stevens, cheryl

From: Angie Arkin <aarkin@jaginc.com>
Sent: Tuesday, April 22, 2025 11:19 PM
To: supremecourtrules
Subject: [EXTERNAL] Comments on the Proposed Colorado Rules of Family Procedure

Hello Justice Hart, Chief Justice Márquez, and esteemed Associate Justices of the Colorado Supreme Court:

First I wish to strongly commend Justice Hart, and the many judicial officers, attorneys, and judicial staff who spent countless hours and careful thought in drafting these excellent Colorado Rules of Family Procedure. I believe that, upon adoption of these rules, Colorado will be creating something we have always needed, but have never accomplished in Colorado: a Family Court. Brava!!!

These small comments and suggestions come from my own review of the proposed rules, and my discussions with many other judicial officers, including a meeting with the DR bench in the 23rd JD.

Generally the judicial officers who have had an opportunity to review these rules are supportive of them, and are very grateful that the proposed rules would be codified in a manner consistent with the civil rules, for ease of judicial training and implementation by the court.

Also, generally, judicial officers I have spoken with are in favor of a rule officially sanction the use of an informal judicial proceeding for family court hearings, but they are hopeful they will not be constrained from conducting the hearing and developing the evidence needed for the court to make the legally required findings and orders.

Finally, I have reviewed and generally support the edits suggested by the CBA Family Law Section, but I am concerned that any expectations that the court rule on a motion particular date or within a certain timeframe (Rule 56(b), and 60,) should be strongly worded goals, rather than deadlines, at least until the courts are more appropriately staffed with judicial officers, law clerks and judicial assistants. Motions for clarification filed by angry post-hearing litigants (at any time!) can be voluminous, repeatedly filed, and difficult to promptly resolve, especially when the orders to be clarified were issued by a different judicial officer many months or years prior to the motion being filed.

I would like to suggest a few very specific changes to the proposed rules **in bold**:

-C.R.F.P. 7(1)(F), the first word should be **"docket"** a foreign decree (as stated in C.R.S. Section 14-11-101), not "register" a foreign decree. Registration procedures are different than docketing, as specifically set forth in C.R.S. Section 14-13-305 (UCCJEA), and C.R.S. Section 14-5-601 (UIFSA).

-C.R.F.P. 12(g) Waiver or Preservation of Certain Defenses should state in (3): "Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action**, or the issue over which the Court lacks jurisdiction."** The court may have subject matter jurisdiction over some issues in the case, but not others.

Judicial Officers in the 23rd JD suggested the following language be added for dispute resolution:

> -C.R.F.P. 16-6 Alternative Dispute Resolution, (a): "Nothing in this Rule shall preclude, upon request of both parties, a judge or magistrate from conducting settlement conferences as a form of alternative dispute resolution pursuant to
> C.R.S. §13-22-301, provided that both parties consent **on the record or** in writing to this process. Consent may only be withdrawn jointly." Judges often have attorneys or LLPs requesting a settlement conference in open court, and they would like to be able to help the attorneys or LLPs accordingly.

Judicial Officers in the 23rd JD were also concerned that Section 16-6 could be confused with the following:

> -"C.R.F.P. 121 SECTION 1-17 COURT SETTLEMENT CONFERENCES
>
> **(a)** At any time after the filing of Disclosure Certificates as required by C.R.F.P. 16, any party may file with the courtroom clerk and serve a request for a court settlement conference, together with a notice for setting of such request. The court settlement conference shall, if the request is granted, be conducted by any available judge other than the assigned judge. In all instances, the assigned judge shall arrange for the availability of a different judge to conduct the court settlement conference.
>
> **(b)** All discussions at the settlement conference shall remain confidential and shall not be disclosed to the judge who presides at trial. Statements at the settlement conference shall not be admissible evidence for any purpose in any other proceeding.
>
> **(c)** This Rule shall not apply to proceedings conducted pursuant to C.R.F.P. 16-6."

Perhaps moving all discussions of court dispute resolution to the same rule would minimize confusion.

Again, thanks so much for undertaking this enormous and incredibly positive effort. I personally strongly support the adoption of these rules, and would be happy to assist with training, if it would be helpful.

Kind regards,

Angie Arkin
District Court Judge (Retired)
Arbiter
She/Her/Hers
Judicial Arbiter Group, Inc.
1601 Blake Street, Suite 500
Denver, CO 80202
Phone 303-572-1919
Fax 303-571-1115
aarkin@jaginc.com

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April 25th, 2025

Colorado Supreme Court
2 E. 14th Avenue
Denver, Colorado 80203

Re: Proposed Colorado Rules of Family Procedure

Members of the Committee:

The Clerks of Court respectfully submit the following feedback regarding the *Proposed Colorado Rules of Family Procedure*, highlighting areas of concern and requesting clarification for our domestic relations (DR) cases. Clerks of Court reviewed the proposed rules in consultation with their local court teams and members of the State Court Administrator's Office (SCAO) Court Services Division.

Areas of Concern:

Rule 124 (and Rule 17) – Appointment and Role of Guardian ad Litem (GAL)
Both Rule 124 and Rule 17 address the appointment of a Guardian ad Litem (GAL). However, Rule 124 significantly expands upon the authority currently outlined for GALs in Title 14 cases under Chief Justice Directive (CJD) 04-05. Under the current CJD, GALs for adults in Title 14 cases are appointed pursuant to Section B.3, which provides:

Appointment of GAL in a Civil Suit: A guardian ad litem may be appointed for an incompetent person who does not have a representative and who is a party to a civil suit, pursuant to C.R.C.P. 17(c).

Given the changes proposed in Rule 124, an amendment to CJD 04-05 may be necessary to reference the new rule rather than C.R.C.P. 17(c) for Title 14 appointments.

Rule 124 appears to introduce a new framework for GALs, distinguishing between decision-making and non-decision-making GALs, and authorizing non-attorneys to serve in these roles. This raises several operational concerns:

- **Electronic Access Challenges:** Current limitations in Colorado's E-filing System differentiate access rights between attorney users and non-attorney users, which would affect case access for non-attorney GALs.

- **Party Role Differentiation:** If decision-making and non-decision-making GALs are distinct roles, new party types would need to be created in the case management system, necessitating CJD updates and ITS programming.
- **Probate Overlaps:** Potential conflicts may arise between GAL appointments in DR cases and appointments in probate cases, particularly where a party already has a guardian or conservator. Additionally, if no guardian or conservator is appointed under Title 15, this rule seems to bypass the Title 15 appointment process and protections.

Additionally, concerns exist regarding the requirement that a hearing be held to determine incapacity before appointing a GAL, with the hearing conducted by a different judicial officer and sealed from the opposing party unless otherwise requested:

- **Judicial Resource Constraints:** Larger court locations may manage this requirement more easily; however, smaller, rural courts may face significant challenges in securing an additional judicial officer.
- **Sealing of Hearings and Records:** DR cases are typically public. Manual processes would be needed to seal and release portions of the record, placing an additional burden on court staff and judicial officers. The proposed rule 124(b)(3) references 15-14-308 but this statute is not consistent with what the proposed rule says regarding sealing testimony and is in direct conflict.

Finally, Rule 124 references JDF 205 (Motion to Waive Fees) regarding GAL costs ordered to be paid by the State. However, under CJD 04-05, parties are currently required to file JDF 208 (Application for State Paid Professional) to determine indigency. Clarification is requested on whether this process will change.

Rule 16 – Initial Status Conferences (ISC)

- **Rule 16-2(b)(1)(C):**
  The proposed language states that if service is not effectuated within 21 days of filing the petition, the Responsible Party/Attorney must schedule an ISC and notify all parties.
    - Clarification is requested regarding how the ISC will proceed if the Court has not yet obtained jurisdiction due to lack of service and how it impedes on the 42 days requirement we hold the ISC.

- **Rule 16-2(b)(1)(D):**
  The rule requires that the Court *"shall allow"* participation by telephone or video at the ISC.
    - This language will conflict with local practices and operational realities. Clerks of Court request that "shall" be changed to "may," allowing local discretion to continue. The local practices are set up to provide support and efficiency for the pro se parties in these cases.

Rule 16-2(d) – Emergency Matters, Evidentiary Hearings, Temporary Orders

The language as written directs parties to bring emergency matters to the attention of the Clerk or Family Court Facilitator for presentation to the court.

- Clerks request that the rule be clarified to specify that such matters should be presented via motion, consistent with existing court practice and ensuring the preservation of the court record.

Rule 16-5 – Informal Domestic Relations Trial (IDRT)

Two administrative concerns were identified:

- **Creation of a New Scheduled Event Code:**
  The language implies the need for a new scheduled event code for IDRTs, requiring additional ITS programming and resources.
- **Opt-Out Process:**
  The requirement that parties opt out of IDRT either on the record at the ISC or by filing a written Notice to Opt Out would necessitate the creation of a new standardized form. Courts encourage consideration of alternative methods, such as integrating this option into existing filings, to avoid unnecessary expansion of forms.

We also found a few small clerical concerns, that we would be willing to share as you get closer to promulgating the rules.

The Clerks of Court appreciate the opportunity to provide feedback on the *Proposed Colorado Rules of Family Procedure*. With several modifications and clarifications, these rules will better serve the needs of parties, counsel, and judicial staff, and will enhance the efficient processing of domestic relations cases across Colorado.


Respectfully submitted,

Sheri King & Leanna Salazar, Co-Chairs of Clerk's Advisory

On behalf of the Clerks of the Court of the Colorado Judicial Department

COLORADO LEGAL SERVICES

April 25, 2025

Colorado Supreme Court
2 E. 14th Avenue
Denver, CO 80202.
Sent via email to: supremecourtrules@judicial.state.co.us

Re: Public Comments to Proposed Colorado Rules of Family Procedure Colorado Rules of Family Procedure, Rules 1, 2, 3, 4, 5, 7, 8, 9, 10, 11-1, 11-2, 11-3, 12, 13, 15, 16-1, 16-2, 16-3, 16-4, 16-5, 16-6, 17, 24, 26, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 45, 53, 54, 55, 56, 58, 59, 60, 62, 66, 69, 70, 98, 103, 107, 121 1-2, 121 1-4, 121 1-5,121 1-8, 121 1-9, 121 1-10, 121 1-11, 121 1-12, 121 1-15, 121 1-16, 121 1-17, 121 1-21, 121 1-22, 121 1-25, 121 1-26, 122, 123, 124, Form 35.4, and Form 35.5 and request to speak

Dear Honorable Members of the Colorado Supreme Court:

Thank you for the opportunity to comment on these important rules and for your leadership and vision in proposing important changes to the rules. An experienced team of family law attorneys and LLPs at Colorado Legal Services (CLS) have reviewed the proposed Colorado Rules of Family Procedure, and we respectfully submit these comments for your consideration. As you know, CLS is Colorado's only statewide legal aid nonprofit organization, serving low-income and vulnerable populations throughout Colorado at our thirteen offices serving all 64 counties. CLS has provided legal services to low-income and other vulnerable Coloradans for the past 100 years, and we have been a leading voice and dedicated partner in matters related to access to justice in Colorado. Family law has long been a core area of concentration for CLS, with particular focus on assisting survivors of domestic violence in family law matters. CLS provides legal assistance to about 8,500 people each year, including approximately 1,660 family law cases last year. CLS receives state and federal funding to serve survivors of domestic violence in family law actions, and we do so across the state with extraordinary legal knowledge and experience paired with great care for our clients. Because our staff is small and the need is so

great, CLS triages cases and seeks to provide representation in the most complex cases and cases involving severe domestic violence. CLS provides advice and brief services in many cases when we lack staff resources to provide full-service representation.

A large group of CLS family law practitioners from across the state reviewed these proposed rules. These comments provide input from offices serving rural regions of Colorado and legal deserts, including Durango, Grand Junction, Greeley, Alamosa, and Fort Collins, as well as input from the urban areas including the Denver Metro region, Colorado Springs, and Pueblo. When CLS staff reviewed these proposed rules, we did so with our low-income clients, most of whom are survivors of domestic violence, in mind. We also considered how these rules would impact pro se litigants, as most people who access the courts in domestic relations matters are unrepresented.

In reviewing the proposed Colorado Rules of Family Procedure, CLS attorneys and LLPs are enthusiastic about the great care and attention given to the practice of family law. It is clear that the drafters have worked diligently, in good faith, and with a wealth of expertise. Many of the proposed rules, and the creation of these rules itself, puts Colorado in the forefront of national family law best practices, and we applaud the Court's leadership in endeavoring to be a national leader in the creation of just, fair, and thoughtful rules. As a whole, many of the proposed rules bring clarity and focus to this area of law. In the interest of brevity, we have generally omitted comments discussing rules and rule changes that we support, and instead focused on our comments on areas for potential improvement. In addition to our substantive comments below, we express our gratitude to the many dedicated practitioners who worked on these proposed rules for well over a year, and we offer the following comments with a spirit of deep respect and collaboration.

I. Request to Speak at the Public Hearing on the Proposed Colorado Rules of Family Procedure

Colorado Legal Services requests to have a representative of CLS speak at the public hearing to share more about our perspective on the proposed rules.

II. Public Comments to the Proposed Colorado Rules of Family Procedure

a. C.R.F.P. Rule 3. Definitions:

Because of the unique posture of some family law cases, CLS proposes including a definition of intervenor in C.R.F.P. 3 which would state, *"(a)(5) An "intervenor" is any person or entity who is added to a case after a petition is filed pursuant to C.R.F.P. 24."* While the definition is already known to practitioners, this definition may provide helpful direction for nonparent caregivers who need to join an existing case. Nonparent caregivers may intervene into cases pre-decree when they have physical care of the child and were left out of the initial filing. This clarification may also be helpful in post-decree matters, when circumstances have changed, and a nonparent seeks modification of final orders. It will also provide instruction to grandparents seeking grandparent family time by intervening in an action.

b. C.R.F.P. Rule 4. Process:

Proposed C.R.F.P. 4 removes the language found in current C.R.C.P. 4(e)(2) which states that personal service shall be:

> Upon a natural person whose age is at least thirteen years and less than eighteen years, by delivering a copy thereof to the person and another copy thereof to the person's father, mother, or guardian, or if there be none in the state, then by delivering a copy thereof to any person in whose care or control the person may be; or with whom the person resides, or in whose service the person is employed; and upon a natural person under the age of thirteen years by delivering a copy to the person's father, mother, or guardian, or if there be none in the state, then by delivering a copy thereof to the person in whose care or control the person may be.

The language addressing service upon minors in C.R.C.P. 4(e)(2) is necessary in family law actions in some circumstances, such as when an allocation of parental responsibilities action is required for teenage parents. While C.R.F.P. 4(3) states that service can be effected upon a conservator, many teenage parents do not have conservators appointed on their behalf. Because the language regarding service upon minors is needed in some family law actions, CLS requests that this section be added back into C.R.F.P. 4.

c. C.R.F.P. Rule 9. Capacity and Parties in Initial Pleadings

CLS proposes modifying the proposed language of this rule to a gender-neutral alternative. C.R.F. P.9(c) states:

> (c) Identification of unknown party. If a party is unknown or their name is unknown at the time of filing an initial family action, such unknown party shall be designated in the case caption as "John Doe" or "Jane Doe." If the identity of the unknown party is discovered any time after filing, the case caption shall be updated by replacing the party's designation with the true name of that party.

The proposed family law rule provides additional and helpful guidance for drafting pleadings at a time when a party's name is unknown. However, the proposed rule would require the unknown party to be designated as "John Doe" or "Jane Doe." CLS proposes the gender-neutral term "Party Doe" instead of Jane Doe or John Doe. The current rule, C.R.C.P. 9(a)(2), does not make such gendered distinctions, instead referencing a party "whose name is unknown." *See* C.R.C.P 9(a)(2). Adding Jane Doe or John Doe could easily result in misgendering parties and is not needed.

d. C.R.F.P. Rule 10. Form and Quality of Pleadings, Motions, and Other Documents

There is a typo to be corrected in this proposed rule. Proposed C.R.F.P. (10)(f) states, "Reproduction. Any form required by these rules may be reproduced by word processor or other

means, provided that the reproduction substantially follows the format of the form which is reproduces [sic].” This should read, “follows the format of the form which is *reproduced*.”

e. C.R.F.P. Rule 11-3. Limited Representation (Entry of Appearance and Withdrawal)

CLS supports proposed C.R.F.P. 11-3(a) and urges the Supreme Court to adopt it as written with no changes. Maintaining proposed Rule 11-3(a) as written will allow CLS and other legal aid providers to serve more low-income families, especially survivors of domestic violence, more effectively and efficiently through limited representation and unbundled services. Because CLS has only 89 attorneys to serve all low-income Coloradans in all areas of civil law, limited representation is a crucial tool to increase our ability to serve as many eligible applicants as possible, while still providing high quality legal services.

On average, for every case CLS accepts, we also have to turn one away. CLS assesses applications for assistance with the goal of providing full representation when most needed and brief service and advice when appropriate. Brief services could include drafting pleadings without entering into the case, as permitted under this rule. By providing limited representation, CLS is able to assist in concrete and complex portions of a case without remaining entered in the case indefinitely. This type of limited representation, also known as “unbundling,” has long been recognized as a crucial tool to advance access to justice and has been strongly supported by members of the judiciary.[1]

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[1] *See, e.g.*, Hon. Daniel M. Taubman & Hon. Adam J. Espinosa, *How Judges Can Encourage Unbundling*, Colorado Lawyer 10 (Apr. 2019), *available at* https://www.cobar.org/Portals/COBAR/TCL/2019/April/Departments_JC.pdf?ver=2019-03-19-155254-153&timestamp=1553115717001; Colo. Bar Ass'n, *Practical and Ethical Considerations for Integrating Unbundled Legal Services* (3d ed. 2016), available at

On December 19, 2024, the Supreme Court adopted Rule Change 2024(20), amending C.R.C.P. 4, 11, and 121 § 1-1. The same day, the Supreme Court also adopted Rule Change 2024(21), which amended the parallel Rules of County Court Civil Procedure 304 and 311. Rule Changes 2024(20) and 2024(21) made substantial changes to C.R.C.P. 11(b) and 311(b). Two of those changes have created significant barriers to CLS providing limited-service representation, especially in family law cases.

First, the previous versions of C.R.C.P. 11(b) and 311(b) required attorneys to include a statement in the pleading itself that provided the attorney's name, address, telephone number, and registration number on the pleading along with a certification that:

> to the best of the attorney's knowledge, information and belief, this pleading or paper is (1) well-grounded in fact based upon a reasonable inquiry of the pro se party by the attorney, (2) is warranted by existing good law or a good faith argument for the extension, modification, or reversal of existing law, and (3) is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

C.R.C.P. 11(b) (prior to the 2024 amendment).

The newly adopted C.R.C.P. 11(b)(2) requires the attorney to provide a "disclosure certification"—a separate document— for the client to file that includes much of the same language previously required to be added to the pleading. The changes to the language to be included are minimal but have a large impact on the way this rule can now be used in civil cases.

Unlike the old rule, the new C.R.C.P. 11(b) states that the drafting attorney "must indicate whether the attorney provided drafting assistance for the entire document or for specific sections only, and if for specific sections, indicate which sections." C.R.C.P. 11(b)(2). This addition

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https://www.cobar.org/Portals/COBAR/Repository/modernlaw/Practical_and_Ethical_2d_Ed%20Updated%2008_2016.pdf?ver=2016-11-04-141714-503

appears to require that an attorney provide the aforementioned certification in any case in which an attorney drafts *any* written language for a client to include on a pleading. Thus, even an email that instructs a client to include one or two specific sentences in a pleading the client will otherwise draft and file on their own now requires the attorney to provide the client with a signed attorney disclosure certification. The client must file the certification along with, but separate from, the pleading.

As a result of these rule changes, CLS has had to make substantial changes to our limited-service representation practice. These changes have increased the administrative time that CLS attorneys must spend working with clients in limited-service cases, thereby decreasing the number of low-income litigants we are able to represent. In the months since Rule Changes 2024(20) and 2024(21) were adopted, CLS has identified the following concerns with the rules.

First, requiring an attorney to provide a separate signed certification for the client to file, rather than requiring the attorney to simply add language to the pleading they helped a client draft is unnecessarily burdensome and problematic. The attorney must spend time creating this separate document, explain this document to the client, and give specific instructions on how to file it. It also adds another form that pro se family law litigants must print and file at a time when they are likely struggling with the trauma of recent events and are upset and confused about beginning the family law court process. Mandating that the certification now be filed as a separate document also creates an ethical risk for the attorneys involved. The text of C.R.C.P. 11(b)(2) and 311(b)(2) makes clear that an attorney is subject to sanctions for non-compliance. Yet whether a client actually files the certification that the attorney provides them is entirely out of the attorney's control. This creates an ethical dilemma for the attorney because an attorney

may still be subject to sanctions if a client does not file the limited services certification even if the attorney has provided it and advised a client to file it.

Second, by requiring the certification document to "indicate whether the attorney provided drafting assistance for the entire document or for specific sections only, and if for specific sections, indicate which sections," C.R.C.P. 11(b) and C.R.C.P. 311(b) give a court and opposing parties unprecedented insight into which parts of a document are an attorney's work product and which were created by a pro se litigant. This intrusion into the attorney-client relationship risks creating a situation in which a judge or an opposing party can choose to lend more credence to sections of a document drafted by an attorney, while ignoring or giving less credence to sections of a document a litigant drafted themselves. This also opens the door for opposing counsel to ask detailed questions under oath regarding attorney-client privilege.

Finally, by modifying what constitutes "drafting" assistance, the changes to C.R.C.P. 11(b) and 311(b) indicate that now attorneys must provide a certification for even minimal assistance such as sending a client an email with one or two sentences that the attorney has drafted for the client to put in their own pleading as part of the advice provided to the client. This restricts advice for domestic violence survivors in which a domestic violence survivor needs to keep the fact that they are seeking advice from an attorney confidential from their abuser. In a domestic violence situation, it can be an escalating factor for the controlling party to learn that their victim has sought outside support. Before Rule Changes 2024(20) and 2024(21) were adopted, CLS attorneys were able to provide advice without disclosing that the client sought assistance of counsel by providing advice including some minimal language to add to pleadings. However, the changes to C.R.C.P. 11(b) and 311(b) blur the distinction between advice and

drafting, thereby limiting the options available for CLS attorneys to provide limited-service representation to domestic violence survivors.

CLS strongly supports proposed C.R.F.P. 11-3(a) because it reverts back to the language of C.R.C.P. 11(b) that existed prior to Rule Change 2024(20). By reverting back to the language that predated this rule change, Proposed C.R.F.P. 11-3(a) solves the problems discussed above, which are especially challenging in the family law arena. Proposed C.R.F.P. 11-3(a) eliminates the barriers to limited representation and unbundled legal services that were created by Rule Changes 2024(20) and 2024(21) and thereby increases access to justice for indigent Coloradans. Moreover, Proposed Rule 11-3(a) is especially important for low-income survivors of domestic violence navigating the family law court system with limited assistance from an attorney, because it restores their ability to keep the involvement of the attorney confidential from their abuser. For all these reasons, CLS urges the Supreme Court to adopt Proposed C.R.F.P. 11-3(a) as written with no changes.

f. C.R.F.P. Rule 15. Amended and Supplemental Pleadings

CLS requests that C.R.F.P. 15(a) revert back to the language found in C.R.C.P. 15(a). Many of the proposed family law rules shorten deadlines throughout the pendency of a case and will function well to move cases forward more quickly. However, there are a few proposed changes that shorten the deadlines too drastically. C.R.F.P. 15(a) states that "A party may amend a pleading, as defined under C.R.F.P. 7(a), within 14 days after it is filed. Otherwise, a party may amend a pleading only if permission is granted by the court or the adverse party. Permission shall be freely given when justice so requires." The current rule, C.R.C.P. 15(a) states in relevant part:

> 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 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. C.R.C.P. 15(a).

The original language is appreciated and a better fit for family law practice than the proposed rule.

For example, a response to the petition is due 21 days after service. *See* C.R.F.P. 12(a)(1)(A). Reverting to the original language affords the petitioner the full 21 days to amend the petition if needed. The beginning of a domestic relations case can be a time of great stress for litigants, sometimes requiring that a case be filed quickly, before the parties are able to consult with or retain counsel. Counsel entering into these cases often must move quickly on a number of matters to bring stability to the family and would appreciate the full 21 days.

Amendments to pleadings are not frequently necessary. When they are needed, it is often to correct a mistake or to update the pleading based on a relevant change in the facts contained in the pleading. There is little need to restrict amended pleadings, and doing so will often result in the court having to take the additional step of approving a motion to amend when such a motion was not needed previously. CLS therefore requests that C.R.F.P. 15(a) revert to the language found in C.R.C.P. 15(a).

g. C.R.F.P. Rule 16-1. Active Case Management (formerly C.R.C.P. 16.2(b))

CLS requests that the abbreviated deadlines for non-dispositive motions be removed. C.R.F.P. 16-1(d) states:

> For all motions involving non-dispositive procedural issues such as requests for extension of time, disputes regarding disclosures or discovery, appointment of experts, requests for status conferences and similar issues, the responding party shall have 7 days after the filing of the motion to file a response and the moving party shall then have 3 days after the filing of the response to file a reply, or as modified by the court for good cause.

While this proposed change would alleviate some of the wait-time for a ruling on procedural motions, 7 days to respond and 3 days to reply will often be too short. Because this is not limited to business days, it is possible that a reply could be due during a three-day weekend. Further, many pro se parties send pleadings via U.S. Mail. Attorneys with pro se opposing parties may miss the deadline before receiving the pleading by mail. Given many attorneys' workload, these deadlines are much too fast, especially for CLS attorneys who lack the same level of paralegal support that is often available to attorneys in private practice.

There is a typo in C.R.F.P 16-1(a) which states in relevant part, "The intent of Rules 16-1 through 16-6 is to provide parties who are not proceeding under the C.R.C.P. 123 Informal Trial Rule with a just, timely, and cost-effective process." C.R.F.P. 123 relates to Child and Family Investigators. The Informal Trial Rule is found at C.R.F.P. 16-5.

h. C.R.F.P. Rule 16-5. Informal Domestic Relations Trial Rule

CLS appreciates the effort of the drafters to address the large number of pro se parties in the family law system who struggle with participating in a formal hearing. There is a demonstrated need to provide a mechanism allowing judicial officers to more efficiently and effectively conduct hearings in which all parties are pro se. In adopting this proposed rule, Colorado would be joining several other states in adopting informal trial rules for pro se litigants. An informal trial rule must balance due process concerns with the everyday need for the thousands of pro se parties in Colorado's family law courts to be able to express their concerns effectively to the court. CLS has concerns and recommendations about certain aspects of the proposed informal trial rule structure but generally supports this proposal.

One of CLS' concerns is regarding the admittance of evidence that would otherwise be inadmissible under formal rules of evidence. C.R.F.P. 16-5(f)(7) states that "the court will receive

any exhibits offered by the parties. The court will determine the materiality, relevance, and what weight, if any, to give each exhibit. The court may order the record to be supplemented prior to entry of the final order." A reasonable interpretation of this rule is that any and all evidence submitted by the parties is admitted and becomes part of the court record, which seemingly contradicts C.R.F.P. 16-5(b)'s clause stating, "the court *may* admit any evidence that is relevant and material[.]" (emphasis added). The current language in the proposed rule creates confusion about what would be considered the record for appeal. CLS respectfully proposes this section be revised to state, "The Court will receive any exhibits offered by the parties. The Court will determine *if the proposed exhibit will be admitted into the record* and further determine the materiality, relevance, and weight, if any, to give to each admitted exhibit. The Court may order the record to be supplemented prior to entry of the final order."

CLS is also concerned that too much relaxation of the rules of evidence could result in the admittance of a significant amount of hearsay that should not become part of the court record. For example, CLS does not believe it appropriate for litigants in an informal trial to admit into evidence a letter written in lieu of testimony, such as a letter from a neighbor, family member, or child at issue in the case and that the rules should so state.

CLS believes limiting instructions regarding the types of evidence admissible in informal trials (such as those found in Minnesota's Rule of Family Court Procedure 364.10) would be helpful to all involved in this process. Providing specific guidance to pro se parties regarding what evidence will be inadmissible, even in an informal trial, can help maintain fairness to the parties by the exclusion of irrelevant, inflammatory, and highly sensitive materials from the court record. For example, in some cases involving domestic violence, a party may seek to admit irrelevant and private photos of the other party. This type of evidence should not be admitted no

matter the weight assigned by the judge. Providing limiting instructions regarding the type of evidence that will not be admissible in informal trials could also help ensure the court is not significantly slowed or paused while the judge reviews voluminous submissions from the parties to which the judge may ultimately give little weight.

CLS' second concern is regarding C.R.F.P. 16-5(c)'s opt-out procedure for pro se litigants. CLS recommends a universal opt-in procedure instead of an opt-out procedure for participation in informal trials. Because the court process is so intimidating to pro se litigants, they may not feel comfortable, particularly at the Initial Status Conference, which may be their first court appearance of any kind, voicing concerns or expressing their lack of understanding to a proposed trial procedure. Under an opt-out procedure, if they do not voice any concerns or lack of understanding at the Initial Status Conference, they would be automatically placed onto the informal trial procedure path without clear and informed consent.

CLS supports C.R.F.P. 16-5(f)(4)'s prohibition of cross-examination of the parties in an informal trial. CLS recognizes the potential benefits of this prohibition to pro se survivors of domestic violence who will not have to be subjected to a cross-examination by their perpetrator. Because the court is required to ask the non-moving party whether there are any other areas the party wishes the court to inquire about, and the court must then inquire into these areas if requested and if relevant, CLS believes the prohibition of cross-examination with this additional language appropriately balances the due process rights of all parties.

i. C.R.F.P. Rule 26. General Provisions Governing Discovery; Duty of Disclosure

C.R.F.P. 26(11) "Simplified Family Action Procedures" mirrors the recently added C.R.C.P. 16.2(e)(11). While the simplified family action procedures are not newly proposed in the

proposed family law rules, it is a relatively recent change to the civil procedure rules that was moved over into the proposed family rules. This new rule, especially as an opt-in rule, works well in simple cases. This would be beneficial, for example, for a young couple who have only been married for a few months and who do not have a lot of debts and assets. However, the current rule seems too broad, which could result in harm in some cases. In cases involving financial control as a part of domestic violence, one party may not have a clear understanding of the debts and assets in the marriage. Without full exchange of financial documents, that spouse would be less likely to find out about hidden assets.

The rule currently may be applied in cases in which the "net equity […] of all marital assets in a dissolution matter, (excluding the marital residence) is less than $100,000.00" and the "combined debt of the parties, not including the mortgage on the marital residence, is less than $50,000." C.R.F.P. 26(11)(A)(v). This is too broad and could lead to this exception swallowing the general rule requiring disclosure. According to a United States Census Bureau report of assets and debts in US households, the median net worth excluding equity in the home for a household in Colorado is $76,350.00.[2] Because most people's largest asset is their home, not requiring discovery in cases in which the parties own a home could result in failure to disclose this asset if this section is applied in the case. Not all homes are jointly titled. Many Coloradans have assets of less than $100,000.00. These assets still should be disclosed so that they can be equitably divided. CLS requests that the asset limit for eligibility to this rule be reduced to $50,000.00 and that simplified family action procedures not be applied when parties own any real estate.

[2] U.S. Census Bureau, *State-Level Wealth, Asset Ownership, & Debt of Households Tables: 2022* https://www.census.gov/data/tables/2022/demo/wealth/state-wealth-asset-ownership.html.

j. C.R.F.P. Rule 30. Depositions Upon Oral Examination

C.R.F.P. 30(e) modifies the current rule found at C.R.C.P. 30(e) by significantly reducing the timeline to certify a transcript of a deposition. The current rule allows 35 days to review a draft transcript and sign a statement of any requested changes to the officer. *See* C.R.C.P. 30(e). The proposed Family Rule shortens the 35-day review period to 14 days. *See* C.R.F.P. 30(e). We suggest keeping the 35-day deadline for review. Deposition transcripts take time to review, discuss between deponent and attorney, and return corrections. Based on our practical experience, a 14-day timeline would be challenging for deponents and attorneys to meet.

k. C.R.F.P. Rule 37. Failure to Make Disclosures or Cooperate in Discovery: Sanctions

CLS requests that the addition to this rule requiring a motion to compel discovery to be filed within 7 days of the disclosure failure be removed. C.R.F.P. 37(a)(2) has added a deadline that is not found in C.R.C.P. 37. The proposed rule states:

> Except as the Mandatory Disclosures under C.R.F.P. 26(a)(2). A motion to compel disclosure or discovery shall be filed within 7 days of the failure to disclose or failure to cooperate. A response to a motion to compel shall be filed within 7 days. No reply shall be permitted. The Court may extend these deadlines upon good cause shown or to prevent manifest injustice.

C.R.F.P. 37(a)(2).

The current rule has no deadline for filing a motion to compel. Compliance with a 7-day deadline will be extremely burdensome in many cases, including cases involving pro se litigants and cases involving financial control. Unfortunately, a discovery violation may take some time to uncover. Sometimes a party will disclose the same documents, and a large volume of documents, repeatedly, but will omit the specifically requested document. For example, a party may disclose three years of bank statements but repeatedly omit the one month's statement which shows a

large deposit and withdrawal. Sometimes a party will send the same three years of bank statements in no particular order, and in paper format, requiring hours of organization before an attorney can determine what is missing.

The types of cases that require a motion to compel disclosure of discovery are also the types of cases in which it will take time to determine the scope and nature of the failure to disclose discovery. Large firms may delegate discovery organization to paralegals. The attorneys at CLS often do this work themselves, as may also be the case in smaller firms. While the proposed rule does allow an extension of the 7-day deadline "upon good cause shown or to prevent manifest injustice," this adds the requirement for the attorney to make this request and for the court to rule on a motion to allow a motion to compel before the motion can be filed. CLS therefore requests that C.R.F.P. (a)(2) be removed.

l. C.R.F.P. Rule 45. Subpoena

CLS requests clarification for this rule. C.R.F.P 45(b)(3) addresses payment of mileage for a subpoena requiring attendance and is identical to C.R.C.P. 45(b)(3). CLS requests the Court clarify how this rule applies in cases with virtual testimony. In the past several years, during and after the COVID-19 pandemic and with the release of CJD 23-03 "Virtual Proceedings Policy," more family law hearings have taken place virtually. Even in-person hearings routinely include virtual testimony for some witnesses, such as experts when the parties cannot afford to pay for travel, or fact witnesses who live out of state and cannot take leave from work to appear in person to testify.

The current rule states in relevant part: "If the subpoena requires a person's attendance, the payment for 1 day's milage allowed by law must be tendered to the subpoenaed person[.]"

CJD 23-03 may be interpreted to define appearance as either: in-person, flexible, or virtual. *See* CJD 23-03. CLS requests that C.R.C.P. 45(b)(3) be amended to state:

> (3) Tender of Payment for Mileage. If the subpoena requires a person's *in person* attendance, the payment for 1 day's mileage allowed by law must be tendered to the subpoenaed person at the time of service of the subpoena or within a reasonable time after service of the subpoena, but in any event prior to the appearance date. Payment for mileage need not be tendered when the subpoena issues on behalf of the state of Colorado or any of its officers or agencies.

Although this may seem to be an obvious conclusion, CLS attorneys have encountered issues with witnesses requesting mileage reimbursement for virtual appearances. If this issue was brought before a judge, it would no doubt be determined that mileage should only be paid for physical travel. However, adding the proposed "in person" language may prevent this type of confusion, or waste of judicial resources to deny such mileage reimbursements in the future.

m. C.R.F.P. Rule 121 § 1-16 Preparation of Orders and Objections as to Form

CLS requests that the proposed timeline for drafting proposed orders not be adopted and that the current rule remain in effect. The current rule lists two drafting schedule options. The first schedule states that the drafting party:

> shall file and serve a proposed order within 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 7 days after service of the proposed order to file and serve objections and suggested modifications to the form of the proposed order.

C.R.C.P. 121 § 1-16(1).

The second, and less used, drafting schedule states that when a court so directs, the drafting attorney:

> shall file and serve a stipulated order within 14 days after the ruling, or 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.

C.R.C.P. 121 § 1-16(2).

This second schedule is helpful when it is likely that the parties may object as to the form of the order.

C.R.F.P. 121 § 1-16 eliminates the two drafting schedule options and proposes a new and shortened timeline to draft proposed orders. The proposed rule significantly reduces the time allotted to the attorney tasked with drafting the proposed order, granting only 7 days to draft the order and send it to all other parties for approval. *See* C.R.F.P. 121 § 1-16(a). All other parties then have 7 days to provide requested changes to the drafting attorney. Within 3 days of the comment period the parties are directed to file the agreed-upon proposed order. If there is no agreed-upon proposed order, suggested modifications must be filed within 3 days of the proposed order being filed. *See id.*

Because of all the necessary findings in domestic relations cases, many final orders are quite lengthy. It is not uncommon for an oral ruling to take about an hour. Careful drafting of orders often takes several hours. Limiting the drafting attorney to seven days to draft orders puts too much of a burden upon the attorney. However, it often does not take seven days to review proposed orders as to form. While well-intentioned, this proposed rule is likely to result in a vast number of requests for an exception to this deadline. CLS proposes that the current drafting schedules, as stated in C.R.C.P. 121 § 1-16(1) and (2) remain in effect and that C.R.F.P. 121 § 1-16 be revised to mirror the civil procedure rule.

n. C.R.F.P. 121 § 1-26 Electronic Filing and Service System

The E-filing/Service System is a well-run system that allows attorneys and pro se parties access to important case information and the ability to file pleadings into their cases online. The expansion allowing pro se litigants access to E-filing has been positive for those who can afford to do so. When pro se litigants have access to E-filing, case management is easier, courts can see when a party has received and viewed a notice or a motion, and parties are able to file pleadings without having to travel to the courthouse. However, some barriers to E-filing for indigent litigants, particularly indigent survivors of domestic violence in family law cases, remain and should be addressed.

There is specific guidance about which fees are waived for indigent parties. CJD 98-01 states in relevant part "If the court determines the person to be indigent, any costs owed to the state may be waived. Such costs would include filing fees, reasonable copy fees, forms and instruction fees, E-file and E-service fees, and research fees." CJD 98-01(IV). Pro se low-income litigants who seek a waiver of court costs must complete JDF 205 attesting to the applicant's eligibility to waive filing fees and court costs. CJD 98-01, Procedures for the Waiver of Court Costs in Civil Cases on the Basis of Indigency § 1.a.i

Currently the judicial website lists three types of fees associated with e-filing: Statutory Filing Fees, E-filing Fees, and Service Fees. Colo. Judicial Branch, *E-Filing for Non-Attorneys* (last visited Apr. 25, 2025), https://www.coloradojudicial.gov/e-filing-non-attorneys. The Court website states that filing fees "can be waived if the courts grant a fee waiver. Currently you can't E-file if you have received a fee waiver." *Id.* The website further explains E-filing Fees, "The $12.00 fee charged per filing. You can file as many documents as you need in one filing." *Id.* There is no method to file a JDF 205 Motion to Waive Filing Fees through the E-filing system. Litigants must go in-person to make this request. If the JDF 205 is granted, pro se parties can

then access E-filing to view documents. However, there is a $12.00 initial charge to view a case file. Additionally, even after a party is deemed indigent, they are charged $12.00 per filing. While the cost is indeed minimal, it can be a burden for indigent litigants. But the bigger burden is the method by which the filing fee must be paid. This requires the litigant to have a debit or credit card.

Some low-income Coloradans do not have debit or credit cards. Many survivors of domestic violence that involve financial abuse are unlikely to have access to debit or credit cards, as limited access to credit cards is one of the major hallmarks of financial control. Disabled litigants receiving social security income receive about $967.00 per month on which to live. While one charge of $12.00 may seem insignificant to those earning more, small fees like this can have a big impact for someone who is low-income. If a litigant does not have $12.00, they will be precluded from using the E-filing system, while litigants who are able to pay these fees can use this system. Accordingly, the $12.00 initial charge specifically limits pro se indigent domestic violence survivors from accessing e-filing, and with it the ability to litigate without going in person to the courthouse to file documents. CLS respectfully requests that CJD 98-01 be applied as directed so that indigent pro se litigants can access the E-filing system without charge.

Additionally, there are two typos in C.R.F.P. 121 § 1-26. First, C.R.F.P. 121 § 1-26 (b) states in relevant part, "E-Filing and E-Service may be mandated pursuant to Subsection 13 of the Practice Standard § 1-26." Because the numbering was changed in the proposed Family Law Rules, there is a typo here. The rule should state, "E-Filing and E-Service may be mandated pursuant to Subsection *m* of the Practice Standard § 1-26" and not subsection 13. Second, C.R.F.P. 121 § 1-26(c)(2) states, "where the system and necessary equipment are in place to

permit it, pro se parties and government entities and agencies may register to use the E-system." This section also incorrectly references section 13 instead of section m of the rule.

o. C.R.F.P. 123 Regarding Child and Family Investigators and Parental Responsibilities Evaluators:

CLS appreciates the instructions and guidance set out in C.R.F.P. 123 and generally supports this proposed addition, with one minor requested change. C.R.F.P. 123(c)(2) states in relevant part: "The Court shall receive the CFI and PRE report into evidence at a hearing without further foundation, unless a party notes an objection in writing to the Court at least seven (7) days before the hearing." C.R.F.P. 123(c)(2). In some jurisdictions, and with some CFIs, parties may not receive the CFI report 7 days before the hearing. CFI reports are sometimes filed less than 7 days before the hearing. In some of these cases requesting a continuance because of a late disclosure is unduly burdensome. CLS requests that the Court add the following language to address this circumstance: "The Court shall receive the CFI and PRE report into evidence at a hearing without further foundation, unless a party notes an objection in writing to the Court at least seven (7) days before the hearing. *If the report is submitted less than seven (7) days before the hearing, the parties may raise objections at the hearing.*" This should incentivize CFIs to submit reports before this deadline while preserving the ability to object to any reports that are filed late.

p. C.R.F.P. Rule 124 Regarding Guardian Ad Litems

Many CLS family law attorneys have had cases in which their client also has a GAL. The attention given to litigants with diminished capacity in this proposed rule is greatly appreciated. Of note are the additional procedural protections for those requesting a GAL to ensure confidentiality. Those additions are much needed and will be of great benefit to those in need of

a GAL. This comment will first address some minor typos and propose clarifications and then will address the proposal for non-attorney GAL appointments.

1. Typo Corrections and Requests for Clarification

First, the rule is unclear whether a hearing is always required. C.R.F.P. 124(a)(2) states in relevant part, "A Guardian ad litem (GAL) shall be appointed by the Court if, after hearing, the Court determines[. . .]" C.R.F.P 124(a)(2). However, C.R.F.P. 124(b)(2) states in relevant part: "If a motion to appoint a GAL is contested, or if, in the sole discretion of the court there are insufficient non-contested facts in the pleadings to support the appointment, then the court shall conduct a hearing to determine whether the party has an incapacity such that a GAL is necessary." C.R.F.P. 124(b)(2).

A hearing to appoint a GAL is only needed "when a substantial question exists regarding the mental competence of a spouse in a domestic relations proceeding," thereby requiring " the trial court to conduct a hearing to determine whether or not the spouse is competent, so that a guardian ad litem may be appointed if needed." *In re Marriage of Sorenson*, 166 P.3d 254, 258 (Colo. App. 2007). Because a hearing is not required in all cases, CLS proposes amending C.R.F.P. 124(a)(2) to state: "A Guardian ad litem (GAL) shall be appointed by the Court if, after *any necessary* hearing, the Court determines[. . .]"

Second, CLS requests that the Court correct and clarify an issue related to state pay. C.R.F.P. 124(f) states in relevant part, "the Court may also order that the GAL fees be paid by the State pursuant to JDF 205." C.R.F.P. 124(f). JDF 205 is the Motion to Waive Filing Fees. The correct form to complete to request a GAL is JDF 208 "Application for State Paid Professional." JDF 208 includes language to request a GAL. This appears to be a typo. Further, state pay for GALs

may also be needed in allocation of parental responsibilities actions. CLS proposes that C.R.F.P. 124(f) be amended to state:

> (f) Payment of GAL Fees. (1) In general, *in dissolution of marriage actions,* the fees of the GAL should be considered a marital expense. However, the Court may allocate the payment of the GAL fees between the parties or to one party, subject to reallocation at the final hearing. *As needed in all case types, the Court may order that the GAL fees be paid by the State pursuant to JDF 208.*

ii. Non-Attorney GALs

The proposed rule allows for the appointment of a non-attorney non-decision making GAL, "such as a speech therapist, a therapist, or someone to aid in financial understanding of the like may be appointed. Consideration in appointments of non-attorneys shall be given to someone familiar with family-related legal process. If the person is in a profession subject to licensure, they must be licensed and in good standing." C.R.F.P. 124(c)(1)(B).

CLS has several concerns with this proposal. First and most important is who would provide oversight to the non-attorney GALs. The proposed language does not require a person in this position to have any license, only to be in good standing if they are in a profession subject to licensure. While well-intentioned, this broad appointment power may place the most vulnerable at risk for negligent care, especially those who do not also have attorney representation. Many of the services that could be provided by a non-attorney GAL may also be appropriately addressed through an ADA request for accommodation to the court.

There are also procedural matters that would need to be addressed if this proposed rule is adopted. These include how to create a state-pay system for these types of non-attorney appointments, how to fairly determine eligibility to serve as a non-attorney GAL when no credentials are required, and how to effectively screen for potential conflicts of interest between the non-attorney GAL and the party in need. This non-attorney GAL would seem to be acting as

a social worker, but no such training or regulation is required by the proposed rule. With respect to the drafters of this section, CLS therefore requests that non-attorney GALs be removed from this proposed rule as written.

q. C.R.F.P Form 35.4 Pattern Interrogatories

CLS appreciates many of the changes made to the pattern interrogatories. Because CLS works with low-income litigants, CLS also requests that the Court address some proposed changes that would have a significant impact on our client population.

The newly proposed pattern interrogatories do not include Question 2 found in the current version of Form 35.4. Question 2 in the current Form 35.4 states:

> 2. Other than your present place of employment, list in detail all other places of employment during your marriage or civil union. With regard to each, state the following: a. The name, address and telephone number of your employer; b. The inclusive dates of employment; c. The type of work performed; d. The gross annual income from such employment in each of the years during the marriage or civil union. e. Any retirement benefits earned with that employer.

In addition to this removal, a new request for production of document question has been added asking for a resume. *See* Proposed Form 35.5 § 5(7). For several reasons, CLS prefers Question 2 in the current Form 35.4 to the proposed additional request for production seeking a resume. Most people do not have resumes, even those with strong work histories. Many people who work in the trades, such as an electrician or a welder, do not have resumes. People who have been steadily employed by the same employer do not have current resumes. Even if someone has a resume, many people modify their resume to tailor it to a specific job application. A resume is not a reliable substitute for a complete list of employment. Employment history is relevant when determining if a party is underemployed when calculating child support and/or maintenance. CLS requests that the Court keep current Pattern Interrogatory 2 in place and remove the pattern request for a resume from proposed Form 35.5 Section 5.

Similarly, the current pattern interrogatories contain question 3 which states:

> 3. State, in detail, your level of education, and all professional or vocational training which you have received, dates you attended each institution or received training, and the date any degrees or certificates of completion were acquired. State with particularity any additional professional, vocational or artistic skills for which you have received compensation or public recognition.

This pattern interrogatory has been removed from the proposed updated pattern interrogatories. This interrogatory has been helpful in many cases when determining if a party is underemployed. However, the current wording of this interrogatory may be too broad. Asking about "any additional professional, vocational or artistic skills for which you have received compensation or public recognition" is often not relevant. Many litigants have struggled to determine what should be disclosed in response to this question. CLS therefore proposes amending the current Pattern Interrogatory and adding it to the proposed rules, as follows:

> State, in detail, your highest level of education, and all professional or vocational training and/or licenses which you have received, dates you attended each institution or received training, and the date any degrees or certificates of completion were acquired.

The proposed pattern interrogatory number 3 which addresses disposed property is nicely worded. CLS proposes including a definition of disposed. Many pro se parties completing pattern interrogatories may not know what "disposed" means. CLS proposes amending the pattern interrogatory to state in relevant part, "(Not applicable to cases only addressing APR) If you have disposed *(sold, gifted, traded, or transferred)* of any property[. . .]" Additionally, CLS requests that the amount requiring disclosure remain at the current $1,000.00. This proposed interrogatory raises the amount to $5,000.00. For average Coloradans, disposal of property worth $1,000.00 or more would have a significant impact.

