the alternative. The motion shall state the ground asserted and the relief sought. ~~If the judgment as defined in C.R.C.P. 54(a) is transmitted to the parties by mail, the date the time period commences shall be the date of mailing of the judgment, extended by three days pursuant to C.R.C.P. 6(e).~~

(d) Grounds for New Trial. Subject to provisions of Rule 61, a new trial may be granted for any of the following causes:

When application is made under grounds (1), (2), (3), or (4), it shall be supported by affidavit filed with the motion. The opposing party shall have ~~15~~ 21 days after service of an affidavit within which to file opposing affidavits, which period may be extended by the court or by written stipulation between the parties. The court may permit reply affidavits.

(j) Time for Determination of Post-Trial Motions. The court shall determine any post-trial motion within ~~60~~ 63 days (9 weeks) of the date of the filing of the motion. Where there are multiple motions for post-trial relief, the time for determination shall commence on the date of filing of the last of such motions. Any post-trial motion that has not been decided within the ~~60~~63-day determination period shall, without further action by the court, be deemed denied for all purposes including Rule 4(a) of the Colorado Appellate Rules and time for appeal shall commence as of that date.

Rule 62. Stay of Proceedings to Enforce a Judgment

(a) Automatic Stay; Exceptions; Injunctions; Receiverships. Except as stated herein, no execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until the expiration of ~~fifteen~~14 days after its entry; provided that an interlocutory or final judgment in an action for an injunction or in a receivership action shall not be stayed during the period after its entry and until an appeal is taken or during the pendency of an appeal. Unless otherwise ordered by the court, the provisions of section (c) of this Rule govern the suspending, modifying, restoring, or granting of an injunction during the pendency of an appeal.

Rule 65. Injunction

(b) Temporary Restraining Order; Notice; Hearing; Duration. A temporary restraining order may be granted without written or oral notice to the adverse party or his attorney only if: (1) It clearly appears from specific facts shown by affidavit or by the verified complaint or by testimony that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or his attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court in writing or on the record the efforts, if any, which have been made to give the notice and the reasons supporting his claim that notice should not be required. Every temporary restraining order granted without notice shall be endorsed with the date and hour of issuance; shall be filed forthwith in the clerk's office and entered of record; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after entry not to exceed ~~ten calendar~~ 14 days, as the court fixes, unless within the time so fixed, the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be entered of record. In case a temporary restraining order is granted without notice, the motion for a preliminary injunction shall be set

Key: proposed insertion; ~~proposed deletion~~; ~~time period proposed to be unchanged~~.

down for hearing at the earliest possible time and take precedence of all matters except older matters of the same character; and when the motion comes on for hearing the party who obtained the temporary restraining order shall proceed with the application for a preliminary injunction and, if he does not do so, the court shall dissolve the temporary restraining order. On **two (2) business days'** notice to the party who obtained the temporary restraining order without notice or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

(i) State Court's Jurisdiction When Suit Commenced in Federal Court; Stay of Proceedings; Notice; Appeal. Whenever a suit praying for an interlocutory injunction shall have been begun in a federal district court to restrain any official or officials of this state from enforcing or administering any statute or administrative order of this state, or to set aside such statute or administrative order, any defendant in such suit or the attorney general of the state may bring a suit to enforce such statute or order in the district court of the state at any time before the hearing on the application for an interlocutory injunction in the suit in the federal court; and the district courts of this state may entertain such suits and the state appellate courts may entertain appeals from judgments therein. When such suit is brought, the district court shall grant a stay of proceedings by any state officer or officers under such statute or order pending the determination of such suit in the courts of this state. Upon the bringing of such suit, the district court shall at once cause a notice thereof together with a copy of the stay order by it granted, to be sent to the federal district court in which the action was originally begun. An appeal may be taken within ~~10~~ 14 days after the termination of the suit in the state district court to the appropriate state appellate court and such appeal shall be in every way expedited and set for an early hearing.

Rule 69. Execution and Proceedings Subsequent to Judgment

(d) Requirement That Judgment Debtor Answer Written Interrogatories. (1) At any time after entry of a final money judgment, the judgment creditor may serve written interrogatories upon the judgment debtor in accordance with C.R.C.P. 45, requiring the judgment debtor to answer the interrogatories. Within ~~20~~ 21 days of service of the interrogatories upon the judgment debtor, the judgment debtor shall appear before the clerk of the court in which the judgment was entered to sign the answers to the interrogatories under oath and file them.

(2) If the judgment debtor, after being properly served with written interrogatories as provided by this Rule, fails to answer the served interrogatories, the judgment creditor may file a motion, with return of the previously served written interrogatories attached thereto, and request an order of court requiring the judgment debtor to either answer the previously served written interrogatories within ~~20~~ 21 days in accordance with the provisions of (d)(1) of this Rule or appear in court at a specified time to show cause why the judgment debtor shall not be held in contempt of court for failure to comply with the order requiring answers to interrogatories; a copy of the motion, written interrogatories and a certified order of court shall be served upon judgment debtor in accordance with C.R.C.P. 45.

Rule 90. Dispositions of Water Court Applications (*See, Effective Date July 1, 2012*)

Rule 98. Place of Trial

(e) Motion to Change Venue; When Presented; Waiver; Effect of Filing.

(2) If a motion to change venue is filed within the time permitted by section (a) of Rule 12 for the filing of a motion under the defenses numbered (1) to (4) of section (b) of Rule 12, the filing of such motion by a party under the provisions of subsection (1) of this section (e) alters his time to file his responsive pleading as follows: If the motion is overruled the responsive pleading shall be filed within ~~ten~~ 14 days thereafter unless a different time is fixed by the court, and if it is allowed the responsive pleading shall be filed within ~~ten~~ 14 days after the action has been docketed in the court to which the action is removed unless that court fixes a different time.

Rule 100. Contested elections

(a) Statement of Contest; Where Filed. Any qualified elector wishing to contest the election of any person to the office of presidential elector, supreme court justice, court of appeals judge, district, or county judge, shall within ~~thirty~~ 35 days after the canvass of the secretary of state, in case of a presidential elector, supreme court justice, court of appeals judge, or district judge, file in the office of the secretary of state a written statement of his intention to contest; and where the contest is for the office of county judge, such statement shall be filed in the office of the county clerk of the proper county within ~~thirty~~ 35 days after the canvass by the county board of canvassers, which statement shall set forth: (1) The name of the contestor; (2) the name of the contestee; (3) the office; (4) the time of the election; (5) the particular cause of contest. The statement shall be verified by the affidavit of the contesting party.

(b) Trial. The contestor, or some one in behalf of the person for whose benefit the contest is made, shall, within ~~thirty~~ 35 days after the filing of the statement of contest, file a complaint in the office of the clerk of the supreme court, if the contest relates to a presidential elector or supreme court justice, or in the office of the clerk of the court of appeals, if the contest relates to a court of appeals judge, or in the office of the clerk of the district court in the proper county, if the contest relates to a district or county judge. Upon the filing of such complaint the clerk shall issue summons. When the case is at issue, the court shall hear and determine the same in a summary manner, without the intervention of a jury.

Rule 102. Attachments

(i) Return of Writ. The sheriff shall return the writ of attachment within ~~twenty~~ 21 days after its receipt, with a certificate of his proceedings endorsed thereon, or attached thereto, making a full inventory of the property attached as a part of his return upon the writ.

(k) No Final Judgment Until ~~Thirty~~ 35 Days After Levy.

(1) **Creditors.** No final judgment shall be rendered in a cause wherein an attachment writ has been issued and a levy made thereunder, until the expiration of ~~thirty~~ 35 days after such levy has been made; and any creditor of the defendant making and filing within said ~~thirty~~ 35-day period an affidavit and undertaking, as hereinbefore required of the plaintiff, together with his

complaint setting forth his claim against the defendant, shall be made a party plaintiff and have like remedies against the defendant to secure his claim, as the law gives to the original plaintiff.

(2) **Judgment Creditors.** Any other creditor whose claim has been reduced to judgment in this state may upon motion filed within said ~~thirty~~ 35 days be made a party and have like remedies against the attached property. Such judgment creditor shall not be required to make or file an affidavit, undertaking or complaint, or have summons issue, provided, that any such judgment creditor may be required to prove to the satisfaction of the court that his judgment is bona fide and not in fraud of the rights of other creditors.

(n) **Traverse of Affidavit.** (1) The defendant may, at any time before trial, by affidavit, traverse and put in issue the matters alleged in the affidavit, testimony, or other evidence upon which the attachment is based and if the plaintiff shall establish the reasonable probability that any one of the causes alleged in the affidavit exists, said attachment shall be sustained, otherwise the same shall be dissolved. A hearing on the defendant's traverse shall be held within ~~seven~~ 7 days from the filing of the traverse and upon no less than two business days' notice to the plaintiff. If the debt for which the action is brought is not due and for that reason the attachment is not sustained, the action shall be dismissed; but if the debt is due, but the attachment nevertheless is not sustained, the action may proceed to judgment after the attachment is dissolved, as in other actions where no attachment is issued.

(x) **New Bond; When Ordered; Failure to Furnish.** If at any time where an attachment has been issued it shall appear to the court that the undertaking is insufficient, the court shall order another undertaking, and if the plaintiff fails to comply with such order within ~~twenty~~ 21 days after the same shall be made, all or any writs of attachment issued therein shall be quashed. The additional undertaking shall be executed in the same manner as the original, and the sureties therein shall be jointly and severally liable with those in the original undertaking.

Rule 103. Garnishment *(See, Effective Date July 1, 2012)*

Rule 104. Replevin

(c) **Show Cause Order; Hearing within ~~Ten-14~~ Days.** The court shall without delay, examine the complaint and affidavit, and if it is satisfied that they meet the requirements of section (b), it shall issue an order directed to the defendant to show cause why the property should not be taken from the defendant and delivered to the plaintiff. Such order shall fix the date and time for the hearing thereof. The hearing date shall be not more than ~~ten-14~~ days from the date of the issuance of the order and the order must have been served at least ~~five-7~~ days prior to the hearing date. The plaintiff may request a hearing date beyond ~~ten-14~~ days, which request shall constitute a waiver of the right to a hearing not more than ~~ten-14~~ days from the date of issuance of the order. Such order shall inform the defendant that he may file affidavits on his behalf with the court and may appear and present testimony in his behalf at the time of such hearing, or that he may, at or prior to such hearing, file with the court a written undertaking to stay the delivery of the property, in accordance with the provisions of section (j) of this rule, and that, if he fails to appear at the hearing on the order to show cause or to file an undertaking, plaintiff may apply to the court for an order requiring the sheriff to take immediate possession of the property described in the complaint and deliver same to the plaintiff. The summons and complaint, if not previously

served, and the order shall be served on the defendant and the order shall fix the manner in which service shall be made, which shall be by service in accordance with the provisions of Rule 4, C.R.C.P., or in such manner as the court may determine to be reasonably calculated to afford notice thereof to the defendant under the circumstances appearing from the complaint and affidavit.

(j) When Returned to Defendant; Bond. At any time prior to the hearing on the order to show cause, or before the delivery of the property to the plaintiff, the defendant may require the return thereof upon filing with the court a written undertaking, in an amount set by the court in its discretion not to exceed double the value of the property and executed by the defendant and such surety as the court may direct for the delivery of the property to the plaintiff, if such delivery be ordered, and for the payment to the plaintiff of such sum as may for any cause be recovered against the defendant. At the time of filing such undertaking, the defendant shall serve upon the plaintiff or his attorney, in the manner provided by Rule 5, C.R.C.P., a notice of filing of such undertaking, to which a copy of such undertaking shall be attached, and shall cause proof of service thereof to be filed with the court. If such undertaking be filed prior to hearing on the order to show cause, proceedings thereunder shall terminate, unless exception is taken to the amount of the bond or the sufficiency of the surety. If, at the time of filing of such undertaking, the property shall be in the custody of the sheriff, such property shall be redelivered to the defendant ~~five~~7 days after service of notice of filing such undertaking upon the plaintiff or his attorney.

(k) Exception to Sureties. Either party may, within two business days after service of an undertaking or notice of filing and undertaking under the provisions of this Rule, give written notice to the court and the other party that he excepts to the sufficiency of the surety or the amount of the bond. If he fails to do so, he is deemed to have waived all objections to them. When a party excepts the court shall hold a hearing to determine the sufficiency of the bond or surety. If the property be in the custody of the sheriff, he shall retain custody thereof until the hearing is completed or waived. If the excepting party prevails at the hearing, the sheriff shall proceed as if no such undertaking had been filed. If the excepting party does not prevail at the hearing, or the exception is waived, he shall deliver the property to the party filing such undertaking.

(n) Return; Papers by Sheriff. The sheriff shall return the order of possession and undertakings and affidavits with his proceedings thereon, to the court in which the action is pending, within ~~twenty~~21 days after taking the property mentioned therein.

Rule 105. Actions Concerning Real Estate

(d) Execution of Quitclaim Deed Saves Costs. If a party, ~~twenty~~21 days or more before bringing an action for obtaining an adjudication of the rights of another person with respect to any real property, shall request of such person the execution of a quitclaim deed to such property and shall also tender to such person \$20.00 to cover the expense of the execution and delivery of a deed and if such person shall refuse or neglect to execute and deliver such deed, the filing by such person of a disclaimer shall not avoid the imposition upon such person of the costs in the action afterwards brought.

Rule 105.1. Spurious Lien or Document *(See, Effective Date July 1, 2012)*

Rule 106. Forms Of Writs Abolished

(a) Habeas Corpus, Mandamus, Quo Warranto, Certiorari, Prohibition, Scire Facias and Other Remedial Writs in the District Court.

(4) Where any governmental body or officer or any lower judicial body exercising judicial or quasi-judicial functions has exceeded its jurisdiction or abused its discretion, and there is no plain, speedy and adequate remedy otherwise provided by law:

(IV) Within ~~twenty~~21 days after the date of receipt of an order requiring certification of a record, a defendant may file with the clerk a statement designating portions of the record not set forth in the order which it desires to place before the court. The cost of preparing the record shall be advanced by the plaintiff, except that the court may, on objection by the plaintiff, order a defendant to advance payment for the costs of preparing such portion of the record designated by the defendant as the court shall determine is unessential to a complete understanding of the controversy; and upon a failure to comply with such order, the portions for which the defendant has been ordered to advance payment shall be omitted from the record. Any party may move to correct the record at any time.

(VII) A defendant required to certify a record shall give written notice to all parties, simultaneously with filing, of the date of filing the record with the clerk. The plaintiff shall file, and serve on all parties, an opening brief within ~~forty~~42 days after the date on which the record was filed. If no record is requested by the plaintiff, the plaintiff shall file an opening brief within ~~forty~~42 days after the defendant has served its answer upon the plaintiff. The defendant may file and serve an answer brief within ~~thirty~~35 days after service of the plaintiff's brief, and the plaintiff may file and serve a reply brief to the defendant's answer brief within ~~fifteen~~14 days after service of the answer brief.

(b) Limitations as to Time. Where a statute provides for review of the acts of any governmental body or officer or judicial body by certiorari or other writ, or for a proceeding in quo warranto, relief therein provided may be had under this Rule. If no time within which review may be sought is provided by any statute, a complaint seeking review under subsection (a)(4) of this Rule shall be filed in the district court not later than ~~thirty~~28 days after the final decision of the body or officer. A timely complaint may be amended at any time with leave of the court, for good cause shown, to add, dismiss or substitute parties, and such amendment shall relate back to the date of filing of the original complaint.

Rule 106.5. Correctional Facility Quasi--Judicial Hearing Review

(e) Response of Defendant. Within ~~20~~21 days after the date on which the Attorney General sends acknowledgment that it has received the notice and complaint from the Clerk of the District Court, the Defendants shall file either (1) an answer to the complaint and a certified copy of the record as explained below, or (2) a motion in response to the complaint.

(f) Notice to Submit Record. The facility shall file the certified record and affidavit of certification directly to the Court no later than the deadline to file an answer or motion as indicated above. This obligation to submit the record shall not apply if the Attorney General notifies the Warden within ~~40~~14 days of the electronic service that a motion to dismiss the complaint for lack of subject matter jurisdiction has been filed, in which event the filing of the record shall be suspended pending disposition of the motion.

(i) Briefs.

(1) If counsel for the Defendants files a motion to dismiss, the inmate shall have ~~15~~14 days after service of the motion to file a brief in response, and the defense counsel shall have ~~10~~14 days after service of the response to file a reply.

(2) If the defense counsel files an answer and the Warden files the certified record, the inmate shall have ~~40~~42 days following notice of filing of the record in which to file a brief. In this event, the brief shall set forth the reasons why the inmate believes that the District Court should rule that the Warden has exceeded his or her jurisdiction or abused his or her discretion. The inmate must set forth in the brief specific references to the record that support the inmate's position. Defense counsel shall have ~~30~~35 days after service of the brief to file a response and the inmate shall have ~~15~~14 days after service of the response to file a reply.

Rule 107. Remedial and Punitive Sanctions for Contempt

(c) Indirect Contempt Proceedings. When it appears to the court by motion supported by affidavit that indirect contempt has been committed, the court may ex parte order a citation to issue to the person so charged to appear and show cause at a date, time and place designated why the person should not be punished. The citation and a copy of the motion, affidavit and order shall be served directly upon such person at least ~~twenty~~21 days before the time designated for the person to appear. If such person fails to appear at the time so designated, and it is evident to the court that the person was properly served with copies of the motion, affidavit, order, and citation, a warrant for the person's arrest may issue to the sheriff. The warrant shall fix the date, time and place for the production of the person in court. The court shall state on the warrant the amount and kind of bond required. The person shall be discharged upon delivery to and approval by the sheriff or clerk of the bond directing the person to appear at the date, time and place designated in the warrant, and at any time to which the hearing may be continued, or pay the sum specified. If the person fails to appear at the time designated in the warrant, or at any time to which the hearing may be continued, the bond may be forfeited upon proper notice of hearing to the surety, if any, and to the extent of the damages suffered because of the contempt, the bond may be paid to the aggrieved party. If the person fails to make bond, the sheriff shall keep the person in custody subject to the order of the court.

Rule 120. Orders Authorizing Sales Under Powers

(a) Motion; Contents. Whenever an order of court is desired authorizing a sale under a power of sale contained in an instrument, any interested person or someone on such person's behalf may file a verified motion in a district court seeking such order. The motion shall be accompanied by a copy of the instrument containing the power of sale, shall describe the property to be sold, and shall specify the default or other facts claimed by the moving party to justify invocation of the

Key: proposed insertion; ~~proposed deletion~~; time period proposed to be unchanged.

power of sale. When the property to be sold is personal property, the motion shall state the names and last known addresses, as shown by the records of the moving party, of all persons known or believed by the moving party to have an interest in such property which may be materially affected by such sale. When the property to be sold is real property and the power of sale is contained in a deed of trust to a public trustee, the motion shall state the name and last known address, as shown by the records of the moving party, of the grantor of such deed of trust, of the current record owner of the property to be sold, and of any person known or believed by the moving party to be personally liable upon the indebtedness secured by the deed of trust, as well as the names and addresses of those persons who appear to have acquired a record interest in such real property, subsequent to the recording of such deed of trust and prior to the recording of the notice of election and demand for sale, whether by deed, mortgage, judgment or any other instrument of record. In giving notice to persons who appear to have acquired a record interest in real property, the address of each such person shall be the address which is given in the recorded instrument evidencing such person's interest, except that if such recorded instrument does not give an address or if only the county and state are given as the address of such person, no address need be stated for such person in the motion. The clerk shall fix a time not less than ~~20~~ 21 nor more than ~~30~~ 35 days after the filing of the motion and a place for the hearing of such motion.

(b) Notice; Contents; Service. The moving party shall issue a notice describing the instrument containing the power of sale, the property sought to be sold thereunder, and the default or other facts upon which the power of sale is invoked. The notice shall also state the time and place set for the hearing and shall refer to the right to file and serve responses as provided in section (c), including a reference to the last day for filing such responses and the addresses at which such responses must be filed and served. The notice shall contain the following advisement: "If this case is not filed in the county where your property is located, you have the right to ask the court to move the case to that county. Your request may be made as a part of your response or any paper you file with the court at least ~~five~~ 7 days before the hearing." The notice shall contain the return address of the moving party. Such notice shall be served by the moving party not less than ~~15~~ 14 days prior to the date set for the hearing, by mailing a true copy thereof to each person named in the motion (other than persons for whom no address is stated) at the address or addresses stated in the motion and by filing a copy with the clerk and by delivering a second copy to the clerk for posting by the clerk. Such mailing and delivery to the clerk for posting shall be evidenced by the certificate of the moving party or moving party's agent.

(c) Response; Contents; Filing and Service. Any interested person who disputes, on grounds within the scope of the hearing provided for in section (d), the moving party's entitlement to an order authorizing sale may file and serve a response to the motion, verified by the oath of such person, setting forth the facts upon which he relies and attaching copies of all documents which support his position. The response shall be filed and served not less than ~~five~~ 7 days prior to the date set for the hearing, said interval including intermediate Saturdays, Sundays, and legal holidays, C.R.C.P. 6(a) notwithstanding, unless the last day of the period so computed is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next succeeding day which is not a Saturday, Sunday or a legal holiday. Service of such response upon the moving party shall be made in accordance with C.R.C.P. 5(b). C.R.C.P. 6(e) shall not apply to computation of time periods under this section (c).

Rule 121. Local Rules – Statewide Practice Standards Section 1-1.

Key: proposed insertion; ~~proposed deletion~~; time period proposed to be unchanged.

ENTRY OF APPEARANCE AND WITHDRAWAL

2. Withdrawal From an Active Case.

(b) Otherwise an attorney may withdraw from a case only upon approval of the court. Such approval shall rest in the discretion of the court, but shall not be granted until a motion to withdraw has been filed and served on the client and the other parties of record or their attorneys and either both the client and all counsel for the other parties consent in writing at or after the time of the service of said motion, or at least ~~15~~ 14 days have expired after service of said motion. Every motion to withdraw shall contain the following advisements:

(IV) the client's and the other parties' right to object to the motion to withdraw within ~~15~~ 14 days after service of the motion; and

(c) The client and the opposing parties shall have ~~15~~ 14 days after service of a motion to withdraw within which to file objections to the withdrawal.

3. Withdrawal From Completed Cases

In any civil case which is concluded and in which all related orders have been submitted and entered by the court and complied with by the withdrawing attorney, an attorney may withdraw from the case without leave of court by filing a notice in the form and content of Appendix to Chapters 1 to 17A, Form 36, C.R.C.P. [JDF Form 83], which shall be served upon the client and all other parties of record or their attorneys, pursuant to C.R.C.P. 5. The withdrawal shall automatically become effective ~~15~~ 14 days after service upon the client and all other parties of record or their attorneys unless there is an objection filed, in which event the matter shall be assigned to an appropriate judicial officer for determination.

District Court Practice Standards Section 1-10

DISMISSAL FOR FAILURE TO PROSECUTE

2. The court, on its own motion, may dismiss any action not prosecuted with due diligence, upon ~~30~~35 days' notice in writing to each attorney of record and each appearing party not represented by counsel, or require the parties to show cause in writing why the case should not be dismissed. Showing of cause and objections thereto shall be determined in accordance with Practice Standard § 1-15 (Determination of motions).

District Court Practice Standards Section 1-12

MATTERS RELATED TO DISCOVERY

1. Unless otherwise ordered by the court, reasonable notice for the taking of depositions pursuant to C.R.C.P. 30(b)(1) shall not be less than 57 days ~~as computed pursuant to C.R.C.P. 6.~~ Before serving a notice to take a deposition, counsel seeking the deposition shall make a good faith effort to schedule it by agreement at a time reasonably convenient and economically efficient to the proposed deponent and counsel for all parties. Prior to scheduling or noticing any deposition, all counsel shall confer in a good faith effort to agree on a reasonable means of limiting the time and expense of that deposition. Pending resolution of any motion pursuant to C.R.C.P. 26(c), the filing of the motion shall stay the discovery at which the motion is directed.

District Court Practice Standards Section 1-15

DETERMINATION OF MOTIONS

1. Briefs; When Required; Time for Serving and Filing -- Length.

(a) Except motions during trial or where the court deems an oral motion to be appropriate, any motions involving a contested issue of law shall be supported by a recitation of legal authority incorporated into the motion except for a motion pursuant to C.R.C.P. 56. Motions or briefs in excess of 10 pages in length, exclusive of tables and appendices, are discouraged. Except for electronic filings made pursuant to Section 1-26 of this Rule, the original and one copy of all motions and briefs shall be filed with the court, and a copy served as required by law.

(b) The responding party shall have ~~15~~ 21 days or such lesser or greater time as the court may allow in which to file ~~and supply the courtroom clerk with~~ a responsive brief. If a motion is filed 42 days or less before the trial date, the responding party shall have 14 days or such lesser or greater time as the court may allow in which to file a responsive brief.

(c) Except for a motion pursuant to C.R.C.P. 56, the moving party shall have 7 days or such greater or lesser time as the court may allow to file ~~and supply the courtroom clerk with~~ a reply brief. For a motion pursuant to C.R.C.P. 56, the moving party shall have 14 days or such greater or lesser time as the court may allow to file a reply brief. ~~Motions or briefs in excess of 10 pages in length, exclusive of tables and appendices, are discouraged.~~

5. Notification of Court's Ruling; Setting of Argument or Hearing When Ordered.

Whenever the court enters an order denying or granting a motion without a hearing, all parties shall be forthwith notified by the court of such order. If the court desires or authorizes oral argument or an evidentiary hearing, all parties shall be so notified by the court. After notification, it shall be the responsibility of the moving party to have the motion set for oral argument or hearing. A notice to set oral argument or hearing shall be filed in accordance with Practice Standard § 1-6 within ~~15~~ 7 days of notification that oral argument or hearing is required or authorized.

District Court Practice Standards Section 1-16

PREPARATION OF ORDERS AND OBJECTIONS AS TO FORM

1. When directed by the court, the attorney for the prevailing party or such attorney as the court directs shall file and serve a proposed order within ~~10~~ 14 days of such direction or such other time as the court directs. Prior to filing the proposed order, the attorney shall submit it to all other parties for approval as to form. The proposed order shall be timely filed even if all parties have not approved it as to form. A party objecting to the form of the proposed order as filed with court shall have ~~5~~ 7 days after service of the proposed order to file and serve objections and suggested modifications to the form of the proposed order.

2. Alternatively, when directed by the court, the attorney for the prevailing party or such attorney as the court directs shall file and serve a stipulated order within ~~10~~ 14 days after the ruling, or

Key: proposed insertion; ~~proposed deletion~~; ~~time period proposed to be unchanged~~.

such other time as the court directs. Any matter upon which the parties cannot agree as to form shall be designated in the proposed order as "disputed." The proposed order shall set forth each party's specific alternative proposal for each disputed matter.

District Court Practice Standards Section 1-22

COSTS AND ATTORNEY FEES

1. **COSTS.** A party claiming costs shall file a Bill of Costs within ~~45~~21 days of the entry of order or judgment, or within such greater time as the court may allow. The Bill of Costs shall itemize and total costs being claimed. Taxing and determination of costs shall be in accordance with C.R.C.P. 54(d) and Practice Standard § 1-15.

2. ATTORNEY FEES.

(b) **Motion and Response.** Any party seeking attorney fees under this practice standard shall file and serve a motion for attorney fees within ~~45~~ 21 days of entry of judgment or such greater time as the court may allow. The motion shall explain the basis upon which fees are sought, the amount of fees sought, and the method by which those fees were calculated. The motion shall be accompanied by any supporting documentation, including materials evidencing the attorney's time spent, the fee agreement between the attorney and client, and the reasonableness of the fees. Any response and reply, including any supporting documentation, shall be filed within the time allowed in practice standard § 1-15. The court may permit discovery on the issue of attorney fees only upon good cause shown when requested by any party.

