AGENDA

COLORADO SUPREME COURT
COMMITTEE ON THE
RULES OF CIVIL PROCEDURE

Friday, January 23, 2026, 1:30 p.m.
Ralph L. Carr Colorado Judicial Center
2 E.14th Ave., Denver, CO 80203
Fourth Floor, Supreme Court Conference Room

I. Call to order

II. Approval of November 7, 2025, minutes [Pages 2 to 4]

III. Announcements from the Chair

A. April 2026 Meeting Date Discussion

B. Other

IV. Old Business

A. Rule 53—"court-appointed neutral" proposal (Greg Whitehair) [Page 5]

B. Speedy trial proposal from attorney Jim Yontz (Judge Jones) [Page 6]

C. Rule 121, Section 1-15(8) and Rule 16(b)(3), (d)(2)—Conferral by email (Ben Vinci) [Pages 7 to 11]

D. Proposed Rule 121, Section 1-27—Proposed civility rule from the CBA and DBA (Judge Webb) [Pages 12 to 33]

V. New Business (none)

VI. Adjourn—Next meeting is April 3, 2026, at 1:30 p.m.

Jerry N. Jones, Chair
jerry.jones@judicial.state.co.us
720-625-5335

Colorado Supreme Court Advisory Committee on the Rules of Civil Procedure
November 7, 2025, Minutes

A quorum being present, the Colorado Supreme Court Advisory Committee on the Rules of Civil Procedure was called to order by Chair Judge Jerry N. Jones at 1:30 p.m. in the Supreme Court Conference Room. Members present at the meeting were:

Name	Present	Not Present
Judge Jerry N. Jones, Chair	X	
Judge Michael Berger		X
Judge Jaclyn Brown	X	
Damon Davis	X	
David R. DeMuro	X	
Judge Stephanie Dunn	X	
Judge J. Eric Elliff		X
Magistrate Lisa Hamilton-Fieldman	X	
Michael J. Hofmann	X	
John Lebsack	X	
Bradley A. Levin	X	
Mary Linden	X	
Professor Christopher B. Mueller		X
Brent Owen		X
John Palmeri	X	
Alana Percy	X	
Lucas Ritchie	X	
Judge (Ret.) Sabino Romano	X	
Judge Stephanie Scoville	X	
Victor Sulzer	X	
Magistrate Marianne Tims	X	
Andi Truett	X	
Jose L. Vasquez	X	
Ben Vinci		X
Judge Gregory R. Werner	X	
Judge (Ret.) John R. Webb	X	
J. Gregory Whitehair	X	
Judge Christopher Zenisek	X	
Justice Richard Gabriel, Liaison (non-voting)	X	
Su Cho (non-voting)	X	

I. Attachments & Handouts

- November 7, 2025, agenda packet.

II. Announcements from the Chair

The September 26, 2025, minutes were approved as submitted. Judge Jones introduced a

new member, Mary Linden. Next, Judge Jones noted that the Colorado Supreme Court approved changes to Rules 43, 343, and 411, effective December 1, 2025. Further, the Court updated the order for the new magistrate rules to now apply to cases currently pending, per a request from the Subcommittee following some comments from the domestic relations bar. Judge Jones and Magistrate Tims will both be discussing the magistrate rules at local bar events in the next several months to bring the changes to people's attention.

III. Old Business

A. Rules 3.1, 4, and 303.1—Pathways to Access Committee amendment request (Jose Vasquez, Alana Percy, Magistrate Hamilton-Fieldman)

At the June and September 2025 meetings, the Committee discussed a Pathways to Access Committee (PAC) proposal on Rule 303 pertaining to forcible entry and detainer (FED) cases. The proposed amendments are aimed at bringing the rules in compliance with statutory requirements and capturing the public policy intentions of the PAC. Following the September meeting, Chair Judge Jones sent this proposal back to the Subcommittee for reconsideration with the addition of new Subcommittee members who represent landlords to create a more balanced perspective.

The Subcommittee looked for consensus but found little. The Subcommittee members agree that the current rule is not in compliance with statutory requirements and so changes to bring it into compliance are appropriate. Those against the remainder of the proposal expressed it is a solution in search of a problem and that this should be a legislative fix rather than a rule change given the divergent interests at play. Others argued that the legislature has already acted given the recent changes to FED law. The members also discussed whether the proposal is procedural or substantive in nature.

The Committee first considered the proposed changes Rule 4 and the addition of 303.1(b) dealing with summons. This proposal passed 12-8.

A member then made a motion to approve new Rule 3.1 and changes to Rule 303.1(a) and (c). The Committee approved this proposal by a vote of 18-2.

B. Gendered Pronouns in the Civil Rules—(Lucas Ritchie)

Judge Jones reminded everyone that this started a few years ago when the committee chairs developed a consensus on an approach to remove gendered language from the civil rules. The Court approved that approach, and since then, this Subcommittee has been working on making the required extensive changes. The Committee voted unanimously to approve these proposed changes. Judge Jones will review all these rules prior to submission to the Court, to ensure nothing is missed. Members who find any issues should send them to Judge Jones.

IV. New Business

A. Rule 121, Sections 1-1 and 1-15—Proposed amendments to clarify procedural requirements relating to sanctions requests in certain circumstances from local attorneys (Aaron Atkinson, Kaylee Sims)

Local attorneys Aaron Atkinson and Kaylee Sims attended as guests to discuss their proposal regarding attorney fees sanctions pertaining to notice. The first proposed change aims to clarify the procedural requirements that a moving party must follow when requesting attorney fees as a sanction against withdrawn counsel. The second proposed revision addresses the proper mechanism for requesting attorney fees generally as pretrial sanctions.

While several members noted their appreciation for the thoughtfully prepared memo, they also expressed that these issues rarely come up and that this is an issue that does not need to be addressed because doing so would create redundancy. However, some expressed interest in separating out a motion for attorneys fees.

Judge Jones suggested that a subcommittee be formed *if* members are interested. Those who feel strongly should message Judge Jones.

B. Speedy trial proposal from attorney Jim Yontz (Judge Jones)

Held over.

C. Potential changes to Rule 47 concerning voir dire in civil cases—Proposal from the Colorado Trial Lawyers Association (Brad Levin, Kevin Cheney)

This item was withdrawn from the Committee's consideration.

D. Rule 53—"court-appointed neutral" proposal (Greg Whitehair)

Held over. Judge Jones will designate this as the first item of business for the January meeting.

