AGENDA

COLORADO SUPREME COURT
COMMITTEE ON THE
RULES OF CIVIL PROCEDURE

Friday, September 26, 2025, 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 June 27, 2025, minutes [Pages 3 to 5]

III. Announcements from the Chair

IV. Old Business

A. Rules 3.1, 4, and 303.1—Pathways to Access Committee amendment request (Judge Jones, Jose Vasquez, Alana Percy, Magistrate Hamilton-Fieldman) [Pages 6 to 14]

B. County Court Rule 411—Length of briefs for county court appeals to district court (Judge Jones) [Pages 15 to 16]

C. Rules 43 and 343—Proposed amendments in reaction to statutory changes regarding FED proceedings (TBD) [Pages 17 to 20]

V. New Business

A. Proposed Rule 121, Section 1-27—Proposed civility rule from the CBA and DBA—(David Johnson) [Pages 21 to 27]

B. Rule 121, Section 1-6, and County Court Rule 316.5(b)—Proposal from the Housing Subcommittee of the Pathways to Access Committee (Justice Gabriel) [Page 28]

C. 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) [Pages 29 to 36]

D. Speedy trial proposal from attorney Jim Yontz (Judge Jones) [Page 37]

E. Potential changes to Rule 47 concerning voir dire in civil cases—Proposal from the Colorado Trial Lawyers Association (Brad Levine, Kevin Cheney) [Pages 38 to 39]

F. Rule 53—"court-appointed neutral" proposal (Greg Whitehair) [Page 40]

VI. Adjourn—Next meeting is November 7, 2025, at 1:30 pm.

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

Colorado Supreme Court Advisory Committee on the Rules of Civil Procedure
June 27, 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	
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

- June 27, 2025, agenda packet.

II. Announcements from the Chair

The January 31, 2025, minutes were approved following the correction of the spelling of one member's name. Also, Chair Judge Jones noted that the Colorado Supreme Court

approved a change to Rule 56. Finally, Judge Jones welcomed new members Judge Jaclyn Brown and Victor Sulzer.

III. Old Business

A. Magistrate Rules—Request for guidance from the Committee (Magistrate Tims)
This Subcommittee has been working on these rules for several years. It submitted a proposal to the supreme court a year ago, after which the supreme court solicited and received comments and held a public hearing. With the feedback gathered from the legal community, the court sent feedback to the Subcommittee to consider further refinements to the magistrate rules. The Subcommittee considered the concerns and provided updated recommendations to the Committee.

The Committee discussed the Subcommittee's proposals by rule.

Rule 7(e) and (f): The Committee voted unanimously to approve this proposal to allow for motions to reconsider and create a timeline for such motions.

Rule 7(c): The Committee chose to leave the proposed stricken language in the rule; that is, to leave this portion of the rule as it currently exists.

Rule 7(k): After amending some language, the Committee voted unanimously in favor of a 91-day timeline and to leave the proposal consistent with C.R.C.P. 59(j).

Rule 7(i) and 7(k): The Committee unanimously voted in favor of allowing the reviewing district court to remand an issue to the magistrate.

Rule 6(b): The Subcommittee did not support a carve-out for domestic relations cases to Rule 6(b). No Committee member moved to create such a carve-out.

Rule 7(h): The Subcommittee recommended keeping the language regarding transcripts as previously recommended to the court. No Committee member moved to change that language.

Rule 6(d): The Committee voted unanimously in favor of adding truancy.

The Subcommittee will compile the Committee's approved proposed changes to present to the court.

B. Rule 63—Whether the rule should be revised to mirror changes to counterpart federal rule (Retired Judge Webb)
Judge Webb, Chair of the Subcommittee, said that the Subcommittee determined that the counterpart federal rule addresses subjects beyond the Colorado rule. The Subcommittee thus recommended only modest tweaks to clarify the language of Rule 63. One member suggested substituting the word *order* for *grant* and replacing *filed* with *entered* when

discussing findings of fact and conclusions of law. The Committee voted 10-3 to transmit the proposal to the supreme court with the inclusion of the above amendments.