District Court Practice Standards Section 1-23

6. Objections to Bonds. Any party in interest may file an objection to any bond which is automatically effective under subsection 1 of this rule or to any proposed bond subject to subsection 2 of this rule. A bond, which is automatically effective under subsection 1 remains in effect unless the court orders otherwise. Any objections shall be filed not later than ~~45~~ 14 days after service of the bond or proposed bond except that objections based upon the entry of any amended or additional judgment shall be made not later than ~~45~~ 14 days after entry of any such amended or additional judgment.

District Court Practice Standards Section 1-26

ELECTRONIC FILING AND SERVICE SYSTEM

6. E-Service /- When Required /- Date and Time of Service: Documents submitted to the court through E-Filing shall be served under C.R.C.P. 5 by E-Service. A document transmitted to the E-System Provider for service by 11:59 p.m. Colorado time shall be deemed to have been served on that date. ~~E-Service shall entitle the party being served an additional 3 days as provided by C.R.C.P. 6(e).~~

Rule 122. Case Specific Appointment of Appointed Judges Pursuant to C.R.S. § 13-3-111.

(i) Jury Trials.

Key: proposed insertion; ~~proposed deletion~~; ~~time period proposed to be unchanged~~.

Rule 45 continued

(4) Not later than 3 business days following the conclusion of their service as jurors, the parties shall pay the jurors at the statutory rate pursuant to the Colorado Uniform Jury Selection and Service Act. The parties also shall pay all related expenses such as meals for the jurors and the costs of a bailiff. Payments made pursuant to this section should not be made through the court.

COLORADO RULES OF CIVIL PROCEDURE (RULES 201- 260)

RULE 201.9. REVIEW BY INQUIRY PANEL

(2) The director shall notify the applicant in writing of the general matters in question and invite the applicant to appear for an interview with the inquiry panel. The applicant may be accompanied by counsel, and the notice shall so advise. The notice shall be sent by certified mail, at least ~~fifteen~~¹⁴ days before the interview is scheduled, to the address listed on the application or the address subsequently provided in writing to the Board by the applicant.

(
(6) If the inquiry panel determines that there is probable cause to believe that the applicant is unqualified,

(a) The panel shall set forth its findings in writing within ~~thirty~~²⁸ ~~35~~ days after the panel meeting at which such determination is made;

(c) The executive director shall send a copy of the inquiry panel's findings to the applicant with a notice that these findings shall become the Bar Committee's recommendation to be filed with the Supreme Court, unless within ~~thirty~~²⁸ ~~35~~ days after the notice is mailed, the applicant files with the Board a written request for a hearing. The request shall include the applicant's response to each of the specific matters in the inquiry panel findings.

RULE 201.10. FORMAL HEARINGS

(2) If the applicant files a written request for a formal hearing, the hearing shall be conducted under the following rules of procedure.

(d) Within ~~thirty~~²⁸ days after the conclusion of the hearing, the hearing panel shall prepare and file with the Supreme Court its report including findings of fact, conclusions of law and recommendations as to admission. Copies of the hearing panel's report shall be supplied to the attorney regulation counsel and the applicant. Within ~~fifteen~~¹⁴ days after service of the hearing panel's report, both the applicant and the attorney regulation counsel shall have the right to file with the Supreme Court and serve on the opposing party written exceptions to the report.

RULE 201.11. REQUEST FOR DISCLOSURE OF CONFIDENTIAL INFORMATION

(2) If one of the above enumerated agencies requests confidential information, the Bar Committee shall give written notice to the applicant that the confidential information will be disclosed within ~~ten~~¹⁴ days unless the applicant obtains an order from the Supreme Court restraining such disclosure.

RULE 201.13. INSPECTION OF ESSAY EXAMINATION ANSWERS

Key: proposed insertion; ~~proposed deletion~~; time period proposed to be unchanged.

Beginning ~~twenty~~21 days after the date the results from an examination are mailed and ending on the ~~sixtieth~~56th day (8th week) after such date, any unsuccessful applicant shall be entitled to a reasonable inspection of the applicant's answers to the essay portion of the examination. After that time, the decision that an applicant has passed or failed the examination shall be final. This rule does not permit applicants to inspect the Multi-State Bar Examination.

RULE 227. REGISTRATION FEE

A. REGISTRATION FEE OF ATTORNEYS AND ATTORNEY JUDGES

(1) General Provisions.

(b) **Notification of Change.** Every attorney shall file a supplemental statement of change in the information previously submitted, including home and business addresses, within ~~30~~28 days of such change. Such change shall include, without limitation, the lapse or termination of professional liability insurance without continuous coverage.

(3) Compliance.

(b) **Receipt--Demonstration of Compliance.** Within ~~30~~28 days of the receipt of each fee and of each statement filed by an attorney in accordance with the provisions of this rule, receipt thereof shall be acknowledged on a form prescribed by the Clerk in order to enable the attorney on request to demonstrate compliance with the requirement of registration pursuant to this rule.

(4) Suspension.

(a) **Failure to Pay Fee or File Statement--Notice of Delinquency.** An attorney shall be summarily suspended if the attorney either fails to pay the fee or fails to file a complete statement or supplement thereto as required by this rule prior to May 1, provided a notice of delinquency has been issued by the Clerk and mailed to the attorney addressed to the attorney's last known mailing address at least ~~30~~28 days prior to such suspension, unless an excuse has been granted on grounds of financial hardship.

(b) **Failure of Judge to Pay Fee or File Statement.** Any judge subject to the jurisdiction of the Commission on Judicial Qualifications or the Denver County Court Judicial Qualifications Commission who fails to timely pay the fee or file a complete statement or supplement thereto as required by this rule shall be reported to the appropriate commission, provided a notice of delinquency has been issued by the Clerk and mailed to the judge addressed to the judge's last known business address at least ~~30~~28 days prior to such reporting, unless an excuse has been granted on grounds of financial hardship.

B. REGISTRATION FEE OF NONATTORNEY JUDGES

(2) Any nonattorney judge who fails to timely pay the fee required under subparagraph (1) above shall be reported to the Commission on Judicial Qualifications, provided a notice of delinquency has been issued by the Clerk and mailed to the nonattorney judge by certified mail addressed to the county court in the respective county seat at least ~~30~~28 days prior to such reporting, unless an excuse has been granted on grounds of financial hardship.

(5) Within ~~20~~21 days after the receipt of each fee in accordance with the provisions of subparagraph (4) above, receipt thereof shall be acknowledged on a form prescribed by the Clerk.

UNAUTHORIZED PRACTICE OF LAW RULES

RULE 232.5. INVESTIGATION; PROCEDURE; SUBPOENAS

(b) (2) If the Regulation Counsel determines to proceed with an investigation or refers the matter to a member of the Committee or an enlistee for investigation pursuant to C.R.C.P. 232.5(a), the respondent shall be: notified that the investigation is underway; provided with a copy of the complaint and of the rules governing the investigation; and asked to file with the Regulation Counsel or the person conducting the investigation a written answer to the complaint within 2021 days after notice of the investigation is given.

RULE 234. CIVIL INJUNCTION PROCEEDINGS; GENERAL

(c) The Supreme Court, upon consideration of the petition so filed, may issue its order directed to the respondent commanding the respondent to show cause why the respondent should not be enjoined from the alleged unauthorized practice of law, and further requiring the respondent to file with the Supreme Court within 2021 days after service of the petition and show cause order, a written answer admitting or denying the matter stated in the petition. The show cause order, together with a copy of the petition, shall be served upon the respondent. Service of process shall be sufficient when made either personally upon the respondent or by certified mail sent to the respondent's last known address.

RULE 235. CIVIL INJUNCTION PROCEEDINGS; HEARING MASTER, POWERS, PROCEDURE

(b) The People of the State of Colorado may be represented in proceedings before the hearing master by the Regulation Counsel, or by a member of the Bar appointed pursuant to Rule 234. Upon receipt of the order of reference, the hearing master shall set a date, time, and place for a first meeting of the parties which shall be within ~~30~~28 days after the date notice thereof is given and notify the parties accordingly. At such meeting, a date, time, and place for hearing shall be set, and any matters which may expedite the proceedings shall be considered. A complete record of this meeting shall be made unless jointly waived by the parties. After the first meeting, the hearing master shall issue a notice of hearing to the parties. The notice shall be in writing and shall designate the date, time, and place of the hearing. The notice shall also advise the

respondent that the respondent is entitled to be represented by counsel at the hearing, to cross-examine witnesses, and to present evidence in the respondent's own behalf. The giving of notice shall be sufficient when made by certified mail sent to the respondent at the respondent's last known address.

RULE 236. CIVIL INJUNCTION PROCEEDINGS; REPORT OF HEARING MASTER; OBJECTIONS

(b) Objections to the report of the hearing master may be filed with the Supreme Court by any party, within ~~30~~28 days after copies of the report have been mailed to the parties.

(c) If no objections are filed, the case shall stand submitted upon the hearing master's report.

(d) If objections are filed, the objecting party shall within ~~10~~14 days thereafter request the reporter to prepare a transcript of the proceedings before the hearing master, or any portion of such transcript thereof as is deemed necessary for the consideration of the case. The objecting party shall file with the Supreme Court and serve on the opposing party a designation of those portions of the transcript and of the record before the hearing master which the party wishes added to the record before the Supreme Court.

The opposing party may within ~~10~~14 days after service of the designation file and serve a cross-designation of any additional portions of the transcript and additional parts of the record before the hearing master as is deemed necessary for a proper consideration of the case. The objecting party is responsible for the expense of preparing the record, including the transcript or portions thereof.

The reporter shall prepare the transcript and file it, properly certified, with the Supreme Court within ~~60~~63 days (9 weeks) after the filing of the objections.

(e) An objecting party shall have ~~30~~28 days after the filing with the Supreme Court of the transcript and other additions to the record within which to file an opening brief. The opposing party shall have ~~30~~28 days after the filing of the objecting party's opening brief within which to file an answer brief. The objecting party shall have ~~10~~14 days after the filing of the answer brief within which to file a reply brief.

RULE 239. CONTEMPT DETERMINATION BY COURT PROCEEDINGS; REPORT OF HEARING MASTER; OBJECTIONS

(b) Objections to the report of the hearing master may be filed with the Supreme Court by either party within ~~30~~28 days after the filing of the report.

(c) If no objections are filed, the case shall stand submitted upon the hearing master's report.

(d) If objections are filed, the objecting party shall within ~~10~~14 days thereafter request the reporter to prepare a transcript of the proceedings before the hearing master, or any portion of such transcript thereof as is deemed necessary for the consideration of the case. The objecting party shall file with the Supreme Court and serve on the opposing party a designation of those portions of the transcript and of the record before the hearing master which the party wishes added to the record before the Supreme Court.

The opposing party may within ~~10~~14 days after service of the designation file and serve a cross-designation of any additional portions of the transcript and additional parts of the record before the hearing master as is deemed necessary for a proper consideration of the case. The objecting party is responsible for the expense of preparing the record, including the transcript or portions thereof.

The reporter shall prepare the transcript and file it, properly certified, with the Supreme Court within ~~60~~63 days (9 weeks) after the filing of the objections.

(e) An objecting party shall have ~~30~~28 days after the filing with the Supreme Court of the transcript and other additions to the record within which to file an opening brief. The opposing party shall have ~~30~~28 days after the filing of the objecting party's opening brief within which to file an answer brief. The objecting party shall have ~~10~~14 days after the filing of the answer brief within which to file a reply brief.

COLORADO RULES OF PROCEDURE REGARDING ATTORNEY DISCIPLINE AND DISABILITY PROCEEDINGS, COLORADO ATTORNEYS' FUND FOR CLIENT PROTECTION, AND MANDATORY CONTINUING LEGAL EDUCATION AND JUDICIAL EDUCATION

RULE 251.6. FORMS OF DISCIPLINE

(d) Private Admonition. Private admonition is an unpublished reproach. An attorney who has been admonished by the committee and who wishes to challenge the order of admonition may, by written petition filed with the Regulation Counsel within ~~twenty~~21 days after the date the letter of admonition was mailed to the admonished attorney or personally read to the attorney, demand as a matter of right that imposition of the admonition be vacated, that a complaint be filed against the attorney, and that disciplinary proceedings continue in the manner prescribed by these rules.

RULE 251.7. PROBATION

(f) Termination. Unless otherwise provided in the order of suspension, within ~~thirty~~28 days and no less than ~~ten~~14 days prior to the expiration of the period of probation, the attorney shall file an affidavit with the Regulation Counsel stating that the attorney has complied with all terms of probation and shall file with the Presiding Disciplinary Judge notice and a copy of such affidavit and application for an order showing successful completion of the period of probation. Upon receipt of this notice and absent objection from the Regulation Counsel, the Presiding Disciplinary Judge shall issue an order showing that the period of probation was successfully completed. The order shall become effective upon the expiration of the period of probation.

RULE 251.8. IMMEDIATE SUSPENSION

(b) Petition for Immediate Suspension.

(2) The Presiding Disciplinary Judge, or the Supreme Court, by any justice thereof, may order the issuance of an order to show cause directing the attorney to show cause why the attorney should not be immediately suspended, which order shall be returnable within ~~ten calendar~~14 days. After the issuance of an order to show cause, and after the period for response has passed without a response having been filed, or after consideration of any response and reply, the Presiding Disciplinary Judge shall prepare a report setting forth findings of fact and recommendation and file the report with the Supreme Court. After receipt of the report the Supreme Court may enter an order immediately suspending the attorney from the practice of law, or dissolve the order to show cause.

(3) If a response to the order to show cause is filed and the attorney requests a hearing on the petition, said hearing shall be held within ~~ten~~14 days before the Presiding Disciplinary Judge. Thereafter, the Presiding Disciplinary Judge shall submit a transcript of the hearing and a report setting forth findings of fact and a recommendation to the Supreme Court within ~~five~~7 days after the conclusion of the hearing. Upon the receipt of the recommendation and the record relating thereto, the Supreme Court may enter an order immediately suspending the attorney from the practice of law or dissolve the order to show cause.

RULE 251.8.5. SUSPENSION FOR NONPAYMENT OF CHILD SUPPORT, OR FOR FAILURE TO COMPLY WITH WARRANTS RELATING TO PATERNITY OR CHILD SUPPORT PROCEEDINGS

(b) Petition for Suspension.

(2) The presiding disciplinary judge shall order the issuance of an order to show cause directing the attorney to show cause why the attorney's license to practice law should not be immediately suspended, which order shall be returnable within ~~thirty~~28 days. After the issuance of an order to show cause, and after the period for response has passed without a response having been filed, or after consideration of any response and reply, the presiding disciplinary judge shall enter an order immediately suspending the attorney from the practice of law, unless within the ~~thirty~~28-day period: the attorney has paid the past-due obligation, negotiated a payment plan approved by the court or the state child support enforcement agency or agency having jurisdiction over the child support order, requested a hearing before the presiding disciplinary judge, or complied with the warrant or subpoena.

(3) If a response to the order to show cause is timely filed and the attorney or the regulation counsel requests a hearing before the presiding disciplinary judge on the petition, the hearing shall be held within ~~ten~~14 days of the request, or as soon thereafter as is practicable. At the hearing, the burden is initially on the regulation counsel to prove the allegations in the petition by a preponderance of the evidence. If the presiding disciplinary judge has determined that the regulation counsel has proved the allegations in the petition by a preponderance of the evidence, he or she shall issue an order immediately suspending the attorney, unless the attorney proves by a preponderance of the evidence that: (1) there is a mistake in the identity of the attorney; (2) there is a bona fide disagreement currently before a court or an agency concerning the amount of the child support debt, arrearage balance, retroactive support due, or the amount of the past-due child support when combined with maintenance; (3) all child support payments were made when due; (4) the attorney has complied with the subpoena or warrant; (5) the attorney was not served with the subpoena or warrant; or (6) there was a technical defect with the subpoena or warrant.

No evidence with respect to the appropriateness of the underlying child support order or ability of the attorney in arrears to comply with such order shall be received or considered by the presiding disciplinary judge. Upon conclusion of the hearing, the presiding disciplinary judge shall promptly prepare an opinion setting forth his or her findings of facts and decision.

(d) Reinstatement.

(2) Immediately upon receipt of a petition for reinstatement, the regulation counsel shall have ~~thirty~~28 days or, upon a showing of good cause, such greater time as authorized by the presiding disciplinary judge within which to conduct any investigation deemed necessary. The attorney shall cooperate in any such investigation. At the end of the period of time allowed for the investigation, the regulation counsel shall file an answer. Based on the petition and answer, the presiding disciplinary judge may order reinstatement or hold a hearing to determine whether the attorney shall be reinstated. The attorney shall bear the burden of establishing the right to be reinstated by a preponderance of the evidence.

RULE 251.8.6. SUSPENSION FOR FAILURE TO COOPERATE

(b) Petition for Suspension. Regulation Counsel may file a petition for suspension with the supreme court alleging that the attorney has not responded to requests for information, has not responded to the request for investigation, or has not produced records or documents requested by Regulation Counsel and has not interposed a good-faith objection to producing the records or documents. The petition shall be supported by an affidavit setting forth sufficient facts to give rise to reasonable cause to believe that the serious misconduct alleged in the request for investigation has in fact occurred. The affidavit shall also include the efforts undertaken by Regulation Counsel to obtain the attorney's cooperation. A copy of the petition shall be served on the attorney pursuant to C.R.C.P. 251.32(b). The failure of the attorney to file a response in opposition to the petition within ~~ten~~14 days may result in the entry of an order suspending the attorney's license to practice law until further order of the court. The attorney's response shall set forth facts showing that the attorney has complied with the requests, or the reasons why the attorney has not complied and may request a hearing.

Upon consideration of a petition for suspension and the attorney's response, if any, the supreme court may suspend the attorney's license to practice law for an indefinite period pending further order of the court; it may deny the petition; or it may issue any other appropriate orders. If a response to the petition is filed and the attorney requests a hearing on the petition, the supreme court may conduct such a hearing or it may refer the matter to the presiding disciplinary judge for resolution of contested factual matters. The presiding disciplinary judge shall submit a report setting forth findings of fact and a recommendation to the supreme court within ~~five~~7 days of the conclusion of the hearing.

(c) Reinstatement. An attorney suspended under this rule may apply to the supreme court for reinstatement upon proof of compliance with the requests of Regulation Counsel as alleged in the petition, or as otherwise ordered by the court. A copy of the application must be delivered to Regulation Counsel, who may file a response to the application within two days after being served with a copy of the application for reinstatement. The supreme court will summarily

Key: proposed insertion; ~~proposed deletion~~; ~~time period proposed to be unchanged~~.

reinstate an attorney suspended under the provisions of this Rule upon proof of compliance with the requests of Regulation Counsel.

RULE 251.10. INVESTIGATION OF ALLEGATIONS

(a) When Commenced. If, pursuant to C.R.C.P. 251.9, the Regulation Counsel makes a determination to proceed with an investigation, the Regulation Counsel shall give the attorney in question written notice that the attorney is under investigation and of the general nature of the allegations made against the attorney. The attorney in question shall file with the Regulation Counsel a written response to the allegations made against the attorney within ~~twenty~~21 days after notice of the investigation is given.

Upon receipt of the attorney's response, or at the expiration of the ~~twenty~~21-day period if no response is received, the matter shall be assigned to an Investigator for investigation and report.

RULE 251.14. COMPLAINT--CONTENTS, SERVICE

(b) Service of Complaint. The Regulation Counsel shall promptly serve upon the respondent, as provided in C.R.C.P. 251.32(b), a citation and a copy of the complaint filed against the respondent. The citation shall require the respondent within ~~twenty~~21 days after service thereof to file an original and three copies of a written answer to the complaint, in compliance with C.R.C.P. 251.15.

RULE 251.15. ANSWER--FILING, FAILURE TO ANSWER, DEFAULT

(a) Answer. Within ~~twenty~~21 days after service of the citation and complaint, or within such greater period of time as may be approved by the Presiding Disciplinary Judge, the respondent shall file an original and three copies of an answer to the complaint with the Presiding Disciplinary Judge and one copy with the Regulation Counsel. In the answer the respondent shall either admit or deny every material allegation contained in the complaint, or request that the allegation be set forth with greater particularity. In addition, the respondent shall set forth in the answer any affirmative defenses. Any objection to the complaint which a respondent may assert, including a challenge to the complaint for failure to charge misconduct constituting grounds for discipline, must also be set forth in the answer.

RULE 251.18. HEARINGS BEFORE THE HEARING BOARD

(a) Notice. Not less than ~~sixty~~56 days (8 weeks) before the date set for the hearing of a complaint, the Regulation Counsel shall give notice of such hearing as provided in C.R.C.P. 251.32(b) to the respondent, or the respondent's counsel, and to the complaining witness. The notice shall designate the date, place, and time of the hearing. The notice shall also advise the respondent that the respondent is entitled to be represented by counsel at the hearing, to cross-examine witnesses, and to present evidence in the respondent's own behalf.

(b) Designation of a Hearing Board.

(3) Once a default has been entered against a respondent, the respondent or Regulation Counsel has ~~thirty~~28 days after notice of the default order to request a sanctions hearing before a three-person Hearing Board. The party requesting this hearing shall send notice of such request, in writing, to the Presiding Disciplinary Judge and the opposing party. If neither party requests a sanctions hearing before a three-person Hearing Board, the sanction shall be decided by the Presiding Disciplinary Judge.

(e) Order for Examination. When the mental or physical condition of the attorney in question has become an issue in the proceeding, the Presiding Disciplinary Judge, on motion of the Regulation Counsel, may order the attorney to submit to a physical or mental examination by a suitable licensed or certified examiner. The order may be made only upon a determination that reasonable cause exists and after notice to the attorney. The attorney will be provided the opportunity to respond to the motion of the Regulation Counsel, and the attorney may request a hearing before the Presiding Disciplinary Judge. If requested, the hearing shall be held within ~~thirty~~28 days of the date of the attorney's request, and shall be limited to the issue of whether reasonable cause exists for such an order.

(f) Procurement of Evidence During Hearing.

(4) Discovery.

(B) Meeting. A meeting of the parties must be held no later than ~~ten~~14 days after the case is at issue to confer with each other about the nature and basis of the claims and defenses and discuss the matters to be disclosed.

(C) Disclosures. No later than ~~thirty~~28 days after the case is at issue, the parties shall disclose:

(D) Trial Management Order. Upon the request of one of the parties or upon order of the Presiding Disciplinary Judge or the presiding officer of the Hearing Board, no later than ~~forty five~~42 days prior to the trial date, the parties shall disclose to the other party and file a trial management order containing the following matters under the following captions and in the following order:

(iii) Pretrial Motions. The parties shall list motions, if any, which are anticipated to be filed before trial as well as motions, if any, which are pending before the Hearing Board. The parties shall indicate a deadline for the filing of such motions which shall be no later than ~~ten~~14 days prior to the date set for trial.

(iv) Legal Issues. The parties shall set forth a list of legal issues that are controverted, including appropriate citation of statutory, case or other authority. In addition, the parties shall indicate whether trial briefs will be filed, including a schedule for their filing. Trial briefs shall be filed no later than ~~seven~~7 days before the commencement of the trial.

RULE 251.19. FINDINGS OF FACT AND DECISION

(a) Hearing Board Opinion and Decision. Within ~~sixty~~56 days (8 weeks) after the hearing, the Hearing Board shall prepare an opinion setting forth its findings of fact and its decision. In preparing its decision, the Hearing Board shall take into consideration the respondent's prior disciplinary record, if any. The opinion shall be signed by each concurring member of the

Hearing Board. Two members are required to make a decision. Members of the Hearing Board who dissent shall also sign the opinion, provided they indicate the basis of their dissent in the opinion.

(b) Decision of the Hearing Board. When it renders its decision, the Hearing Board shall:

(4) Within ~~ten~~14 days of entry of an order as provided in this Rule or such greater time as the Hearing Board may allow, a party may move for post-hearing relief as provided in C.R.C.P. 59. In the event a motion for post-hearing relief is filed, the Presiding Disciplinary Judge or the presiding officer shall consult with the other members of the Hearing Board and then rule on the motion.

(c) Decision of the Presiding Disciplinary Judge. When the Presiding Disciplinary Judge renders a decision without a Hearing Board as provided in these rules, the Presiding Disciplinary Judge shall:

(3) Within ~~ten~~14 days of entry of an order as provided in this Rule or such greater time as the Presiding Disciplinary Judge may allow, a party may move for post-hearing relief as provided in C.R.C.P. 59.

RULE 251.20. ATTORNEY CONVICTED OF A CRIME

(b) Duty to Report Conviction. Every attorney subject to these rules, upon being convicted of a crime, except those misdemeanor traffic offenses or traffic ordinance violations, not including the use of alcohol or drugs, shall notify the Regulation Counsel in writing of such conviction within ~~ten~~14 days after the date of the conviction. In addition, the clerk of any court in this state in which the conviction was entered shall transmit to the Regulation Counsel within ~~ten~~14 days after the date of the conviction a certificate thereof.

RULE 251.21. DISCIPLINE IMPOSED BY FOREIGN JURISDICTION

(b) Duty to Report Discipline Imposed. Any attorney subject to these rules against whom any form of public discipline has been imposed by the authorities of another jurisdiction, or who voluntarily surrenders the attorney's license to practice law in connection with disciplinary proceedings in another jurisdiction, shall notify the Regulation Counsel of such action in writing within ~~ten~~14 days thereof.

(d) Commencement of Proceedings Upon Notice of Discipline Imposed.

If the attorney intends to challenge the validity of the disciplinary order entered in the foreign jurisdiction, the attorney must file with the Presiding Disciplinary Judge an answer and a full copy of the record of the disciplinary proceedings which resulted in the imposition of that disciplinary order within ~~twenty~~21 days after service of the complaint or such greater time as the Presiding Disciplinary Judge may allow for good cause shown.

RULE 251.22. DISCIPLINE BASED ON ADMITTED MISCONDUCT

(c) Conditional Admission--Hearing.

(1) **Procedure.** Within ~~fifteen~~14 days of the date a conditional admission is filed, the respondent or the Regulation Counsel may request a hearing before the Presiding Disciplinary Judge. If a hearing is requested, it shall be set promptly.

(2) **Notice.** Not less than ~~fifteen~~14 days before the date set for the hearing on the conditional admission, the Regulation Counsel shall give notice of such hearing as provided in C.R.C.P. 251.32(b) to the respondent, the respondent's counsel, and the complaining witness. The notice shall designate the date, place, and time of the hearing. The notice shall advise the respondent that the respondent is entitled to be represented by counsel at the hearing and to present argument regarding the form of discipline to be ordered.

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(d) **Commencement of Proceedings Upon Notice of Discipline Imposed.** Upon receiving notice that an attorney subject to these rules has been publicly disciplined in another jurisdiction, the Regulation Counsel shall obtain the disciplinary order and prepare and file a complaint against the attorney as provided in C.R.C.P. 251.14. If the Regulation Counsel intends either to claim that substantially different discipline is warranted or to present additional evidence, notice of that intent shall be given in the complaint.

If the attorney intends to challenge the validity of the disciplinary order entered in the foreign jurisdiction, the attorney must file with the Presiding Disciplinary Judge an answer and a full copy of the record of the disciplinary proceedings which resulted in the imposition of that disciplinary order within ~~twenty~~21 days after service of the complaint or such greater time as the Presiding Disciplinary Judge may allow for good cause shown.

RULE 251.22. DISCIPLINE BASED ON ADMITTED MISCONDUCT

(c) Conditional Admission--Hearing.

(1) **Procedure.** Within ~~fifteen~~14 days of the date a conditional admission is filed, the respondent or the Regulation Counsel may request a hearing before the Presiding Disciplinary Judge. If a hearing is requested, it shall be set promptly.