E. Rule 69—Proposed amendments regarding personal service (Attorney Ross Ziev)

Local attorney Ross Ziev noted that currently the requirement that debtor interrogatories be served on the debtor pursuant to C.R.C.P. 45 is being interpreted as requiring personal service on a judgment debtor, even when that judgment debtor has been, and continues to be, represented by counsel. Mr. Ziev argues that this is a waste of money and resources and suggests changes to Rule 69 to remedy this issue. Judge Jones formed a Subcommittee to consider this issue. Members should email Judge Jones to join the work. Mr. Ziev will serve on the Subcommittee

F. Rule 121, Section 1-15(8) and Rule 16(b)(3), (d)—Consideration of email conferral (Ben Vinci)

Held over.

Future Meetings

January 23, April 3, June 26, September 25, November 6

The Committee adjourned at 3:33 p.m.

From:	jones, jerry
To:	michaels, kathryn
Subject:	FW: The "masters" now call themselves "neutrals"
Sent:	9/19/2025 10:08:26 AM

From: lipinsky, lino <lino.lipinsky@judicial.state.co.us>
Sent: Monday, March 10, 2025 8:59 AM
To: jones, jerry <jerry.jones@judicial.state.co.us>
Subject: RE: The "masters" now call themselves "neutrals"

I learned at the ACAN meeting that the Colorado-based members of the organization have been discussing with Rich Gabriel and Becky Kourlis a proposal to replace “master” in C.R.C.P. 53 with “court-appointed neutral.” David Tenner and Greg Whitehair, who attended Friday’s meeting in Washington, are part of this effort.

Tenner said the group was also approaching the Rules Committee of the United States Courts about the language issue but was aware it can take years to amend one of the Federal Rules. Tenner said his group hopes that the references to “master” in C.R.C.P. 53 can be addressed before the federal Rules Committee makes a decision on use of “court-appointed neutral.”

Lino S. Lipinsky de Orlov
Judge
Colorado Court of Appeals
2 East 14th Avenue
Denver, CO 80203
lino.lipinsky@judicial.state.co.us

From: lipinsky, lino
Sent: Wednesday, March 5, 2025 2:41 PM
To: jones, jerry <jerry.jones@judicial.state.co.us>
Subject: The "masters" now call themselves "neutrals"

https://www.courtappointedneutrals.org/about/about-acan/

Lino S. Lipinsky de Orlov
Judge
Colorado Court of Appeals
2 East 14th Avenue
Denver, CO 80203
lino.lipinsky@judicial.state.co.us

THE BYRNES LAW FIRM

1530 S. Tejon Street

Colorado Springs, Colorado

719-304-0005 / jim.yontz@laurelbyrnes.com

July 2, 2025

Re: Suggested addition to Rules of Civil Procedure

The Honorable Jerry N. Jones, Colorado Court of Appeals

Justice Richard L. Gabriel, Supreme Court of Colorado

Judge Jones and Justice Gabriel,

For about 37 years I practiced criminal law as a District Attorney and Assistant Attorney General. For the past 5 years I have been involved primarily in the practice of Civil Law, the majority of my practice being Family Law.

I have handled many cases dealing with both Punitive and Remedial Contempt proceedings. In dealing with Contempt matters, I have become fairly well acquainted with the law surrounding these proceedings. It is my understanding that the Contempt proceeding is *quasi-criminal* in nature. The accused is afforded many of the same rights and protections that are afforded to criminal defendants. However, there appears to be one significant area that is *not* covered in Contempt Proceedings but is, nonetheless, a major concern in criminal proceedings. This is the issue of speedy trial.

Both the Court of Appeals and the Supreme Court are aware of the law regarding these matters, so I will avoid the temptation to restate the law. Nevertheless, my suggestion is to place a *speedy trial* requirement on Contempt Proceedings. I suggest the rules be amended to require the matter to be heard within 180 days of the Advisement Hearing or Waiver of Advisement where a plea is entered. This would both foster judicial economy and protect the accused from the protracted uncertainty of receiving a fine or loss of property or liberty hanging over his head. This would also be consistent with the other safeguards afforded an accused in a Contempt Proceeding as well as meet the constitutional standard for a speedy trial.

Should you have questions, please contact me. I sincerely appreciate your taking time to look at this matter.

Sincerely,

Jim Yontz

Attorney Registration # 41935

From: Ben Vinci
To: michaels, kathryn
Subject: [EXTERNAL] Fw: Rules regarding conferral
Sent: 10/31/2025 10:48:02 AM

Kathryn

See emails below.

LICENSED IN COLORADO, IDAHO, NEBRASKA, WYOMING AND UTAH.

Ben Vinci
Vinci Law Office, LLC
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2250 South Oneida St. Suite 303
Denver, Co 80224
303 872-1898
ben@vincilaw.com

From: jones, jerry <jerry.jones@judicial.state.co.us>
Sent: Friday, October 31, 2025 10:46 AM
To: Ben Vinci <ben@vincilaw.com>
Subject: RE: Rules regarding conferral

Thanks, Ben. Please send this to Kathryn Michaels.

From: Ben Vinci <ben@vincilaw.com>
Sent: Friday, October 31, 2025 10:39 AM
To: jones, jerry <jerry.jones@judicial.state.co.us>
Subject: [EXTERNAL] Re: Rules regarding conferral

Judge Jones

I hope this message finds you well. I apologize for any confusion caused by my earlier email—I should have included the specific rule reference at the outset.

In addition to amending Rule 1-15(8) to clarify that email communication constitutes a valid conferral, I would like to address Rule 16(b)(3). Some judges have taken the position that email exchanges do not satisfy the conferral requirement under this rule. I respectfully disagree with this interpretation, as there is no logical basis to exclude email as a form of communication for purposes of conferral. Including explicit language in the rule to recognize email as a valid method would help eliminate ambiguity and promote consistency in practice.

Additionally, I propose amending Rule 16(d)(2), which currently states:

> "Lead counsel and unrepresented parties, if any, shall attend the case management conference in person, except as provided in subsection (d)(3) of this Rule."

I recommend revising this to:

> "Counsel who is prepared to discuss the proposed order, issues requiring resolution, and any special circumstances of the case, and unrepresented parties, if any, shall attend the case management conference in person, except as provided in subsection (d)(3) of this Rule."

The current language has created challenges for firms like mine that utilize a team-based approach. In our practice, the attorney who signs pleadings is not always the one who handles hearings or trials. For example, my

partner typically reviews and signs pleadings, while I handle court appearances. Some judges have interpreted “lead counsel” to mean the attorney who signed the pleadings, which is not always feasible or reflective of our internal division of responsibilities.

Moreover, this change would support the professional development of associates by allowing them to participate in case management conferences when appropriately prepared. As long as the attending attorney is equipped to address the relevant issues and set dates in accordance with the rule, In addition, some firms may not designate a lead attorney or partner until the case is further along in litigation.