C. County Court Rule 411—Length of briefs for county court appeals to district court (Judge Jones)
Held Over

D. Rules 43 and 343—Proposed amendments in reaction to statutory changes regarding FED proceedings (Judge Zenisek)
Held Over

IV. New Business

A. Rule 303—Pathways to Access Committee amendment request (Justice Gabriel)
This item of business was taken out of order. Justice Gabriel presented this to the Committee on behalf of the Pathways to Access Committee. Currently, the rules allow an eviction proceeding to be served without first being filed. A few absent members wrote in opposing this proposal. By contrast, one member noted that finding case numbers has been an issue for pro se litigants, while another said that this is an access to justice issue that needs to be solved as soon as possible. Judge Jones suggested that a subcommittee be formed to propose concrete proposed rule changes for the Committee to consider. Jose Vasquez, Magistrate Lisa Hamilton-Fieldman, and Alana Percy will work together to draft proposed language. The amendments will be submitted to the Committee for a vote on a shortened timeline.

B. Rule 121(c), Sections 1-1 and 1-15—Proposed amendments to clarify procedural requirements from a local attorney (Judge Jones)
Held over.

C. Rule 121 section 1-26(7)—Requirement of at least one "live" signature on each side (Judge Jones, Heidi Whitaker)
Heidi Whitaker, a member of the legal community, brought this to the Committee following her concern regarding the requirement of a "live" signature on each side for domestic relations decrees parenting plans, and separation agreements. She is asking the Committee to authorize the rule be revised to reflect good practices. The Committee voted unanimously to remove the sentence from Rule 121 section 1-26(7) that requires a "live" signature.

Future Meetings
September 26; November 7

The Committee adjourned at 3:37 p.m.

PAC’s Recommendation for Rule Change to Rule 303

The PAC voted unanimously on Monday, March 17, 2025, to propose a recommendation to the Supreme Court on a rule change to Rule 303.

The recommended rule change was brought to the PAC by the Housing Subcommittee which also voted unanimously that Rule 303 be revised.

The recommendation is that Rule 303 be revised, via a section applicable only to FEDs, similar to Rule 304, to comport with CRS 13-40-110, which states that an FED is commenced upon filing with the court a complaint. The change would require that no FED Summons may be served until a Complaint is first filed with the Court. This would therefore result in and ensure a case number being included on every Complaint and Summons served on a tenant.

To: Jerry Jones, Chair of the Supreme Court Civil Rules Committee, Colorado Judicial Branch and Richard Gabriel, Supreme Court Justice

From: CED Law, Colorado Legal Services, Colorado Poverty Law Project

August 1, 2025

In Support of Amending C.R.C.P. 303 to Include Case Numbers on FED Summons and Complaint Prior to Service

CED Law, Colorado Legal Services, and Colorado Poverty Law Project support the proposed amendment to Rule 303 of the Colorado Rules of Civil Procedure that would comport with C.R.S. 13-40-110 and require case numbers to be included on FED summons and complaints at the time of service. While C.R.S. 13-40-110 does not explicitly require a case number at the time of service, the legislature entrusted the courts with the authority to implement procedural rules that ensure fair and efficient administration of justice. This rule change would do just that. The proposed amendment to C.R.C.P. 303 is necessary to protect tenants' due process rights, eliminate systemic confusion, and promote judicial efficiency. To put it directly: because the landlord bar often does not include case numbers, tenants (especially pro se tenants) often have no ability to file and answer in the correct case and often default inadvertently as a result. We therefore submit this letter in response to Mr. Sulzer's letter expressing opposition to the proposed rule change.

1. Including the Case Number at Service Protects Tenants' Due Process Rights

Defendants in eviction cases have a due process right to a fair opportunity to present their case.[1] A fair opportunity to present one's case must include (1) the ability to readily access case information and filings; and (2) a meaningful opportunity to submit a response in accordance with both the requirements of the law and the practices and customs of the court handling the dispute. Requiring case numbers on summons and complaints provides critical information to tenants, enabling immediate and clear access to their case and supporting

[1] *Pernell v. Southall Realty*, 416 U.S. 363, 385 (1974).

tenants' ability to respond to the complaint in accordance with legal and court requirements.

While opponents to the proposed rule change argue that tenants can readily obtain their case number through alternative channels, this assumes English language proficiency, access to the internet, phones, and/or time off work— resources that many low-income tenants lack.