(2) **Notice.** Not less than ~~fifteen~~14 days before the date set for the hearing on the conditional admission, the Regulation Counsel shall give notice of such hearing as provided in C.R.C.P. 251.32(b) to the respondent, the respondent's counsel, and the complaining witness. The notice shall designate the date, place, and time of the hearing. The notice shall advise the respondent that the respondent is entitled to be represented by counsel at the hearing and to present argument regarding the form of discipline to be ordered.

RULE 251.27. PROCEEDINGS BEFORE THE SUPREME COURT

(g) **Appeal--When Taken.** The notice of appeal required by this rule shall be filed with the Supreme Court with an advisory copy served on the Presiding Disciplinary Judge within ~~twenty~~21 days of the date of mailing the decision from which the party appeals. If a timely notice of appeal is filed by a party, the other party may file a notice of appeal within ~~fourteen~~14 days of the date on which the first notice of appeal is filed, or within the time otherwise prescribed by this section (g), whichever period last expires.

Upon a showing of excusable neglect, the Supreme Court may extend the time for filing the notice of appeal by a party for a period not to exceed ~~thirty~~28 days from the expiration of the time otherwise prescribed by this section (g). Such an extension may be granted before or after the time otherwise prescribed by this section (g) has expired; but if a request for an extension is made after such time has expired, it shall be made by motion with such notice as the Supreme Court shall deem appropriate.

(j) **Record of Proceedings; Duty of Appellant to Order; Notice to Appellee if Partial Record is Ordered; Costs.** Within ~~ten~~14 days after filing the notice of appeal, the appellant shall file with the Presiding Disciplinary Judge and with the clerk of the Supreme Court either: (1) a statement that no portions of the record other than those numerated in section (i) are desired or (2) a detailed designation of record, setting forth specifically those portions of the record to be included and all dates of proceedings for which transcripts are requested and the name(s) of the court reporter(s) who reported the proceedings that the appellant directs to be included in the record. The appellant shall serve a copy of the designation of record on each court reporter listed therein. If the appellant contends that a finding or conclusion is not supported by the evidence, the appellant shall include in the record a transcript of all evidence relevant to such finding or conclusion. Unless the entire transcript is to be included, the appellant shall include in the designation of record a description of the part of the transcript that the appellant intends to include in the record and a statement of the issues to be presented on appeal. If the appellee deems it necessary to include a transcript of other proceedings or other parts of the record, the appellee shall, within ~~ten~~14 days after the service of the statement or the appellant's designation of the record, file with the Presiding Disciplinary Judge and the Supreme Court, and serve on the appellant and on any court reporter who reported proceedings of which the appellee desires an additional transcript, a designation of the additional items to be included. Service on any court reporter of the appellant's designation of record or the appellee's additional designation of record shall constitute a request for transcription of the specified proceedings. Within ~~ten~~14 days after service of any such designation of record, each such court reporter shall provide in writing to all counsel in the appeal: (1) the estimated number of pages to be transcribed; (2) the estimated completion date; and (3) the estimated cost of transcription. Within ~~twenty~~21 days after receiving the reporter's estimate, the designating party shall deposit the full amount of such estimate with

the court reporter. For good cause shown, within said ~~twenty~~21 days and upon the agreement of the court reporter, the Presiding Disciplinary Judge may order a payment schedule extending the time for payment. When the cost of the transcription will be paid by public funds, the public entity shall make arrangements with the court reporter for payment of the transcription costs. Within ~~thirty~~28 days of the transmittal of the court reporter's cost estimate to the pro se party or counsel, the court reporter shall file with the Presiding Disciplinary Judge and Supreme Court a statement of: (1) the date the court reporter's estimate was provided and the date on which the reporter received full payment of the estimate; or (2) the schedule of payments approved by the Presiding Disciplinary Judge under a good cause extension; or (3) that the cost of the transcript will be paid from public funds. Each party shall advance the cost of preparing that part of the record designated by such party except as otherwise ordered by the Presiding Disciplinary Judge for good cause shown.

(k) Transmission of the Record.

(1) Time. The record on appeal, including the transcript and exhibits necessary for the determination of the appeal, shall be transmitted to the Supreme Court within ~~sixth~~56 days (8 weeks) after the filing of the notice of appeal unless the time is shortened or extended by an order entered as provided in this rule. After filing the notice of appeal the appellant shall comply with the provisions of this rule and shall take any other action necessary to enable the Presiding Disciplinary Judge to assemble and transmit the record.

(l) Docketing the Appeal.

(4) The appellant shall have ~~thirty~~28 days after the filing with the clerk of the Supreme Court of the record on appeal within which to file an opening brief. The appellee shall have ~~thirty~~28 days after the filing of the appellant's opening brief within which to file an answer brief. The appellant shall have ~~ten~~14 days after the filing of the answer brief within which to file a reply brief.

RULE 251.28. REQUIRED ACTION AFTER DISBARMENT, SUSPENSION, OR TRANSFER TO DISABILITY

(a) Effective Date of Order--Winding Up Affairs. Orders imposing disbarment or a definite suspension shall become effective ~~thirty-one~~35 days after the date of entry of the decision or order, or at such other time as the Supreme Court, a Hearing Board, or the Presiding Disciplinary Judge may order. Orders imposing immediate suspension, transferring an attorney to disability inactive status, or for failure to comply with rules governing attorney registration or continuing legal education, shall become effective immediately upon the date of entry of the order, unless otherwise ordered by the Supreme Court, a Hearing Board, or the Presiding Disciplinary Judge. After the entry of an order of disbarment, suspension unless fully stayed (see C.R.C.P. 251.7(a)(3)), or transfer to disability inactive status, the attorney may not accept any new retainer or employment as an attorney in any new case or legal matter; provided, however, that during any period between the date of entry of an order and its effective date the attorney may, with the consent of the client after full disclosure, wind up or complete any matters pending on the date of entry of the order.

(b) Notice to Clients in Pending Matters. An attorney against whom an order of disbarment, suspension unless fully stayed, or transfer to disability inactive status has been entered shall promptly notify in writing by certified mail each client whom the attorney represents in a matter

still pending of the order entered against the attorney and of the attorney's consequent inability to act as an attorney after the effective date of such order, and advising such clients to seek legal services elsewhere. In addition, the attorney shall deliver to each client all papers and property to which the client is entitled. An attorney who has been suspended as provided in the rules governing attorney registration or continuing legal education need not comply with the requirements of this subsection if the attorney has sought reinstatement as provided by the rules governing attorney registration or continuing legal education and reasonably believes that reinstatement will occur within ~~fifteen~~14 days of the date of the order of suspension. If the attorney is not reinstated within those ~~fifteen~~14 days, then the attorney must comply with this subsection.

(c) Notice to Parties in Litigation. An attorney against whom an order of disbarment, suspension unless fully stayed, or transfer to disability inactive status is entered and who represents a client in a matter involving litigation or proceedings before an administrative body shall notify that client as required by section (b) of this rule, and shall recommend that the client promptly obtain substitute counsel. In addition, the lawyer must notify in writing by certified mail the opposing counsel of the order entered against the attorney and of the attorney's consequent inability to act as an attorney after the effective date of the order. The notice to opposing counsel shall state the place of residence of the client of the attorney against whom the order was entered. An attorney who has been suspended as provided in the rules governing attorney registration or continuing legal education need not comply with the requirements of this section if the attorney has sought reinstatement as provided by the rules governing attorney registration or continuing legal education and reasonably believes that reinstatement will occur ~~fifteen~~14 days of the date of the order of suspension. If the attorney is not reinstated within those ~~fifteen~~14 days, then the attorney must comply with this section.

If the client of the attorney against whom an order was entered does not obtain substitute counsel before the effective date of such order, the attorney must appear before the court or administrative body in which the proceeding is pending and move for leave to withdraw.

(d) Affidavit Filed With Supreme Court or the Hearing Board. Within ~~ten~~14 days after the effective date of the order of disbarment, suspension, or transfer to disability inactive status, or within such additional time as allowed by the Supreme Court, the Hearing Board, or the Presiding Disciplinary Judge, the attorney shall file with the Supreme Court or the Hearing Board an affidavit setting forth a list of all pending matters in which the attorney served as counsel and showing:

RULE 251.29. READMISSION AND REINSTATEMENT AFTER DISCIPLINE

(b) Reinstatement After Suspension. Unless otherwise provided by the Supreme Court, a Hearing Board, or the Presiding Disciplinary Judge in the order of suspension, an attorney who has been suspended for a period of one year or less shall be reinstated by order of the Presiding Disciplinary Judge, provided the attorney files an affidavit with the Regulation Counsel within ~~thirty~~28 days prior to the expiration of the period of suspension, stating that the attorney has fully complied with the order of suspension and with all applicable provisions of this chapter. Upon receipt of the attorney's affidavit that has been timely filed, the Regulation Counsel shall notify the Presiding Disciplinary Judge of the attorney's compliance with this rule. Upon receipt of the notice, the Presiding Disciplinary Judge shall issue an order reinstating the attorney. The order

shall become effective upon the expiration of the period of suspension. If the attorney fails to file the required affidavit within the time specified, the attorney must seek reinstatement pursuant to section (c) of this Rule; provided, however, that a suspended attorney who fails to file a timely affidavit may obtain leave of the Presiding Disciplinary Judge to file an affidavit upon showing that the attorney's failure to file the affidavit was the result of mistake, inadvertence, surprise, or excusable neglect. An attorney reinstated pursuant to this section shall not be required to show proof of rehabilitation.

(j) Reinstatement on Stipulation. Provided the petition for reinstatement under section (c) of this rule is filed within ~~thirty~~14 days prior to the expiration of the period of suspension or ~~ninety~~91 days (13 weeks) if the period of suspension is longer than one year and provided the attorney seeking reinstatement and the Regulation Counsel, after any investigation the Regulation Counsel deems necessary, stipulate to reinstatement, the Regulation Counsel shall file with the Presiding Disciplinary Judge the stipulation containing such terms and conditions of reinstatement, if any, as may be agreed. Upon receipt of the stipulation, the Presiding Disciplinary Judge may approve the stipulation following an appearance by the attorney before the Presiding Disciplinary Judge and enter an order of reinstatement on the terms and conditions contained in the stipulation or reject the stipulation and order that a hearing be held by a Hearing Board as provided in section (d) of this rule.

RULE 251.31. ACCESS TO INFORMATION CONCERNING PROCEEDINGS UNDER THESE RULES

(f) Disclosure to Law Firms. When the Regulation Counsel obtains an order transferring the attorney to disability inactive status or immediately suspending the attorney, or is authorized to file a complaint as provided by C.R.C.P. 251.12, the attorney shall make written disclosure to the attorney's current firm and, if different, to the attorney's law firm at the time of the act or omission giving rise to the matter, of the fact that the order has been obtained or that a disciplinary proceeding as provided for in these rules has been commenced. The disclosures shall be made within ~~fifteen~~14 days of the date of the order or of the date the Regulation Counsel notified the attorney that a disciplinary proceeding has been commenced.

(m) Notice to the Attorney. Except as provided in subsection (l)(5) of this Rule, if the Regulation Counsel is permitted to provide nonpublic information requested, and if the attorney has not signed a waiver permitting the requesting agency to obtain nonpublic information, the attorney shall be notified in writing at his or her last known address of that information which has been requested and by whom, together with a copy of the information proposed to be released to the requesting agency. The notice shall advise the attorney that the information shall be released at the end of ~~twenty~~21 days following mailing of the notice unless the attorney objects to the disclosure. If the attorney timely objects to the disclosure, the information shall remain confidential unless the requesting agency obtains an order from the Supreme Court requiring its release.

COLORADO RULES REGARDING ATTORNEYS' FUND FOR CLIENT PROTECTION AND MANDATORY CONTINUING LEGAL AND JUDICIAL EDUCATION

RULE 252.12. PROCEDURES FOR PROCESSING CLAIMS

(g) If, by the completion of the investigation, the attorney or the attorney's representative has not been notified of the claim and given an opportunity to respond to the claim, a copy of the claim shall be served upon the attorney, or the attorney's representative. The attorney or representative shall have ~~20~~ 21 days in which to respond.

(n) The claimant may request in writing reconsideration within ~~30~~ 35 days of the denial or determination of the amount of a claim. If the claimant fails to make a request or the request is denied, the decision of the Board is final.

RULE 260 – MANDATORY CONTINUING LEGAL AND JUDICIAL EDUCATION

RULE 260.3. BOARD OF CONTINUING LEGAL AND JUDICIAL EDUCATION

(3) The Board shall administer the program of mandatory continuing legal education established by these rules. It may formulate rules and regulations and prepare forms not inconsistent with these rules pertaining to its functions and modify or amend the same from time to time. All such rules, regulations and forms and any modifications or amendments thereto shall be submitted to the Supreme Court and shall be made known to all registered attorneys and judges. Those rules, regulations and forms shall automatically become effective on the ~~30th~~ 28th day following submission unless they shall be suspended by the Supreme Court prior to that date.

RULE 260.6. COMPLIANCE

(5) In the event a registered attorney or judge shall fail to complete the required units at the end of each applicable compliance period, the final Affidavit may be accompanied by a specific plan for making up the deficiency of units necessary within ~~120~~ 119 days (17 weeks) after the date of the final Affidavit. When filed, the plan shall be accompanied by a make-up plan filing fee, the amount of which shall be determined by the Board annually and which shall be used to cover the costs of processing the plan. Such plan shall be deemed accepted by the Board unless within ~~15~~ 14 days after the receipt of such final affidavit the Board notifies the affiant to the contrary. Full completion of the affiant's plan shall be reported by Affidavit to the Board not later than ~~15~~ 14 days following such ~~120~~ 119-day period. Failure of the affiant to complete the plan within such ~~120~~ 119-day period shall invoke the sanctions set forth in Paragraph (6).

(6) In the event that any registered attorney or judge shall fail to comply with these rules or Rule 201.14 in any respect, the Board shall promptly notify such registered attorney or judge of the nature of the noncompliance by a statement of noncompliance. The statement shall advise the

registered attorney or judge that within ~~15~~ 14 days either the noncompliance must be corrected or a request for a hearing before the Board must be made, and that upon failure to do either, the statement of noncompliance shall be filed with the Supreme Court.

(7) If the noncompliance is not corrected within ~~15~~ 14 days, or if a hearing is not requested within ~~15~~ 14 days, the Board shall promptly forward the statement of noncompliance to the Supreme Court which may impose the sanctions set forth in Paragraph (10).

(8) If a hearing before the Board is requested, such hearing shall be held within ~~30~~ 35 days after the request by the full Board or one or more of the members of the Board as it shall designate, provided that the presiding member at the hearing must be a registered attorney or judge. Notice of the time and place of the hearing shall be given to the registered attorney or judge at least ~~ten~~ 14 days prior thereto. The registered attorney or judge may be represented by counsel. Witnesses shall be sworn; and, if requested by the registered attorney or judge, a complete electronic record shall be made of all proceedings had and testimony taken. The presiding member shall have authority to rule on all motions, objections and other matters presented in connection with the hearing. The hearing shall be conducted in conformity with the Colorado Rules of Civil Procedure, and the practice in the trial of civil cases, except the registered attorney or judge involved may not be required to testify over his or her objection. The chairman of the Board shall have the power to compel, by subpoena issued out of the Supreme Court, the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary as evidence in the hearing.

(9)

(a) If the Board determines that there was reasonable cause for noncompliance, the registered attorney or judge shall be allowed ~~15~~ 14 days within which to file with the Board a specific plan for correcting the noncompliance within ~~120~~ 119 days (17 weeks). Such plan shall be deemed accepted by the Board unless within ~~15~~ 14 days after its receipt the Board notifies the registered attorney or judge to the contrary. Full completion of the plan shall be reported by Affidavit to the Board not later than ~~15~~ 14 days following such ~~120~~119-day period. If the registered attorney or judge shall fail to file an acceptable plan, or shall fail to complete and certify completion of the plan within such ~~120~~119-day period, the Board shall proceed as set forth in Paragraph (b) as though it had determined that there was not reasonable cause for noncompliance.

(13) Any attorney who has been suspended for noncompliance pursuant to Rule 260.6(10) may be reinstated by order of the Court upon a showing that the attorney's current continuing legal education deficiency has been made up. The attorney shall file with the Board three (3) copies of a petition seeking reinstatement, addressed to the Supreme Court. The petition shall state with particularity the accredited programs of continuing legal education which the attorney has already completed, including dates of their completion, by which activity the attorney earned sufficient units of credit to make up the deficiency which was the cause of the attorney's suspension. The petition shall be accompanied by a reinstatement filing fee, the amount of which shall be determined by the Board annually and which shall be used to cover the costs associated with noncompliance. The Board shall file a properly completed petition, accompanied by the Board's recommendation, with the Clerk of the Supreme Court within ~~ten (10)~~ 14 days after receipt.

COLORADO RULES OF CIVIL PROCEDURE (RULES 301-411)

Rule 303. Commencement of Action

(a) How Commenced. A simplified civil action is commenced: (1) by filing with the court a complaint consisting of a statement of claim setting forth briefly the facts and circumstances giving rise to the action in the manner and form provided in Rule 308 or (2) by service of a summons and complaint. The complaint must be filed within ~~fifteen~~14 days of the service of the summons and not less than ~~five~~7 days in advance of the return date. If the complaint is not timely filed, the service of the summons shall be deemed ineffective and void without notice. In such case the court may, in its discretion, tax a reasonable sum in favor of the defendant to compensate the defendant for expense and inconvenience, including attorney's fees, to be paid by plaintiff or the plaintiff's attorney. The ~~fifteen~~14 day filing requirement may be expressly waived by a defendant and shall be deemed waived upon the filing of an answer or motion to the complaint without reserving the issue.

(b) Issuance of Summons. Upon the filing of a complaint as provided in section (a) of this rule and the payment of the docket fee, the clerk shall docket the case and assign it a number. Unless summons has prior thereto been issued and signed by an attorney, the clerk shall then sign and issue a summons under the seal of the court. Separate, additional, and amended summons may be issued by the clerk or an attorney of record against any defendant at any time, and when issued by an attorney, it must be filed with the court no later than ~~five~~7 days in advance of the return date. All process shall be issued by the clerk except as otherwise provided by these rules.

(c) Time of Jurisdiction. The court shall have jurisdiction from (1) the filing of the complaint, or (2) the service of the summons and complaint; provided, however, if more than ~~fifteen~~14 days elapses after service upon any defendant before the filing of the complaint, jurisdiction as to that defendant shall not attach by virtue of the service.

Rule 306. Time

(a) Computation. (1) In computing any period of time prescribed or allowed by these rules, by order of court, or by an applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Thereafter, every day shall be counted including holidays, Saturdays or Sundays. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. The term "calendar days" shall mean consecutive days including holidays, Saturdays or Sundays. The "next day" is determined by continuing to count forward when the period is measured after an event and backward when measured before an event. Unless otherwise specifically ordered, when the period of time prescribed or allowed is less than eleven days, and not specified as "calendar days", intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

(2) As used in this Rule, “Legal holiday” includes the first day of January, observed as New Year's Day; the third Monday in January, observed as Martin Luther King Day; the third Monday in February, observed as Washington-Lincoln Day; the last Monday in May, observed as Memorial Day; the fourth day of July, observed as Independence Day; the first Monday in September, observed as Labor Day; the second Monday in October, observed as Columbus Day; the eleventh day of November, observed as Veteran's Day; the fourth Thursday in November, observed as Thanksgiving Day; the twenty-fifth day of December, observed as Christmas Day, and any other day except Saturday or Sunday when the court is closed.

(c) Unaffected by Expiration of Term, Repealed. ~~The period of time provided for the doing of any act or the taking of any proceeding is not affected or limited by the continued existence or expiration of a term of court. The continued existence or expiration of a term of court in no way affects the power of a court to do any act or take any proceeding in any civil action which has been pending before it.~~

(d) For Motions -- Affidavits. Repealed. ~~A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not later than five days before the time specified for the hearing unless a different period is fixed by these rules or by order of the court. Such an order may for cause shown be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be filed and served within the time allowed for the moving party's brief; and, except as otherwise provided in Rule 59(d), opposing affidavits may be filed and served within the time allowed for filing and serving a responsive brief, unless the court orders some lesser or greater time.~~

(e) Additional Time After Service Under C.R.C.P. 5(b)(2)(B), (C), or (D). Repealed. ~~Unless otherwise specifically ordered, whenever a party must or may act within a prescribed period after service is made under C.R.C.P. 5(b)(2)(B), (C), or (D), three calendar days shall be added after the prescribed period would expire under the rule that defines the length of the prescribed period.~~

Rule 312. Defenses and Objections--When and How Presented--By Pleading or Motion-- Motion for Judgment on Pleadings

(a) Responsive Pleadings; When Presented. The defendant shall file an answer including any counterclaim or cross-claim on or before the appearance date as fixed in the summons. Except as otherwise provided in this rule, the appearance date shall not be more than ~~sixty~~ 63 days from the date of the issuance of the summons and the summons must have been served at least ~~ten calendar~~ 14 days before the appearance date. When circumstances require that the plaintiff proceed under Rule 304(e), the above limitation shall not apply and the appearance date shall not be less than ~~ten calendar~~ 14 days after the completion of service by publication or mail.

(b) Motions. Motions raising defenses shall be made in accordance with Rule 302. If made by the defendant on or before the appearance date the motions shall be ruled upon before an answer is required to be filed. If the court rules upon such motions on the appearance date, the defendant may be required to file the answer immediately. The answer shall otherwise be filed within ~~ten~~ 14 days of the order. The court may permit the plaintiff to amend the complaint or supply additional facts and may permit additional time within which the answer shall be filed.

Rule 316. Pretrial Procedure--Disclosure and Conference

(a) Disclosure Statement.

(1) At any time after the answer is filed but no later than ~~20~~ 21 days before trial, a party may request from an opposing party a list of witnesses who may be called at trial, and copies of documents and pictures, and a description of physical evidence which may be used at trial. Such request shall be made by serving pursuant to C.R.C.P. 305 a blank disclosure statement, which shall be in the form and content of Appendix to Chapter 25, Form 9, on the opposing party and shall be accompanied by the requesting party's properly completed Form 9 and its attachments. The opposing party shall serve pursuant to C.R.C.P. 305 a completed Form 9 with attachments on the requesting party within ~~20~~ 21 days after service but not less than ~~10 calendar~~ 7 days before trial. The court may shorten or extend that time. A party may not supplement the disclosure statement except for good cause.

Rule 325. Substitution of Parties

(a) Death.

(1) If a party dies and the claim is not thereby extinguished, the court may order substitution of the proper parties. The motion for substitution may be made by any party or by the successors or representatives of the deceased party and, together with the notice of hearing, shall be served on the parties as provided in Rule 307 and upon persons not parties in the manner provided in Rule 307 for the service of process, and may be served in any county. Suggestion of death upon the record is made by service of a statement of the fact of death as provided herein for the service of the motion and by filing of proof thereof. If the motion for substitution is not made within ~~ninety~~ 91 days (13 weeks) after such service, the action shall be dismissed as to the deceased party.

Rule 331. Conducting Depositions to Preserve Testimony

(a) Serving Interrogatories; Notice. If the court shall order the taking of a deposition of any person, the party desiring to take the deposition shall serve upon every other party not in default at least ~~seven calendar~~ 7 days prior to the scheduled deposition copies of the written interrogatories, including the name and address of the person who is to answer them and the

name, descriptive title, and address of the officer who will administer the interrogatories and transcribe the responses. Within ~~five calendar~~ 7 days thereafter a party so served may serve cross-interrogatories upon the party proposing to take the deposition. No redirect or recross interrogatories shall be permitted.

Rule 332. Effect of Errors and Irregularities in Depositions to Preserve Testimony

(c) **As to Taking of Deposition.** Objections to the form of written interrogatories submitted under Rule 331 are waived unless served in writing upon the party propounding them within **three days** of receipt of said interrogatories.

Rule 338. Right to Trial by Jury

(c) **Jury Fees.** When a party to an action has exercised the right to demand a trial by jury, every other party to such action shall also pay the requisite jury fee unless such other party files and serves a notice of waiver of the right to trial by jury within ~~ten calendar~~ 14 days after service of the demand.

(d) **Specification of Issues.** A demand may specify the issues to be tried to the jury; in the absence of such specification, the party filing the demand shall be deemed to have demanded trial by jury of all issues so triable. If a party demands trial by jury on fewer than all of the issues so triable, any other party, within ~~ten calendar~~ 14 days after the demand is made, may file and serve a demand for trial by jury of any other issues so triable.

Rule 341. Dismissal of Actions

(b) Involuntary Dismissal.

(2) *By the Court.* Actions not prosecuted or brought to trial with due diligence may, upon notice, be dismissed without prejudice unless otherwise specified by the court upon ~~thirty~~ 28 days' notice in writing to all appearing parties or their counsel of record, unless a party shows cause in writing within said ~~thirty~~ 28 days why the case should not be dismissed.

Rule 343. Evidence

(h)(1) Request for absentee testimony.

(h) (2) **Response.** If any party objects to absentee testimony, said party shall file a written response within ~~3~~ 7 days following service of the motion unless the opening of the proceeding occurs first, in which case the objection shall be made orally in open court at the commencement of the proceeding or as soon as practicable thereafter. If no response is filed or objection is made, the motion may be deemed confessed.

Rule 354. Judgments; Costs

(d) Costs. Except when express provision therefor is made either in a statute of this state or in these rules, costs shall be allowed as of course to the prevailing party unless the court otherwise directs; but costs against the state of Colorado, its officers or agencies, shall be imposed only to the extent permitted by law. ~~Costs may be taxed by the clerk on one day's notice. On motion served within five days thereafter, the action of the clerk may be reviewed by the court.~~

(h) Revival of Judgments. A judgment may be revived against any one or more judgment debtors whether they are jointly or severally liable under the judgment. To revive a judgment a motion shall be filed alleging the date of the judgment and the amount thereof which remains unsatisfied. Thereupon the clerk shall issue a notice requiring the judgment debtor to show cause within ~~ten~~ 14 days after service thereof why the judgment should not be revived. The notice shall be served on the judgment debtor in conformity with Rule 304. If the judgment debtor answers, any issue so presented may be tried and determined by the court. A revived judgment must be entered within twenty years after the entry of the judgment which it revives, and may be enforced and made a lien in the same manner and for like period as an original judgment. A judgment entered on or after July 1, 1981 must be revived within six years after the entry of the judgment which it revives, and may be enforced and made a lien in the same manner and for like period as an original judgment. If a judgment is revived before the expiration of any lien created by the original judgment, the filing of the transcript of the entry of revivor in the register of actions with the clerk and recorder of the appropriate county before the expiration of such lien shall continue that lien for the same period from the entry of the revived judgment as is provided for original judgments. Revived judgments may themselves be revived in the manner herein provided.

Rule 355. Default

(a) Entry at Time of Appearance. Upon the date and at the time set for appearance, if the defendant has filed no answer or fails to appear and if the plaintiff proves by appropriate return that the summons was served ~~service was made upon the defendant as provided herein~~ at least ~~ten calendar~~ 14 days ~~prior~~ before the appearance date, the judge may enter judgment for the plaintiff for the amount due, including interest, costs and other items provided by statute or the agreement. However, before judgment is entered, the court shall be satisfied that the venue of the action is proper Under Rule 398(c).

Rule 359. New Trials; Amendment of Judgments

(b) Time for Motion. A motion for new trial (which must be in writing) may be made within ~~fifteen~~ 14 days of entry of judgment and if so made the time for appeal shall be extended until ~~fifteen~~ 21 days after disposition of the motion. Only matters raised in said motion shall be considered on appeal.