Thank you for considering these proposed amendments. I believe they would enhance clarity, flexibility, and efficiency in litigation practice.

LICENSED IN COLORADO, IDAHO, NEBRASKA, WYOMING AND UTAH.

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From: jones, jerry <jerry.jones@judicial.state.co.us>
Sent: Wednesday, October 29, 2025 12:55 PM

To: Ben Vinci <ben@vincilaw.com>
Subject: RE: Rules regarding conferral

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi, Ben. Am I correct that this has to do with Rule 121, section 1-15(8)?

From: Ben Vinci <ben@vincilaw.com>
Sent: Wednesday, September 17, 2025 1:40 PM
To: jones, jerry <jerry.jones@judicial.state.co.us>; gabriel, richard <richard.gabriel@judicial.state.co.us>
Subject: [EXTERNAL] Rules regarding conferral

EXTERNAL EMAIL: This email originated from outside of the Judicial Department. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Justice Gabriel and Judge Jones

Hope you are both well and had a great summer. I'd like to raise a concern regarding the interpretation of the duty to confer under current procedural rules. I've encountered conflicting views—some judges assert that **emailing opposing counsel or a party does not constitute conferral.** Email can clearly invite discussion and seek resolution. This interpretation seems increasingly outdated given the realities of modern legal practice.

In my experience, **email is often more effective than phone calls**, especially when dealing with pro se parties who prefer email over talking to an attorney over the phone. There is also the challenge with pro se parties who due to work-related restrictions cannot talk on the phone during the day. Playing phone tag or leaving voicemails rarely results in meaningful dialogue, whereas email provides a **clear, documented, and accessible record** of the attempt to confer and often leads to meaningful dialogue. It also allows the recipient to respond thoughtfully and at their convenience.

In motion practice, it is common to send an email to determine the opposing party's position. To suggest that this does not qualify as conferral undermines both practicality and professionalism. Many attorneys and parties are located in different regions or time zones, and email is often the **most efficient and inclusive method** of communication.

I've personally had **productive and substantive conferrals via email**, and parties are always free to follow up by phone if needed. Given the increasing reliance on digital communication, I respectfully propose that the term **"conferral" be explicitly defined in the rules to include email correspondence**, provided it is made in good faith and invites meaningful engagement.

Such a clarification would:

- Promote consistency across jurisdictions
- Reduce unnecessary disputes over procedural compliance
- Reflect the realities of modern legal practice

Thanks for your consideration.

LICENSED IN COLORADO, IDAHO, NEBRASKA, WYOMING AND UTAH.

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From:	John Webb
To:	jones, jerry; shamis, jonathan; dave@johnsonkush.com; Bradley A. Levin; John Lebsack; Damon Davis;
Cc:	michaels, kathryn
Subject:	[EXTERNAL] Re: Proposed new civility Rule 121, sec. 1-27
Attachments:	JL summary of info from ABA updated with commissions.docx;preliminary report - 12.4.25-DMJ Edits (Civility) - final.docx;CRCP 121 Section 1-27 11.19.25 DJD Draft (1).docx;
Sent:	12/27/2025 11:50:52 AM

Judge Jones:

On the subcommittee's behalf, and in anticipation of the January meeting, I have attached: (1) the final report; (2) a track changed version that the proponents prepared, as an alternative to ending up with no rule at all; and (3) a summary of what other jurisdictions have done in this area.

As for (2), the opponents also oppose the track change version. If Damon Davis wishes to revisit formatting in the track version, he should send the revision directly to you.

Regards,

John R. Webb
Special Assistant Attorney General
Working from home: 303 777 2503 (landline)

From: jones, jerry <jerry.jones@judicial.state.co.us>
Sent: Thursday, October 30, 2025 11:06 AM
To: John Webb <John.Webb@coag.gov>; shamis, jonathan <jonathan.shamis@judicial.state.co.us>; dave@johnsonkush.com <dave@johnsonkush.com>; Bradley A. Levin <brad@lsw-legal.com>; John Lebsack <jlebsack@wsteele.com>; Damon Davis <damon@killianlaw.com>
Cc: michaels, kathryn <kathryn.michaels@judicial.state.co.us>
Subject: Proposed new civility Rule 121, sec. 1-27

TO: STANDING COMMITTEE ON THE RUES OF CIVIL PROCEDURE

FROM: JOHN R. WEBB

RE: REPORT OF CIVILITY RULE SUBCOMMITTEE

DATE: DECEMBER 27, 2025

SUMMARY

The members[1] of the subcommittee believe that the values espoused in the proposed civility rule (copy attached) have considerable merit and would unanimously support including similar language in a policy statement by the Colorado Supreme Court. Although the Rules of Professional Conduct (RPC) are the primary mechanism the supreme court uses to regulate lawyer conduct, it has addressed conduct, including conduct by lawyers, in some Chief Justice Directives (CJDs).

Otherwise, the subcommittee is evenly divided between those who favor adopting the proposed rule, with some possible modification, as a useful tool for judges, and those who believe that the proposed rule goes far beyond what is properly addressed in the Colorado Rules of Civil Procedure (CRCP). These positions are detailed below.

Finally, the subcommittee requests that if the parent committee endorses some iteration of the proposed rule, the subcommittee be afforded the opportunity to address nonsubstantive wording changes.[2]

CONSENSUS VIEW

[1] In addition to the undersigned, the subcommittee consists of Judge Jonathan Shamis, David Johnson, Brad Levin, Damon Davis, and John Lebsack.

[2] For example, most members support the limitations in section 6 on conduct during depositions, but some members questioned why this language could not be included in CRCP 30.

To date, most of our supreme court's statements about conduct by lawyers are in RPC. The comments to the proposed rule explain why the content was not proposed as an addition to one or more provisions in RPC. Some mechanisms used by other jurisdictions to address civility are described below in the Opponent View section.

Addressing civility in a CJD would avoid litigation over sanctions while leaving no doubt as to the supreme court's position on the subject. Conduct has been addressed in a few CJDs. For example, CJD 94-02 mandates that judicial branch employees treat members of the public with "courtesy" and "respect." CJD 21-02 requires that parental responsibility evaluators provide services according to the "highest professional standards." CJD 04-08 imposes a similar obligation on child and family investigators.