The current process that a tenant must navigate to obtain their case number is neither simple nor easy. Consider the example of a tenant facing eviction in Denver County who wants to learn their case number. Form JDF 103 (the eviction Answer form) provides no instructions on how to obtain a missing case number. The tenant must ascertain that contacting the court is the appropriate action to take, then locate the phone number for the Denver County Court Clerks, then listen to an automated message in English, then press #4, then listen to a second automated message, press #8, then listen to a third automated message, then press #5, and then wait to connect with a county clerk to request their case number. This must occur during a weekday within the court clerk's business hours. Tenants who lack sufficient time or knowledge to navigate this system risk not knowing their case numbers. It also does not account for tenants with limited English proficiency, cognitive challenges, or physical disabilities that make it difficult for them to use a phone.

Filling in the case number is the first task a tenant using an answer form must complete. Tenants often give up on their efforts to file an answer if they are faced at the outset with obstacles like needing to obtain a missing case number. Research on the accessibility of court forms to pro se litigants has shown that gaps in information deter engagement with the legal process.[2] The previously described barriers to obtaining a case number not initially provided to defendants, coupled with the negative impact of the emotionally overwhelming nature of an eviction on pro se tenants' ability to navigate their cases,[3] suggest that not having a case number results in tenants becoming confused and simply giving up.[4]

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[2] Grieshofer Née Tkacukova T, Gee M, Morton R. *The Journey to Comprehensibility: Court Forms as the First Barrier to Accessing Justice*. Int J Semiot Law. 2022. Epub 2021 Nov 15.

[3] Natalie Anne Knowlton, Logan Cornett, Corina D. Gerety, Janet L. Drobinske: *Cases without Counsel: Research on Experiences of Self-Representation in U.S. Family Court*. May 2016.

[4] In 2019, it was reported that only 7% of pro se tenants were able to successfully file an answer to the complaint. *See* Harriet McConnell Retford, *The Eviction Crisis in Colorado: CLS Plays a Crucial Role in Eviction Defense for Low-Income Renters*, Colorado Lawyer, March 2019. In 2024, 27,440 Colorado eviction defendants did not file an answer, compared to just 5,042 defendants who did, reflecting only 15% of defendants filing an Answer. *See* Residential Eviction Data by Closure Date, Colorado Courts, updated July 6, 2025. So while there have been improvements in tenants filing Answers, these stark statistics reflect the barriers that tenants still face.

While Mr. Sulzer's letter claims, with no supporting data, that courts routinely accept filings with incorrect case captions, our direct experience representing tenants and assisting self-represented tenants has shown that courts routinely deny Answers that are incomplete or contain inaccurate information.[5]

Therefore, requiring a case number improves judicial efficiency and ensures that the summons and complaint provide full and actionable information. The ability to properly complete the case caption and file an Answer is not a luxury— it is a due process necessity for tenants.

2. <u>Systemic Concerns of Tenant Confusion</u>

Dismissal of tenant confusion as merely anecdotal ignores significant feedback from legal aid attorneys, paralegals, and housing advocates who consistently observe widespread barriers facing tenants due to the absence of case numbers. At the free courthouse eviction clinics hosted by CED Law in Denver County on Tuesdays and Wednesdays, by Colorado Legal Services in Adams, Arapahoe, Broomfield, Denver, El Paso, and Pueblo Counties, and by Colorado Poverty Law Project in Denver and Larimer Counties, many tenants express confusion regarding the court documents they have received, and even question if the documents are legitimate due to the lack of a case number.[6] The confusion is not isolated—it is systemic, adding one additional barrier for tenants to defend their rights to live in their homes.[7]

Additionally, omitting case numbers disproportionately affects our state's most vulnerable populations, including tenants with limited English proficiency, cognitive impairments, or other disabilities. Without immediate access to case numbers, these

[5] In one example this month, the Denver County Court rejected four documents filed on behalf of an eviction defendant, including an Answer, citing "Missing case number" as the reason for each rejection.

[6] This confusion by tenants is reported by attorneys, paralegals, and housing advocates at CED Law, CEDP, and CLS who attend these weekly clinics.