Key: proposed insertion; ~~proposed deletion~~; time period proposed to be unchanged.

(f) Motion to Alter or Amend a Judgment. A motion to alter or amend the judgment shall be filed not later than ~~fifteen~~ 21 days after entry of the judgment.

Rule 369. Execution and Proceedings Subsequent to Judgment

(d) Order for Debtor to Answer. At any time when execution may issue on a judgment, the judgment creditor shall be entitled to an order requiring the judgment debtor to answer such interrogatories concerning his property as shall be approved by the court. The interrogatories when so approved shall be mailed by the clerk to the judgment debtor, who shall answer the said interrogatories and mail or file them with the court within ~~ten~~ 14 days after receipt thereof by the judgment debtor. The interrogatories, upon approval, may also be served upon the judgment debtor in accordance with Rule 304.

Rule 402. Attachments

(i) Return of Writ. The sheriff shall return the writ of attachment within ~~twenty~~ 21 days after its receipt, with a certificate of his proceedings endorsed thereon, or attached thereto, making a full inventory of the property attached as a part of his return upon the writ.

(k) No Final Judgment Until ~~Thirty~~ 35 Days After Levy.

(1) **Creditors.** No final judgment shall be rendered in a cause wherein an attachment writ has been issued and a levy made thereunder, until the expiration of ~~thirty~~ 35 days after such levy has been made; and any creditor of the defendant making and filing within said ~~thirty~~ 35-day period an affidavit and undertaking, as hereinbefore required of the plaintiff, together with his complaint setting forth his claim against the defendant, shall be made a party plaintiff and have like remedies against the defendant to secure his claim, as the law gives to the original plaintiff.

(2) **Judgment Creditors.** Any other creditor whose claim has been reduced to judgment in this state may upon motion filed within said ~~thirty~~ 35 days be made a party and have like remedies against the attached property. Such judgment creditor shall not be required to make or file an affidavit, undertaking or complaint, or have summons issue, provided, that any such judgment creditor may be required to prove to the satisfaction of the court that his judgment is bona fide and not in fraud of the rights of other creditors.

(n) Traverse of Affidavit. (1) The defendant may, at any time before trial, by affidavit, traverse and put in issue the matters alleged in the affidavit, testimony, or other evidence upon which the attachment is based and if the plaintiff shall establish the reasonable probability that any one of the causes alleged in the affidavit exists, said attachment shall be sustained, otherwise the same shall be dissolved. A hearing on the defendant's traverse shall be held within ~~seven~~ 7 days from the filing of the traverse and upon no less than two business days' notice to the plaintiff. If the debt for which the action is brought is not due and for that reason the attachment is not sustained, the action shall be dismissed; but if the debt is due, but the attachment nevertheless is not sustained, the action may proceed to judgment after the attachment is dissolved, as in other actions where no attachment is issued.

(x) New Bond; When Ordered; Failure to Furnish. If at any time where an attachment has been issued it shall appear to the court that the undertaking is insufficient, the court shall order another undertaking, and if the plaintiff fails to comply with such order within ~~twenty~~ 21 days after the same shall be made, all or any writs of attachment issued therein shall be quashed. The additional undertaking shall be executed in the same manner as the original, and the sureties therein shall be jointly and severally liable with those in the original undertaking.

Rule 403. Garnishment (*See, Effective Date July 1, 2012*)

Rule 404. Replevin

(c) Show Cause Order; Hearing within ~~Ten-14~~ Days. The court shall without delay, examine the complaint and affidavit, and if it is satisfied that they meet the requirements of section (b), it shall issue an order directed to the defendant to show cause why the property should not be taken from the defendant and delivered to the plaintiff. Such order shall fix the date and time for the hearing thereof. The hearing date shall be not more than ~~ten-14~~ days from the date of the issuance of the order and the order must have been served at least ~~five-7~~ days prior to the hearing date. The plaintiff may request a hearing date beyond ~~ten-14~~ days, which request shall constitute a waiver of the right to a hearing not more than ~~ten-14~~ days from the date of issuance of the order. Such order shall inform the defendant that he may file affidavits on his behalf with the court and may appear and present testimony in his behalf at the time of such hearing, or that he may, at or prior to such hearing, file with the court a written undertaking to stay the delivery of the property, in accordance with the provisions of section (j) of this rule, and that, if he fails to appear at the hearing on the order to show cause or to file an undertaking, plaintiff may apply to the court for an order requiring the sheriff to take immediate possession of the property described in the complaint and deliver same to the plaintiff. The summons and complaint, if not previously served, and the order shall be served on the defendant and the order shall fix the manner in which service shall be made, which shall be by service in accordance with the provisions of Rule 4, C.R.C.P., or in such manner as the court may determine to be reasonably calculated to afford notice thereof to the defendant under the circumstances appearing from the complaint and affidavit.

(j) When Returned to Defendant; Bond. At any time prior to the hearing on the order to show cause, or before the delivery of the property to the plaintiff, the defendant may require the return thereof upon filing with the court a written undertaking, in an amount set by the court in its discretion not to exceed double the value of the property and executed by the defendant and such surety as the court may direct for the delivery of the property to the plaintiff, if such delivery be ordered, and for the payment to the plaintiff of such sum as may for any cause be recovered against the defendant. At the time of filing such undertaking, the defendant shall serve upon the plaintiff or his attorney, in the manner provided by Rule 5, C.R.C.P., a notice of filing of such undertaking, to which a copy of such undertaking shall be attached, and shall cause proof of service thereof to be filed with the court. If such undertaking be filed prior to hearing on the order to show cause, proceedings thereunder shall terminate, unless exception is taken to the amount of the bond or the sufficiency of the surety. If, at the time of filing of such undertaking, the property shall be in the custody of the sheriff, such property shall be redelivered to the

defendant ~~five~~7 days after service of notice of filing such undertaking upon the plaintiff or his attorney.

(k) Exception to Sureties. Either party may, within two business days after service of an undertaking or notice of filing and undertaking under the provisions of this Rule, give written notice to the court and the other party that he excepts to the sufficiency of the surety or the amount of the bond. If he fails to do so, he is deemed to have waived all objections to them. When a party excepts the court shall hold a hearing to determine the sufficiency of the bond or surety. If the property be in the custody of the sheriff, he shall retain custody thereof until the hearing is completed or waived. If the excepting party prevails at the hearing, the sheriff shall proceed as if no such undertaking had been filed. If the excepting party does not prevail at the hearing, or the exception is waived, he shall deliver the property to the party filing such undertaking.

(n) Return; Papers by Sheriff. The sheriff shall return the order of possession and undertakings and affidavits with his proceedings thereon, to the court in which the action is pending, within ~~twenty~~21 days after taking the property mentioned therein.

Rule 407. Remedial And Punitive Sanctions For Contempt.

(c) Indirect Contempt Proceedings. When it appears to the court by motion supported by affidavit that indirect contempt has been committed, the court may ex parte order a citation to issue to the person so charged to appear and show cause at a date, time and place designated why the person should not be punished. The citation and a copy of the motion, affidavit and order shall be served directly upon such person at least ~~twenty~~21 days before the time designated for the person to appear. If such person fails to appear at the time so designated, and it is evident to the court that the person was properly served with copies of the motion, affidavit, order, and citation, a warrant for the person's arrest may issue to the sheriff. The warrant shall fix the date, time and place for the production of the person in court. The court shall state on the warrant the amount and kind of bond required. The person shall be discharged upon delivery to and approval by the sheriff or clerk of the bond directing the person to appear at the date, time and place designated in the warrant, and at any time to which the hearing may be continued, or pay the sum specified. If the person fails to appear at the time designated in the warrant, or at any time to which the hearing may be continued, the bond may be forfeited upon proper notice of hearing to the surety, if any, and to the extent of the damages suffered because of the contempt, the bond may be paid to the aggrieved party. If the person fails to make bond, the sheriff shall keep the person in custody subject to the order of the court.

Rule 411. Appeals (See, Effective Date July 1, 2012)

MISCELLANEOUS CIVIL RULES

RULES OF PROCEDURE FOR JUDICIAL BYPAS OF PARENTAL NOTIFICATION REQUIREMENTS (CH. 23.5)

Make no changes because the 4 days is statutory and time is of the essence in these cases.

COLORADO RULES OF JUVENILE PROCEDURE (CH. 28)

Rule 3.2. Responsive Pleadings and Motions

(e) A request for waiver of jurisdiction to the district court for criminal proceedings shall be in writing and filed within ~~thirty~~ 28 days of the initial advisement. Upon application to the court by the district attorney, and for good cause shown, a request may, in the discretion of the court, be filed at any time prior to the adjudicatory trial.

Rule 3.5. Jury Trial

C.R.S. § 19-2-708 requires a jury trial within 60 days, so no change.

Rule 4. Petition Initiation, Form and Content

(a) A petition concerning a child who is alleged to be dependent and neglected shall be initiated in accordance with Section 19-3-501, C.R.S., and shall be in the form set forth in Section 19-3-502, C.R.S. Said petition shall be filed within ~~ten working~~ 14 days from the day a child is taken into custody, unless otherwise directed by the court.

Rule 4.5. Contempt in Dependency and Neglect Cases

The citation, copy of the motion, affidavit, and order in contempt proceedings pursuant to C.R.C.P. 107, shall be served personally upon any respondent or party to the dependency and neglect action, at least ten days before the time designated for the person to appear before the court. Proceedings in contempt shall be conducted pursuant to C.R.C.P. 107, except that the time for service under subsection (c) shall be not less than ~~ten~~ 14 days before the time designated for the person to appear.

Rule 6. Petition in Adoption (See, Effective July 1, 2012)

COLORADO RULES FOR TRAFFIC INFRACTIONS (CH. 29.7)

CRTI 6 (a) leave two the way it is – seven is too much in advance of the date of appearance to cut off payments.

COLORADO MUNICIPAL COURT RULES OF PROCEDURE (CH. 30)

Rule 204. Simplified Procedure for Trial of Municipal Charter and Ordinance Violations

(e) Service of Summons and Complaint. A copy of a summons or summons and complaint issued pursuant to these rules shall be served personally upon the defendant. In lieu of personal service, service may be made by leaving a copy of the summons or summons and complaint at the defendant's usual place of abode with some person over the age of eighteen years residing therein or by mailing a copy to the defendant's last known address by certified mail, return receipt requested, not less than ~~five~~ 7 days prior to the time the defendant is required to appear.

CMCR 210 (*See, Effective July 1, 2012*)

Rule 235. Correction or Vacation of Sentence

(b) Reduction of Sentence. The court may reduce the sentence provided that a motion for reduction of sentence is filed (1) within ~~ninety~~ 91 days (13 weeks) after the sentence is imposed, or (2) within ~~ninety~~ 91 days (13 weeks) after receipt by the court of a remittitur issued upon affirmance of the judgment or sentence or dismissal of the appeal, or (3) within ~~ninety~~ 91 days (13 weeks) after entry of any order or judgment of the appellate court denying review or having the effect of upholding a judgment of conviction or sentence. The court may, after considering the motion and supporting documents, if any, deny the motion without a hearing. The court may reduce a sentence on its own initiative within any of the above periods of time.

Rule 246. Bail.

(d) Forfeiture.

(3) Enforcement When Forfeiture Not Set Aside. By entering into a bond each obligor, whether the principal or a surety, submits to the jurisdiction of the court. Liability under the bond may be enforced, without the necessity of an independent action, as follows: The court shall order the issuance of a citation directed to the obligor to show cause, if any there be, why judgment should not be entered forthwith and execution issue thereon. Said citation shall issue promptly may be served personally or by first class mail upon the obligor directed to the addresses given in the bond. Hearing on the citation shall be held not less than ~~twenty~~ 21 days after service. The defendant and the prosecution shall be given notice of the hearing. At the conclusion of the

Rule 45 continued

hearing, the court may enter a judgment against the obligor, and execution shall issue thereon as on other judgments.

Rule 248. Dismissal

(b) By the Court. If there is unnecessary delay in the trial of a defendant, the court may dismiss the case. If the trial of a defendant is delayed more than ~~ninety~~ 91 days after the arraignment of the defendant, or unless the delay is occasioned by the action or request of the defendant, the court shall dismiss the case and the defendant shall not thereafter be tried for the same offense; except that if on the day of a trial set within the last ~~ten~~ 7 days of the above time limit a necessity for a continuance arises which the court in the exercise of sound judicial discretion determines would warrant an additional delay, then one continuance, not exceeding ~~thirty~~ 28 days, may be allowed, after which the dismissal shall be entered as above provided if trial is not held within the additional time allowed.

COLORADO RULES FOR MAGISTRATES(CH. 35)

Rule 3. Definitions

(f) Consent:

(1) Consent in District Court:

(ii) The party has been provided notice of the referral, setting, or hearing of a proceeding before a magistrate and failed to file a written objection within ~~fifteen~~ 14 days of such notice; or

Rule 7. Review of District Court Magistrate Orders or Judgments

(a) Orders or judgments entered when consent not necessary. Magistrates shall include in any order or judgment entered in a proceeding in which consent is not necessary a written notice that the order or judgment was issued in a proceeding where no consent was necessary, and that any appeal must be taken within ~~45~~ 21 days pursuant to Rule 7(a).

(5) A party may obtain review of a magistrate's final order or judgment by filing a petition to review such final order or judgment with the reviewing judge no later than fifteen days subsequent to the final order or judgment if the parties are present when the magistrate's order is entered, or ~~fifteen~~ 21 days from the date the final order or judgment is mailed or otherwise transmitted to the parties. ~~If the final order or judgment is mailed or otherwise transmitted, three days shall be added pursuant to the provisions of C.R.C.P. 6(e).~~

Key: proposed insertion; ~~proposed deletion~~; time period proposed to be unchanged.

Rule 45 continued

(6) A request for extension of time to file a petition for review must be made to the reviewing judge within the ~~fifteen~~ 21 day time limit within which to file a petition for review. A motion to correct clerical errors filed with the magistrate pursuant to C.R.C.P. 60(a) does not constitute a petition for review and will not operate to extend the time for filing a petition for review.

(7) A petition for review shall state with particularity the alleged errors in the magistrate's order or judgment and may be accompanied by a memorandum brief discussing the authorities relied upon to support the petition. Copies of the petition and any supporting brief shall be served on all parties by the party seeking review. Within ~~ten~~ 14 days after being served with a petition for review, a party may file a memorandum brief in opposition.

COLORADO APPELLATE RULES

Rule 3.1. Appeals from Industrial Claim Appeals Office

~~(b) Briefs in Industrial Claim Appeals Office Cases. Within fifteen~~ 14 days after return of the record, the appellant shall file an opening brief. Within ~~ten~~ 14 days after service of the opening brief, the appellee shall file an answer brief. Within ~~five~~ 7 days after service of the answer brief, the appellant may file a reply brief. Briefs may be printed, typewritten, mimeographed, or otherwise reproduced in conformity with the provisions of C.A.R. 28.

(c) and (d) No change

Rule 3.4. Appeals from Proceedings in Dependency or Neglect

(b) Time for Appeal.

(1) A Notice of Appeal and Designation of Record (Form 1) shall be filed with the clerk of the Court of Appeals and an advisory copy served on the clerk of the trial court within ~~twenty-one~~ 21 days after the entry of the order from which the appeal is taken. If a motion for post-trial relief is timely filed pursuant to C.R.C.P. 59, the time for filing the notice of appeal begins to run upon the entry of an order denying the motion or upon the date the motion is deemed denied under C.R.C.P. 59(j), whichever occurs first. An order is entered within the meaning of this rule when it is entered pursuant to C.R.C.P. 58. If notice of the entry of the order is mailed to the parties, the time for filing the notice of appeal shall commence from the date of mailing.

(2) If a timely notice of appeal is filed, any other party may file a Notice of Cross-Appeal and Designation of Record (Form 1) within ~~five~~ 7 days of the date on which the notice of appeal was filed or within the ~~twenty-one~~ 21 days for the filing of the notice of appeal, whichever period expires last.

(e) Record on Appeal.

(4) Within ~~five~~ 7 days after service of a designation of record, any appellee may complete and file a Supplemental Designation of Record (Form 3) with the clerk of the trial court and the clerk of the Court of Appeals and serve it on the court reporter listed therein.

(5) Within ~~five~~ 7 days after service of the Notice of Appeal and Designation of Record (Form 1), the designating party or public entity responsible for the cost of transcription shall make arrangements for payment with the court reporter. Within ~~ten~~ 14 days after service of the Notice of Appeal and Designation of Record (Form 1), the court reporter shall file a statement with the clerk of the trial court and the clerk of the Court of Appeals indicating whether arrangements for payment have been made.

(f) Transmission of Record.

Rule 45 continued

(1) Within ~~forty~~⁴² days after the filing of the Notice of Appeal and Designation of Record (Form 1), the record, including any transcripts or exhibits, shall be transmitted to the Court of Appeals in accordance with C.A.R. 11(b).

(2) The appellant may request an extension of time of no more than ~~fifteen~~¹⁴ days in which to file the record, which will be granted only upon a showing of good cause. If the request is based on the court reporter's inability to complete the transcript, it must be supported by an affidavit of the reporter specifying why the transcript has not been completed.

(g) Petition on Appeal.

(1) Within ~~twenty~~²¹ days after the filing of the Notice of Appeal and Designation of Record (Form 1), the appellant shall file an original and five copies of a Petition on Appeal (Form 4). The petition shall be prepared by appellant if proceeding pro se, by appellant's trial counsel, or by substitute counsel so long as substitute counsel has filed an entry of appearance. Except for extraordinary circumstances, substitution of counsel shall not be grounds for an extension of time.

(2) The appellant may request one extension of time of no more than ~~seven~~⁷ days in which to file the petition, which will be denied except upon a showing of manifest injustice.

(h) Response to Petition on Appeal (Cross-Appeal).

(1) Within ~~twenty~~²¹ days after service of the appellant's petition on appeal, any appellee may file an original and five copies of a Response to Petition on Appeal (Cross-Appeal) (Form 5). The response (cross-appeal) shall be prepared by trial counsel or by substitute counsel so long as substitute counsel has filed an entry of appearance. Except for extraordinary circumstances, substitution of counsel shall not be grounds for an extension of time.

(2) An appellee may request one extension of time of no more than ~~seven~~⁷ days in which to file a response (cross-appeal), which will be denied except upon a showing of manifest injustice.

(j) Ruling.

(2) After reviewing the petition on appeal, any response, and the record, the Court of Appeals may, by opinion in conformity with C.A.R. 35, affirm the trial court decision, reverse, or vacate the trial court decision, remand the case to the trial court, or set the case for supplemental briefing on issues raised by the parties or noticed by the court. If supplemental briefing is ordered, new counsel may be substituted upon a showing of good cause. Such request must be filed with the Court of Appeals within ~~seven~~⁷ days after the case is set for supplemental briefing.

(k) (1) Petition for Rehearing. A petition for rehearing in the form prescribed by C.A.R. 40(b) may be filed within ~~ten~~¹⁴ days after entry of judgment. The time in which to file the petition for rehearing shall not be extended.

(2) Petition for Writ of Certiorari. Review of the judgment of the Court of Appeals may be sought by filing a petition for writ of certiorari in the Supreme Court in accordance with C.A.R. 51. The petition shall be filed within ~~ten-14~~ days after the expiration of the time for filing a petition for rehearing or the date of denial of a petition for rehearing by the Court of Appeals. Any cross-petition or opposition brief to a petition for writ of certiorari shall be filed within ~~ten~~ 14 days after the filing of the petition. The petition for writ of certiorari, any cross-petition, and any opposition brief shall be in the form prescribed by C.A.R. 53(a)-(c) and filed and served in accordance with C.A.R. 53(f).

(1) Issuance of Mandate. The mandate shall be in the form prescribed by C.A.R. 41(a) and shall issue ~~twenty-two~~29 days after entry of the judgment. The timely filing of a petition for rehearing will stay the mandate until the Court of Appeals has ruled on the petition. If the petition is denied, the mandate shall issue ~~twelve-14~~ days after entry of the order denying the petition. The mandate may also be stayed in accordance with C.A.R. 41.1.

Rule 4.1. Interlocutory Appeals in Criminal Cases

(b) Limitation on Time of Issuance. No interlocutory appeal shall be filed after ~~ten-14~~ days from the entry of the order complained of. It shall not be a condition for the filing of such interlocutory appeal that a motion for a new trial or rehearing shall have been filed and denied in the trial court.

(d) Record. The record for an interlocutory appeal shall consist of the information or indictment, the plea of the defendant or the defendants, the motions filed by the defendant or defendants on the grounds stated in section (a) above, the reporter's transcript of all testimony taken at the hearing on said motions and such exhibits or reasonable copies, facsimiles, or photographs thereof as the parties may designate (subject to the provisions in C.A.R. 11 (b) pertaining to exhibits of bulk), the order of court ruling on said motions together with the date, if one has been fixed, that the case is set for trial or a certificate by the clerk that the case has not been set for trial. After the filing of the record, such other exhibits or reasonable copies, facsimiles, or photographs thereof shall be transmitted by the clerk of the trial court to the appellate court as the appellate court may order. The record shall be filed within ~~ten-14~~ days of the date of filing the notice of appeal.

(f) Briefs. Within ~~ten-14~~ days after the record has been filed in the supreme court, the state shall file ten copies of a typewritten, mimeographed, or otherwise reproduced brief, and within ~~ten-14~~ days thereafter, the appellee shall file ten copies of a typewritten, mimeographed, or otherwise reproduced answer brief, and the state shall have ~~five-7~~ days after service of said answer brief to file ten copies of a typewritten, mimeographed, or otherwise reproduced reply brief.

Rule 5. Entry of Appearance and Withdrawal

(b) Withdrawal.

(8) Of the client's right to object within ~~15~~14 days of the date of the notice.

(c) Written Notification Certificate. The attorney seeking to withdraw shall prepare a notification certificate stating that the above notification requirements have been met and the manner by which such notification was given to the client, and setting forth the client's last known address and telephone number. The notification certificate shall be filed with the court and a copy mailed to the client and all other parties. The client and opposing counsel shall have ~~15~~14 days prior to entry of an order permitting withdrawal or such lesser time as the court may permit within which to file objections to the withdrawal. After order permitting withdrawal, the client shall be notified by the withdrawing attorney of the effective date of the withdrawal and all pleadings, notices or other papers may be served on the party directly by mail at the last known address of the party until new counsel enters an appearance.

Rule 10. Record on Appeal

(b) Record of Proceedings; Duty of Appellant to Order; Notice to Appellee if Partial Record is Ordered; Costs. Within ~~ten~~14 days after filing the notice of appeal, the appellant shall file with the clerk of the trial court and with the clerk of the appellate court in which the notice of appeal has been filed either: (1) A statement that no portions of the record other than those numerated in section (a) are desired or (2) a detailed designation of record, setting forth specifically those portions of the record to be included and all dates of proceedings for which transcripts are requested and the name(s) of the court reporter(s) who reported the proceedings which the appellant directs to be included in the record. The appellant shall serve a copy of the designation of record on each court reporter listed therein. If the appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant shall include in the record a transcript of all evidence relevant to such finding or conclusion. Unless the entire transcript is to be included, the appellant shall include in the designation of record a description of the part of the transcript which the appellant intends to include in the record and a statement of the issues to be presented on appeal. If the appellee deems to be necessary a transcript of other proceedings, or other parts of the record, the appellee shall, within ~~ten~~14 days after the service of the statement or the appellant's designation of the record, file with the trial court and the appellate court and serve on the appellant and on any court reporter who reported proceedings of which the appellee desires additional transcript a designation of additional items to be included. Service on any court reporter of the appellant's designation of record or the appellee's additional designation of record shall constitute a request for transcription of the specified proceedings. Within ~~fourteen~~14 days after service of any such designation of record, each such court reporter shall provide in writing to all counsel and pro se parties in the appeal: (1) the estimated number of pages to be transcribed; (2) the estimated completion date; and (3) the estimated cost of transcription. Within ~~twenty~~21 days after receiving the reporter's estimate, the designating party shall deposit the full amount of such estimate with the court reporter. For good cause shown, within said ~~twenty~~21 days and upon the agreement of the court reporter, the trial court may order a payment schedule extending the time for payment. When the cost of the transcription will be paid by public funds, the public entity shall make arrangements with the court reporter for payment of the transcription costs. Within ~~thirty~~28 days of transmittal of the court reporter's cost estimate to the pro se party or counsel, the

court reporter shall file with the trial court and the appellate court a statement of: (1) The date the court reporter's estimate was provided and the date on which the reporter received full payment of the estimate, or (2) the schedule of payments approved by the trial court under a good cause extension, or (3) that the cost of the transcript will be paid from public funds. Each party shall advance the cost of preparing and transmitting to the appellate court that part of the record designated by such party, except as otherwise ordered by the trial court for good cause shown.

(c) Statement of the Evidence or Proceedings When No Report Was Made or When the Transcript is Unavailable. If no report of the evidence or proceedings at a hearing or trial was made, or if a transcript is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including his recollection. The statement shall be served on the appellee, who may serve objections or propose amendments thereto within ~~ten~~14 days after service. Thereupon the statement and any objections or proposed amendments shall be submitted to the trial court for settlement and approval and as settled and approved shall be included by the clerk of the trial court in the record on appeal.

Rule 11. Transmission of Record

(a) Time for Transmission; Duty of Appellant; ~~Ninety~~Ninety-91 Days to Transmit. The record on appeal, including the transcript and exhibits necessary for the determination of the appeal, shall be transmitted to the appellate court within ~~ninety~~ninety-91 days after the filing of the notice of appeal unless the time is shortened or extended by an order entered under section (d) of the Rule. After filing the notice of appeal the appellant shall comply with the provisions of C.A.R. 10(b) and shall take any other action necessary to enable the clerk to assemble and transmit the record. If more than one appeal is taken, each appellant shall comply with the provisions of C.A.R. 10(b) and this section (a), and a single record shall be transmitted within ~~ninety~~ninety-91 days after the filing of the final notice of appeal.

[Comment: This change increases the time for transmitting of the record to ~~ninety~~ninety-91 days and provides due date for the record filing to be tied with the date the notice of appeal is filed. The appellate court will not need to set this due date.]

(d) Extension of Time for Transmission of the Record; Reduction of Time.

[Comment: This rule removes from the trial court the authority to extend the time to transmit the record. The initial time for transmission of the record is set at ~~ninety~~ninety-91 days because trial courts appeared to require that amount of time on almost every case. The change should eliminate excess paperwork by attorneys and the court.]

Rule 21.1. Certification of Questions of Law

(f) Briefs and Argument. Upon the agreement of the Supreme Court to answer the questions certified to it, notice shall be given to all parties. The plaintiff in the trial court, or the appealing party in the appellate court shall file his opening brief within ~~thirty~~thirty-35 days from the date of

receipt of the notice, and the opposing parties shall file an answer brief within ~~thirty~~³⁵ days from service upon him of copies of the opening brief. A reply brief may be filed within ~~twenty~~²¹ days of the service of the answer brief. Briefs shall be in the manner and form of briefs as provided in C.A.R. 28. Oral arguments shall be as provided in C.A.R. 34.

Rule 26. Computation and Extension of Time

(a) Computation of Time. In computing any period of time prescribed or allowed by these rules the day of the act, event, or default from which the designated period of time begins to run shall not be included. Thereafter, every day shall be counted including holidays, Saturdays and Sundays. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. ~~The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday. Unless otherwise specifically ordered, when the period of time prescribed or allowed is less than eleven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.~~ As used in these Rules, "Legal holiday" includes the first day of January, observed as New Year's Day; the third Monday in January, observed as Martin Luther King Day; the third Monday in February, observed as Washington-Lincoln Day; the last Monday in May, observed as Memorial Day; the fourth day of July, observed as Independence Day; the first Monday in September, observed as Labor Day; the second Monday in October, observed as Columbus Day; the 11th day of November, observed as Veteran's Day; the fourth Thursday in November, observed as Thanksgiving Day; the twenty-fifth day of December, observed as Christmas Day, and any other day except Saturday or Sunday when the court is closed.