CJD 16-02 imposes obligations on respondent parents counsel. According to section 1.2, Civility, respondent parents counsel:

> shall treat all participants in the legal process, including counsel and their staff, parties, witnesses, judges, and court personnel, in a civil, professional, and courteous manner, at all times and in all communications, whether oral or written. RPC shall refrain from acting upon or manifesting racial, gender, disability, or other bias or prejudice toward any participant in the legal process. RPC shall not, even if called upon by a client to do so, engage in offensive conduct directed toward other participants in the legal process. Except within the bounds of fair argument in pleadings or in formal proceedings, RPC shall abstain from disparaging personal remarks or acrimony toward such participants.

PROPONENT VIEW

The proposed rule has been endorsed by the Colorado Bar Association and the Denver Bar Association. It has been endorsed by the Family Law Section of the CBA. It was submitted to the various specialty bars and no negative or positive comments were received from those bars. The reasons for adopting it are explained in the Preamble and General Principles and the COMMITTEE COMMENT. However, the proponents have drafted some alternative language, primarily as to sanctions. A track change version is attached. The proponents (David Johnson and Judge Jon Shamis on behalf of the CBA Professionalism Coordinating Council) remain committed to the existing version of the rule but would be willing to accept these changes if necessary for the parent committee to recommend the proposed rule to the supreme court.

The proponents respond to some of the opponents' concerns as follows.

Some brief history is helpful. This proposed Rule change has been in development for a number of years. The first time it was submitted several years ago the various bar associations had a number of objections and concerns, including that it was not vetted by those bars before it was proposed. This time around (starting in early 2024) the drafters from the CBA's Professionalism Coordinating Council (PCC) made a number of changes and sought and obtained the approval of the bar associations listed above. The drafting committee included experienced attorneys from various disciplines and from the Office of Attorney Regulation. Justice Richard Gabriel participated in the process but made it clear that he would take no position on the draft Rule until if and when it is submitted to the Supreme Court. The current draft was about one year in the making and went through a number of changes and was eventually approved by the entire Professionalism Coordinating Council. It was then submitted to the above bar associations. Following their approval it was submitted to the Civil Rules Committee.

Speaking for the CBA's PCC, which is the proponent, the proposed Rule Sec. 1-27 is modeled somewhat on a rule of civility that it currently in effect in the State of Wyoming. According to our research, the judges in Wyoming find the rule helpful and have not found it to be used as a weapon to escalate litigation. The judges in Wyoming report that it is a tool they can use in the courtroom to remind counsel of their duty to be civil and courteous to all parties and to de-escalate situations as they arise.

As noted, much time and discussion and consideration have gone into the proposed rule Sec. 1-27. The language has been vetted by a process that took many hours. As stated in the above Summary, the draft rule provides compelling reasons in the Preamble and Committee Comment for adopting the rule. The goals of the proposed rule have "considerable merit." We need not belabor that further. The issue is how to accomplish those goals.

The proponents submit that the proposed rule Sec. 1-27 is an appropriate addition to the Rules of Civil Procedure. It is a clear and straightforward rule, and the enforcement provisions allow a judicial officer reasonable latitude in enforcing the rule while also giving the judicial officer guidance for how to apply the rule. The opponents note that the proposed rule is vague and may give a judicial officers too much discretion for imposing sanctions. It has been the experience of the drafters that judicial officers are reluctant to call out bad behavior even though they have inherent authority to run their courtrooms. The benefit of rule Sec. 1-27 is that it gives the judicial officer a very specific Rule of Civil Procedure to rely on when poor conduct is displayed.

A merely aspirational rule, such as might be created in a CJD, is inadequate to address incivility and lack of professionalism falling below expectations but not violating the rules of professional conduct. People, including attorneys, act on incentives. While some

attorneys may be innately rude, much of the incivility in the profession likely comes from the belief, correct or incorrect, that it confers some sort of advantage; that there is an incentive to act that way. This may be a belief that it is good advocacy, that it will encourage opposing parties to settle, or that it is what the client wants to see. Having an enforceable rule that judges can use to enforce civility creates a strong disincentive to incivility; no one wants to be called out by a judge, especially in front of a client. It also provides judges with a tool to educate parties that attorney incivility is not effective advocacy, hopefully discouraging clients from seeking such conduct from their counsel. In order to change attorney behavior, the system must change the incentives involved, and this rule does that.

The proposed rule may be somewhat redundant in that it contains provisions that are similar to the Rules of Professional Conduct or other civil rules. However, the drafters saw benefit in having a comprehensive rule that gathered all civility goals into a single rule.

The concerns of some that this rule will simply be another tool that will be weaponized and used to escalate litigation has not proven to be true in Wyoming.

The proponents submit that the proposed rule is a tool primarily for use by judicial officers to give them a specific rule to refer to in order to correct bad behavior on the spot. It is a tool that is far less cumbersome than other tools, such as the Rules of Professional Conduct or other Civil Rules or statues that allow for imposing sanctions.

As for alternative approaches, in all honesty, the idea of putting similar language into a Chief Justice Directive (CJD) was not considered or discussed by the PCC.

The proponents submit that the proposed Rule Sec. 1-27 be approved and submitted to the Supreme Court as drafted without significant changes. However, if the Rules Committee is not inclined to do this but is willing to consider the alternative draft that removes some of the

language related to possible sanctions, the proponents would support that draft in lieu of not having any rule at all. A track change version is attached.

OPPONENT VIEW

According to the Center for Professional Responsibility of the American Bar Association, 45 jurisdictions have adopted some form of statement endorsing civility. However, no state has done so in the rules of civil procedure. In 19 states, the supreme court either issued its own civility statement or ratified a statement prepared by others, typically the state bar association. In 15 of those 19 states, the civility statements are explicitly aspirational and cannot be used for sanctions. In several states, it is unclear whether the civility statement is aspirational or binding. Only Wyoming has a civility rule that is explicitly binding; it *requires* judges to hold attorneys to a list of behavior standards. A summary of action taken in other jurisdictions is attached.

The opponents believe that an avenue other than a rule adequately sends the message favoring civility but does not risk increasing the workloads of already overburdened trial judges in fielding motions or impose a series of "don'ts" for hearings and trials that usurps role of trial judges in managing their courtroom as they deem appropriate. The opponents are concerned that the rule will weaponize the litigation process (particularly in depositions) through the specter of court-imposed sanctions. As well, the opponents fear that litigation over sanctions could degrade civility by souring the parties' relationship for the remainder of the proceedings. The opponents also fear that the breadth of some language in the proposed rule could have a chilling effect on zealous advocacy.

The opponents recognize that the proposed rule is intended primarily to guide lawyers' conduct rather than being a tool for imposing sanctions. However, they are troubled by the absence of limiting language that often appears in similar contexts.