[7] Colorado courts have found this confusion, specifically regarding court documents without case numbers, to be a persuasive factor when determining excusable neglect. *See Denver Casket Co. v. Denver Trailer Supply, Inc.*, 508 P.2d 138, 140 (Colo. App. 1973) (finding that confusion of whether or not court documents were official "because no docket number or other official indicia of the court" was on the documents was a factor in favor of finding excusable neglect).

individuals will encounter heightened obstacles in navigating the court process, exacerbating the already stressful and confusing situation[8] and further diminishing their ability to participate fully in these legal proceedings. Thus, the proposed rule change is a direct, logical solution to a real and ongoing problem.

3. The Current Practice Creates an Unnecessary Judicial Burden

Contrary to Mr. Sulzer's claims that this requirement introduces additional procedural friction, the absence of case numbers significantly increases friction for filing an Answer and burdens court personnel.

For example, looking at the Denver County FED docket search of three consecutive Wednesdays in July 2025 confirms this judicial burden. On July 9, 2025, there were 147 different cases with returns scheduled in Denver County courtroom 175. One week later on July 16, 2025, there were 141 different FED cases with returns scheduled in Denver County courtroom 186. Finally, on July 23, 2025, there were 196 different FED cases with returns scheduled in Denver County courtroom 100.[9] Without a case number listed on their initial documents, each of those previously mentioned tenants must find a way to obtain their case number. If all of these tenants called the clerk's office to obtain their case numbers and spoke on the phone for only one minute, the clerks would have spent 2 hours and 27 minutes, 2 hours 21 minutes, and 3 hours and 16 minutes respectively on the phone each day FED returns were scheduled. Even more time and resources would need to be devoted to assisting tenants with language or other communication barriers.

Based upon these significant numbers of eviction cases, clerks frequently must assist numerous tenants to locate their case numbers based solely on parties' names and return dates. This cumbersome process increases wait times, courthouse confusion, and possible administrative errors, which distracts from other vital court duties.

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[8] C.R.S. § 13-40-111 requires a summons in an FED action to be served "not less than seven days but not more than fourteen days" before an Answer is required to be filed by a tenant. Based on the experiences of tenant attorneys working in courthouse eviction clinics across Colorado, many tenants served with Summons are confused as to whether they need to appear in court that day or simply file an Answer to prevent losing their home.

[9] This information is searchable by courtroom and court date via https://efile.denvercountycourt.org/Search/Docket.

Conclusion

The proposed amendment to Rule 303 represents a practical, modest change that significantly enhances fairness and efficiency in eviction proceedings. Any minor procedural adjustments required to implement the amendment pale in comparison to the immediate benefits to judicial clarity, efficiency and tenant due process rights.

For these compelling reasons, we urge the adoption of the proposed amendment to Rule 303.

Sincerely,

CED Law
Colorado Legal Services
Colorado Poverty Law Project

Rule 3.1 Commencement of Actions in Forcible Entry and Detainer Cases

(a) How Commenced. An action filed under Article 40 of Title 13 of the Colorado Revised Statutes is commenced by filing with the court a complaint consisting of a statement of claim setting forth briefly the facts and circumstances giving rise to the action in the manner and form provided in section 13-40-110, C.R.S.

(b) Time of Jurisdiction. The court shall have jurisdiction from the filing of the complaint.

Rule 4. Process

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

(b) Issuance of Summons by Attorney or Clerk.

(1) 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 plaintiff. Separate additional or amended summons may issue against any defendant at any time. All other process shall be issued by the clerk, except as otherwise provided in these rules.

(2) In forcible entry and detainer actions where a plaintiff is represented by an attorney, the summons must be signed and issued by the attorney.

(c) Contents of Summons.

(1) 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 defendant, shall state the time within which the defendant is required to appear and defend against the claims of the complaint, and shall notify the defendant that in case of the defendant's failure to do so, judgment by default may be rendered against the defendant. If the summons is served by publication, the summons shall briefly state the sum of money or other relief demanded. The summons shall contain the name, address, and registration number of the plaintiff's attorney, if any, and if none, the address of the plaintiff. Except in case of service by publication under Rule 4(g) or when otherwise ordered by the court, the complaint shall be served with the summons. In any case, where by special order personal service of summons is allowed without the complaint, a copy of the order shall be served with the summons.