The proposed pattern interrogatory 6 addresses gifts received. This is similar to the current pattern interrogatory 9. The current interrogatory asks for information about gifts of $1,000.00 or more. The proposed new interrogatory raises the amount to be disclosed to $10,000.00. This proposed change would result in a lack of discovery regarding financial gifts that could affect child support or maintenance calculations in many cases. For a low or middle-income household, a gift of $1,000.00 or more is significant and would greatly impact finances for that month. If a party is receiving a gift of $1,000.00 or more every month, that could greatly impact child support calculations. It could also indicate some employment that has not been disclosed. CLS requests that this proposed pattern interrogatory be modified to again ask for information about gifts of $1,000.00 or more per gift.

r. C.R.F.P Form 35.5 Pattern Request for Production of Documents

The Proposed Pattern Request for Production of Documents includes many well-thought-out changes and updates. However, there are a few proposed changes that may have an unintended negative impact in some cases.

First, as addressed above, question 7 asking to produce, "Your resume or Curriculum Vitae" will generally not be as helpful as an interrogatory asking for work history and an interrogatory asking for level of education. While there is no real harm in asking for a resume in addition to interrogatories about work history and education, it will be of little benefit. Many parties will not have one or will have one that is incomplete as it was drafted for their last job interview. CLS therefore proposes removing this request.

Second, request 14 states, "Provide a current copy of your Experian, Equifax, and TransUnion credit reports. This request shall not apply to APR or post-decree matters." Requesting credit reports is a commonly added non-pattern request, so this addition generally

makes sense. However, requiring all three, as opposed to two, may create too much of an unnecessary burden for low-income litigants. Everyone has access to one free credit report each year from the three credit report agencies listed in the request. This report can be obtained for free from http://annualcreditreport.com. In order to access the free credit reports people are asked security questions to confirm their identity. From the experience of many CLS attorneys helping clients gather credit reports, many people cannot correctly answer all necessary security questions to access all three reports. If they cannot answer the security questions the consumer is directed to complete a paper form, submit it by mail, and await approval. This can take a very long time. In the alternative, consumers could pay to access their credit reports. The cost of paying to receive a credit report is a barrier to low-income litigants who cannot afford to do so. It is helpful to receive more than one report, as information varies on the reports. But requiring all three reports may provide diminishing returns with an increased burden on low-income litigants. CLS requests that request number 7 be modified to request at most two credit reports.

Lastly, request 15 asks for "All documents which contain any information responsive to the questions set forth in the propounded interrogatories." This is too broad. When this question is asked as a non-pattern request for production of documents it often leads to discovery disputes and additional litigation because parties disagree about whether or not a document should be included in this response. It rarely results in documents being disclosed that would not otherwise have been disclosed. CLS therefore requests that number 15 be removed.

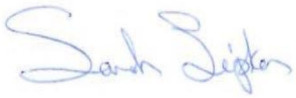
III. Conclusion

CLS would again like to thank the many people who have contributed to drafting the first proposed Colorado Rules of Family Procedure. This was a huge undertaking. In the interest of brevity, CLS did not generally comment on the many additions to the rules that will bring real

and positive change to family law litigants, attorneys, and judicial officers. CLS staff who practice in the area of family law are heartened by the attention and care given to practice of family law reflected in these proposed rules and the staff are grateful for the opportunity to provide comments on these proposed rules.

Sincerely,

Matthew R. Baca
Executive Director
Colorado Legal Services



Sarah E. Lipka
Advocacy Director for Southern Colorado
Colorado Legal Services

FourthStreet
ATTORNEYS AT LAW

Caroline C. Cooley, Esq.
Licensed in Colorado
caroline@fourthstreetlaw.com

Christopher J. Linas, Esq.
Licensed in Colorado
chris@fourthstreetlaw.com

103 Fourth Street, Ste. 320
Castle Rock, CO 80104
(303) 388-2787 Main
(303) 957-2613 Fax
www.fourthstreetlaw.com

April 25, 2025

Supreme Court
2 E. 14th Avenue, Denver, CO 80202

Re: Proposed Colorado Rules of Family Procedure

Dear Colorado Supreme Court:

I am writing to comment on the proposed Colorado Rules of Family Procedure, Rule 123 Regarding Child Family Investigators and Parental Responsibilities Evaluators. I am an attorney based in Douglas County who has practiced family law for 25 years and I am also a Child Family Investigator in good standing. Family law procedure, especially as it relates to Child Family Investigators, is a topic about which I am particularly passionate.

I agree with many of the changes in the proposed rule change, particularly requiring that a hearing date must first be cleared by the appointed CFI or PRE and that the CFI or PRE must receive notice of a hearing that they are required to attend.. These are positive changes the Court should approve.

I am, however, concerned by subpart (e) pertaining to Depositions. I have numerous concerns regarding how the rule seems to prejudice the procedural rights of parties during the discovery process regarding an expert that has completed an investigation and issued a report

regarding the allocation of parental responsibilities. I understand that some CFIs and PREs do not want to be deposed, but sacrificing the due process afforded to litigants who want to investigate the recommendations contained in the CFI or PRE report before a contested hearing is not a good solution and it will result in increasing attorney fees and reduce judicial economy by requiring litigants to file a motion to depose a CFI or PRE, which will have to be litigated orally or in writing.

I have had the opportunity to depose CFIs and PREs, in addition to having my own deposition taken, so I believe that I have a unique perspective on this issue. The benefits of permitting a deposition of a CFI or PRE outweigh the inconvenience to the appointed expert. The first benefit of permitting depositions is that it will likely result in less time that the expert will be on the stand during a contested hearing, thereby reducing the length of the hearing. The second benefit is that a deposition can lead to a party concluding that a CFI or PRE report is not worth challenging in court, resulting in the parties reaching a resolution outside of a hearing. The third benefit is that it allows a party to investigate what parts of the underlying data provided to the expert was relied on during the investigation or reveal facts/circumstances that the expert failed to consider. The fourth benefit is that a party can learn before the hearing about the experience and qualifications of the CFI that may be relevant for the court to consider at the contested hearing when determining whether to adopt the recommendations of the expert.

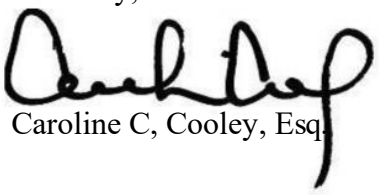
It is for these reasons that I encourage subpart (e) to be amended to permit depositions of a PRE or CFI without first obtaining court permission. This change will result in saving parties attorney fees and reduce the court's need to address this issue on an already overwhelming docket.

The stakes in a CFI or PRE recommendations impact the parent/child relationship and the child's best interests, which often takes years to resolve. Because of what parties (and their children) have on the line, they deserve trial procedures that are at least as rigorous as those used

in general civil proceedings. If trial procedures get short shrift, then courts will get questions wrong in assessing the best interests factors included in C.R.S.§14-10-124 such as whether or not a parent committed domestic violence, whether or not a parent has committed child abuse, and what contact between a parent and child is in a child's best interests. Family law matters where a CFI or PRE is appointed materially impacts the parent/child relationship and the parties deserve standard trial procedures to ensure that the discovery process is complete—and that a contested hearing does not turn into a fishing expedition, which serves as a waste of limited court resources.

Thank you for considering my unique perspective on this issue.

Sincerely,



Caroline C, Cooley, Esq.

April 11, 2025

The Colorado Supreme Court
2 East 14th Avenue
Denver, CO 80203

RE: C.R.F.P. Proposed Rule Changes

From: Magistrate Beth Elliott-Dumler
Arapahoe County Justice Center
7325 S. Potomac Street
Centennial, CO 80112

And

Hassler Law Firm, LLC
Wesley Hassler, Esq.
616 West Abriendo Avenue
Pueblo, CO 81004
(719) 544-2929

I. PURPOSES OF THIS WRITTEN COMMENT

Magistrate Dumler and attorney Wesley Hassler are writing this comment jointly in support of the proposed Colorado Rules of Family Procedure (C.R.F.P.). Additionally, Magistrate Dumler and Wesley Hassler are commenting on a specific proposed rule which we feel should change, but not to the form currently proposed.

II. BACKGROUNDS OF UNDERSIGNEDS

Magistrate Dumler was admitted to practice in Colorado in October 1995. Magistrate Dumler was in private practice as an associate of Thomas C. Helgeson, PC from July 1996 to July 2003, practicing family law, tort, and contract law. In July 2003, Magistrate Dumler was hired as a family court facilitator part-time. In December 2003, she was sworn in as a part -time magistrate for the 18th Judicial District. This changed to full-time in 2005. Magistrate Dumler's docket consisted of solely family law until 2008 when she served in Douglas County FAC. In April 2009, she took over a juvenile delinquency and a dependency and neglect docket. In 2015, she returned to family law and juvenile law. She is presently serving in a juvenile division.

Magistrate Dumler began serving on the Supreme Court Standing Committee in 2010 and has remained since then. She served on numerous committees implementing changes to CJD 08-04, serving on the pilot for the triage project, served on the committee implementing changes resulting from the PRE statute changes, currently serving on the proposed C.R.F.P. Rules Committee and also serves on the child innovative practices committee. She presently serves as an officer for the local JSPC, served on the committee implementing SB-208, co-chairs our Collaborative Management Program and serves on the RED team addressing minority overrepresentation. She was recognized by the Colorado Women's Bar Association in 2017 with a "Women Who Raise the Bar" award. She received the Raymond Frenchmore Award for Outstanding Contribution to Juvenile Justice and received Member of the Year for the JSPC in 2022.

Mr. Hassler was admitted to practice in Colorado in May 2004 and California in December 2004. Mr. Hassler began his career as an associate at The Law Office of Joseph Losavio, Esq. Since 2009, Mr. Hassler has owned Hassler Law Firm, LLC. Mr. Hassler practices predominately family law, with bankruptcy, criminal, real estate, and personal injury comprising about 20% of his practice. Mr. Hassler has offices in Colorado Springs and Pueblo.

Mr. Hassler is the Vice-Chair of the Colorado Supreme Court Access to Justice Commission (ATJC), a Trustee for the Attorney Regulation Counsel Client Protection Fund, a former member of the LLP Education and Outreach Committee, Supreme Court Standing Committee on Family Law Issues, and devotes annually a few hundred hours of Pro Bono work for the 10th J.D. Family Law Court Program, 10th J.D. Access to Justice Committee, CBA High School Mock Trial Competition, the CBA Bench-Bar Summit, and other worthy causes.

Mr. Hassler serves on the proposed C.R.F.P. Rules Committee and was the Chair of two (2) of the subcommittees, one co-chaired with Magistrate Michelle Haynes.

III. OUR SUPPORT OF PROPOSED C.R.F.P. RULES

We fully support the Supreme Court adopting these proposed C.R.F.P. Rules. Through the guidance of Justice Melissa Hart and the well-balanced committee of judicial officers, court of Appeal Judges, and private practitioners, the past eighteen (18) months of dedicated work resulted in these proposed family procedure rules.

IV. COMMENT ON PROPOSED CHANGE TO RULE ON EXPERTS

A. BACKGROUND OF CURRENT C.R.C.P. Rule 16.2(g)

Magistrate Dumler and Mr. Hassler feel strongly about the proposed change to the rule on selection of experts currently found at C.R.C.P. Rule 16.2(g). The proposed new rule is found at C.R.F.P. Rule 26(d).

We feel the current Rule 16.2(g) Use of Experts should remain unchanged, except to add some clarity. The current Rule 16.2(g)'s purpose is to keep litigation costs down and to reduce adversarial litigation, as set forth in Rule 16.2(a). The change found in proposed C.R.F.P. Rule 26(d) destroys the purpose and intent behind Rule 16.2(g), of minimizing the negative effects on family law litigants, and more importantly on the minor children.

From the perspective of someone with firsthand knowledge of its creation, in 1995, Magistrate Dumler was trained by individuals on the committee who drafted the current C.R.C.P. Rule 16.2. As part of the training, Magistrate Dumler attended training and information sessions where she was privy to the purpose of the changes to Rule 16.2. At the time, families were stagnating in litigation for years and at extreme expense.

The joint expert mandate at the beginning of Rule 16.2(g) and the automatic disclosure provisions were central to assisting families navigate this extremely difficult time by putting up some guard rails on litigation. This also had the benefit of less need for hearings, by limiting motion practice that was taking up too much needed judicial officer time for temporary and permanent orders. Cases were festering without direct and meaningful court oversight and parties were hiring experts, engaging in burdensome, and sometime unnecessary, discovery, and depleting the majority of the family assets before a single day in court.

There are a minority of Colorado families who can withstand the expense of dualling experts on contested issues, but they are few and far between. To switch the general rule from one joint expert per issue to each party hiring their own expert is not warranted. The current rule 16.2(g) requires starting with a joint expert as the general rule, then parties may hire their own, additional experts, if necessary, thereafter. While on the bench, it was not unusual for Magistrate Dumler to see cases where the attorneys would litigate at this high level only to withdraw representation and the families' assets were used up in attorney fees without any resolution of the case.

Additionally, while presiding over domestic relations cases, Magistrate Dumler routinely saw dissolution of marriage cases where one spouse had all the financial resources and the other did not. This resulted in a severe inequity in ability to fully litigate the case on equal footing. As this relates to experts, if this Court adopts Rule 26(d), as proposed, we will return to the days of one party having the best expert, and the other without an expert at all. This was one reason for adoption of Rule 16.2(g) requiring the use of one expert per issue.

B. OUR PROPOSAL FOR C.R.F.P. RULE 26(d)

Since its creation, Rule 16.2(g) has unfortunately been misinterpreted because Rule 16.2(g)(3) is not clear. To retain the intent of utilizing only one expert per issue and to clarify 16.2(g)(3), we propose the following as the new C.R.C.P. Rule 26(d) with our proposed changes highlighted:

(d)(1) Use of Experts. If a matter before the court requires the use of an expert or more than one expert, the parties shall attempt to select one expert per issue. If they are unable to agree, the court shall act in accordance with CRE 706, or other applicable rule or statute.

(2) Expert reports shall be filed with the court only if required by the applicable rule or statute.

(3) If the court appoints or the parties jointly select an expert, then the following shall apply:
(A) Compensation for any expert shall be governed by the provisions of CRE 706.
(B) The expert shall communicate with and submit a draft report to each party in a timely manner or within the period of time set by the court. The parties may confer with the expert to comment on and make objections to the draft report before a final report is submitted.
(C) The court shall receive the expert reports into evidence without further foundation, unless a party notes an objection in the Trial Management Certificate. However, this shall not preclude either side from calling an expert for cross-examination, and voir dire on qualifications. Unless otherwise ordered by the court, a reasonable witness fee associated with the expert's court appearance shall be tendered before the hearing by the party disputing the expert's findings.
(4) After the parties select an expert or the court appoints an expert, then nothing in this rule limits the right of a party to retain another qualified expert at that party's expense, subject to judicial allocation if appropriate. The expert shall consider the report, documents, or any other information used by the court appointed or jointly selected expert and any other documents provided by a party, and may testify at a hearing. Any additional documents or information provided to the expert shall be provided to the court appointed or jointly selected expert by the time the expert's report is submitted.

(5) The parties have a duty to cooperate with and supply documents and other information requested by any expert. The parties also have a duty to supplement or correct information in the expert's report or summary.

(6) Unless otherwise ordered by the court, expert reports shall be provided to the parties 56 days (8 weeks) prior to hearing. Rebuttal reports shall be provided 21 days thereafter. If an initial report is served early, the rebuttal report shall not be required sooner than 35 days (5 weeks) before the hearing.

(7) Unless otherwise ordered by the court, parental responsibility evaluations and special advocate reports shall be provided to the parties pursuant to the applicable statute. 153 Court Facilitated Management of Domestic Relations Cases and Rule 16.2 General Provisions Governing Duty of Disclosure

(8) The court shall not give presumptive weight to the report of a court appointed or jointly selected expert when such report is disputed by one or both parties.

(9) A party may depose any person who has been identified as an expert whose opinions may be presented at trial. Such trial preparation relating to experts shall be governed by C.R.C.P. 26(b)(4).

The first sentence of the current Rule 16.2(g)(3) states parties can hire their own experts. However, the second sentence of Rule 16.2(g)(3) makes clear that a party's own expert has to be hired AFTER the joint or Court-selected expert because the second sentence mandates the privately retained expert review the joint or Court-appointed expert's report and data before submitting their own report. Sadly, however, without the limiting language we suggest in subsection (3), trial courts, attorneys, and litigants believe there is no requirement for a joint or Court-appointed expert.

To read the first sentence of Subsection (g)(3) independently from the remaining of Subsection (g) creates an inconsistent and nonsensical result and, renders the remaining of Rule 16.2(g), most importantly the beginning language, meaningless. Such a reading would also create an absurd result completely inconsistent with the stated purpose found in Rule 16.2(a), now carried over into proposed C.R.F.P. Rule 1(a).

C. CURENT PROPOSAL FOR C.R.F.P. RULE 26(d)

The current proposal for Rule 26(d) is to make the mandatory language of a joint or Court-appointed expert now discretionary. The current proposal destroys the original intent of Rule 16.2, as stated in subsection (a) of the rule. This proposal reverts us back to the days of "battle of the experts" in the courtroom and places family law cases back in the same circumstances of other civil cases with each party retaining their respective hired guns. This is both detrimental to the parties and the minor children, and should be discouraged.

One may ask then, why was this proposal made? The answer is simple: there exists practitioners who are routinely employed by wealthy litigants who can afford the costly battle of dueling experts in the courtroom and wish not to be bogged down with first attempting to agree on one expert per issue, or having the Court appoint the one expert per issue. Making dueling experts the rule, rather than the exception, incentivizes the charging of much higher attorney rates in family law cases, but is not in the best financial and emotional interests of Colorado family law litigants and their minor children.

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V. CONCLUSION

Although we support the proposed C.R.F.P. Rules, we find it important to highlight this one proposed change as detrimental to most litigants, especially minor children, in Colorado family law cases. We jointly request the Court adopt Rule 26(d) as proposed herein, rather than the current proposal.

Thank you for this important consideration.

Beth Elliott Dumler

Magistrate Beth Dumler

Wesley Hassler, Esq.

Comments Concerning the Proposed Colorado Rules of Family Procedure

I have practiced law in Colorado for almost 43 years now, concentrating my practice in the field of family law for about 41 of those years. The one area with which I have an issue in the proposed rules is Rule 26(a)(11). In my opinion, the mandatory financial disclosures under the current rules are the minimum amount of information parties should have in order to make informed decisions about their finances. To allow parties to avoid making those minimal disclosures is to invite fraud and to allow represented parties and abusive unrepresented parties to take advantage of the other, unrepresented party, who likely has inadequate knowledge of the marital finances. Please continue to require the current mandatory disclosures in all DR cases.

Also, the mandatory disclosures required in Allocation of Parental Responsibilities actions should be the same as those in post-decree motions to modify child support matters. There is no reason to require production of real estate, debt, retirement plan documents or documents of insurance policies other than health insurance for the children. The parties in these actions are not married, the court is not called upon to divide assets and debts, and there is no reason to require these parties to engage in the "busy work" of assembling and exchanging documents which have no bearing on the issues in the case.

Thank you for considering these thoughts.

Karl J. Geil, Reg. No. 11912

Steve Gimpel, LMFT
350 Broadway, Suite 205
Boulder, CO 80305

April 24, 2025

Colorado Supreme Court
2 E. 14th Avenue
Denver, CO 80202

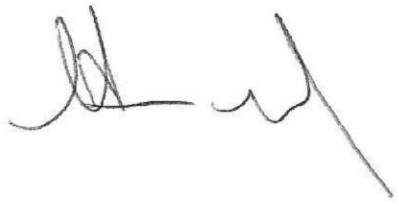
Re: Comments- Proposed Colorado Rules of Family Procedure

The purpose of this letter is to provide my input regarding the Proposed Rules of Family Procedure. The input I have is related to **Rule 123 (f) Attendance at Hearings**. I have been doing CFI and PRE work in Colorado for over twenty years (over 500 combined cases) and I have not encountered problems with the current process of having either attorney/party requesting my appearance for testimony. Below is the information that I send to the requesting party once the request is made (this information is also in my CFI and PRE contracts). Also, I do not require pro-se parties to send me a waiver and acceptance of service.

My fee for court testimony is $250 per hour portal to portal. The fee for court testimony will also include preparation time. I will require a subpoena to appear and a $500 retainer. I will sign a Waiver and Acceptance of Service once I receive the retainer. Payment can be made via check, money order, Zelle (use email sbgimpel@msn.com). The unused retainer is fully refunded if my subpoena is cancelled in writing more than seven days before the court date. If my subpoena is cancelled in writing seven days or less before the court date, 50% of the unused retainer will be refunded. If my subpoena is cancelled within 48 hours of the court date, there will be no refund of the retainer.

The process outlined above ensures payment for my time without having to petition the Court for nonpayment of my fee. Nonpayment of fees can be common in domestic relations cases. This process also curtails appearing to testify only to find out that your testimony is not needed (strictly financial matters and/or child related matters recently resolved). The proposed rule has the potential to increase the Court's time and the CFI/PRE's time in fee collection as well as prevents a CFI/PRE from scheduling portions of their work week because of a "potential" court appearance that could be cancelled (without compensation) within an hour of the scheduled testimony.

Sincerely,



Gendelman | Klimas | Edwards, Ltd.
WHERE FAMILY IS EVERYTHING

Denver
517 E. Sixteenth Ave.
Denver, CO 80203

Frisco
975 N. Ten Mile Dr., Ste E15
P.O. Box 1829, Frisco, CO 80443

Dated: April 25, 2025

Re: Comments Regarding Proposed Colorado Rules of Family Procedure

VIA EMAIL ONLY
Colorado Supreme Court
2 East 14th Avenue
Denver, CO 80203
supremecourtrules@judicial.state.co.us

To Whom It May Concern:

On behalf of Gendelman Klimas Edwards, Ltd. ("GKE"), a Colorado law firm of ten attorneys and two Licensed Legal Paraprofessionals (LLPs) that practice in the areas of family law and trust and estate law, this letter is written in support of the enactment of the Colorado Supreme Court's Proposed Colorado Rules of Family Procedure. Domestic relations cases are unique and distinct from civil cases and require specific and tailored rules for case management and procedure, especially considering the high number of self-represented litigants that are parties to these cases.

While we do support the enactment of the proposed Colorado Rules of Family Procedure, GKE does seek to offer some commentary regarding the proposed rules and suggestions for reforming the proposed rules prior to enactment, as follows:

- C.R.F.P. Rule 1(a): There is a reference to "paternity" cases in this rule; in light of revisions to the Uniform Parentage Act (C.R.S. §19-4-101, et. seq.), we urge the Court to consider revising the term to "parentage"
- C.R.F.P. Rule 3(b): The rule defines "domicile." Recent case law was issued by the Colorado Supreme Court, being *In re Marriage of Green*, 2024 CO 24, discusses domicile and personal jurisdiction in dissolution of marriage cases. There is some concern that the definition in this Rule may not be entirely aligned with this case law. We believe that this definition should be excluded from this rule.
- C.R.F.P. Rule 3(c): The rule defines "residence." There is concern that the definition is not specific, vague, and would serve to cause unnecessary litigation. It is also unclear why exactly this term must be defined under the Rules. We believe that this definition should be excluded from this rule.
- C.R.F.P. Rule 4(e): This rule provides that personal service of an inmate is as of the time deposited in the institution's internal mailing system. Since counsel and parties cannot control when the document enters such system, we believe the date should be based upon a date that the party serving the document can control, such as the date of mailing the document.
- C.R.F.P. Rule 5(d): This is an excellent component of the Rules, requiring the clerks cannot refuse to accept filings if not presented in proper form. The language appears to reference "paper" documents and does not address electronic documents. On several occasions, we

Denver
517 E. Sixteenth Ave.
Denver, CO 80203

Frisco
975 N. Ten Mile Dr., Ste E15
P.O. Box 1829, Frisco, CO 80443

have experienced clerks reject electronic filings due to subjective considerations, not enumerated in any Rule, case management order, or judicial directive. When we seek additional information regarding these rejected filings, we are sometimes informed that the judicial officer has their own internal policy that applies to the document, which requires the document to be rejected. This prevents litigants from due process and causes significant and unnecessary attorney/LLP's fees due to subjective, undocumented, and non-public policies that do not comport with legal authority. We believe the rule should apply to all filings, electronic and paper.

- C.R.F.P. Rule 8(c): We believe the failure to respond to a pleading in which a response is required should render an averment admitted. It is unclear what an averment being "avoided" means or what the implications of an averment being "avoided" would be, especially for the purpose of summary judgment or minimizing contested facts. We would suggest that a failure to respond to such a pleading constitutes an admission, similar to analogous provisions of the Colorado Rules of Civil Procedure.
- C.R.F.P. Rule 8(e): It is unclear what the purpose of this provision is or its intent. Some additional specificity regarding "substantial justice" would be helpful.
- C.R.F.P. Rule 9(e) and 17: We believe an agent under a financial or medical power of attorney should be able to file or defend a case for an incapacitated person or adult.
- C.R.F.P. Rule 9(f) and 17: Sometimes, minors who are also parents are party to cases concerning the allocation of parental responsibilities. It would be helpful for the rules to specifically permit such minors to file such actions in their own name, and without the use of a fiduciary or "next friend." It seems strange that a minor who is a parent would not be able to file a case concerning the responsibilities of their own child. If appearance through a next friend or other agent is intended to be required, providing specific language or guidance to address the circumstance where a minor is seeking an allocation of parental responsibilities for their own child would be a helpful addition to this rule.
- C.R.F.P. Rule 10(a): Some cases are not filed in the District Court; rather, they are filed in the County Court, Denver Juvenile Court, Denver Probate Court, etc. We believe this rule should be modified to permit the correct court name to be indicated.
- C.R.F.P. Rule 10(7): Some electronic files cannot be separated into smaller files. We believe the rule should provide an option for larger files, such as video and audio files, to be submitted to the Court in a consistent and uniform manner.
- C.R.F.P. Rule 16.2(a), 16.3(c), and all other rules which require a particular party or counsel to take specific actions: This rule, and other rules that impose requirements on the moving party/counsel place a disproportionate burden on parties that are represented, by virtue of being represented. While understandable, there are concerns regarding access to justice for parties who are represented by having to carry the burden of costs related to proceedings that a different party initiated. We would encourage the Court to consider having the moving party/their counsel be responsible for scheduling and drafting as provided for under this rule.
- C.R.F.P. Rule 16.2(b)(1)(E): To not be inconsistent with current case law concerning implied waivers of personal jurisdiction, we would encourage the Court to amend this rule to provide

Denver
517 E. Sixteenth Ave.
Denver, CO 80203

Frisco
975 N. Ten Mile Dr., Ste E15
P.O. Box 1829, Frisco, CO 80443

that an appearance at an initial status conference serves as a waiver of personal jurisdiction, unless a special appearance is made for the purpose of contesting personal jurisdiction.

- C.R.F.P. Rule 16.2(b)(3)(A): We would encourage the Court to waive the requirement of an initial status conference, as a matter of course, in the event that all required documents in a case have been submitted for a decree to be entered. In such circumstances, an initial status conference would serve no purpose. Rather, the trial court could set a status conference, if necessary, to address deficiencies in pleadings or compliance.
- C.R.F.P. Rule 16.2(b)(4): We would encourage the Court to impose a deadline to seek an amendment to the case management order within a fixed time period from the date of the issuance of the case management order, such as 14 days.
- C.R.F.P. Rule 16.2(c)(1): We would encourage the Court to not require the attendance of a represented party at a status conference requested by that party. We believe that counsel should retain the right to waive the client's appearance, as appropriate, based on the purpose of the status conference, and in counsel's sole discretion. If the trial court were to require a party's personal appearance, this would be most appropriately noted in the applicable notice of appearance or order issued by the trial court.
- C.R.F.P. Rule 16.2(c)(5): We would encourage the Court to not permit family court facilitators to conduct status conference, as such conferences are typically sought when orders are necessary to address an issue in which the parties have been unable to reach an agreement.
- C.R.F.P. Rule 16.2(c)(7): We would encourage the Court to have the responsible counsel/party be responsible for preparing written orders, as previously defined.
- C.R.F.P. Rule 16.2(e)(1): We would encourage the Court to consider that the parties confer 7 days prior to the JTMC deadline rather than 14 days. Often times, 14 days prior to the JTMC deadline, parties are still forming arguments, compiling exhibits, interviewing witnesses, and may have very recently received rebuttal expert reports. Conversations 14 days prior to the JTMC deadline are not likely to be fruitful to address the issues anticipated under this rule.
- C.R.F.P. Rule 16.4(c): We believe that exchanging exhibits 10-14 days prior to hearing would be helpful, as 7 days deadlines are often imposed and do not permit sufficient time for parties to evaluate exhibits prior to making written objections in their JTMC.
- C.R.F.P. Rule 16.5(b) and (f)(7): We have concerns that this provision will permit inadmissible evidence to be considered by judicial officers in proceedings, by virtue of parties not being represented. Whether a party is represented or not should not substantively impact what evidence is admissible in their case. The Colorado Rules of Evidence remain relevant and important, regardless of whether a party is represented.
- C.R.F.P. Rule 26(a)(11): Often, a party refuses to exchange financial disclosures or file a Sworn Financial Statement with the trial court. This prejudices the participating party and results in an inability to proceed and have a marriage dissolved due to willful non-compliance of a party resisting the case moving forward. We would request that the rules provide some guidance that would permit a trial court to proceed in such situations, to avoid parties being unable to seek their marriage being dissolved due to the non-compliance of their spouse.

Denver
517 E. Sixteenth Ave.
Denver, CO 80203

Frisco
975 N. Ten Mile Dr., Ste E15
P.O. Box 1829, Frisco, CO 80443

- C.R.F.P. Rule 37(a)(2): We believe that parties should be permitted to file a reply to motions concerning discovery sanctions, which often can request significant and material sanctions against parties and their counsel.
- C.R.F.P. Rule 37(a)(4): Similar to provisions other mandatory fee shifting provisions for substantially vexatious conduct in domestic relations cases(such as those included in C.R.S. §14-10-129 concerning emergency motions to restrict parenting time) we believe that attorney/LLP's fees for non-compliance with discovery should be mandatory and not discretionary. Mandatory fee shifting in these circumstances would encourage parties to comply with disclosure requirements and decrease litigation concerning attorney/LLP's fees disputes.
- C.R.F.P. Rule 45(b)(3): We believe that adding a provision that failure to provide a mileage fee does not render a subpoena moot or unenforceable. Rather, a subpoena recipient could file an appropriate motion to address non-payment or underpayment of such a fee.
- C.R.F.P. Rule 121 §1-15(k): We believe that the trial court should not be permitted to deny a motion for reconsideration without having first considered a response brief, if timely filed. This implicates procedural due process concerns and does not permit all parties to be heard on potentially substantive and material post-trial matters.
- C.R.F.P. Rule 121 §1-15(l): We appreciate that procedural and discovery disputes may be handled through a notice of impasse. We do not believe that a two-page position statement should be required; rather, such a statement should be no longer than three pages. Three business days is rarely sufficient for counsel to review a pleading concerning a procedural dispute, research the same, respond to the same, and attain their client's position and approval of a responsive pleading. We believe that a 7-day response period would be appropriate.
- C.R.F.P. Rule 121 §1-16(a) and (b): Three business days is rarely sufficient for counsel to review a proposed order submitted on a complex motion or permanent orders, research the same, respond to the same, and attain their client's position and approval of a competing proposed order. We believe that a 7-day period would be more appropriate.
- C.R.F.P. Rule 123(c)(1): We believe this is an important clarification concerning CFIs not producing draft reports to parties prior to their finalization. Doing so undermines the investigation process and often invites inappropriate and irrelevant commentary in already contentious and complex parenting situations.
- C.R.F.P. Rule 123(c)(2): It is unclear what grounds would exist for a CFI or PRE Report to not be admitted into evidence. If this provision is included in the Rules, we would suggest specific, enumerated, and limited circumstances in which such a report can be excluded from evidence. Otherwise, we are concerned that as a matter of course, parties that do not agree with a CFI or PREs recommendations will initiate pretrial filings to exclude CFI and PRE reports on subjective, irrelevant, or inappropriate grounds.
- C.R.F.P. Rule 123(c)(2): We are concerned that a requirement for parties to correct information in CFI Reports will invite, as a matter of course, inappropriate, irrelevant, or redundant commentary by parties, which were previously considered by CFIs in their investigation.

Denver
517 E. Sixteenth Ave.
Denver, CO 80203

Frisco
975 N. Ten Mile Dr., Ste E15
P.O. Box 1829, Frisco, CO 80443

- C.R.F.P. Rule 123(e): We do not believe it is appropriate for parties to have the ability to depose a CFI or PRE, in any proceeding. This subjects CFIs, who are an extension of the Court as its investigative arm, to the litigation and fact-finding process as if they were a fact witness. This may undermine the integrity of CFI and PRE investigations and further deter qualified individuals from serving as CFIs and PREs.

The Rules do not address what we believe is a significant issue faced by domestic relations litigants and counsel, being delays in receiving orders from the trial courts. It is not uncommon in several judicial districts for parties to wait six months or more for permanent orders for initial child custody determinations, division of assets and debts, and modification of parenting time and decision-making orders. Domestic relations practitioners have used tools such as requesting status conferences, filing requests for entries of orders, and contacting clerks to seek orders after contested hearings, without success. We believe this is one of the most significant access to justice issues faced by litigants at this time, undermining the public's trust in the judiciary.

We believe it is important for the Rules to be drafted in a manner in which all references to attorneys are also inclusive of LLPs. In some portions of the Rules, there are references to attorneys, which should be amended to include LLPs, or use a more neutral terms such as "counsel." This includes references to "attorney's fees" being modified to "legal fees."

In summary, GKE strongly supports the enactment of the proposed Colorado Rules of Family Procedure. With our concerns and commentary in mind, we urge the Colorado Supreme Court to adopt the Rules.

Laurence Gendelman, Esq. #48790
Sarah Mitchell, Esq. #50245
Paige Palladino, Esq. #58182
Chad Bosel, Esq. #59389
William Erwin, Esq. #59717
Tara Johnson, LLP #600048
Kyle Melchior, LLP #600022

COMMENTS REGARDING THE PROPOSED COLORADO RULES OF FAMILY PROCEDURE

I write on behalf of IAALS, the Institute for the Advancement of the American Legal System, regarding the proposed Colorado Rules of Family Procedure ("CRFP"). IAALS is a national, independent research center at the University of Denver dedicated to continuous improvement of the civil justice system. IAALS identifies and researches issues in the legal system; convenes experts, stakeholders, and users of the system to develop and propose concrete solutions; and then goes one step further to empower and facilitate the implementation of those solutions to achieve impact. We are a nonpartisan organization that champions people-first reforms to the legal system and the legal profession. Since IAALS' inception in 2006, it has worked with leaders across the country to rethink the family law process to improve accessibility, affordability, and collaboration among parties.

We recognize the unique characteristics of family law that support the creation of its own set of rules, and we applaud Colorado for taking this step toward giving family law the differentiation it deserves.

IAALS Supports Rule 16-5: Informal Domestic Relations Trial

It is well-documented that over 70 percent of family law cases involve at least one unrepresented party. It is also known from IAALS' Cases Without Counsel study that for litigants who go unrepresented, they struggle with how to present their case to the court, including hearing or trial preparation, evidentiary matters, and courtroom procedures. The inability of unrepresented parties to follow the complicated rules of evidence not only affects the parties, their children, and the lasting reconfiguration of their families, but it also affects the judicial officer's ability to obtain all the necessary and relevant information they need to provide the most appropriate order possible. This informal domestic relations trial ("IDRT") rule is specifically designed to alleviate these struggles for unrepresented parties and give judicial officers the necessary latitude to inquire about information they need and may not receive from the parties themselves. While we are in full support of the adoption of this rule, below are a few modifications we believe will improve its effectiveness.

Opt-In vs. Opt-Out

As currently written, it is unclear whether this rule automatically places two unrepresented parties into the IDRT or if the parties must opt in to it. Specifically, subsection (a) reads as follows: "Applicability. Unless one or both parties object or the court orders otherwise, in every original action or modification for dissolution of marriage, legal separation, invalidity of marriage, child support, or allocation of parental responsibilities in which both parties are self-represented, the issues may be resolved through an Informal Domestic Relations Trial ("IDRT") as provided in this Rule. If either party's representation status changes at any point up to the trial date, the court, in its discretion, may modify the type of hearing." The use of the phrase "Unless one or both parties object or the court orders otherwise, in every original action or modification…in which both parties are self-represented…" reads like two unrepresented parties are automatically placed into the IDRT; however, the use of the word "may" directly following to quoted language above, which reads, "the issues may be resolved through an Informal Domestic Relations Trial" suggests that two unrepresented parties would have to opt in to use the IDRT.

For parties without legal counsel, navigating even seemingly straightforward court procedures can be a significant hurdle, making the complexities of formal rules of evidence feel insurmountable. Moreover, once parties are assigned to a particular procedural track, they often remain in that process, regardless of its suitability. This is highlighted in Montana's Informal Domestic Relations Trial Bench Guide, where one judge reported that they were "still having resistance from parties to using an informal process even when it is clearly to their benefit." This quote comes from when Montana's IDRT was a pilot project that required all parties to opt in to the process, but Montana's IDRT has since become a court rule that automatically places family cases into the IDRT process unless both parties are represented by attorneys. One common argument against an automatic placement into IDRTs is the concern that we are forcing parties into a specific process. However, it is essential to recognize that the current system already forces unrepresented parties into a traditional adversarial trial process. And unlike that traditional route, which was not designed with the needs of unrepresented individuals in mind, the IDRT was specifically conceived to offer a more accessible and understandable forum. Evidence from states like Idaho and Oregon has demonstrated the effectiveness of IDRTs, yielding positive outcomes for both the unrepresented parties and the judicial officers overseeing these cases. Evaluations from both states also noted that one main factor indicating a case is well-suited for an IDRT is if both parties are unrepresented.

Representation status, however, is not the only indicator that should determine whether a case is right for IDRT. In Oregon's evaluation, it is noted that "The broadest category of cases that are appropriate for the IDRT process are those where neither party is represented, where the marital assets are reasonably straightforward, and where no nonexpert witness testimony was critical to achieving a just result." The evaluation goes on to say that most cases involving two unrepresented parties followed this pattern. To ensure that the most appropriate cases go through the IDRT process, it is vital that they are triaged from the point of initial filing. The Cady Initiative *Principles for Family Justice Reform*—a joint effort between IAALS, The National Center for State Courts, and the National Council of Juvenile and Family Court Judges—recommends that "Courts should establish a flexible pathway approach to triage domestic relations cases that matches parties and cases to resources and services." For these reasons, we recommend that this rule automatically place cases where both parties are unrepresented into IDRTs, changing the language from "may" to "will" to clarify that intent. We also recommend that these cases be triaged as early as possible to ensure they are an appropriate fit for IDRTs.

Correction to Subsection (f)(5)

In subsection (f)(5), it incorrectly refers to processes in "subsections (6)(c) and (6)(d)" when it is actually referring to subsections (f)(3) and (f)(4). We recommend the text be amended to refer to the appropriate subsections.

Educate and Inform Relevant Stakeholders on IDRTs

It is crucial that all stakeholders are provided with comprehensive education on IDRTs. For parties, understanding the IDRT process and knowing what to expect allows them to prepare effectively and make informed decisions, including whether to opt out if they would prefer a more traditional hearing. Just as importantly, judges should be provided with tools and resources to manage these cases effectively. Without proper education on how best to question parties within this new framework, judges may struggle to elicit necessary information, potentially undermining the IDRT's intended efficiency and fairness. It is also important to educate attorneys so they can better understand when these types of trials are well-suited for their cases, and to help them inform their clients on the pros and cons of the process. Since Colorado would not be the first state to implement IDRTs, it can utilize the informational resources other states have already created to minimize the time and cost of creating its own materials. For example, Montana's Trial Bench Guide includes a template IDRT scheduling order and a script for judicial officers to explain the IDRT process to parties. This same guide provides an IDRT flyer for parties that explains the process, and other states such as Oregon have created

informational brochures for parties. Targeted education for parties, judges, and attorneys is essential to ensure the successful implementation and optimal functioning of IDRTs.

IAALS is grateful to the Colorado Supreme Court for the opportunity to share our support for—and modest modifications to—the proposed Colorado Rules of Family Procedure and specifically Rule 16-5: Informal Domestic Relations Trial. If the Court has any follow-up questions based on our comments, we welcome the opportunity for a more detailed discussion.

Sincerely,

Michael Houlberg
Director of Special Projects

Rule Numbering

If the C.R.F.P. will have gaps in the rule numbers, i.e. C.R.F.P. 37 then jumps to C.R.F.P. 45, an explanation should be included about why rules 38 to 44 are excluded and where people can go to find those rules for more information. A simple explanation can be used, such as C.R.C.P. 99: No Colorado Rule. Many pro se litigants do not trust government systems and rules, so if there are gaps in the rules for C.R.F.P. with no explanation, they will believe that something is omitted on purpose that could aid them in their case, when the rules omitted from C.R.F.P. do not apply to family law cases.

Rules that should be part of C.R.F.P.

There are multiple rules from C.R.C.P. that are not part of C.R.F.P. that should be included if the goal of C.R.F.P is to make the rule process for family law cases more streamlined and not require parties and attorneys sift through multiple statute books to find the relevant rules. Below are the rules that I think should be incorporated in C.R.F.P.

- Rule 6 Time - We get questions daily about time in family law cases.
- Rule 25 Substitution of Parties – Maybe this could be edited a bit because what if a party to a family law case dies and then we need a rule directing a survivor to file a death certificate into the case.
- Rule 27 Deposition Before Action or Pending Appeal – This may be important in contentious family law cases, and if party to the case is sick and/or dying. This could also include the note that states to see C.R.C.P. 27 for the full rule.
- Rule 41 Voluntary Dismissal – Petitioners, and sometimes Co-Petitioners, file to dismiss their family law cases frequently.
- Rule 42 Consolidation; Separate Trials – In contentious family law cases, parenting time, divorce, child support, and division of property and debt are bifurcated. There are cases that have gone on for years but the divorce was able to go through before Permanent Orders so the parties could be legally divorced.
- Rule 43 Evidence – This rule is about if witnesses appear by phone. It may be good to keep this rule, so it is clear how to file for absentee testimony.
- Rule 46 Exceptions Unnecessary – Parties in family law cases need to know they can voice their objections to court findings and that they are not prejudiced if they did not have an opportunity to object.
- Rule 52 Findings – This contains cross references to the new C.R.F.P. 12, 53, 56, 58 and 59 and should be included.
- Rule 67 Deposit to the Court – There are times when a party in a family law case is ordered to deposit funds into the Court's registry.

- Rule 77, 78, & 79 on Court Administration – It would be helpful to have the court administration rules included with CRFP for pro se parties and attorneys do not have to search in CRCP for the rules on court administration.
- Rule 97 Change of Judge – Judges in family law cases recuse themselves if they know the parties, attorneys, or other professionals working on the case all the time, and particularly in rural counties. This rule is critical to keep in CRFP so all the parties, attorneys, and judges know the expectations for changing a judge in family law cases.
- Rule 121 1-13 Deposition by Audio Recording – Depositions do occur in family law cases, so this rule should be included in CRFP.

Notes & Questions on Proposed Rules

- C.R.F.P. 4(f)(1) – why by certified mail with return receipt? Return receipt is not always a guarantee.
- C.R.F.P. 5(b)(D) – YES! Finally, an option for emailing court filings!
- C.R.F.P. 5(c) – Yes to discovery not being filed with the Court and having it clear in the rule!
- C.R.F.P. 5(e) – Here's an example of an inmate filing under this new rule: Motion is filed on the 1st, the inmate receives the filing on the 7th, postmarks the Response to the Motion by the 14th and the Court's receive the filing on the 25th. Is this response considered timely? How does the Clerk's Office file stamp the Response from the inmate? Do they stamp it on the 14th or for the 25th? This rule could be good, but it does lead to many questions.
- C.R.F.P. 7(4) – No other pleading shall be allowed after the reply is perfection!
- C.R.F.P. 9(c) – Officially naming unknown parties as John or Jane Doe is great!
- C.R.F.P. 9(f) – Minor's being brought into actions "by and through next friend" is helpful to identify minor parents and keep the people who have custody of the minor parent involved in the minor's custody action.
- C.R.F.P. (11)(a) – Oddly, we get the question a lot about when an attorney officially files their entry of appearance into a case, so this will help clear up confusion.
- C.R.F.P. 16-1(d)
    - Non-dispositive procedural issues… can this language be changed at all? This is very legalese even for a statute book. Or can similar issues be defined more.

    - The response time frames for these non-dispositive procedural issues is way too short, especially if there are pro se parties without emails or access to E-Filing. 7 days should be 14 days, and 3 days should be 5 days.
- C.R.F.P. 16-2(b)(C) – It is good to schedule the ISC after 21 days from date of filing to keep these cases moving on the Court's docket.
- C.R.F.P. 16-2(d) – Emergency and forthwith matters need to be defined more. Many things could be considered an emergency when it comes to family law, including parenting time, child support, misusing marital funds/property/debt… this rule is so broad and is open to so much court, lawyer, and pro se interpretation.
- C.R.F.P. 24 – Nothing in this rule changed regarding intervention into family law cases when it should be changed for people who do have a specific interest in the case, such as attorneys or grandparents when there are children and grandparent rights being considered.
- C.R.F.P. 56(b) – This is a fantastic edition to the rules because parties sometimes need orders clarified and this rule provides a way to ask for clarification on court orders and guides the court on what can and cannot be clarified on.
- C.R.F.P. 98(b)(1) – This language is confusing. It is not clear if the petitioner can reside in the county where they file or if the respondent must reside or last resided in the county where the case is filed.

stevens, cheryl

From: Ryan Kalamaya <ryan@kalamaya.law>
Sent: Tuesday, April 22, 2025 5:43 PM
To: supremecourtrules
Subject: [EXTERNAL] Comment on Proposed Colorado Rules of Family Procedure

As a practitioner who works closely with families navigating the domestic relations system in Colorado, I want to commend the committee for its thoughtful and thorough work in drafting the Proposed Colorado Rules of Family Procedure. These proposed changes reflect a critical and long-overdue response to what so many of our clients experience daily — a system they often describe as confusing, inefficient, and emotionally draining.

We consistently hear from families that the current process feels broken. Whether it's prolonged delays, inconsistent procedures across jurisdictions, or a lack of transparency, these issues add stress to an already difficult life transition. By crafting a more streamlined, user-focused set of procedural rules, the committee is directly responding to the needs of the people we serve — not just legal professionals, but the parents, children, and individuals at the heart of every family law case.

The emphasis on clarity, accessibility, and efficiency in these proposed rules is essential. Reforms like enhanced case management, more standardized disclosures, and better integration of judicial discretion with early intervention tools show a commitment to helping families transition through conflict in a healthier, more amicable way.

This is more than procedural housekeeping — it's a meaningful step toward humanizing and improving our justice system. I strongly support the committee's efforts and urge adoption of these rules to make Colorado's family courts more responsive, equitable, and effective for all involved.

Ryan Kalamaya
Managing Partner
Kalamaya | Goscha

Phone 970.812.3437
Web www.kalamaya.law **Email** ryan@kalamaya.law
133 Prospector Road, Ste. 4102X, Aspen, CO 81611

Comments to Proposed Colorado Rules of Family Procedure

April 15, 2025

I have reviewed the proposed Colorado Rules of Family Procedure and would like to thank the Committee and those who worked on these proposed rules. The hard work and thought that have gone into the proposal is readily apparent. There are, however, some aspects of these proposed rules that I question, given my understanding that the goal is to streamline and simplify domestic proceedings. I apologize in advance for any comments that have already been discussed and discarded or incorporated into these rules.

Elizabeth Leith
Presiding Judge
Denver Probate Court

General

These rules shall be liberally construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action.

The Child Support Enforcement Unit (CSEU) shall be exempted under these rules unless the CSEU enters an appearance in an ongoing case.

This seems inconsistent. If the CSEU enters into an on-going case, it is not exempted. The CSEU only handles child support matters that usually involves limited discovery. These rules would therefore place a heavier burden on the CSEU than at present.

…thereafter all laws in conflict therewith shall be of no further force or effect.

Does this propose to alter statute and case law with a rule?

…except to the extent that in the opinion of the court their application in a particular action pending when the rules take effect would not be feasible or would work injustice, in which event the former procedure applies.