For example, mischaracterizations and exaggerations proscribed in section 2(d) could be cabined by a materiality requirement, as is required of every misrepresentation claim. Similarly, section 8(c)(1) of the proposed rule identifies "The effect of the misconduct on the proceedings and affected persons" as a factor to consider in imposing sanctions but it does require a finding that the effect has been substantial. The prohibition in section 4(a) on "knowingly allow[ing] the court to proceed under a misperception of fact or law" could be limited by a causation requirement involving the party obligated to speak.

RPC 8.4(g), which proscribes conduct that "exhibits or is intended to appeal to or engender bias" on several listed bases, is restricted by "in the representation of a client." This limitation was added to shield purely private communications. But because the proposed rule contains no comparable limitation, it could become the basis for imposing sanctions on purely private communications.

Also troubling to the opponents is the proposed rule's emphasis on discretion, which could encourage parties to seek and judges to impose sanctions. Although discretionary rulings can be challenged on appeal, reversals are rare. To the opponent's knowledge, no other provision in CRCP prescribes a standard of review.

In weighing the need for a civility rule, the opponents note that existing provisions of RPC include some subjects also covered by the proposed rule. For example, RPC 3.3 addresses Candor Toward the Tribunal. RPC 8.4(g) and (h) proscribe conduct that could injure other persons. And RPC 4.4(a) prohibits action that has no purpose other than to delay or embarrass a third party.

The opponents are concerned that the proposed rule parallels some other limitations on lawyer conduct but with different language. To illustrate, the "false statement of material fact" prohibition in RPC 3.3(a)(1) has been interpreted in cases across many jurisdictions. The prohibition on using "mischaracterizations or exaggerations" in section 2(c) of the proposed rule has not, at least to the opponents' knowledge.

Also, despite some limiting language, the interplay between the proposed rule and attorney discipline could be problematic. Under RPC 3.4(c), "A lawyer shall not: (c) knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists." This language would encompass an order imposing sanctions for a violation of the proposed rule. Action by OARC might be more likely if the sanction was imposed based on a finding of repeated incivility, which the proposed rule identifies as a consideration in imposing sanctions.

The opponents also believe that some conduct sanctionable under the proposed rule is already covered by other rules. Section 2(d) of the proposed rule recognizes the requirement in CRCP 11 that filings be well grounded in fact but then imposes additional obligations.

A related concern in using the proposed rule to imposes sanctions is what the opponents perceive as serious problems with vagueness and overbreadth. Open ended terms could encourage parties to seek, and judges to impose, sanctions because of the difficulty posed for lawyers who oppose sanctions. A chilling effect on permissible advocacy could result.

For example, "civil" and "courteous" in section 2(a) do not lend themselves to precise definitions. The same could be said of "mischaracterizations or exaggerations" noted above. And query whether the prohibition on "demonstrate[ing] disrespect" in section 2(c) would require yet another definitional foray.

Much of the conduct addressed in the proposed rule involves speech. A detailed exegesis on the First Amendment would unduly lengthen this report. Even so, the opponents point out that *Matter of Abrams*, 2021 CO 44, involved bias under RPC 8.4(g), which is a defined term in both that rule and innumerable discrimination cases. As the comment to the proposed rule correctly recognizes, "[o]bjectively false statements about a judicial officer are not protected by the First Amendment," citing *In re*

Green, 11 P.3d 1078, 1086 (Colo. 2000). But the standards quoted in the prior paragraph go far beyond "objectively false statements." Finally, some of the justices' questions in *Chiles v. Salazar*, argued before the U.S. Supreme Court a few months ago, raise the possibility of recasting the balance between professional regulation and free speech in favor of the latter.

Respectfully submitted,

/s

John R. Webb

To: Civility and Professionalism Subcommittee

From: John Lebsack

Re: Information About Other States

Date: December 22, 2025

This memo is a summary of information relevant to our project from the website of the ABA Center on Professional Responsibility. The ABA compiled a list of what the states have done to encourage civility and professionalism by lawyers.

https://www.americanbar.org/groups/professional_responsibility/committees_commissions/standing-committee-on-professionalism/professionalism_codes/

There are several broken links, but Google can find the documents.

The list shows that 45 states have adopted some type of written statement regarding civility and professionalism. Sometimes those statements are a court rule, sometimes a stand-alone declaration, sometimes part of the lawyer's oath. The five states that are not included are Iowa, Maine, Nebraska, Rhode Island, and South Dakota.

Among the 45 states, there are three approaches: action by the state supreme court, action by the bar association, or action by both.

In 19 states (listed in the bullet points below), the supreme court adopted some kind of statement encouraging or requiring civility and professionalism. These statements are separate from the Rules of Professional Conduct.

- In 15 of those 19 states, the supreme court adopted standards of civility that are *explicitly* aspirational: Arizona, Delaware, Georgia, Hawaii, Idaho, Louisiana, Minnesota, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Texas, and West Virginia.
- In three of those 19 states, the supreme court adopted standards that are unclear as to whether they are only aspirational: Oregon, Utah, Wisconsin.
- Wyoming is the only state where the standards are explicitly binding.

The following is the list of states where a court adopted a statement or rule concerning civility, and/or created a standing commission on professionalism. The list does not include states where only the bar association addressed the issue. (Note that I found conflicting information on how many states have professionalism commissions. I found 12. An ABA article says there are 14.)

1. In Arizona, the professionalism rule is part of the supreme court rules regulating the profession. Nothing says it's only aspirational, but the tone of the rule is aspirational. https://govt.westlaw.com/azrules/Document/N74F713F0090811EBA2F3CDDE7BEFFC

DC?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)

2. In California, the supreme court hasn't adopted a statement about civility, but the (unified) bar association published a 47-page set of guidelines on professionalism, including a template order for trial courts to use. See page 37 at https://www.calbar.ca.gov/Portals/0/documents/ethics/Civility/Atty-Civility-Guide-Revised_Sept-2014.pdf

   The U.S. District Court for the Central District adopted a set of professionalism rules that explicitly say they cannot be used for sanctions. https://www.cacd.uscourts.gov/attorneys/admissions/civility-and-professionalism-guidelines

3. The Delaware Supreme Court and the Delaware Bar Association jointly issued a statement of professionalism, which says it cannot be used for sanctions. https://media1.dsba.org/public/media/pdfs/Principles%20of%20Professionalism%20for%20DE%20Lawyers.pdf

4. The Georgia Supreme Court created a Commission on Professionalism in 1989 that appears to still be active. https://cjcpga.org/ The court also adopted non-binding guidelines on professionalism. https://cjcpga.org/wp-content/uploads/2019/07/1-Lawyers-Creed-and-Aspirational-Statement-Clean-Copy-v-2013-new-logo-seal.pdf

5. The Hawaii Supreme Court adopted a set of aspirational principles of professionalism. https://hsba.org/images/hsba/New%20Admittee%20Information/Guidelines%20of%20Professional%20Courtesy%20and%20Civility.pdf

   The Hawaii Supreme Court created a Commission on Professionalism in 2005. The website shows the most recent annual report is 2020, so the commission may no longer be active. https://www.courts.state.hi.us/courts/supreme/professionalism

6. In Idaho, the state courts, federal court, and bar association jointly adopted a set of aspirational guidelines. https://isb.idaho.gov/wp-content/uploads/standards_for_civility.pdf

7. The Illinois Supreme Court created a Commission of Professionalism in 2005. It is still active. https://www.2civility.org/

8. In Indiana, the civility rules came from the legislature, not the supreme court. IC 33-43-1-3. The language is very old-fashioned.