~~(c) Repealed. Additional Time After Service by Mail. Whenever a party is required or permitted to do an act within a prescribed period after service of a paper upon him and the paper is served by mail, three days shall be added to the prescribed period. This Rule shall not apply to the notice of the entry of judgment or notice of disposition of motions which may be transmitted by mail as provided in C.A.R. 4(a).~~

Rule 27. Motions

(a) Content of Motions; Response. Unless another form is elsewhere prescribed by these rules, an application for an order or other relief shall be made by filing a motion for such order or relief with proof of service on all other parties. The motion shall contain or be accompanied by any matter required by a specific provision of these rules governing such a motion, shall state with particularity the grounds on which it is based, and shall set forth the order or relief sought. If the motion is supported by briefs, affidavits, or other papers, they shall be served and filed with the motion. A motion to consolidate an appeal with another appeal shall be served on all other parties in both appeals. Any party may file a response in opposition to a motion other than one for a procedural order [for which see section (b)] within ~~seven~~⁷ days after service of the motion,

but motions authorized by C.A.R. 8, 8.1, 9, and 41 may be acted upon after reasonable notice, and the court may shorten or extend the time for responding to any motion.

Rule 30. E-Filing

(e) E-Service -- When Required -- Date and Time of Service. Documents submitted to the court through E-Filing shall be served under C.A.R. 25 by E-Service. A document transmitted to the E-System Provider for service by 11:59 p.m. Colorado time shall be deemed to have been served on that date. ~~E-Service shall entitle the party being served an additional 3 days as provided by C.A.R. 26(e), when such additional time is available.~~

Rule 31. Filing and Service of Briefs

(a) Time for Serving and Filing Briefs. The appellant shall serve and file the opening brief within ~~forty~~⁴² days after the date on which the record is filed. The appellee shall serve and file the answer brief within ~~thirty~~³⁵ days after service of the opening brief. The appellant may serve and file a reply brief within ~~fourteen~~²¹ days after service of the answer brief. In cases involving cross-appeals, the cross-appellant's opening-answer brief and the appellant's answer-reply brief shall be served and filed within ~~thirty~~³⁵ days after service of the opposing party's brief. The cross-appellant may serve and file a reply brief within ~~fourteen~~²¹ days after service of the appellant's answer-reply brief.

Rule 34. Oral Argument

(b) Time Allowed for Argument.

(1) In the Supreme Court. Oral argument may be allowed at the discretion of the court. A request for oral argument shall be made in a separate, appropriately titled document and filed no later than ~~ten~~⁷ days after the briefs are closed. In the absence of a request for oral argument, the court may order oral argument. Unless otherwise ordered by the court, each side will be allowed thirty minutes for argument. A request for additional time may be made by motion filed within ~~ten~~⁷ days after the briefs are closed, but shall be granted only if good cause is shown. The court may terminate the argument whenever in its judgment further argument is unnecessary.

(2) In the Court of Appeals. Oral argument in the Court of Appeals will be allowed upon the written request of a party or upon the court's own motion, unless the court, in its discretion, dispenses with oral argument. A request for oral argument shall be made in a separate, appropriately titled document filed no later than ~~ten~~⁷ days after the briefs are closed. Unless otherwise ordered, argument shall not exceed fifteen minutes for the appellants and fifteen minutes for the appellees. The court may terminate the argument whenever in its judgment further argument is unnecessary.

Rule 39. Costs

Key: proposed insertion; ~~proposed deletion~~; time period proposed to be unchanged.

(c) Costs on Appeal Taxable in the Appellate Court. The cost of printing or otherwise producing necessary copies of briefs or copies of records shall be taxable in the appellate court at rates not higher than those generally charged for such work in Denver. Docket fees charged pursuant to C.A.R. 12(a) shall be taxed in the appellate court as costs of the appeal in favor of a party entitled to costs under the Rule. A party who desires such costs to be taxed shall state them in an itemized and verified bill of costs which shall be filed with the clerk, with proof of service, within ~~fourteen~~14 days after the entry of judgment.

Rule 40. Petition for Rehearing

(a) Time for Filing; Content; Answer; Action by Court if Granted. A petition for rehearing may be filed within ~~fourteen~~14 days after entry of judgment unless the time is shortened or enlarged by order. The petition shall state with particularity the points of law or fact which in the opinion of the petitioner the court has overlooked or misapprehended and shall contain such argument in support of the petition as the petitioner desires to present. Oral argument in support of the petition will not be permitted. No answer to a petition for rehearing will be received unless requested by the court. If a petition for rehearing is granted the court may make a final disposition of the cause without reargument or may restore it to the calendar for reargument or resubmission or make such other orders as are deemed appropriate under the circumstances of the particular case.

Rule 41. Issuance of Mandate

(b) Time.

(1) The mandate of the court of appeals shall issue ~~forty-six~~43 days after entry of the judgment. In workers' compensation and unemployment insurance cases, the mandate of the court of appeals shall issue thirty-one days after entry of the judgment. The timely filing of a petition for rehearing will stay the mandate until the court has ruled on the petition. If a motion for enlargement of time to file a petition for rehearing is granted but no petition for rehearing is filed within the extended period, the mandate may issue following the last day of the extended period for filing the petition for rehearing or after the day specified by this rule, whichever occurs later.

(2) If a petition for rehearing is denied, the mandate shall issue ~~thirty-two~~29 days after entry of the order denying the petition. In workers' compensation and unemployment insurance cases, the mandate of the court of appeals shall issue ~~seventeen~~15 days after entry of the order denying a petition for rehearing.

(3) The mandate of the supreme court shall issue ~~fifteen~~14 days after the entry of judgment. The timely filing of a petition for rehearing will stay the mandate until the court has ruled on the petition. If the petition for rehearing is denied, the mandate shall issue two days after entry of the order denying the petition.

Rule 51.1. Exhaustion of State Remedies Requirement in Criminal Cases

(b) Savings Clause. If a litigant's petition for federal habeas corpus is dismissed or denied for failure to exhaust state remedies based on a decision that this rule is ineffective, the litigant shall have ~~45-49~~ days from the date of such dismissal or denial within which to file a motion to recall the mandate together with a writ of certiorari presenting any claim of error not previously presented in reliance on this rule.

Rule 52. Review on Certiorari -- Time for Petitioning

(a) To Review a District Court Judgment. A petition for writ of certiorari to review a judgment of a district court on appeal from a county court, shall be filed not later than ~~thirty~~42 days after the rendition of the final judgment in said court.

(b) To Review Court of Appeals Judgment.

(2) No petition for issuance of a writ of certiorari may be submitted to the Supreme Court until the time for filing a petition for rehearing in the Court of Appeals has expired.

(3) Any petition for writ of certiorari to review a judgment of the Court of Appeals shall be filed in the Supreme Court within ~~forty-six~~42 days of the issuance of the opinion of the Court of Appeals, if no petition for rehearing is filed, or within ~~thirty~~28 days after the denial of a petition for rehearing by the Court of Appeals. Any petition for writ of certiorari to review a judgment of the Court of Appeals in workers' compensation and unemployment insurance cases shall be filed in the Supreme Court within ~~thirty-one~~28 days after the issuance of the opinion of the Court of Appeals, if no petition of rehearing is filed, or within ~~fifteen~~14 days after the denial of a petition for rehearing by the Court of Appeals.

Rule 53. Petition for Certiorari and Cross-Petition for Certiorari

(b) The Cross-Petition. Within ~~ten~~14 days after service of the petition for certiorari, a respondent may file and serve a cross-petition. A cross-petition shall be succinct and shall not exceed twelve pages, unless it contains no more than 3,800 words, exclusive of appendix. The cross-petition shall comply with C.A.R. 32. A cross-petition shall have the same contents, in the same order, as the petition.

(c) Opposition Brief. Within ~~ten~~14 days after service of the petition, respondent may file and serve an opposition brief, a cross-petition or both. The petitioner may file an opposition brief within ~~ten~~14 days after service of a cross-petition. An opposition brief shall be succinct and shall not exceed twelve pages, unless it contains no more than 3,800 words. The opposition brief shall comply with C.A.R. 32.

Rule 45 continued

(d) Reply Brief. Within ~~five~~⁷ days after service of an opposition brief, a petitioner or cross-petitioner may file and serve a reply brief. A reply brief shall be succinct and shall not exceed ten pages, unless it contains no more than 3,150 words. The reply brief shall comply with C.A.R. 32.

UNIFORM LOCAL RULES FOR ALL STATE WATER COURT DIVISIONS

Rule 2. Filing and Service Procedure

(b) An applicant shall file and serve upon all parties at least ~~15~~ 21 days prior to hearing on any application before the water judge, a proposed order that sets forth any necessary findings, terms or conditions that the applicant reasonably believes the court should incorporate into the decree.

Rule 3. Applications for Water Rights

(b) (1) More than one water right, claim or structure may be incorporated in any one application under one caption, provided that the required information is given for each water right, claim, or structure, and that each has ~~the same ownership~~ OWNERS OR USERS IN COMMON.

(2) PERSONS ALONE OR IN CONCERT MAY FILE APPLICATIONS FOR APPROVAL OF PLANS FOR AUGMENTATION, INCLUDING WATER EXCHANGE PROJECTS, AND SUBSEQUENT CHANGES THERETO.

(3) IN APPLICATIONS FOR DETERMINATIONS OF RIGHTS TO GROUND WATER DESCRIBED IN C.R.S. § 37-90-137(4):

(A) IF THE APPLICANT CLAIMS CONSENT OF THE OWNER(S) OF THE OVERLYING LAND AS THE BASIS FOR SUCH A DETERMINATION, THE APPLICATION MUST INCLUDE ONE OR MORE OF THE FOLLOWING DOCUMENTS AS APPLICABLE:

i) IF THE BASIS FOR SUCH CONSENT IS C.R.S. § 37-90-137(4)(b)(II)(A), THE APPLICATION MUST INCLUDE RECORDED COPIES OF a) THE WRITTEN CONSENT FROM THE OWNER(S) OF THE OVERLYING LAND TO THE APPLICANT, WHICH CONSENT INCLUDES A LEGAL DESCRIPTION OF THE LAND AND IDENTIFICATION OF THE AQUIFERS FOR WHICH CONSENT HAS BEEN GIVEN, AND b) AN INSTRUMENT EVIDENCING OWNERSHIP OF SUCH LAND BY SUCH CONSENTING OWNER(S) AT THE TIME SUCH CONSENT WAS GRANTED.

ii) IF THE BASIS FOR SUCH CONSENT IS C.R.S. § 37-90-137(4)(b)(II)(C), THE APPLICATION MUST INCLUDE A CERTIFIED COPY OF a) THE ORDINANCE OR RESOLUTION DESCRIBED IN C.R.S. § 37-90-137(8) THAT INCORPORATES GROUND WATER, AND b) THE PART OF THE DETAILED MAP DESCRIBED IN C.R.S. § 37-90-137(8) THAT SHOWS THE LAND AREA AS TO WHICH CONSENT IS DEEMED TO HAVE BEEN GIVEN.

(B) TWO OR MORE OVERLYING LAND OWNERS MAY FILE A JOINT APPLICATION FOR DETERMINATIONS OR CHANGES OF RIGHTS TO SUCH GROUND WATER TO BE WITHDRAWN THROUGH A “WELL FIELD,” PROVIDED THAT THE APPLICATION MUST CONTAIN SUFFICIENT INFORMATION TO DEMONSTRATE THAT LANDS SUBJECT TO THE APPLICATION MEET THE REQUIREMENTS OF A “WELL FIELD” AS DEFINED IN THE “RULES AND REGULATIONS APPLYING TO APPLICATIONS FOR WELL PERMITS TO WITHDRAW GROUND WATER PURSUANT TO SECTION 37-90-137(4), C.R.S.,” 2 C.C.R. 402-7. SUCH JOINT APPLICATION MAY INCLUDE ONLY CLAIMS FOR DETERMINATIONS OR CHANGES OF RIGHTS TO GROUND WATER DESCRIBED IN C.R.S. § 37-90-137(4) AND PLANS FOR AUGMENTATION (WITH OR WITHOUT EXCHANGES) RELATED THERETO.

(4) NOTHING CONTAINED IN THIS RULE 3(b) SHALL PREVENT THE CONSOLIDATION OR BIFURCATION OF APPLICATIONS OR PORTIONS THEREOF UNDER OTHER APPLICABLE RULES OR LAW, OR AFFECT OR DISCOURAGE APPLICATIONS INVOLVING A SINGLE APPLICANT OR SINGLE WATER RIGHT, CLAIM OR STRUCTURE.

(c) Where more than one water right was conditionally decreed under one case number, each water right so decreed may, but need not be, incorporated again in ~~an~~ A SINGLE application for a finding of reasonable diligence or to make absolute; REGARDLESS OF WHETHER SUCH RIGHTS REMAIN IN COMMON OWNERSHIP; however, such an application shall not be combined with any other case or application except by leave of court.

Rule 6. Referral to Referee, Case Management, Rulings, and Decrees

(e) To promote the just, speedy, and cost efficient disposition of water court cases, the goals of the referee, as contemplated by C.R.S. § 37-92-303(1), shall include a ruling on each unopposed application within ~~sixty~~ 60 days after the last day on which statements of opposition may be filed, and all other applications as promptly as possible. In pursuit of this goal, the referee shall initiate consultation with the division engineer in every case promptly after the last day for filing statements of opposition. The division engineer’s written report on the consultation is due within ~~thirty~~ 30 days of the date the referee initiates consultation in accordance with C.R.S. § 37-92-302(4), except that for applications that require construction of a well, the division engineer’s written report is due within ~~four~~ 4 months after the filing of the application in accordance with C.R.S. § 37-92-302(2)(a). Upon request, the referee may extend the time for filing the division engineer’s written report. The division engineer may submit additional written reports upon receipt of new information and shall provide them to the referee and all parties. The referee shall not enter a ruling on applications for determination of rights to groundwater from wells described in C.R.S. § 37-90-137(4) until the state engineer’s office has had the opportunity to issue a determination of facts concerning the application in accordance with C.R.S. § 37-92-302(2)(a). The referee and the division engineer may confer and jointly agree to forego consultation in a particular case because it is not needed; and, if so, the referee shall enter a minute order as provided in section (o) of this Rule 6.

(f) For good cause, upon agreement of the parties, or sua sponte, the referee may extend the time for ruling on the application beyond ~~sixty~~ 60 days after the last day on which statements of opposition may be filed but not to exceed a total of ~~one~~ 1 year following the deadline for filing statements of opposition, except that the referee may extend the time for entering a ruling to a specified date that is not more than ~~six months~~ 182 days (26 weeks) after the expiration of the one year period, upon finding that there is a substantial likelihood that the remaining issues in the case can be resolved, without trial before the water judge, in front of the referee.

(h) For all applications in which statements of opposition are filed, the attorney for the applicant, or the referee if the applicant is not represented by counsel, shall set a status conference with the referee and all parties. The status conference shall occur within ~~sixty~~ 63 days after the deadline for filing of statements of opposition, unless the deadline is extended by the referee for good cause. The status conference may be conducted in person or by telephone. All parties must attend the status conference unless excused by the referee. The referee shall advise the division engineer of the status conference and invite or require the division engineer's participation. To assist discussion at the status conference, applicants are encouraged to prepare and circulate a proposed ruling and proposed decree to the referee and the parties in advance of the conference.

(l) Regardless of whether any expert is involved in the proceedings before the referee, the referee shall not be bound by the opinions and report of the expert, may make investigations without conducting a formal hearing, including site visits, and may enter a ruling supported by the facts and the law. The case management plan shall contain a listing of the disputed issues to the extent known, the additional information needed to assist in resolution of the disputed issues, additional investigations needed to assist in resolving the disputed issues, an estimate of the time required to complete the tasks, the time for filing a proposed ruling and proposed decree, the time for opposers to file comments on the proposed ruling and proposed decree, the time for the applicant to file status reports, and a schedule for further proceedings. The referee may make such interim rulings, including scheduling additional status conferences and allowing amendments to the case management plan, as will facilitate prompt resolution of the application and issuance of a proposed ruling and proposed decree. The proceedings before the referee shall be completed and the proposed ruling and proposed decree issued no later than ~~one~~ 1 year following the deadline for filing of statements of opposition, except that the referee may extend the time as specified in subsection (f) above.

(p) The referee shall have the authority to dismiss for failure to prosecute applications of parties who fail to comply with the requirements of the Water Court Rules or any case management plan, and to dismiss statements of opposition of parties who fail to comply with the requirements of the water court rules or any case management plan. Such dismissal may be protested to the water judge by any party within ~~twenty~~ 21 days of receipt *FROM THE DATE* of the order of dismissal.

Rule 11. Pre-Trial Procedure, Case Management, Disclosure, and Simplification of Issues.

(c), to shorten time periods whenever possible, unless the water court orders otherwise for good cause shown.

(1) At Issue Date. Water matters shall be considered to be at issue for purposes of C.R.C.P. Rules 16 and 26 ~~forty-five (45)~~ 49 days after the earlier of either of the following: entry of an order of re-referral or the filing of a protest to the ruling of the referee, unless the water court directs otherwise. Unless the water court directs otherwise, the time period for filing a Certificate of Compliance under subsection (b)(7) of this Rule shall be no later than ~~75~~ 77 days (11 weeks) after a case is at issue.

(3) Confer and Exchange Information. No later than ~~45~~ 14 days after the case is at issue, the lead counsel for each party and any party who is not represented by counsel shall confer with each other about the nature and basis of the claims and defenses, the matters to be disclosed pursuant to C.R.C.P. 26(a)(1), the development of a Certificate of Compliance, and the issues that are in dispute.

(4) Trial Setting. No later than ~~60~~ 63 days after the case is at issue, the responsible attorney shall set the case for trial pursuant to C.R.C.P. 121, section 1-6, unless otherwise ordered by the water court.

(5) Disclosures.

(A) The time for providing mandatory disclosures pursuant to C.R.C.P. 26(a)(1) shall be as follows:

(I) Applicant's disclosure shall be made ~~30~~ 35 days after the case is at issue;

(II) An opposing party's disclosure shall be made ~~30~~ 35 days after applicant's disclosures are made.

(B) The time periods for disclosure of expert testimony pursuant to C.R.C.P. 26(a)(2) shall be as follows:

(I) The applicant's expert disclosure shall be made at least ~~240~~ 245 days (35 weeks) before trial;

(II) The applicant's supplemental expert disclosure, if any, shall be made after the first meeting of the experts held pursuant to subsection (b)(5)(D)(I) of this Rule, and served at least ~~180~~ 182 days (26 weeks) before trial;

(III) An opposer's expert disclosure shall be made at least ~~120~~ 126 days (18 weeks) before trial;

(IV) If the evidence is intended to contradict or rebut evidence on the same subject matter identified by another party under subsection (b)(5)(B)(III) of this Rule, such expert disclosure shall be made at least ~~90~~ 91 days (13 weeks) before trial.

(C) Additional Expert Disclosures. In addition to the disclosures required by C.R.C.P. 26(a)(2)(B)(I), the expert's disclosure shall include:

(I) A list of all expert reports authored by the expert in the preceding ~~five~~ 5 years; and

(D) Meeting Of Experts To Identify Undisputed Matters of Fact and Expert Opinion and To Refine and Attempt to Resolve Disputed Matters of Fact and Expert Opinion.

(I) The expert witness(es) for the applicant and the opposer(s) shall meet within ~~45~~ 49 days after the applicant's initial expert disclosures are made. The meeting(s) may be in person or by telephonic means. The purpose of the meeting is for the experts to discuss the matters of fact and expert opinion that are the subject of the expert(s) disclosures and with respect to such disclosures: to identify undisputed matters of fact and expert opinion, to attempt to resolve disputed matters of fact and expert opinion, and to identify the remaining matters of fact and expert opinion in dispute. The applicant may subsequently file a supplemental disclosure pursuant to Water Court Rule 11(b)(5)(B)(II) to address matters of fact and expert opinion resolved in or arising from the meeting(s) of the experts.

(II) The expert witness(es) for the applicant and the opposer(s) shall meet within ~~25~~ 28 days after the opposers' expert disclosures are made. The meeting may be in person or by telephonic means. The purpose of the meeting is for the experts to discuss the matters of fact and expert opinion that are the subject of the expert(s) disclosures and, with respect to such disclosures: to identify undisputed matters of fact and expert opinion, to attempt to resolve disputed matters of fact and expert opinion, and to identify the remaining matters of fact and expert opinion in dispute. Within ~~15~~ 21 days after such meeting, the experts shall jointly submit to the parties a written statement setting forth the disputed matters of fact and expert opinion that they believe remain for trial, as well as the undisputed matters of fact and expert opinion, arising from the expert disclosures.

(6) Settlement Discussions.

(A) No later than 35 days after the case is at issue, the parties shall explore possibilities of a prompt settlement or resolution of the case.

(B) No later than ~~60~~ 63 (9 weeks) days before trial the parties shall jointly file a statement setting forth the specific disputed issues that will be the subject of expert testimony at trial.

(7) Certificate of Compliance. No later than ~~75~~ 77 days (11 weeks) after the case is at issue, the responsible attorney shall file a Certificate of Compliance. The Certificate of Compliance shall state that the parties have complied with all requirements of subsections

(b)(3)-(7) (except (b)(5)(B) through (F) and (b)(6)(B)), inclusive, of this Rule or, if they have not complied with each requirement, shall identify the requirements which have not been fulfilled and set forth any reasons for the failure to comply. A request for a Case Management Conference shall be made at the time for filing the Certificate of Compliance.

(9) Pretrial Motions. Unless otherwise ordered by the court, the time for filing pretrial motions shall be no later than 35 days before the trial date, except that motions pursuant to C.R.C.P. 56 shall be filed at least ~~90~~ 91 days (13 weeks) before the trial date.

(10) Discovery Schedule. Until a case is at issue, formal discovery pursuant to C.R.C.P. 26 through 37 shall not be allowed. Informal discovery, including discussions among the parties, disclosure of facts, documents, witnesses, and other material information, field inspections and other reviews, is encouraged prior to the time a water case is at issue. Unless otherwise directed by the water court or agreed to by the parties, the schedule and scope of discovery shall be as set forth in C.R.C.P. 26(b), except that depositions of expert witnesses shall not be allowed until ~~30~~ 28 days after the time for filing of the opposers' C.R.C.P. 26(a)(2) disclosures. The date for completion of all discovery shall be ~~50~~ 49 days before the trial date.

(c) Modified Case Management Order. Any of the provisions of section (b) of this Rule may be modified by the entry of a Modified Case Management Order pursuant to this section.

(1) Stipulated Modified Case Management Order. No later than ~~75~~ 77 days (11 weeks) after the case is at issue, the parties may file a Stipulated Proposed Modified Case Management Order, supported by a specific showing of good cause for each modification sought including, where applicable, the grounds for good cause pursuant to C.R.C.P. 26(b)(2). Such proposed order need only set forth the proposed provisions which would be changed from the Presumptive Case Management Order set forth in section (b) of this Rule. The Court may approve and enter the Stipulated Modified Case Management Order, or may set a Case Management Conference.

(2) Disputed Motions for Modified Case Management Orders. C.R.C.P. 16(d) shall apply to any disputes concerning a Proposed Modified Case Management Order. If any party wishes to move for a Modified Case Management Order, lead counsel and any unrepresented parties shall confer and cooperate in the development of a Proposed Modified Case Management Order. A motion for a Modified Case Management Order and one form of the proposed Order shall be filed no later than ~~75~~ 77 days (11 weeks) after the case is at issue. To the extent possible, counsel and any unrepresented parties shall agree to the contents of the Proposed Modified Case Management Order but any matter upon which all parties cannot agree shall be designated as "disputed" in the Proposed Order. The proposed Order shall contain specific alternate provisions upon which agreement could not be reached and shall be supported by specific showing of good cause for each modification sought including, where applicable, the grounds for good cause pursuant to C.R.C.P. 26(b)(2). Such motion need only set forth the proposed provisions which would be changed from the Presumptive Case Management Order set

forth in section (b) of this Rule. The motion for a Modified Case Management Order shall be signed by lead counsel and any unrepresented parties, or shall contain a statement as to why it is not so signed.

APPENDIX 1 to CHAPTER 36
UNIFORM LOCAL RULES FOR ALL STATE WATER COURT DIVISIONS

COLORADO WATER COURT FORMS

Form 1. Sample Modified Case Management Order

District Court, Water Division No. ____, Colorado Court Address: <hr/> Concerning the Application for Water Rights of: Applicant: In the _____ River or its Tributaries In _____ County	<hr/> <p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> Case Number: Division: Courtroom:
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SAMPLE MODIFIED CASE MANAGEMENT ORDER

3. If the evidence is intended to contradict or rebut evidence on the same subject matter identified by another party, such disclosures shall be made **NO LATER THAN** ~~within 20~~ 91 days (13 weeks) **BEFORE TRIAL** ~~after the disclosure was made by the other party.~~

IV. DISCOVERY SCHEDULE

Discovery shall be in accordance with Water Court Rule 11. The date for completion of discovery shall be _____, 20 ____ [no later than ~~50~~ 49 days prior to trial or such time as the court shall direct].

Rationale for proposed rule change to Rule 3

The new language in this proposed rule change proposes to revise Rule 3 to accommodate multiple applicants in a single application for augmentation and exchange plans and non-tributary groundwater applications. These are circumstances involving common ownership or subdivisions situations in which a single application is a more efficient and economical manger for providing notice and managing the adjudication.

Key: proposed insertion; ~~proposed deletion~~; time period proposed to be unchanged.

COLORADO RULES OF PROBATE PROCEDURE

Rule 8.8. Non-Appearance Hearings

(a)(4) If any objection is filed, the objecting party shall, within ~~10~~ 14 days after filing the objection, set the objection for an Appearance Hearing.

(b) The notice of a Non-Appearance Hearing, together with copies of the motion or petition and proposed order must be served on all interested persons no less than ~~10 calendar~~ 14 days (~~plus 3 calendar days for mailing~~) prior to the setting of the hearing and shall include a clear statement of the rules governing such hearings. Form JDF 712 or JDF 963 in the Appendix to these Probate Rules may be used and shall be sufficient. The authorization of this Form shall not prevent use of another Form consistent with this rule.

PROPOSED TIME CALCULATION CHANGES IN THE
COLORADO RULES OF PROCEDURE
(EFFECTIVE JULY 1, 2012)

Rule 90. Dispositions of Water Court Applications

[NOTE: ALL TIMING NOT CHANGED IN THIS PROPOSAL IS SET BY STATUTE]

Committee Comment: See, C.R.S. § 2-4-108 regarding computation of time under statutory requirements.

Rule 103. Garnishment

SECTION 1

WRIT OF CONTINUING GARNISHMENT
(ON EARNINGS OF A NATURAL PERSON)

(f) Effective Garnishment Period.

(1) A writ of continuing garnishment shall be a lien and continuing levy against the nonexempt earnings of the judgment debtor until such time as earnings are no longer due, the underlying judgment is vacated, modified or satisfied in full, the writ is dismissed, or for ~~ninety (90) days~~ 91 days (13 weeks) following service of the writ, if the judgment was entered prior to August 8, 2001, and ~~one hundred eighty (180) days~~ 182 days (26 weeks) following service of the writ if the judgment was entered on or after August 8, 2001, except when such writ is suspended pursuant to subsection (j) of this rule.

(k) Answer and Tender of Payment by Garnishee.