(2) In forcible entry and detainer cases, the summons shall also contain all language and information required by statute, and in addition to the completed Form JDF 101: Eviction Complaint, be accompanied by a blank copy of Form JDF 103: Eviction Answer, and a blank copy of Form JDF 108: Request for Documents in Eviction Cases. The ~~P~~plaintiff may use, and the court shall accept, documents filed or served on different forms if those forms meet all of the requirements of section 13-40-110, C.R.S., section 13-40-111, C.R.S., and any other applicable statutes. Any summons issued pursuant to this subsection (c)(2) shall not be served on a defendant unless it includes the case number assigned by the court in the caption.

(d) to (m) [NO CHANGE]

COMMENT [NO CHANGE]

Rule 303.1 Commencement of Actions in Forcible Entry and Detainer Cases

(a) How Commenced. An action filed under Article 40 of Title 13 of the Colorado Revised Statutes is commenced by filing with the court a complaint consisting of a statement of claim setting forth briefly the facts and circumstances giving rise to the action in the manner and form provided in ~~S~~section 13-40-110, C.R.S.

(b) Issuance of Summons. Upon the filing of a complaint as provided in section (a) of this Rule and the payment of the docket fee, the clerk shall docket the case and assign it a case number. A summons and amended summons may be issued by the clerk or an attorney of record against any defendant at any time after the case has been docketed, and when issued by an attorney, it must be filed with the court no later than 7 days in advance of the return date. All process shall be issued by the clerk except as otherwise provided by these rules. If a plaintiff is represented by an attorney, the summons must be signed and issued by the attorney. Any summons issued pursuant to this Rule shall not be served on a defendant unless it includes the case number assigned by the court in the caption.

(c) Time of Jurisdiction. The court shall have jurisdiction from the filing of the complaint.

(d) Briefs.

(1) **Time for Filing, Oral Argument, and Limitation on De Novo Review.** A written brief ~~shall contain a statement of the matters relied upon as constituting error and the arguments with respect thereto. It~~ shall be filed in the district court by the appellant 21 days after filing of the record therein. A copy of such brief shall be served on the appellee. The appellee may file an answering brief within 21 days after such service. In the discretion of the district court, the time for filing of briefs and answers may be extended. When the briefs have been filed the matter shall stand at issue and shall be determined on the record and the briefs, with such oral argument as the court in its discretion may allow. No trial shall be held de novo in the district court unless the record of the proceedings in the county court have been lost or destroyed or for some other valid reason cannot be produced; or unless a party by proper proof to the court establishes that there is new and material evidence unknown and undiscoverable at the time of the trial in the county court which, if presented in a de novo trial in the district court, might affect the outcome.

(2) **Length of Briefs.** ~~Notwithstanding anything in C.R.C.P. 121 § 1-15(1) to the contrary, t~~The parties' briefs are limited to 25 pages~~must contain no more than 8,000 words. Headings, footnotes, and quotations count toward the word limitation.~~. The caption, table of contents, table of authorities, certificate of compliance, certificate of service, and signature block do not count toward the page~~word~~ limit. A brief of a self-represented party who does not have access to a word-processing system must be typewritten or legibly handwritten and may not exceed 25 double-spaced and single-sided pages.

(3) **Form of Briefs.** Briefs must conform to the formatting and other requirements of C.R.C.P. 10(a) and (d). In addition, every brief must include in the caption, in the part of the caption page identifying the name and mailing address of the district court in which the appeal is filed, the identity of the county court and the case number of the case from which the appeal is being taken.

(4) **Content of Briefs.** Briefs must conform to the content requirements of C.A.R. 28(a) and (b).

(d) Briefs.

(1) **Time for Filing, Oral Argument, and Limitation on De Novo Review.** A written brief shall be filed in the district court by the appellant 21 days after filing of the record therein. A copy of such brief shall be served on the appellee. The appellee may file an answering brief within 21 days after such service. In the discretion of the district court, the time for filing of briefs and answers may be extended. When the briefs have been filed the matter shall stand at issue and shall be determined on the record and the briefs, with such oral argument as the court in its discretion may allow. No trial shall be held de novo in the district court unless the record of the proceedings in the county court have been lost or destroyed or for some other valid reason cannot be produced; or unless a party by proper proof to the court establishes that there is new and material evidence unknown and undiscoverable at the time of the trial in the county court which, if presented in a de novo trial in the district court, might affect the outcome.

