

**Colorado Supreme Court Advisory Committee on the Rules of Civil Procedure
September 30, 2016 Minutes**

A quorum being present, the Colorado Supreme Court Advisory Committee on Rules of Civil Procedure was called to order by Judge Michael Berger at 1:30 p.m., in the Supreme Court Conference Room on the fourth floor of the Ralph L. Carr Colorado Judicial Center. Members present or excused from the meeting were:

Name	Present	Excused
Judge Michael Berger, Chair	X	
Chief Judge (Ret.) Janice Davidson	X	
Damon Davis	X	
David R. DeMuro	X	
Judge J. Eric Elliff	X	
Judge Adam Espinosa	X	
Judge Ann Frick	X	
Judge Fred Gannett	X	
Peter Goldstein	X	
Lisa Hamilton-Fieldman		X
Richard P. Holme	X	
Judge Jerry N. Jones	X	
Judge Thomas K. Kane	X	
Debra Knapp	X	
Richard Laugesen	X	
Cheryl Layne	X	
Judge Cathy Lemon	X	
Bradley A. Levin	X	
David C. Little	X	
Chief Judge Alan Loeb	X	
Professor Christopher B. Mueller		X
Gordon "Skip" Netzorg	X	
Brent Owen	X	
Stephanie Scoville	X	
Lee N. Sternal	X	
Magistrate Marianne Tims		X
Jose L. Vasquez	X	
Ben Vinci	X	
Judge John R. Webb	X	
J. Gregory Whitehair		X
Judge Christopher Zenisek	X	
Non-voting Participants		
Justice Allison Eid, Liaison	X	
Jeannette Kornreich	X	

I. Attachments & Handouts

- A. September 30, 2016 agenda packet
- B. Supplemental Material – CBA’s position on proposed CRCP 121 §1-27

II. Announcements from the Chair

- The June 24, 2016 minutes were approved as submitted;
- Chapter 23.3, Rules Governing Contingent Fees, will no longer be amended by the Civil Rules Committee. The Rules of Professional Conduct Committee is responsible for Chapter 23.3. moving forward;
- A sign-up sheet for the CRCP 83 subcommittee chaired by Jeannette Kornreich will be circulated; and
- *Warne v Hall*, 2016 CO 50, was generally discussed by the committee. A subcommittee will be formed to consider rule and form amendments in light of the opinion.

III. Business

A. C.R.C.P. 121 § 1-27

Judge Shamis presented the proposal and stated that the rule will promote professionalism in the courtroom, and it can be used to enforce small infractions. The rule was modeled after Wyoming Uniform Rules for District Courts, Rule 801. Wyoming has found the rule helpful and hasn’t used it to enforce any sanctions. The rule has been presented to the Chief Judges and they thought it would be helpful; however, the Colorado Bar Association doesn’t endorse the rule. The Judicial Branch has an affirmative duty to promote professionalism, and Jim Coyle, who was in attendance, agreed that this rule complements the mission of the Office of Attorney Regulation. Some members thought the rule is too subjective, that conduct cannot be legislated, and the rule will lead to increased motions practice. Others thought it could be helpful, it could start a new conversation related to professionalism, and it would promote efficiency. A subcommittee will be formed to study the issue.

B. C.R.C.P. 52

Lee Sternal reported that there was a lot of interest around surrounding the subcommittees’ work, and a few guests were present today to comment. Discussion centered on stakeholder input, as well as the majority and minority positions. After discussion, there was a motion to replace the last sentence of C.R.C.P. 52 with the text appearing at the top of page 55 of the agenda packet, and add a comment using a modified version of the language appearing at the bottom of page 53 of the agenda packet; the motion passed 13:9. The subcommittee will prepare a revised proposal for the committee to consider based on the motion.

C. Integrated Colorado Courts E-Filing System name change

The proposed changes to C.R.C.P. 121 §1-26 and C.R.C.P. 305.5 were adopted with one no vote.

D. C.R.C.P. 53

Judge Zenisek reported that the subcommittee had met over the summer and it had considered the committee's concerns, such as, access to justice, proportionality, and costs, and a revised proposal was in the agenda packet. There were many questions, and discussion centered on whether the proposal is privatizing the judiciary and when delegation to a master is appropriate in state court. There was lengthy discussion, but due to the late hour this will be taken up at the October meeting.

E. New Form for Admission of business records under hearsay exception rule

Tabled to the October 28, 2016 meeting.

Future Meetings

October 28, 2016

The Committee adjourned at 4:00p.m.

*Respectfully submitted,
Jenny A. Moore*