(1) The garnishee shall file the answer to the writ of continuing garnishment with the clerk of the court and send a copy to the judgment creditor no less than ~~five (5) 7~~ nor more than ~~ten (10) days~~ 14 days following the time the judgment debtor receives earnings for the first pay period affected by such writ, or ~~forty (40) days~~ 42 days following the date such writ was served pursuant to section (1)(d) of this rule, whichever is less.

(2) The garnishee shall pay any nonexempt earnings and deliver a calculation of the amount of exempt earnings to the clerk of the court which issued such writ no less than ~~five (5) 7~~ nor more than ~~ten (10) days~~ 14 days following the time the judgment debtor receives earnings affected by such writ. However, if the judgment creditor is represented by an attorney, or is a collection agency licensed pursuant to section 12-14-101, et seq., C.R.S., the garnishee may be directed to pay any nonexempt earnings and deliver a calculation of the amount of exempt earnings to the attorney or the licensed collection agency.

(l) Disbursement of Garnished Earnings.

Key: proposed insertion; ~~proposed deletion~~; ~~time period proposed to be unchanged~~.

(1) If no objection is filed by the judgment debtor within ~~five (5)~~ 7 days, the garnishee shall send the nonexempt earnings to the attorney, collection agency licensed pursuant to section 12-14-101, et seq., C.R.S., or court designated on the writ of continuing garnishment (C.R.C.P. Form 26, page 1, paragraph e). The judgment creditor shall refund to the judgment debtor any disbursement in excess of the amount necessary to satisfy the judgment.

SECTION 2

WRIT OF GARNISHMENT

(ON PERSONAL PROPERTY OTHER THAN EARNINGS OF A NATURAL PERSON)

WITH NOTICE OF EXEMPTION AND PENDING LEVY

(g) Court Order on Garnishment Answer.

(2) No such judgment and request shall enter until the judgment creditor has made a proper showing that: (A) a copy of the writ with notice was properly served upon the judgment debtor, and (B) no written claim of exemption was filed within ~~ten (10) days~~ 7 days after such service or a written claim of exemption was properly filed and the same was disallowed.

(4) No such order shall enter until the judgment creditor has made a proper showing that: (A) a copy of the writ with notice was properly served upon the judgment debtor, and (B) no written claim of exemption was filed within ~~ten (10) days~~ 7 days after such service or a written claim of exemption was properly filed with the court and the same was disallowed.

SECTION 3

WRIT OF GARNISHMENT FOR SUPPORT

(g) Answer and Tender of Payment by Garnishee.

(1) The garnishee shall answer the writ of garnishment for support no less than ~~five (5)~~ 7 nor more than ~~ten (10) days~~ 14 days following the time the judgment debtor receives earnings for the first pay period affected by such writ. If the judgment debtor is not employed by the garnishee at the time the writ is served, the garnishee shall answer the writ within ~~ten (10) days~~ 14 days from the service thereof.

(2) The garnishee shall pay any nonexempt earnings and deliver a calculation of the amount of exempt earnings, as directed in the writ of garnishment for support, to the family support registry, the clerk of the court which issued such writ, or to the judgment creditor no less than ~~five (5)~~ 7 nor more than ~~ten (10) days~~ 14 days following the time the judgment debtor receives earnings during the Effective Garnishment Period of such writ.

SECTION 6

JUDGMENT DEBTOR'S OBJECTION--

WRITTEN CLAIM OF EXEMPTION--HEARING

(a) Judgment Debtor's Objection to Calculation of Exempt Earnings Under Writ of Continuing Garnishment.

(1) If a judgment debtor objects to the initial or a subsequent calculation of the amount of exempt earnings, the judgment debtor shall have ~~five (5) days~~ 7 days from the receipt of the copy of the writ of garnishment or calculation of the amount of exempt earnings for subsequent pay periods, within which to resolve the issue of such miscalculation by agreement with the garnishee.

(2) If the judgment debtor's objection is not resolved with the garnishee within ~~five (5) days~~ 7 days upon good faith effort, the judgment debtor may file a written objection setting forth, with reasonable detail, the grounds for such objection. Such objection must be filed within ~~ten (10) days~~ 14 days from receipt of the copy of writ of garnishment or calculation of the amount of exempt earnings for subsequent pay periods.

(b) Judgment Debtor's Claim of Exemption Under a Writ With Notice.

(1) When a garnishee, pursuant to a writ with notice, holds any personal property of the judgment debtor, other than earnings, which the judgment debtor claims to be exempt, the judgment debtor, within ~~ten (10) days~~ 14 days after being served a copy of such writ as required by Section 2(d)(2) of this rule, shall make and file a written claim of exemption with the clerk of the court in which the judgment was entered.

(c) Hearing on Objection or Claim of Exemption.

(1) Upon the filing of an objection pursuant to Section 6(a) of this rule or the filing of a claim of exemption pursuant to Section 6(b) of this rule, the court in which the judgment was entered shall set a time for hearing of such objection or claim of exemption which hearing shall not be more than ~~ten (10) calendar days~~ 14 days after the filing of such objection or claim of exemption.

SECTION 7
FAILURE OF GARNISHEE TO ANSWER
(ALL FORMS OF GARNISHMENT)

(a) Default Entered by Clerk of Court.

(2) No default shall be entered in an attachment action against the garnishee until the expiration of ~~thirty (30) days~~ 35 days after service of a writ of garnishment upon the garnishee.

SECTION 8
TRAVERSE OF ANSWER
(ALL FORMS OF GARNISHMENT)

(a) Time for Filing of Traverse. The judgment creditor, plaintiff in attachment or intervenor in attachment, may file a traverse of an answer to any form of writ provided by this rule provided such traverse is filed within the greater time period of ~~twenty (20) days~~ 21 days from the date such answer should have been filed with the court or ~~twenty (20) days~~ 21 days after such answer

was filed with the court. The failure to timely file a traverse shall be deemed an acceptance of the answer as true.

Rule 105.1. Spurious Lien or Document [NOTE: ALL TIMING NOT CHANGED IN THIS PROPOSAL IS SET BY STATUTE]

Rule 403. Garnishment

SECTION 1

WRIT OF CONTINUING GARNISHMENT
(ON EARNINGS OF A NATURAL PERSON)

(f) Effective Garnishment Period.

(1) A writ of continuing garnishment shall be a lien and continuing levy against the nonexempt earnings of the judgment debtor until such time as earnings are no longer due, the underlying judgment is vacated, modified or satisfied in full, the writ is dismissed, or for ~~ninety (90) days~~ 91 days (13 weeks) following service of the writ, if the judgment was entered prior to August 8, 2001, and ~~one hundred eighty (180) days~~ 182 days (26 weeks) following service of the writ if the judgment was entered on or after August 8, 2001, except when such writ is suspended pursuant to subsection (j) of this rule.

(k) Answer and Tender of Payment by Garnishee.

(1) The garnishee shall file the answer to the writ of continuing garnishment with the clerk of the court and send a copy to the judgment creditor no less than ~~five (5) 7~~ nor more than ~~ten (10) days~~ 14 days following the time the judgment debtor receives earnings for the first pay period affected by such writ, or ~~forty (40) days~~ 42 days following the date such writ was served pursuant to section (1)(d) of this rule, whichever is less.

(2) The garnishee shall pay any nonexempt earnings and deliver a calculation of the amount of exempt earnings to the clerk of the court which issued such writ no less than ~~five (5) 7~~ nor more than ~~ten (10) days~~ 14 days following the time the judgment debtor receives earnings affected by such writ. However, if the judgment creditor is represented by an attorney, or is a collection agency licensed pursuant to section 12-14-101, et seq., C.R.S., the garnishee may be directed to pay any nonexempt earnings and deliver a calculation of the amount of exempt earnings to the attorney or the licensed collection agency.

(l) Disbursement of Garnished Earnings.

(1) If no objection is filed by the judgment debtor within ~~five (5)~~ 7 days, the garnishee shall send the nonexempt earnings to the attorney, collection agency licensed pursuant to section 12-14-101, et seq., C.R.S., or court designated on the writ of continuing garnishment (C.R.C.P. Form 26, page 1, paragraph e). The judgment creditor shall refund to the judgment debtor any disbursement in excess of the amount necessary to satisfy the judgment.

SECTION 2
WRIT OF GARNISHMENT
(ON PERSONAL PROPERTY OTHER THAN
EARNINGS OF A NATURAL PERSON)
WITH NOTICE OF EXEMPTION AND PENDING LEVY

(g) Court Order on Garnishment Answer.

(2) No such judgment and request shall enter until the judgment creditor has made a proper showing that: (A) a copy of the writ with notice was properly served upon the judgment debtor, and (B) no written claim of exemption was filed within ~~ten (10) days~~ 7 days after such service or a written claim of exemption was properly filed and the same was disallowed.

(4) No such order shall enter until the judgment creditor has made a proper showing that: (A) a copy of the writ with notice was properly served upon the judgment debtor, and (B) no written claim of exemption was filed within ~~ten (10) days~~ 7 days after such service or a written claim of exemption was properly filed with the court and the same was disallowed.

SECTION 3
WRIT OF GARNISHMENT FOR SUPPORT

(g) Answer and Tender of Payment by Garnishee.

(1) The garnishee shall answer the writ of garnishment for support no less than ~~five (5)~~ 7 nor more than ~~ten (10) days~~ 14 days following the time the judgment debtor receives earnings for the first pay period affected by such writ. If the judgment debtor is not employed by the garnishee at the time the writ is served, the garnishee shall answer the writ within ~~ten (10) days~~ 14 days from the service thereof.

(2) The garnishee shall pay any nonexempt earnings and deliver a calculation of the amount of exempt earnings, as directed in the writ of garnishment for support, to the family support registry, the clerk of the court which issued such writ, or to the judgment creditor no less than ~~five (5)~~ 7 nor more than ~~ten (10) days~~ 14 days following the time the judgment debtor receives earnings during the Effective Garnishment Period of such writ.

SECTION 6
JUDGMENT DEBTOR'S OBJECTION--
WRITTEN CLAIM OF EXEMPTION--HEARING

(a) Judgment Debtor's Objection to Calculation of Exempt Earnings Under Writ of Continuing Garnishment.

(1) If a judgment debtor objects to the initial or a subsequent calculation of the amount of exempt earnings, the judgment debtor shall have ~~five (5) days~~ 7 days from the receipt of the copy of the writ of garnishment or calculation of the amount of exempt earnings for subsequent pay periods, within which to resolve the issue of such miscalculation by agreement with the garnishee.

(2) If the judgment debtor's objection is not resolved with the garnishee within ~~five (5) days~~ 7 days upon good faith effort, the judgment debtor may file a written objection setting forth, with reasonable detail, the grounds for such objection. Such objection must be filed within ~~ten (10) days~~ 14 days from receipt of the copy of writ of garnishment or calculation of the amount of exempt earnings for subsequent pay periods.

(b) Judgment Debtor's Claim of Exemption Under a Writ With Notice.

(1) When a garnishee, pursuant to a writ with notice, holds any personal property of the judgment debtor, other than earnings, which the judgment debtor claims to be exempt, the judgment debtor, within ~~ten (10) days~~ 14 days after being served a copy of such writ as required by Section 2(d)(2) of this rule, shall make and file a written claim of exemption with the clerk of the court in which the judgment was entered.

(c) Hearing on Objection or Claim of Exemption.

(1) Upon the filing of an objection pursuant to Section 6(a) of this rule or the filing of a claim of exemption pursuant to Section 6(b) of this rule, the court in which the judgment was entered shall set a time for hearing of such objection or claim of exemption which hearing shall not be more than ~~ten (10) calendar days~~ 14 days after the filing of such objection or claim of exemption.

SECTION 7
FAILURE OF GARNISHEE TO ANSWER
(ALL FORMS OF GARNISHMENT)

(a) Default Entered by Clerk of Court.

(2) No default shall be entered in an attachment action against the garnishee until the expiration of ~~thirty (30) days~~ 35 days after service of a writ of garnishment upon the garnishee.

SECTION 8
TRAVERSE OF ANSWER
(ALL FORMS OF GARNISHMENT)

(a) Time for Filing of Traverse. The judgment creditor, plaintiff in attachment or intervenor in attachment, may file a traverse of an answer to any form of writ provided by this rule provided such traverse is filed within the greater time period of ~~twenty (20) days~~ 21 days from the date such answer should have been filed with the court or ~~twenty (20) days~~ 21 days after such answer

was filed with the court. The failure to timely file a traverse shall be deemed an acceptance of the answer as true.

Rule 411. Appeals

(a) Notice of Appeal; Time for Filing; Bond. If either party in a civil action believes that the judgment of the county court is in error, that party may appeal to the district court by filing a notice of appeal in the county court within ~~fifteen~~ 14 days after the date of entry of judgment. The notice shall be in the form appearing in the Appendix to Chapter 25, Form 4, C.R.C.P. If the notice of the entry of judgment is transmitted to the parties by mail, the time for the filing of the notice of appeal shall commence from the date of the mailing of the notice. The appealing party shall also file within the said ~~fifteen~~ 14 days an appeal bond with the clerk of the county court. The bond shall be furnished by a corporate surety authorized and licensed to do business in this state as a surety, or one or more sufficient private sureties, or may be a cash deposit by the appellant and, if the appeal is taken by the plaintiff, shall be conditioned to pay the costs of the appeal and the counterclaim, if any, and, if the appeal be taken by the defendant, shall be conditioned to pay the costs and judgment if the appealing party fail. The bond shall be approved by the judge or the clerk. Upon filing of the notice of appeal, the posting and approval of the bond, and the deposit by the appellant of an estimated fee in advance for preparing the record, the county court shall discontinue all further proceedings and recall any execution issued. The appellant shall also, within ~~thirty~~ 35 days after the filing of the notice of appeal, docket the case in the district court and pay the docket fee.

(b) Preparation of Record on Appeal. Upon the deposit of the estimated record fee, the clerk of the court shall prepare and issue as soon as may be possible a record of the proceedings in the county court, including the summons, the complaint, proof of service, and the judgment. The record shall also include a transcription of such part of the actual evidence and other proceedings as the parties may designate or, in lieu of transcription, to which they may stipulate. If a stenographic record has been maintained or the parties agree to stipulate, the party appealing shall lodge with the clerk of the court the reporter's transcript of the designated evidence or proceedings, or a stipulation covering such items within ~~forty~~ 42 days after judgment. If the proceedings have been electrically recorded, the transcription of designated evidence and proceedings shall be prepared in the office of the clerk of the county court or under the supervision of the clerk, within ~~forty~~ 42 days after judgment. The clerk shall notify, in writing, the opposing parties of the completion of the record, and such parties shall have ~~ten~~ 14 days within which to file objections. If none are received, the record shall be certified forthwith by the judge. If objections are made, the parties shall be called for hearing and the objections settled by the county judge as soon as possible, and the record then certified.

(d) Briefs. A written brief shall contain a statement of the matters relied upon as constituting error and the arguments with respect thereto. It shall be filed in the district court by the appellant ~~twenty~~ 21 days after filing of the record therein. A copy of such brief shall be served on the appellee. The appellee may file an answering brief within ~~twenty~~ 21 days after such service. In the discretion of the district court, the time for filing of briefs and answers may be extended. When the briefs have been filed the matter shall stand at issue and shall be

Rule 45 continued

determined on the record and the briefs, with such oral argument as the court in its discretion may allow. No trial shall be held de novo in the district court unless the record of the proceedings in the county court have been lost or destroyed or for some other valid reason cannot be produced; or unless a party by proper proof to the court establishes that there is new and material evidence unknown and undiscoverable at the time of the trial in the county court which, if presented in a de novo trial in the district court, might affect the outcome.

COLORADO RULES OF JUVENILE PROCEDURE (CH. 28)

Rule 6. Petition in Adoption

No change – Timing in adoption is pursuant to statute

COLORADO MUNICIPAL COURT RULES OF PROCEDURE (CH. 30)

CMCR 210 (a)(4)(VI) still gives the defendant only 10 days to demand a jury trial and 10 days to pay the fee. The statute (13-10-114) and CMCR 223 were both changed to 20 days. Can't change to 21 because the statute says 20 days.

NOTE: was the rule change from September ever submitted to the court?

Some rules should follow CrimP rules:

CMCR 229(c) is the same as Crim P 29 motion for acquittal after guilty verdict

CMCR 241 is the same as CrimP 41 return of inventory on search warrant

CMCR 245 is the same as CrimP 45 time for motions/affidavits

COLORADO APPELLATE RULES

Rule 4. Appeal as of Right -- When Taken

(a) Appeals in Civil Cases (Other than Appeals or Appellate Review Within C.A.R. 3.1, 3.2, 3.3 and 3.4). Except as provided in Rule 4(e), in a civil case in which an appeal is permitted by law as of right from a trial court to the appellate court, the notice of appeal required by C.A.R. 3 shall be filed with the appellate court with an advisory copy served on the clerk of the trial court within ~~forty-five~~49 days of the date of the entry of the judgment, decree, or order from which the party appeals. In appeals from district court review of agency actions, such notice of appeal shall be in addition to the statutory ~~forty-five~~45-day notice of intent to seek appellate review filed with the district court required by C.R.S. 24-4-106(9). If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within ~~fourteen~~14 days of the date on which the first notice of appeal is filed, or within the time otherwise prescribed by this section (a), whichever period last expires.

The running of the time for filing a notice of appeal is terminated as to all parties by a timely motion filed in the trial court by any party pursuant to the Colorado Rules of Civil Procedure hereafter enumerated in this sentence, and the full time for appeal fixed by this section (a) commences to run and is to be computed from the entry of any of the following orders made upon a timely motion under such rules: (1) Granting or denying a motion under C.R.C.P. 59 for judgment notwithstanding verdict; (2) granting or denying a motion under C.R.C.P. 59, to amend findings of fact, whether or not an alteration of the judgment would be required if the motion is granted; (3) granting or denying a motion under C.R.C.P. 59, to alter or amend the judgment; (4) denying a motion for a new trial under C.R.C.P. 59; (5) expiration of a court granted extension of time to file motion(s) for post-trial relief under C.R.C.P. 59, where no motion is filed. The trial court shall continue to have jurisdiction to hear and decide a motion under C.R.C.P. 59 regardless of the filing of a notice of appeal, provided the C.R.C.P. 59 motion is timely filed under C.R.C.P. 59(a) and determined within the time specified in C.R.C.P. 59(j). During such time, all proceedings in the appellate court shall be stayed. A judgment or order is entered within the meaning of this section (a) when it is entered pursuant to C.R.C.P. 58. If notice of the entry of judgment, decree, or order is transmitted to the parties by mail or E-Service, the time for the filing of the notice of appeal shall commence from the date of the mailing or E-Service of the notice.

Upon a showing of excusable neglect, the appellate court may extend the time for filing the notice of appeal by a party for a period not to exceed ~~thirty~~35 days from the expiration of the time otherwise prescribed by this section (a). Such an extension may be granted before or after the time otherwise prescribed by this section (a) has expired; but if a request for an extension is made after such time has expired, it shall be made by motion with such notice as the court shall deem appropriate.

[Comment: C.A.R. 4(a) provides for the notice of appeal to be filed with the appellate court and a copy to be served upon the trial court. Time for filing the notice of appeal is increased to ~~45~~49 days.]

(b) Appeals in Criminal Cases.

(1) Except as provided in Rule 4(e), in a criminal case the notice of appeal by a defendant shall be filed in the appellate court and an advisory copy served on the clerk of the trial court within ~~forty-five~~⁴⁹ days after the entry of the judgment or order appealed from. A notice of appeal filed after the announcement of a decision, sentence, or order but before entry of the judgment or order shall be treated as filed on the date of such entry. If a timely motion in arrest of judgment or for a new trial on any ground other than newly discovered evidence has been made, an appeal from a judgment of conviction may be taken within ~~forty-five~~⁴⁹ days after the entry of an order denying the motion. A motion for a new trial based on the ground of newly discovered evidence will similarly extend the time for appeal from a judgment of conviction if the motion is made within ~~ten~~¹⁴ days after entry of the judgment. A judgment or order is entered within the meaning of this section (b) when it is entered in the criminal docket. Upon a showing of excusable neglect the appellate court may, before or at any time after the time has expired, with or without motion and notice, extend the time for filing a notice of appeal for a period not to exceed ~~thirty~~³⁵ days from the expiration of the time otherwise prescribed by this section (b).

[Comment: C.A.R. 4(b) has been altered to make it conform more closely to C.A.R. 4(a).]

(2) Unless otherwise provided by statute or Colorado appellate rule, when an appeal by the state or the people is authorized by statute, the notice of appeal shall be filed in the Court of Appeals within ~~forty-five~~⁴⁹ days after the entry of judgment or order appealed from. The Court of Appeals, after consideration of said appeal, shall issue a written decision answering the issues in the case and shall not dismiss the appeal as without precedential value. The final decision of the Court of Appeals is subject to petition for certiorari to the Supreme Court.

(c) Appellate Review of Felony Sentences.

(1) Availability of Review.

(II) (A) The notice of appeal must be filed within ~~forty-five~~⁴⁹ days from the date of the imposition of sentence. The notice shall be filed with the appellate court with an advisory copy served on the clerk of the trial court which imposed the sentence. The time for filing the notice of appeal may be extended by the appellate court.

(d) Appeals of Cases in Which a Sentence of Death Has Been Imposed.

(2) Procedure and Conditions.

(I) The trial court, at the time of imposition of a sentence of death, shall enter an order staying execution of the judgment and sentence until further order of the Supreme Court, and shall direct the clerk of the trial court to mail to the Supreme Court, within ~~seven~~⁷ days of imposition of sentence, a copy of the judgment, sentence, and mittimus.

(II) The record, as described in subsection (3) of this Rule, shall be prepared in the same form as any other record to be presented to the Supreme Court and shall be transmitted by the clerk of the

Rule 45 continued

trial court within ~~forty~~ 42 days of imposition of sentence, or such additional time as may be allowed by the Supreme Court.

[Note: *A statutory amendment to 24-1-106, C.R.S. will be necessary.*]

COLORADO RULES OF CRIMINAL PROCEDURE

All effective July 1, 2012

RULE 45. TIME

- (a) Computation. In computing any period of time prescribed or allowed by these rules, the day of the ~~act or event~~ after from which the designated period of time begins to run is not to be included. Thereafter, every day shall be counted including holidays, Saturdays, and Sundays. The last day of the period so computed is to be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. The “next day” is determined by continuing to count forward when the period is measured after an event and backward when measured before an event. ~~The term “calendar days” shall mean consecutive days including Saturdays, Sundays, and holidays.~~ Unless otherwise specifically ordered, when a period of time prescribed or allowed is less than eleven days and not specified as “calendar days”, ~~intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.~~ As used in these Rules, “legal holiday” includes the first day of January, observed as New Year's Day; the third Monday in January, observed as Martin Luther King Day; the third Monday in February, observed as Washington-Lincoln Day; the last Monday in May, observed as Memorial Day; the fourth day of July, observed as Independence Day; the first Monday in September, observed as Labor Day; the second Monday in October, observed as Columbus Day; the 11th day of November, observed as Veteran's Day; the fourth Thursday in November, observed as Thanksgiving Day; the twenty-fifth day of December, observed as Christmas Day, and any other day except Saturday or Sunday when the court is closed.
- (b) Enlargement. When an act is required or allowed to be performed at or within a specified time, the court for cause shown may at any time in its discretion:
- (1) With or without motion or notice, order the period enlarged if application therefor is made before expiration of the period

- originally prescribed or of that period as extended by a previous order; or,
- (2) Upon motion, permit the act to be done after expiration of the specified period if the failure to act on time was the result of excusable neglect.
- (c) ~~[Repealed]. Unaffected by Expiration of Term.—The period of time provided for the doing of any act or the taking of any proceeding is not affected or limited by the expiration of a term of court.~~
- (d) ~~[Repealed]. For Motions—Affidavits.—A written motion, other than one which may be heard ex parte, and notice of the hearing thereof, shall be served not later than five days before the time specified for the hearing unless a different period is fixed by rule or order of the court. For cause shown such an order may be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion, and opposing affidavits may be served not less than one day before the hearing unless the court permits them to be served at a later time.~~
- (e) ~~[Repealed]. Additional Time After Certain Kinds of Service.—Unless otherwise specifically ordered, whenever a party has the right or is required to do an act within a prescribed period after the service of a notice or other paper and the notice or other paper is served by mail or as authorized under Colorado Rules of Civil Procedure 5(b)(2)(C) or (D), three calendar days shall be added after the period would otherwise expire under subdivision (a) of this Rule. If the third of the added days is a Saturday, Sunday, or legal holiday, the last day to act is the next day that is not a Saturday, Sunday, or legal holiday.~~
- (f) Inmate Filings. A document filed by an inmate confined in an institution is timely filed with the court if deposited in the institution's internal mailing system on or before the last day for filing. If an institution has a system designed for legal mail, the inmate must use that system to receive the benefit of this rule.

Comment

~~—————The amendment to Rule 45(e) clarifies the method for extending the time to respond after service by mail, leaving with the clerk of court, or electronic or other means consented to by the party served. Three days are added after the prescribed period otherwise expires under Rule 45(a). This is different than the parallel civil rule, C.R.C.P. 6(e), which has taken the approach of adding the three days before applying the provisions of subsection (a).~~

~~———— The effect of invoking the day that the rule would otherwise expire under Rule 45(a) can be illustrated by assuming that the thirtieth day of a thirty-day period is a Saturday. Under Rule 45(a) the period expires on the next day that is not a Sunday or legal holiday. If the following Monday is a legal holiday, under Rule 45(a) the period expires on Tuesday. Three days are then added—Wednesday, Thursday, and Friday as the third and final day to act unless that is a legal holiday. If, however, the prescribed period ends on a Friday, the three added days are Saturday, Sunday, and Monday, which is the third and final day to act unless it is a legal holiday. If Monday is a legal holiday, the next day that is not a legal holiday is the third and final day to act.~~

~~———— Application of Rule 45(e) to a period that is less than eleven days can be illustrated by a paper that is served by mailing on a Friday. If ten days are allowed to respond, intermediate Saturdays, Sundays, and legal holidays are excluded in determining when the period expires under Rule 45(a). If there is no legal holiday, the period expires on the Friday two weeks after the paper was mailed. The three added Rule 45(e) days are Saturday, Sunday, and Monday, which is the third and final day to act unless it is a legal holiday. If Monday is a legal holiday, the next day that is not a legal holiday is the final day to act.~~

Drafting Notes for the Court

Subsection (c) of this Rule, concerning expiration of court terms, is archaic and unnecessary, and repeal is recommended. The Civil Rules Committee is recommending repeal of the parallel civil rule (C.R.C.P. 6(c)).

Subsection (d) is out of place here. This Rule concerns how to compute and apply rule-based time periods. It does not set time deadlines for particular events; rather, that task is addressed in the various rules that pertain to particular events. But, curiously, subsection (d) sets a time deadline for a particular event—the filing of motions. It is thus more appropriately placed in Rule 47, the specific rule concerning motions. It is therefore recommended that this provision be moved to Rule 47. The federal-rule counterpart was similarly relocated many years ago. (The Civil Rules Committee is recommending repeal of the parallel civil rule, C.R.C.P. 6(d), without relocation. But the topic is already dealt with elsewhere in the civil rules, namely, in the C.R.C.P. 121 Statewide Practices Standards. That is not the case in the criminal rules.)