This would appear to authorize the court's discretion to not apply the new rules in pending filings but not in new filings. Suggest expanding this to allow the court discretion to not apply the rules in any case, pending or newly filed after the rules take effect.

(d) Civil Rules. If language in these rules is substantially the same as language in the civil rules, case law interpreting the language of the civil rules shall apply to these rules. If these Rules are silent as to a matter addressed in the civil rules, the civil rules shall apply.

I do not understand why all of the civil rules are repeated *verbatim*. It seems unnecessary, and adds a significant amount of extra review. I also believe that repeating the civil rules here will create a significant amount of litigation and appeals. Also, when civil rules are changed, that would require a change to these rules on that basis alone. A significant amount of extra work.

Rule 3. Definitions

I do not understand why certain definitions stated in statute are repeated in these rules. It seems unnecessary.

Rule 4. Process

I do not understand why CRCP 4 is repeated *verbatim* in its entirety.

As an example, rather than repeating the entirety of Rule 4(c), could it not simply say:

For all summons issued in a family action subject to these rules, in addition to the requirements imposed by CRCP 4, the summons shall also contain the advisements provided in C.R.S. § 14-10-107 (4) (b) (II) and (III).

Similarly, for 4(f), state:

In addition to the requirements imposed by CRCP 4, service by publication for a family action subject to these rules must comply with C.R.S. § 14-10-107 (4) (a).

I suggest these types of changes for each provision that cites to Title 14, rather than repeating the entire rule.

Rule 7 and 8 – these do not appear to be needed.

Rule 9 – I think some of the language should be reworked.

Rule 10 and 11 – these does not appear to be needed as each appears to repeat the CRCP

Rule 11-2 – would this preclude an attorney from entering an appearance by appearing for hearing? Why is this rule needed in addition to CRCP 121 requirements.

Rule 11-3 – appears to repeat the CRCP – why is this necessary?

Rules 12, 13, 15 - appear to repeat the CRCP-why is this necessary?

Rule 16-2(b)(1)(C) and (E) – this seems subject to misuse as a way to bypass personal service, and seems to be in conflict with (G).

Rule 16-2(3)(A) - *Parties who file an affidavit for entry of decree without appearance with all required documents may contact the Court to request exemption from the Initial Status Conference requirement.* There should be the requirement of a filing for this. It is not good practice to email or telephone a court, as there is no record of the contact if a MINO is not entered into the register of actions (ROA), it is *ex parte,* and it then appears the court is acting on its own motion. Alternatively, the Affidavit could contain a checkbox to request exemption from the ISC.

Rule 16-2(c)(7) *The court shall either enter written minute orders or direct counsel to prepare a written order.*

Any appearance that is on the record must have a minute order entered into the Register of Actions. It is not either/or. A written order is always in addition to a minute order. See CRCP 79(a)(4).

Suggest: All status conferences must be held on the record. Following the status conference, and in addition to the entry of the minute order, the court may prepare a written order or direct counsel to prepare a written order.

Rule 16-2(d) does this conflict with specific statutory time-frames such as motions to restrict parenting time?

(d)(3) *leave of court is not required prior to filing any motions.* Suggest adding …not required prior to filing any of these motions or these specified motions or similar.

(d)(4) I have concerns that this does not specify that a motion must first be filed with the court prior to any requests being made through the division clerk or FCF. Anything else is an ex parte communication and would not appear in the record, giving the appearance that the court took action without anything before it.

Suggest adding: After filing of the motion, emergency matters, forthwith matters and threshold issues…

(d)(5) For the same reasons noted above, suggest adding:

The court shall issue a written order addressing the disputed questions of fact or law or directing that a status conference or an evidentiary hearing be set. Copies of the order and notices of any hearing or status conference scheduled before the court must be given to the parties and any counsel of record.

(d)(6) Suggest adding: Only a judge or magistrate, in accordance with the rules for magistrates, may determine…

Rule 16-2(e)(1) – *Absent an emergency motion or motion in limine filed appropriately after that deadline, any matters not included on the template seven days prior to the filing deadline shall be excluded from the hearing*. Removing the court's discretion here could prove to be more problematic. Many things are filed by pro se parties at the last minute, or an attorney is retained at the last minute.

Rule 16-4(a) I have concerns that courts will refuse to conduct hearings if pro se parties have not filed their brief statements.

Suggest adding: If a party fails or refuses to file a statement, the court shall take the failure or refusal under consideration as part of its findings when resolving the case. The court shall not continue the matter or otherwise refuse to conduct the hearing for the sole reason that a pro se party did not file the brief statement.

Rule 16-5(f)

(3) The court will allow the moving party to speak to the court under oath concerning all issues in dispute. The party will not be questioned by the other party or their attorney, but the court may question the party to develop evidence required by any statute or rule or necessary, in the court's discretion, to address the matters at issue.

(4) The parties will not be subject to cross-examination. However, the court will ask the non-moving party or their attorney whether there are any other areas the party wishes the court to inquire about. The court will inquire into these areas if requested and if relevant to an issue to be decided by the court.

The court should have the ability to allow a party or attorney for a party to ask questions of the other party, if the court believes it does not have sufficient information to conduct the questioning.

Rule 16-5(f)(5) Is this a typo or refencing another rule? Is this referring to 16-5(c) and (d) or something else? It is not clear what the reference is to.

Rule 16-6(c)

Should this rule also apply to a party who has been served but has not appeared, filed a response or other pleading in the case? If the party is not going to participate, a mediation order most likely should not enter.

Rule 17, 24, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 45, 54, 56, 58, 59, 60 62, 66, 70, 98, 103, 107, 121, 122, 123, everything in the Appendix - recommend deletion as duplicative of civil

rules. I believe that including these rules here will create significant litigation and appeals. Also, significant on-going work will be created each time the civil rules are modified, which will result in a necessary modification of the civil rules repeated here.

Rule 55 – sanctions

Recommend references to the CRCP rules, rather than repeating those rules here. I believe this approach will generate significant litigation and appeals, and require constant modifications as noted above.

Rule 124. Regarding Guardian ad Litems

General Comments:

I think this is a good idea in principle, but I believe this provision requires more work, and would urge that it not be adopted until further work is completed.

This is only for adults? Is there something specific for minors/children of the parties other than CRCP 17?

Some of these provisions appear to directly conflict with the authority of a guardian and/or conservator granted under Title 15. Despite the label as a GAL, the duties appear the same as those for a guardian or conservator, and the appointment process as envisioned here circumvents the statutory appointment process with attendant constitutional and due process rights accorded to a respondent under Title 15.

(a)(2) A guardian ad litem shall be appointed by the Court – should this be may?

The numbering for the different alternatives for appointment here can be confusing – change to a different format? (4) seems to have a footnote marking but I am unable to find the footnote.

(a)(3) is repeated twice

(a)(3) (second one) Powers and Duties of the GAL include making decisions – this could conflict with the statutory authority granted to a guardian and/or conservator. Any authority granted in this rule should be defined more specifically as to what and why. I believe this statement as written is rather cursory and lacks definition.

(b)(1) ...*while still protecting the party's privacy and attorney client privilege*.

I am not certain what the effect of this would be or why it is necessary, especially if a party's mental or physical health is at issue.

(b)(2) The requirement for the GAL hearing to be before a different judicial officer will significantly delay proceedings and increase costs for the parties. I am not certain why this is necessary. Also, on a practical basis, would a new case need to be opened for the GAL appointment hearing with the second judicial officer, or would the second judicial officer sit under the existing case number? Also, if there is a small jurisdiction with only one judge, would another district need to be approached to find the second judge? Is there any authority for requiring the GAL appointment hearing to be held by a different judicial officer?

I also do not subscribe to the argument that the judicial officer making the decision concerning parent time/APR should not be informed of issues with a party requiring a GAL, as those issues are integral to the APR and parenting time decisions and the protection of children. At some point, the parent's rights must yield to the rights and needs of the child. Even If children are not involved, the judicial officer should be aware of reason(s) for appointment of a GAL for the financial protection of that party. For example, if a party requires their portion of the property settlement to be managed by a fiduciary or placed into a trust, the judicial officer would need to understand why that is necessary to make the appropriate orders.

I question whether removing the court's discretion regarding the presence of the opposing party other than to provide testimony except upon request is appropriate. Suggest removing the words upon request.

(b)(3) the reference to the FTR (For the Record) should be changed to "the digital or other recording made of the hearing." The FTR is a software product and its use by the judicial department may be discontinued in future years in favor of a different/differently named product.

Is the citation to CRS 15-14-308 correct? I show this citation refers to a respondent's right to be present at a guardianship hearing, and authorizes the court to close the hearing *to the public* upon request. This provision does not authorize the hearing to be closed to other parties.

I question the appropriateness of and whether there is authority to seal a GAL hearing transcript to the opposing party and counsel. As I note above, I do not believe sealing a GAL proceeding is in the best interests of either the subject party or that party's child(ren), and if proceeding as proposed, would significantly hamper the ability of the judicial officer deciding APR and parenting time or financial decisions from making appropriate decisions as to either the party or the child(ren). If a document is sealed, no one has access to it except by court order, including all parties and attorneys, meaning it is not limited to the

opposing party and attorney. The case management system is unable to tag that certain parties or attorneys do or do not have access to a sealed document; either they all have access to the document in a suppressed case or they all don't except by court order. There are different rules for public access.

(b)(4) in the last sentence, suggest changing the word *person* to nominee.

(b)(5) is Common Defense Agreement defined somewhere?

(c) I think this requires definitions regarding non-decision making and decision-making GALs.

(c)(1) Non-decision making GALs.

Currently a GAL must be an attorney. If this is to change, I believe definitions would be appropriate at the very least. Has consideration been given to the logistical issues attendant to creating a new type of GAL? This affects current case law, chief justice directives, forms, payment for court appointments, recruitment and impact on other case types.

(c)(1)(A) Does the exception for a non-decision making GAL as witness include the ability to provide an explanation regarding the basis for the GAL's determination that a position taken by a party is not in their best interests. If the GAL file as to the reasons supporting this determination is discoverable, then the GAL should be able to testify as to the reasons underlying the determination.

A protected person is defined at CRS 15-14-102(11) as a minor or other individual for whom the appointment of a guardian or conservator or other protective order is sought. Protective orders are defined at CRS 15-14-401 and subsequent sections. Suggest changing protected person to …the party for whom a GAL has been appointed…

A GAL shall not file a report. I think this requires some further consideration. If there is to be no report for a non-decision making GAL, how are the GAL's determination and recommendations to be communicated other than through limited testimony? Is the court to be privy to the recommendations? I believe clarification is needed.

(c)(1)(B) Since this is a departure from current authority and practice, I believe definitions are appropriate and necessary. There is no explanation as to why a speech therapist, a therapist or someone to aid in financial understanding is appropriate for appointment as a GAL speaking to a party's best interests. These people are typically those who the GAL would interview for information regarding the recommendations relating to best interests. Would a therapist agree to such an appointment, since this appears to be

outside the scope of a therapeutic relationship? If this type of an appointment is made at state pay, is this a good use of state and taxpayer funds?

(c)(2) The heading is inconsistent with (1).

(2) For Decision Making GALs:

(c)(2)(A) A decision-making GAL must be…

Suggest reworking this sentence: The appointment of a decision-making GAL must be made by clear and convincing evidence, and the court shall state the reasons for the appointment. The court must include in its findings that the party is unable to make their own decisions and why the party's inability to make their own decisions are or will be impaired over the course of the litigation.

I do not believe the vision for the decision-making GAL is adequately explained.

Change to:

(c)(2)(A)(i) I believe courts need direction on this and suggest:

The court shall (must?) consider whether a guardian or conservator is a more appropriate appointment. Or The court shall consider whether the appointment of a guardian or conservator is more appropriate than the appointment of a GAL. If the court determines that the appointment of a guardian or conservator is a more appropriate appointment, the court shall suspend the proceedings and direct that the appropriate petitions be filed with the probate court. Upon filing of the order and letters of appointment for a guardian and/or conservator, the proceedings may be recommenced.

(ii) The court may direct counsel for the party requiring an appointment to file the petition(s) in the probate court, may appoint the GAL for the purpose of filing the petition(s) in the probate court, or may direct any appropriate person over which the court has jurisdiction to file the petition(s) in the probate court to seek appointment of the guardian and/or conservator.

(iii) Withdrawal of counsel upon appointment of a decision-making GAL. A GAL only represents the best interest of a person and upon withdrawal of counsel, the party would be self-represented. In cases where counsel seeks withdrawal upon appointment of a decision-making GAL, consideration should be given to whether the GAL consents to the withdrawal or whether successor counsel will enter an appearance. (I believe the proposed language will be interpreted as a direction to not allow attorney withdrawals, even if the attorney is unable to form an attorney/client relationship.)

(A) In all appointments…the GAL has a fiduciary duty to the party. A fiduciary is defined CRS 15-10-201(19) as a personal representative, guardian, conservator or trustee. Similarly, CRS 15-1-103 states a fiduciary includes a trustee, executor, administrator, personal representative, guardian, conservator, and other capacities. CRS 11-24-107 has a fiduciary definition related to a bank or trust company. CRS 15-1-802 has a fiduciary definition as a person designated in a will, trust instrument or otherwise acting as a personal representative, executor, administrator, and does not include a guardian or special fiduciary. I think a definition or other reference is needed here.

(2) A GAL does not take direction from the party nor the party's counsel (should this be the party or the party's counsel?)

(d) (1) I am not certain why this language is necessary and suggest deleting

…and shall be as narrowly tailored as possible…and privacy.

Suggest not using protected person as noted above.

(D) Does there need to be language that specifically authorizes the GAL to discuss concerns directly with the party outside the presence of counsel. Why is least disruptive way possible language in here? Does privilege apply to a non-attorney GAL?

(2)(A) Has the right to file – is authorized? Is authorized and has the right to file?

(2) is repeated a second time

(5) should be (6) the GAL may hire legal representation for the client – should it also include language stating over any objections made by the client as to representation and the proposed attorney?

(e) Post Hearing.

References to rules 59 and 60 should reference CRCP 59 and 60 in accordance with my earlier comments.

(2) why is the continued appointment mandatory/necessary on every case that is appealed if the GAL is only authorized to file appellate briefs if the GAL recommendations were in conflict with the party's position at hearing?

(f)(1) *In general, the fees of the GAL should be considered a marital expense.*

Suggest changing to…should be considered a marital or joint expense (for APR or non-marital cases).

The Court may also order that the GAL fees be paid by the State pursuant to JDF 205.

JDF 205 is an application to waive filing fees, copy fees, jury fees, efiling and form fees.

JDF 208 is the Application for a State Paid Professional that includes a guardian ad litem.

The authority for state payment of GAL fees is not found in the form, but in CJD 04-05. CJD 04-05 does not provide specific authority for a court to order the payment of guardian ad litem fees for an adult in a DR case unless pursuant to CRCP 17(c) (CJD III.B.3), even though Title 14 is referenced. CJD 04-05 may need modification to effect the payment to a GAL in a DR as contemplated. Also it is my understanding, that that if a GAL is not properly appointed using JDF208 and CJD 04-05, the fees may be required to be paid out of the local court budget instead of the mandated costs budget that is managed by the SCAO for the judicial department. Depending upon the number of appointments, the costs for these appointments may need to be discussed with and included in the State Court Administrator's budget.

Suggest the following change:

The court may order that the GAL fees be paid by the State of Colorado upon submission of a completed Application for a State Paid Professional (JDF 208) and a finding of indigency as to all parties. (I suggest this language to avoid the scenario where there are marital or other funds sufficient to pay the fees, even if the subject party does not have access to those funds at the time of application, and to avoid a situation where a court would need to order repayment of state paid funds.)

I also suggest that modifications to CJD 04-05 be made to clarify the authority to pay the fees from state funds.

Thank you for the opportunity to provide comments on these proposed rules.

Judge Leith

FourthStreet
ATTORNEYS AT LAW

Caroline C. Cooley, Esq.
Licensed in Colorado
caroline@fourthstreetlaw.com

Christopher J. Linas, Esq.
Licensed in Colorado
chris@fourthstreetlaw.com

Megan Cairnduff, Paralegal
megan@fourthstreetlaw.com

103 Fourth Street, Ste. 320
Castle Rock, CO 80104
(303) 388-2787 Main
(303) 957-2613 Fax
www.fourthstreetlaw.com

March 31, 2025

Colorado Supreme Court
2 E. 14th Avenue, Denver, CO 80202

Re: Proposed Colorado Rules of Family Procedure

Dear Colorado Supreme Court:

I am writing to comment on the proposed Colorado Rules of Family Procedure. I am an attorney based in Douglas County who has practiced family law for nearly ten years. Family law procedure is a topic about which I am particularly passionate.

I agree with many of the changes from the Colorado Rules of Civil Procedure, particularly streamlining procedural motions, the availability of an attorney fee award in any type of contempt, and more specific guidelines for conferral on motions. These are positive changes the Court should approve.

I am, however, concerned by the proposed Rule 16-5 pertaining to Informal Domestic Relations Trials (IDRT). I have numerous concerns regarding how the rule seems to prejudice the procedural rights of litigants who do not have attorneys at the outset of an action.

My first and most significant concern is that Rule 16-5 does not *unequivocally* require that an IDRT must be voluntary for all litigants in all cases. The only circumstance in which the rule unambiguously guarantees a traditional hearing to a litigant who wants one is when at least one party has an attorney at the outset of the case. In all other cases, subsection 16-5(c) states that the court "may" allow parties to opt out of an IDRT, using discretionary language. And if a party begins a case pro se but later retains counsel, then subsection 16-5(a) also gives the court discretion over whether to allow a traditional hearing. To the extent other subsections reference a pro se (or formerly pro se) litigant's ability to object to an IDRT, it is at best ambiguous whether the trial court may nevertheless hold an IDRT over a party's objection. For example, subsection 16-5(a) references a party's ability to "object" to an IDRT, but it does not state whether the trial court must honor every objection made under that subsection. Additionally, subsection 16-5(f)(1) states that parties will be "asked" to affirm their voluntary consent to an IDRT, but subsection 16-5(f)(1) does not explain what the court's options are if a party declines to consent. I am concerned that, to the extent some subsections are ambiguous regarding the court's discretion to require an IDRT over a party's objection, then that ambiguity will be resolved by reading those subsections in harmony with subsection 16-5(c), which *clearly* grants the court discretion to require an IDRT despite a party's timely objection. This likely means that IDRTs will not be voluntary in all cases. Most concerning of all is that the only explicit way a party can unconditionally guarantee their right to a traditional hearing is by having an attorney at the *outset* of the case. This disparate treatment between parties who begin a case with representation and those who do not poses serious concerns regarding (1) access to justice, (2) procedural due process, and (3) equal protection. The rule guarantees the rights of cross-examination, calling witnesses, and objecting to inadmissible evidence *only to those with the financial means and the savviness to hire an attorney at the beginning of an action.* Otherwise, it seems that litigants may

only enjoy these basic procedural rights if a trial court deigns to bestow them in an act of discretion.

Second, another way in which Rule 16-5 treats pro se litigants differently than represented litigants is that pro se (and formerly pro se) litigants are presumed to have an IDRT unless the court allows them to *opt out*, whereas litigants with representation from the outset are presumed to have a traditional hearing unless the parties voluntarily *opt in* to an IDRT. The trial court has discretion to deny a pro se litigant's request to opt out of an IDRT, but the trial court cannot force a represented litigant to opt in to an IDRT. These different procedures and standards for determining whether to hold an IDRT appear to be based solely on the litigants' representation status, with represented parties receiving more power to retain their procedural rights under the opt in system than pro se (or formerly pro se) litigants have under the opt out system.

Third, the rule is ambiguous as to what advisement, if any, litigants must receive before they decide whether to consent or object to an IDRT. Subsection 16-5(f)(1) indicates that, "at the beginning of an IDRT," parties will be asked to affirm that they understand the IDRT rules and procedures and that they voluntarily consent to an IDRT. While the rule apparently requires litigants to understand *IDRT* procedures, the rule does not expressly require that litigants be advised of the *traditional* procedural rights they would be *giving up* by consenting to an IDRT. The rights to call witnesses, to cross examine, and to object to inadmissible evidence are fundamental to the truth-seeking process. Litigants, particularly pro se litigants, should not be asked to consent to an IDRT without an advisement of the crucial rights they are surrendering and adequate time to contemplate their decision and seek legal advice.

Fourth, it is unclear when in the proceeding the colloquy described in 16-5(f)(1) is supposed to occur. The rule requires the colloquy to occur "at the beginning of an IDRT," but does not explain whether that means the beginning of the *action* or the beginning of the

permanent orders *hearing*. Statutory construction methods suggest it is the latter. Generally, a term is presumed to have the same meaning every time it is used in the same rule. Throughout the proposed Rule 16-5, the term "IDRT" is used in context to refer specifically to the permanent orders *hearing* and not to the entire action. Moreover, the 'T" in IDRT stands for "trial," a word that in everyday usage refers to an evidentiary hearing (especially the final, dispositive hearing) and not to the action as a whole. Thus, the phrase "at the beginning of an IDRT" in subsection 16-5(f)(1) presumably means the beginning of the permanent orders hearing. However, at the time of the permanent orders hearing, the deadlines to request an opt-out under subsection 16-5(c) will have already passed. Therefore, this is too late in the process to have any meaningful colloquy to assure the litigants understand and consent to an IDRT.

Fifth, any procedure that suspends the rules of evidence will likely harm the children of Colorado. Not only does subsection 16-5(b) allow the trial court to admit evidence that would be inadmissible under the Colorado Rules of Evidence, but subsection 16-5(f)(7) affirmatively *requires* the court to admit *every* exhibit that is offered. Thus, any argument against an exhibit would only ever go to weight, but never to admissibility. There are likely many unforeseen consequences to nullifying the rules of evidence, but the one that immediately comes to mind is that there would be no limits on the use of child hearsay. Indeed, if a parent hands a child a pen and paper and tells that child to write a letter to the judge choosing which parent that child wants to live with, then the court would have no choice but to receive that letter into evidence. *Without rules of evidence, innumerable parents will be incentivized to bribe, manipulate, or even threaten their children into creating exhibits that the trial court would then be required to receive into evidence.*

I believe that something like an IDRT could be helpful in cases where the parties choose to simplify their trial procedure after a knowing, voluntary, and intelligent waiver of their procedural rights. Not every party wants a traditional hearing, and I have no qualms with giving

litigants more options. However, I am concerned that the rule as currently proposed makes it too easy for unwary pro se litigants to either agree to IDRTs without fully understanding the rights they are waiving, or to unintentionally waive their rights by missing the opt out deadline, or to be involuntarily forced into an IDRT through an act of the trial court's discretion even if they make a timely request for a traditional hearing.

If Rule 16-5 is to be salvaged, then I recommend the following fixes:

1. **A revised rule should remove any distinction between litigants based on their representation status.** The rule as proposed seemingly guarantees greater procedural due process rights to parties with attorneys. For everyone else, those rights are subject to the trial court's discretion. This two-tiered system will create an equal protection question every time a judge uses discretion to deny an IDRT opt out in circumstances where similarly situated litigants would have been entitled to a traditional hearing if they had attorneys.
2. **A revised rule should allow an IDRT only if all parties affirmatively <u>opt in</u>.** Parties should never be trapped into an IDRT because they failed to opt out, nor should the trial court ever have discretion to require an IDRT without the informed consent of all parties.
3. **A revised rule should require that litigants be advised of every procedural right they would be waiving by consenting to an IDRT, this advisement should occur before parties are required to decide on the type of hearing, and litigants should be given adequate time to consult with an attorney before opting in or out of an IDRT.**

I understand that trial courts have strong incentives to reduce their workloads, but sacrificing the due process afforded to pro se (and formerly pro se) litigants is no solution.

Family law matters are not disposable simply because they are numerous and time consuming. The stakes in a family law matter can be a person's children, a person's home, and/or a person's entire livelihood. Because of what these parties have on the line, they deserve trial procedures that are at least as rigorous as those used in general civil proceedings. The procedural rights to present witnesses, to cross-examine, and to object to inadmissible evidence have endured over centuries because courts cannot reliably ascertain the truth without them. Judges are not superhuman lie detectors—they are only as good as the procedures they use for gathering and vetting information. If trial procedures get short shrift, then courts will get questions wrong such as whether or not a person committed domestic violence, whether or not a person has committed child abuse, whether or not a person can survive without maintenance, whether or not a house is separate property, or whether a business is valueless or worth millions—the list of life altering (and potentially life-ruining) determinations is practically infinite. The traditional rules are also critical in facilitating appellate review by ensuring that trial courts only consider appropriate evidence for appropriate purposes, and allowing any error in that regard to be detected from the record of the trial court's evidentiary rulings. Litigants in family law matters, which literally affect every facet of their lives, depend on the rigorous trial procedures that guide factfinders to the truth. Our venerable trial process should never be denied to any litigants who want to avail themselves of it.

Sincerely,

Christopher J. Linas, Esq.

stevens, cheryl

From: mactavish, laurie
Sent: Monday, April 21, 2025 5:33 PM
To: supremecourtrules
Subject: comment on Proposed Colorado Rules of Family Procedure

Follow Up Flag: Follow up
Flag Status: Flagged

Reference to the Child Support Enforcement Unit (CSEU) as Rule 1. (a) and thereafter.

The title was changed to Child Support Services Program (CSSP) from the above several years ago. See www.childsupport.state.co.us

Sincerely,

Laurie Mactavish

Family Court Facilitator, 5th Judicial District
Clear Creek, Eagle, Lake and Summit Counties
(970) 328-8566
laurie.mactavish@judicial.state.co.us

Please note that no filings can be made by email. If your correspondence is related to an active case and you have not included the case number and county of filing, a response to your email may not be possible.

stevens, cheryl

From: Zachary Newland <zach@newlandlegal.com>
Sent: Friday, January 24, 2025 12:01 PM
To: supremecourtrules
Subject: [EXTERNAL] Proposed Colorado Rules of Family Procedure

Hello,

I would like to comment on the Proposed Colorado Rules of Family Procedure.

I do not believe that these are necessary and think they will unduly cause confusion. There is already a lack of familiarity within the family law bar with the Colorado Rules of Civil Procedure.

Creating a separate set of related but different procedural rules will only lead to further confusion given that there is not a specialized bench as well. This seems to be an attempt to end-run around the lack of specialized bench by creating specialized rules of procedure for family law cases that the Bar can later use as an excuse for a specialized bench.

The better approach, in my view, would be to either 1) add these to Title 14 through the legislature or 2) add these to the end of the CRCP with new numbers for those portions which are only applicable to suits under Title 14.

Additionally, there should be language that the CRFP controls however the CRCP controls in the absence of a CRFP rule on point.

If you are going to go to the trouble of creating a CRFP then you should also address in more detail post-decree motions and either 1) treat them like pleadings (requiring admit/deny procedure) or 2) simply treating them as motions. There should also be time limits on motions to enforce the property division if we are wholesale addressing a CFRP in my view.

Additionally, I think the CRFPs should make clear that Trial Management certificates are not required for *all* hearings. For example, motions for temporary orders should be excluded as trial management certificates unnecessarily increase the cost and attorney time required to proceed to temporary orders.

Zachary L. Newland
Principal Attorney
Newland Legal, PLLC
P.O. Box 3610
Evergreen, Colorado 80437
Tel: (303) 948-1489
Email: zach@newlandlegal.com
https://newlandlegal.com

Zachary L. Newland is licensed to practice law in the State of Texas, the State of Colorado, and admitted to practice before the United States Supreme Court as well as the U.S. Courts of Appeals for the 1st, 4th, 5th, 6th, 7th, 9th, 10th, 11th and D.C. Circuits, the U.S. District Courts for the District of Columbia, the Northern District of Texas, the Southern District of Texas, the District of Colorado, the Northern District of Illinois, the Southern District of Illinois, the Central District of Illinois, the Eastern District of Michigan, the Eastern District of Oklahoma, the Northern District of Oklahoma, the Northern District of Indiana, and the Southern District of Indiana.

ROUTT COUNTY
COLORADO

County Attorney Office
522 Lincoln Avenue, Suite 34
Steamboat Springs, CO 80487

www.co.routt.co.us

Erick Knaus
County Attorney
Direct Dial (970) 870-5350
eknaus@co.routt.co.us

Lynaia South
Sr. Assistant County Attorney
Direct Dial (970) 870-5317
lsouth@co.routt.co.us

Mick Hale
Sr. Assistant County Attorney
Direct Dial (970) 870-5254
mhale@co.routt.co.us

Matthew Fredrickson
Assistant County Attorney
Direct Dial (970) 870-5352
mfredrickson@co.routt.co.us

Sent via email at supremecourtrules@judicial.state.co.us

Colorado Supreme Court
2 E. 14th Avenue
Denver, CO 80202

April 24, 2025

RE: Proposed Colorado Rules of Family Procedure (CRFP); Comments

Colorado Supreme Court:

Thank you for reviewing the comments of the Routt County Attorney Office. Each of the four attorneys in this office have been in private practice and have extensive experience with the Colorado Rules of Civil Procedure. These new proposed rules will most directly impact our work on behalf of the Routt County Department of Human Services, Child Support Services Unit. We understand that family cases do present unique and challenging circumstances that deserve special attention. At the same time we urge the Court to not, as they say, fix what is not broken.

The first comment that we offer for your consideration is the use of the term Child Support Enforcement Unit (CSEU). This dated term does not convey the full extent of the work that these offices provide. Child Support Services is the term currently used and supports the fact that the services provided are not intended to be adversarial. We next provide comments by rule.

Rule 1

The CSEU is exempted under these rules unless it enters an appearance in an ongoing case. It seems problematic to exempt CSEU from all of the CRFP when we must bring actions under Title 14; for example, the Uniform Interstate Family Support Act and the Child Support Enforcement Procedures. As the CSEU would be exempt from the CRFP, they would then have to apply the CRCP in cases that they initiate. Consistency would seem to favor the CSEU being subject to the CRFP but exempted from specific rules such as disclosures.

Another example of how this is confusing involves garnishment. The CSEU may need to file a judicial action in order to initiate garnishment proceedings. The CSEU would not be intervening in an ongoing case and thus per Rule 1, it would be exempted from applying the CRFP. It is unclear why the CSEU would have to continually switch between the two sets of rules depending on their filing status.

County Attorney Office
522 Lincoln Avenue, Suite 34
Steamboat Springs, CO 80487
www.co.routt.co.us

Throughout the rules the phrase "both parties" is used. This is confusing if Child Support is also a party. There are other instances when there are more than two parties including when a caretaker intervenes or when there are multiple obligees. Anywhere that the rules state "both," the rule could simple say "all" instead of assuming that family cases only involve just two parents.

Rule 2

Actions under Title 14 are being called "family actions." This has not been carried throughout the new rules. The rules should be consistent in using the term "family actions." Some instances include:

Rule 4: "domestic relations matters"
Rule 121 Section 1-4: "domestic relations case"
Rule 122(a): "civil action"
Form 35.4 and 35.5 Section 2: "domestic relations"

Rule 5

In subsection (a), second line: "every pleading subsequent to the original motion/divorce action being filled." Consider:

1. Reference to divorce action is not an accurate term nor does it encompass all of the original filings that could occur under Title 14. For example, Article 10 of Title 14 references "petitioner in a proceeding for dissolution of marriage or legal separation." To cover all of Title 14, consider "every pleading subsequent to the original petition or motion under Title 14"

2. The word "filled" should be "filed."

Rule 16-1(a)

There is an incorrect reference in "who are not proceeding under C.R.F.P. 123 Informal Trial Rule." The Informal Trial Rule is Rule 16-5.

Rule 16-1(d)

This rule shortens the time for response and reply for non-dispositive procedural issue motions. This could be very helpful in moving family matters through the court in a timelier manner. However, in describing the types of motions to which this rule applies, the reference to "and similar issues" is ripe for litigation every time a party uses the standard response time instead of this shortened response time.

County Attorney Office
522 Lincoln Avenue, Suite 34
Steamboat Springs, CO 80487
www.co.routt.co.us

Rule 16-2(e)(1)

This rule states: "For cases that involve at least one attorney, within 14 days prior to the TMC filing deadline…." As this appears to be the first reference, Trial Management Certificate should be spelled out in order to be clear and also consistent with the rest of the rule.

Rule 16-5

We appreciate the allowance for a more informal trial to allow parties a real opportunity to be heard without the strict application of complicated rules of evidence and procedure. We have personally seen unrepresented parties struggle to understand the rules or process and thus fail to have all facts presented. Application of this rule as written is a bit confusing due to the assumption that these cases have only two parties. If Child Support enters their appearance in an existing case, we would be subject to this rule. Child Support is represented by an attorney. Does this simply remove the applicability of Rule 16-5 since (1) there are more than two parties and (2) one of the parties is represented?

Rule 17(b)

Reference to "father and mother" should be updated to "both parents."

Rule 98

This rule does not reference all the possible actions under Title 14 and thus should have some sort of catch all.

Rule 121

It seems confusing which subsections of the current CRCP have been included under this rule and which have not. For example, Section 1-1 is not listed (therefore we assume the CRCP applies to Entries of Appearance and Withdrawals), yet Section 1-2 is included despite being exactly the same as the CRCP's Section 1-2. Similar issues abound throughout this rule.

Rule 121 Section 1-15

We appreciate the attempts to clarify the duty to confer. Despite this being a seemingly simple duty, we continue to see differences of opinion on the scope of that duty under the current CRCP. We do not support an exclusion that permits ignoring the voice of those that are incarcerated to weigh in on proposed motions. While the means of conferral may be limited, conferral should always be attempted.

We do support language that clarifies that conferral must be done with ALL parties. Although Child Support Services is a party in these cases, it is not always seen as the 'opposing party' and thus conferral with us is often skipped or neglected. We suggest something like: "The moving party shall confer with opposing counsel for all parties and all self-represented parties before filing a motion…."

Rule 122

We do not support the premise that individuals that can afford to pay for a judge be offered a different system than those that cannot afford to pay. This is not consistent with the equal access to justice upon which our system is premised.

Rule 124

There is some misnumbering, and there is also a reference to a footnote but no footnote.

Form 35.4
Pattern Interrogatories 3 and 6

The limits of $5,000 and $10,000 are too high. These figures should return to $1,000. Sales of stock, gifts, and similar transactions are considered income for purposes of child support. We have a case right now that, through smaller transactions over the course of the year, the individual "earned" approximately $65,000 in each of the two years reviewed. These small transactions may be completely missed if the monetary thresholds in the interrogatories are raised.

Patter Interrogatory 8(f)

There are two subsection "fs."

Thank you for your consideration of these comments.

Sincerely,

/s/ Matthew Fredrickson

Matthew Fredrickson
Assistant County Attorney
Routt County Attorney Office
522 Lincoln Avenue, Suite 34
Steamboat Springs, CO 80487
Phone: (970) 870-5352
Email: mfredrickson@co.routt.co.us

3/10/25

RE: Comment re Proposed Rule Changes for Colorado Rules of Family Procedure

To Whom it May Concern:

Please see my comment below regarding Rule 16.2(b)(1)(B).

Requiring the Initial Status Conference (ISC) to be set only at the Petitioner's request after proof of service will likely cause delays and confusion. If the ISC cannot be scheduled until proof of service is provided, it will be challenging to ensure it occurs within 42 days while allowing sufficient notice for all parties. This change may lead to scheduling difficulties, increased court inefficiency, and additional confusion, particularly for pro se parties.

Currently in my district, the ISC is set as soon as the petition is filed, without request from the filing party. If service has not been accomplished prior to the ISC or if the response time has not elapsed at that point, the FCF explains the process and resets the ISC.

Pro se parties are often unfamiliar with the requirements of service (and filing proof of that service). At least 25% of pro se cases do not have service (or have filed proof of service) by the time of the ISC. We set our ISCs between 35 and 41 days from the petition date. If we wait for parties to file proof of service before setting the ISC (and especially if we wait for the party to contact the court to set the ISC) we will not be able to comply with the 42 day requirement.

Comments re: Proposed Rules of Family Procedure

Prepared by Traci Silverberg, Family Court Facilitator for the 7th Judicial District

e-mail: traci.silverberg@judicial.state.co.us

telephone: (970)252-4311

RULE: Rule 16-1 states: " . . . The intent of Rules 16-1 through 16-6 is to provide parties who are not proceeding under the C.R.F.P. 123 Informal Trial Rule with a just, timely, and cost-effective process."

COMMENT: C.R.F.P. 123 relates to CFI appointments so there is an apparent typo here. Is the rule supposed to be referring to C.R.F.P. 16-5? If so, this still doesn't make sense as that Rule just relates to the process of the trial itself and not case processing.

RULE: Rule 10-1(d) states "For all motions involving non-dispositive procedural issues such as requests for extension of time, disputes regarding disclosures or discovery, appointment of experts, requests for status conferences and similar issues, the responding party shall have 7 days after the filing of the motion to file a response and the moving party shall then have 3 days after the filing of the response to file a reply, or as modified by the court for good cause."

COMMENT: A significant number of DR cases have pro se parties who do not have e-filing accounts. These deadlines will never be met by those who receive opposing party's filings by mail.

RULE: Rule 16-2. Rule Regarding Scheduling and Case Management (Formerly C.R.C.P. 16.2(C)) (a) Responsible Party/Attorney (1) Unless ordered otherwise, the Responsible Party/Attorney, as defined herein, shall be responsible for the following procedures for new filings: (A) scheduling the initial status conference and providing notice of the conference to all parties; (B) scheduling ongoing status conferences among the parties; (C) preparing and submitting the Proposed Case Management Order, if applicable; and (D) preparing the Trial Management Certificate.

COMMENT: A pro se petitioner will not understand scheduling the initial conference or ongoing status conferences. They will also not know how to prepare a Case Management Order (in our district, these are prepared by the Court and provide extensive procedural and resource information to the parties). For Trial Management Certificates, there is no such named form for pro se litigants to use. There is a Pretrial Statement (JDF 1129) that they may use if this is intended; however, each party files their own and it is not a joint document.

RULE: Rule 16-2(b) states "Initial status conferences and Stipulated Case Management Plans for Pre-Decree/New Filings: (1) Scheduling: (A) Each judicial district shall establish a procedure for setting the Initial Status Conference, in line with the requirements of this subsection (b)(1). (B) The Responsible Party/Attorney shall be responsible for scheduling the Initial Status Conference after proof of service has been filed with the Court and shall provide notice of the conference to all parties. (C) If, after 21 days from filing the petition, the Responsible Party/Attorney has not been able to obtain service, they shall schedule the Initial Status Conference and shall provide notice of the conference to all parties."

COMMENT: In our district, we issue a Case Management Order at the time the Petition is filed. It includes the Initial Conference info (date, time, place and virtual appearance info) as well as highly pertinent procedural information for the litigants. It is included in the service packet so the Respondent gets it at the earliest possible opportunity. If the Initial Conference isn't scheduled until after there has been service in the case, if the Respondent is served at the Sheriff's Department or at work and their residential address is unknown, the Petitioner may have difficulties getting notice of the initial conference to the Respondent. This will cause more Initial Conferences to be continued and won't be the best use of the Family Court Facilitator's time. It will also create more case reviews (every 21 days after filing to check for ROS and if Petitioner contacted court to schedule Initial Conference).

RULE: Rule 16-2(c)(5) states: (5) Family Court Facilitators may conduct conferences. Family Court Facilitators shall not enter orders but may confirm the agreements of the parties in writing. Agreements which the parties wish to have entered as orders shall be signed by the parties and submitted to the judge or magistrate for approval."

COMMENT: Many Initial Conferences are conducted virtually rather than in-person. One of the primary goals of the Initial Conferences is to facilitate agreements between the parties and to eliminate adversarial hearings. If the parties are able to resolve temporary orders or

other matters at the Initial Conference, our practice is to put the agreement in writing in the Notice re: Initial Conference that the FCF generates and that is referred to the assigned judicial officer to be reviewed and hopefully adopted as an order of the Court. The requirement that the agreement be "signed" is problematic. Fewer agreements will be reached which increases judicial officer workload as well as hostility and uncertainty between the parties.

RULE: Rule 16-5(c) states "Requirements to opt out of an IDRT. . . . A party's decision to opt out must be stated on the record during the initial status conference or in writing using the Notice to Opt Out of an Informal Domestic Relations Trial at least 35 calendar days before the trial date unless good cause is shown."

COMMENT: Most Initial Conferences are not conducted "on the record." It would be best to just delete this from the proposed rule. It could be stated at the initial conference and the FCF would then note in their MINC or in my case the written Notice re: Initial Conference that one of the parties was electing to opt out.

RULE: Rule 17(c) "Infants or Incompetent Persons. Whenever an infant or incompetent person has a representative, such as a general guardian, conservator, or other like fiduciary, the representative may sue or defend on behalf of the infant or incompetent person."

COMMENT: Can "infant" be defined? Is this someone under the age of 18?

RULE: Rule 26(a)(11)(vi) allows for the waiver of mandatory financial disclosures if "neither party has any separate property interests with net equity exceeding $10,000, any interest in a pension, or any interest in a trust."

COMMENT: There are other factors stated as well but it seems the waiver of financial disclosures are typically implemented in cases where the parties either have very limited assets or where they have been married for a very short period of time. This particular provision typically disallows a waiver for those short-term marriages but where a party may have accumulated more significant pre-marital assets. If this provision relates to the separate property component to a marital asset (such as a home that was owned by one of the parties before they were married, they came into the marriage with separate equity, then mortgage payments were made during the short-term marriage) this makes sense but the language should be modified to clarify this. Otherwise, if the language is what was

intended, that a party can't have separate property assets exceeding $10,000 to be eligible for a waiver, that excludes many parties from waivers when the facts may otherwise justify a waiver being permitted. I would prefer to see this provision eliminated or supplemental language added that eliminates this requirement for marriages of 36 or fewer months.

RULE: Rule 37(a)(2) provides "Except as to Mandatory Disclosures under C.R.F.P. 26(a)(2), a motion to compel disclosure or discovery shall be filed within 7 days of the failure to disclose or failure to cooperate. A response to a motion to compel shall be filed within 7 days. No reply shall be permitted. The court may extend these deadlines upon good cause shown or to prevent manifest injustice.

COMMENT: The 7 days to file Motion to Compel and 7 days to Respond requirement is too short of a time for pro se litigants who receive most court filings by mail. It also discourages parties from conferring and trying to work out extensions outside of law and motion work. Either no deadline (like the current CRCP Rule 37) would be appropriate or more time such as 28 days from the failure to disclose/respond with 21 days to then file a Response to the Motion.

RULE: Rule 59 provides: "Motions For Post-Trial Relief (a) Post-Trial Motions. Within 21 days of entry of judgment as provided in C.R.F.P. 58 or such greater time as the court may allow pursuant to a request for an extension of time made within that 14-day period, a party may move for post-trial relief including …"

COMMENT: "that 14-day period" should be corrected to "that 21-day period."

RULE: Rule 121 SECTION 1-10 DISMISSAL FOR FAILURE TO PROSECUTE (a) Upon due notice to the opposite party, any party to a **civil action** may apply to have any action dismissed when such action has not been prosecuted or brought to trial with due diligence.

COMMENT: Change bolded text to "family case."

RULE: Rule 121, Section 1-15(i) states "(i) Unopposed and Joint Motions. All unopposed or joint motions shall be so designated in the title of the motion. Joint motions shall be signed by both parties or their counsel. Conferral on an unopposed motion must include the specific relief requested in the motion. If a motion is partially unopposed, the statement of conferral shall outline in detail which requests for relief are opposed and unopposed. Any

objection to the representation of the non-movant's position in an unopposed motion shall be filed within seven (7) days of service of the unopposed motion.

COMMENT: A 7 day objection time will be insufficient for pro se litigants receiving service by mail. 14 days would be more appropriate.

RULE: Rule 121, Section 1015(l) states "Notice of Impasse. In cases where there is at least one attorney and the parties are unable to agree upon a procedural or discovery dispute, then the parties may prepare a Notice of Impasse according to the following procedure, instead of filing a motion: The initiating party shall provide a 2-page position statement to opposing parties. **Within three business days,** the opposing parties shall provide their position statement in the Notice of Impasse. The initiating party shall file the jointly-signed Notice of Impasse. The Court shall expeditiously issue a written order or set a status conference on the issue." [emphasis added]

COMMENT: A 3-day deadline to file a responsive position statement is not reasonable with a pro se litigant who receives service by mail. 14 days would be more appropriate.

RULE: Rule 121, Section 1-16 reads, "PREPARATION OF ORDERS AND OBJECTIONS AS TO FORM (a) When the Court directs an attorney to prepare a proposed order, the following procedure shall apply, unless otherwise ordered by the court. Within 7 days of being directed to prepare a proposed order, the attorney directed by the court shall prepare the proposed order and shall provide the proposed order to all other parties for approval. All other parties shall have 7 days to communicate to the drafting attorney any requests for changes to the proposed order. If the parties are able to agree on the terms of the proposed order within 3 days of the exchange of changes, the agreed upon proposed order shall be submitted to the court with signatures of all counsel and self-represented parties. If the parties are unable to agree on the terms of the proposed order within 3 days of the exchange of changes, the drafting attorney shall submit timely the proposed order to the court with a notation that the proposed order has not been agreed upon by all parties. **A party objecting to the form of the proposed order filed with the court shall have 3 days after service of the proposed order to file and serve suggested modifications to the form of the proposed order in a format that highlights the disputed provisions.** (b) In instances where a proposed order must be submitted to the court, but an attorney is not directed by the court to draft the order, **a party objecting to the form of the proposed order filed with the court shall have 3 days after service of the proposed order to file**

and serve suggested modifications to the form of the proposed order in a format that highlights the disputed provisions. [emphasis added]

COMMENT: A 3-day deadline to respond is not reasonable for pro se litigants receiving service by mail. Should be 14 days.

April 23, 2025

Colorado Supreme Court
2E. 14th Avenue
Denver, Colorado 80202

Colorado Judicial Adopted & Proposed Rule Changes

Proposed Comments

1. **Rule 3 – Definitions**
   - Since the definition of a party under the current Rule includes a "private or public entity", and the State of Colorado may be designated as a party, it is propose that CFIs and PREs be included as "third party." This designation is supported by the fact that the respective statutes (CJD 04-08 and CJD 21-02) have already defined each of these roles as "*investigative arms of the Court*"

2. **Rule 5 – Service and Filing of Pleadings and Other Papers**
   - Language to address CFIs and PREs place of service should only include office or waiver of service via email; under no circumstances should the personal residence address be used for service, thereby disclosing such address to a party, which would pose a possible safety concern for the CFI or PRE.
   - Provided that CFIs and PREs are allowed to subscribe to E-filing, they thereby agree to receive E-service, pursuant to C.R.F.P. 121 Section 1-26 ξ 1(d)

3. **Rule 7 – Pleadings allowed: Form of Motions**
   - Under section (b), CFIs and PREs are allowed to file an application to the Court for an order by way of a Status Report, which shall be made in writing; it shall state with particularity the grounds thereof and shall set forth the relief or order sought. This proposal ensures congruency with CJD 04-08, Standard 18, which reads, "*A CFI may communicate with the Court through a Status update or a request with copies to the parties and Counsel…Attorney CFIs shall not communicate with the Court through the filing of motions...*"

4. **Rule 26 – General Provisions governing discovery**
   - (b) Disclosure of Experts (**Use of Experts** (d) (6)): The rule currently reads, "*Unless otherwise ordered by the Court, parental responsibility evaluations and special advocate reports shall be provided to the parties pursuant to the applicable statute*." A proposed change shall read, "*Unless otherwise ordered by the Court, parental responsibility evaluations and ~~special advocate~~* ***Child & Family Investigation*** *reports shall be provided to the parties pursuant to the applicable statute."*

5. **Rule 123 – Regarding CFIs and PREs**
    - **Section (a) Overview: Paragraph (1),** a sentence shall be added to this paragraph to read as follows, "*Such independent experts, referred to as Child & Family Investigators (CFI) and Parental Responsibilities Evaluators (PRE) shall serve as investigative arms of the Court, pursuant to CJD 04-08, Standard 3, and CJD 21-02, Standard 3, respectively*."

