

**COLORADO SUPREME COURT  
ADVISORY COMMITTEE ON THE RULES OF EVIDENCE**

**December 4, 2020 Meeting Minutes**

A quorum being present, the Colorado Supreme Court’s Advisory Committee on the Rules of Evidence was called to order by Judge Rebecca R. Freyre at 1:30 pm via WebEx. Members and guests present or excused from the meeting were:

<b>Name</b>	<b>Present</b>	<b>Excused</b>
Judge Rebecca R. Freyre, Chair	X	
Scott Bauer	X	
Chief Judge Steven Bernard	X	
Harlan Bockman	X	
Prof. John Campbell		X
Johanna G. Coats	X	
David DeMuro	X	
Judge Stephanie Dunn	X	
Judge Marcelo Kopcow	X	
Jud Lohnes	X	
Luke McConnell	X	
Professor Christopher Mueller		X
Norman Mueller	X	
Magistrate Kelley R. Southerland	X	
Judge Juan G. Villaseñor	X	
Judge Shay Whitaker		X

**I. Attachments & Handouts**

- December 4, 2020 Agenda
- November 1, 2019 Minutes
- SB 20-088
- Gonzales v. People, 2020 CO 71
- FRE 404 Change

**II. Minutes**

- The November 1, 2019 minutes were adopted as submitted.

**III. Announcements from the Chair**

- Judge Freyre shared that the committee has changed significantly since the last meeting and introduced and welcomed the new members.

**IV. Old Business**

- a. **FRE 902 – Ancient Documents Exception to Hearsay**

Passed over until the next meeting.

**V. New Business**

**a. SB20-088 – Evidentiary Rules When Interference with Witness**

Judge Freyre reminded the committee that at the last meeting, they reconsidered this and decided not to recommend adopting a rule on this issue. This year, the legislature created a statutory exception. The committee noted that they would like to have the opinions of Professor Mueller and Professor Campbell on this before deciding a course of action.

**b. Gonzales v. People, 2020 CO 71**

Judge Freyre stated this isn't an action item, she just put it out there for the committee to consider.

**c. FRE 404 – Character Evidence; Other Crimes; Wrongs, or Acts**

On December 1, 2020, the US Supreme Court modified this rule. Judge Freyre queried whether the committee wanted to consider corollary changes for the Colorado rule. Norm Mueller volunteered to serve as chair of a subcommittee exploring this possible rule change. Johanna Coats and Judge Villaseñor also volunteered to serve on the committee.

**d. Restyling Evidence Rules to be Consistent with Federal Evidence Rules**

A member asked whether the committee had ever considered “restyling” the rules consistent with the federal rules for readability and specifically noted Rule 702. One longstanding member did not think the committee had ever considered it. There was discussion about the restyling occurring with the Colorado Appellate Rules and a question arose concerning the availability of staff resources if this committee decided to undertake a restyling. The committee agreed that it would like Professor Mueller's and Campbell's input on this, and Judge Freyre agreed to run the staffing issue by Justice Samour.

**VI. Future Meeting date**

The committee adjourned at 2:34 pm.