RULE 4. WARRANT OR SUMMONS UPON FELONY COMPLAINT

- (a) Issuance. ...
- (b) Form. ...
- (c) Execution or Service and Return.
 - (1) Warrant. ...
 - (2) Summons.
 - (I) By Whom. ...
 - (II) Territorial Limits. ...
 - (III) Manner. A summons issued pursuant to this Rule may be served in the same manner as the summons in a civil action or by mailing it to the defendant's last known address, not less than ~~eleven~~ 14 days prior to the time the defendant is required to appear, by registered mail with return receipt requested or certified mail with return receipt requested. Service by mail shall be complete upon the return of the receipt signed by the defendant or signed on behalf of the defendant by one authorized by law to do so. The summons for the appearance of a corporation may be served by a peace officer in the manner provided for service of summons upon a corporation in a civil action.
 - (IV) Return. At least one day prior to the return day, the person to whom a summons has been delivered for service shall make return thereof to the county court before whom the summons is returnable. At the request of the prosecuting attorney, made while a complaint is pending, a summons returned unserved, or a duplicate thereof, may be delivered by the county judge to any peace officer or other authorized person for service.

Drafting Notes for the Court

The word "same" was inexplicably omitted from the text of the Rule contained in Rule Change 2009(17).

RULE 4.1. COUNTY COURT PROCEDURE--MISDEMEANOR AND PETTY OFFENSE--WARRANT OR SUMMONS UPON COMPLAINT

...

- (a) Definitions. ...
- (b) Initiation of the Prosecution. ...
- (c) Summons, Summons and Complaint.
 - (1) Summons. A summons issued by the county court in a prosecution for a misdemeanor or a class 1 petty offense may be served by giving a copy to the defendant personally, or by leaving a copy at the defendant's usual place of abode with some person over the age of eighteen years residing therein, or by mailing a copy to the defendant's last known address not less than ~~eleven~~14 days prior to the time the defendant is required to appear by registered mail with return receipt requested or certified mail with return receipt requested. Service by mail shall be complete upon the return of the receipt signed by the defendant or signed on behalf of the defendant by one authorized by law to do so. Personal service shall be made by a peace officer or any disinterested party over the age of eighteen years.

...

Drafting Notes for the Court

The words "by law" were approved by the committee, but were inadvertently omitted in the submission to the Court that led to Rule Change 2009(18); the clause should match the parallel clause in Rule 4(c)(2)(III).

RULE 5. PRELIMINARY PROCEEDINGS

(a) Felony Proceedings.

- (1) Procedure Following Arrest. ...
- (2) Appearance Before the Court. ...
- (3) Appearance in the Court not Issuing the Warrant. If the defendant is taken before a court which did not issue the arrest warrant, the court shall inform the defendant of the matters set out in subsection (a)(2) of this Rule and, allowing time for travel, set bail returnable not less than ~~ten~~ 14 days thereafter before the court which issued the arrest warrant, and shall transmit forthwith all papers in the case to the court which issued the arrest warrant. In the event the defendant does not make bail within forty-eight hours, the sheriff of the county in which the arrest warrant was issued shall return the defendant to the court which issued the warrant.
- (4) Preliminary Hearing--County Court Procedures. Every person accused of a class 1, 2, or 3 felony in a felony complaint has the right to demand and receive a preliminary hearing to determine whether probable cause exists to believe that the offense charged in the felony complaint was committed by the defendant. In addition, only those persons accused of a class 4, 5, or 6 felony by felony complaint which felony requires mandatory sentencing or is a crime of violence as defined in section 18-1.3-406 or is a sexual offense under part 4 of article 3 of title 18, C.R.S., shall have the right to demand and receive a preliminary hearing to determine whether probable cause exists to believe that the offense charged in the felony complaint was committed by the defendant. However, any defendant accused of a class 4, 5, or 6 felony who is not otherwise entitled to a preliminary hearing may request a preliminary hearing if the defendant is in custody for the offense for which the preliminary hearing is requested; except that, upon motion of either party, the court shall vacate the preliminary hearing if there is a reasonable showing that the defendant has been released from custody prior to the preliminary hearing. Any person accused of a class 4, 5, or 6 felony who is not entitled to a preliminary hearing shall, unless otherwise waived, participate in a dispositional hearing for the purposes of

case evaluation and potential resolution. The following procedures shall govern the holding of a preliminary hearing:

(I) Within ~~ten~~7 days after the defendant is brought before the county court, either the prosecutor or the defendant may request a preliminary hearing. Upon such request, the court forthwith shall set the hearing. The hearing shall be held within ~~thirty~~35 days of the day of setting, unless good cause for continuing the hearing beyond that time is shown to the court. The clerk of the court shall prepare and give notice of the hearing, or any continuance thereof, to all parties and their counsel.

(II) ...

...

(VII) If a felony complaint is dismissed prior to a preliminary hearing being held when one is required or, in other cases, prior to being bound over, the prosecution may thereafter file a direct information in the district court pursuant to Rule 7(c)(4) charging the same offense(s), file a felony complaint in the county court charging the same offense(s), or submit the matter to a grand jury. If the prosecution files a subsequent felony complaint charging the defendant with the same offense(s), the felony complaint shall be accompanied by a written statement from the prosecutor providing good cause for dismissing and refiling the charges. Within ~~twenty~~21 days of defendant's first appearance following the filing of the new felony complaint the defendant may request an evidentiary hearing at which the prosecutor shall establish the existence of such good cause.

(VIII) If the county court has bound over the defendant to the district court and the case is thereafter dismissed in the district court before jeopardy has attached, the prosecution may file a direct information in the district court pursuant to Rule 7(c)(5) charging the same offense(s), file a felony complaint in county court charging the same offense(s), or submit the matter to a grand jury, and the case shall then proceed as if the previous case had never been filed. The

prosecution shall also file with the felony complaint or the direct information a statement showing good cause for dismissing and then refile the case. Within ~~twenty~~21 days of defendant's first appearance following the filing of the new felony complaint or the direct filing of the new information the defendant may request an evidentiary hearing at which the prosecutor shall establish the existence of such good cause.

(4.5) ...

(5) Procedure Upon Failure to Request Preliminary Hearing. If the defendant or prosecutor fails to request a preliminary hearing within ~~ten~~7 days after the defendant has come before the court, the county court shall forthwith order the defendant bound over to the appropriate court of record for trial. In no case shall the defendant be bound over for trial to another court until the preliminary hearing has been held, or until the ~~ten-day~~7-day period for requesting a preliminary hearing has expired. In appropriate cases, the defendant may be admitted to, or continued upon bail by the county court, but bond shall be made returnable in the trial court at a day and time certain. All court records in the case, except the reporter's transcript, notes, or recording shall be transferred forthwith by the clerk to the appropriate court of record.

(b) Bail in Absence of a County Judge. ...

(c) Misdemeanor and Petty Offense Proceedings.

(1) Procedure Following Arrest. ...

(2) Appearance Before the Court. ...

(3) Appearance in the County Court not Issuing the Warrant. If the defendant is taken before a county court which did not issue the arrest warrant, the court shall inform the defendant of the matters set out in subsection (a)(2)(I through VII) of this Rule and, allowing time for travel, set bail returnable not less than ~~ten~~14 days thereafter before the court which issued the arrest warrant, and shall transmit forthwith a transcript of the proceedings and all papers in the case to the court which issued the arrest warrant. In the event the defendant does not make bail within forty-eight hours, the sheriff of the county in which the arrest warrant was

issued shall return the defendant to the court which issued the warrant.

Drafting Notes for the Court

The committee discussed at length the deadlines for demanding a preliminary hearing and for holding the hearing, see Rules 5(a)(4)(l) and (a)(5) above, and adopted its recommendations on a divided vote. Lengthening or shortening either deadline affects both the ability to fit the hearing into court schedules and the length of time an accused might be incarcerated.

There was broad, though not unanimous, support for reducing the time for demand (from 10 days to 7) rather than extending it (from 10 days to 14). In many jurisdictions, this step is routinely done at the first post-filing appearance, and so none of the allowed time is used anyway. In some jurisdictions that do regularly postpone the demand, it is done through the court staff without a formal, in-court, appearance, and advancing it would not create any significant problem.

The views on the deadline for holding the hearing were more closely divided.

Some members favored extending the time to 35 days. They expressed concerns that a time reduction would unduly burden thinly staffed courts, especially in jurisdictions that only hold preliminary hearings on certain days of the week. In their view: Many defendants are out on bond, so for them incarceration is not an issue. And a significant portion of defendants in custody have other holds, anyway. Also, many have to be transported from other jurisdictions, adding to the concern over tightening the time. In combination with reduction of the demand deadline to 7 days, the outer limit is actually reduced from a current 44-day aggregate—10 days for demand, but effectively 14 because of the exclusion of weekends, plus 30 days to hearing—to a new aggregate of 42 (7+35).

Other members favored reducing the time to 28 days (from the current 30). In their view: The problem in many jurisdictions is not that criminal cases are given too little time to resolve themselves on the docket, but rather they are given too much time. Deciding the PH date should be extended to 35 instead of reduced to 28 increases the docket length. Only one jurisdiction was identified as incorporating the PH demand extension (Jefferson county); for the remaining jurisdictions, the net effect is extending the PH deadline from 30 to 35 days, instead of reducing the deadline from 30 to 28 days. In all but Jefferson county, the PH is demanded and set at the filing of charges. There may be significant cost to the sheriff's office (read counties) for extending the PH deadline from 30 to 35 days. The PH is most meaningful for those in custody and housed by the sheriff, which in cases other than first degree murder (which rarely has a PH within 30 days anyway), is primarily those individuals who cannot afford to post bond. Extending the PH deadline will extend the number of days before the case can be resolved, whether it is resolved at the PH date or the next available arraignment date following the PH. Assuming the PH demand does not stay at 30, it is either going to 28 or to 35. This is the difference of a week for a person in custody. Rather than add five days, it is more humane to shave 2 days to potentially shorten the custody of defendants who will be given credit for time served upon plea. In particular in Denver, Adams, Boulder and Arapahoe counties, smaller cases where the person is unable to post bond often result in misdemeanor pleas at the preliminary hearing with probationary/ credit-for-time-served sentences. Also, it is not unusual for a plea agreement with the prosecution to include waiver of PH on the PH date in exchange for a make-able bond, rather than some ultimate resolution of the case. One among these members made the case that the best resolution would be to extend the demand deadline to 14 days and shorten the hearing deadline to 28 days.

Key: proposed insertion; ~~proposed deletion~~; time period proposed to be unchanged.

Rule 5 continued

The option of leaving this deadline at its current 30 days was considered, but only had the support of a couple members. Once that option was rejected, the committee voted 5-4 to recommend a change to 35 days.

RULE 7. THE INDICTMENT AND THE INFORMATION

- (a) The Indictment.
- (b) The Information.
- (c) Direct Information. The prosecutor may file a direct information if:
 - (1) ...
 - (2) A preliminary hearing was held either in the county court or in the district court and the court found probable cause did not exist as to one or more counts. If the prosecutor states an intention to proceed in this manner, the bond executed by the defendant shall be continued and returnable in the district court at a day and time certain. If a bond has not been continued, the defendant shall be summoned into court without the necessity of making a new bond. The information shall be accompanied by a written statement from the prosecutor alleging facts which establish that evidence exists which for good cause was not presented by the prosecutor at the preliminary hearing. Within ~~twenty~~21 days of defendant's first appearance following the direct filing the defendant may request an evidentiary hearing at which the prosecutor shall establish the existence of such good cause; or
 - (3) ...
 - (4) The case was dismissed before a preliminary hearing was held in the county court or in the district court, when one is required, or, in other cases, before the defendant was bound over to the trial court or otherwise set for arraignment or trial. The information shall be accompanied by a written statement from the prosecutor stating good cause for dismissing and then refileing the case. Within ~~twenty~~21 days after defendant's first appearance following the direct filing the defendant may request a hearing at which the prosecutor shall establish the existence of such good cause. The prosecution may also submit the matter to a grand jury.
 - (5) The case was dismissed after the district or county court found probable cause at the preliminary hearing if one was required or, in other cases, after the defendant was bound over to the trial court or otherwise set for arraignment or trial, and before jeopardy has attached. If such case was originally filed by direct information in the district court, the prosecution may not file the

same offense(s) by a felony complaint in the county court, but the prosecution may charge the same offense(s) by filing a direct information in the district court or may submit the matter to a grand jury, and the case shall then proceed as if the previous case had never been filed. The prosecution shall also file with the direct information or with the felony complaint a statement showing good cause for dismissing and then refile the case. Within ~~twenty~~21 days of defendant's first appearance following the filing of the new felony complaint or the direct filing of the new information the defendant may request an evidentiary hearing at which the prosecutor shall establish the existence of such good cause.

- (d) [Repealed]
- (e) Amendment of Information. ...
- (f) Surplusage. ...
- (g) Bill of Particulars. The court may direct the filing of a bill of particulars. A motion for a bill of particulars may be made only within ~~ten~~14 days after arraignment or at such other time before or after arraignment as may be prescribed by rule or order. A bill of particulars may be amended at any time subject to such conditions as justice requires.
- (h) Preliminary Hearing--District Court Procedures.
 - (1) ...
 - (2) Upon the making of such a request, or if a dispositional hearing is required, the district court shall set the hearing which shall be held within ~~thirty~~35 days of the day of the setting, unless good cause for continuing the hearing beyond that period is shown to the court. The clerk of the court shall prepare and give notice of the hearing, or any continuance thereof, to all parties and their counsel.

...

Drafting Notes for the Court

Many of the considerations set out in the note above regarding Rule 5(a)(4)(l) apply to the preliminary-hearing deadline here, see Rule 7(h)(2).

RULE 12. PLEADINGS, MOTIONS BEFORE TRIAL, DEFENSES, AND OBJECTIONS

- (a) Pleadings and Motions. ...
- (b) The Motion Raising Defenses and Objections.
 - (1) Defenses and Objections Which May Be Raised. ...
 - (2) Defenses and Objections Which Must Be Raised. ...
 - (3) Time of Making Motion. The motion shall be made within ~~twenty~~21 days following arraignment.
 - (4) Hearing on Motion. ..
 - (5) Effect of Determination. ...

RULE 16. DISCOVERY AND PROCEDURE BEFORE TRIAL

...

Part I. Disclosure to the Defense

(a) Prosecutor's Obligations.

- (1) The prosecuting attorney shall make available to the defense the following material and information which is within the possession or control of the prosecuting attorney, and shall provide duplicates upon request, and concerning the pending case:
 - (I) Police, arrest and crime or offense reports, including statements of all witnesses;
 - (II) With consent of the judge supervising the grand jury, all transcripts of grand jury testimony and all tangible evidence presented to the grand jury in connection with the case;
 - (III) Any reports or statements of experts made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments, or comparisons;
 - (IV) Any books, papers, documents, photographs or tangible objects held as evidence in connection with the case;
 - (V) Any record of prior criminal convictions of the accused, any codefendant or any person the prosecuting attorney intends to call as a witness in the case;
 - (VI) All tapes and transcripts of any electronic surveillance (including wiretaps) of conversations involving the accused, any codefendant or witness in the case;
 - (VII) A written list of the names and addresses of the witnesses then known to the district attorney whom he or she intends to call at trial;
 - (VIII) Any written or recorded statements of the accused or of a codefendant, and the substance of any oral statements made to the police or prosecution by the accused or by a codefendant, if the trial is to be a joint one.
- (2) The prosecuting attorney shall disclose to the defense any material or information within his or her possession or control

which tends to negate the guilt of the accused as to the offense charged or would tend to reduce the punishment therefor.

(3) ...

(b) Prosecutor's Performance of Obligations.

(1) The prosecuting attorney shall perform his or her obligations under subsections (a)(1)(I), (IV), (VII), and with regard to written or recorded statements of the accused or a codefendant under (VIII) as soon as practicable but not later than ~~twenty calendar~~ 21 days after the defendant's first appearance at the time of or following the filing of charges, except that portions of such reports claimed to be nondiscoverable may be withheld pending a determination and ruling of the court under Part III but the defense must be notified in writing that information has not been disclosed.

(2) The prosecuting attorney shall request court consent and provide the defense with all grand jury transcripts made in connection with the case as soon as practicable but not later than ~~thirty~~ 35 days after indictment.

(3) The prosecuting attorney shall perform all other obligations under subsection (a)(1) as soon as practicable but not later than ~~thirty~~ 35 days before trial.

(4) The prosecuting attorney shall ensure that a flow of information is maintained between the various investigative personnel and his or her office sufficient to place within his or her possession or control all material and information relevant to the accused and the offense charged.

...

Part II. Disclosure to Prosecution

(a) The Person of the Accused. ...

(b) Medical and Scientific Reports. ...

(1) Subject to constitutional limitations, the trial court may require that the prosecuting attorney be informed of and permitted to inspect and copy or photograph any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments, or comparisons.

(II) ...

(c) Nature of Defense.

Subject to constitutional limitations, the defense shall disclose to the prosecution the nature of any defense, other than alibi, which the defense intends to use at trial. The defense shall also disclose the names and addresses of persons whom the defense intends to call as witnesses at trial. At the entry of the not guilty plea, the court shall set a deadline for such disclosure. In no case shall such disclosure be less than ~~thirty (30)~~ 35 days before trial for a felony trial, or ~~seven (7)~~ 7 days before trial for a non-felony trial, except for good cause shown. Upon receipt of the information required by this subsection (c), the prosecuting attorney shall notify the defense of any additional witnesses which the prosecution intends to call to rebut such defense within a reasonable time after their identity becomes known.

(d) Notice of Alibi.

The defense, if it intends to introduce evidence that the defendant was at a place other than the location of the offense, shall serve upon the prosecuting attorney as soon as practicable but not later than ~~thirty~~ 35 days before trial a statement in writing specifying the place where he or she claims to have been and the names and addresses of the witnesses he or she will call to support the defense of alibi. Upon receiving this statement, the prosecuting attorney shall advise the defense of the names and addresses of any additional witnesses who may be called to refute such alibi as soon as practicable after their names become known. Neither the prosecuting attorney nor the defense shall be permitted at the trial to introduce evidence inconsistent with the specification, unless the court for good cause and upon just terms permits the specification to be amended. If the defense fails to make the specification required by this section, the court shall exclude evidence in his behalf that he or she was at a place other than that specified by the prosecuting attorney unless the court is satisfied upon good cause shown that such evidence should be admitted.

Part III. Regulation of Discovery

...

Part IV. Procedure

(a) General Procedural Requirements. ...

Key: proposed insertion; ~~proposed deletion~~; time period proposed to be unchanged.

(b) Setting of Omnibus Hearing.

- (1) If a plea of not guilty or not guilty by reason of insanity is entered at the time the accused is arraigned, the court may set a time for and hold an omnibus hearing in all felony and misdemeanor cases.
- (2) In determining the date for the omnibus hearing, the court shall allow counsel sufficient time:
 - (I) To initiate and complete discovery required or authorized under this rule;
 - (II) To conduct further investigation necessary to the defendant's case;
 - (III) To continue plea discussion.
- (3) The hearing shall be no later than ~~thirty~~35 days after arraignment.

...

Part V. Time Schedules and Discovery Procedures

(a) Mandatory Discovery. ...

(b) Time Schedule.

- (1) In the event the defendant enters a plea of not guilty or not guilty by reason of insanity, or asserts the defense of impaired mental condition, the court shall set a deadline for such disclosure to the prosecuting attorney of those items referred to in Parts II (b) (1) and (c) herein, subject to objections which may be raised by the defense within that period pursuant to Part III (d) of this rule. In no case shall such disclosure be less than ~~thirty (30)~~35 days before trial for a felony trial, or ~~seven (7)~~7 days before trial for a non-felony trial, except for good cause shown.

...

(c) Cost and Location of Discovery. ...

(d) Compliance Certificate. ...

Drafting Notes for the Court

Most of the timeframes addressed by this Rule are not also treated by statute, but one prosecution obligation and one defense obligation are. As for the prosecution obligation, the timing for initially providing witness names and addresses is treated by statute ("not later than twenty calendar days after the defendant's first appearance at the time of or following the filing of charges," § 16-5-203, C.R.S.). Part I(b)(1) of this Rule also sets a deadline for that, as well as for several other categories of information. This proposal recommends a change to 21 days for all the Part I(b)(1) obligations; the expectation is to have the statute similarly changed.

Key: proposed insertion; ~~proposed deletion~~; time period proposed to be unchanged.

Rule 16 continued

As for the defense obligation, a statute sets the deadline for disclosures regarding an alibi defense at 30 days before trial. § 16-7-102, C.R.S. The current Rule does the same. See Part II(d). This proposal recommends a rule change to 35 days; the expectation is to have the statute similarly changed.

RULE 21. CHANGE OF VENUE OR JUDGE

(a) Change of Venue.

- (1) For Fair or Expeditious Trial. ...
- (2) The Motion for Change of Venue.
 - (I) ...
 - (II) The written motion and the affidavits shall be served upon the opposing party ~~five~~7 days before the hearing; the nonmoving party may submit a written brief or affidavit or both in opposition to the motion.
 - (III) As soon as practicable, the court may hold a hearing on the motion.
- (3) Effect of Motions.
- (4) Order of Change. ...
- (5) Disposition of Confined Defendant. When the defendant is in custody, the court shall order the sheriff, or other officer having custody of the defendant, to remove him not less than ~~three~~7 days before trial to the jail of the county to which the venue is changed and there deliver him together with the warrant under which he is held, to the jailer. The sheriff or other officers shall endorse on the warrant of commitment the reason for the change of custody, and deliver the warrant, with the prisoner, to the jailer of the proper county, who shall give the sheriff or other officer a receipt and keep the prisoner in the same manner as if he had originally been committed to his custody.

...

(b) Substitution of Judges.

- (1) Within ~~ten~~14 days after a case has been assigned to a court, a motion, verified and supported by affidavits of at least two credible persons not related to the defendant, may be filed with the court and served on the opposing party to have a substitution of the judge. Said motion may be filed after the ~~ten-day~~14-day period only if good cause is shown to the court why it was not filed within the original ~~ten-day~~14-day period. The motion shall be based on the following grounds:

...

...

RULE 23. TRIAL BY JURY OR TO THE COURT

- (1) Every person accused of a felony has the right to be tried by a jury of twelve. Before the jury is sworn, the defendant may, except in class 1 felonies, elect a jury of less than twelve but no fewer than six, with the consent of the court.
- (2) Every person accused of a misdemeanor has the right to be tried by a jury of six. Before the jury is sworn, the defendant may elect a jury of less than six but no fewer than three, with the consent of the court.
- (3) Every person accused of a class 1 or class 2 petty offense has the right to be tried by a jury of three, if he or she:
 - (I) Files a written jury demand within ~~twenty~~21 days after entry of a plea;
 - (II) Tenders twenty-five dollars to the court within ~~twenty~~21 days after entry of a plea, unless such fee is waived by the judge because of the indigence of the defendant. If the charge is dismissed or the defendant is acquitted of the charge, or if the defendant, having paid the jury fee, files with the court, at least ~~ten~~7 days before the scheduled trial date a written waiver of jury trial, the jury fee shall be returned to the defendant.

...

Committee Comment

Amended Rule 23(a)(5) reflects the legislature's 1989 decision to condition a defendant's waiver of a jury trial upon the consent of the prosecution. See 1989 S.B. 246, Section 35, amending Section 16-10-101, C.R.S. See also *People v. District Court*, 731 P.2d 720, 722 (Colo. 1987). Also, consistent with Colorado caselaw, the amended rule would permit the waiver of a jury trial even in a class 1 felony case. See *People v. Davis*, 794 P.2d 159, 209-12 (Colo.1990).

Drafting Notes for the Court

The timing requirements for jury-trial demands and subsequent waivers in petty-offense cases are addressed by statute. § 16-10-109(2), C.R.S. They are also treated here in Rule 23(3)(I) and (II). The two currently match, thanks to a 2008 rule change bringing the Rule into sync with the statute. This proposal recommends changing the deadline for demanding a petty-offense jury from 20 days after plea to 21 days after plea, and changing the deadline for retracting a demand, from 10 days before trial to 7 days before trial. The expectation is to have the statute similarly changed.

RULE 29. MOTION FOR ACQUITTAL

- (a) Motion for Judgment of Acquittal. ...
- (b) Reservation of Decision on Motion. ...
- (c) Motion After Verdict or Discharge of Jury. If the jury returns a verdict of guilty or is discharged without having returned a verdict, a motion for judgment of acquittal may be made or renewed within ~~ten~~14 days after the jury is discharged or within such further time as the court may fix during the ~~ten-day~~14-day period. If a verdict of guilty is returned, the court may on such motion set aside the verdict and enter judgment of acquittal. If no verdict is returned, the court may enter judgment of acquittal. It shall not be necessary to the making of such a motion that such a similar motion has been made prior to the submission of the case to the jury.

Drafting Notes for the Court

The deadline for a new trial motion (see Rule 33) is 15 (proposed to be changed to 14) days. It is sensible to have the deadlines for motions for judgment of acquittal (this Rule) and motions in arrest of judgment (see Rule 34) be the same. The federal criminal rules do so. Fed. R. Crim. Proc. 29, 33, 34. Indeed, the Colorado rules did so until Rule 33 was changed, apparently in 1977, without this Rule and Rule 34 being changed.

RULE 32. SENTENCE AND JUDGMENT

- (a) Presentence or Probation Investigation. ...
- (b) Sentence and judgment. ...
- (c) Advisement. ...
- (d) Withdrawal of Plea of Guilty or Nolo Contendere. ...
- (e) Criteria for Granting Probation. ...
- (f) Proceedings for Revocation of Probation.

...

- (4) If the probationer is in custody, the hearing shall be held within ~~fifteen~~14 days after the filing of the complaint, unless delay or continuance is granted by the court at the instance or request of the probationer or for other good cause found by the court justifying further delay.
- (5) If the court determines that a violation of a condition or conditions of probation has been committed, it shall within ~~five~~7 days after the said hearing either revoke or continue the probation. In the event probation is revoked, the court may then impose any sentence, including probation which might originally have been imposed or granted.

Drafting Notes for the Court

This Rule sets the deadline for an in-custody probation-revocation hearing. The committee chose to depart here from the general approach of adjusting deadlines upward to the next higher multiple of seven (which here would have been a change from 15 days to 21 days). Lengthening this deadline would result in extending time in custody; a consequence the committee felt should be avoided. For this reason, the committee recommends a change to 14 days.

This Rule also sets the deadline for either revoking or continuing probation after a violation has been found. Here, the committee adhered to the general convention, and so recommends a change from 5 days to 7 days.

Both deadlines are currently specified in a parallel statute, which matches the current rule. § 16-11-206(4), (5), C.R.S. The expectation is to have the statute changed identically to the proposed rule change.

RULE 32.1. DEATH PENALTY SENTENCING HEARING

- (a) Purpose and Scope. ...
- (b) Statement of Intention to Seek Death Penalty. In any class 1 felony case in which the prosecution intends to seek the death penalty, the prosecuting attorney shall file a written statement of that intention with the trial court no later than ~~60 days~~ 63 days (9 weeks) after arraignment and shall serve a copy of the statement on the defendant's attorney of record or the defendant if appearing pro se.
- (c) Date of Sentencing Hearing. ...
- (d) Discovery Procedures for Sentencing Hearing. The following discovery provisions shall apply to the death penalty sentencing hearing:
 - (1) Aggravating Factors. Not later than ~~20~~ 21 days after the filing of the written statement of intention required in subsection (b) of this rule, the prosecuting attorney shall provide to the defendant, and file with the court a list of the aggravating factors enumerated at section 18-1.3-1201(5), 6 C.R.S., and that the prosecuting attorney intends to prove at the hearing.
 - (2) Prosecution Witnesses. Not later than ~~20~~ 21 days after the filing of the written statement of intention required in subsection (b) of this rule, the prosecuting attorney shall provide to the defendant a list of the witnesses whom the prosecuting attorney may call at the sentencing hearing and shall promptly furnish the defendant with written notification of any such witnesses who subsequently become known or the materiality of whose testimony subsequently becomes known. Along with the name of the witness, the prosecuting attorney shall furnish the witness' address and date of birth, the subject matter of the witness' testimony, and any written or recorded statement of that witness, including notes.
 - (3) Prosecution Books, Papers, Documents. Not later than ~~20~~ 21 days after the filing of the written statement of intention required in subsection (b) of this rule, the prosecuting attorney shall provide to the defendant a list of the books, papers, documents, photographs, or tangible objects, and access thereto, that the prosecuting attorney may introduce at the sentencing hearing and

shall promptly furnish the defendant written notification of additional such items as they become known.

