**Colorado Supreme Court Advisory Committee on the Rules of Civil Procedure**

**January 29, 2021 Minutes**

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

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| **Name** | **Present** | **Not Present** |
| Judge Michael Berger, Chair | X |  |
| Chief Judge Steven Bernard | X |  |
| Judge Karen Brody | X |  |
| Miko Ando Brown | X |  |
| Chief Judge (Ret.) Janice Davidson | X |  |
| Damon Davis | X |  |
| David R. DeMuro | X |  |
| Judge Paul R. Dunkelman | X |  |
| Judge J. Eric Elliff | X |  |
| Judge Adam Espinosa | X |  |
| Peter Goldstein |  | X |
| Lisa Hamilton-Fieldman | X |  |
| Michael J. Hofmann | X |  |
| Richard P. Holme | X |  |
| Judge Jerry N. Jones |  | X |
| Judge Thomas K. Kane | X |  |
| Cheryl Layne | X |  |
| John Lebsack | X |  |
| Bradley A. Levin | X |  |
| Professor Christopher B. Mueller | X |  |
| Brent Owen | X |  |
| John Palmeri | X |  |
| Judge Sabino Romano | X |  |
| Stephanie Scoville | X |  |
| Lee N. Sternal |  | X |
| Magistrate Marianne Tims | X |  |
| Jose L. Vasquez | X |  |
| Judge Juan G. Villaseñor |  | X |
| Ben Vinci | X |  |
| Judge (Ret). John R. Webb |  | X |
| J. Gregory Whitehair | X |  |
| Judge Christopher Zenisek | X |  |
| **Non-voting Participants** |  |  |
| Justice Richard Gabriel, Liaison | X |  |
| Jeremy Botkins | X |  |

1. **Attachments & Handouts**

* January 29, 2021 agenda packet.

1. **Announcements from the Chair**
   * + The September 25, 2020 minutes were approved as presented.
     + Chair Judge Berger noted the unfortunate passing of member David Little, a longtime significant contributor to the committee, and introduced new member Miko Brown.
2. **Present Business**
3. **C.R.C.P. 16.2**

Justice Hart brought this proposal from the Standing Committee on Family Issues. Its goal was to put together a simplified process for dissolution of marriage in certain situations.

Members discussed the concept and agreed that a streamlined process is desirable when there is a low-asset and low-conflict divorce. One member cautioned that a lack of disclosures could be problematic. Judge Berger decided to form a subcommittee to explore these changes. Members wanting to join should email Judge Berger and Kathryn.

1. **C.R.C.P. 16, 16.1 and JDF 601**

Subcommittee Chair Judge Elliff reminded the committee that this subcommittee was tasked with considering how the revised rules were functioning. The subcommittee’s proposal relates to comments regarding lawyers going above the $100,000 damages limit and removes a reference to attorneys’ fees. Judge Elliff noted that the changes are modest but are intended to encourage practitioners to make sure they determine the proper rule they fall under. The idea is to force litigants to come forward sooner with the best damages calculation they can.

One member suggested that computing an estimation of damages may be difficult in some cases; and the proposed rule might be a bit inflexible. Another member mentioned that the committee has really been tinkering with this rule and that perhaps once it is settled, it should be left alone.

A motion was made to approve the proposal of the subcommittee, along with the following edits: *against* should be changed to *from* on the coversheet and the inclusion of the party’s signature requirement will be removed. It passed 21-1.

1. **Colorado Rules for Magistrates**

Magistrate Tims reported that the subcommittee has met a half-dozen times and is aiming to simplify the rules. The committee agreed that the subcommittee is on the right track, and the subcommittee will continue with their work.

1. **JDF 601 and 603—Water Rules Committee Request**

The Water Court Committee has asked this committee to consider some proposed minor changes to civil forms that mention water rules. A motion was made, seconded, and passed unanimously to approve the proposals.

1. **Crim. P. 55.1—Public Access to Court Records**

Judge Jones has been appointed chair of this subcommittee. Anyone interested in joining should email Judge Berger and Kathryn.

1. **Letter to the Committee from Kevin Conner regarding Sealing of County Court Criminal Records**

Judge Berger asked the committee whether this item of business should be referred to the Public Access to Court Records subcommittee to avoid subcommittees at cross-purposes. The committee agreed, and this business will be assigned to the Public Access to Court Records subcommittee chaired by Judge Jones.

1. **Proposed Amendments or New Rules Regarding Uniform Procedures in FED Actions**

Judge Berger noted that Judge Lipinsky will have a proposal for the committee ahead of the March meeting.

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

Subcommittee chair John Lebsack noted that the subcommittee has proposed changes to the rule that allow the ability to amend by right. The proposal tracks with the federal rule. Some members noted that this proposal goes too far and that any change should solely encapsulate the recent supreme court case covering it.

A motion and second were made to adopt the proposal. The motion failed with a vote of 8-10. The proposal was sent back to the subcommittee to have the proposal comport with the new supreme court case.

1. **C.R.C.P. 30(b)(6)**

John Lebsack brought this to the attention of the committee and noted that 30(b)(6) is an important tool that is fraught with problems. Other members noted this same experience. Judge Berger asked members to volunteer for a subcommittee by emailing Judge Berger and Kathryn.

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

Tabled until next meeting.

1. **C.R.C.P. 30(b)(7)—Virtual Oaths**

Tabled until next meeting.

1. **Local Rules**

The committee has completed its consideration of this.

1. **JDF 105**

Subcommittee Chair Mike Hofmann has submitted a proposal for the committee to consider at the next meeting.

1. **County Court Rules 304, 307 and 341**

Subcommittee Chair Ben Vinci reported that the subcommittee has a meeting scheduled for March 9th.

**Future Meetings**

March 26, 2021

June 25, 2021

September 24, 2021

November 12, 2021

The Committee adjourned at 3:09 p.m.