    - **Section (a) Overview: A new paragraph should be added, as follows,** *"Consistent with paragraph (1), as investigative arms of the Court, all CFIs and PREs shall be granted quasi-judicial immunity while acting in their role within the course and scope of their appointment, and until their appointed is terminated by the Court."*

    - **Section 2: The current Rule reads, "***The CFI or PRE is not required to sign a waiver of service to be required to appear at a hearing."* **It is recommended that additional language be added to this section to reflect the corresponding statutes, and to read as follows**, "*In the event that in the order of appointment the Court does not direct the CFI or PRE to appear in Court, a party or his/her Counsel may subpoena the CFI or the PRE at their place of business or by allowing the CFI/PRE to sign a waiver of service.*" In addition, "*Payment of a CFI's testimony fee shall be made within seven days of the request for the CFI to testify, but in no case later than 48 hours before the hearing, paid by the requesting party, subject to reallocation at the hearing. If the Court orders the CFI to testify prior to a request from either party, the Court shall state how the testimony fee is to be paid,* ***pursuant to CJD 04-08, Section III (A) (2)"***

April 24, 2025

VIA EMAIL ONLY
Colorado Supreme Court Rules Committee
2 East 14th Avenue
Denver, Colorado 80202
supremecourtrules@judicial.state.co.us

Re: Proposed Colorado Rules of Family Procedure
Family Law Section Executive Council - Comment

To Whom it May Concern:

I am the Chair of the Family Law Section of the Colorado Bar Association. I write to you in my official capacity to provide the Family Law Section Executive Council's comments regarding the proposed Colorado Rules of Family Procedure. In concept, the members of the Executive Council generally approve of the proposed rules. Executive Council members have repeatedly stated how much they appreciate the hard work that went into drafting these proposed rules. Although it is unlikely that we would ever get unanimous approval of these rules, I can say that the level of participation by Executive Council members in this review process was extraordinary.

1) Scope of Authority

As stated in the section bylaws, the purpose of the Family Law Section includes promoting the welfare of Colorado children and families; aiding practitioners in the development of skills and resources for the practice of family law; furthering the field of family law through appropriate legislation, rules and education; fostering a mutually cooperative relationship with courts handling family law matters, and coordinating work with those interested in improvement of the administration of justice in family law. The duties of the Executive Council, again as set forth in our bylaws, include among other things, representation of the Section on policy matters and legislative matters, as well as short and long range planning for all areas of concern to the Section. As such, I believe the section is uniquely situated to comment on these proposed rules.

2) Process

Since receiving notice of the proposed rules, the Executive Council has made this issue its primary focus. The Notice of Public Hearing and Request for Comments has been disseminated via email to our entire membership on several occasions.

We have addressed the proposed rules at two of our regular monthly meetings with 30-50 members in attendance (elected members and former section chairs), as well as in five separate Special Meetings called for the sole purpose of reviewing and analyzing the rules. At each session we had a quorum of members attending and thoughtfully commenting and redlining the proposed rules. The Executive Council has received comments from section members, Executive Council

members, and former Executive Council chairs. Although we did not incorporate all feedback into the final redline, we considered all of the comments we received during this process. We also repeatedly encouraged section members to comment and testify at the upcoming hearing in their individual capacities as family law practitioners.

During the process, we created a redline of the proposed rules which incorporates the proposed changes which came out of our meetings, lists the missing rules that we are requesting be included, and includes a redline Form 35.1 which we are asking be included as well. These documents were sent to the voting members of the Family Law Section Executive Council on April 22, 2025. With a quorum, 26 voted in favor of adopting Attachments 1, 2 and 3 as the position of our section leadership. Only one opposed. As a result, Attachments 1, 2, and 3 are the position of the Family Law Section regarding the proposed rules – in other words, the Family Law Section approves adopting the proposed rules with the changes reflected in Attachments 1, 2 and 3.

Once approved by the Executive Council, the packet consisting of Attachments 1, 2 and 3, was sent to all Family Law Section members via email with a message indicating that the packet represents the proposed changes approved by the Executive Council. The section members are not required to vote on rule changes, and did not vote on the attached. Instead, members were encouraged to review the packet and, if they did not agree with the proposed changes, provide their own comments or sign up to testify at the hearing.

3) Proposed Changes

As mentioned above, the attached redline reflects the comments approved by the Family Law Section Executive Council. For the most part, the proposed changes are self-explanatory. However, we wanted to highlight some of our proposed changes below:

a) We are asking that the omitted Rules of Civil Procedure set forth in Attachment 1 – Missing Rules and Forms be incorporated into the Rules of Family Procedure. The reasons for this proposal are threefold:
    i. First, a good number of the rules that have been omitted from the proposed rule packet are rules that are regularly used by the attorneys who commented. Some examples include rules regarding Dismissal of Actions, Declaratory Judgments, Replevin, Spurious Liens, a number of the Statewide Practice Standards, and Bonds. Attachment 1 lists all of the omitted rules and recommends which rules should be incorporated into the Rules of Family Procedure.
    ii. Second, family law practitioners are largely solo practitioners or small firm attorneys. Requiring these attorneys to maintain rule books both for the full Rules of Civil Procedure as well as the Rules of Family Procedure is going to double the cost of rule books for those attorneys. The section recognizes that this issue will likely become less pressing as older attorneys retire and younger attorneys who are comfortable accessing the rules online move into the practice of family law. Nonetheless, this is a current concern for our membership.

iii. Third, it is difficult and complicated to toggle between two sets of rules. It would simply be easier to have all of the rules that family law practitioners use in a single set of rules.

b) We are asking that Form 35.1, as redlined in Attachment 2 – Form 35.1 Redline, be incorporated into the proposed rules with changes including the addition of credit reports (necessary to establish the scope of marital debt), actual Plan Documents for retirement plans (Summary Plan Descriptions do not govern retirement plans), a request for statements identifying each Venmo/Cash App/Paypal/Zelle or other peer-to-peer payment app, most recent Social Security Earnings Statement (imperative for establishing earning capacity), and trust documents for each trust in which a party is a settlor, beneficiary or holds a power of appointment. These requests belong in the initial disclosures so that both parties and the judicial officer understand the scope and complexity of the issues at the very beginning of the case. Parties should not have to incur the expense of serving discovery in order to ascertain the information in these initial disclosures under Form 35.1.

c) Attachment 3 is the redline of the proposed rules. Again, as noted above, the proposed changes are mostly self-explanatory. Following are some provisions that may need additional explanation:

i. Rule 1. Paternity is no longer the preferred term. "Parentage" has been substituted throughout.

ii. Rule 16-1(d). While we appreciate the effort to expedite motions, imposing this level of expedited response and reply in every case is unwieldy and unnecessary. Parties can request an expedited briefing schedule if they need it.

iii. Rule 16-2(b)(1)(C). If a party has been unable to serve the other party within 21 days it is highly unlikely that they will be able to provide the missing party with notice of the Initial Status Conference.

iv. Rule 16-2(e)(1). This has been moved to Rule 16-4.

v. Rule 16-3(c)(1). The Executive Counsel feels strongly that the moving party, whether represented or not, should be the Responsible Party/Attorney in all post-decree matters. It is unfair, not to mention expensive, to require the non-moving party to move a post-decree action forward.

vi. Rule 16-5. We have renamed the Informal Domestic Relations Trial ("IDRT") as the Simplified Trial Procedure ("STP") to avoid an unfortunate acronym. Other than a limitation excluding contempt actions from STP, and some clarifying language, the process remains largely unchanged in this redline.

vii. Rule 26(a)(5). There is no reason why the deadlines for expert and lay witness disclosures should be different.

viii. Rule 37(a)(2). The deadlines set forth in this rule are far too ambitious. Imposing a seven-day deadline to review voluminous documents and determine whether to file a Motion to Compel guarantees a slew of Motions to Extend the Deadline to file Motion to Compel.

ix. Rule 53(i)(2). We are proposing adding seven days to the deadlines to object or move to modify Special Master orders.

x. Rule 54(c). The way this is drafted, it puts the burden on the non-governmental party to find a statute permitting an award of costs against the government.

Since an award of costs against the government is likely to occur only where the government has been misbehaving, the burden should be on the government to provide the authority stating why an award of costs is not permitted.

xi. Form 35.4 – Pattern Interrogatories. We are requesting that former pattern interrogatory #2, requesting a detailed list of all other places of employment during the marriage, be added back to Form 35.4. The information requested in this pattern interrogatory is needed to establish work history for cases involving a determination of earning capacity. For the same reason, we are requesting that former pattern interrogatory #3, requesting information regarding level of education, training, degrees and certifications be added back in. The members of the Executive Council feel strongly that this information is needed in cases involving voluntary underemployment.

xii. Form 35.5 – Pattern Requests for Production. We are requesting a change to the RFP regarding investments and stock rights. As proposed, the question includes some specific types of nonqualified plans, but leaves out other types. The proposed redline language should capture all alternative compensation arrangements.

d) Finally, while we worked hard to identify and check all of the internal cross-references in the document, we simply ran out of time and are by no means confident that we correctly captured every broken cross reference. We ask that, before the final rules are issued, additional time be spent checking and correcting the internal cross references in the proposed rules.

4) Request to Testify

I am requesting time to testify on behalf of the Family Law Section at the public hearing regarding these comments as well.

In closing, thank you for the opportunity to participate in this process and for your hard work on developing these rules. The Family Law Section Executive Council believes that our shared goal of improving the practice of family law for Colorado families, practitioners and judicial officers will be best served if all of the proposals contained in the attachments to this letter are adopted. Please let me know if you have any questions regarding the attached or want to discuss our proposed changes.

Sincerely,

Kristi Anderson Wells, Esq.
Chair
Family Law Section Executive Council

Encl. Attachment 1 – Table of Missing Rules and Forms
Attachment 2 – Form 35.1 Redline
Attachment 3 – Redline of Proposed Rules

Table of Missing Rules and Forms

Missing CRFP	Title	Recommendation
6	Time	Include
9	Pleading Special Matters	Do not include
14	Third-Party Practice	Include
15	Amended and Supplemental Pleadings	Do not include
18	Joinder of Claims and Remedies	Include
19	Joinder of Persons Needed for Just Resolution	Include
20	Permissive Joinder of Parties	Include
21	Misjoinder and Nonjoinder of Parties	Include
22	Interpleader	C.R.C.P. 22 is inapplicable to family law cases. Do not include
23	Class Actions	C.R.C.P. 23 is inapplicable to family law cases. Do not include
25	Substitution of Parties	Include
27	Depositions before Action or Pending Appeal	Include
38	Right to Trial by Jury	Do not include
39	Trial By Jury or by the Court	Do not include
40	Assignments of Cases for Trial	Include
41	Dismissal of Actions	Include
42	Consolidation; Separate Trials	Include
42.1	Consolidated Multidistrict Litigation	C.R.C.P. 42.1 is inapplicable to family law cases. Do not include
43	Evidence	Include
44	Proof of official record	Include
44.1	Determination of Foreign Law	Include
46	Exceptions Unnecessary	Include
47	Jurors	C.R.C.P. 47 is inapplicable to family law cases. Do not include
48	Number of Jurors	C.R.C.P. 48 is inapplicable to family

		law cases. Do not include
49	Special Verdicts and interrogatories	C.R.C.P. 49 is inapplicable to family law cases. Do not include
50	Motion for Directed Verdict	C.R.C.P. 50 is inapplicable to family law cases. Do not include
51	Instructions to Jury	C.R.C.P. 51 is inapplicable to family law cases. Do not include
51.1	Colorado Jury Instructions	C.R.C.P. 51.1 is inapplicable to family law cases. Do not include
52	Findings by the Court	Include
57	Declaratory Judgments	Include
61	Harmless Error	Include
63	Disability of a Judge	Include
65	Injunction	Include only C.R.C.P. 65(h). Make languages of C.R.C.P. 65(h) the whole of C.R.F.P. 65
67	Deposit in Court	Include
71	Process in Behalf of and Against Persons Not Parties	Include
77	Courts and Clerks	Include
78	Motion Day	Include
79	Records	Include
81	Applicability in General	C.R.C.P. 81 is inapplicable to family law cases. Do not include
82	Jurisdiction Unaffected	Include
84	Forms	Include
86	Pending Water Adjudications	C.R.C.P. 86 is inapplicable to family law cases. Do not include

87	Application following Water Rules	C.R.C.P. 87 is inapplicable to family law cases. Do not include
88	Judgments and Decrees	C.R.C.P. 88 is inapplicable to family law cases. Do not include
89	Notice When Priority Antedating an Adjudication is Sought	C.R.C.P. 89 is inapplicable to family law cases. Do not include
90	Disposition of Water Court Applications	C.R.C.P. 90 is inapplicable to family law cases. Do not include
91	Entry of Decree when NO protest has been filed	C.R.C.P. 91 is inapplicable to family law cases. Do not include
92	Conditional Water rights	C.R.C.P. 92 is inapplicable to family law cases. Do not include
97	Change of Judge	Include
100	Contested Election	C.R.C.P. 100 is inapplicable to family law cases. Do not include
102	Attachments	Include
104	Replevin	Include
105	Actions concerning Real Estate	Include
105.1	Spurious Lien or Document	Include
106	Forms of Writs Abolished	Do not include
106.5	Correctional Facility Quasi Judicial Hearing Review	C.R.C.P. 106.5 is inapplicable to family law cases. Do not include
108	Affidavits	Include
110	Miscellaneous	Include
120	Orders Authorizing Sale Under Power in Deeds of Trust to the Public Trustee	Do not include

120.1	Order Authorizing Expedited Sale Pursuant to Statute	Do not include
121	Local Rule- Statewide Practice Standards	Include
121 1-1	Entry of Appearance and Withdrawal	Include
121 1-3	Jury Fees	"There is no C.R.F.P. 121 Section 1-3 and C.R.C.P. 121 Section 1-3 is inapplicable to family law cases"
121 1-6	Settings For Trials or Hearings/Settings by Telephone	Include
121 1-7	Audio-Visual Devices	Include
121 1-13	Deposition By Audio Tape Recording	Include (but update cross reference to the appropriate C.R.F.P. section)
121 1-14	Default Judgments	Include
121 1-18	Pretrial Procedure, Case Management, Disclosure And Simplification Of Issues	Include (but update cross reference to the appropriate C.R.F.P. section)
121 1-19		C.R.C.P. 121 Section 1-19 is inapplicable to family law cases. Do not include
121 1-20	Size and Format of Documents	Include (but update cross reference to the appropriate C.R.F.P. section)
121 1-23	Bonds in Civil Actions	Include
Form 35.1	Mandatory Disclosure	Include (with proposed revisions)

Attachment 2 - FORM 35.1
MANDATORY DISCLOSURES

[Reference to C.R.C.P. 16.2(e)(2). These disclosure forms are not to be filed with the court, except as may be ordered pursuant to C.R.C.P. 16.2]

Mandatory Disclosures. (Complete and accurate copies may replace originals. "Child(ren)" refers to minor child(ren) of both parties.)
Each party shall provide:

(a) Sworn Financial Statement. A completed and signed Sworn Financial Statement using the Supreme Court approved form (Form 35.2).

(b) Income Tax Returns (Most Recent 3 Years). The personal and business federal income tax returns for the three years before filing of the petition or post-decree motion. The business returns shall be for any business in which a party has an interest entitling the party to a copy of such returns. Each return shall include all schedules and attachments, such as W-2s, 1099s, and K-1. If a return is not completed at the time of disclosure, include the documents necessary to prepare the return, such as W-2s, 1099s, and K-1s, copies of extension requests, and the estimated amount of tax payments. If a decree has been entered within the last three years, only those returns filed since entry of the decree need be provided.

(c) Personal Financial Statements (Last 3 Years). All personal financial statements, statements of assets or liabilities, and credit or loan applications prepared during the last three years. If a decree has been entered within the last three years, only those statements/applications prepared since entry of the decree need be provided.

(d) Business Financial Statements (Last 3 Years). For every business in which a party has access to financial statements, the last three fiscal years' financial statements, all year-to-date financial statements, and the same periodic financial statements for the prior two years. If a decree has been entered within the last three years, only those statements prepared since entry of the decree need be provided.

(e) Real Estate Documents. The title documents and all documents stating value of all real property in which a party has a personal or business interest. This section shall not apply to post-decree motions unless so ordered by the Court.

(f) Personal Debt. All documents creating debt, and the most recent debt statements showing the outstanding balance and payment terms. This section shall not apply to post-decree motions unless so ordered by the Court.

(g) Credit Reports. A complete credit report from all three major credit reporting agencies (Experian, Transunion, Equifax) dated within the last 30 days. The federal trade commission permits individuals to receive free credit reports from all three credit reporting agencies every twelve months at www.AnnualCreditReport.com.

(~~g~~h) Investments. The most recent account statements or other documents identifying each investment in which a party has any personal or business interest, and stating its current value.

(~~h~~i) Employment Benefits. The most recent account statements or other documents identifying each employment benefit of a party, and stating the current value.

(~~i~~j) Retirement Plans. The most recent documents identifying each retirement of which a party is a beneficiary, ~~and~~ stating the current value, and the ~~Summary Plan Descriptions~~ governing Plan Documents (the Summary Plan Description is not sufficient). This section shall not apply to post-decree motions unless so ordered by the Court.

(~~j~~k) Bank/Financial Institution Accounts. The most recent account statements identifying each account of a party at banks and other financial institutions, and stating the current value.

(~~k~~l) App-Based Statements. The most recent account statements identifying each Venmo, Cash App, Paypal, Zelle, or other similar peer-to-peer payment apps, stating the current value.

(m) Income Documentation. For each income source of a party in the current and prior calendar year, including income from employment, investment, government programs, gifts, trust distributions, prizes, and income from every other source, pay stubs, a current income statement, and the final income statement for the prior year. Each self-employed party shall provide a sworn statement of gross income, business expenses necessary to produce income, and net income for the three months before filing of the petition or post-decree motion.

(~~l~~n) Employment and Education-Related Child Care Documentation. Any documents that show a party's average monthly employment-related child care expense, including child care expense related to the party's education and job search. This section shall apply only if child support is an issue.

(~~m~~o) Insurance Documentation. All life, health, and property insurance policies and current documents that show beneficiaries, coverage, cost (including the portion payable to provide health insurance for child(ren)), and payment schedule. The section shall not apply to post-decree motions unless either so ordered by the Court or, if child support is an issue, the policy and cost information regarding the child(ren) shall be provided.

(~~n~~p) Extraordinary Child(ren)'s Expense Documentation. All documents that show average monthly expense for all recurring extraordinary child(ren)'s expenses. This section shall apply only if child support is an issue.

(q) A current Social Security Earnings statement dated within the last 30 days. Individuals can access their Social Security Earnings statement at the following website at https://www.ssa.gov/myaccount/statement.html.

(r) For each trust in which a party is a settlor, beneficiary or holds a power of appointment, a copy of the trust document.

(s) Unless so ordered by the Court, these mandatory disclosures shall not apply to post-decree motions that raise only issues of decision-making and parenting time.

Notes:

1. Add in omitted Rules and Forms from Attachment 1 – Table of Missing Rules and Forms.
2. Double check all internal cross-references as there are quite a few that appear to be incorrect.

Rule 1. Scope of Rules

(a) Scope and Purpose; Procedure Governed. Family members stand in a special relationship to one another and to the court system. It is the purpose of the C.R.F.P. to provide a uniform procedure for resolution of all issues in domestic relations cases that reduces the negative impact of adversarial litigation wherever possible. To that end, the C.R.F.P. contemplate management and facilitation of the case by the court, with the disclosure requirements, discovery and hearings tailored to the needs of the case. These rules govern the procedure in the supreme court, court of appeals, and district courts in all actions and proceedings under Title 14 of the Colorado Revised Statutes and all juvenile, parentage, and probate cases involving adoptions, allocation of parental responsibilities, determination of parentage actions, child support, and related matters. The Child Support Enforcement Unit (CSEU) shall be exempted under these rules unless the CSEU enters an appearance in an ongoing case. Upon the motion of any party or the court's own motion, the court may order that these rules shall govern juvenile, ~~paternity~~ parentage or probate cases involving allocation of parental responsibilities (decision-making and parenting time), child support and related matters. These rules shall be liberally construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action.

(b) Licensed Legal Paraprofessionals ("LLPs"). C.R.F.P. 1 through C.R.F.P. 124 shall apply to licensed legal paraprofessionals when consistent with the scope of practice authorized by C.R.C.P. 207.1.

(c) Effective Date. Amendments of these rules shall be effective on the date established by the Supreme Court at the time of their adoption, and thereafter all ~~laws~~ rules in conflict therewith shall be of no further force or effect. Unless otherwise stated by the Supreme Court as being applicable only to actions brought after the effective date of an amendment, they govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending,
except to the extent that in the opinion of the court their application in a particular action pending when the rules take effect would not be feasible or would work injustice, in which event the former procedure applies.

(d) Civil Rules. If language in these rules is substantially the same as language in the civil rules, case law interpreting the language of the civil rules shall apply to these rules. If these Rules are silent as to a matter addressed in the civil rules, the civil rules shall apply.

(e) How Known and Cited. These rules shall be known and cited as the Colorado Rules of Family Procedure, or C.R.F.P.

Rule 2. Form of Action

The forms of actions that are known as "family actions" are those that may be brought under Title 14 of the Colorado Revised Statutes. This Rule shall be construed broadly and is not intended to prohibit the consolidation of cases.

Rule 3. Definitions

(a) Party. A "party" is an individual, or a private or public entity, designated in a pleading as a petitioner, respondent, co-petitioner, intervenor, or third party. The State of Colorado may be designated as a party.

(1) A "Petitioner" is the person or entity that files the first petition.

(2) A "Respondent" is any opposing party other than the petitioner.

(3) A "Co-Petitioner" is any opposing party other than the petitioner that files the petition with the petitioner.

(4) The Petitioner and Respondent/Co-Petitioner shall be referred to by those designations in all later filings in the same case, including motions and post-decree or post-judgment petitions. For purposes of these Rules, wherever applicable, Plaintiff is the same as Petitioner and Defendant is the same as Respondent.

(b) Domicile. The place one resides and intends to remain permanently or for an indefinite amount of time. Once established in one place, a person remains domiciled there until they clearly show intent to establish domicile elsewhere.

(c) Residence. The place where a party is physically present, where they live or reside.

(d) Dissolution of Marriage/Petition for Dissolution of Marriage. Defined under C.R.S. § 14-10-106 and C.R.S. § 14-10-107.

(e) Dissolution of Civil Unions/Petition for Dissolution of Civil Unions. Defined under C.R.S. § 14-10-106.5.

(f) Legal Separation/Petition for Legal Separation. Defined under C.R.S. § 14-10-106, C.R.S. § 14-10-106.5 and C.R.S. § 14-10-107.

(g) Declaration of Invalidity. Defined under C.R.S. § 14-10-111.

(h) Allocation of Parental Responsibilities. Defined under C.R.S. § 14-10-123.

(i) Pleading. A "pleading" is a document filed under C.R.F.P. 7.

(j) Motion. A "motion" is defined under C.R.F.P. 7.

(k) Witness. A "witness" is a person whose testimony under oath or affirmation is offered as evidence for any purpose, whether by oral examination, deposition, or affidavit.

(l) Licensed Legal Paraprofessionals ("LLPs"). Licensed Legal Paraprofessionals ("LLPs") are individuals licensed by the Supreme Court pursuant to C.R.C.P. 207.1. to perform certain types of legal services only under the conditions set forth by the Supreme Court. They do not include individuals with a general license to practice law in Colorado. The word "attorney" in these rules apply to LLPs to the extent permitted under C.R.C.P. 207.1.

(m) Family Actions. A "family action" is synonymous with the terms "family case" and "domestic relations" as used in these Rules.

Rule 4. Process

(a) To What Applicable. This Rule applies to all process related to all domestic relations matters, except as otherwise provided by these rules.

(b) Issuance of Summons by Attorney or Clerk. The summons may be signed and issued by the clerk, under the seal of the court, or it may be signed and issued by the attorney for the petitioner. All other process shall be issued by the clerk, except as otherwise provided in these rules.

(c) Contents of Summons. The summons shall contain the name of the court, the county in which the action is brought, the names or designation of the parties, shall be directed to the respondent, shall state the time within which the respondent is required to appear and defend against the requested relief in the petition, and shall notify the respondent that in case of the respondent's failure to do so, judgment by default may be rendered against the respondent. The summons shall contain the advisements provided in C.R.S. § 14-10-107 (4) (b) (II) and (III).

(d) By Whom Served. Process may be served within the United States or its Territories by any person whose age is eighteen years or older, not a party to the action. Process served in a foreign country shall be according to any internationally agreed means reasonably calculated to give notice, the law of the foreign country, or as directed by the foreign authority or the court if not otherwise prohibited by international agreement.

(e) Personal Service. Personal service shall be as follows:

(1) Upon a natural person whose age is eighteen years or older by delivering a copy thereof to the person, or by leaving a copy thereof at the person's usual place of abode, with any person whose age is eighteen years or older and who is a member of the person's family, or at the person's usual workplace, with the person's supervisor, secretary, administrative assistant, bookkeeper, human resources representative or managing agent; or by delivering a copy to a person authorized by appointment or by law to receive service of process.

(2) Upon a person for whom a conservator has been appointed, by delivering a copy thereof to such conservator.

(f) Other Service. Except as otherwise provided by law, service by mail or publication shall be allowed only in actions affecting specific property or status or other proceedings in rem. Service by publication shall comply with C.R.S. § 14-10-107 (4) (a). The court, if satisfied that due diligence has been used to obtain personal service or that efforts to obtain the same would have been to no avail, shall:

(1) Order the party to send by registered or certified mail a copy of the process addressed to such person at such address. Such service shall be complete on the date of the filing of proof thereof, together with such return receipt attached thereto signed by such addressee, or

(2) Order publication pursuant to C.R.S. § 14-10-107 (4) (a).

(g) Manner of Proof. Proof of service shall be made as follows:

(1) If served personally, by a statement, certified by the sheriff, marshal or similar

governmental official, or a sworn or unsworn declaration by any other person completing the service as to date, place, and manner of service;
(2) If served by mail, by a sworn or unsworn declaration showing the date of the mailing with the return receipt attached, where required;
(3) If served by publication, by a sworn or unsworn declaration that includes the mailing of a copy of the process where required;
(4) If served by waiver, by a sworn or unsworn declaration admitting or waiving service by the person or persons served, or by their attorney;
(5) If served by substituted service, by a sworn or unsworn declaration as to the date, place, and manner of service, and that the process was also mailed to the party to be served by substituted service, setting forth the address(es) where the process was mailed.

(h) Waiver of Service of Summons. A respondent who waives service of a summons does not thereby waive any objection to the venue or to the jurisdiction of the court over the respondent.

(i) Amendment. At any time in its discretion and upon such terms as it deems just, the court may allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process is issued.

(j) Refusal of Copy. If a person to be served refuses to accept a copy of the process, service shall be sufficient if the person serving the process knows or has reason to identify the person who refuses to be served, identifies the documents being served, offers to deliver a copy of the documents to the person who refuses to be served, and thereafter leaves a copy in a conspicuous place.

(k) Time Limit for Service. If a respondent is not served within 63 days (nine weeks) after the petition is filed, the court-on motion or on its own after notice to the petitioner-shall dismiss the action without prejudice against that respondent or order that service be made within a specified time. But if the petitioner shows good cause for the failure, the court shall extend the time for service for an appropriate period. This subdivision (l) does not apply to service in a foreign country under C.R.F.P. 4(d).

Rule 5. Service and Filing of Pleadings and Other Papers

(a) Service: When Required. Except as otherwise provided in these rules, every order required by its terms to be served, every pleading subsequent to the original motion/divorce action being filled, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar paper shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in Rule 4.

(b) Making Service.

(1) Service under C.R.F.P. 5(a) on a party represented by an attorney is made upon the attorney unless the court orders personal service upon the party. A resident attorney, on

whom pleadings and other papers may be served, shall be associated as attorney of record with any out-of-state attorney practicing in any courts of this state.
(2) Service under C.R.F.P. 5(a) is made by:
(A) Delivering a copy to the person served by:
(i) handing it to the person;
(ii) leaving it at the person's office with a clerk or other person in charge, or if no one is in charge, leaving it in a conspicuous place in the office; or
(iii) if the person has no office or the office is closed, leaving it at the person's dwelling house or usual place of abode with someone 18 years of age or older residing there;
(B) Mailing a copy to the last known address of the person served. Service by mail is complete on mailing;
(C) If the person served has no known address, leaving a copy with the clerk of the court; or
(D) Delivering a copy by any other means, including E-Service, other electronic means or a designated overnight courier, consented to in writing by the person served. Designation of a facsimile phone number or an email address in the filing effects consent in writing for such delivery. Parties who have subscribed to E-Filing, pursuant to C.R.F.P. 121 Section 1-26 § 1(d), have agreed to receive E-Service. Service by other electronic means is complete on transmission; service by other consented means is complete when the person making service delivers the copy to the agency designated to make delivery. Service by other electronic means or overnight courier under C.R.F.P. 5(b)(2)(D) is not effective if the party making service learns that the attempted service did not reach the person to be served.

(c) Filing Certificate of Service. All papers after the initial pleading required to be served upon a party, together with a certificate of service, must be filed with the court within a reasonable time after service, but disclosures under Rule C.R.F.P. 26(a)(1) or (2) and the following discovery requests and responses shall not be filed until they are used in the proceeding or the court orders otherwise: (i) depositions, (ii) interrogatories, (iii) requests for documents or to permit entry upon land, and (iv) requests for admission.

(d) Filing with Court Defined. The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with the judge, in which event the judge shall note thereon the filing date and forthwith transmit them to the office of the clerk. A paper filed by E-Filing in compliance with C.R.F.P. 121 Section 1-26 constitutes a written paper for the purpose of this Rule. The clerk shall not refuse to accept any paper presented for filing solely because it is not presented in proper form as required by these rules or any local rules or practices.

(e) Inmate Filing and Service. Except where personal service is required, a pleading or paper filed or served by an inmate confined to an institution is timely filed or served if deposited in the institution's internal mailing system on or before the last day for filing or serving. If an

institution has a system designed for legal mail, the inmate must use that system to receive the benefit of this rule.

Rule 7. Pleadings Allowed: Form of Motions

(a) Pleadings.

(1) Petition. A "petition" is the initial pleading that begins a family action. A party begins an action by filing a verified petition seeking:
(A) dissolution of a marriage - legal separation (C.R.S. § 14-10-106);
(B) dissolution of a civil union - legal separation (C.R.S. § 14-10-106.5);
(C) declaration of invalidity (C.R.S. § 14-10-111);
(D) allocation of parental responsibilities (C.R.S. § 14-10-123);
(E) register a Support Order (C.R.S. § 14-5-601, 602, and 616);
(F) register a Foreign Decree (C.R.S. § 14-11-101);
(G) register a Child Custody Determination (C.R.S. § 14-13-305 and C.R.S. § 14-13-308);
(H) abduction prevention measures (C.R.S. § 14-13.5-101);
(I) relief otherwise authorized by statute or other law.
(2) Response to Petition. A response to a petition is a document that substantially answers a petition. A party who is served with a petition may file a response which may include additional claims for relief.
(3) Reply. A reply is permitted unless otherwise ordered by the court.
(4) No other pleading shall be allowed, except upon order of court.

(b) Motions and Other Papers.

(1) An application to the court for an order shall be made by motion which, unless made during a hearing or trial, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought.
(2) These rules applicable to captions, signing and other matters of form of pleadings apply to all motions and other papers provided for by these rules.

Rule 8. General Rules of Pleadings and Motions

(a) Claims for Relief. A pleading or motion which sets forth a claim for a relief shall contain:
(1) A short and plain statement of the grounds for the court's jurisdiction;
(2) a short and plain statement of the claim showing that the filing party is entitled to relief;
(3) a demand for the relief sought to which the filing party claims to be entitled. Relief in the alternative or of several different types may be demanded; and

(4) Any information required by statute or other law.

(b) Responses: Form of Denials. A party's response shall state in short and plain terms their defenses to each claim asserted and shall admit or deny the averments of the adverse party. If the responding party is without knowledge or information sufficient to form a belief as to the truth of an averment, they shall so state and this has the effect of a denial. When a responding party intends in good faith to deny only a part or a qualification of an averment, they shall specify so much of it as is true and material and shall deny only the remainder. Unless the responding party intends in good faith to controvert all the averments of the preceding pleading or motion, they may make their denials as specific denials of designated averments or paragraphs, or they may generally deny all the averments except such designated averments or paragraphs as they expressly admit; but, when they do so intend to controvert all its averments, including averments of the grounds upon which the court's jurisdiction depends, they may do so by general denial subject to the
obligations set forth in Rule 11.

(c) Effect of Failure to Deny. Averments in a pleading or motion to which a responsive pleading is permitted but not required shall be taken as denied or avoided if no responsive pleading is filed.

(d) Concise and Direct: Consistency. Each averment of a pleading or motion shall be simple, concise, and direct. When a filing party is without direct knowledge, allegations may be made upon information and belief. Pleadings or motions otherwise meeting the requirements of these rules shall not be considered objectionable for failure to state ultimate facts as distinguished from conclusions of law.

(e) Construction. All pleadings and motions shall be so construed as to do substantial justice.

Rule 9. Capacity and Parties in Initial Pleadings

(a) Real party in interest. A family action shall be filed in the name of the real party in interest.

(b) Capacity. It is not necessary to aver the capacity of a party to file or defend a family action. When a party wishes to raise the issue of capacity to file or defend a family action, such party shall raise the issue in his response, or by motion prior to filing his response. The issue of capacity shall be raised with particularity, as is within the knowledge of the party.

(c) Identification of unknown party. If a party is unknown or their name is unknown as the time of filing an initial family action, such unknown party shall be designated in the case caption as "John Doe" or "Jane Doe." If the identity of the unknown party is discovered any time after filing, the case caption shall be updated by replacing the party's designation with the true name of that party.

(d) Interest of unknown parties. If a party has a reasonable belief that a person or entity may have an interest in the family action at the time of filing the petition, the party may designate

such unknown person or entity in the case caption as "John Doe," "Jane Doe," or "Unknown Entity with Interest." If a party asserts an unknown person may have an interest in the family action, the party shall so state the unknown person's possible interest with particularity.

(e) Incapacitated person or adult in need of protection. A legal guardian or legal conservator may file or defend a family action for an incapacitated person or an adult in need of protection as set forth in C.R.S. §15-14-315.5 and §15-14-425.5.

(f) Minor. A legal guardian, a legal conservator, or a parent may file or defend a family action on behalf of a minor who is a named party in the case. Such legal guardian, legal conservator, or parent shall be designated as "by and through next friend" followed by the guardian's, conservator's, or parent's name.

(g) Action in the name of the state for another's use. When a state statute so provides, a family action for another's use or benefit must be brought in the name of the State of Colorado.

Rule 10. Form and Quality of Pleadings, Motions, and Other Documents

(a) Caption: Names of Parties. All written documents (not including exhibits) shall have a caption, which shall include at a minimum:

(1) Name and Designation of all Parties, including parties whose name is not known, which shall be designated by any name and the words "whose true name is unknown"
(2) Case type (such as Dissolution of Marriage or Allocation of Parental Responsibilities);
(3) Court identification, in the form of: DISTRICT COURT, _____COUNTY, COLORADO;
(4) Mailing address of pleader or pleader's counsel, if represented; and
(5) Title of Document.

(b) Paragraphs; Separate Statements. All statements and claims in a pleading shall be made in numbered paragraphs, broken out by topic. A paragraph may be referred to by its paragraph number in all succeeding documents.

(b) Incorporation by Reference. A statement in a document may be incorporated by reference in a different part of the same document or in another document.

(c) Document Attachments. Additional pages of substantive argument for a motion or pleading (such as information included on a JDF 7 form) shall be filed as part of the motion or pleading and not separately as an exhibit to the motion. Limited exhibits to pleadings subject to the Colorado Rules of Evidence may be filed as separate exhibits.

(d) General Rule Regarding Paper Size, Format, and Spacing. Pre-printed or computer-generated forms designated "JDF" or "SCAO" are deemed to meet the requirements of this rule.

All written documents (excluding exhibits) in domestic relations cases shall comply with this rule or with the style guide issued by the State Court Administrator's Office

(1) Paper. Where a document is filed on paper, it shall be on plain, white, 8 1/2 by 11-inch paper (recycled paper preferred).

(2) Format. All documents shall be legible. They shall be printed on one side of the page only (except for E-Filed documents).
(3) Spacing. All documents (excluding exhibits) not using a JDF form shall be double spaced.
(4) Margins. All documents (excluding exhibits) shall use margins of 1 ½ inches at the top of each page, and 1 inch at the left, right, and bottom of each page. Except for the caption, signature block, and certificate of service, a left-justified margin shall be used for all material.
(5) Page Limits. All documents (excluding exhibits) filed in family cases must follow these page limits, not including the case caption, signature block, certificate of service, and attachments.
(i) Petitions, motions, and responsive briefs are limited to 15 pages;
(ii) Reply briefs are limited to 10 pages.
(6) Bookmarks and Hyperlinks.
(i) Bookmarks. A bookmark is a linked reference to another page within the same document. An electronically filed document may include bookmarks. A document that is incapable of bookmarking may be made accessible by a hyperlink. The use of bookmarks is encouraged.
(ii) Hyperlinks. A hyperlink is an electronic link in a document to another document or to a website. An electronically filed document may include hyperlinks. Material that is not in the official court record does not become part of the official record merely because it is made accessible by a hyperlink. ~~The use of hyperlinks is encouraged.~~
(7) Electronic Document Size. The size limit for each document filed electronically is 1.5 megabytes. Any document which exceeds 1.5 megabytes shall be separated into electronic files of 1.5 megabytes or less each.

(f) Reproduction. Any form required by these rules may be reproduced by word processor or other means, provided that the reproduction substantially follows the format of the form which is reproduces.

Rule 11-1. Signing of Pleadings and Motions

(a) Obligations of Parties and Attorneys. Every pleading or motion of a party represented by an attorney shall be signed by at least one attorney of record in their individual name. The initial pleading shall state the current number of their registration issued by the Supreme Court. The attorney's address and that of the party shall also be stated. A party who is not represented by an attorney shall sign their pleadings or motions and state their address. Except when otherwise specifically provided by rule or statute, pleadings and motions need not be verified or accompanied by affidavit. The signature of an attorney constitutes a certificate by the attorney that the attorney has read the pleading or motion; that to the best of their knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted

by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading or motion is not signed it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader. If the current registration number of the attorney is not included with their signature, the clerk of the court shall request from the attorney the registration number. If the attorney is unable to furnish the court with a registration number, that fact shall be reported to the clerk of the Supreme Court, but the clerk shall nevertheless accept the filing. If a pleading or motion is signed in violation of this Rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading or motion, including a reasonable attorney's fee, provided, however, that failing to be registered shall be governed by Rule 227. Reasonable expenses, including a reasonable attorney's fee, shall not be assessed if, after filing, a voluntary dismissal or withdrawal is filed as to any claim, action or defense, within a reasonable time after the attorney or party filing the pleading or motion knew, or reasonably should have known, that they would not prevail on said claim, action, or defense.

Rule 11-2. Entry of Appearance and Withdrawal

(a) Entry of Appearance. No attorney shall appear in a family action before the court unless that attorney has entered an appearance by filing an Entry of Appearance or signing a pleading. An entry of appearance shall state (a) the identity of the party for whom the appearance is made, (b) the attorney's office address, (c) the attorney's telephone number, (d) the attorney's E-Mail address, and (e) the attorney's registration number.

(b) Withdrawal From an Active Case.

(1) An attorney may withdraw from a case, without leave of court, where the withdrawing attorney has complied with all outstanding orders of the court and either files a notice of withdrawal where there is active co-counsel for the party represented by the withdrawing attorney, or files a substitution of counsel, signed by both the withdrawing and replacement attorney, containing the information required for an Entry of Appearance under subsection (a) of this Rule as to the replacement attorney.

(2) 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 14 days have expired after service of said motion. Every motion to withdraw shall contain the following

advisements:
(i) the client has the burden of keeping the court and the other parties informed where notices, pleadings or other papers may be served;
(ii) if the client fails or refuses to comply with all court rules and orders, the client may suffer possible dismissal, default or other sanctions;
(iii) the dates of any proceedings, including trial, which dates will not be delayed nor proceedings affected by the withdrawal of counsel;
(iv) the client's and the other parties' right to object to the motion to withdraw within 14 days after service of the motion;
(v) if the client is not a natural person, that it must be represented by counsel in any court proceedings unless it is a closely held entity and first complies with section C.R.S. § 13-1-127; and
(vi) the client's last known address and telephone number.
(3) The client and the opposing parties shall have 14 days after service of a motion to withdraw within which to file objections to the withdrawal.
(4) If the motion to withdraw is granted, the withdrawing attorney shall promptly notify the client and the other parties of the effective date of the withdrawal.

(c) Withdrawal From Completed Cases. In any family action 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.F.P. 5. The withdrawal shall automatically become effective 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.

(d) Entries of Appearance and Withdrawals by Members or Employees of Law Firms, Professional Corporations or Clinics. The entry of an appearance or withdrawal by an attorney who is a member or an employee of a law firm, professional corporation or clinic shall relieve other members or employees of the same law firm, professional corporation or clinic from the necessity of filing additional entries of appearance or withdrawal in the same litigation, unless otherwise indicated.

Rule 11-3. Limited Representation (Entry of Appearance and Withdrawal)

(a) Limited Representation

(1) An attorney may undertake to provide limited representation in accordance with Colo. RPC 1.2 to a pro se party involved in a court proceeding. Pleadings or papers filed by the pro se party that were prepared with the drafting assistance of the attorney shall include the attorney's name, address, telephone number and registration number. The attorney shall advise the pro se party that such pleading or other paper must contain this statement. In helping to draft the pleading or paper filed by the pro se party, the attorney certifies

that, to the best of the attorney's knowledge, information and belief, this pleading or paper is (1) well-grounded in fact based upon a reasonable inquiry of the pro se party by the attorney, (2) is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and (3) is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. The attorney in providing such drafting assistance may rely on the pro se party's representation of facts, unless the attorney has reason to believe that such representations are false or materially insufficient, in which instance the attorney shall make an independent reasonable inquiry into the facts. Assistance by an attorney to a pro se party in filling out pre-printed and electronically published forms that are issued through the judicial branch for use in court are not subject to the certification and attorney name disclosure requirements of this Rule.

(2) Limited representation of a pro se party under this Rule shall not constitute a general entry of appearance by the attorney and shall not authorize or require the service of papers upon the attorney. Representation of the pro se party by the attorney at any proceeding before a judge, magistrate, or other judicial officer on behalf of the pro se party constitutes a general entry of appearance, except as provided in (b) of this rule. The attorney's violation of this may subject the attorney to sanctions.

(b) Notice of Limited Representation Entry of Appearance and Withdrawal.

(1) In accordance with sections (a)(1) and (a)(2) of this rule, an attorney may undertake to provide limited representation to a party involved in a court proceeding. Upon the request and with the consent of a party, an attorney may make a limited appearance for the party in one or more specified proceedings, if the attorney files and serves with the court and the other parties and attorneys (if any) a notice of the limited appearance prior to or simultaneous with the proceeding(s) for which the attorney appears. At the conclusion of such proceeding(s), the attorney's appearance terminates without the necessity of leave of court, upon the attorney filing a notice of completion of limited appearance. Service on an attorney who makes a limited appearance for a party shall be valid only in connection with the specific proceeding(s) for which the attorney appears. While the attorney who makes a limited appearance for a party is entered in the case, the attorney shall provide copies of all documents filed and issued in the case to the party they represent until they have filed a notice of completion of limited appearance.

Rule 12. Defenses and Objections: When and How Presented by Pleading Or Motion- Motion for Judgment on Pleadings

(a) When Presented.

(1) Response to Petition
(A) A response to a petition may be filed within 21 days after the service of the summons and petition or pleading.
(B) If the summons is served outside of Colorado or by publication, the time limit for filings under subsection (a)(1) of this rule shall be within 35 days after the service thereof.
(C) The filing of a motion permitted under this rule alters these periods of time; if the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleadings shall be filed within 14 days after notice of the court's action.
(D) A reply, if any, may be filed 7 days after the service of the response.
(2) Response to a Motion
(A) A response to a motion may be filed within 21 days after the service of the motion.
(B) The party who filed the motion may file a reply within 7 days after the service of the response, unless otherwise provided by law.
(3) If a pleading is ordered by the court, it shall be filed within 21 days after the entry of the order, unless the order otherwise directs. The response and reply deadlines are as indicated above.

(b) How Presented.

(1) Every defense, in law or in fact, to a claim for relief in any pleading, shall be asserted in the responsive pleading if one is permitted, except that the following defenses may at the option of the pleader be made by separate motion filed on or before the date the response or reply to a pleading under C.R.F.P. 12(a) is due:
(A) lack of jurisdiction over the subject matter;
(B) lack of jurisdiction over the person;
(C) insufficiency of process;
(D) insufficiency of service of process; or
(E) failure to state a claim upon which relief can be granted.
(2) No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or with any other motion permitted under this Rule or C.R.F.P. 98. If a pleading sets forth a claim for relief to which the adverse party is not required to file a responsive pleading, the adverse party may assert at the trial any defense in law or fact to that claim for relief. If, on a motion asserting the defense (E) to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in C.R.F.P. 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by C.R.F.P. 56.

(c) Motion for Judgment on the Pleadings. After the pleadings are closed but within such time

as not to delay the hearing, any party may move for judgment on the pleadings. If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by C.R.F.P. 56.

(d) Threshold Hearings. The defenses specifically enumerated in subsections (A)-(E) of section (b)(1) of this Rule, whether made in a pleading or by motion, and the motion for judgment mentioned in section (c) of this Rule, shall be heard and determined before hearing on application of any party, unless the court orders that such hearing and determination of the issue be deferred until the trial.

(e) Motion to Strike. Upon motion filed by a party within the time for responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion filed by a party within 21 days after the service of any pleading or motion, 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 set forth in a responsive pleading fails to state a legal defense may be raised by motion filed under this section (e).

(f) Consolidation of Defenses in Motion. A party who makes a motion under this Rule may join with it any other motions herein provided for and then available to that party. If a party makes a motion under this Rule but omits therefrom any defense or objection then available to that party which this Rule permits to be raised by motion, that party shall not thereafter make a motion based on the defense or objection so omitted, except a motion as provided in section (h)(2) of this Rule on any of the grounds there stated.

(g) Waiver or Preservation of Certain Defenses.

(1) A defense of lack of jurisdiction over the person, insufficiency of process, or insufficiency of service of process is waived if it is neither made by motion under this rule nor included in a responsive pleading or an amendment of a responsive pleading permitted by C.R.F.P. 15(a) to be made as a matter of course.
(2) A defense of failure to state a claim upon which relief can be granted, a defense of failure to join a party under Rule 19, and an objection of failure to state a legal defense to a claim may be made in any pleading permitted or ordered under Rule 7(a), or by motion for judgment on the pleadings, or at the trial on the merits.
(3) Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action.

Rule 13. Request for Relief in Responsive Pleadings

(a) Claims Asserted in Responses to Petitions for Dissolution of Marriage or Allocation of Parental Responsibilities. A response to a petition for dissolution of marriage or a response to allocation of parental responsibilities shall state any request for relief which, at the time of filing, the response the pleader has against any opposing party, if it arises out of the subject matter of the opposing party's petition and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction.

(b) Joinder of Additional Parties. Persons other than those made parties to the original action may be made parties to a domestic relations action in accordance with the provisions of C.R.C.P Rule 19 and C.R.C.P. Rule 20.

(c) Claims Against Assignee. Except as otherwise provided by law as to negotiable instruments, any claim or request for relief which could have been asserted against an assignor at the time of or before notice of an assignment, may be asserted against the assignee, to the extent that such claim or request for relief does not exceed recovery upon the claim of the assignee.

(d) Claims Against Personal Representative. The death of a person shall not prejudice the rights of a third person to assert a claim or request for relief surviving death against the personal representative of the deceased in the time and manner provided by law.

Rule 15. Amended and Supplemental Pleadings and Motions

(a) Amendments. A party may amend a pleading or motion, as defined under C.R.F.P. 7~~(a)~~, within 14 days after it is filed. Otherwise, a party may amend a pleading or motion only if permission is granted by the court or the adverse party. Permission shall be freely given when justice so requires. If an amended pleading or motion is filed, a response to an amended pleading or motion, if any, must be filed within 14 days after service of the amended pleading or motion.

(b) Amendments to Conform to the Evidence. If, at trial, a party objects that evidence is not within the issues raised in the pleadings or motion, the court may permit the pleadings or motion to be amended. The court may grant a continuance to enable the objecting party to respond to the evidence. When an issue not raised by the pleadings or motion is introduced at hearing by the parties' express or implied consent, it shall be treated in all respects as if it had been raised in the pleadings or motion. A party may request, at anytime, to amend the pleadings or motion to conform to the evidence. Failure to amend does not affect the result of the hearing on that issue.