9. In Kansas, the state supreme hasn't adopted civility rules, but the federal court adopted "Pillars of Professionalism" that originally came from the bar association.

10. The Louisiana Supreme Court adopted an aspirational "Code of Professionalism in the Courts." https://www.lasc.org/Supreme_Court_Rules?p=PartGSection11

11. In 2003, the Maryland Court of Appeals created a Commission on Professionalism. The commission issued a report in 2006. It appears that was the end of the commission. https://2020mdmanual.msa.maryland.gov/msa/mdmanual/33jud/defunct/html/20profes.html

12. In Michigan, the supreme court hasn't adopted anything, but the U.S. District Court for the Eastern District adopted statement of civility principles, which cannot be used for sanctions. https://www.mied.uscourts.gov/PDFFIles/08-AO-009.pdf

13. The Minnesota Supreme Court adopted a statement of "Professionalism Aspirations." As the title suggests, they cannot be used for sanctions. https://lprb.mncourts.gov/LawyerResources/ProfessionalAspirationsDocuments/Professionalism%20Aspirations.pdf

14. In Montana, the supreme court hasn't adopted a code of civility, but it did add something along those lines at the start of its version of the model rules of professional conduct. In the preamble, Montana added the following at the beginning: "A lawyer shall always pursue the truth." https://courts.mt.gov/external/rules/mtr_prof_cond.pdf

15. New Jersey has a Commission on Professionalism in the Law. It adopted aspirational "Principles of Professionalism." https://njsba.com/wp-content/uploads/2023/11/Principles-of-Professionalism-2020.pdf

16. The New Mexico Supreme Court established a Commission on Professionalism in 2000. Its website lists a professionalism "creed" and "guidelines" but no rules per se. https://www.sbnm.org/Leadership/Supreme-Court-Committees-and-Commissions/Commission-on-Professionalism

17. The New York courts adopted "Standards of Civility for New York attorneys." They are aspirational but have clear and comprehensive guidelines.

    https://www.nycourts.gov/LegacyPDFS/RULES/jointappellate/Jan%202020%20-%20civility%20standards%20CLEAN.pdf

    In 1999, the New York Court of Appeals established the Judicial Institute on Professionalism in the Law. The purpose is "to promote awareness and adherence to professional values and ethical behavior by lawyers in New York State." It is still active, but its website is not accessible ("You are not authorized to access this page.").

18. In 1998, the North Carolina Supreme Court created the Chief Justice's Commission on Professionalism, which is still active. https://www.nccourts.gov/commissions/chief-justices-commission-on-professionalism#about-1341

The commission issued an aspirational "Lawyer's Creed." https://www.nccourts.gov/commissions/chief-justices-commission-on-professionalism/lawyers-professionalism-creed

19. The Ohio Supreme Court created a commission on professionalism that published a lengthy statement of aspirational ideals. https://www.supremecourt.ohio.gov/docs/Publications/AttySvcs/proIdeals.pdf

20. The Oregon Supreme Court established the Bench/Bar Commission on Professionalism in 1995. The commission is still active. https://www.osbar.org/professionalism

    In 1991 the Oregon Supreme Court adopted a Statement of Professionalism originally drafted by the Oregon Bar Association. The statement doesn't explicitly say it's only aspirational, but the preamble says that lawyers should "aspire" to professional standards to go beyond simply complying with rules of ethics. https://www.osbar.org/_docs/rulesregs/professionalism.pdf

    The U.S. District Court in Oregon adopted a modified version of the statement. https://ord.uscourts.gov/index.php/attorneys/statement-of-professionalism

21. The Pennsylvania Supreme Court adopted a Code of Civility. Compliance is voluntary. The code cannot be used for sanctions. https://www.pacourts.us/Storage/media/pdfs/20210224/033050-codeofcivility-001737.pdf

22. The South Carolina Supreme Court created a Commission on the Profession in 2000. It appears to be active. https://www.sccourts.org/about/chief-justice-s-commission-on-the-profession/

    The court adopted a lawyer's oath which includes a pledge to "fairness, integrity, and civility, not only in court, but also in all written and oral communications." https://www.sccourts.org/media/courtOrders/HTMLFiles/2003-10-22-03.htm

23. The Texas Supreme Court adopted the "The Texas Lawyer's Creed- A Mandate for Professionalism." The rules are "primarily aspirational" and "not a set of rules that a lawyer can use to create ancillary litigation or arguments." https://www.txcourts.gov/media/276685/texaslawyerscreed.pdf

24. The Utah Supreme Court adopted "Standards of Professionalism and Civility" based on the recommendation of its Advisory Committee on Professionalism. The standards are unclear on whether they are only aspirational, but the court wrote that "adherence is expected." https://www.utcourts.gov/en/about/courts/appellate-courts/civility.html

25. The West Virginia Supreme Court includes a pledge of civility in the lawyer's oath of admission. https://www.courtswv.gov/sites/default/pubfilesmnt/2023-07/21-rules-10%20Order.pdf

26. In Wisconsin, there are civility standards in the Supreme Court Rules. They are in a section of the rules for "uniform standards of courtroom courtesy and decorum." The organization of Wisconsin court rules is similar to Colorado's—there are chapters that address separate topics (lawyer regulation, client protection, CLE, etc.). https://www.wicourts.gov/supreme/sc_rules.jsp

    The Wisconsin civility standards have similarities to the proposed addition to Colorado Rule 121. The standards "are not enforceable by the office of lawyer regulation." https://www.wicourts.gov/sc/scrule/DisplayDocument.pdf?content=pdf&seqNo=1082

27. The Wyoming Supreme Court adopted a civility rule in 2013. Rule 801(a) requires civility and professionalism in court matters. https://www.wyocourts.gov/app/uploads/2025/01/WY-District-Court-Rules-eff-Dec-1.pdf

    Rule 801 is not part of the rules of civil procedure per se. The rule is binding: "The district courts of Wyoming, in furtherance of the inherent power and responsibility of courts to supervise proceedings before them, shall hold attorneys to the following standards of professional behavior…."

