

**Colorado Supreme Court Advisory Committee on the Rules of Civil Procedure
Minutes of November 21, 2014 Meeting**

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 Court of Appeals Full Court Conference Room on the third 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	
David R. DeMuro	X	
Judge Ann Frick		X
Peter Goldstein	X	
Lisa Hamilton-Fieldman		X
Richard P. Holme	X	
Judge Jerry N. Jones	X	
Charles Kall	X	
Thomas K. Kane	X	
Debra Knapp	X	
Cheryl Layne		X
Richard Laugesen	X	
Judge Cathy Lemon	X	
David C. Little		X
Chief Judge Alan Loeb		X
Professor Christopher B. Mueller	X	
Judge Ann Rotolo		X
Frederick B. Skillern	X	
Lee N. Sternal	X	
Ben Vinci		X
Magistrate Marianne Tims	X	
Judge John R. Webb	X	
J. Gregory Whitehair	X	
Christopher Zenisek		X
Non-voting Participants		
Justice Allison Eid, Liaison	X	
Teresa Tate	X	

I. Attachments & Handouts

November 21, 2014 Agenda Packet

II. Announcements from the Chair

The Improving Access to Justice Subcommittee's work was not complete. Proposals to CRCP 37, 54, and 121 §1-22 would be forthcoming. If possible, a vote would be conducted via email between the November and January meetings.

The CRCP 120 and CRCP 121 §1-15 subcommittees, respectively chaired by Fred Skillern, and David DeMuro and Lee Sternal, will present proposals next year.

III. Business

A. Colorado Rules of Probate Procedure

The draft presented shows the amended rules organized under the current numbering system. At the next meeting, Mr. Skillern will present the amended rules under the new numbering system so members will be able to see both options.

The proposal elicited the following questions:

- What is the reason for deleting Rule 15?
- In Rule 16 does “an interested person” include a beneficiary or creditor?
- Why does Rule 31 use “other fiduciaries” instead of “guardian”?

Mr. Skillern said he would consider these questions with the assistance of SCAO’s Assistant Legal Counsel Teresa Tate, the Probate Advisory Committee, and the CBA’s Trust and Estate Section.

B. Improving Access to Justice Report

The Improving Access to Justice Subcommittee Chair, Richard Holme, began by saying he hoped the committee would vote on the entire proposal before the end of the meeting.

He received two comments on the proposal and presented them to the committee. The first comment was to amend Rule 16(11) to allow judges to address video depositions at the case management conference, because the recent trend had tripled costs. After discussion, adding “including limitations of awardable costs” passed 9 to 4. The second comment was to amend 26(a)(2)(B)(II) to delete the addition of “party or”. The committee was not in favor of deleting “party or”, and a motion to leave the language as is, was seconded, and passed unanimously.

Mr. Sternal proposed an amendment to CRCP 16(e), adding “extend a deadline or otherwise” after “A party wishing to”. The motion was made, seconded, and passed 8 to 4.

Gregory Whitehair proposed an amendment to CRCP 16(b)(7), where it would now read, “The proposed order shall confirm that settlement discussions were held, describe prospects for settlement and list proposed dates for any agreed upon or court ordered mediation or other alternative dispute resolution.” The motion was seconded, and passed 9 to 2, with 1 abstention.

Mr. Whitehair inquired on whether or not the committee should address what triggers permitting a party to appear via telephone in CRCP 16(d)(2). After discussion the committee agreed this was not an issue, an amendment wasn’t necessary, and Mr. Whitehair withdrew his comment.

With discussion at a close, Mr. Holme made a motion to adopt the proposal as amended. The motion was seconded, and the proposal passed unanimously.

IV. Future Meetings
January 30, 2015
February 27, 2015

The Committee adjourned at 3:30 p.m.

Respectfully submitted,

Jenny A. Moore