(c) Relation Back of Amendments. The amended pleading relates back to the date of the original pleading or motion.

(d) Supplemental Pleadings. Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit them to serve a supplemental pleading or motion setting forth transactions or occurrences or events which have happened since the date of the pleading or motion sought to be supplemented. Permission may be granted even though the original pleading or motion is defective in its statement of a claim for relief or defense. If the court deems it advisable that the adverse party respond to the supplemental pleading or motion, it shall so order, specifying the time therefor.

Rule 16-1. Active Case Management (Formerly C.R.C.P. 16.2(B))

(a) The court shall provide active case management from filing to resolution on all pending issues. The parties, counsel, and the court shall evaluate each case at all stages to determine the scheduling of that individual case, as well as the resources, disclosures/discovery, and experts necessary to prepare the case for resolution. The intent of Rules 16-1 through 16-6 is to provide parties who are not proceeding under the C.R.F.P. 123 Informal Trial Rule with a just, timely, and cost-effective process.

(b) The court shall, prior to setting an evidentiary hearing, inquire of the parties or their counsel whether an expert is needed. Evidentiary hearings shall be set so as to allow sufficient time for the completion of expert reports.

(c) Within 7 days of the filing of a petition, the court shall issue a Case Management Order.

~~**(d)** For all motions involving non-dispositive procedural issues such as requests for extension of time, disputes regarding disclosures or discovery, appointment of experts, requests for status conferences and similar issues, the responding party shall have 7 days after the filing of the motion to file a response and the moving party shall then have 3 days after the filing of the response to file a reply, or as modified by the court for good cause.~~

Rule 16-2. Rule Regarding Scheduling and Case Management (Formerly C.R.C.P. 16.2(C))

(a) Responsible Party/Attorney

(1) Unless ordered otherwise, the Responsible Party/Attorney, as defined herein, shall be responsible for the following procedures for new filings:

(A) scheduling the initial status conference and providing notice of the conference to all parties;

(B) scheduling any court-ordered~~ongoing~~ status conferences, mediations and hearings;

(C) preparing and submitting the ~~Proposed~~ Stipulated Case Management ~~Order~~Plan, if applicable; and

(D) preparing and submitting the Trial Management Certificate.

(2) The Responsible Party/Attorney is defined as:

(A) The moving party if neither party is represented by counsel.

(B) The moving party's counsel, whether or not the non-moving party is also represented by counsel.

(C) The non-moving party's counsel, if the non-moving party is the only party represented by counsel.

(b) Initial status conferences and Stipulated Case Management Plans for Pre-Decree/New Filings:

(1) Scheduling:

(A) Each judicial district shall establish a procedure for setting the Initial Status

Conference, in line with the requirements of this subsection (b)(1).
(B) The Responsible Party/Attorney shall be responsible for scheduling the Initial Status Conference after proof of service has been filed with the Court and shall provide notice of the conference to all parties.
~~(C) If, after 21 days from the filing of the petition, the Responsible Party/Attorney has not been able to obtain service, they shall schedule the Initial Status Conference and shall provide notice of the conference to all parties.~~

~~(D)~~(C) All parties and counsel, if any, shall attend the ~~initial status conference~~Initial Status Conference. Absent good cause, the court shall allow the parties and/or counsel to attend the ~~initial status conference~~Initial Status Conference by telephone or video.
~~(E)~~(D) A party's appearance at the Initial Status Conference may grant the court personal jurisdiction over that party unless the party appears for the purpose of objecting to
jurisdiction.
~~(F)~~(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 42 days from the at issue date.
~~(G)~~(F) At Issue Date: A family action shall be deemed at issue when all parties have been served pursuant to C.R.F.P. 4, upon the filing of a co-petition, or stipulated case management plan, or at other time as the court may direct.
(2) Preparation and Procedure for the Initial Status Conference/Stipulated Case Management Plan:
(A) The parties and counsel shall be prepared to discuss the issues requiring the resolution and any special circumstances of the case. Those topics shall include but are not limited to (1) the use of and deadlines for experts, (2) the need for temporary orders, (3) mediation, (4) anticipated discovery needs, (5) adjustments to the disclosure and pre-trial deadlines outlined in the C.R.F.P., (6) the joinder of additional parties, and (7) emergency matters.
(B) If both parties are represented by counsel, counsel shall engage in conferral as defined by this Rule about the topics to be discussed at the Initial Status Conference 7 days before the Initial Status Conference. If through conferral counsel agrees on all topics to be addressed at the Initial Status Conference, a Stipulated Case Management Plan shall be signed by counsel and the parties and filed with the Court.
(C) At the Initial Status Conference, the court shall set the date for the next court appearance or review of the case. The court may direct one of the parties to send written notice for the next court appearance or may dispense with written notice.
(3) Exceptions to Initial Status Conference:
(A) Parties who file an affidavit for entry of decree without appearance with all required

documents may contact the Court to request exemption from the Initial Status Conference requirement.
(B) When a Stipulated Case Management Plan is filed, parties and counsel are exempted from attendance at the Initial Status Conference, except that the court shall retain discretion to require a status conference after review of the Stipulated Case Management Plan. After the court's review and revision of any provision in the proposed order, it shall be entered as the Case Management Order and served on all parties, including confirmation that the Initial Status Conference has been vacated.
(4) Amendment of Case Management Order:
(A) A party wishing to extend a deadline or otherwise amend the 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.
(B) Any agreed upon amendments to the Case Management Order may be filed as a stipulation.

(c) General Status Conference Procedures

(1) Parties represented by counsel are not required to attend status conferences unless specifically required by the court or if the status conference was requested by a party.
(2) The court shall allow the parties and counsel to attend the conference and any subsequent conferences by telephone or video, unless the court finds good cause to require the parties and/or counsel to appear in person.
(3) At each conference, the parties shall be prepared to discuss what needs to be done and determine a timeline for completion. The parties shall confer in advance on any unresolved issues, including emergencies.
(4) The conferences shall be informal.
(5) Family Court Facilitators may conduct conferences. Family Court Facilitators shall not enter orders but may confirm the agreements of the parties in writing. Agreements which the parties wish to have entered as orders shall be signed by the parties and submitted to the judge or magistrate for approval.
(6) The judge or magistrate may enter interim orders at any status conference either upon the stipulation of the parties or to address emergency circumstances.
(7) The court shall either enter written minute orders or direct counsel to prepare a written order.
(8) The Court may require and set a status conference at any time deemed necessary.

(d) Emergency matters/evidentiary hearings/temporary orders

(1) Forthwith motions are those that have a specific time sensitivity that cannot be resolved within the usual motions practice timeframe.
(2) Emergency motions are those that relate to the imminent danger or harm to the

parties, witnesses, or children in a domestic relations case.
(3) Leave of court is not required prior to filing any emergency or forthwith motions.
(4) Emergency matters, forthwith matters, and threshold issues may be brought to the attention of the clerk or the Family Court Facilitator for presentation to the court to be addressed at the court's discretion. Such attention shall include all parties and counsel. Issues related to children shall be given priority on the court's calendar.
(5) At the request of either party, on referral from the Family Court Facilitator, or on its own motion, the court may ~~either~~ rule based on the filings, conduct an evidentiary hearing to resolve disputed questions of fact or law, subject to the Colorado Rules of Evidence, or set a status conference. The parties shall be given notice of any evidentiary hearing or status conference.
(6) Only a judge or magistrate may determine disputed questions of fact or law or enter orders.
(7) Hearings on temporary orders shall be held as soon as possible. The parties shall certify on the record at the time of the temporary orders hearing that they have conferred, as defined in C.R.F.P. 121 § 1-15(h), and attempted in good faith to resolve temporary orders issues. If the parties do not comply with this requirement, the court may vacate the hearing unless an emergency exists that requires immediate court attention.

(e) Other Pre-Trial Case Management:

~~(1) Pre-JTMC Conferral: For cases that involve at least one attorney, within 14 days prior to the TMC filing deadline, the parties shall confer regarding all matters the party intends to raise at the hearing with specificity, including requests for attorney fees. The Responsible Attorney shall provide a template of the Joint Trial Management Certificate outlining the list of specific matters to be addressed. Absent an emergency motion or motion in limine filed appropriately after that deadline after that deadline, any matters not included on the template seven days prior to the filing deadline shall be excluded from the hearing. If, based on this conferral, either party or counsel believes that it would be helpful to conduct a Trial Management Conference, either party may file a Notice to Set Trial Management Conference, stating the reasons why such a conference is requested. The court may deny the request if appropriate.~~
~~(2)~~(1) Pretrial Motions: Unless otherwise ordered by the court for good cause shown, pretrial motions, including motions in limine, shall be filed no later than 21 days before the trial date. In determining whether to grant the motion, the court has discretion to consider whether it would cause delay.

Rule 16-3. Scheduling and Case Management for Post-Decree/ Modification Matters (Formerly C.R.C.P. Rule 16.2(D))

(a) Within 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.

(b) All emergency and forthwith motions as defined in C.R.F.P. 16-2(c) shall be reviewed by the court on an expedited basis.

(c) Responsible Party/Attorney for Post-Decree Filings:

~~(1)~~ (1) The moving party (the party that filed the post-decree motion) is the Responsible Party/Attorney and ~~if neither party is represented by counsel.~~

~~(2) If the moving party is represented by counse, the moving party's counsel is the Responsible Attorney, whether or not the non-moving party is also represented by counsel.~~

~~(3) If the non-moving party is the only party represented by counsel, the non-moving party's counsel is the Responsible Attorney.~~

~~(4)~~(2) ~~Unless~~ unless otherwise ordered by the court, ~~the Responsible Party/Attorney~~ shall be responsible for the following procedures for post-decree filings:

(A) scheduling court-ordered mediation;

(B) scheduling status conferences; and

(C) preparing and filing the Trial Management Certificate, except when both parties are self-represented, then as stated in C.R.F.P. 16-~~5(1).~~4(a).

Rule 16-4. Trial Management Certificates

(a) If ~~both~~ neither party is~~parties are not~~ represented by counsel, then each party shall file with the court a Trial Management Certificate, which is 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, served on the opposing party at least 7 days prior to the hearing date or, at such other time as ordered by the court. Should a party fail to comply with this Rule, the hearing shall not be continued based solely on that party's non-compliance over the objection of the compliant party.

(b) If at least one party is represented by counsel, the parties shall file a Joint Trial Management Certificate 7 days prior to the hearing date or, at such other time as ordered by the court. The Responsible Attorney~~In pre-decree matters, 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 Joint Trial Management Certificate. ~~In post-decree matters, the moving party's counsel, or opposing counsel if the moving party is pro se, shall be responsible for scheduling meetings among counsel and parties and preparing and filing the Joint 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 Statements, Supporting Schedules, if applicable, and proposed child support worksheets. Should a party fail to comply with the Rule, the hearing shall not be continued based solely on that party's

non-compliance over the objection of the compliant party.

(c) Pre-JTMC Conferral: For cases that involve at least one attorney, within 14 days prior to the TMC filing deadline, the parties shall confer regarding all matters the party intends to raise at the hearing with specificity, including requests for attorney fees. The Responsible Attorney shall provide a template of the Joint Trial Management Certificate outlining the list of specific matters to be addressed. The other side has 72 hours to provide any additions to the list of specific matters to be addressed. Absent an emergency motion or motion in limine filed appropriately after that deadline, any matters not included on the template/response three days prior to the filing deadline shall be excluded from the hearing. If, based on this conferral, either party or counsel believes that it would be helpful to conduct a Trial Management Conference, either party may file a Notice to Set Trial Management Conference, stating the reasons why such a conference is requested. The court may deny the request if appropriate.

(d) The parties shall exchange updated Sworn Financial Statements and disclosures pursuant to C.R.F.P. 26 at least 21 days prior to the hearing.

~~(c)~~**(e)** The parties shall exchange preliminary copies of exhibits they intend to use at least 14 days prior to the hearing date. Exhibits, except for rebuttal or impeachment exhibits, shall be exchanged 7 days prior to the hearing. The Joint Trial Management Certificate shall state which exhibit(s) the parties stipulate are admissible. Only one copy of a stipulated, duplicative exhibit shall be provided to the court, which shall be the petitioner's copy, unless the parties agree otherwise.

~~(d)~~**(f)** If a hearing is set within less than 14 days, the parties shall exchange exhibits, list of witnesses, and any position statements, if required by the court, at least 48 hours prior to the hearing.

~~(e)~~**(g)** The Joint Trial Management Certificate shall state a party's objection to exhibit(s), including the specific grounds and legal authority for the objection. Unless an objection to authenticity, reliability, or relevance is made in the Joint Trial Management Certificate, the following documents are presumptively admissible without further foundation or authentication.

(1) Any document required by Form 35.1, including, but not limited to, statements from a local or federal governmental agency, financial institution, employer, healthcare provider or childcare provider;

(2) Education related records such as school enrollment, attendance records, schedule, calendar, report cards/grades, or school rating information from the Colorado Department of Education, Greatschools.org, or other reliable source;

(3) TalkingParents, Civil Communicator, OurFamilyWizard, or other communication platform records with similar indicia of reliability and completeness;

(4) Publicly accessible real estate and property records or property tax information;

~~(5) Joint appraisals or joint comparative market value reports completed within 1 year before the hearing;~~

~~(6)~~(5) Kelley Blue Book vehicle values, or similar publication;

(6) Labor statistics or any other government publication;

(7) Military or veteran retirement, benefit or pay information, including DFAS pay

charts/scales; and

(8) Prior court orders from the current case or a separate case involving one or both parties.

Rule 16-5 ~~Informal Domestic Relations Trial Rule~~Simplified Trial Procedure

(a) Applicability. Unless one or both parties object or the court orders otherwise, in every original action or modification for dissolution of marriage, legal separation, invalidity of marriage, child support, or allocation of parental responsibilities in which both parties are self-represented, the issues may be resolved through an ~~Informal Domestic Relations Trial~~Simplified Trial Procedure ("~~IDRT~~STP") as provided in this Rule. A written advisement of a party's ability to opt-out of the STP shall be issued with the Case management Order ("CMO") and be given orally at the Initial Status Conference. If either party's representation status changes at any point up to the trial date, the court must allow a party to opt out of the STP.~~, in its discretion, may modify the type of hearing~~.

(b) General. An informal trial is an alternative trial procedure and is not to be used in motions for, or orders regarding, punitive contempt citations under C.R.F.P 107. Under this model, the court may admit any evidence that is relevant and material, despite the fact that such evidence might be inadmissible under formal rules of evidence, and the traditional format used to question witnesses at trial does not apply. In most cases, the only witnesses will be the parties. In the discretion of the court, other relevant witnesses may be called. Nothing in this rule prevents a party from filing a direct appeal of any final judgment or order at the conclusion of the ~~IDRT~~STP.

(c) Requirements to opt out of ~~IDRT~~STP. The court may allow a party to opt out of an ~~IDRT~~STP and request a traditional trial as long as the other party is not prejudiced by the withdrawal. The court will not allow a withdrawal of an election that has the effect of postponing the trial date absent a showing of good cause. A party's decision to opt out must be stated on the record during the initial status conference or in writing using the Notice to Opt Out of ~~Informal Domestic Relations Trial~~Simplified Trial Procedure at least 35 calendar days before the trial date unless good cause is shown.

(d) Requirements to opt in to an ~~IDRT~~STP. If one or both parties are represented by an attorney and there is a consensus among the parties to use the simplified process provided in this Rule, the court in its discretion may allow the informal proceeding upon stipulation in the record. This motion must be made at least 14 calendar days before the trial date unless good cause is shown.

(e) Court's ability to refuse the use of ~~IDRT~~STP.

(1) The court may refuse to allow the parties to use the ~~IDRT~~STP process and direct that a case proceed with a traditional trial. The court may exercise this discretion at any time including after the STP has started, but prior to ruling.

(2) A change in the type of trial may result in a change to the trial date.

(f) The ~~IDRT~~STP will be conducted as follows.

(1) At the beginning of the ~~IDRT~~STP process the parties will be asked to affirm that they understand the rules and procedures of the ~~IDRT~~STP process, they are consenting to this process freely and voluntarily, and they have not been threatened or promised anything for agreeing to the ~~IDRT~~STP process.

(2) In the event a Trial Management Certificate is not filed in the case, t~~T~~he court may ask the parties or their attorney for a brief summary of the issues to be decided. A Trial Management Certificate is preferred, but not required.

(3) The court will allow the moving party to speak to the court under oath concerning all issues in dispute. If a party is represented by an attorney, the attorney may present an offer of proof. The party will not be questioned by the other party or ~~their~~ an attorney, but the court may question the party to develop evidence required by any statute or rule or necessary, in the court's discretion, to address the matters at issue.

(4) The parties will not be subject to cross-examination. However, the court will ask the non-moving party or their attorney whether there are any other areas the party wishes the court to inquire about. The court will inquire into these areas if requested and if relevant to an issue to be decided by the court.

(5) The process in subsections ~~6(e)~~(f)(3) and ~~6(d)~~(f)(4) is then repeated for the other party.

(6) Expert reports will be received as exhibits. Upon the request of either party, the expert shall be sworn and subjected to questioning by the parties, their attorney, or the court.

(7) The court will receive any exhibits offered by the parties. The court will determine the materiality, relevance, and what weight, if any, to give each exhibit. The court may order the record to be supplemented prior to entry of the final order.

(8) The court will allow the parties or their attorney to respond briefly to the statements of the other party.

(9) The court will offer each party or the party's attorney the opportunity to make a closing statement/remarks.

(10) At the conclusion of the case, the court shall render judgment. The court may take the matter under advisement, but best efforts will be made to issue prompt judgments. Nothing about the STP process shall relieve the court of the obligation to make the requisite findings of fact and conclusions of law as required by statute.

(11) The court may modify these procedures as justice and fundamental fairness requires and shall make findings to support any such modifications.

Rule 16-6. Alternative Dispute Resolution

(a) Nothing in this Rule shall preclude, upon request of both parties, a judge or magistrate from ordering or conducting settlement conferences as a form of alternative dispute resolution pursuant to C.R.S. §13-22-301, provided that both parties consent in writing to this process. ~~Consent may only be~~

~~withdrawn jointly~~.

(b) The provisions of this rule shall not preclude the parties from jointly consenting to the use of dispute resolution services by third parties, or the court from ordering the parties to mediation or other forms of alternative dispute resolution by third parties pursuant to C.R.S §13-22-311 and 313.
(c) When a party is served by publication and that party has not otherwise appeared nor filed a response or other pleading in the case, the court shall not order that party to participate in mediation. The provisions of this rule shall not preclude the court from ordering mediation between other parties in the case that were not served by publication.

Rule 17. Parties Petitioner and Respondent; Capacity

(a) Real Party in Interest. Every family action shall be prosecuted in the name of the real party in interest; but an executor, administrator, guardian, conservator, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may sue without joining the party for whose benefit the action is brought; and when a statute so provides, an action for the use or benefit of another shall be brought in the name of the people of the state of Colorado.
(b) Capacity to Sue or Be Sued. A partnership or other unincorporated association may sue or be sued in its common name for the purpose of enforcing for or against it a substantive right. A father and mother or the sole surviving parent may maintain an action for the injury or death of a child; where both maintain the action, each shall have an equal interest in the judgment; where one has deserted or refuses to sue, the other may maintain the action. A guardian may maintain an action for the injury or death of that guardian's ward.
(c) Infants or Incompetent Persons. Whenever an infant or incompetent person has a representative, such as a general guardian, conservator, or other like fiduciary, the representative may sue or defend on behalf of the infant or incompetent person. If an infant or incompetent person does not have a duly appointed representative, or such representative fails to act, a next friend or guardian ad litem may pursue suit. The court shall appoint a guardian ad litem for an infant or incompetent person not otherwise represented in an action or shall make such other order as it deems proper for the protection of the infant or incompetent person, provided that in an action in rem it shall not be necessary to appoint a guardian ad litem for any unknown person who might be an infant or incompetent person.

Rule 24. Intervention

(a) Intervention of Right. Upon timely application anyone shall be permitted to intervene in an action: (1) When a statute confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and

they are so situated that the disposition of the action may as a practical matter impair or impede their ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

(b) Permissive Intervention. Upon timely application anyone may be permitted to intervene in an action: (1) When a statute confers a conditional right to intervene; or (2) when an applicant's claim or defense and the main action have a question of law or fact in common. In exercising its discretion, the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

(c) Procedure. A person desiring to intervene shall serve a motion to intervene upon the parties as provided in C.R.F.P. Rule 5. The motion shall state the grounds for which intervention is sought.

Rule 26. General Provisions Governing Discovery; Duty of Disclosure

(a) Disclosures: Family Actions.

(1) Parties to family actions owe each other and the court a duty of full and honest disclosure of all facts that materially affect their rights and interests and those of the children involved in the case. The court requires that, in the discharge of this duty, a party must affirmatively disclose all information that is material to the resolution of the case without awaiting inquiry from the other party. This disclosure shall be conducted in accord with the duty of candor owing among parties to family actions.

(2) Mandatory Disclosures: Except as set forth in C.R.F.P. 26(a)(11) below, 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., or in a form that is substantially similar to such forms, to the other party within 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 Statements and, if applicable, Supporting Schedules by the time of the Initial Status Conference, to the extent reasonably possible. Parties proceeding under C.R.F.P. 26(a)(11) shall file and serve a completed Affidavit in Support of Waiver of Mandatory Disclosures, Form 1372, within 42 days after service of a petition or a post-decree motion involving financial matters.

(3) Certificate of Compliance: A Certificate of Compliance shall accompany the Mandatory Disclosures and shall be filed with the court. A party’s signature on the Certificate constitutes certification that to the best of the signer’s knowledge, information, and belief, formed after a reasonable inquiry, the Mandatory Disclosure is complete and correct as of the time it is made, except as noted with particularity in the Certificate of Compliance.

(4) The Sworn Financial Statement, Supporting Schedules (if applicable) and Child Support Worksheets shall be filed with the court. Other mandatory disclosure documents shall not be filed with the court.
(5) 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. The disclosure of ~~expert~~ witnesses shall be made no later than 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. ~~The disclosure of lay witnesses shall be made no later than 21 days (3 weeks) prior to the date of the contested hearing or final orders, unless the time for such disclosure is modified by the court.~~
(6) A party is under a continuing duty to supplement or amend any disclosure in a timely manner. This duty shall be governed by the provisions of C.R.F.P. 26(h).
(7) If a party does not timely provide the Mandatory Disclosure, or disclose a material change as required by C.R.F.P. 26(h), the court may impose sanctions pursuant to subsection (j) of this Rule.
(8) Signing of all disclosures, discovery requests, responses and objections shall be governed by C.R.F.P. 26(i) below.
(9) A Court Authorization for Financial Disclosure shall be issued at the Initial Status Conference or any time before the close of discovery if requested or may be executed by those parties who submit a Stipulated Case Management Plan pursuant to (b)(2)(B), identifying the persons authorized to
receive such information.
(10) As set forth in this section, it is the duty of parties to a family action for decree of dissolution of marriage, legal separation, or invalidity of marriage, to provide full disclosure of all material assets and liabilities. If a disclosure contains a misstatement or omission materially affecting the division of assets or liabilities, any party may file and the court shall consider and rule on a motion seeking to reallocate assets and liabilities based on such a misstatement or omission, provided that the motion is filed within 5 years of the final decree or judgment. The court shall deny any such motion that is filed under this paragraph more than 5 years after the final decree or judgment. The provisions of C.R.F.P. 60 do not bar a motion by either party to allocate such assets or liabilities pursuant to this paragraph. This paragraph does not limit other remedies that may be available to a party by law.
(11) Simplified Family Action Procedures
(A) Parties to a family action may agree in writing to limit exchange of financial disclosures otherwise required under C.R.F.P. 26(a)(2) to Sworn Financial Statements, so long as the parties affirm that all of the following conditions exist at the time of their agreement:

(i) Limiting disclosure will not create a substantial hardship to any party;

(ii) No party is pregnant, and the matter will not involve a determination of ~~paternity~~parentage, entry of a parenting plan, or an order of child support;
(iii) Neither party is currently seeking an award of maintenance;
(iv) The net equity (estimated value as of the current date minus all amounts owed) of all marital assets in a dissolution matter, (excluding the marital residence) is less than $100,000.
(v) The combined debt of the parties, not including the mortgage on the marital residence, is less than $50,000; and
(vi) Neither party has any separate property interests with net equity exceeding $10,000, any interest in a pension, or any interest in a trust.
(B) Each party shall execute an Affidavit in Support of Waiver of Mandatory Disclosures, Form 1372, affirming they meet the requirements above for limited disclosures.
(C) In all family actions, the filing of a Sworn Financial Statement remains mandatory. At any time after filing Sworn Financial Statements, either party may withdraw consent to limited financial disclosures by filing a Notice of Withdrawal of Consent to Waiver of Mandatory Financial Disclosures in Domestic Relations Cases, Form 1373, with the Court withdrawing consent to limited disclosures, or the Court may order that limited financial disclosure is not appropriate given the facts of a particular case. All disclosures required under C.R.F.P. 26(a)(2) shall be exchanged and the Certificate of Compliance filed within 28 days following the earlier of the date of filing a withdrawal of consent or entry of a Court order mandating complete financial disclosures.
(D) The parties may request that the Court limit the extent of financial disclosures set forth in C.R.F.P. 26(a)(2) at the Initial Status Conference or by written joint motion, accompanied by the affidavits required by subsection (B), submitted before the disclosure deadline.

(b) Disclosure of Experts and Expert Testimony

(1) In addition to the disclosures required by subsection (a) of this Rule, a party shall disclose to other parties the identity of any person who may present evidence at trial, pursuant to C.R.E. 702, 703, or 705 together with an identification of the person's field(s) of expertise.
(2) Except as otherwise stipulated or directed by the court:
(A) Retained Experts. With respect to a witness who is retained or specially employed to provide expert testimony, or whose duties as an employee of the party regularly involve giving expert testimony, the disclosure shall be made by a written report signed by the witness. The report shall include:
(i) a complete statement of all opinions to be expressed and the basis and reasons therefor;

(ii) a list of the data or other information considered by the witness in forming the opinions;
(iii) references to literature that may be used during the witness's testimony;

(iv) copies of any exhibits to be used as a summary of or support for the opinions;
(v) the qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years;
(vi) the fee agreement or schedule for the study, preparation and testimony;
(vii) an itemization of the fees incurred and the time spent on the case, which shall be supplemented 14 days prior to the first day of trial; and
(viii) a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.
(B) Other Experts. With respect to a party or witness who may be called to provide expert testimony but is not retained or specially employed within the description contained in subsection (b)(2)(A) above, the disclosure shall be made by a written report or statement that shall include:
(i) a complete description of all opinions to be expressed and the basis and reasons therefor;
(ii) a list of the qualifications of the witness; and
(iii) copies of any exhibits to be used as a summary of or support for the opinions. If the report has been prepared by the witness, it shall be signed by the witness.
(iv) If the witness does not prepare a written report, the party's lawyer or the party, if self-represented, may prepare a statement and shall sign it.
(C) The expert witness's direct testimony shall be limited to matters disclosed in detail in the report or statement.
(D) Unless otherwise ordered by the court, expert reports shall be provided to the parties 56 days (8 weeks) prior to hearing. Rebuttal witness disclosures and reports shall be provided 21 days thereafter. If an initial report is served early, the rebuttal witness disclosure and report shall not be required sooner than 35 days (5 weeks) before the hearing.
(E) The time for the disclosure of expert or lay witnesses whom a party intends to call at a temporary orders hearing or other emergency hearing shall be determined by the court.

(c) Form of Disclosures: Filing. All disclosures pursuant to subparagraphs (a) and (b) of this Rule shall be made in writing, signed pursuant to C.R.F.P. 26(i)(1), and served upon all other
parties. Other than a party's Sworn Financial Statement and Supplemental schedules, disclosures shall not be filed with the court unless requested by the court or necessary for consideration of a particular issue.

(d) Use of Experts. If the matter before the court requires the use of an expert or more than one expert, the parties shall attempt to select one expert per issue. If after meaningful conferral regarding the selection of a joint expert for each individual issue, the parties are unable to agree on a joint expert on that specific issue, they may retain separate experts to assist with the matters before the Court.

(1) Expert reports shall be filed with the court only if required by the applicable rule or statute.
(2) If the court appoints or the parties jointly select an expert, then the following shall apply:
(A) Compensation for any expert shall be governed by the provisions of C.R.E. 706.
(B) The expert shall communicate with and submit a draft report to each party in a timely manner or within the period of time set by the court. The parties may confer with the expert to comment on and make objections to the draft report before a final report is submitted.
(C) The court shall receive the expert reports into evidence without further foundation, unless a party notes an objection in the Trial Management Certificate. However, this shall not preclude either side from calling an expert for cross-examination, and voir dire on qualifications. Unless otherwise ordered by the court, a reasonable witness fee associated with the expert's court appearance shall be tendered before the hearing by the party disputing the expert's findings.
(3) Nothing in this rule limits the right of a party to retain a qualified expert at that party's expense, subject to judicial allocation if appropriate. As appropriate, the expert shall consider the report and documents or information used by the court appointed or jointly selected expert and any other documents provided by a party and may testify at a hearing. Any additional documents or information provided to the expert shall be provided to the court appointed or jointly selected expert by the time the expert's report is submitted.
(4) The parties have a duty to cooperate with and supply documents and other information requested by any expert. The parties also have a duty to supplement or correct information in the expert's report or summary.
(5) Unless otherwise ordered by the court, expert reports shall be provided to the parties 56 days (8 weeks) prior to hearing. Rebuttal reports shall be provided 21 days thereafter. If an initial report is served early, the rebuttal report shall not be required sooner than 35 days (5 weeks) before the hearing.
(6) Unless otherwise ordered by the court, parental responsibility evaluations and special advocate reports shall be provided to the parties pursuant to the applicable statute.
(7) The court shall not give presumptive weight to the report of a court appointed or jointly selected expert when such report is disputed by one or both parties.
(8) A party may depose any person who has been identified as an expert whose opinions may be presented at trial, except as provided in C.R.F.P. 123. Such trial preparation relating to experts shall be governed by C.R.F.P. 26(e)(6).

(e) Discovery: Scope and Limits. Discovery shall be subject to active case management by the court consistent with this Rule. Unless otherwise modified by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) Methods to Discover Additional Matters. Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions;

written interrogatories; production of documents or things or permission to enter upon

land or other property, pursuant to C.R.F.P. 34; and physical and mental examinations. Discovery at a place within a country having a treaty with the United States applicable to the discovery must be conducted by methods authorized by the treaty except that, if the court determines that those methods are inadequate or inequitable, it may authorize other discovery methods not prohibited by the treaty.

(2) In General. Subject to the limitations and considerations contained in subsection (e)(3) of this Rule, parties may obtain discovery regarding any matter, not privileged, that is relevant and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within the scope of discovery need not be admissible in evidence to be discoverable.

(3) Limitations. Except upon order for good cause shown and subject to the proportionality factors in subsection (e)(~~1~~3) of this Rule, discovery shall be limited as follows:

(A) Depositions of parties are permitted.

(B) Depositions of non-parties upon oral or written examination for the purpose of obtaining or authenticating documents not accessible to a party are permitted.

(C) After an initial status conference or as agreed to in a Stipulated Case Management Plan filed pursuant to C.R.F.P. 16-2(b)~~(2)(B)~~, a party may serve on each adverse party any of the
pattern interrogatories and requests for production of documents contained in the Appendix to Chapters 1 to 17A Form 35.4 and Form 35.5, C.R.F.P. A party may also serve on each adverse party 10 additional written interrogatories and 10 additional requests for production of documents, each of which shall consist of a single question or request.

(D) The parties shall not undertake additional formal discovery except as authorized by the court or as agreed in a Stipulated Case Management Plan filed pursuant to C.R.F.P. 16-2(b)~~(2)(B)~~. The court shall grant all reasonable requests for additional discovery for good cause as defined in C.R.F.P. 26(e)(5). Unless otherwise governed by the provisions of this Rule
additional discovery shall be governed by C.R.F.P. Rules 26 through 37 and C.R.F.P. 121 section 1-12. Additional discovery for trial preparation relating to documents and tangible things shall be governed by C.R.F.P. 26(e)(5)~~(C)~~.

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

(F) Claims of privilege or protection of trial preparation materials shall be governed by

C.R.F.P. 26(e)(7).

(4) Protective orders sought by a party relating to discovery shall be governed by C.R.F.P. 26(f).
(5) In determining good cause to modify the limitations of this subsection ~~(e)(3)~~, the court shall consider the following:
(A) whether the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive;
(B) whether the party seeking discovery has had ample opportunity by disclosure or discovery in the action to obtain the information sought;
(C) whether the proposed discovery is outside the scope permitted by C.R.F.P. 26~~(b)(1).~~(e).
(6) Trial Preparation: Experts
(A) A party may depose any person who has been identified as an expert disclosed pursuant to subsection 26(b) of this Rule whose opinions may be presented at trial. Each deposition shall not exceed 6 hours. On the application of any party, the court may decrease or increase the time permitted after considering the proportionality criteria in subsection (e)(2) of this Rule. Except to the extent otherwise stipulated by the parties or ordered by the court, no discovery, including depositions, concerning either the identity or the opinion of experts shall be conducted until after the disclosures required by subsection (b) of this Rule.
(B) A party may, through interrogatories or by deposition, discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial only as provided by C.R.F.P. 35(b) or upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.
(C) Unless manifest injustice would result, (i) the court shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under this subsection (e)(6).
(D) Rule 26(e)(6)(B) protects from disclosure and discovery drafts of any report or disclosure required under Rule 26(b), regardless of the form in which the draft is recorded, and protects communications between the party's attorney and any witness disclosed under Rule 26(b), regardless of the form of the communications, except to the extent that the communications:
(i) relate to the compensation for the expert's study, preparation, or testimony;
(ii) identify facts or data that the party's attorney provided and which the expert considered in forming the opinions to be expressed; or
(iii) identify the assumptions that the party's attorney provided and that the expert relied on in forming opinions to be expressed.
(7) Claims of Privilege or Protection of Trial Preparation Materials.

(A) When a party withholds information required to be disclosed or provided in discovery by claiming that it is privileged or subject to protection as trial preparation material, the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

(B) If information produced in disclosures or discovery is subject to a claim of privilege or of protection as trial-preparation material the party making the claim may notify the other party that received the information of the claim and the basis for it. After being notified, a party must not review, use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and shall give notice to the party making the claim within 14 days if it contests the claim. If the claim is not contested within the 14-day period or is timely contested but resolved in favor of the party claiming privilege or protection of trial-preparation material, then the receiving party must also promptly return, sequester, or destroy the specified information and any copies that the receiving party has. If the claim is contested, the party making the claim shall present the information to the court under seal for a determination of the claim within 14 days after receiving such notice, or the claim is waived. The producing party must preserve the information until the claim is resolved, and bears the burden of proving the basis of the claim and that the claim was not waived. All notices under this Rule shall be in writing.

(f) Protective Orders. Upon motion by a party or by the person from whom disclosure is due or discovery is sought, accompanied by a certificate that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without court action, and for good cause shown, the court may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) that the disclosure or discovery not be had;

(2) that the disclosure or discovery may be had only on specified terms and conditions, including a designation of the time or place or the allocation of expenses;

(3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;

(4) that certain matters not be inquired into, or that the scope of the disclosure or discovery be limited to certain matters;

(5) that discovery be conducted with no one present except persons designated by the court;

(6) that a deposition, after being sealed, be opened only by order of the court;

(7) that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a designated way; and

(8) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

(g) Timing and Sequence of Discovery. Except when authorized by these Rules, by order, or by agreement of the parties, a party may not seek discovery from any source before service of the Case Management Order pursuant to C.R.F.P. 16-2. Any discovery conducted prior to issuance of the Case Management Order shall not exceed the limitations established by C.R.F.P. 26(e)(3). Unless the parties stipulate or the court upon motion, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence, and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery.

(h) Supplementation of Disclosures, Discovery Responses, and Expert Reports and Statements.

(1) A party is under a continuing duty to supplement their disclosures under section (a) and section (b) of this Rule when the party learns that the information disclosed is incomplete or incorrect in some material respect, when there has been a material change, and if the additional or corrective information has not otherwise been made known to the other parties during the disclosure or discovery process, including information relating to anticipated rebuttal but not including information to be used solely for impeachment of a witness.

(2) A party is under a duty to amend a prior response to an interrogatory or request for production when the party learns that the prior response is incomplete or incorrect in some material respect, when there has been a material change and if the additional or corrective information has not otherwise been made known to the other party during the discovery process.

(3) With respect to experts, the duty to supplement or correct extends both to information contained in the expert's report or statement disclosed pursuant to section (b) of this Rule and to information provided through any deposition of the expert. If a party intends to offer expert testimony on direct examination that has not been disclosed pursuant to section (b) of this Rule on the basis that the expert provided the information through a deposition, the report or statement previously provided shall be supplemented to include a specific description of the deposition testimony relied on.

(4) Nothing in this section requires the court to permit an expert to testify as to opinions other than those disclosed in detail in the initial expert report or statement except that if the opinions and bases and reasons therefor are disclosed during the deposition of the expert by the adverse party, the court must permit the testimony at trial unless the court finds that the opposing party has been unfairly prejudiced by the failure to make disclosure in the initial expert report. Supplementation shall be performed in a timely manner.

(i) Signing of Disclosures, Discovery Requests, Responses, and Objections.

(1) Every disclosure made pursuant to subsections (a) or (b) of this Rule shall be signed by at least one attorney of record in the attorney's individual name. An unrepresented party shall sign the disclosure and state the party's address. The signature of the attorney or party constitutes a certification that to the best of the signer's knowledge, information, and belief, formed after a reasonable inquiry, the disclosure is complete and correct as of the time it is made.
(2) Every discovery request, or response, or objection made by a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name. An unrepresented party shall sign the request, response, or objection and state the party's address. The signature of the attorney or party constitutes a certification that to the best of the signer's knowledge, information and belief, formed after a reasonable inquiry, the request, response or objection is:
(A) Consistent with these rules and warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law;
(B) Not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and
(C) Not unreasonable or unduly burdensome or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation.
(3) If a request, response or objection is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the party making the request, response or objection, and a party shall not be obligated to take any action with respect to it until it is signed.
(4) If without substantial justification a certification is made in violation of this rule, the court, upon motion or upon its own initiative, may impose upon the person who made the certification, the party on whose behalf the disclosure, request, response or objection is made, or both, an appropriate sanction, which may include an order to pay the amount of the reasonable expenses incurred because of the violation, including reasonable attorney fees.

Rule 28. Persons Before Whom Depositions May Be Taken

(a) Outside the State of Colorado. Depositions outside the State of Colorado shall be taken only upon proof that notice to take deposition has been given as provided in these rules. The deposition shall be taken before an officer authorized to administer oaths by the laws of this state, the United States or the place where the examination is to be held, or before a person appointed by the court in which the action is pending. A person so appointed has the power to administer oaths and take testimony.
(b) Disqualification for Interest. No deposition shall be taken before a person who is a relative or employee or attorney or counsel of any of the parties or is financially interested in the action.

(c) Commission or Letters Rogatory. A commission or letters rogatory shall be issued when necessary, on application and notice, and on terms that are just and appropriate. It is not a requisite to the issuance of a commission or letters rogatory that the taking of the deposition in any other manner is impracticable or inconvenient. Both a commission and letters rogatory may be issued in proper cases. Officers may be designated in the commission either by name or descriptive title. Letters rogatory may be addressed "to the appropriate authority in (here name the appropriate place)." The clerk shall issue a commission or letters rogatory in the form prescribed by the jurisdiction where the deposition is to be taken, such form to be prepared by the party seeking the deposition. The commission or letters rogatory shall inform the officer that the original sealed deposition shall be filed according to subsection (d) of this rule. Any error in the form or in the commission or letters rogatory is waived unless an objection is filed and served before the time fixed in the notice.

(d) Filing of the Deposition. The officer transcribing the deposition shall file the original sealed deposition transcript or recording pursuant to C.R.F.P. 30(f)(1).

Rule 29. Stipulations Regarding Discovery Procedure

(a) Unless otherwise directed by the court, the parties may by written stipulation:

(1) provide that depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions; and

(2) modify other procedures governing the timing of discovery, except that stipulations extending the time provided in these rules C.R.F.P. 33, 34, and 36 for responses to discovery may, if they would interfere with any time set for completion of discovery, for hearing of a motion, or for trial, be made only with the approval of the court.

Rule 30. Depositions Upon Oral Examination

(a) When Depositions May Be Taken.

(1) Depositions of parties are permitted. Depositions of non-parties for the purpose of obtaining or authenticating documents not accessible to a party are permitted.

Subject to the provisions of C.R.F.P. Rules 26~~(b)(2)(A)~~(e)(3) and 26(d), a party may take the

testimony of any person, including a party, by deposition upon oral examination without leave of court except as provided in paragraph (2) of this section. The attendance of witnesses may be compelled by subpoena as provided in C.R.F.P. 45.

(2) Leave of court must be obtained pursuant to C.R.F.P. Rule 26~~(b)~~(e) if:

(A) A proposed deposition, if taken, would result in more depositions than set forth in the Case Management Order;

(B) The person to be examined already has been deposed in the case;

(C) Unless otherwise provided for in a Case Management Order, a party seeks to take a deposition before the initial status conference; or
(D) The person to be examined is confined in prison.

(b) Notice of Examination: General Requirements, Method of Recording; Production of Documents and Things, Deposition of Organization, Deposition by Telephone.

(1) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice, in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice.
(2) The party taking the deposition shall state in the notice the method by which the testimony shall be recorded, which, unless the court otherwise orders, may be by sound, sound-and-visual, or stenographic means. Unless the court otherwise orders, the party taking the deposition shall bear the cost of the recording.
(3) Any party may provide for a transcription to be made from the recording of a deposition taken by non-stenographic means. With reasonable prior notice to the deponent and other parties, any party may designate another method of recording the testimony of the deponent in addition to the method specified by the person taking the deposition. Unless the court otherwise orders, each party designating an additional method of recording the testimony of a deponent shall bear the cost thereof.
(4) Unless otherwise agreed by the parties, a deposition shall be conducted before an officer appointed or designated pursuant to C.R.F.P. 28 and shall begin with a statement on the record by the officer that includes (a) the officer's name and business address; (b) the date, time, and place of the deposition; (c) the name of the deponent; (d) the administration of the oath or affirmation to the deponent; and (e) an identification of all persons present. If the deposition is recorded other than stenographically, items (a) through (c) shall be repeated at the beginning of each unit of recorded tape or other recording medium. The appearance or demeanor of deponents or attorneys shall not be distorted by the use of camera or sound-recording techniques. At the conclusion of the deposition, the officer shall state on the record that the deposition is complete and shall set forth any stipulations made by counsel concerning the custody of the transcript or recording, the exhibits, or other pertinent matters.
(5) The notice to a non-party deponent may be accompanied by a request made in compliance with Rule 34 for the production of documents and tangible things at the taking of the deposition. The procedure of Rule 34 shall apply to the request.
(6) A party may in its notice or subpoena name as the deponent a public or private

corporation, partnership, association governmental agency, or other entity and designate with reasonable particularity the matters on which examination is requested. The named organization shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Before a notice is served, or promptly after a subpoena is served, the serving party and the organization shall confer in good faith about the matters for examination. A subpoena shall advise a nonparty organization of its duty to confer with the serving party and to designate each person who will testify. The persons so designated shall testify as to matters known or reasonably available to the organization. This subsection (b)(6) does not preclude taking a deposition by any other procedure authorized in these rules. The duration of a deposition under this subsection (b)(6), regardless of the number of persons designated, is governed by Rule 30(d)(2)(A).

(7) The parties may stipulate in writing or the court may upon motion order that a deposition be taken by telephone or other remote electronic means. For the purposes of this rule and C.R.F.P. Rules 28(a), 37(a)(1), and 37(b)(1), a deposition taken by telephone or other remote electronic means is taken at the place where the deponent is to answer questions propounded to the deponent. The stipulation or order shall include the manner of recording the proceeding.

(c) Examination and Cross-Examination, Record of Examination, Oath, Objections.

Examination and cross-examination of witnesses may proceed as permitted at the trial under the provisions of the Colorado Rules of Evidence except CRE 103. The witness shall be put under oath or affirmation and the officer before whom the deposition is to be taken shall personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically or recorded by any other method authorized by subsection (b)(2) of this Rule.

All objections made at the time of the examination to the qualifications of the officer taking the deposition, to the manner of taking it, to the evidence presented, to the conduct of any party, or in any other respect to the proceedings shall be noted by the officer upon the record of the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition and the party taking the deposition shall transmit them to the officer, who shall propound them to the witness and record the answers verbatim.

(d) Schedule and Duration, Motion to Terminate or Limit Examination.

(1) Any objection during a deposition shall be stated concisely and in a non-argumentative and non-suggestive manner. An instruction not to answer may be made

during a deposition only when necessary to preserve a privilege, to enforce a limitation directed by the court, or to present a motion pursuant to subsection (d)(3) of this Rule.
(2)(A) Unless otherwise authorized by the court or stipulated by the parties, a deposition of a person other than a retained expert disclosed pursuant to C.R.F.P. 26(a)(2)(B)(I) whose opinions may be offered at trial is limited to one day of 6 hours of testimony. Upon the motion of any party, the court may limit the time permitted for the conduct of a deposition to less than 6 hours, or may allow additional time if needed for a fair examination of the deponent and consistent with C.R.F.P. 26(b)(2), or if the deponent or another person impedes or delays the examination, or if other circumstances warrant. If the court finds such an impediment, delay, or other conduct that frustrates the fair examination of the deponent, it may impose upon the person responsible therefor an appropriate sanction, including the reasonable costs and attorney fees incurred by any parties as a result thereof.
(B) Depositions of a retained expert disclosed pursuant to C.R.F.P. 26(a)(2)(B)(I) whose opinions may be offered at trial are governed by C.R.F.P. 26(b)(4).
(3) At any time during the taking of the deposition, on motion of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the court in the district where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in C.R.F.P. 26(c). If the order made terminates the examination, it may be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. The provisions of C.R.F.P. 37(a)(4) apply to the award of expenses incurred in relation to the motion.

(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 14 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.

(f) Certification and Filing by Officer, Exhibits, Copies, Notice of Filing.

(1) The officer shall certify that the witness was duly sworn and that the deposition is a true record of the testimony given by the witness. This certificate shall be set forth in writing and accompany the record of the deposition. Unless otherwise ordered by the

court, the officer shall securely seal the deposition in an envelope or package endorsed with the title of the action and marked "deposition of (here insert name of witness)" and shall promptly transmit it to the attorney who arranged for the transcript or recording. The receiving attorney shall store the deposition under conditions that will protect it against loss, destruction, tampering, or deterioration.

Documents and things produced for inspection during the examination of the witness shall, upon the request of a party, be marked for identification and annexed to and returned with the deposition and may be inspected and copied by any party, except that: if the person producing the materials desires to retain the originals, the person may:
(A) offer copies to be marked for identification and annexed to the deposition and to serve thereafter as originals if the person affords to all parties fair opportunity to verify the copies by comparison with the originals, or
(B) offer the originals to be marked for identification, after giving each party an opportunity to inspect and copy them, in which event the materials may then be used in the same manner as if annexed to the deposition. Any party may move for an order that the original be annexed to and returned with the deposition to the court, pending final disposition of the case.
(2) Unless otherwise ordered by the court or agreed by the parties, the officer shall retain stenographic notes of any deposition taken stenographically or a copy of the recording of any deposition taken by another method. Upon payment of reasonable charges therefor, the officer shall furnish a copy of the transcript or other recording of the deposition to any party or to the deponent.

(g) Failure to Attend or to Serve Subpoena: Expenses.

(1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay to such other party the amount of the reasonable expenses incurred, including reasonable attorney's fees.
(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon the witness and the witness because of such failure does not attend, and if another party attends in person or by attorney with the expectation that the deposition of that witness will be taken, the court may order the party giving the notice to pay to such other party the amount of the reasonable expenses incurred, including reasonable attorney's fees.

Rule 31. Deposition Upon Written Questions

(a) Serving Questions: Notice.

(1) A party may take the testimony of any person, other than a party, by deposition upon written questions without leave of court except as provided in paragraph (2) of this section. The attendance of witnesses may be compelled by the use of subpoena as provided in C.R.F.P. 45.
(2) A party must obtain leave of court, and the court must grant leave to the extent

consistent with C.R.F.P. 26(~~b~~e)(2) if:

(A) a proposed deposition, if taken, would result in more depositions than set forth in the Case Management Order;

(B) the person to be examined already has been deposed in the case;

(C) a party seeks to take a deposition before the time specified in C.R.F.P. 26(~~d~~e); or

(D) the person to be examined is confined in prison.