SECTION 1-27
JUDICIAL EXPECTATIONS FOR PROFESSIONALISM AND CIVILITY

1. Preamble and General Principles

Attorneys and LLPs, as members of the legal profession, are representatives of clients, privileged participants in the legal process, and public citizens having special responsibilities for the administration of justice. They have taken an oath to treat all persons whom they encounter through their practice of law with fairness, courtesy, respect, and honesty. Judicial officers appropriately expect attorneys and LLPs appearing before them to uphold their oath. Judicial officers have the inherent power to reasonably protect the efficient function, dignity, independence, and integrity of the court and the judicial process. Likewise, while attorneys and LLPs are expected to represent their clients' interests with zeal, zealousness does not, under any circumstances, justify conduct that is unprofessional, discourteous, or uncivil toward any person involved in the legal system.

None of these principles are new. They have been keystones of our system of justice since the early 20th century.

The intent of this Section 1-27 is to codify these principles and to remind attorneys, LLPs, and judicial officers of their professional duty and responsibility to promote and preserve the administration of justice.

2. Civility in Legal Proceedings.

(a) Attorneys and LLPs will be civil and courteous in their conduct and their communications with the court, court personnel, parties, witnesses, and counsel, regardless of the mode of communication.

(b) Attorneys and LLPs will extend reasonable cooperation to all participants in the legal process. For example, attorneys and LLPs will not unreasonably withhold consent or delay responding to requests for appropriate scheduling or logistical accommodations; attorneys and LLPs will allow adequate time for response to inquiries or demands; and attorneys and LLPs will not condition their cooperation or accommodations on disproportionate or unreasonable demands.

(c) Attorneys and LLPs will not demonstrate disrespect toward the court or other participants in the legal process or engage in disrespectful personal comments about individuals.

(d) Because all court filings must be well grounded in fact, attorneys and LLPs must not ~~use mischaracterizations or exaggerations of~~make

materially misleading statements about the underlying facts in court filings or during court proceedings.

3. Timeliness.

(a) Attorneys and LLPs will be punctual while participating in all aspects of judicial proceedings, including, but not limited to, appearing at hearings, mediations, depositions, conferences, and trial; filing papers or other materials with the court; and communicating with judges, court personnel, counsel, and clients.

(b) Attorneys and LLPs will avoid unnecessary delay and facilitate the just, speedy, and inexpensive determination of every matter. Attorneys and LLPs will respond in a timely manner to motions, communications, offers of settlement, and other interactions with counsel, and will confer in a timely manner with clients.

(c) Attorneys and LLPs will not file or serve motions, pleadings, or other papers in such a manner as to unfairly limit the opportunity to respond.

4. Candor to the Court.

(a) Consistent with their duties to a client, attorneys and LLPs will not knowingly allow the court to proceed under a misperception of fact or law to which the attorney or LLP contributed.

(b) If the court orders an attorney or LLP to prepare a proposed order, as provided in C.R.C.P. 121, Sec. 1-16, that attorney or LLP will work cooperatively with all counsel and self-represented parties to produce an accurate order that correctly states the findings, conclusions, and orders of the court, and will timely submit the order to the court for its review and approval.

5. Candor and Fairness to Counsel and Parties.

(a) Professionalism and civility are expected to be reflected in the substance and timing of conferrals conducted pursuant to the requirements of C.R.C.P. 121, Sec. 1-15(8). The requirement to confer in good faith with the opposing counsel or opposing party before filing a motion with the court must be performed in a manner that provides for meaningful efforts to resolve issues without additional judicial intervention. Single one-sided contacts at the last minute or after normal business hours are not what is contemplated by C.R.C.P. 121, Sec. 1-15(8). Genuine efforts to effectively communicate with the intention to resolve a dispute are expected.

(b) Attorneys and LLPs will not use the discovery rules and procedures, or any other aspect of the judicial process, for the purpose of harassing parties or counsel, or as a means of impeding the timely, efficient, and cost-effective resolution of a case or dispute.

(c) Attorneys and LLPs will attempt in good faith to stipulate to undisputed matters and to resolve disputes and procedural issues without court intervention.

(d) Attorneys and LLPs will clearly identify all changes made in any document exchanged or under discussion.

6. Attorney and LLP Conduct in Depositions.

(a) Attorneys and LLPs will conduct themselves during deposition practice with the same integrity, honesty, diligence, respect, courtesy, cooperation, and competence expected of attorneys appearing before a court.

(b) By way of example and without limitation:

1. Attorneys and LLPs will refrain from coaching deponents by objecting, commenting, or acting in any other manner that suggests a particular answer to a question.

2. Attorneys and LLPs will not object for the purpose of disrupting or distracting the questioner or the witness. They will object only in the manner provided by the rules.

3. Attorneys and LLPs will not interrupt the examination for an off-the-record conference except to determine whether to assert a privilege.

4. Attorneys and LLPs will not intentionally misstate facts or mischaracterize prior statements or testimony.

5. Attorneys and LLPs will be familiar with and will comply with C.R.C.P. 30(c) and (d).

7. **Attorney and LLP Conduct During Judicial Proceedings.**

(a) Attorneys and LLPs will make only objections that are concise, specific, and supported by applicable law.

(b) Arguments, objections, and remarks will be directed to the court and not to counsel or parties, or to any other person present in the courtroom.

(c) When the court has ruled on an objection, continued argument with the court is not appropriate except as necessary to preserve or clarify the record, or ~~unless~~ new grounds are presented to preserve a record.

(d) When examining a witness or addressing the court or other persons present in the courtroom, attorneys and LLPs will conform to the decorum rules or orders of the court in which they are appearing.

(e) Attorneys and LLPs will request and receive permission from the court before approaching a witness or court personnel, or before approaching a demonstrative exhibit or aid, unless local custom dictates otherwise or as instructed by the court.

(f) Attorneys and LLPs will not participate in judicial proceedings while they are impaired or otherwise unable to perform their professional duties except in exigent circumstances and when the court has denied a continuance.