- (4) **Prosecution Experts.** As soon as practicable but not later than ~~60 days~~ 63 days (9 weeks) before trial, the prosecuting attorney shall provide to the defendant any reports, recorded statements, and notes, including results of physical or mental examinations and scientific tests, experiments, or comparisons, of any experts whom the prosecuting attorney intends to call as a witness at the sentencing hearing and shall promptly furnish the defendant additional such items as they become available.
- (5) **Material Favorable to the Accused.** Not later than ~~20~~ 21 days after the filing of the written statement of intention required in subsection (b) of this rule, the prosecuting attorney shall make available to the defendant any material or information within the prosecuting attorney's possession or control that would tend to mitigate or negate the finding of any of the aggravating factors the prosecuting attorney intends to prove at the sentencing hearing, and the prosecuting attorney shall promptly make available to the defendant any such material or information that subsequently comes into the prosecuting attorney's possession or control.
- (6) **Prosecution's Rebuttal Witnesses.** Upon receipt of the information required by subsection (7), the prosecuting attorney shall notify the defendant as soon as practicable but not later than ~~15~~ 14 days before trial of any additional witnesses whom the prosecuting attorney intends to call in response to the defendant's disclosures.
- (7) **Defendant's Disclosure.**
 - ~~(a)~~ (A) Subject to constitutional limitations, the defendant shall provide the prosecuting attorney with the following information and materials not later than ~~30~~ 35 days before trial:
 - (I) A list of witnesses whom the defendant may call at the sentencing hearing. Along with the name of the witness, the defendant shall furnish the witness's address and date of birth, the subject matter of the witness's testimony, and any written or recorded

statement of that witness, including notes, that comprise substantial recitations of witness statements and relate to the subject matter of the testimony;

- (II) A list of the books, papers, documents, photographs, or tangible objects, and access thereto, that the defendant may introduce at the sentencing hearing;
- (III) Any reports, recorded statements, and notes of any expert whom the defendant may call as a witness during the sentencing hearing, including results of physical or mental examinations and scientific tests, experiments, or comparisons.

~~(b)~~(B) Any material subject to this subsection (7) that the defendant believes contains self-incriminating information that is privileged from disclosure to the prosecution prior to the sentencing hearing shall be submitted by the defendant to the trial judge under seal no later than ~~forty-five days~~ 49 days before trial. The trial judge shall review any material submitted under seal pursuant to this paragraph ~~(e)~~(B) to determine whether it is in fact privileged.

~~(i)~~(I) Any material submitted under seal pursuant to this paragraph ~~(e)~~(B) that the judge finds to be privileged from disclosure to the prosecution prior to the sentencing hearing shall be provided forthwith to the prosecution if the defendant is convicted of a class 1 felony.

~~(ii)~~(II) If the trial judge finds any of the material submitted under seal pursuant to this paragraph ~~(e)~~(B) to be not privileged from disclosure to the prosecution prior to the sentencing hearing, the trial judge shall notify the defense of its findings and allow the defense ~~seven~~ 7 days after such notification in which to seek a modification, review or stay of the court's order requiring disclosure.

~~(iii)~~(III) The trial judge may excise information it finds privileged from information it finds not privileged in order to disclose as provided in ~~(ii)~~(II) above.

(8) Regulation of Discovery and Sanctions. ...

Drafting Notes for the Court

Much of the timing addressed in this Rule is treated in statutes. §§ 18-1.3-1201(3), 18-1.4-102(3.5). Many of the parameters specified in the statutes are explicitly subject to being overridden by court rule. But the statutes specify some minimum periods that, at least arguably, were not designated as subject to reduction by rule.

In particular, prosecution disclosures covered by subsections (d)(1), (d)(2), (d)(3), and (d)(5) of this Rule were set at 20 days by the statutes, but this is clearly subject to modification by court rule. §§ 18-1.3-1201(3)(b); 18-1.4-102(3.5)(b). Likewise, defense disclosures covered by subsections (d)(7)(a)(I) and (II) of this Rule were set at 30 days before trial by the statutes, but expressly subject to modification by court rule. §§ 18-1.3-1201(3)(c); 18-1.4-102(3.5)(d). Note that the Rule currently parrots these timeframes, though modification of the Rule would not offend the statutes.

Differently, prosecution disclosure of expert-witness material (see subsection (d)(4) of this Rule) was set at not less than 45 days before trial by statutes, §§ 18-1.3-1201(3)(b); 18-1.4-102(3.5)(b), and whether the statute extends its blessing to court-rule supplanting of that minimum is less than clear. But the Rule already adopted by the Court does not match the statute—it sets an even more demanding standard (not later than 60 days before trial). Quite apparently, the Court takes the view either (1) that the statute is to be read as authorizing adjustment by rule, or (2) that the statute sets merely a minimum, without precluding adoption of an even more stringent requirement, or (3) that the topic is one of procedure as to which a rule has supremacy.

The statutes similarly declare a minimum time before trial by which the defense must disclose expert-witness information—30 days—while leaving unclear whether its express deference to contrary rules extends to this topic. §§ 18-1.3-1201(3)(c); 18-1.4-102(3.5)(d). But a parity of analysis teaches that this minimum may be increased by rule (see subsection (d)(7)(a)(III)) even in the face of the current statute.

Likewise, defense submission of assertedly privileged material, for court inspection, must by statute be no later than 45 days before trial. § 18-1.3-1201(3)(c.5); 18-1.4-102(3.5)(e). Rule extension (see subsection (d)(7)(b)) is equally compatible with the statutes.

All that being said, the expectation is to have the statutes changed to match the rule changes proposed here.

In the nature of house cleaning: Some of the internal references in this Rule are currently incorrect; also, some of the subpart enumerations are incongruent. Corrections are suggested.

RULE 32.2. DEATH PENALTY POST-TRIAL PROCEDURES

- (a) Purpose and Scope. ...
- (b) Trial Court Procedure.
 - (1) Stay of Execution. ...
 - (2) Motions for New Trial. The defendant may file any post-trial motions, pursuant to Crim. P. 33, no later than ~~15~~21 days after the imposition of sentence. The trial court, in its discretion, may rule on such motion before or after the sentencing hearing, but must rule no later than ~~90 days~~91 days (13 weeks) after the imposition of sentence.
 - (3) Advisement and Order. Within ~~5~~7 days after the imposition of a sentence of death, the court shall hold a hearing (advisement date) and shall advise the defendant pursuant to sections 16-12-204 and 205. On the advisement date, the court shall:
 - (I) Appoint new counsel to represent the defendant concerning direct appeal and post-conviction review matters absent waiver by the defendant;
 - (II) Make specific findings as to whether any waiver by the defendant of the right to post-conviction review, direct appeal, or the appointment of new counsel is made knowingly, voluntarily and intelligently;
 - (III) Order the prosecuting attorney to deliver to counsel for the defendant within ~~5~~7 days of the advisement date one copy of all material and information in the prosecuting attorney's possession or control that is discoverable under Crim. P. 16 or pertains to punishment, unless such material and information has been previously provided to that counsel. Costs of copying and delivery of such material and information shall be paid by the prosecuting attorney;
 - (IV) If new counsel is appointed for the defendant, order defendant's trial counsel, at his or her cost, to deliver a complete copy of trial counsel's file to new counsel within ~~5~~7 days of the advisement date;
 - (V) Direct that any post-conviction review motions be filed within ~~150 days~~154 days (22 weeks) of the advisement date; and

- (VI) Order the production of three copies of a certified transcript of all proceedings in the case: one for the supreme court, one for the prosecution and one for the defense. Transcripts that are completed by the advisement date will be immediately provided to the prosecution and to defense counsel to the extent that counsel does not already possess those transcripts. All other transcripts shall be completed and delivered within 21 days of the advisement date or within 21 days of any subsequent hearing.
- (4) Resolution of Post-conviction Motions. The court, upon receipt of any motion raising post-conviction review issues, as described in section 16-12-206, shall promptly determine whether an evidentiary hearing is necessary, and if so, shall schedule the matter for hearing within ~~60 days~~ 63 days (9 weeks) of the filing of such motions and enter its order on all motions within ~~30~~ 35 days of the hearing. If no evidentiary hearing is required, the trial court shall rule within ~~30~~ 35 days of the last day for filing the motions.
- (5) Record on Appeal. In an appeal under this rule, the trial court shall designate the entire trial court record as the record on appeal. Within 21 days of the filing of the unitary notice of appeal, the trial court shall deliver to the supreme court any portion of the record not previously delivered under subsection (b)(3)(VI) of this rule.
- (6) Extension of Time. Upon a showing of extraordinary circumstances that could not have been foreseen and prevented, the court may grant an extension of time with regard to the time requirements of sections (b)(2), (3), (4) and (5) of this rule.
- (c) Appellate Procedure.
- (1) Unitary Notice of Appeal. The notice of appeal for the direct appeal and the notice of appeal for all post-conviction review shall be filed by unitary notice in the supreme court no later than ~~5~~ 7 days after the trial court's order on post-conviction review motions. The unitary notice of appeal need conform only to the requirements of sections (1), (2), (6) and (8) of C.A.R. 3(g).
- (2) Briefs. Counsel for defendant shall file an opening brief no later than ~~180 days~~ 182 days (26 weeks) after the filing of the notice of

appeal. The prosecution shall file an answer brief no later than ~~120 days~~126 days (18 weeks) after filing of the opening brief. Counsel for defendant may file a reply brief no later than ~~60 days~~63 days (9 weeks) after filing of the answer brief. Extensions of time will not be granted except on a showing of extraordinary circumstances that could not have been foreseen and prevented. The opening brief may not exceed 250 pages or, in the alternative, 79, 250 words; the answer brief may not exceed 250 pages or, in the alternative, 79, 250 words; and the reply brief may not exceed 100 pages or, in the alternative, 31,700 words. The Supreme Court may approve extensions not to exceed 75 pages or, in the alternative, 23,775 words for the opening and answer briefs, and 50 pages or 15, 850 words for the reply brief upon a showing of compelling need.

- (3) Consolidation. Any direct appeal, any appeal of post-conviction review proceedings, and the review required by section 18-1.3-1201(6)(a), shall be consolidated and resolved in one proceeding before the supreme court.
- (4) Further Proceedings.
 - (I) After the supreme court resolves the appeal, ineffective assistance of counsel on direct appeal may only be raised by a petition for rehearing filed in the supreme court, pursuant to section 16-12-204;
 - (II) Any notice of appeal concerning a trial court decision entered pursuant to section 16-12-209 or concerning any second or subsequent request for relief filed by the defendant, shall be filed in the supreme court within ~~30~~35 days of the entry of the trial court's order. Such appeal shall be governed by the Colorado appellate rules as may be modified by the supreme court in case-specific orders designed to expedite the proceedings.
- (d) Sanctions. The trial court and the supreme court may impose sanctions on counsel for willful failure to comply with this rule.

This rule shall apply to class one felony offenses committed on or after January 1, 1998 for which a sentence of death is imposed.

RULE 33. NEW TRIAL

- (a) Motions for New Trial or Other Relief Optional. ...
- (b) Motions for New Trial or Other Relief Directed by the Court. ...
- (c) Motion; Contents; Time.

The court may grant a defendant a new trial if required in the interests of justice. The motion for a new trial shall be in writing and shall point out with particularity the defects and errors complained of. A motion based upon newly discovered evidence or jury misconduct shall be supported by affidavits. A motion for a new trial based upon newly discovered evidence shall be filed as soon after entry of judgment as the facts supporting it become known to the defendant, but if a review is pending the court may grant the motion only on remand of the case. A motion for a new trial other than on the ground of newly discovered evidence shall be filed within ~~fifteen~~14 days after verdict or finding of guilt or within such additional time as the court may fix during the ~~fifteen-day~~14-day period.

- (d) Appeal by Prosecution.

...

Drafting Notes for the Court

The committee recommends a change to 14 days here, rather than adjusting to the next-higher multiple of seven (21 days). This is in keeping with the adopted proposal of the Appellate Rules Committee, and will bring this Rule and C.A.R. 4(b)(1) back into sync. They had matched until this Rule was changed from "ten" to "fifteen" days, apparently in 1977, without C.A.R. 4(b)(1) being similarly changed. It also will synchronize this Rule with Rule 29 (motions for judgment of acquittal) and Rule 34 (motions in arrest of judgment).

RULE 34. ARREST OF JUDGMENT

The court shall arrest judgment if the indictment or information, complaint, or summons and complaint does not charge an offense, or if the court was without jurisdiction of the offense charged. The motion in arrest of judgment shall be made within ~~ten~~14 days after verdict or finding of guilt or within such further time as the court may fix during the ~~ten-day~~14-day period. A motion in arrest of judgment may be set forth alternatively as a part of a motion for a new trial.

Drafting Notes for the Court

The deadline for a new trial motion (see Rule 33) is 15 (proposed to be changed to 14) days. It is sensible to have the deadlines for motions for judgment of acquittal (see Rule 29) and motions in arrest of judgment (this Rule) be the same. The federal criminal rules do so. Fed. R. Crim. Proc. 29, 33, 34. Indeed, the Colorado rules did so until Rule 33 was changed, apparently in 1977, without this Rule and Rule 29 being changed.

RULE 35. POSTCONVICTION REMEDIES

- (a) Correction of Illegal Sentence. The court may correct a sentence that was not authorized by law or that was imposed without jurisdiction at any time and may correct a sentence imposed in an illegal manner within the time provided herein for the reduction of sentence.
- (b) Reduction of Sentence. The court may reduce the sentence provided that a motion for reduction of sentence is filed (1) within ~~120 days~~ 126 days (18 weeks) after the sentence is imposed, or (2) within ~~120 days~~ 126 days (18 weeks) after receipt by the court of a remittitur issued upon affirmance of the judgment or sentence or dismissal of the appeal, or (3) within ~~120 days~~ 126 days (18 weeks) after entry of any order or judgment of the appellate court denying review or having the effect of upholding a judgment of conviction or sentence. The court may, after considering the motion and supporting documents, if any, deny the motion without a hearing. The court may reduce a sentence on its own initiative within any of the above periods of time.
- (c) Other Remedies.
- (1) ...
 - (2) ...
 - (3) One who is aggrieved and claiming either a right to be released or to have a judgment of conviction set aside on one or more of the grounds enumerated in section (c) (2) of this Rule may file a motion in the court which imposed the sentence to vacate, set aside, or correct the sentence, or to make such order as necessary to correct a violation of his constitutional rights. The following procedures shall apply to the filing and hearing of such motions:
 - (I) ...
 - (II) Any motion filed shall substantially comply with the format of Form 4 and shall substantially contain the information identified in Form 4, Petition for Postconviction Relief Pursuant to Crim. P. 35 (c). See Appendix to Chapter 29.
 - (III) If a motion fails to comply with Subsection (II) the court shall return to the defense a copy of the document filed along with a blank copy of Form 4 and direct that a motion in substantial compliance with the form be filed within ~~forty five days~~ 49 days.

- (IV) The court shall promptly review all motions that substantially comply with Form 4, Petition for Postconviction Relief Pursuant to Crim. P. 35(c). In conducting this review, the court should consider, among other things, whether the motion is timely pursuant to § 16-5-402, whether it fails to state adequate factual or legal grounds for relief, whether it states legal grounds for relief that are not meritorious, whether it states factual grounds that, even if true, do not entitle the party to relief, and whether it states factual grounds that, if true, entitle the party to relief, but the files and records of the case show to the satisfaction of the court that the factual allegations are untrue. If the motion and the files and record of the case show to the satisfaction of the court that the defendant is not entitled to relief, the court shall enter written findings of fact and conclusions of law in denying the motion. The court shall complete its review within ~~sixty days~~ 63 days (9 weeks) of filing or set a new date for completing its review and notify the parties of that date.
- (V) If the court does not deny the motion under (IV) above, the court shall cause a complete copy of said motion to be served on the prosecuting attorney if one has not yet been served by counsel for the defendant. If the defendant has requested counsel be appointed in the motion, the court shall cause a complete copy of said motion to be served on the Public Defender. Within ~~forty five days~~, 49 days, the Public Defender shall respond as to whether the Public Defender's Office intends to enter on behalf of the defendant pursuant to § 21-1-104(1)(b), 6 C.R.S. In such response, the Public Defender shall identify whether any conflict exists, request any additional time needed to investigate, and add any claims the Public Defender finds to have arguable merit. Upon receipt of the response of the Public Defender, or immediately if no counsel was requested by the defendant or if the defendant already has counsel, the court shall direct the prosecution to respond to the defendant's claims or request additional time to respond

within ~~thirty~~ 35 days and the defendant to reply to the prosecution's response within ~~twenty~~ 21 days. The prosecution has no duty to respond until so directed by the court. Thereafter, the court shall grant a prompt hearing on the motion unless, based on the pleadings, the court finds that it is appropriate to enter a ruling containing written findings of fact and conclusions of law. At the hearing, the court shall take whatever evidence is necessary for the disposition of the motion. The court shall enter written or oral findings either granting or denying relief within ~~sixty days~~ 63 days (9 weeks) of the conclusion of the hearing or provide the parties a notice of the date by which the ruling will be issued.

Drafting Notes for the Court

Moving to a multiple of seven, for the deadline for filing a Rule 35(b) motion, has the advantage of simple and consistent calculation and application no matter which months are involved (just hop down a calendar week-to-week for 18 weeks; no worrying about how many days in a particular month). Hence, the committee recommends changing to a 126-day (18-week) deadline. Because this will be simpler to apply correctly, there is less chance attorneys or pro se defendants will calculate incorrectly to their detriment. Given the jurisdictional ramifications of this deadline, enhancing the likelihood of correct calculation has great value. And this change can never do any mischief: anyone using by habit the old, 120-day deadline will always be timely under the change.

RULE 37. APPEALS FROM COUNTY COURT

- (a) Filing Notice of Appeal and Docketing Appeal. The district attorney may appeal a question of law, and the defendant may appeal a judgment of the county court in a criminal action under simplified procedure to the district court of the county. To appeal the appellant shall, within ~~thirty~~35 days after the date of entry of the judgment or the denial of posttrial motions, whichever is later, file notice of appeal in the county court, post such advance costs as may be required for the preparation of the record and serve a copy of the notice of appeal upon the appellee. He shall also, within such ~~thirty~~35 days, docket the appeal in the district court and pay the docket fee. No motion for new trial or in arrest of judgment shall be required as a prerequisite to an appeal, but such motions if filed shall be pursuant to Rule 33(b) of these Rules.
- (b) Contents of Notice of Appeal and Designation of Record. The notice of appeal shall state with particularity the alleged errors of the county court or other grounds relied upon for the appeal, and shall include a stipulation or designation of the evidence and other proceedings which the appellant desires to have included in the record certified to the district court. If the appellant intends to urge upon appeal that the judgment or a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant shall include in the record a transcript of all evidence relevant to such finding or conclusion. The appellee shall have ~~ten~~14 days after service upon him of the notice of appeal to file with the clerk of the county court and serve upon the appellant a designation of any additional parts of the transcript or record which he deems necessary. The advance cost of preparing the additional record shall be posted by the appellant with the clerk of the county court within ~~five~~7 days after service upon him of the appellee's designation, or the appeal will be dismissed. If the district court finds that any part of the additional record designated by the appellee was unessential to a complete understanding of the questions raised by the appeal, it shall order the appellee to reimburse the appellant for the cost advanced for the preparation of such part without regard to the outcome of the appeal.
- (c) Contents of Record on Appeal. Upon the filing of a notice of appeal and upon the posting of such advance costs by the appellant, as may be

required for the preparation of a record, unless the appellant is granted leave to proceed as an indigent, the clerk of the county court shall prepare and issue as soon as may be possible a record of the proceedings in the county court, including the summons and complaint or warrant, the separate complaint if any has been issued, and the judgment. The record shall also include a transcription or a joint stipulation of such part of the actual evidence and other proceedings as the parties may designate. If the proceedings have been electrically recorded, the transcription of designated evidence and proceedings shall be prepared in the office of the clerk of the court, either by him or under his supervision, within ~~forty days~~ 42 days after judgment or within such additional time as may be granted by the county court. The clerk shall notify in writing the opposing parties of the completion of the record, and such parties shall have ~~ten~~ 14 days within which to file objections. If none are received, the record shall be certified forthwith by the judge. If objections are made, the parties shall be called for hearing and the objections settled by the county judge and the record then certified.

(d) Filing of Record. ...

(e) Briefs. A written brief setting out matters relied upon as constituting error and outlining any arguments to be made shall be filed in the district court by the appellant within ~~twenty~~ 21 days after certification of the record. A copy of the appellant's brief shall be served upon the appellee. The appellee may file an answering brief within ~~twenty~~ 21 days after such service. A reply brief may be filed within ~~ten~~ 14 days after service of the answering brief. In the discretion of the district court, the time for filing briefs and answers may be extended.

(f) Stay of Execution. ...

RULE 37.1. INTERLOCUTORY APPEAL FROM COUNTY COURT

- (a) Grounds. ...
- (b) Filing Notice of Appeal. The prosecuting attorney shall file the notice of appeal with the clerk of the district court and shall serve the defendant and the clerk of the trial court with a copy thereof. Such notice of appeal shall be filed within ~~ten~~14 days of the entry of the order being appealed and any docket fee shall be paid at the time of the filing.
- (c) Contents of Record on Appeal. The record for an interlocutory appeal shall consist of the information or charging document, the motions filed by the defendant or defendants and the grounds stated in section (a) above, a transcript of all testimony taken at the hearing on said motions and such exhibits or reasonable copies, facsimiles, or photographs thereof as the parties may designate (subject to the provisions in C.A.R. 11(b) pertaining to exhibits of bulk), the order of court ruling on said motions and the date, if one has been fixed, that the case is set for trial or a certificate by the clerk that the case has not been set for trial. The record shall be filed within ~~ten~~14 days of the date of filing the notice of appeal, and may be supplemented by order of the district court.
- (d) Briefs. Within ~~ten~~14 days after the record has been filed in the district court, the prosecuting attorney shall file an opening brief. Within ~~ten~~14 days after service of said opening brief, the defendant shall file an answer brief, and the prosecuting attorney shall have ~~five~~7 days after service of said answer brief to file a reply brief.
- (e) Disposition of Cause. Unless oral argument is ordered by the court and it rules on the record and in the presence of the parties, the decision of the court shall be by written opinion, copies of which shall be transmitted by the clerk of the court by mail to the trial judge and to all parties. No petition for rehearing shall be permitted. A certified copy of the judgment and directions to the county court, and a copy of the written opinion, if any, shall constitute the mandate of the district court, concluding the appeal and restoring jurisdiction to the county court. Such mandate shall issue and be transmitted by the clerk of the court by mail to the trial judge and all parties on the ~~thirty-second~~forty-fourth day after the district court's oral or written order, unless the district court is given notice by one of the parties that it has sought further review by the supreme court upon a writ of certiorari pursuant to the

rules of that court, in which case the mandate shall issue upon notification that certiorari has been denied or upon receiving the remittitur of the supreme court.

- (f) Time. The time limits herein may only be enlarged by order of the appropriate court before the existing time limit has expired.
- (g) If no procedure is specifically prescribed by this rule, the court shall look to the Rules of Appellate Procedure for guidance.
- (h) ...

Drafting Notes for the Court

In large measure, this Rule tracks C.A.R. 4.1, which concerns interlocutory appeals from the district court to the supreme court. On March 16, 2011, the Appellate Rules Committee adopted rule-change recommendations for C.A.R. 4.1 that match the changes offered here for the criminal rule.

Two committee members disfavored extending the time for filing a notice of interlocutory appeal (from 10 to 14 days), and advocated shortening the period to 7 days. During committee discussion, the following points were offered: an interlocutory appeal causes postponement of the trial; it only takes a sheet of paper to file a notice of appeal; the newest attorneys usually work in county court, and typically need to consult with an appellate person to decide whether appeal is appropriate; often, this requires listening to the recording of the hearing, which may be precluded if the deadline is shortened; the change to 14 days tracks the proposed changes to the appellate rule; functionally, the change to 14 days does not extend the time, because the current 10-day timeframe excludes weekends and so is already at least 14 days long, whereas a change to 7 days would cut the deadline in half. Ultimately, the committee adopted the 14-day proposal set out here.

Subsection (e) of this Rule sets the time for issuance of the district court's mandate to the county court. The current Rule is fashioned to call for issuance 2 days after expiration of the deadline for filing a cert petition. The cert-petition deadline is set by C.A.R. 52(a), and on March 16, 2011, the Appellate Rules Committee adopted a recommendation to expand that deadline (from the current 30 days) to 42 days. Accordingly, the proposal is to change the timeframe here to 44 days (retaining the 2-days-after-petition-deadline scheme).

RULE 41. SEARCH, SEIZURE, AND CONFESSION

- (a) Authority to Issue Warrant. ...
- (b) Grounds for Issuance. ...
- (c) Application for Search Warrant. ...
- (d) Issuance, Contents, Execution, and Return of Warrant.

...

- (5) Execution and Return.

...

- (VI) A search warrant shall be executed within ~~ten calendar~~ 14 days after its date. The officer taking property under the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property or shall leave the copy and receipt at the place from which the property was taken. The return shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the applicant for the warrant and the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the applicant for the warrant or the person from whose possession or premises the property was taken, and shall be verified by the officer. The judge upon request shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

- (e) Motion for Return of Property and to Suppress Evidence. ...
- (f) Return of Papers to Clerk. ...
- (g) Suppression of Confession or Admission. ...
- (h) Scope and Definition. ...

Drafting Notes for the Court

The deadline for execution of a search warrant is set by statute at 10 days, § 16-3-305(6), C.R.S., and this Rule matches. Rule 41(d)(5)(VI). This proposal recommends a change to 14 days; the expectation is to have the statute similarly changed.

RULE 41.1. COURT ORDER FOR NONTESTIMONIAL IDENTIFICATION

- (a) Authority to Issue Order. ...
- (b) Time of Application. ...
- (c) Basis for Order. ...
- (d) Issuance. ...
- (e) Contents of Order. ...
- (f) Execution and Return.
 - (1) ...
 - (2) The order may be executed and returned only within ~~ten calendar days~~ 14 days after its date.
- ...
- (g) Nontestimonial Identification Order at Request of Defendant. ...
- (h) Definition of Terms. ...
- (i) Motion to Suppress. ...

RULE 47. MOTIONS

- (a) An application to the court for an order shall be by motion. A motion other than one made during a trial or hearing shall be in writing unless the court permits it to be made orally. It shall state the grounds upon which it is made and shall set forth the relief or order sought. It may be supported by affidavit.
- (b) A written motion, other than one which may be heard ex parte, and notice of the hearing thereof, shall be served not later than 7 days before the time specified for the hearing unless a different period is fixed by rule or order of the court. For cause shown such an order may be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion, and opposing affidavits may be served not less than one day before the hearing unless the court permits them to be served at a later time.

Drafting Notes for the Court

Proposed subsection (b) is relocated from Rule 45(d), with adjustment of the deadline (from 5 days before the hearing to 7 days before). The provision does not concern time computation, and so is misplaced in Rule 45. Rather, it specifies the deadline for the doing of the act called for by this Rule 47, and so appropriately should be placed in this Rule. The federal criminal rule is so arranged. Fed. R. Crim. Proc. 47(c).