(3) A party desiring to take a deposition upon written questions shall serve them upon the other party with a notice stating:

(A) the name and address of the person who is to answer them, if known, and if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs; and

(B) the name or descriptive title and address of the officer before whom the deposition is to be taken.

A deposition upon written questions may be taken of a public or private corporation, or a partnership, or association, or governmental agency in accordance with the provision of C.R.F.P. 30(b)(6).

(b) Officer to Take Responses and Prepare Record. A copy of the notice and copies of all questions served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by C.R.F.P. 30(c), (e), and (f), to take the testimony of the witness in response to the questions and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the questions received.

(c) Notice of Filing. When the deposition is filed the party taking it shall promptly give notice thereof to all other parties.

Rule 32. Use of Depositions in Court Proceedings

(a) Use of Depositions. At any hearing, any part or all of a deposition, so far as admissible under the rules of evidence, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of a deponent as a witness;

(2) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent of a public or private corporation, partnership, or association, or a governmental agency, which is a party, or a person designated under C.R.F.P. 30(b)(6) or 31(a) to testify on behalf thereof may be used by an adverse party for any purpose.

(3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds:

(A) That the witness is dead; or

(B) that the witness is at a greater distance than 100 miles from the place of trial or hearing, or is out of the United States, unless it appears that the absence of the witness was procured by the party offering the deposition; or

(C) that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or
(D) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or
(E) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used.
A deposition taken without leave of court pursuant to C.R.F.P. 30(a)(2)(C) shall not be used against a party who demonstrates that, when served with the notice, the party was unable through the exercise of diligence to obtain counsel to represent the party at the taking of the deposition.
(4) If only part of a deposition is offered in evidence by a party, an adverse party may require the introduction of any other part which ought in fairness to be considered with the part introduced, and any party may introduce any other parts.
(5) In lieu of reading text from a deposition, parties are encouraged to use stipulated written summaries of deposition testimony at any hearing or trial, and to present the testimony at any hearing or trial in a logical order.

(b) Objections to Admissibility. Subject to the provisions of C.R.F.P. 28(b) and subsection (d)(3), objection may be made at the trial or hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(c) Effect of Taking or Using Depositions. A party does not make a person that party's witness for any purpose by taking a deposition. The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this shall not apply to the use by an adverse party of a deposition under subsection (a)(2) of this Rule. At the hearing any party may rebut any relevant evidence contained in a deposition regardless of who introduced that evidence.

(d) Effect of Errors and Irregularities in Depositions.

(1) As to Notice. All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.
(2) As to Disqualification of Officer. Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.
(3) As to Taking of Deposition.
(A) Objections to the competency of a witness or to the competency, relevancy, or

materiality of testimony are not waived by failure to make them before or during the

taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.
(B) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of the deposition.
(4) As to Completion and Return of Deposition. Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, endorsed, transmitted, filed, or otherwise dealt with by the officer under C.R.F.P. 30 and 31 are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been ascertained.

Rule 33. Interrogatories to Parties

(a) Availability. Any party may serve upon any other party written interrogatories, not exceeding the number, including all discrete subparts, set forth in the Case Management Order, to be answered by the party served or, if the party served is a public or private corporation, or a partnership, or association, or governmental agency, by any officer or agent, who shall furnish such information as is available to the party. Leave of court must be obtained, consistent with the principles stated in C.R.F.P. Rules 16(b)(1) and 26(b) and subsection (e) of this Rule, to serve more interrogatories than the number set forth in the Case Management Order. Without leave of court or written stipulation, interrogatories may not be served before the time specified in C.R.F.P. 26(d).

(b) Answers and Objections.

(1) Each interrogatory shall be answered separately and fully, in writing and under oath, unless it is objected to, in which event the objecting party shall state the reasons for objection and shall answer under oath to the extent the interrogatory is not objectionable. An objection must state with specificity the grounds for objection to the interrogatory and must also state whether any responsive information is being withheld on the basis of that objection. A timely objection to an interrogatory stays the obligation to answer those portions of the interrogatory objected to until the court resolves the objection. No separate motion for protective order under C.R.F.P. 26(~~e~~f) is required.
(2) The answers are to be signed by the person making them, and the objections signed by the attorney making them.
(3) The party upon whom the interrogatories have been served shall serve a copy of the

answers, and objections if any, within 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.F.P. 29.

(4) All grounds for an objection to an interrogatory shall be stated with specificity. Any ground not stated in a timely objection will be deemed to be waived unless the party's failure to object is excused by the court for good cause shown.

(5) The party submitting the interrogatories may move for an order pursuant to C.R.F.P. 37(a) with respect to any objection to or other failure to answer an interrogatory.

(c) Scope: Use at Trial. Interrogatories may relate to any matters which can be inquired into pursuant to C.R.F.P. 26~~(b)~~, and the answers may be used to the extent permitted by the Colorado Rules of Evidence.

An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the court may order that such an interrogatory need not be answered until after designated discovery has been completed or until a pretrial conference or other later time.

(d) Option to Produce Business Records. Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom the interrogatory has been served, or from an examination, audit, or inspection of such business records, or from a compilation, abstract, or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit, or inspect such records and to make copies, compilations, abstracts, or summaries.

(e) Pattern and Non-Pattern Interrogatories; Limitations. The pattern interrogatories set forth in the Appendix to Chapters 1 to 17A, Form 20, are approved. Any pattern interrogatory and its subparts shall be counted as one interrogatory. Any discrete subparts in a non-pattern interrogatory shall be considered as a separate interrogatory.

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

(a) Scope. Subject to the limitations contained in the Case Management Order, a party may serve on any other party a request:

(1) To produce and permit the party making the request, or someone acting on the party's behalf, to inspect and copy any designated documents (including writings, drawings, graphs, charts, photographs, phono-records, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form), or to inspect and copy, test, or sample any tangible things which constitute or contain matters within the scope of C.R.F.P. 26(~~b~~c) and which are in the possession, custody, or control of the party upon whom the request is served; or

(2) To permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring,

surveying, photographing, testing, or sampling the property or any designated object or operation thereon, within the scope of C.R.F.P. 26(~~b~~e).

(b) Procedure. The request shall set forth the items to be inspected either by individual item or by category and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts.

The party upon whom the request is served shall serve a written response within 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.F.P. 29. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, with specificity the grounds for objecting to the request. The responding party may state that it will produce copies of information instead of permitting inspection. The production must then be completed no later than the time for inspection stated in the request or another reasonable time stated in the response. An objection must state whether any responsive materials are being withheld on the basis of that objection. If objection is made to part of an item or category, the part shall be specified. A timely objection to a request for production stays the obligation to produce which is the subject of the objection until the court resolves the objection. No separate motion for protective order pursuant to C.R.F.P. 26(~~c~~e) is required. The party submitting the request may move for an order pursuant to C.R.F.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.

A party who produces documents for inspection shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

(c) Persons Not Parties. As provided in C.R.F.P. 45, this Rule does not preclude an independent action against a person not a party for production of documents and things and permission to enter upon land.

Rule 35. Physical and Mental Examination of Persons

(a) Order for Examination. When the mental or physical condition (including the blood group) of a party, or of a person in the custody or under the legal control of a party, is in controversy, the court in which the action is pending may order the party to submit to a physical or mental examination by a suitably licensed or certified examiner or to produce for examination the person in custody or legal control. The order may be made only on motion for good cause shown and upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.

(b) Report of Examiner.

(1) If requested by the party against whom an order is made under section (a) of this Rule

or the person examined, the party causing the examination to be made shall deliver to

said other party a copy of a detailed written report of the examiner's findings, including results of all tests made, diagnoses, and conclusions, together with like reports of all earlier examinations of the same condition. After delivery the party causing the examination shall be entitled upon request to receive from the party against whom the order is made a like report of any examination, previously or thereafter made, of the same condition, unless, in the case of a report of examination of a person not a party, the party shows an inability to obtain it. The court on motion may make an order against a party requiring delivery of a report on such terms as are just, and if an examiner fails or refuses to make a report the court may exclude the examiner's testimony if offered at the trial.
(2) By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the person examined waives any privilege in that action or any other involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine the person in respect of the same mental or physical condition.
(3) This section (b) applies to examinations made by agreement of the parties, unless the agreement expressly provides otherwise. This section (b) does not preclude discovery of a report of an examiner in accordance with the provisions of any other Rule.

Rule 36. Requests For Admission

(a) Request for Admission. With prior consent of the Court, a party may serve the other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of C.R.F.P. 26(~~b~~)(~~2~~)(~~E~~e) set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any
documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. Leave of court must be obtained, consistent with the principles stated in C.R.F.P. 26(~~b~~e), to serve more requests for admission than the number set forth in the Case Management Order. Without leave of court or written stipulation, requests for admission may not be served before the time specified in C.R.F.P. 26(~~d~~e)(3)(C).
Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within 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.F.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 may, subject to the provisions of C.R.F.P. 37(c), deny the matter or set forth reasons why the party cannot admit or deny it.

The party who has requested the admissions may move to determine the sufficiency of the answer or objections. Unless the court determines that an objection is justified, it shall order that an answer be served. If the court determines that an answer does not comply with the requirements of this Rule, it may order either that the matter is admitted or that an amended answer be served. The court may, in lieu of these orders, determine that final disposition of the request be made at a pretrial conference or at a designated time prior to hearing. The provisions of C.R.F.P. 37(a)(4) apply to the award of expenses incurred in relation to the motion.

(b) Effect of Admission. Any matter admitted under this Rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission. The court may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice that party in maintaining the action or defense on the merits. Any admission made by a party under this Rule is for the purpose of the pending action only and is not an admission for any other purpose nor may it be used against the party in any other proceeding.

Rule 37. Failure To Make Disclosure or Cooperate in Discovery: Sanctions

(a) Motion for Order Compelling Disclosure or Discovery. A party, upon reasonable notice to other parties and all persons affected thereby, may apply for an order compelling disclosure or discovery and imposing sanctions as follows:

(1) Appropriate Court. An application for an order to a party or to a person who is not a party shall be made to the court in which the action is pending.

~~(2) Except as to mandatory Disclosures under C.R.F.P. 26(a)(2), a motion to compel disclosure or discovery shall be filed within 7 days of the failure to disclose or failure to cooperate. A response to a motion to compel shall be filed within 7 days. No reply shall be permitted. The court may extend these deadlines upon good cause shown or to prevent manifest injustice.~~

~~(3)~~(2) Motion.

(A) If a party fails to make a disclosure required by C.RF.P. 26(a), any other party may move to compel disclosure and for appropriate sanctions. The motion shall be accompanied by a certification that the movant in good faith has conferred or attempted

to confer with the party not making the disclosure in an effort to secure the disclosure without court action.
(B) If a deponent fails to answer a question propounded or submitted pursuant to C.R.F.P. 30 or 31, or a corporation or other entity fails to make a designation pursuant to C.R.F.P. 30(b)(6) or 31(a), or a party fails to answer an interrogatory submitted pursuant to C.R.F.P. 33, or if a party, in response to a request for inspection submitted pursuant to C.R.F.P. 34, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested, the discovering party may move for an order compelling an answer, or a designation, or an order compelling inspection in accordance with the request. The motion shall be accompanied by a certification that the moving party in good faith has conferred or attempted to confer with the person or party failing to make the discovery in an effort to secure the information or material without court action. When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before applying for an order.
(3) Evasive or Incomplete Disclosure, Answer, or Response. For purposes of this subsection an evasive or incomplete disclosure, answer, or response shall be deemed a failure to disclose, answer, or respond.
(4) Expenses and Sanctions.
(A) If a motion is granted or if the disclosure or requested discovery is provided after the motion was filed, the court may, after reasonable notice and an opportunity to be heard, if requested, require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in making the motion, including attorney fees, unless the court finds that the motion was filed without the movant's first making a good faith effort to obtain the disclosure or discovery without court action, or that the opposing party's nondisclosure, response, or objection was substantially justified or that other circumstances make an award of expenses manifestly unjust.
(B) If a motion is denied, the court may make such protective order as it could have made on a motion filed pursuant to C.R.F.P. 26(c) and may, after affording an opportunity to be heard if requested, require the moving party or the attorney filing the motion or both of them to pay to the party or deponent who opposed the motion the reasonable expenses incurred in opposing the motion, including attorney's fees, unless the court finds that the making of the motion was substantially justified or that other circumstances make an award of expenses manifestly unjust.
(C) If the motion is granted in part and denied in part, the court may make such protective order as it could have made on a motion filed pursuant to C.R.F.P. 26(c) and may, after affording an opportunity to be heard, apportion the reasonable expenses incurred in relation to the motion among the parties and persons in a just manner.

(b) Failure to Comply with Order.

(1) Non-Party Deponents-Sanctions by Court. If a deponent fails to be sworn or to answer a question after being directed to do so by the court in which the action is pending or from which the subpoena is issued, the failure may be considered a contempt of court.
(2) Party Deponents-Sanctions by Court. If a party or an officer, director, or managing agent of a party, or a person designated under C.R.F.P. 30(b)(6) or 31(a) to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under section (a) of this Rule or C.R.F.P. 35, the court in which the action is pending may make such orders in regard to the failure as are just, and among others the following:
(A) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;
(B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence;
(C) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;
(D) In lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of court the failure to obey any orders except an order to submit to a physical or mental examination;
(E) Where a party has failed to comply with an order under C.R.F.P. 35(a) requiring the party to produce another for examination, such orders as are listed in subparagraphs (A), (B), and (C) of this subsection (2), unless the party failing to comply shows an inability to produce such person for examination.
In lieu of any of the foregoing orders or in addition thereto, the court shall require the party failing to obey the order, or the attorney advising the party, or both, to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

(c) Failure to Disclose, False or Misleading Disclosure, Refusal to Admit.

(1) A party that without substantial justification fails to disclose information required by C.R.F.P. 26(a) or (e) shall not be permitted to present any evidence not so disclosed at trial or on a motion made pursuant to C.R.F.P. 56, unless such failure has not caused and will not cause significant harm, or such preclusion is disproportionate to that harm. The court, after holding a hearing if requested, may impose any other sanction proportionate to the harm, including any of the sanctions authorized in subsections (b)(2)(A), (b)(2)(B)

and (b)(2)(C) of this Rule, and the payment of reasonable expenses including attorney fees caused by the failure.

(2) If a party fails to admit the genuineness of any document or the truth of any matter as requested pursuant to C.R.F.P. 36, when such admissions are permitted by the court, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, the requesting party may apply to the court for an order requiring the other party to pay the reasonable expenses incurred in making that proof, including reasonable attorney fees. The court shall make the order unless it finds that (A) the request was held objectionable pursuant to C.R.F.P. 36(a), or (B) the admission sought was of no substantial importance, or (C) the party failing to admit had reasonable ground to believe that the party might prevail on the matter, or (D) there was other good reason for the failure to admit.

(3) A party shall not be permitted to object to the authenticity of a document provided by that party in discovery or in their disclosures pursuant to C.R.F.P. 26.

(d) Failure of Party to Attend at Own Deposition or Serve Answers to Interrogatories or Respond to Request for Inspection. If a party or an officer, director, or managing agent of a party or a person designated pursuant to C.R.F.P. 30(b)(6) or 31(a) to testify on behalf of a party fails (1) to appear before the officer who is to take the deposition, after being served with a proper notice; or (2) to serve answers or objections to interrogatories submitted pursuant to C.R.F.P. 33, after proper service of the interrogatories; or (3) to serve a written response to a request for inspection submitted pursuant to C.R.F.P. 34, after proper service of the request, the court in which the action is pending on motion may make such orders in regard to the failure as are just, and among others it may take any action authorized by subparagraphs (A), (B), and (C) of subsection (b)(2) of this Rule. Any motion specifying a failure under clauses (2) or (3) of this subsection shall be accompanied by a certification that the movant in good faith has conferred or attempted to confer with the party failing to answer or respond in an effort to obtain such answer or response without court action. In lieu of any order or in addition thereto, the court shall require the party failing to act or the attorney advising that party or both to pay the reasonable expenses, including attorney fees, caused by the failure unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

The failure to act described in this subsection may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has previously filed a motion for a protective order as provided by C.R.F.P. 26(c).

Rule 45. Subpoena

(a) In general.

(1) Form and contents.

(A) Requirements-In General. Every subpoena must:

(i) State the court from which it issued;

(ii) State the title of the action, the court in which it is pending and its case number;

(iii) Command each person to whom it is directed to do one or both of the following at a specified time and place: attend and testify at a deposition, hearing or trial; or produce designated books, papers and documents, whether in physical or electronic form ("records"), or tangible things, in that person's possession, custody, or control;
(iv) Identify the party and the party's attorney, if any, who is serving the subpoena;
(v) Identify the names, addresses and phone numbers and email addresses where known, of the attorneys for each of the parties and of each party who has appeared in the action without an attorney;
(vi) State the method for recording the testimony if the subpoena commands attendance at a deposition; and
(vii) If production of records or a tangible thing is sought, set out the text of sections (c) and (d) of this rule verbatim on or as an attachment to the subpoena.
(B) Combining or separating a command to produce. A command to produce records or tangible things may be included in a subpoena commanding attendance at a deposition, hearing, or trial, or may be contained in a separate subpoena that does not require attendance.
(C) Deposition subpoena must comply with discovery rules. A deposition subpoena may require the production of records or tangible things which are within the scope of discovery permitted by C.R.F.P. 26. A subpoena must not be used to avoid the limits on discovery imposed by C.R.F.P. 16-1, 16-2 or 26 or by the case management order applicable to that case.
(D) Subpoenas to named parties. A subpoena issued under this rule may not be utilized to obtain discovery from named parties to the action unless the court orders otherwise for good cause.
(2) Issued by whom. The clerk of the court in which the case is docketed must issue a subpoena, signed but otherwise in blank, to a party who requests it. That party must complete it before service. An attorney who has entered an appearance in the case also may issue, complete and sign a subpoena as an officer of the court.

(b) Service.

(1) Time for service. Unless otherwise ordered by the court for good cause:
(A) Subpoena for trial or hearing testimony. Service of a subpoena only for testimony in a trial or hearing shall be made no later than 48 hours before the time for appearance set out in the subpoena.
(B) Subpoena for deposition testimony. Service of a subpoena only for testimony in a deposition shall be made not later than 7 days before compliance is required.
(C) Subpoena for production of documents. Service of any subpoena commanding a person to produce records or tangible things in that person's possession, custody, or control shall be made not later than 14 days before compliance is required. In the case of an expedited hearing pursuant to these rules or any statute, service shall be made as soon

as possible before compliance is required.

(2) By whom served; how served. Any person who is at least 18 years old and not a party may serve a subpoena. Serving a subpoena requires delivering a copy to the named person or service as otherwise ordered by the court consistent with due process. Service is also valid if the person named in the subpoena has signed a written acknowledgement or waiver of service. Service may be made anywhere within the state of Colorado.
(3) Tender of payment for mileage. If the subpoena requires a person's attendance, the payment for 1 day's mileage allowed by law must be tendered to the subpoenaed person at the time of service of the subpoena or within a reasonable time after service of the subpoena, but in any event prior to the appearance date. Payment for mileage need not be tendered when the subpoena issues on behalf of the state of Colorado or any of its officers or agencies.
(4) Proof of service. Proof of service shall be made as provided in C.R.F.P. 4(H). original subpoenas and returns of service of such subpoenas need not be filed with the court.
(5) Notice to other parties.
(A) Service on the parties. Immediately following service of a subpoena, the party or attorney who issues the subpoena, shall serve a copy of the subpoena on all parties pursuant to C.R.F.P. 5; provided that such service is not required for a subpoena issued pursuant to C.R.F.P. 69.
(B) Notice of changes. The party or attorney who issues the subpoena must give the other parties reasonable notice of any written modification of the subpoena or any new date and time for the deposition, or production of records and tangible things.
(C) Availability of produced records or tangible things. The party or attorney who issues the subpoena for production of records or tangible things must make available in a timely fashion for inspection and copying to all other parties the records or tangible things produced by the responding party.

(c) Protecting a person subject to a subpoena.

(1) Avoiding undue burden or expense; sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction, which may include lost earnings and reasonable attorney's fees, on a party or attorney who fails to comply.
(2) Command to produce records or tangible things.
(A) Attendance not required. A person commanded to produce records or tangible things need not attend in person at the place of production unless also commanded to attend for a deposition, hearing, or trial.
(B) For production of privileged records.
(i) If a subpoena commands production of records from a person who provides services

subject to one of the privileges established by C.R.S. § 13-90-107, or from the records custodian for that person, which records pertain to services performed by or at the

direction of that person ("privileged records"), such a subpoena must be accompanied by an authorization signed by the privilege holder or holders or by a court order authorizing production of such records.
(ii) Prior to the entry of an order for a subpoena to obtain the privileged records, the court shall consider the rights of the privilege holder or holders in such privileged records, including an appropriate means of notice to the privilege holder or holders or whether any objection to production may be resolved by redaction.
(iii) If a subpoena for privileged records does not include a signed authorization or court order permitting the privileged records to be produced by means of subpoena, the subpoenaed person shall not appear to testify and shall not disclose any of the privileged records to the party who issued the subpoena.
(C) Objections. Any party or the person subpoenaed to produce records or tangible things may submit to the party issuing the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials. The objection must be submitted before the earlier of the time specified for compliance or 14 days after the subpoena is served. If objection is made, the party issuing the subpoena shall promptly serve a copy of the objection on all other parties. If an objection is made, the party issuing the subpoena is not entitled to inspect, copy, test or sample the materials except pursuant to an order of the court from which the subpoena was issued. If an objection is made, at any time on notice to the subpoenaed person and the other parties, the party issuing the subpoena may move the issuing court for an order compelling production.
(3) Quashing or modifying a subpoena.
(A) When required. On motion made promptly and in any event at or before the time specified in the subpoena for compliance, the issuing court must quash or modify a subpoena that:
(i) Fails to allow a reasonable time to comply;
(ii) Requires a person who is neither a party nor a party's officer to attend a deposition in any county other than where the person resides or is employed or transacts business in person, or at such other convenient place as is fixed by an order of court;
(iii) Requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
(iv) Subjects a person to undue burden.
(B) When permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion made promptly and in any event at or before the time specified in the subpoena for compliance, quash or modify the subpoena if it requires:
(i) Disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) Disclosing an unretained expert's opinion or information that does not describe specific matters in dispute and results from the expert's study that was not requested by a party.
(C) Specifying conditions as an alternative. In the circumstances described in C.R.F.P. 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order attendance or production under specified conditions if the issuing party:
(i) Shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
(ii) Ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in responding to subpoena.

(1) Producing records or tangible things.
(A) Unless agreed in writing by all parties, the privilege holder or holders and the person subpoenaed, production shall not be made until at least 14 days after service of the subpoena, except that, in the case of an expedited hearing pursuant to these rules or any statute, in the absence of such agreement, production shall be made only at the place, date and time for compliance set forth in the subpoena; and
(B) If not objected to, a person responding to a subpoena to produce records or tangible things must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand and must permit inspection, copying, testing, or sampling of the materials.
(2) Claiming privilege or protection.
(A) Information withheld. Unless the subpoena is subject to subsection (c)(2)(B) of this rule relating to production of privileged records, a person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:
(i) Make the claim expressly; and
(ii) Describe the nature of the withheld records or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.
(B) Information produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must

preserve the information until the claim is resolved.

(e) Subpoena for Deposition.

(1) Residents of this state. A resident of this state may be required by subpoena to attend an examination upon deposition only in the county wherein the witness resides or is employed or transacts business in person, or at such other convenient place as is fixed by an order of court.
(2) Nonresidents of this state. A nonresident of this state may be required by subpoena to attend only within forty miles from the place of service of the subpoena in the state of Colorado or in the county wherein the nonresident resides or is employed or transacts business in person or at such other convenient place as is fixed by an order of court.
(3) Subpoena for deposition of an organization. A subpoena commanding a public or private corporation, partnership, association, governmental agency, or other entity to attend and testify at a deposition is subject to the requirements of C.R.F.P. 30(b)(6). Responses to such subpoenas are also subject to C.R.F.P. 30(b)(6).

(f) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of C.R.F.P. 45(e).

Rule 53. Masters

(a) Scope.

(1) A reference to a master shall be the exception and not the rule. Unless a statute provides otherwise, a court may appoint a master only to:
(i) perform duties consented to by the parties;
(ii) hold trial proceedings and make or recommend findings of fact on issues to be decided if appointment is warranted by some exceptional condition; or
(iii) address pretrial and posttrial matters that cannot be effectively and timely addressed by the appointed district judge.

(b) Appointment.

(1) Appointment. If the parties stipulate in writing or on the record in open court, the court may appoint a family law master who is an attorney or other professional with education, experience, and special expertise regarding the particular issues to be referred to the master.
(2) Compensation. The court will determine the master's allowed compensation. Before or after judgment, the court must fix the master's compensation on the basis and terms stated in the appointing order, but the court may set a new basis and terms after giving notice and an opportunity to be heard.

(3) Payment. The compensation must be paid either by a party or parties, or from a fund or subject matter of the action within the court's control.
(4) Allocating Payment. The court must allocate payment among the parties after considering the nature and amount of the controversy, the parties' means, and the extent to which any party is more responsible than other parties for the reference to a master. An interim allocation may be amended to reflect a decision on the merits.
(5) Party Stipulation. The parties may stipulate to the appointment of a particular person to serve as a master and the amount of compensation, but before such a person may be appointed, the court must approve the appointment and, after reviewing the person's qualifications, the proposed compensation.
(6) Possible Expense or Delay. In appointing a master, the court must consider the proportionality of the appointment to the issues and needs of the case, consider the fairness of imposing the likely expenses on the parties, and protect against unreasonable expense or delay.

(c) Order Appointing a Master.

(1) Notice. Before appointing a master, the court must give the parties notice and an opportunity to be heard. If requested by the Court, any party may suggest candidates for appointment.
(2) Contents of Order. The master's duties, including any investigation or enforcement duties, and any limits on the master's scope of authority under C.R.F.P. 53(c);
(i) the circumstances, if any, in which the master may communicate ex parte with the court or a party;
(ii) the nature of the materials to be preserved and filed as the record of the master's activities;
(iii) the time limits, method of filing the record, other procedures, and standards for reviewing the master's orders, findings, and recommendations;
(iv) the basis, terms, and procedure for fixing the master's compensation; and
(v) An appointment order may not direct a master to perform services outside the scope of C.R.F.P. 53 or to otherwise make decisions or recommendations concerning legal decision-making or parenting time unless agreed upon by the parties. Other than these subjects, the master may determine any issues under C.R.S. Title 14 that could be presented to the assigned judge, including post-decree matters.
(3) Disqualification. A master must not have a relationship to the parties, attorneys, action, or court that would require disqualification of a judge under the Colorado Code of Judicial Conduct, Rule 2.11, unless the parties, with the court's approval, consent to the appointment after the master discloses any potential grounds for disqualification.
(4) Amending. The order may be amended at any time after notice to the parties and an opportunity to be heard.

(d) Proceedings Before a Master.

(1) Generally. Subject to any limitations in the appointment order, the master may exercise the power to regulate all proceedings in every hearing before the master and may do all acts and take all measures necessary or proper for the efficient performance of the master's duties under the order.

(2) Discovery. The master may require the production of evidence on all matters included in the appointment order.
(3) Evidence Admissibility and Witness Testimony. The master may rule on the admissibility of evidence, unless otherwise directed by the appointment order, and has the authority to place witnesses under oath and examine them.
(4) Procedural and Evidentiary Rules. Unless the parties stipulate otherwise, these rules apply to all proceedings before the master.
(5) Record. If a party requests it, the master must make a record of the evidence offered and excluded in the same manner and subject to the same limitations as provided in the Colorado Rules of Evidence for a court sitting without a jury. The court must allocate the cost of creating the record among the parties, with allocated costs being treated as taxable costs.

(e) Meetings.

(1) First Meeting. Upon receipt of an appointment order, the master must set a time and place for the first meeting of the parties or their attorneys. The first meeting should be held not later than 21 days after the appointment order is filed.
(2) Notice. The master must provide the parties reasonable notice of all meetings.
(3) Proceeding with Reasonable Diligence. In scheduling meetings and otherwise discharging the master's authority under the appointment order, the master must proceed with reasonable diligence.
(4) Failure to Appear. If a party fails to appear at a scheduled meeting, the master may proceed ex parte or, in the master's discretion, reschedule the meeting with notice to the parties.
(5) Witnesses. The parties may procure the attendance of witnesses before the master by serving subpoenas as provided in C.R.F.P. 45. If a witness fails to appear or give evidence without adequate excuse, the court may hold the witness in contempt and order the sanctions and remedies provided in C.R.F.P. 45 and 37.

(f) Report

(1) Generally. The master must prepare a report on the matters submitted to the master by the appointment order, including requested findings of fact and conclusions of law concerning disputed issues. Before filing the report, a master may circulate a draft to the parties' counsel, or to any self-represented party, and solicit their comments and suggestions.
(2) Filing and Service. The master must file the final report with the clerk. Unless the appointment order provides otherwise, the master also must file any transcript of the proceedings and the evidence and original exhibits submitted by the parties.

(3) Final Report. A report is final upon issuance. A master's report shall be effective upon issuance subject to the provisions of section (H) of this Rule.

(g) Master's Orders. A master who issues a written order must file it and promptly serve a copy on each party. The clerk must enter the written order on the docket. A master's order shall be effective upon issuance subject to the provisions of section (h) of this Rule.

(h) Master's Reports. A master must report to the court as required by the appointing order. The master must file the report and promptly serve a copy on each party, unless the court orders otherwise. A report is final upon issuance. A master's report shall be effective upon issuance subject to the provisions of section (H) of this Rule.

(i) Action on the Master's Order, Report, or Recommendations.

(1) Opportunity for a Hearing; Action in General. In acting on a master's order, report, or recommendations, the court must give the parties notice and an opportunity to be heard; may receive evidence; and may adopt or affirm, modify, wholly or partly reject or reverse, or resubmit to the master with instructions.

(2) Time to Object or Move to Modify. A party may file objections to or a motion to modify the master's proposed rulings, order, report or recommendations no later than ~~7~~14 days after service of any of those matters, except when the master held a hearing and took sworn evidence, in which case objections or a motion to modify shall be filed no later than ~~14~~ 21 days after service of any of those matters.

(3) Reviewing Factual Findings. The court must decide de novo all objections to findings of fact made or recommended by a master, unless the parties, with the court's approval, stipulate that:

(i) the findings will be reviewed for clear error; or

(ii) the findings of a master appointed to perform duties consented to by the parties or address pretrial and posttrial matters that cannot be effectively and timely addressed by the appointed district judge will be final.

(4) Reviewing Legal Conclusions. The court must decide de novo all objections to conclusions of law made or recommended by a master.

(5) Reviewing Procedural Matters. Unless the appointing order establishes a different standard of review, the court may set aside a master's ruling on a procedural matter only for an abuse of discretion.

Rule 54. Judgments, Costs

(a) Definition: Form. "Judgment" as used in these rules includes a decree and final order to or from which an appeal lies. A judgment shall not contain a recital of pleadings, the report of a master, or the record of prior proceedings.

(b) Judgment Upon Multiple Claims or Involving Multiple Parties. When more than one

claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim or third-party claim, or when multiple parties are involved, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment. In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims, or parties and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.

(c) Costs. Except when express provision therefor is made either in a statute of this state or in these rules, reasonable costs shall be allowed as of course to the prevailing party considering any relevant factors which may include the needs and complexity of the case and the amount in controversy. ~~But costs against the state of Colorado, its officers, or agencies, shall be imposed only to the extent permitted by law.~~

(d) Against Partnership. Any judgment obtained against a partnership or unincorporated association shall bind only the joint property of the partners or associates, and the separate property of the parties personally served.

(e) After Death, How Payable. If a party dies after a decision upon any issue of fact, and before judgment, the court may, nevertheless, render judgment thereon. Such judgment shall not be a lien on the real property of the deceased party but shall be paid as a claim against the estate. However, an order dissolving a marriage may not be entered after the death of either party.

(f) Against Unknown Respondents. The judgment in an action in rem shall apply to and conclude the unknown respondents whose interests are described in the petition.

(g) 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 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 answers, 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. Sanctions

(a) Request. When a party to a family action has failed to comply with any obligation provided

for under these Rules, a party, by motion, may seek to impose sanctions. The moving party shall specify in the motion the provision(s) of these Rules that the moving party alleges has been violated, how the provision(s) was violated, the sanction(s) that the moving party requests the

court to impose, and address the considerations set forth in (b) below. The sanctions sought may include:

(1) directing that specified facts be taken as established for purposes of the action;
(2) prohibiting the disobedient party introducing witnesses including the party and/or other evidence supporting or opposing the party's position on a disputed issue;
(3) striking pleadings, motions, or other papers;
(4) dismissing the action or proceeding in whole or in part;
(5) treating as a contempt of court the failure to obey any order;
(6) any other sanction so specified in the motion.

If the sanction(s) sought include contempt, the moving party and the court shall comply with the procedural protections mandated in C.R.F.P. 107. The motion shall be served upon all other parties pursuant to the provisions of C.R.F.P. 5.

(b) Sanctions. In granting a request for sanctions under this rule, the trial court should exercise an informed discretion in imposing a sanction which is commensurate with the seriousness of the disobedient party's conduct and that considers the following:

(1) the length of any delay in complying with an obligation under the Rules;
(2) the reason for any delay in complying with an obligation under the Rules;
(3) the prejudice that has or may result to any parties;
(4) the prejudice that has or may result to non-parties; and
(5) the extent to which the non-moving party has made efforts to comply with the obligation alleged to have been violated in the motion.

If, in order to enable the court to enter judgment, or carry any judgment into effect, it is necessary 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 further proceedings as the court deems necessary and proper. The court, prior to entering a final judgment, shall be satisfied that the court has jurisdiction to enter such judgment. If further documentation, proof or hearing is required, the court shall so notify the moving party.

(c) Military. If the party against whom judgment is sought is in the military service, or the party's status cannot be shown, the court shall require such additional evidence or proceeding as will protect the interests of such party in accordance with the Servicemembers Civil Relief Act (SCRA), 50 USC § 3931, including the appointment of an attorney when necessary. The appointment of an attorney shall be made upon application of the moving party, and expense of such appointment shall be borne by the moving party, but taxable as costs awarded to the moving party as part of the judgment except as prohibited by law.

(d) Applicability. The provisions of this rule shall apply whether the party seeking sanctions is the petitioner, co-petitioner, respondent, or intervenor. The provisions of this rule shall not apply to garnishees whose rights and obligations are set forth in C.R.F.P. 103.

(e) Sanctions Against an Officer or Agency of the State of Colorado. No sanction of dismissal or summary judgment shall be entered against an officer or agency of the State of Colorado.

(f) Limitations. Nothing in this rule shall be interpreted to otherwise limit the court's ability to impose sanctions under C.R.F.P. 37, C.R.F.P. 26, and case law thereunder.

Rule 56. Summary Judgment and Rulings on Questions of Law

(a) Determination of a Question of Law. A party may move for determination of a question of law with or without supporting exhibits at any time that the moving party can identify that there is no genuine dispute as to any material fact related to the relief requested and the moving party is entitled to a judgment as a matter of law. If there is no genuine issue of any material fact necessary for the determination of the question of law, the court may enter an order deciding the question pursuant to the procedures of this rule.

(1) Timing.

(A) A motion for determination of a question of law may be filed at any time that grounds exist for such a motion, except that it shall be filed no later than sixty-three (63) days before any hearing on the relief requested. Supporting exhibits, if any, shall be filed with the motion.

(B) A response to a motion for determination of a question of law shall be filed within twenty-one (21) days of service of the motion. Opposing supporting exhibits shall be filed with the response. Objections to the admissibility of the moving party's supporting exhibits shall be included in the response.

(C) A reply shall be filed within seven (7) days of the response. Objections to the admissibility of the responding party's supporting exhibits shall be included in the reply.

(2) Proceedings. The determination of a question of law sought shall be rendered forthwith if the pleadings and supporting exhibits, if any, show that there is no genuine issue as to any material fact and that either party is entitled to a judgment as a matter of law. Any request for a hearing after the filing of the original motion shall be stated in the response or reply. After reviewing the motion, response, and reply, the court may (1) set the matter for a hearing by request of either party or on its own motion, (2) grant the determination of a question of law of either party; or (3) deny the motion based on the pleadings.

(A) Effect of No Response: If the responding party fails to file a timely response, the

court may (1) set the matter for a hearing; (2) grant the motion; or (3) deny the motion.

(b) Motion for Clarification.

(1) Grounds. A party may file a motion that requests the court to clarify a ruling, whether or not the ruling is a final order, if the ruling is confusing or is susceptible to more than one reasonable interpretation.
(A) The moving party shall include their understanding of the parties' competing interpretations of the ruling in the motion.
(B) Grounds under this rule may include clarification of deadlines or additional orders where orders are silent on when the parties are required to execute terms of the existing court orders.
(2) Timing. A party may file a motion for clarification at any time, but the motion does not extend the time for filing a notice of appeal.
(3) Procedure.
(A) On a motion for clarification, the court may not open the judgment or accept additional evidence. The court may not modify the existing orders except as authorized by (b)(1)(B).
(B) The court may summarily deny a motion for clarification without a response, but the court may not grant a motion until after the response period has expired.
(C) A response to a motion for clarification, if any, shall be filed within fourteen (14) days of service of the motion or other timeframe ordered by the court. A reply, if any, is due within seven (7) days of a response. The court shall rule on any motion for clarification within twenty-one (21) days of the reply being filed.
(D) Partial or Full Agreement that Clarification is Necessary. When parties agree that clarification is necessary, joint motions outlining each party's interpretation are preferred. If the parties agree that clarification is necessary and agree on an interpretation of the ruling, they may file a stipulation clarifying the ruling for the court to adopt as an order.
Upon the filing of a stipulation, the court may (1) adopt the stipulation as a clarifying order, (2) deny the stipulation and enter its own clarification, or (3) any other action as deemed necessary by the court.
(4) A party may not combine a motion filed under this rule with a motion to amend or set aside a judgment.
(5) This Rule shall apply to matters heard before magistrates. A motion for clarification is not a review under C.R.M. 7. A clarification shall not preclude the review of an order.

Rule 58. Entry of Judgment

(a) Entry. Subject to the provisions of C.R.F.P. 54(b) upon a decision by the court, including a minute order, 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.F.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 a copy of the signed judgment shall be immediately mailed or e-served by the court, pursuant to C.R.F.P. 5, to each party who has previously appeared.

(b) Satisfaction. Satisfaction in whole or in part of a money judgment may be entered in the judgment record (C.R.C.P. 79(d)) upon an execution returned satisfied in whole or in part, or upon the filing of a satisfaction with the clerk, signed by the judgment creditor's attorney of record unless a revocation of authority is previously filed, or by the signing of such satisfaction by the judgment creditor, attested by the clerk, or notary public, or by the signing of the judgment record (C.R.C.P. 79(d)) by one herein authorized to execute satisfaction. Whenever a judgment shall be so satisfied in fact otherwise than upon execution, it shall be the duty of the judgment creditor or the judgment creditor's attorney to give such satisfaction, and upon motion the court may compel it or may order the entry of such satisfaction to be made without it.

Rule 59. Motions For Post-Trial Relief

(a) Post-Trial Motions. Within 21 days of entry of judgment as provided in C.R.F.P. 58 or such greater time as the court may allow pursuant to a request for an extension of time made within that ~~14~~21-day period, a party may move for post-trial relief including:

(1) A new trial of all or part of the issues;
(2) Amendment of findings; or
(3) Amendment of judgment.

Motions for post-trial relief may be combined or asserted in the alternative. The motion shall state the ground asserted and the relief sought.

(b) No Post-Trial Motion Required. Filing of a motion for post-trial relief shall not be a condition precedent to appeal or cross-appeal, nor shall filing of such motion limit the issues that may be raised on appeal.

(c) On Initiative of Court. Within the time allowed the parties and upon any ground available to a party, the court on its own initiative, may:

(1) Order a new trial of all or part of the issues;
(2) Order an amendment of its findings; or
(3) Order an amendment of its judgment.

The court's order shall specify the grounds for such action.

(d) Grounds for New Trial. Subject to provisions of Rule 60, a new trial may be granted for any of the following causes:

(1) Any irregularity in the proceedings by which any party was prevented from having a fair trial;
(2) Accident or surprise, which ordinary prudence could not have guarded against;

(3) Newly discovered evidence, material for the party making the application which that party could not, with reasonable diligence, have discovered and produced at the trial;
(4) Excessive or inadequate damages; or
(5) Error in law.

When application is made under grounds (1), (2), or (3), it shall be supported by affidavit filed with the motion. The opposing party shall have 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.

(e) Scope of Relief in Trials to Court. On motion for post-trial relief, the court may, if a ground exists, open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct entry of a new judgment.

(f) Effect of Granting New Trial. The granting of a new trial shall not be an appealable order, but a party by participating in the new trial shall not be deemed to have waived any objection to the granting of the new trial, and the validity of the order granting new trial may be raised by appeal after final judgment has been entered in the case.

(g) Effect of Amendment of Findings or Amendment of Judgment. Subject to C.R.F.P. 54(b), granting amendment of findings or amendment of judgment shall be an appealable order.

(h) Time for Determination of Post-Trial Motions. The court shall determine any post-trial motion within 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 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.

(ik) When Judgment Becomes Final. For purposes of this Rule 59, judgment shall be final and time for filing of notice of appeal shall commence as set forth in Rule 4(a) of the Colorado Appellate Rules.

Rule 60. Relief From Judgment or Order

(a) Clerical Mistakes. Clerical mistakes in judgments, orders, or other parts of the record and errors therein arising from oversight or omission may be corrected by the district court or magistrate at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. During the pendency of an appeal or petition for magistrate review such mistakes may be so corrected before the case is docketed in the appellate court or the district court rules on the petition, and thereafter while an appeal is pending may be so corrected with leave of the appellate court or district court. During the pendency of an appeal such mistakes may be so corrected before the case is docketed in the appellate court, and thereafter while the appeal is pending may be so corrected with leave of the appellate court. Motions pursuant to this subparagraph shall be ruled on within 21 days of the motion being ripe for decision.

(b) Mistakes, Inadvertence, Surprise, Excusable Neglect, Fraud, etc. On motion and upon such terms as are just, the court may relieve a party or their legal representative from a final judgment, order, or proceeding for the following reasons:

(1) Mistake, inadvertence, surprise, or excusable neglect;
(2) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;
(3) the judgment is void;
(4) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or
(5) any other reason justifying relief from the operation of the judgment.

The motion shall be made within a reasonable time, and for reasons (1) and (2) not more than 182 days after the judgment, order, or proceeding was entered or taken. A motion under this section (b) does not affect the finality of a judgment or suspend its operation.

This Rule does not limit the power of a court: (1) To entertain an independent action to relieve a party from a judgment, order, or proceeding, or (2) to set aside a judgment for fraud upon the court; or (3) when, for any cause, the summons in an action has not been personally served within or without the state on the defendant, to allow, on such terms as may be just, such defendant, or their legal representatives, at any time within 182 days after the rendition of any judgment in such action, to answer to the merits of the original action. The court shall determine any motion under this section within 63 days (9 weeks) of the date of the motion being filed.

Rule 62. Stay of Proceedings to Enforce a Judgment

(a) Automatic Stay. No execution shall issue upon a judgment under C.R.F.P. 58 nor shall proceedings be taken for its enforcement until the expiration of ~~14~~ 21 days after its entry.

(b) Discretionary Stay. In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of, or any proceedings to enforce, a judgment: (1) pending the disposition of a motion for post-trial relief made pursuant to C.R.F.P. 59; (2) pending a motion for relief from a judgment or order made pursuant to C.R.F.P. 60; (3) during the time permitted for filing of a notice of appeal; or (4) during the pendency of a motion for approval of a supersedeas bond.

(c) Factors. In deciding whether to grant a stay the court shall consider (i) whether the moving party has made a strong showing that it is likely to prevail on the merits; (ii) whether the moving party will be irreparably injured absent a stay; and (iii) whether the nonmovant spouse, any minor children of the marriage, or other interested parties would be harmed by granting the stay.

(d) Scope and conditions of stay. The court shall stay only those portions of the judgment for which the moving party has shown that the factors in section (c) weigh in favor of a stay. It shall be the moving party's burden to identify the issues for which post-trial, post-judgment, or appellate relief is sought, and to request a stay only as to those provisions of the judgment. The court may specify that the stay is granted upon the condition that the moving party perform or

refrain from performing certain acts during the pendency of the stay where such conditions are necessary to prevent harm to the nonmoving party, including the spouse or minor children in domestic matters.

(e) Stay upon Appeal. When an appeal or cross-appeal is taken, the appellant may obtain a stay from the trial court subject to the provisions of Sections (c) and (d) of this Rule, and by giving a supersedeas bond. The bond may be given at or after the time of filing the notice of appeal or of procuring the order allowing the appeal or cross-appeal. The stay is effective once granted by the trial court under Section (b) of this Rule and the supersedeas bond is approved by the appellate court.

(f) Docket Priority. Stay applications shall be given priority on the court's docket.

Rule 66. Receivers

(a) When Appointed. A receiver may be appointed by the court in which the action is pending at any time:

(1) Before judgment, provisionally, on application of either party, when the receiver establishes a prima facie right to the property, or to an interest therein, which is the subject of the action and is in possession of an adverse party and such property, or its rents, issues, and profits are in danger of being lost, removed beyond the jurisdiction of the court, or materially injured or impaired; or

(2) By or after judgment, to dispose of the property according to the judgment, or to preserve it during appellate proceedings; or

(3) In other cases where proper and in accordance with the established principles of equity.

(b) Oath and Bond; Suit on Bond. Before entering upon their duties, the receiver shall be sworn to perform them faithfully, and shall execute, with one or more sureties, an undertaking with the people of the state of Colorado, in such sum as the court shall direct, to the effect that they will faithfully discharge their duties and will pay over and account for all money and property which may come into their hands as the court may direct, and will obey the orders of the court therein. The undertaking, with the sureties, must be approved by the court, or by the clerk thereof when so ordered by the court, and may be sued upon in the name of the people of the state of Colorado, at the instance and for the use of any party injured.

(c) Dismissal of Receivership Action. An action in which a receiver has been appointed shall not be dismissed except by order of the court.

(d) Sole Claim for Relief, Service of Process, Notice.

(1) The appointment of a receiver may be the sole claim for relief in an action. The action shall be commenced by filing a complaint, or by service of a summons and a complaint, as provided in C.R.F.P. 4.

(2) If the receivership is requested in connection with a mortgage, trust deed or other lien on real property, the current owner of the property, as shown by the records of the clerk and recorder, and any other person then collecting the rents and profits as a result of that

person's lien on the rents or profits, shall be named as defendants.

(3) If a receiver is appointed by the court *ex parte*, copies of the summons, complaint, and order appointing the receiver shall be served on the defendants without delay, as provided in C.R.F.P. 4 or as directed by the court. The court, in its order for appointment of the receiver, shall direct the receiver to provide written notice of the action to any persons in possession of the property or otherwise affected by the order.

C.R.F.P. RULE 69. EXECUTION AND PROCEEDINGS SUBSEQUENT TO JUDGMENT

(a) In General. Except as provided by other statute or rule to enforce judgments in domestic relations cases, or an order of the court otherwise, the process for enforcing a money judgment shall be by writ of execution against property of the judgment debtor.

(b) Proceedings for Costs. Costs may be enforced in the same manner as a final money judgment.

(c) Debtor and Debtor of Judgment Debtor Payment. After issuance of a writ of execution against property, the judgment debtor or a debtor of the judgment debtor may deposit with the sheriff the amount necessary to satisfy the execution. The sheriff's receipt for the amount shall be a discharge for the amount so paid.

(d) Written Interrogatories to Judgment Debtor.

(1) At any time after entry of a final money judgment, a judgment creditor may serve upon the judgment debtor written interrogatories in accordance with Rule 45, requiring the judgment debtor to answer the interrogatories. Within 14 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 14 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 Rule 45.

(e) Subpoena for Appearance of Judgment Debtor.

(1) At any time after entry of a final money judgment, a judgment creditor may cause a subpoena or subpoena to produce to be served as provided in Rule 45 requiring the judgment debtor to appear before the court with requested documents at a specified time obtained from the court to answer concerning property. A judgment debtor may be required to attend outside the county where such judgment debtor resides, and the court may make reasonable orders for mileage and expenses. The subpoena shall include on its face a conspicuous notice to the judgment debtor that provides: "Failure to Appear Will Result in Issuance of a Warrant for Your Arrest."