8. Enforcement.

(a) **Scope and Effect.** Attorneys and LLPs may not rely on this rule standing alone as grounds for a motion for sanctions, but may cite it in conjunction with other rules allowing sanctions, such as C.R.C.P. 11, C.R.C.P. 37, and C.R.C.P. 121 §1-15.7 ~~absent a good faith basis in law and fact and consideration of the factors set forth in subsection (c) below. Judicial officers should expect that adherence to this rule will diminish the filing of a wide variety of motions that impose unnecessary demands on the court's time and resources. Judicial officers retain their sound discretion when relying on this rule to address the conduct of an attorney or LLP.~~

(b) **Judicial Powers and Discretion.** After giving the attorney or LLP whose conduct is questioned under this rule notice and an opportunity to be heard, the court may impose sanctions ~~it deems appropriate~~focused on encouraging current and future compliance with the rule. ~~under the circumstances, including, but not limited to~~These sanctions may include things such as:

1. A formal or informal reprimand;
2. Ordering a motion or other document be refiled with the court, which may be at the attorney or LLP's expense;
3. Ordering that discovery be amended and re-served, which may be at the attorney or LLP's expense;

4. Ordering that professionalism classes or CLEs be taken.
5. Directing that the attorney provide a copy or an order or reprimand to their client and to certify that they have done so.

~~1.~~ Sanctions under this rule, standing alone, shall not include fines or awarding of attorney fees, nor shall they include case substantive sanctions, such as the striking of claims or defenses or the exclusion of witnesses.

~~2. Monetary sanctions, including, but not limited to, the reasonable costs, including attorney fees, resulting from the attorney's or LLP's misconduct; or~~

~~3.~~6. ~~Other sanctions, as provided by statute or rule.~~

(c) The Court may consider the requirements of this rule when ruling on motions under other rules, including other rules allowing sanctions, such as C.R.C.P. 11, C.R.C.P. 26(c), C.R.C.P. 37, C.R.C.P. 121 §1-12, and C.R.C.P. 121 §1-15.7.

~~(c)~~(d) **Factors to be Considered.** In determining whether sanctions should be imposed against an attorney or LLP who has violated this rule, the court will consider all relevant factors, including, but not limited to:

1. The willfulness of the attorney's or LLP's misconduct;

2. The effect of the misconduct on the proceedings and affected persons;

3. Whether the attorney's or LLP's misconduct was an isolated event or a pattern of behavior;

4. Whether the attorney's or LLP's misconduct was previously brought to the attention of the attorney or LLP with an opportunity to resolve it, but the attorney or LLP refused to address, rectify, or mitigate the consequences of the misconduct; and

5. Other sanctions imposed in the proceeding against the attorney or LLP for misconduct, including, but not limited to, contempt of court.

COMMITTEE COMMENT

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This rule does not limit attorneys' or LLPs' obligations to their clients under the Colorado Rules of Professional Conduct. See People v. Schultheis, 638 P.2d 8 (Colo. 1981).

Civility requires attorneys and LLPs to conduct themselves with respect and professionalism in all interactions and communications. This includes treating all participants in the legal process—including the court, court personnel, parties, witnesses, and counsel—with politeness and restraint. Uncivil conduct includes behaviors such as bullying, offensive language, and abusive communication. Bullying refers to actions that are intended to intimidate, humiliate, or degrade others within the legal process. This may include persistent unwarranted criticism, belittling remarks, or tactics designed to obstruct, harass, or undermine opposing counsel, parties, witnesses, or court personnel. Offensive and abusive language encompasses speech or writing that is insulting, demeaning, or excessively aggressive, such as profanity, derogatory comments, personal attacks, or communication meant to provoke or demean others. The examples of uncivil behavior provided here are illustrative and not exhaustive. Bullying, offensive, and abusive behaviors can take many forms, all of which undermine the integrity of the judicial process and violate the principles of professionalism expected in the legal profession.

Judicial officers should be mindful that lawyers and LLPs cannot be sanctioned for exercising their First Amendment right to freedom of speech. Objectively false statements about a judicial officer are not protected by the First Amendment. See In re Green, 11 P.3d 1078, 1086 (Colo. 2000); In re Abrams, 2021 CO 44; see also Colo. R. Prof. Cond. 8.4(g)– (h) (addressing some conduct that is not protected as free speech).

Action taken under this rule does not constitute discipline as contemplated by C.R.C.P. 242.10, nor does imposition of a sanction under this rule eliminate the reporting requirements found in Colo. RPC 8.3 or C.J.C. 2.15. The sanctions applicable under this rule may be imposed independently or in conjunction with other available remedies.

C.R.C.P. 121, Sec. 1-27(2)(b) does not modify the standard for determining a motion for continuance as set forth in C.R.C.P. 121, Sec. 1-11.

Under C.R.C.P. 121, Sec. 1-27(7)(f), judicial officers who reasonably believe an attorney or LLP may be impaired during judicial proceedings shall take appropriate action consistent with the requirements set forth in Rule 2.14 of the Colorado Code of Judicial Conduct. This may include but is not limited to speaking directly to the impaired person, notifying a person with supervisory responsibility over the impaired person, or making a referral to an assistance program. Depending on the gravity of the conduct, the judicial officer may also have a duty to report the impaired attorney or LLP to the appropriate authority, agency, or body consistent with the requirements of Rule 2.15 of the Colorado Code of Judicial Conduct. An attorney or LLP who knows that an attorney or LLP is impaired during judicial proceedings may have an obligation to report such conduct consistent with the requirements of Rule 8.3 of the Colorado Rules of Professional Conduct or Rule 8.3 of the Colorado Rules of Professional Conduct for LLPs.

Under C.R.C.P. 121, Sec. 1-27(8)(a), abuse of remedial measures provided by the Colorado Rules of Civil Procedure, including this rule, may itself be unprofessional conduct that warrants action from the court pursuant to this rule.

Should the attorney or LLP misconduct at issue occur during a judicial proceeding, the "opportunity to be heard" referenced in C.R.C.P. 121, Sec. 1-27(8)(b) does not require the court to set a separate hearing concerning the attorney's or LLP's misconduct. The opportunity to be heard may be given in conjunction with, or at the conclusion of, the hearing in which the alleged misconduct occurred.

In lieu of, or in addition to, the sanctions set forth in C.R.C.P. 121, Sec. 1-27(8)(b), the court may take such other actions to address unprofessional behavior as it deems appropriate, including, but not limited to, referral of the attorneys or LLP to bar association professionalism assistance groups, the Colorado Lawyer Assistance Program (COLAP), or other appropriate programs. Referrals to COLAP are particularly appropriate in cases in which the attorney's or LLP's physical or mental ability to participate in a judicial proceeding is in question, yet conclusive evidence as to the nature of the impairment has not been established. See C.R.C.P. 254. A judicial officer also may privately confer with an attorney or LLP to discuss the misconduct if the fact, timing, and substance of that conferral is consistent with the judicial officer's ethical obligations.