

**Colorado Supreme Court Rules of Juvenile Procedure Committee  
Minutes of January 20, 2017 Meeting**

The Rules of Juvenile Procedure Committee was called to order by Judge Ashby at 9:40 a.m., in the supreme court conference room on the fourth floor of the Ralph L. Carr Judicial Center. Members present or excused from the meeting were:

<b>Name</b>	<b>Present</b>	<b>Excused</b>
Judge Karen Ashby, Chair	X	
David P. Ayraud	X	
Magistrate Howard Bartlett		X
Kelly Boe		X
Jennifer Conn	X	
Traci Engdol-Fruhworth		X
Judge David Furman	X	
Ruchi Kapoor	X	
Shana Kloek		X
Judge Ann Meinster	X	
Judge Dave Miller	X	
Lauren Leeman	X	
Chief Judge Mick O'Hara		X
Professor Colene Robinson		X
Magistrate Fran Simonet	X	
Judge Traci Slade	X	
Magistrate Kent S. Spangler	X	
Karen Stall		X
John Thirkell	X	
Chief Judge Jeffrey Wilson	X	
<b>Non-voting Participants</b>		
Justice Allison Eid, Liaison	X	
Terri Morrison	X	
J.J. Wallace	X	

**Attachments & Handouts**

- (1) Adjudication Subcommittee Proposal
- (2) 11/4/16 Meeting Minutes

**I. Call to Order**

**II. Chair's Report**

- A. **Next meeting:** March 24, 2017 @ 9:30 AM Supreme Court Conference Room, 4<sup>th</sup> floor
- B. **Approval of 11/4/16 meeting minutes:** After a motion was made and seconded, the committee approved the last meeting minutes unanimously.

### III. Old Business

#### A. Draft Rules

##### i. **Adjudication Proposal-David Ayraud & Subcommittee Members Ret. Judge Doug Vannoy, Sheri Danz (from OCR), and Amanda Lindsey (CJA).**

Judge Ashby noted that if any committee members had identified typos or wanted to make grammar suggestions to the subcommittee's proposal, the member should email David Ayraud ([dayraud@larimer.org](mailto:dayraud@larimer.org)) with those suggestions.

The committee discussed the following proposed rules and agreed to the following:

1. Case Management for Adjudicatory Trials Rule
  - a. In subsection (e) use "jury trial" not "adjudicatory trial" and as a general usage note use "adjudicatory hearing" and "jury trial" when appropriate but not "adjudicatory trial"
  - b. In (e)(a)(iii) & (v) strike the reference to 8 copies and have both sections say "a sufficient number of copies"
  - c. Change (e)(b) to say "The court may" instead of "the court will"
  - d. Change (f) to be titled "Pre-trial Stipulations" instead of just "Stipulations"
  - e. Change (g) to say case management "rule" instead of "order"
  - f. Strike (h) entirely (the committee agreed that, in proposing state-wide rules, there would be no more need for local rules)
2. Adjudicatory Hearing Rule
  - a. With regard to subsection (b), "Right to Participate," there was discussion about roles played by a GAL for a respondent, a counsel for a child, an intervenor, and a special respondent and their ability to participate in an adjudicatory hearing. Similar discussion was held last meeting when discussing the discovery rules and the rights and duties of these participants in discovery. The committee felt that problems drafting rules touching on these participants will continue until the committee can come to agreement on the scope these participants have within dependency and neglect cases and how the rules should handle these participants. The chair will explore the

issue before the next meeting and will attempt to develop a way for the committee to resolve this issue, so that all subcommittees will be on the same page in drafting rules involving these participants.

- b. Subsection (c), (g), and (h) should refer to the burden of proof as “preponderance” but should then say “notwithstanding the provisions of” or in some manner refer to the ICWA rule (where the burden would be clear and convincing)
  - c. In subsection (d) change “facts admitted by a parent” to “Admissions by a parent”
  - d. There are several statutory references in the proposed rule. The committee discussed whether there was a preference for statutory references or not. No particular consensus was reached about whether it was a generally good idea to use them or a generally bad idea to use them. The committee agreed that, for now, the individual subcommittees should look at the individual rule and think about whether a statutory reference makes sense in drafting that particular rule.
3. Parties and Joinder Rule
    - a. The committee continued to struggle reaching conclusions on the roles of GALs for parents, counsel for a child, intervenors, and special respondents in the context of this rule. The committee tends to agree that a GAL for a parent is not a party.
  4. Admissions Rule
    - a. A time period is not required in this rule
  5. Consolidation; Separate Trials Rule
    - a. The subcommittee indicated that this rule posed difficulties and there was disagreement about how to proceed (thus, the two alternatives for subsection (c)). The subcommittee also thought that this rule might be impacted by People in Interest of S.M-L., 2016 COA 173 (cert has been sought) and that the state of the law in this area may not be settled. The committee agreed that consolidation/severance is a tricky area: goals of efficiency, economy, and consistent results are important, but, in D&N cases, describing severance is difficult because the parties are tied together--especially with an injurious environment allegation. See People in Interest of J.G., 2016 CO 39.

The committee did not discuss the proposed rules involving: Continued (Deferred) Adjudications; Default; Evidence; Informal Adjustment; Intervention; Trial by Jury & Trial by Jury (alternative draft); Responsive Pleadings and Motions & (Alternative subsection (e)); Summary

Judgment; Time; Continuances. These proposed rules will be taken up at the next meeting.

**IV. Future Meeting: Friday, March 24 @ 9:30 AM-Supreme Court Conference Room**

Judge Ashby thanked the subcommittee chair and subcommittee guests for their presentation and the committee members for their active engagement. The Committee adjourned at 11:56 a.m.

*Respectfully Submitted,  
J.J. Wallace*