(2) If the judgment debtor, after being properly served with a subpoena or subpoena to produce as provided in Rule 45, fails to appear, the court upon motion of the judgment creditor shall issue a bench warrant commanding the sheriff of any county in which the judgment debtor may be found, to arrest and bring the judgment debtor forthwith before the court for proceedings under this Rule.

(f) Subpoena for Appearance of Debtor of Judgment Debtor. At any time after entry of a final money judgment, upon proof to the satisfaction of the court, that any person has property of, or is indebted to a judgment debtor in any amount exceeding Five Hundred Dollars not exempt from execution, the court may issue a subpoena or subpoena to produce to such person to appear before the court, master or referee at a specified time and answer concerning the same. Service shall be made in accordance with Rule 45, and the court may make reasonable orders for mileage and expenses.

(g) Order to Apply Property on Judgment; Contempt. The court may order any party or other person over whom the court has jurisdiction, to apply any property other than real property, not exempt from execution, whether in the possession of such party or other person, or owed the judgment debtor, towards satisfaction of the judgment. Any party or person who disobeys an order made under the provisions of this Rule may be punished for contempt.

(h) Witnesses. Witnesses may be subpoenaed to appear and testify in accordance with Rule 45.

(i) Depositions. After entry of a final money judgment, the judgment creditor, upon order of court which may be obtained ex parte, may take the deposition of any person including the judgment debtor, in the manner provided in these Rules.

Rule 70. Judgment For Specific Acts; Vesting Time

(a) A Party's Failure to Act; Ordering Another to Act. If a judgment requires a party to convey land, to deliver a deed or other document, or to perform any other specific act and the party fails to comply within the time specified, the court may order the act to be done—at the disobedient party's expense—by the Clerk of Court or another person appointed by the court.

When done, the act has the same effect as if done by the party who was originally ordered to do the act.

(b) Vesting Title. If the real or personal property is within Colorado, the court—instead of ordering a conveyance—may enter a judgment divesting any party's title and vesting it in others. That judgment has the effect of a legally executed conveyance.

(c) Obtaining a Writ of Attachment or Sequestration. The clerk shall issue a writ of attachment or sequestration against the disobedient party's property to compel obedience pursuant to C.R.C.P. Rule 102.

(d) Obtaining a Writ of Execution or Assistance. The clerk shall issue a writ of execution or assistance pursuant to C.R.C.P. Rule 102.

(e) Contempt. The court also may hold the disobedient party in contempt and other remedies pursuant to C.R.F.P. 107.

Rule 98. Place of Trial

(a) Venue for Injunction to Stay Proceedings. When any injunction shall be granted to stay proceedings, the proceeding shall be had in the county where the judgment was obtained, or the domestic relations action is pending.

(b) Venue for Domestic Relations Actions.

(1) Dissolution, Legal Separation, Invalidity of Marriage or Civil Union with or without children: An action shall be tried in the county in which the respondent may reside at the commencement of the action, or in the county where the petitioner resides when service is made on the respondent in such county; or if the respondent is a nonresident of this state, the same may be tried in any county in which the respondent may be found in this state, where respondent may be found and service had, or in the county designated in the petition.

(2) Allocation of Parental Responsibilities: An action solely addressing allocation of parental responsibilities shall be tried in the county in which the child/ren reside or are found pursuant to C.R.S. § 14-10-123(1).

(c) Motion to Change Venue: When Presented, Waiver, Effect of Filing.

(1) A motion to change venue shall be filed within the time permitted for the filing of motions under the defenses numbered (1) to (4) of section (b) of C.R.F.P. 12, and if any such motion, or any other motion permitted by C.R.F.P. 12, is filed within said time, simultaneously therewith.

(2) If a motion to change venue is filed within the time permitted by section (a) of C.R.F.P. 12 for the filing of a motion under the defenses numbered (1) to (4) of section (b) of C.R.F.P. 12, the filing of such motion by a party under the provisions of subsection

(1) of this section (c) alters their time to file their responsive pleading as follows: If the motion is overruled the responsive pleading shall be filed within 14 days thereafter unless a different time is fixed by the court, and if it is allowed the responsive pleading shall be filed within 14 days after the action has been docketed in the court to which the action is removed unless that court fixes a different time.
(3) Except as otherwise provided in an order allowing a motion to change venue, earlier ex parte and other orders affecting a domestic relations action, or the parties thereto, shall remain in effect, subject to change or modification by order of the court to which the action is removed.

(d) Causes of Change. The court may, on good cause shown, change the place of trial in the following cases: (1) When the county designated in the petition is not the proper county; (2) When the convenience of witnesses and the ends of justice would be promoted by the change.

(e) Transfers Where Concurrent Jurisdiction. All actions or proceedings in which district and county courts have concurrent jurisdiction, may, by stipulation of the parties and order of the court, be transferred by either court to such other court of the same county. Upon transfer, the court to which such cause is removed shall have and exercise the same jurisdiction as if originally commenced therein.

(f) Place Changed if All Parties Agree. When all parties assent, or when all parties who have entered their appearance assent and the remaining non-appearing parties are in default, the place of trial of an action in a district court may be changed to any other county in the district. The judgment entered therein, if any, shall be transmitted to the clerk of the district court of the original county for filing and recording in that office.

(g) Only One Change, No Waiver. In case the place of trial is changed the party securing the same shall not be permitted to apply for another change upon the same ground. A party does not waive the right to change of judge or place of trial if the objection is timely.

Rule 103. Garnishment

This rule sets forth the exclusive process for garnishment. There shall be five (5) types of writs: (1) Writ of Continuing Garnishment, (2) Writ of Garnishment with Notice of Exemption and Pending Levy, (3) Writ of Garnishment for Support, (4) Writ of Garnishment-Judgment Debtor Other Than Natural Person, and (5) Writ of Garnishment in Aid of Writ of Attachment.

SECTION 1 Writ of Continuing Garnishment (On Earnings of A Natural Person)

(a) Definitions.

(1) "Continuing garnishment" means the exclusive procedure for withholding the earnings of a judgment debtor for successive pay periods for payment of a judgment debt other than a

judgment for support as provided in subsection (c) of this rule.
(2) "Earnings" shall be defined in section 13-54.5-101(2), C.R.S., as applicable.
(b) Form of Writ of Continuing Garnishment and Related Forms. A writ of continuing garnishment shall be in the form and content of Appendix to Chapters 1 to 17, Form 26, C.R.C.P. It shall also include at least one (1) "Calculation of Amount of Exempt Earnings" forms to be in the form and content of Appendix to Chapters 1 to 17, Form 27, C.R.C.P. Objection to the calculation of exempt earnings shall be in the form and content of Appendix to Chapters 1 to 17, Form 28, C.R.C.P.
(c) When Writ of Continuing Garnishment Issues. After entry of judgment when a writ of execution can issue, a writ of continuing garnishment against earnings shall be issued by the clerk of the court upon request of the judgment creditor. Under a writ of continuing garnishment, a judgment creditor may garnish earnings except to the extent such earnings are exempt under law. Issuance of a writ of execution shall not be required.
(d) Service of Writ of Continuing Garnishment. A judgment creditor shall serve two (2) copies of the writ of continuing garnishment, together with a blank copy of C.R.C.P. Form 28, "Objection to the Calculation of the Amount of Exempt Earnings" (Appendix to Chapters 1 to 17, Form 28, C.R.C.P.), upon the garnishee, one copy of which the garnishee shall deliver to the judgment debtor as provided in subsection (h)(1) of this rule. Service of the writ shall be in accordance with C.R.F.P. 4, and the person who serves the writ shall note the date and time of such service on the return service. In any civil action, a judgment creditor shall serve no more than one writ of continuing garnishment upon any one garnishee for the same judgment debtor during the Effective Garnishment Period. This restriction shall not preclude the issuance of a subsequent writ within the Effective Garnishment Period.
(e) Jurisdiction. Service of a writ of continuing garnishment upon the garnishee shall give the court jurisdiction over the garnishee and any earnings of the judgment debtor within the control of the garnishee.
(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 following service of the writ, if the judgment was entered prior to August 8, 2001, and one hundred eighty (180) days 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.
(2) When a writ of continuing garnishment is served upon a garnishee during the Effective Garnishment Period of a prior writ, it shall be effective for the Effective Garnishment Period following the Effective Garnishment Period of any prior writ.
(3) If a writ of garnishment for support pursuant to C.R.S. §14-14-105 is served during the effective period of a writ of continuing garnishment, the Effective Garnishment Period shall be tolled and all priorities preserved until the termination of the writ of garnishment for support.
(g) Exemptions. A garnishee shall not be required to deduct, set up or plead any exemption for

or on behalf of a judgment debtor excepting as set forth in the Exemption Chart contained in the writ.
(h) Delivery of Copy to Judgment Debtor.
(1) The garnishee shall deliver a copy of the writ of continuing garnishment, together with the calculation of the amount of exempt earnings that is based on the judgment debtor's last paycheck prior to delivery of the writ of continuing garnishment to the judgment debtor and the blank copy of C.R.C.P. Form 28, "Objection to the Calculation of the Amount of Exempt Earnings or For Reduction of Withholding Pursuant to Section 13-54-104(2)(a)(I)(D)" (Appendix to Chapters 1 to 17A, Form 28, C.R.S.), to the judgment debtor not later than 7 days after the garnishee is served with the writ of continuing garnishment.
(2) For all pay periods affected by the writ, the garnishee shall deliver a copy of the calculation of the amount of exempt earnings and the "Judgment Debtor's Objection to the Calculation of Amount of Exempt Earnings" to the judgment debtor at the time the judgment debtor receives earnings for that pay period.
(i) Objection to Calculation of Amount of Exempt Earnings. A judgment debtor may object to the calculation of exempt earnings or object and request an exemption of earnings pursuant to section 13-54-104(2)(a)(I)(D), C.R.S. A judgment debtor's objection to calculation of exempt earnings or objection and request for an exemption of earnings pursuant to section 13-54-104(2)(a)(I)(D), C.R.S., shall be in accordance with Section 6 of this rule.
(j) Suspension. A writ of continuing garnishment may be suspended for a specified period of time by the judgment creditor upon agreement with the judgment debtor, which agreement shall be in writing and filed by the judgment creditor with the clerk of the court in which judgment was entered and a copy shall be delivered by the judgment creditor to the garnishee. No suspension shall extend the running of the Effective Garnishment Period nor affect priorities.
(k) Answer and Tender of Payment by Garnishee.
(1) The garnishee shall file the answer to the writ of garnishment with the clerk of the court and send a copy to the judgment creditor not later than 7 days after the garnishee is served with the writ of continuing garnishment pursuant to section 13-54.5-105(5), C.R.S. However, if the judgment creditor is represented by an attorney, or is a collection agency licensed pursuant to section 5-16-101, et seq., C.R.S., the garnishee shall send such response to the attorney or licensed collection agency.
(2) In the event the answer required by Section 1(k)(1) of this rule is filed and served pursuant to section 13-54.5-105(5)(b), C.R.S., the garnishee shall begin garnishment of the disposable earnings of the judgment debtor on the first payday of the judgment debtor that occurs at least 21 days after the garnishee was served with the writ of continuing garnishment or the first payday after the expiration date of any prior effective writ of continuing garnishment that is at least 21 days after the garnishee was served with the writ of continuing garnishment.
(3) Unless payment is made to an attorney or licensed collection agency as provided in paragraph (k)(1), 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 7 nor more than 14

days following the time the judgment debtor receives earnings affected by such writ. However, if the answer and subsequent calculations are mailed to an attorney or licensed collection agency under subsection (k)(1), the payment shall accompany the answer.
(4) Any writ of continuing garnishment served upon the garnishee while any previous writ is still in effect shall be answered by the garnishee with a statement that the garnishee has been previously served with one or more writs of continuing garnishment and/or writs of garnishment for support and specify the date on which such previously served writs are expected to terminate.

(l) Disbursement of Garnished Earnings.

(1) If no objection to the calculation of exempt earnings or objection and request for exemption of earnings pursuant to section 13-54-104(2)(a)(I)(D), C.R.S., is filed by the judgment debtor within 21 days after the garnishee was served with the writ of continuing garnishment, the garnishee shall send the nonexempt earnings to the attorney, collection agency licensed pursuant to section 5-16-101, 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.
(2) If a written objection to the calculation of exempt earnings is filed with the clerk of the court and a copy is delivered to the garnishee, the garnishee shall send the garnished nonexempt earnings to the clerk of the court. The garnished nonexempt earnings shall be placed in the registry of the court pending further order of the court.
(m) Request for accounting of garnished funds by judgment debtor. Upon reasonable written request by a judgment debtor, the judgment creditor shall provide an accounting in writing of all funds received to the date of the request, including the balance due at the date of the request.

SECTION 2 Writ of Garnishment (On Personal Property Other Than Earnings of a Natural Person) with Notice of Exemption and Pending Levy.

(a) Definition. “Writ of garnishment with notice of exemption and pending levy” means the exclusive procedure through which the personal property of any kind (other than earnings of a natural person) in the possession or control of a garnishee including the credits, debts, choses in action, or money owed to the judgment debtor, whether they are due at the time of the service of the writ or are to become due thereafter, is required to be held for payment of a judgment debt. For the purposes of this rule such writ is designated “writ with notice.”
(b) Form of Writ with Notice and Claim of Exemption. A writ with notice shall be in the form and content of Appendix to Chapters 1 to 17, Form 29, C.R.C.P. A judgment debtor's written claim of exemption shall be in the form and content of Appendix to Chapters 1 to 17, Form 30, C.R.C.P.
(c) When Writ with Notice Issues. After entry of a judgment when a writ of execution may issue, a writ with notice shall be issued by the clerk of the court upon request. Under such writ any indebtedness, intangible personal property, or tangible personal property capable of manual delivery, other than earnings of a natural person, owed to, or owned by, the judgment debtor, and in the possession or control of the garnishee at the time of service of such writ upon the

garnishee, shall be subject to the process of garnishment. Issuance of a writ of execution shall not be required before the issuance of a writ with notice.
(d) Service of Writ with Notice.
(1) Service of a writ with notice shall be made in accordance with C.R.F.P. 4.
(2) Following service of the writ with notice on the garnishee, a copy of the writ with notice, together with a blank copy of C.R.C.P. Form 30 "Claim of Exemption to Writ of Garnishment with Notice" (Appendix to Chapters 1 to 17, Form 30, C.R.C.P.), shall be served upon each judgment debtor whose property is subject to garnishment by such writ as soon thereafter as practicable. Such service shall be in accordance with C.R.S. § 13-54.5-107(2).
(e) Jurisdiction. Service of a writ with notice upon the garnishee shall give the court jurisdiction over the garnishee and any personal property of any description, owned by, or owed to the judgment debtor in the possession or control of the garnishee.
(f) Claim of Exemption. A judgment debtor's claim of exemption shall be in accordance with Section 6 of this Rule.
(g) Court Order on Garnishment Answer.
(1) If an answer to a writ with notice shows the garnishee is indebted to the judgment debtor, the clerk shall enter judgment in favor of the judgment debtor and against the garnishee for the use of the judgment creditor in an amount not to exceed the total amount due and owing on the judgment and if the judgment creditor is pro se, request such indebtedness paid into the registry of the court. However, if the judgment creditor is represented by an attorney or is a collection agency licensed pursuant to 5-16-101, et. seq., C.R.S., the garnishee shall pay the funds directly to the attorney or licensed collection agency.
(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 14 days after such service or a written claim of exemption was properly filed and the same was disallowed.
(3) If an answer to a writ with notice shows the garnishee to possess or control intangible personal property or personal property capable of manual delivery owned by the judgment debtor, the court shall order the garnishee to deliver such property to the sheriff to be sold as upon execution and the court may enter any order necessary to protect the interests of the parties. Any proceeds received by the sheriff upon such sale shall be paid to the registry of the court to be applied to the judgment debt, but any surplus of property or proceeds shall be delivered to the judgment debtor.
(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 14 days after such service or a written claim of exemption was properly filed with the court and the same was disallowed.
(h) Disbursement by Clerk of Court. The clerk of the court shall disburse funds to the judgment creditor without further application or order and enter the disbursement in the court records. The

judgment creditor shall refund to the clerk of the court any disbursement in excess of the amount necessary to satisfy the judgment.

(i) Automatic Release of Garnishee. If a garnishee answers a writ with notice that the garnishee is indebted to the judgment debtor in an amount less than $50.00 and no traverse has been filed, the garnishee shall automatically be released from said writ if the garnishee shall not have been ordered to pay the indebtedness to the clerk of the court within 182 days from the date of service of such writ.

SECTION 3 Writ of Garnishment for Support

(a) Definitions.

(1) “Writ of garnishment for support” means the exclusive procedure for withholding the earnings of a judgment debtor for payment of a judgment debt for child support arrearages, maintenance when combined with child support, or child support debts, or maintenance.
(2) “Earnings” shall be as defined in Section 13-54.5-101(2), C.R.S., as applicable.
(b) Form of Writ of Garnishment for Support. A writ of garnishment for support shall be in the form and content of Appendix to Chapters 1 to 17, Form 31, C.R.C.P. and shall include at least four (4) “Calculation of Amount of Exempt Earnings” forms which shall be in the form and content of Appendix to Chapters 1 to 17, Form 27, C.R.C.P.
(c) When Writ of Garnishment for Support Issues. Upon compliance with C.R.S. 14-10-122(1)(c), a writ of garnishment for support shall be issued by the clerk of the court upon request. Under such writ a judgment creditor may garnish earnings except to the extent such are exempt under law. Issuance of a writ of execution shall not be required.
(d) Service of Writ of Garnishment for Support. Service of a writ of garnishment for support shall be in accordance with C.R.F.P. 4.
(e) Jurisdiction. Service of a writ of garnishment for support upon the garnishee shall give the court jurisdiction over the garnishee and any earnings of the judgment debtor within the control of the garnishee.
(f) Effective Garnishment Period and Priority.
(1) A writ of garnishment for support shall be continuing and shall require the garnishee to withhold, pursuant to law, the portion of earnings subject to garnishment at each succeeding earnings disbursement interval until the judgment is satisfied or the garnishment released by the court or released in writing by the judgment creditor.
(2) A writ of garnishment for support shall have priority over any writ of continuing garnishment notwithstanding the fact such other writ may have been served upon the garnishee previously.
(g) Answer and Tender of Payment by Garnishee.
(1) The garnishee shall answer the writ of garnishment for support no less than 7 nor more than 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 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 7 nor more than 14 days following the time the judgment debtor receives earnings during the Effective Garnishment Period of such writ.
(h) Disbursement of Garnished Earnings. The family support registry or the clerk of the court shall disburse nonexempt earnings to the judgment creditor without further application or order and enter such disbursement in the court records. The judgment creditor shall refund to the clerk of the court any disbursement in excess of the amount necessary to satisfy the judgment.

SECTION 4 Writ of Garnishment-Judgment Debtor Other Than Natural Person

(a) Definition. "Writ of garnishment-judgment debtor other than natural person" means the exclusive procedure through which personal property of any kind of a judgment debtor other than a natural person in the possession or control of the garnishee including the credits, debts, choses in action, or money owed to the judgment debtor, whether they are due at the time of the service of the writ or are to become due thereafter is required to be held by a garnishee for payment of a judgment debt. For purposes of this rule, such writ is designated "writ of garnishment-other than natural person."
(b) Form of Writ of Garnishment-Other Than Natural Person. A writ of garnishment under this Section shall be in the form and content of Appendix to Chapters 1 to 17, Form 32, C.R.C.P.
(c) When Writ of Garnishment-Other Than Natural Person Issues. When the judgment debtor is other than a natural person, after entry of a judgment, and when a writ of execution may issue, a writ of garnishment shall be issued by the clerk of the court upon request. Under such writ of garnishment, the judgment creditor may garnish personal property of any description owned by, or owed to, such judgment debtor and in the possession or control of the garnishee. Issuance of a writ of execution shall not be required.
(d) Service of Writ of Garnishment-Other Than Natural Person. Service of the writ of garnishment-other than natural person shall be made in accordance with C.R.F.P. 4. No service of the writ or other notice of levy need be made on the judgment debtor.
(e) Jurisdiction. Service of the writ of garnishment-other than natural person shall give the court jurisdiction over the garnishee and personal property of any description, owned by, or owed to, a judgment debtor who is other than a natural person, in the possession or control of the garnishee.
(f) Court Order on Garnishment Answer. When the judgment debtor is other that a natural person:
(1) If the answer to a writ of garnishment shows the garnishee is indebted to such judgment debtor, the clerk shall enter judgment in favor of such judgment debtor and against the garnishee for the use of the judgment creditor for the amount of the indebtedness shown in such answer and if the judgment creditor is pro se, request such indebtedness be paid into the registry of the court. However, if the judgment creditor is represented by an attorney or is a collection agency licensed pursuant to 5-16-101, et. seq., C.R.S., the garnishee shall pay the funds directly to the attorney or licensed collection agency. In no event shall any judgment against the garnishee be more than the total amount due and owing on the judgment.
(2) If the answer to a writ of garnishment shows the garnishee to possess or control personal property of any description, owned by, or owed to, such judgment debtor, the court shall order the garnishee to deliver such property to the sheriff to be sold as upon execution and the court may enter any order necessary to protect the interests of the parties. Any proceeds received by the sheriff upon such sale shall be paid to the registry of the court to be applied to the judgment debt, but any surplus of property or proceeds shall be delivered to the judgment debtor.
(g) Disbursement by Clerk of Court. The clerk of the court shall disburse any funds in the registry of court to the judgment creditor without further application or order and enter such

disbursement in the court records. The judgment creditor shall refund to the clerk of the court any disbursement in excess of the amount necessary to satisfy the judgment.

SECTION 5 Writ of Garnishment in Aid of Writ of Attachment

(a) Definition. "Writ of garnishment in aid of writ of attachment" means the exclusive procedure through which personal property of any kind of a defendant in an attachment action (other than earnings of a natural person) in the possession or control of the garnishee including the credits, debts, choses in action, or money owed to the judgment debtor, whether they are due at the time of the service of the writ or are to become due thereafter, is required to be held by a garnishee. For purposes of this rule, such writ is designated "writ of garnishment in aid of attachment."

(b) Form of Writ of Garnishment in Aid of Attachment and Form of Notice of Levy. A writ of garnishment in aid of attachment shall be in the form and content of Appendix to Chapters 1 to 17, Form 33, C.R.C.P. A Notice of Levy shall be in the form and content of Appendix to Chapters 1 to 17, Form 34, C.R.C.P.

(c) When Writ of Garnishment in Aid of Attachment Issues. At any time after the issuance of a writ of attachment in accordance with C.R.C.P. 102, a writ of garnishment shall be issued by the clerk of the court upon request. Under such writ of garnishment the plaintiff in attachment may garnish personal property of any description, except earnings of a natural person, owed to, or owned by, such defendant in attachment and in the possession or control of the garnishee.

(d) Service of Writ of Garnishment in Aid of Attachment. Service of the writ of garnishment in aid of attachment shall be made in accordance with C.R.F.P. 4. If the defendant in attachment is a natural person, service of a notice of levy shall be made as required by C.R.S. 13-55-102. If the defendant in attachment is other than a natural person, a notice of levy need not be served on the defendant in attachment.

(e) Jurisdiction. Service of the writ of garnishment in aid of attachment shall give the court jurisdiction over the garnishee and personal property of any description (except earnings of a natural person), owned by, or owed to, a defendant in attachment in the possession or control of the garnishee.

(f) Court Order on Garnishment Answer.

(1) When the defendant in attachment is an entity other than a natural person:

(A) If the answer to a writ of garnishment in aid of attachment shows the garnishee is indebted to such defendant in attachment, the clerk shall enter judgment in favor of such defendant in attachment and against the garnishee for the use of the plaintiff in attachment for the amount of the indebtedness shown in such answer and order such amount paid into the registry of the court. In no event shall any judgment against the garnishee be more than the total amount due and owing nor shall such judgment enter for the benefit of a plaintiff in attachment until a judgment has been entered by the court against such defendant in attachment.

(B) If the answer to a writ of garnishment in aid of attachment shows the garnishee to possess or control personal property of any description, owned by, or owed to, such defendant in attachment, at any time after judgment has entered against such defendant in attachment, the

court shall order the garnishee to deliver such property to the sheriff to be sold as upon execution and the court may enter any order necessary to protect the interests of the parties. Any proceeds received by the sheriff upon such sale shall be paid to the registry of the court to be applied to the judgment debt, but any surplus of property or proceeds shall be delivered to the judgment debtor/defendant in attachment.

(2) When the defendant in attachment is a natural person:

(A) If the answer to a writ of garnishment in aid of attachment shows the garnishee is indebted to such defendant in attachment, after judgment has entered against such defendant in attachment/judgment debtor upon a showing that such defendant in attachment has been served with a notice of levy as required by C.R.S. 13-55-102, the court shall enter judgment in favor of the defendant in attachment/judgment debtor and against the garnishee for the use of the plaintiff in attachment/judgment creditor for the amount of the indebtedness shown in such answer and order such amount paid into the registry of the court. In no event shall any judgment against the garnishee be more than the amount of the judgment against the defendant in attachment/judgment debtor.

(B) If the answer to a writ of garnishment in aid of attachment shows the garnishee to possess or control personal property owned by, or owed to, such defendant in attachment, after judgment has entered against such defendant in attachment/judgment debtor and upon a showing that such defendant in attachment has been served with a notice of levy as required by C.R.S. 13-55-102 , the court shall order the garnishee to deliver the property to the sheriff to be sold as upon execution and the court may enter any order necessary to protect the interests of the parties. Any proceeds received by the sheriff upon such sale shall be paid to the registry of the court to be applied to the judgment debt but any surplus of property or proceeds shall be delivered to the defendant in attachment/judgment debtor.

(g) Disbursement by Clerk of Court. The clerk of the court shall disburse any funds in the registry of the court to the judgment creditor without further application or order and enter such disbursement in the court records. The judgment creditor shall refund to the clerk of the court any disbursement in excess of the amount necessary to satisfy the judgment.

SECTION 6 Judgment Debtor’s Objection-Written Claim of Exemption-Hearing

(a) Judgment Debtor’s Objection to Calculation of Exempt Earnings or Objection and Request for Exemption of Earnings Pursuant to Section 13-54-104(2)(a)(I)(D), C.R.S., 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 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 to the calculation of exempt earnings is not resolved with the garnishee within 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 14 days from receipt of the copy of writ of garnishment or calculation of the amount of exempt earnings for subsequent pay periods.
(3) If the judgment debtor objects and requests an exemption of earnings pursuant to section 13-54-104(2)(a)(I)(D), C.R.S., the judgment debtor shall have no obligation to attempt to resolve the issue with the garnishee.
(4) If the judgment debtor objects and requests an exemption of earnings pursuant to section 13-54-104(2)(a)(I)(D), C.R.S., the judgment debtor shall file such objection and request in writing, setting out the grounds for such exemption and request. The judgment debtor may object to the calculation on hardship grounds at any time during the pendency of the garnishment.
(5) The written objection made under Section 6(a)(2) or Section 6(a)(4) of this rule shall be filed with the clerk of the court by the judgment debtor in the form and content of Appendix to Chapters 1 to 17, Form 28, C.R.C.P.
(6) The judgment debtor shall, by certified mail, return receipt requested, immediately deliver a copy of such objection to the garnishee and the judgment creditor's attorney of record, or if none, to the judgment creditor. If the garnishee has been directed to transmit the nonexempt earnings to an attorney or a collection agency licensed pursuant to section 5-16-10, et seq, C.R.S., then upon receipt of the objection, the garnishee shall transmit the nonexempt earnings to the clerk of the court.
(7) Upon the filing of a written objection, all proceedings with relation to the earnings of the judgment debtor in possession and control of the garnishee, the judgment creditor, the attorney for the judgment creditor, or in the registry of the court shall be stayed until the written objection is determined by the court.
(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 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.
(2) The claim of exemption to the writ of garnishment with notice shall be in the form and content of Appendix to Chapters 1 to 17, Form 30, C.R.C.P.
(3) The judgment debtor shall, by certified mail, return receipt requested, deliver a copy of the claim of exemption to the garnishee and the judgment creditor's attorney of record, or if none, to the judgment creditor.
(4) Upon the filing of a claim of exemption to a writ with notice, all proceedings with relation to property in the possession or control of the garnishee shall be stayed until such claim is determined by the court.
(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 14 days after the filing of such objection or claim of exemption.
(2) When an objection or claim of exemption is filed, the clerk of the court shall immediately inform the judgment creditor, the judgment debtor and the garnishee, or their attorneys of record, by telephone, by mail, or in person, of the date and time of such hearing.
(3) The clerk of the court shall document in the court record that notice of the hearing has been given in the manner required by this rule. Said documentation in the court record shall constitute a sufficient return and prima facie evidence of such notice.
(4) The court in which judgment was entered shall conduct a hearing at which all interested parties may testify, and shall determine the validity of the objection or claim of exemption filed by the judgment debtor and shall enter a judgment in favor of the judgment debtor to the extent of the validity of the objection or claim of exemption, which judgment shall be a final judgment for the purpose of appellate review.
(5) If the court shall find the amount of exempt earnings to have been miscalculated or if said property is found to be exempt, the court shall order the clerk of the court to remit the amount of over-garnished earnings, or the garnishee to remit such exempt property to the clerk of the court for the use and benefit of the judgment debtor within three (3) business days.
(d) Objection or Claim of Exemption Within 182 days.
(1) Notwithstanding the provisions of Section 6(a)(2), Section 6(a)(4), and Section 6(b)(1) of this rule, a judgment debtor failing to make and file a written objection or claim of exemption within the time therein provided, may, at any time within 182 days from receipt of the copy of the writ with notice or a copy of the writ of continuing garnishment or the calculation of the amount of exempt earnings, move the court in which the judgment was entered to hear an objection or claim of exemption as to any earnings of property levied in garnishment which the judgment debtor claims to have been miscalculated or which the judgment debtor claims to be exempt.
(2) A hearing pursuant to this subsection shall be held only upon a verified showing, under oath, of good cause which shall include: mistake, accident, surprise, irregularity in proceedings, newly discovered evidence, events not in the control of the judgment debtor, or such other grounds as the court may allow, but in no event shall a hearing be held pursuant to this subsection on grounds available to the judgment debtor as the basis of an objection or claim of exemption within the time periods provided in Section 6(a)(2) and Section 6(b)(1).
(3) At such hearing, if the judgment giving rise to such claim has been satisfied against property or earnings of the judgment debtor, the court shall hear and summarily try and determine whether the amount of the judgment debtor's earnings paid to the judgment creditor was correctly calculated and whether the judgment debtor's property sold as upon execution was exempt. If the court finds earnings to have been miscalculated of if property is found to be exempt, the court shall enter judgment in favor of the judgment debtor for the amount of the over-garnished earnings or such exempt property or the value thereof which judgment shall be satisfied by

payment to the clerk of the court or the return of exempt property to the judgment debtor within three (3) business days.
(e) Reinstatement of Judgment Debt. If at any time the court orders a return of over-garnished earnings or exempt property or the value of such exempt property pursuant to Sections 6(c)(5) and 6(d)(3) of this rule, the court shall thereupon reinstate the judgment to the extent of the amount of such order.

SECTION 7 Failure of Garnishee to Answer (All Forms of Garnishment)

(a) Default Entered by Clerk of Court.
(1) If a garnishee, having been served with any form of writ provided for by this rule, fails to answer or pay any nonexempt earnings as directed within the time required, the clerk of the court shall enter a default against such garnishee upon request.
(2) No default shall be entered in an attachment action against the garnishee until the expiration of 42 days after service of a writ of garnishment upon the garnishee.
(b) Procedure After Default of Garnishee Entered.
(1) After a default is entered, the judgment creditor, plaintiff in attachment or any intervenor in attachment, may proceed before the court to prove the liability of the garnishee to the judgment debtor or defendant in attachment.
(2) If a garnishee is under subpoena to appear before the court for a hearing to prove such liability and such subpoena shall have been issued and served in accordance with C.R.F.P. 45 and shall fail to appear, the court shall thereupon enter such sanctions as are just, including, but not limited to, contempt of court, issuance of a bench warrant, reasonable attorney fees and the cost and expense of the judgment creditor, plaintiff in attachment or intervenor in attachment.
(3) Upon hearing, if the court finds the garnishee liable to the judgment debtor or defendant in attachment or in the possession or control of personal property of the judgment debtor or defendant in attachment at the time of service of the writ:
(A) The court shall enter judgment in favor of the judgment debtor or defendant in attachment against the garnishee for the use and benefit of the judgment creditor, plaintiff in attachment or intervenor in attachment, if the garnishee was liable to the judgment debtor or defendant in attachment;
(B) The court shall order the garnishee to deliver the personal property to the sheriff to be sold as upon execution in the same manner as Section 4(f)(2) of this rule, if the garnishee was in the possession or control of personal property of the judgment debtor or defendant in attachment and may enter any order necessary to protect the interests of the parties. Provided, however, in the event that the garnishee no longer has possession or control over the personal property, the court may either enter a judgment for the value of such property at the time of the service of the writ or enter any order necessary to protect the interests of the parties or both.
(4) At any hearing the court shall make such orders as to reasonable attorney's fees, costs and expense of the parties to such hearing, as are just.

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 21 days from the date such answer should have been filed with the court or 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.
(b) Procedure.
(1) Within the time provided, the judgment creditor, plaintiff in attachment, or intervenor in attachment, shall state, in verified form, the grounds of traverse and shall mail a copy of the same to the garnishee in accordance with C.R.F.P. 5.
(2) Upon application of the judgment creditor, plaintiff in attachment, or intervenor in attachment, the traverse shall be set for hearing before the court at which hearing the statements in the traverse shall be deemed admitted or denied.
(3) Upon hearing of the traverse, if the court finds the garnishee liable to the judgment debtor or defendant in the attachment or in the possession or control of personal property of the judgment debtor or defendant in attachment at the time of service of the writ:
(A) The court shall enter judgment in favor of the judgment debtor or defendant in attachment against the garnishee for the use and benefit of the judgment creditor, plaintiff in attachment or intervenor in attachment, if the garnishee was liable to the judgment debtor or defendant in attachment;
(B) The court shall order the garnishee to deliver the personal property to the sheriff to be sold as upon execution in the same manner as Section 4(f)(2) of this rule, if the garnishee was in the possession or control of personal property of the judgment debtor or defendant in attachment and may enter any order necessary to protect the interests of the parties. Provided, however, in the event that the garnishee no longer has possession or control over the personal property, the court may either enter a judgment for the value of such property at the time of the service of the writ or enter any order necessary to protect the interests of the parties or both.
(4) If a garnishee is under subpoena to appear for a hearing upon a traverse and such subpoena shall have been issued and served in accordance with C.R.F.P. 45, and shall fail to appear, the court shall thereupon enter such sanctions as are just, including, but not limited to, contempt of court, issuance of a bench warrant, reasonable attorney fees and the cost and expense of the judgment creditor, plaintiff in attachment or intervenor in attachment.
(5) At any hearing upon a traverse, the court shall make such orders as to reasonable attorney fees, costs and expense of the parties to such hearing as are just.

SECTION 9 Intervention (All Forms of Garnishment)

Any person who claims an interest in any personal property of any description of a judgment debtor or defendant in attachment which property is the subject of any answer made by a garnishee, may intervene as provided in C.R.F.P. 24 at any time prior to entry of judgment against the garnishee.

SECTION 10 Set-off by Garnishee (All Forms of Garnishment)

Every garnishee shall be allowed to claim as a set-off and retain or deduct all demands or claims on the part of the garnishee against any party to the garnishment proceedings, which the garnishee might have claimed if not summoned as a garnishee, whether such are payable or not at the time of service of any form or writ provided for by this rule.

SECTION 11 Garnishee Not Required to Defend Claims of Third Persons (All Forms of Garnishment)

(a) Garnishee With Notice. A garnishee with notice of the claim of a third person in any property of any description of a judgment debtor or defendant in attachment which is the subject of any answer made by the garnishee in response to any form of writ provided for by this rule shall not be required to defend on account of such claim, but shall state in such answer that the garnishee is informed of such claim of a third person.

(b) Court to Issue Summons. When such an answer has been filed, the clerk of the court, upon application, shall issue a summons requiring such third person to appear within the time specified in C.R.F.P. 12 to answer, set up, and assert a claim or be barred thereafter.

(c) Delivery of Property by Garnishee.

(1) If the answer states that the garnishee is informed of the claim of a third person, the garnishee may at any time pay to the clerk of the court any garnished amount payable at the time of the service of any writ provided for by this rule, or deliver to the sheriff any property the garnishee is required to hold pursuant to any form of writ provided for in this rule.

(2) Upon service of the summons upon such third person pursuant to C.R.F.P. 4, the garnishee shall thereupon be released and discharged of any liability to any person on account of such indebtedness to the extent of any amount paid to the clerk of the court or any property delivered to the sheriff.

SECTION 12 Release and Discharge of Garnishee (All Forms of Garnishment)

(a) Effect of Judgment. A judgment against a garnishee shall release and discharge such garnishee from all claims or demands of the judgment debtor or defendant in attachment to the extent of all sums paid or property delivered by the garnishee pursuant to such judgment.

(b) Effect of Payment. Payment by a garnishee of any sums required to be remitted by such garnishee pursuant to Sections 1(k)(2) or 3(g)(2) of this rule shall release and discharge such garnishee from all claims or demands of the judgment debtor to the extent of all such sums paid.

(c) Release by Judgment Creditor or Plaintiff in Attachment. A judgment creditor or plaintiff in attachment may issue a written release of any writ provided by this rule. Such release shall state the effective date of the release and shall be promptly filed with the clerk of the court.

SECTION 13 Garnishment of Public Body (All Forms of Garnishment)

Any writ provided for in this rule wherein a public body is designated as the garnishee, shall be served upon the officer of such body whose duty it is to issue warrants, checks or money to the judgment debtor or defendant in attachment, or, such officer as the public body may have designated to accept service. Such officer need not include in any answer to such writ, as money

owing, the amount of any warrant or check drawn and signed prior to the time of service of such writ.

Rule 107. Contempt

(a) Definitions.

(1) Contempt: Disorderly or disruptive behavior, a breach of the peace, boisterous conduct or violent disturbance toward the court, or conduct that unreasonably interrupts the due course of judicial proceedings; behavior that obstructs the administration of justice; noncompliance, disobedience, resistance, or interference with any lawful writ, process, or order of the court; or any other act or omission designated as contempt by the statutes or these rules.

(2) Direct Contempt: Contempt that the court has seen or heard and is so extreme that no warning is necessary or that has been repeated despite the court's warning to desist.

(3) Indirect Contempt: Contempt that occurs out of the direct sight or hearing of the court.

(4) Punitive Sanctions for Contempt: Punishment by unconditional fine, fixed sentence of imprisonment, or both, for conduct that is found to be offensive to the authority and dignity of the court.

(5) Remedial Sanctions for Contempt: Sanctions imposed to force compliance with a lawful order or to compel performance of an act within the alleged contemnor's power or present ability to perform.

(6) Court: For purposes of this rule, "court" means any judge, magistrate, commissioner, referee, or a master as designated by statute or these rules while performing official duties.

(7) Contemnor: The person who is found to be in contempt.

(b) Direct Contempt Proceedings. When a direct contempt is committed, it may be punished summarily. In such case an order shall be made on the record or in writing reciting the facts constituting the contempt, including a description of the alleged contemnor's conduct, a finding that the conduct was so extreme that no warning was necessary or the alleged contemnor's conduct was repeated after the court's warning to desist, and a finding that the conduct is offensive to the authority and dignity of the court. Prior to the imposition of sanctions, the alleged contemnor shall have the right to make a statement in mitigation.

(c) Indirect Contempt Proceedings. When it appears to the court by motion supported by affidavit or verified motion that indirect contempt has been committed, the court may ex parte order a citation to issue to the alleged contemnor so charged to appear and show cause at a date, time and place designated why the alleged contemnor should not be sanctioned. The citation and a copy of the motion, affidavit and order shall be served directly upon such alleged contemnor at

least 21 days before the time designated for the alleged contemnor to appear. If such alleged

contemnor fails to appear at the time so designated, and it is evident to the court that the alleged contemnor was properly served with copies of the motion, affidavit, order, and citation, a warrant for the alleged contemnor's arrest may issue to the sheriff. The warrant shall fix the date, time and place for the production of the alleged contemnor in court. The court shall state on the warrant the amount and kind of bond required. The alleged contemnor shall be discharged upon delivery to and approval by the sheriff or clerk of the bond directing the alleged contemnor 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 alleged contemnor 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 alleged contemnor fails to make bond, the sheriff shall keep the alleged contemnor in custody subject to the order of the court.

(d) Trial and Punishment.

(1) Punitive Sanctions.

(A) In a contempt proceeding where punitive sanctions may be imposed, the court shall hear and consider the evidence for and against the alleged contemnor charged and it may find the alleged contemnor in contempt and order sanctions. In an indirect contempt proceeding where punitive sanctions may be imposed, the court may appoint special counsel to prosecute the contempt action. If the judge initiates the contempt proceedings, the alleged contemnor shall be advised of the right to have the action heard by another judge. In all cases of indirect contempt where punitive sanctions are sought, the nature of the sanctions that may be imposed shall be described in the motion or citation.

(B) At the first appearance, the alleged contemnor shall be advised of the right to be represented by an attorney and, if indigent and if a jail sentence is contemplated, the court will appoint counsel. The maximum jail sentence shall not exceed six months unless the alleged contemnor has been advised of the right to a jury trial.

(C) The alleged contemnor shall also be advised of the right to plead either guilty or not guilty to the charges, the presumption of innocence, the right to require proof of the charge beyond a reasonable doubt, the right to present witnesses and evidence, the right to cross-examine all adverse witnesses, the right to have subpoenas issued to compel attendance of witnesses at trial, the right to remain silent, the right to testify at trial, and the right to appeal any adverse decision.

(D) The court may impose a fine or imprisonment or both if the court expressly finds that the alleged contemnor's conduct was offensive to the authority and dignity of the court.

(E) The alleged contemnor shall have the right to make a statement in mitigation prior to the imposition of sentence.

(2) Remedial Sanctions.

(A) In a contempt proceeding where remedial sanctions may be imposed, the court shall hear and consider the evidence for and against the alleged contemnor charged and it may find the alleged contemnor in contempt and order sanctions. The alleged contemnor shall be advised of the right to be represented by an attorney and, if indigent and if a jail sentence is contemplated, the court will appoint counsel.
(B) The court shall enter an order in writing or on the record describing the means by which the alleged contemnor may purge the contempt and the sanctions that will be in effect until the contempt is purged.
(C) In all cases of indirect contempt where remedial sanctions are sought, the nature of the sanctions and remedies that may be imposed shall be described in the motion or citation.
(D) Repetitive violations: If due to the nature of the contemptuous behavior, the alleged violation is repeated on a periodic basis, the Court may consider violations that occurred subsequent to the Motion for Contempt as part of any sanctions and remedies that may be imposed. Any such request to include subsequent violations must be filed with the Court at least twenty-one (21) days before the scheduled hearing on the contempt citation.
(E) If the contempt consists of the failure to perform an act in the power of the alleged contemnor to perform and the court finds the alleged contemnor has the present ability to perform the all or part of the act so ordered, the alleged contemnor may be fined or imprisoned until its performance.
(F) In addition to sanctions of a fine or imprisonment, the Court shall have authority to impose additional temporary orders that are consistent with and aid in the enforcement of or compliance with the order the contemnor is alleged to have violated.
(G) The court shall have the authority to require a contemnor to post a bond or other security to ensure compliance with its orders.

(e) Limitations. The court shall not suspend any part of a punitive sanction based upon the performance or non-performance of any future acts. The court may reconsider any punitive sanction. Probation shall not be permitted as a condition of any punitive sanction. Remedial and punitive sanctions may be combined by the court, provided appropriate procedures are followed relative to each type of sanction and findings are made to support the adjudication of both types of sanctions.

(f) Appeal. For the purposes of appeal, an order deciding the issue of contempt and sanctions shall be final.

(g) Attorney Fees and Costs.

(1) In the discretion of the court, reasonable attorney fees and costs relating to a contempt may be imposed by the court in any contempt proceeding.
(2) If the alleged contemnor remedies the alleged violation of the court order in advance

of the hearing, the court may still assess reasonable attorney fees and costs against the alleged contemnor. In determining whether to impose reasonable attorney fees and costs

under this subparagraph (2) of paragraph (g), the court shall consider the timing of alleged contemnor's compliance with the court's order, the alleged contemnor's ability to comply with the court's order, the alleged contemnor's history of noncompliance with court orders, reasonableness of attorney fees in relation to the contempt charged, and other factors as the court deems appropriate.

Rule 121. Local Rules Statewide Practice Standards

SECTION 1-2 SPECIAL ADMISSION OF OUT-OF-STATE FOREIGN ATTORNEYS

Special admission of an out-of-state or foreign attorney shall be in accordance with C.R.C.P. Chapter 18, Rules Governing Admission to the Bar 205.3 and 205.5.

SECTION 1-4 SUPPRESSION FOR SERVICE OF PROCESS

In a domestic relations case, upon written request of the claiming party, the fact of the filing of a case shall be suppressed by the clerk only upon order of the court to secure service of summons or other process and such order shall expire upon service of such summons or other process.

SECTION 1-5 LIMITATION OF ACCESS TO COURT FILES

(a) Nature of Order. Upon motion by any party named in any family action, the court may limit access to court files. The order of limitation shall specify the nature of limitation, the duration of the limitation, and the reason for limitation.

(b) When Order Granted. An order limiting access shall not be granted except upon a finding that the harm to the privacy of a person in interest outweighs the public interest.

(c) Application for Order. A motion for limitation of access may be granted, *ex parte*, upon motion filed with the petition, accompanied by supporting affidavit or at a hearing concerning the motion.

(d) Review by Order. Upon notice to all parties of record, and after hearing, an order limiting access may be reviewed by the court at any time on its own motion or upon the motion of any person.

SECTION 1-8 CONSOLIDATION

A party seeking consolidation shall file a motion to consolidate in each case sought to be consolidated. The motion shall be determined by the court in the case first filed in accordance with Practice Standard § 1-15. If consolidation is ordered, all subsequent filings shall be in the case first filed and all previous filings related to the consolidated cases placed together under that case number, unless otherwise ordered by the court. Consolidation of matters pending in other districts shall be determined in accordance with C.R.C.P. 42.1.

SECTION 1-9 RELATED CASES

(a) A party to a family case shall file a notice identifying all related cases of which the party has actual knowledge.

(b) Related cases are civil, criminal, or other proceedings that:

(1) involve one or more of the same parties and common questions of fact; and

(2) are pending in any state or federal court or were terminated within the previous 12 months.

(c) A party shall file the required notice at the time of its first pleading.

(d) A party shall promptly file a supplemental notice of any change in the information required under this rule.

SECTION 1-10 DISMISSAL FOR FAILURE TO PROSECUTE

(a) Upon due notice to the opposite party, any party to a civil action may apply to have any action dismissed when such action has not been prosecuted or brought to trial with due diligence.

(b) The court, on its own motion, may dismiss any action not prosecuted with due diligence, upon 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).

(c) If the case has not been set for trial, no activity of record in excess of 12 continuous months shall be deemed prima facie failure to prosecute.

(d) Failure to show cause on or before the date set forth in the court's notice shall justify dismissal without further proceedings.

(e) Any dismissal under this rule shall be without prejudice unless otherwise specified by the court.

SECTION 1-11 CONTINUANCES

Motions for continuances of hearings shall be determined in accordance with Practice Standard § 1-15 and shall be granted only for good cause. Stipulations for continuance shall not be effective unless and until approved by the court. A motion for continuance or request for extension of time will not be considered without a certificate that a copy of the motion has also been served upon the moving attorney's client.

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.F.P. 30(b)(1) shall not be less than 7 days. 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.F.P. 26(f), the filing of the motion shall stay the discovery at which the motion is directed. If the court directs that any discovery motion under Rule 26(c) be made orally, then movant's written notice to the other parties that a hearing has been requested on the motion shall stay the discovery to which the motion is directed.

(2) Motions under C.R.F.P. Rules 26(f) and 37(a) shall set forth the interrogatory, request, question or response constituting the subject matter of the motion.

(3) Interrogatories and requests under Rules 33, 34, and 36, C.R.F.P., and the responses thereto shall be served upon other counsel or parties but shall not be filed with the court. If relief is sought under C.R.F.P. Rule 26(f) or 37(a), copies of the portions of the interrogatories, requests, answers or responses in dispute shall be filed with the court contemporaneously with the motion. If interrogatories, requests, answers or responses are to be used at trial, the portions to be used shall be made available and placed, but not filed, with the trial judge at the outset of the trial insofar as their use reasonably can be anticipated.
(4) The originals of all stenographically reported depositions shall be delivered to the party taking the deposition after submission to the deponent as required by C.R.F.P. Rule 30(e). The original of the deposition transcript or recording shall be retained by the party to whom it is delivered to be available for appropriate use by any party in a hearing or trial of the case. If a deposition is to be used at trial, it shall be made available for inspection and placed, but not filed with the trial judge at the outset of the trial insofar as its use reasonably can be anticipated.
(5) Unless otherwise ordered, the court will not entertain any motion under C.R.F.P. Rule 37(a) unless counsel for the moving party has conferred or made reasonable effort to confer with opposing counsel concerning the matter in dispute before the filing of the motion. Counsel for the moving party shall file a certificate of compliance with this rule at the time the motion under C.R.F.P. Rule 37(a) is filed. If the court requires that any discovery motion be made orally, then movant must make a reasonable effort to confer with opposing counsel before requesting a hearing from the court.

SECTION 1-15 DETERMINATION OF MOTIONS

(a) Motions and Briefs.

(1) Except motions during trial or where the court orders that certain or all non-dispositive motions be made orally, any motions involving a contested issue of law shall be supported by a recitation of legal authority incorporated into the motion, which shall not be filed with a separate brief.

(2) A motion shall not be included in a response or reply to the original motion.

(b) Verified Motions and Affidavits. If facts not appearing of record may be considered in disposition of the motion, the parties may file a verified motion or response or attach affidavits within, or attached to, the motion. Copies of such affidavits and any documentary evidence used in connection with the motion shall be served on all other parties.
(c) Effect of Failure to File Legal Authority. If the moving party fails to incorporate legal authority into a written motion, the court may deem the motion abandoned and may enter an order denying the motion. Unless otherwise specified by these rules or statute, failure of a responding party to file a responsive brief may be considered a confession of the motion.

(d) Motions to be Determined on Briefs, When Oral Argument is Allowed, Motions **Requiring Immediate Attention.** Motions shall be determined promptly if possible. The court has discretion to order briefing or set a hearing on the motion. If possible, the court shall determine oral motions at the conclusion of the argument but may take the motion under advisement or require briefing before ruling.

(e) 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, unless otherwise ordered by the court. Unless the court orders otherwise, the responsible party or responsible attorney shall contact the court to set the hearing. Once the hearing is set, the court shall issue a notice of hearing or order a party to do so.

(f) Effect of Failure to Appear at Oral Argument or Hearing. If any of the parties fails to appear at an oral argument or hearing, without prior showing of good cause for non-appearance, the court may proceed to hear and rule on the motion.

(g) Sanctions. If a frivolous motion is filed or if frivolous opposition to a motion is interposed, the court may assess reasonable attorney's fees against the party or attorney filing such motion or interposing such opposition.

(h) Duty to Confer. The moving party shall confer with opposing counsel and any self-represented parties before filing a motion, unless otherwise excepted in this rule.

(1) What Motions Do Not Require Conferral. Conferral is strongly encouraged whenever possible even when not required. Conferral is not required whenever a statute or rule governing the motion provides that it may be filed *ex parte*, without notice, or without conferral.

(2) Who Conducts Conferral. Staff under the direct supervision of counsel may conduct conferral. The requirement of self-represented parties to confer and the requirement to confer with self-represented parties shall not apply to any incarcerated person, or any self-represented party as to whom the requirement is contrary to court order or statute, including, but not limited to, any person as to whom contact would or precipitate a violation of a protection or restraining order.

(3) How Conferral is Conducted: Conferral may be conducted by telephone, in person, or by email. Conferral shall be sufficient if it includes a clear and concise statement of the specific proposed relief to be requested and the grounds therefor for the opposing party to consider. If no substantive response is received to email conferral, the moving party shall attempt, at least once, to confer by telephone. Any attempts to confer by phone or email shall give the opposing party at least two (2) business days to respond to the conferral attempt prior to filing the motion. The court shall not require in person conferral prior to

the filing of a motion.

(4) Consequence of Non-Conferral: Sanctions for failure to confer, by the moving or opposing party, shall be based on the prejudicial effect to either party and the actual impact to judicial efficiency, supported by the record. Failure to confer may be grounds to order mediation prior to setting a hearing or ordering other relief in proportion to the prejudicial effect of non-conferral. Dismissal of a motion based on non-conferral when the motion shows a genuine dispute is a drastic remedy that shall be used sparingly.

(5) Certification of Conferral: The motion shall, at the beginning, contain a certification that the moving party in good faith has conferred with opposing parties about the motion and detailing the nature of the conferral. If the relief sought by the motion has been agreed to by the parties or will not be opposed, the court shall be so advised in the motion. If no conference has occurred, the reason why, including all efforts to confer, shall be stated.

(i) Unopposed and Joint Motions. All unopposed or joint motions shall be so designated in the title of the motion. Joint motions shall be signed by both parties or their counsel. Conferral on an unopposed motion must include the specific relief requested in the motion. If a motion is partially unopposed, the statement of conferral shall outline in detail which requests for relief are opposed and unopposed. Any objection to the representation of the non-movant's position in an unopposed motion shall be filed within seven (7) days of service of the unopposed motion.

(j) Proposed Order. Except for orders containing signatures of the parties or attorneys as required by statute or rule, each motion shall be accompanied by a proposed order submitted in editable format. The proposed order complies with this provision if it states that the requested relief be granted or denied. Orders that are submitted as proposed shall not contain the word (PROPOSED) in the caption of the order. Proposed Orders must only be designated as proposed in the e-filing transmission.

(k) Motions to Reconsider. Motions to reconsider interlocutory orders of the court, meaning motions to reconsider other than those governed by C.R.F.P. 59 or 60, are disfavored. A party moving to reconsider must show more than a disagreement with the court's decision. Such a motion must allege a manifest error of fact or law that clearly mandates a different result or other circumstance resulting in manifest injustice. The motion shall be filed within 14 days from the date of the order, unless the party seeking reconsideration shows good cause for not filing within that time. Good cause for not filing within 14 days from the date of the order includes newly available material evidence and an intervening change in the governing legal standard. The court may deny the motion before receiving a responsive brief.

(l) Notice of Impasse. In cases where there is at least one attorney and the parties are unable to agree upon a procedural or discovery dispute, then the parties may prepare a Notice of Impasse according to the following procedure, instead of filing a motion: The initiating party shall provide a 2-page position statement to opposing parties. Within three business days, the opposing parties shall provide their position statement in the Notice of Impasse. The initiating party shall file the jointly-signed Notice of Impasse. The Court shall expeditiously issue a written

order or set a status conference on the issue.

(m) Stipulations. Parties may jointly file stipulations at any time. So long as the stipulation states that the parties request the court adopt the stipulation as an order of the court, no motion

requesting the adoption of the stipulation or proposed order shall be required. The court may adopt the stipulation as an order in whole or in part or set the matter for a status conference or hearing.

SECTION 1-16 PREPARATION OF ORDERS AND OBJECTIONS AS TO FORM

(a) When the Court directs an attorney to prepare a proposed order, the following procedure shall apply, unless otherwise ordered by the court. Within 7 days of being directed to prepare a proposed order, the attorney directed by the court shall prepare the proposed order and shall provide the proposed order to all other parties for approval. All other parties shall have 7 days to communicate to the drafting attorney any requests for changes to the proposed order. If the parties are able to agree on the terms of the proposed order within 3 days of the exchange of changes, the agreed upon proposed order shall be submitted to the court with signatures of all counsel and self-represented parties. If the parties are unable to agree on the terms of the proposed order within 3 days of the exchange of changes, the drafting attorney shall submit timely the proposed order to the court with a notation that the proposed order has not been agreed upon by all parties. A party objecting to the form of the proposed order filed with the court shall have 3 days after service of the proposed order to file and serve suggested modifications to the form of the proposed order in a format that highlights the disputed provisions.

(b) In instances where a proposed order must be submitted to the court, but an attorney is not directed by the court to draft the order, a party objecting to the form of the proposed order filed with the court shall have 3 days after service of the proposed order to file and serve suggested modifications to the form of the proposed order in a format that highlights the disputed provisions.

(c) Objecting, proposing modification or agreeing to the form of a proposed order or stipulated order, shall not affect a party's rights to appeal the substance of the order.

SECTION 1-17 COURT SETTLEMENT CONFERENCES

(a) At any time after the filing of Disclosure Certificates as required by C.R.F.P. 16, any party may file with the courtroom clerk and serve a request for a court settlement conference, together with a notice for setting of such request. The court settlement conference shall, if the request is granted, be conducted by any available judge other than the assigned judge. In all instances, the assigned judge shall arrange for the availability of a different judge to conduct the court settlement conference.

(b) All discussions at the settlement conference shall remain confidential and shall not be disclosed to the judge who presides at trial. Statements at the settlement conference shall not be admissible evidence for any purpose in any other proceeding.

(c) This Rule shall not apply to proceedings conducted pursuant to C.R.F.P. 16-6.

SECTION 1-21 COURT TRANSCRIPTS

(a) A party requesting a transcript shall arrange for preparation of the transcript directly with the reporter, or if the session or proceeding was recorded by mechanical or electronic means, the

courtroom clerk. Where a transcript is to be made a part of the record on appeal, a party shall request preparation of the transcript by reference in the Designation of Record and by direct arrangement with the court reporter or courtroom clerk as provided herein.
(b) Unless otherwise ordered by the court, a court reporter may require a deposit of sufficient money to cover the estimated cost of preparation before preparing the transcript.
(c) The transcript shall be signed and certified by the person preparing the transcript. A transcript lodged with the court shall not be removed from the court without court order except when transmitted to the appellate court.

SECTION 1-22 COSTS AND ATTORNEY FEES

(a) Attorney Fees Focusing on Financial Circumstances. For attorney fees for which the court must consider the conscionability of the agreement regarding fees and fees for which the court must consider the financial circumstances of the parties, the determination of fees shall be heard at the time of the hearing or proceeding for which the fees are requested. A party seeking an award of fees under this provision shall file an affidavit of attorney's fees and costs no less than fourteen (14) days in advance of the hearing or proceeding. The opposing party shall file any objection to the affidavit of fees and costs no less than seven days in advance of the hearing or proceeding.

(b) Attorney Fees Requiring a Violation, Misconduct, or a Prevailing Party. For attorney fees awards where the court substantially upholds the decision of a decision-maker or arbitrator or for which the court must find a violation of a rule, order, or agreement; misconduct including, but not limited to, that a claim lacked substantial justification, or action taken for delay or harassment; or a prevailing party whether by contract or statute, the provisions of C.R.C.P. 121, Sec. 1-22 shall govern.

SECTION 1-25 FACSIMILE COPIES

(a) Facsimile copy, defined. A facsimile copy is a copy generated by a system that encodes a document into electrical signals, transmits these electrical signals over a telephone/data line, then reconstructs the signals to print an exact duplicate of the original document at the receiving end.
(b) Facsimile copies which conform with the quality requirements specified in C.R.C.P. 10(d)(1) may be filed with the court in lieu of the original document. Once filed with the court, the facsimile copy shall be treated as an original for all court purposes. If a facsimile copy is filed in lieu of the original document, the attorney or party filing the facsimile shall retain the original document for production to the court, if requested to do so.
(c) The court is not required to provide confirmation that it has received a facsimile transmission.
(d) Any facsimile copy transmitted directly to the court shall be accompanied by a cover sheet which states the title of the document, case number, number of pages, identity and voice telephone number of transmitter and any instructions.
(e) Payment of any required filing fees shall not be deferred for documents filed with the court

by facsimile transmission.

(f) This rule shall not require courts to have a facsimile machine nor shall the court be required to transmit orders or other material to attorneys or parties via facsimile transmission.
(g) The courts have discretion on their use of a facsimile machine for accepting pleadings and documents.

SECTION 1-26 ELECTRONIC FILING AND SEVICE SYSTEM

(a) Definitions.

(1) Document: A pleading, motion, writing or other paper filed or served under the E-System.
(2) E-Filing/Service System: The E-Filing/Service System ("E-System") approved by the Colorado Supreme Court for filing and service of documents via the Internet through the Court-authorized E-System provider.
(3) Electronic Filing: Electronic filing ("E-Filing") is the transmission of documents to the clerk of the court, and from the court, via the E-System.
(4) Electronic Service: Electronic service ("E-Service") is the transmission of documents to any party in a case via the E-System. Parties who have subscribed to the E-System have agreed to receive service, other than service of a summons, via the E-System.
(5) E-System Provider: The E-Service/E-Filing System Provider authorized by the Colorado Supreme Court.
(6) Signatures:
(A) Electronic Signature: An electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by the person with the intent to sign the E-filed or E-served document.
(B) Scanned Signature: A graphic image of a handwritten signature.

(b) Types of Cases Applicable. E-Filing and E-Service may be used for domestic relations cases filed in the courts of Colorado as the service becomes available. The availability of the E-System will be determined by the Colorado Supreme Court and announced through its web site and through published directives to the clerks of the affected court systems. E-Filing and E-Service may be mandated pursuant to Subsection 13 of this Practice Standard § 1-26.

(c) To Whom Applicable.

(1) Attorneys licensed or certified to practice law in Colorado or admitted pro hac vice under C.R.C.P. 205.3 or 205.5, may register to use the E-System. The E-System provider will provide an attorney permitted to appear pursuant to C.R.C.P. 205.3 or 205.5 with a special user account for purposes of E-Filing and E-Serving only in the case identified by a court order approving pro hac vice admission. The E-System provider will provide an attorney certified as pro bono counsel pursuant to C.R.C.P. 204.6 with a special user account for purposes of E-Filing and E-Serving in pro bono cases as contemplated by that

rule. An attorney may enter an appearance pursuant to Rule 121, Section 1-1, through E-Filing. In districts where E-Filing is mandated pursuant to Subsection 13 of this Practice Standard 1-26, attorneys must register and use the E-System.

(2) Where the system and necessary equipment are in place to permit it, pro se parties and government entities and agencies may register to use the E-System.

(d) Commencement of Action-Service of Summons. Cases may be commenced under C.R.F.P. 4 by E-Filing the initial pleading. Service of a summons shall be made in accordance with C.R.F.P. 4.

(e) E-Filing-Date and Time of Filing. Documents filed in cases on the E-System may be filed under C.R.F.P. 5 through an E-Filing. A document transmitted to the E-System Provider by 11:59 p.m. Colorado time shall be deemed to have been filed with the clerk of the court on that date.

(f) E-Service: When Required, Date and Time of Service. Documents submitted to the court through E-Filing shall be served under C.R.F.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.

(g) Filing Party to Maintain the Signed Copy-Paper Document Not to Be Filed-Duration of Maintaining of Document. A printed or printable copy of an E-Filed or E-Served document with original, electronic, or scanned signatures shall be maintained by the filing party and made available for inspection by other parties or the court upon request but shall not be filed with the court. When these rules require a party to maintain a document, the filer is required to maintain the document for a period of two years after the final resolution of the action, including the final resolution of all appeals. For domestic relations decrees, property and financial agreements (separation agreements), and parenting plans, electronic or scanned signature pages bearing the attorneys and parties' signatures must be E-filed.

(h) Documents Requiring E-Filed Signatures. For E-Filed and E-Served documents, signatures of attorneys, parties, witnesses, notaries and notary stamps may be affixed electronically or documents with signatures obtained on a paper form scanned.

(i) C.R.F.P. 11-1 Compliance. An e-signature is a signature for the purposes of C.R.F.P. 11-1.

(j) Documents under Seal. A motion for leave to file documents under seal may be E-Filed. Documents to be filed under seal pursuant to an order of the court may be E-Filed at the direction of the court; however, the filing party may object to this procedure.

(k) Transmitting of Orders, Notices and Other Court Entries. Beginning January 1, 2006, courts shall distribute orders, notices, and other court entries using the E-System in cases where E-Filings were received from any party.

(l) Form of E-Filed Documents. C.R.F.P. 10 shall apply to E-Filed documents. A document shall not be transmitted to the clerk of the court by any other means unless the court at any later time requests a printed copy.

(m) E-Filing May be Mandated. With the permission of the Chief Justice, a chief judge may mandate E-Filing within a county or judicial district for specific case classes or types of cases. A

judicial officer may mandate E-Filing and E-Service in that judicial officer's division for specific cases, for submitting documents to the court and serving documents on case parties. Where E-

Filing is mandatory, the court may thereafter accept a document in paper form and the court shall scan the document and upload it to the E-Service Provider. After notice to an attorney that all future documents are to be E-Filed, the court may charge a fee of 50 Dollars per document for the service of scanning and uploading a document filed in paper form. Where E-Filing and E-Service are mandatory, the Chief Judge or appropriate judicial officer may exclude pro se parties from mandatory E-Filing requirements.

(n) Relief in the Event of Technical Difficulties.

(1) Upon satisfactory proof that E-Filing or E-Service of a document was not completed because of:
(A) an error in the transmission of the document to the E-System Provider which was unknown to the sending party;
(B) a failure of the E-System Provider to process the E-Filing when received, or
(C) other technical problems experienced by the filer or E-System Provider, the court may enter an order permitting the document to be filed nunc pro tunc to the date it was first attempted to be sent electronically.
(D) Upon satisfactory proof that an E-Served document was not received by or unavailable to a party served, the court may enter an order extending the time for responding to that document.

(o) Form of Electronic Documents.

(1) Electronic document format, size and density. Electronic document format, size, and density shall be as specified by Chief Justice Directive # 11-01.
(2) Multiple Documents. Multiple documents (including proposed orders) may be filed in a single electronic filing transaction. Each document (including proposed orders) in that filing must bear a separate document title.
(3) Proposed Orders. Proposed orders shall be E-Filed in editable format. Proposed orders that are E-Filed in a non-editable format shall be rejected by the Court Clerk's office and must be resubmitted. Orders that are submitted as proposed shall not contain the word (PROPOSED) in the caption of the order. Proposed Orders must only be designated as proposed in the e-filing transmission.

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

(a) Appointed Judges.

(1) At any time after a civil action, excluding juvenile delinquency proceedings, is filed in a trial court of record, upon agreement of all parties that a specific retired or resigned

justice of the Supreme Court, or a retired or resigned judge of any other court of record within the state of Colorado be appointed to hear the action and upon agreement that one or more of the parties shall pay the agreed upon compensation of the selected justice or judge, together with all other compensation and expenses incurred, the Chief Justice may appoint such justice or judge who consents to perform judicial duties for such action.

(2) The decision as to whether such justice or judge shall be appointed to judicial duties, pursuant to subsection (1) of this section, shall be entirely within the discretion of the Chief Justice. The Chief Justice has the authority to reject or approve any deviations from these rules agreed to by the parties. The Chief Justice may require such undertakings as in the Chief Justice's opinion are necessary to ensure that proceedings held pursuant to this section shall be without expense to the state of Colorado.

(3) The compensation and expenses paid to an Appointed Judge shall be at the rate agreed upon by the parties and the Appointed Judge and rate of compensation must be approved by the Chief Justice at the time of making the appointment.

(4) The Appointed Judge shall have the same authority as a full-time sitting judge. Orders, decrees, verdicts and judgments entered by an Appointed Judge shall have the same force and effect and may be enforced or appealed in the same manner as any other order, decree, verdict, or judgment.

(b) Qualifications. To be eligible to serve as an Appointed Judge, a person must be a Senior Judge, a retired or resigned justice of the Supreme Court, or a retired or resigned judge of the court of appeals, a district court, probate court, juvenile court or county court, who has served as a judge in one or more of said courts for a total of at least six years. If a judge has served in the Colorado State Court System and as a judge in the Federal Court System, those years of service may be combined for the purpose of meeting the six-year requirement. Such person must be currently licensed to practice law in Colorado.

(c) Motion for Appointment. A request for the appointment of an Appointed Judge shall be made by a joint motion filed by all parties to a case and shall be signed as approved by the Appointed Judge. The original of such motion shall be filed with the Supreme Court with a copy filed in the originating court—the court of record in which the case was originally filed. Such motion shall include:

(1) The name, address, and registration number of the Appointed Judge;

(2) The rate of compensation agreed to be paid to the Appointed Judge;

(3) The Appointed Judge's agreement to be bound by Section IV of the Colorado Code of Judicial Conduct, Applicability of Code to Senior and Retired Judges, and the Appointed Judge's agreement that the Chief Justice may ask the Office of Attorney Regulation Counsel and the Colorado Commission on Judicial Discipline for any record of the appointee's imposed discipline, or pending disciplinary proceeding, if any;

(4) A realistic estimate of all compensation and expenses for the Appointed Judge, any needed personnel, rental of an appropriate facility outside the courthouse, if needed, in which to hold the proceedings, and all other anticipated compensation and expenses,

including travel, lodging and meals, and provisions assuring that all such compensation and expenses will be paid by the parties; and

(5) An agreement as to who is responsible for initial payment of the compensation and expenses of the action, and who is responsible for payment of the compensation and expenses upon final judgment;
(6) The agreement of the parties and the Appointed Judge that none of the compensation and expenses shall be paid by the state of Colorado;
(7) A copy signed by the Appointed Judge of the following oath: "I, (name of Appointed Judge), do solemnly swear or affirm that I will support the Constitution of the United States and of the State of Colorado, and faithfully perform the duties of the office upon which I am about to enter."
(8) Any other matters the parties desire to be considered in the Chief Justice's discretion.
(9) A form order approving the appointment.
(10) A statement acknowledging that the Chief Justice may approve or reject the order or, upon the agreement of all the parties and of the Appointed Judge, may change any of the provisions of the order.

The parties shall file the Chief Justice's ruling on the motion in the case file in the originating court.

(d) Duration of Appointment. The appointment shall last for so long as the parties specify in the motion and order of appointment. In the absence of such specification, the appointment shall last until entry of a final, appealable judgment, order or decree or, in dissolution actions, until the entry of Permanent Orders.

(e) Compensation and Expenses. Upon the appointment of an Appointed Judge by the Chief Justice, the parties shall forthwith deposit in an agreed escrow or trust account to be administered by the Appointed Judge or some other person acceptable to the parties and the Appointed Judge, sufficient funds to pay the estimated compensation and expenses of the case for the duration of the appointment. If, at any time, the Appointed Judge determines that the funds on deposit are insufficient to cover all further compensation and expenses, the Appointed Judge may order the parties promptly to deposit sufficient additional funds to cover such amount. An Appointed Judge may withdraw from the appointment after reasonable notice and with permission of the Chief Justice if this order is not complied with, and the case proceedings shall revert to the originating court. Within a reasonable time after the conclusion of the Appointed Judge's duties on the case, the parties shall file in the record of the case in the originating court a report of the total compensation paid for the Appointed Judge's services and the total expenses paid by the parties in the case.

(f) Rules Applicable to Proceedings. Proceedings before an Appointed Judge shall be conducted pursuant to Rules applicable to the originating court. All filings shall be open records available for public review and inspection unless sealed upon motion and order, and all proceedings shall be open to the public in the same manner and pursuant to the same law applicable to the originating court.

(g) Record.

(1) The original of each filing in all proceedings before an Appointed Judge shall be filed with the clerk of the originating court and a copy shall be provided to the Appointed Judge.

(2) The parties and the Appointed Judge shall comply with all applicable rules and Chief Justice Directives relating to reporting, filing and maintaining the record.

(3) The originals of any reporter's notes or recording medium, along with any exhibits tendered, shall be filed with the clerk of the originating court pursuant to C.R.C.P. 80(d). The parties shall pay the costs of a court reporter or for any recording equipment that is acceptable to all parties.

(h) Location of Proceedings.

(1) Unless consented to by the parties and ordered by the Appointed Judge for good cause, the location of evidentiary proceedings and trial of a matter subject to this rule shall be pursuant to C.R.F.P. 98.

(2) The parties and the Appointed Judge shall arrange for an appropriate facility in which proceedings shall be held. If available, a room in the courthouse may be used for one or more proceedings in the case. Use of available court rooms, equipment or facilities within the courthouse shall not be considered an expense to the state that the parties are required to bear or reimburse;

(3) Whenever proceedings are scheduled in advance, the Appointed Judge shall timely file a Notice of Hearing with the clerk of the originating court giving notice of the date, time, nature and location of the proceedings.

(4) Except when proceedings are taking place in a courthouse, the parties shall arrange for or assure that there is sufficient premises liability insurance to assure that any injury to a party, other participant or spectator at the proceedings is covered without expense to the state of Colorado. Such insurance shall name the state of Colorado as an additional insured.

(i) Removal. An Appointed Judge shall preside over all matters throughout the duration of the appointment unless the Appointed Judge recuses, is removed pursuant to C.R.F.P. 97, dies or becomes incapacitated. In any such circumstance, the case proceedings shall immediately revert to the originating court.

(j) Immunity. An Appointed Judge shall have immunity in the same manner and to the same extent as any other judge in the state of Colorado.

Rule 123. Regarding Child Family Investigators and Parental Responsibilities Evaluators

(a) Overview

(1) When parties are unable to resolve parenting time or decision-making issues on their own, the court may utilize independent experts to help guide their decisions.
(2) Parties shall abide by and be aware of, including but not limited to, provisions in C.R.S. § 14–10–116.5, CJD 04-08; CJD 04-05; C.R.S. § 14–10–127, CJD 21-02, and C.R.S. § 14–10–127.5.

(b) Appointment and Selection

(1) Upon motion of a party or the Court's own motion, the Court may appoint a Child and Family Investigator ("CFI") or Parental Responsibilities Evaluator ("PRE").
(2) The parties shall attempt to jointly select a CFI or PRE from the eligibility roster maintained by the State Court Administrator's Office ("SCAO").
(3) If the parties cannot agree on the selection of the CFI or PRE, the Court shall make the selection.

(c) Final Report

(1) CFIs and PREs are required to file their final report pursuant to the Court's Order and are not required to submit draft reports to parties and counsel prior to filing the report with the Court.
(2) The Court shall receive the CFI and PRE report into evidence at a hearing without further foundation, unless a party notes an objection in writing to the Court at least seven (7) days before the hearing. If a party notes an objection in writing to the Court to the entry of the CFI and PRE report, the Court shall have the discretion whether to admit the CFI or PRE report into evidence.

(d) Supplying Information and Cooperation with Process

(1) The parties have a duty to cooperate with and supply documents and other information requested by the CFI and PRE. The parties also have a duty to supplement or correct information in the CFI and PRE's report or summary.
(2) The CFI or PRE upon the request of either party, counsel, or the Court shall provide a listing of any other cases in which the CFI or PRE has testified as an expert at trial or by deposition within the preceding four years.

(e) Deposition

(1) The CFI and PRE cannot be deposed by any party without an Order of the Court that specifies the need for a deposition. The cost of the deposition shall be paid by the party requesting the deposition or as ordered by the Court. A deposition cannot delay the hearing without good cause.

(f) Attendance at Hearings

(1) The CFI or PRE shall attend final or contested hearing(s) that are set unless the court orders the CFI or PRE not to attend. The Court shall order how the CFI or PRE's attendance is to be paid, unless specified in the Order of Appointment or by mutual agreement of the parties. The CFI or PRE is not required to attend status conferences unless otherwise ordered by the Court. The CFI's or PRE's attendance may be virtually, unless otherwise ordered by the Court.
(2) The CFI or PRE shall receive notice of a hearing that they are required to attend. Notice shall be provided to the CFI or PRE through the hearing date designated in the Order of Appointment, or a Notice of Hearing shall be provided to the CFI or PRE. The CFI or PRE is not required to sign a waiver of service to be required to appear at a hearing. If a hearing is continued, the CFI or PRE is required to appear at the continued hearing date and is still subject to the Order of Appointment to appear so long as a notice of hearing is provided to the CFI or PRE.
(3) If a hearing date is set without being cleared with the CFI or PRE where they are required to appear, such hearing date shall be reset if the CFI or PRE has a conflict with such selected hearing date(s).

Rule 124. Regarding Guardian Ad Litem~~s~~

(a) Overview.

(1) The appointment of a Guardian ~~ad~~ Ad L~~l~~item (GAL) is for the sole purpose of protecting a party; all decisions regarding a GAL are to be made based primarily on the basis of the
best interests of the Protected Person.
(2) A Guardian ad litem (GAL) shall be appointed by the Court if, after a hearing, the Court determines that (1) the party is mentally impaired and incapable of understanding the
nature and significance of the case; (2) the party is incapable of making critical decisions; (3) the party lacks intellectual capacity to communicate with counsel or the court; or (4) the party is mentally or emotionally incapable of weighing advice of counsel[1].
(3) If the powers or duties of the GAL include, in any way, making decisions for the

protected party or signing documents for the protected party, or otherwise standing in the shoes of the protected party, then the determination of the appointment of a GAL must be by clear and convincing evidence of at least one of the above elements. Otherwise, the appointment of a non-decision making GAL shall be by a preponderance standard.

(b) Procedure.

(1) A request for a GAL may be made by a party, the attorney of the party, opposing counsel, the Court, or an interested third party. Such request must be made by either oral or written motion and must include sufficient information to support the need for a GAL, while still protecting the party's privacy and attorney client privilege.

(2) If a motion to appoint a GAL is contested or if, in the sole discretion of the court, there are insufficient non-contested facts in the pleadings to support the appointment, then the court shall conduct a hearing to determine whether the party has an incapacity such that a GAL is necessary. Such a hearing will be before a different judicial officer and the opposing party in the case will be admitted to that hearing solely to provide testimony unless, upon request, the court finds that the presence of the opposing party is in the best interests of the person for whom the protection is sought.

(3) The testimony, including FTR and written transcript, if any, shall be sealed to the opposing party and counsel as consistent with C.R.S. § 15-14-308.

(4) If the party for whom a GAL is sought stipulates to the need for an appointment of a GAL, such stipulation along with all the powers and duties granted to the GAL will be read into the court record, including that the GAL's fees will be a cost. The court shall make reasonable inquiry, on the record, to ensure that the party understands the nature of the GAL appointment, that the appointment cannot be reversed if the party changes their mind and withdraws consent, and the specific duties of the GAL in their case, including that the GAL does not represent them but instead represents their best interests which may not accord with their desires. Regardless of consent, the party can nominate a GAL, stating in the nomination the grounds for their support of the person.

(5) The file of the GAL is protected from discovery by the opposing party and the GAL is authorized to enter into a Common Defense agreement with any attorney representing the protected party. The only exception to this privilege shall be any communications or work product that establishes facts supporting a position advanced by the GAL that a decision or position taken by the protected person is not in their best interests.

(c) Qualifications to serve as GAL.

(1) For Non-Decision Making GALs:

(A) A GAL may be a Colorado licensed attorney in good standing. A GAL cannot be an LLP. All privileges apply, except as noted above. The GAL cannot be called as a witness except to assert that a position taken by the protected person is not in their best interests. A GAL shall not file a report.

(B) In cases where the protected party's interests would best be served by the appointment of a person other than an attorney, a qualified person such as a speech therapist, a therapist, or someone to aid in financial understanding or the like may be appointed. Consideration in appointments of non-attorneys shall be given to someone familiar with family-related legal process. If the person is in a profession subject to licensure, they must be licensed and in good standing.

(2) For D~~A d~~ecision-M~~m~~aking GALs: a GAL must be a Colorado licensed attorney in good standing. A GAL cannot be an LLP. Such an appointment must be by clear and convincing evidence, and the court shall give reasons why the party's inability to make their own decisions will be impaired over the course of the litigation. The court shall consider whether a guardian or a conservator Pursuant to Title 15 is a more appropriate appointment. The court should be very hesitant to allow the attorney representing the client to withdraw in the case of the appointment of a Decision-making GAL, as the GAL only represents the best interests of the person and upon withdrawal the party would be self-represented. Such withdrawal should only be allowed if the GAL consents to it or the attorney is replaced by successor counsel.

(~~A~~3) In all appointments, the GAL serves the best interests of the party and has a fiduciary duty to the party. A GAL does not take direction from the party nor the party's counsel; however, the GAL shall consider the party's positions in their determination of the best interests of the party.

(d) Order appointing GAL.

(1) The powers and duties of the GAL shall be specifically articulated in the order of appointment and shall be as narrowly tailored as possible regarding grants of powers that necessarily impinge or act to deprive the protected person of protected rights including but not limited to the attorney-client privilege, autonomy, and privacy. Such powers and duties may include:

(A) Access to the protected person's records, including HIPAA protected records, such as are necessary for the GAL to understand and protect the protected person's best interests. The GAL should always try to obtain the Protected Person's consent to release such records before using the court order to obtain same.

(B) Making requests for litigation accommodations pursuant to the Americans with Disabilities' Act as may be needed to protect the Protected Person.

(C) The duty to return to the court to seek additional orders in their order of appointment such as are necessary to protect the Protected Person.

(D) The duty to inform the court and the Protected Person's legal counsel, at all stages of litigation, if a strategy or decision is not in the best interests of the Protected Person. In fulfilling this duty, the GAL should first discuss concerns directly with the Protected Person, and in informing the Protected Person's attorney or the court should do so in the

least disruptive way possible and only to the extent that doing so is necessary to protect the best interests of the Protected Person.
(2) An attorney GAL:
(A) Has the right to file motions, conduct discovery, and otherwise act in the client's best interests separate from the client and/or the client's attorney when doing so is necessary. GAL's need not duplicate actions of the person's legal counsel.
(2) Must participate in all hearings, including participation in all pre-trial filings, direct and cross-examination of witnesses, and legal argument to the extent that doing so serves the best interests of the party as determined by the GAL.
(3) Must participate in all depositions, status conferences, settlement conferences and mediations.
(4) In the case where the client of the GAL does not have legal representation, the GAL shall assist the client in all matters in the case, including but not limited to activities such as answering formal discovery requests, preparing and filing a Sworn Financial Statement, formulating strategy and preparing for testimony.
(5) In appropriate cases, subject to the client's financial resources and with the Court's permission, the GAL may hire legal representation for the client.

(6) For purposes of timed hearings, the GAL shall be allocated reasonable amounts of time in which to present their evidence if the best interests of the party as determined by the GAL is in conflict with the party's position for hearing. In no instance may a GAL be restricted to less than 10% of the total time of the hearing if there is dispute with the amount of time the GAL has requested.

(e) Post Hearing.

(1) A GAL's appointment shall automatically terminate on the 63rd day after the issuance of a final Order, including any Orders pursuant to Rule 59 or 60.
(2) If either party in the case appeals the final Order to the Court of Appeals, the GAL shall request an extension of their appointment from the underlying District Court.
(3) An attorney GAL may only participate in the filing of briefs at the appellate level if, during the underlying case, the GAL was in conflict with the party's position at hearing.

(f) Payment of GAL Fees.

(1) In general, the fees of the GAL should be considered a marital expense. However, the Court may allocate the payment of the GAL fees between the parties or to one party, subject to reallocation at the final hearing. The Court may also order that the GAL fees be paid by the State pursuant to JDF 205.

APPENDIX

1) Please add Attachment 2 – Form 35.1 MANDATORY DISCLOSURES

2)

2) FORM 35.4 PATTERN INTERROGATORIES

The following Pattern Interrogatories are propounded to _____ pursuant to C.R.F.P. 26 and 33.

Section 1. Instructions to All Parties

(a) These are general instructions. For time limitations, requirements for service on other parties, and other details, see C.R.F.P. 26, 33, 121 §1-12, and the cases construing those Rules.

(b) These interrogatories do not change existing law relating to interrogatories nor do they affect an answering party's right to assert any privilege or objection.

Section 2. Instructions to the Asking Party

(a) These interrogatories are designed for optional use in domestic relations cases only.

(b) Use care in choosing those interrogatories that are applicable to the case.

(c) Subject to the limitations in C.R.F.P. 33, additional interrogatories may be attached.

Section 3. Instructions to the Answering Party

(a) An answer or other appropriate response must be given to each interrogatory. Parties are to answer these interrogatories with the understanding that they stand in a fiduciary relationship with each other.

(b) As a general rule, within 35 days after you are served with these interrogatories, you must serve your responses on the asking party and serve copies of your responses on all other parties to the action who have appeared. See C.R.F.P. 33 for details.

(c) Each answer must be as complete and straightforward as the information reasonably available to you permits. If an interrogatory cannot be answered completely, answer it to the extent possible.

(d) If you do not have enough personal knowledge to fully answer an interrogatory, say so, but make a reasonable and good faith effort to get the information by asking other persons or organizations, unless the information is equally available to the asking party in which case state the identity, address and telephone number of the person in possession.

(e) Whenever an interrogatory may be answered by referring to a document, the document may be attached as an exhibit to the response and referred to in the response. If the

document has more than one page, refer to the page and section where the answer to the interrogatory can be found.

(f) Whenever an address and telephone number for the same person are requested in more than one interrogatory, you are required to furnish them in answering only the first interrogatory asking for that information.

(g) Your answers to these interrogatories must be verified, dated, and signed. You may wish to use the following form at the end of your answers:

I declare under penalty of perjury under the laws of the State of Colorado that the foregoing answers are true and correct.
DATE _____
SIGNATURE _____

Section 4. Definitions

(a) You or your includes you, your agents, your employees, your insurance companies, their agents, their employees, your attorneys, your accountants, your investigators, and anyone else acting on your behalf.

(b) Person includes a natural person, firm, association, organization, partnership, business, trust, corporation, or public entity.

(c) Document means a writing, as defined in CRE 1001 and includes the original or a copy of handwriting, typewriting, printing, photostating, photographing, magnetic impulses, mechanical or electronic recording or other form of data compilation and every other means of recording upon any tangible thing and form of communicating or representation, including letters, words, pictures, sounds, or symbols, or combinations of them.

(d) Address means the street address, including the city, state, and zip code.

Section 5. Pattern Interrogatories

The following interrogatories have been approved by the Colorado Supreme Court under C.R.C.P. 16.2 and 33.

1. If you are employed by any business or enterprise, for each state:
   a. Its name, address and telephone number;
   b. Your position;
   c. Your present gross monthly income;
   d. Your compensation arrangement including a complete description of draws, incentives, bonuses, perquisites, expense reimbursements, in kind payments, and any other method of compensation;
   e. Your date of hire;
   f. If you have the use of company property, describe and explain your arrangement

for use and payment;

g. Whether you have any outstanding bonuses, commissions, or any other payment, benefit or perquisite due to you, and if so, please describe and state the amount and date due;

h. The amount and date of all bonuses, commissions, or other payment you have received from your employment in the past three years;

i. The date of your next compensation review;

j. The amount of compensation adjustment anticipated at your next compensation review.

2. Add back prior pattern interrogatory #2

3. Add back prior pattern interrogatory #3

4. If the expenses on your Sworn Financial Statement include the support of any person other than yourself or your children, state the name of each person and the monthly expenses attributable to such person.

5. ~~(Not applicable to cases only addressing APR)~~ If you have disposed of any property with a value of $5,000.00 or more, including without limitation, stocks, bonds, debentures or other items of a similar nature in the last 12 months, for each item state:

   a. Description of the property;

   b. The date acquired and tax basis;

   c. The date you disposed of the property;

   d. The amount received by you;

   e. The fair market value of the security on the date disposed of;

   f. What you did with the sale proceeds;

   g. The amount that is still due and owing to you.

6. If during the last three years you have sold or transferred any interest in real property that was not jointly titled with the opposing party, for each sale and/or transfer, state:

   a. The address and description of the property;

   b. The date of sale or transfer;

   c. The method of transfer;

   d. The name and address of each purchaser or person receiving title, and the interest received by such person;

   e. The purchase price or consideration;

   f. The current mortgage balance;

   g. The amount of the proceeds of the transfer received by you;

   h. The disposition of the proceeds;

   i. The interest you presently have in such property.

7. If any person or entity holds any property for your benefit that is not titled or held in your name, including, but not limited to bank accounts, IRAs, Keoghs, stocks, securities or investments of any kind, for each state:

a. The name and address of each such person, firm or legal entity;
b. A description of the item held for your benefit;
c. The conditions under which the item is held for your benefit;
d. The fair market value of the property.

8. If you have received any gifts of money, non-taxable income or assets from any source other than through your business or employment of $10,000.00 or more in the last three years, set forth the following:
   a. The amount of money or value of the asset received and date of receipt;
   b. The name and address of the person or entity from whom the amount is received;
   c. The consideration given by you or other reason for payment to you.
9. If you are a beneficiary of the estate of any person, state:
   a. The amount of the estate;
   b. Whether the estate is being probated or administrated;
   c. Whether distribution has been made to you from such estate;
   d. The amount of money or property you have received from such estate;
   e. The date(s) distribution was made; or if distribution has not been made, the date you anticipate receiving said distribution.
10. If you are a beneficiary of any current or terminated trust, state:
    a. The date of the creation of each trust;
    b. The name and address of the trustee;
    c. The amount of principal in the trust;
    d. The amount of income and other distributions you receive each year from the trust;
    e. The name and address of the grantor;
    f. f. If the trust has been terminated, the date and circumstances of the termination.
11. If you have been involved in any business and/or investment during the last three years, state the following:
    a. The name and address of the business/investment;
    b. The form of the business organization/investment;
    c. A brief description of the business/investment;
    d. The name and address of each manager, officer or owner of the business/investment;
    e. The date when you obtained your interest in the business/investment;
    f. Your capital contribution to the business/investment;
    g. Your ownership interest (by percentage or number of shares);
    h. The date and amount of all outstanding loans to which you are a party;
    i. The annual gross profits of the business/investment since you acquired your interest;
    j. All payments to or for you from the business/investment, whether salary, bonus, dividend, commission, draw, advance, loan or payment of personal expenses

during the last three years, along with any pending payments;

k. All expenses reimbursed to or paid for you by each business/investment, including but not limited to, insurance, supplies, food, travel, transportation, education, entertainment, and business gifts during the last three years, along with any pending reimbursements;

l. The fair market value of the business/investment on a pre-tax basis;

m. The current fair market value of your interest on a pre-tax basis, and your explanation of how you calculated same;

n. Whether or not you intend to sell your interest;

o. The tax basis of your interest.

12. If allocation of parental responsibilities (that is, decision-making and/or parenting time) is an issue:

a. State whether joint parental decision-making or sole parental decision-making is best for the child(ren) and why;

b. State which party should be designated primary residential care and why;

c. State your proposed~~Outline a~~ schedule of parenting time for each party, including a holiday/school break schedule and a summer schedule;

d. Outline the manner in which parental responsibilities have been shared with the other party, i.e., daily caretaking, participation in school/extracurricular events, financial support, choosing the child(ren)'s doctors and dentists, choosing school(s), etc.;

e. Describe any history of domestic violence, child abuse, or neglect (supporting documentation should be provided);

f. Describe any physical, psychological or addictive condition of either party which if untreated has a harmful effect on the best interest of the child(ren) and why;

g. Describe any special needs of any child (physical, psychological, educational, etc.);

h. Describe any history of counseling or therapy for either party or any child; include the names, addresses and telephone numbers of the person(s) providing same;

i. State whether regular contact with grandparents, extended family, and/or other significant adults is contrary to the best interests of the child(ren) and why;

j. Describe any extraordinary travel arrangements necessary for parenting time;

k. Describe current child support arrangements and state whether payments are current;

l. Describe the childcare arrangements for the child(ren) for the last three years including the name, address and telephone number of each childcare provider.

3) FORM 35.5 PATTERN REQUESTS FOR PRODUCTION OF DOCUMENTS

The following Pattern Requests for Production of Documents to _____ are propounded pursuant to C.R.F.P. 26 and 34.

Section 1. Instructions to All Parties

(a) These are general instructions. For time limitations, requirements for service on other parties, and other details, see C.R.F.P. 26(e), 34, 121 §1-12, and the cases construing those Rules.

(b) These requests for production of documents do not change existing law relating to requests for production of documents nor do they affect an answering party's right to assert any privilege or objection.

Section 2. Instructions to the Asking Party

(a) These requests for production of documents are designed for optional use in domestic relations cases only.
(b) Use care in choosing only those requests for production of documents that are applicable to the case. Documents should not be requested that have been provided by disclosure or other means.
(c) Subject to the limitations in C.R.F.P. Rules 26(e)(3) and 34, additional requests for production of documents may be attached.
(d) Complete and accurate copies may replace originals.

Section 3. Instructions to the Answering Party

(a) An answer or other appropriate response must be given to each request for production of documents. Parties are to provide documents in response to these requests for production of documents with the understanding that they stand in a fiduciary relationship with each other.
(b) As a general rule, within 35 days after you are served with these requests for production of documents, you must serve your responses on the asking party and serve copies of your responses on all other parties to the action who have appeared. See C.R.C.P. 34 for details.
(c) 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 the objection shall be stated. If an objection is made to part of an item or category, the part shall be specified and an inspection permitted of the remaining parts.
(d) A party who produces documents for inspection shall produce them as they are kept in

the usual course of business or shall organize and label them to correspond with the categories in the request.

Section 4. Definitions

(a) You or your includes you, your agents, your employees, your insurance companies, their agents, their employees, your attorneys, your accountants, your investigators, and anyone else acting on your behalf.

(b) Person includes a natural person, firm, association, organization, partnership, business, trust, corporation, or public entity.

(c) Document means a writing, as defined in CRE 1001 and includes the original or a copy of handwriting, typewriting, printing, photostating, photographing, magnetic impulses, mechanical or electronic recording or other form of data compilation and every other means of recording upon any tangible thing and form of communicating or representation, including letters, words, pictures, sounds, or symbols, or combinations of them.

(d) Address means the street address, including the city, state, and zip code.

Section 5. Pattern Request for Production of Documents

The following requests for production of documents have been approved by the Colorado Supreme Court under C.R.F.P., 26 and 34.

1. All balance sheets, and/or profit and loss statements for any business entity in which you have an interest, which have been prepared in the last three years.
2. All income reporting documentation received during the past three months and the last such statements received in the prior calendar year, including, but not limited to documents identifying income received from employment, investment, government programs, gifts, trust distributions, prizes, distributions from a business and/or investment.
3. Copies of all W-2s, K-1s, 1099s or other income reporting documentations issued in the past three years.
4. Each self-employed party shall provide a sworn statement of gross income, business expenses necessary to produce income, and net income for the last three months as well a statement showing such information for the prior calendar year.
5. All documents fixing your compensation terms and describing your compensation arrangement including a complete description of draws, incentives, bonuses, perquisites and any other method of compensation (offer letter, employment agreement, contract, corporate minutes, memoranda, policy manual, etc.).
6. Your current Social Security Earnings Statement (if not provided during disclosures).
7. Your current resume or Curriculum Vitae.
8. All monthly account statements for every personal and business bank account (including

deposit slips and copies of checks), brokerage account (investment and retirement account), ~~online~~ peer-to-peer account (Venmo, Paypal, Zelle, etc.), and digital currency/crypto currency account, or other money management account in which you or the other party has an interest or appear of record thereon, for the last three years.

9. Copies of all stock purchase ~~certificates~~plans, bonus plans, incentive plans, nonqualified deferred compensation plans, omnibus stock plans, plans authorizing awards of stock options, restricted stock, restricted stock units, phantom stock or similar equity awards, all associated award and grant agreements, all deferral election forms, warrants owned or in which either party has an interest, copies of all document establishing ownership and/or defining ownership value for all investments, or any other documents evidencing your interest in stock, equity rights or other executive compensation.
~~stock option plans, stock options certificates, vesting schedules, grant agreements, restricted stock unit plans and agreements, or warrants owned or in which either party has an interest, and copies of all documents establishing ownership and/or defining ownership value for all investments, or any other documents evidencing your interest in such stock, stock options, or investments.~~

~~9.~~10. All appraisals, market analyses, records of purchase and sale, deeds, bills of sale, security agreements, promissory notes, and payment records for any property, including but not limited to, real estate, business interests or any kind of personal property either owned or sold within the last three years by you or the other party.

~~10.~~11. All trust agreements in which you or the other party is or has been grantor, trustee or beneficiary.

~~11.~~12. Monthly credit card and charge account statements for the last twenty-four months, from any credit card company or charge account on which you are a signator, either in a personal capacity or as an authorized signatory for any business or person.

~~12.~~13. All documentation evidencing any separate interest you claim in any real or personal property, including but not limited to gift and inheritance tax returns filed concerning such property. This request shall not apply to APR matters.

~~13.~~14. Provide a current copy of your Experian, Equifax, and TransUnion credit reports.

~~14.~~15. All documents which contain any information responsive to the questions set forth in the propounded interrogatories.