(2) **Length of Briefs.** The parties' briefs are limited to 25 pages. The caption, table of contents, table of authorities, certificate of compliance, certificate of service, and signature block do not count toward the page limit. A brief of a self-represented party who does not have access to a word-processing system must be typewritten or legibly handwritten and may not exceed 25 double-spaced and single-sided pages.

(3) **Form of Briefs.** Briefs must conform to the formatting and other requirements of C.R.C.P. 10(a) and (d). In addition, every brief must include in the caption, in the part of the caption page identifying the name and mailing address of the district court in which the appeal is filed, the identity of the county court and the case number of the case from which the appeal is being taken.

(4) **Content of Briefs.** Briefs must conform to the content requirements of C.A.R. 28(a) and (b).

To: Judge Jerry N. Jones, Colorado Court of Appeals and Kathryn Michaels

From: Judge Chris Zenisek, First Judicial District Judge and Rachel Heumann, Law Clerk

Re: C.R.C.P. 343(h) and 43(i) Subcommittee Meeting 4.02.2025

The subcommittee for Colorado Rules of Civil Procedure 343(h) and 43(i) met virtually on April 2, 2025. In attendance at the meeting were Judge Keith Goman, Jose Vasquez, Alana Percy, and Pete Muccio. Judge Christopher Zenisek and Rachel Heumann attended as non-voting members. Brent Owen and Lisa Hamilton-Fieldman were unable to attend.

The subcommittee met to discuss a small amendment to Rules 343(h) and 43(i), which govern absentee testimony, following the promulgation of C.R.S. § 13-40-113.5, which allows remote appearance at FED proceedings. By a vote of 4-0, the subcommittee unanimously agreed that a simple carve-out approach would be the best alternative to allow the statute's application while leaving the remainder of the rule unchanged. Following the meeting, Judge Zenisek and Ms. Heumann drafted and circulated specific language, and the subcommittee identified no concerns with the proposal.

Redline copies of the proposed amended rules follow on the next pages.

1. **CRCP 43(i), (i.5)**

(i) *Absentee Testimony in Residential Eviction Proceedings.* Remote appearances in residential eviction proceedings are governed by C.R.S. § 13-40-113.5.

(i.5) *All Other Civil Proceedings – Request for Absentee Testimony*

(1) *Request for Absentee Testimony.* A party may request that testimony be presented at a trial or hearing by a person absent from the courtroom by means of telephone or some other suitable and equivalent medium of communication. A request for absentee testimony shall be made by written motion or stipulation filed as soon as practicable after the need for absentee testimony becomes known. The motion shall include:

(A) The reason(s) for allowing such testimony.

(B) A detailed description of all testimony which is proposed to be taken by telephone or other medium of communication.

(C) Copies of all documents or reports which will be used or referred to in such testimony.

(2) *Response*. If any party objects to absentee testimony, said party shall file a written response within 3 days following service of the motion unless the opening of the proceeding occurs first, in which case the objection shall be made orally in open court at the commencement of the proceeding or as soon as practicable thereafter. If no response is filed or objection is made, the motion may be deemed confessed.

(3) *Determination.* The court shall determine whether in the interest of justice absentee testimony may be allowed. The facts to be considered by the court in determining whether to permit absentee testimony shall include but not be limited to the following:

(A) Whether there is a statutory right to absentee testimony.

(B) The cost savings to the parties of having absentee testimony versus the cost of the witness appearing in person.

(C) The availability of appropriate equipment at the court to permit the presentation of absentee testimony.

(D) The availability of the witness to appear personally in court.

(E) The relative importance of the issue or issues for which the witness is offered to testify.

(F) If credibility of the witness is an issue.

(G) Whether the case is to be tried to the court or to a jury.

(H) Whether the presentation of absentee testimony would inhibit the ability to cross examine the witness.

(I) The efforts of the requesting parties to obtain the presence of the witness.

If the court orders absentee testimony to be taken, the court may issue such orders as it deems appropriate to protect the integrity of the proceedings.

2. CRCP 343(h), (h.5)

(h) *Absentee Testimony in Residential Eviction Proceedings.* Remote appearances in residential eviction proceedings are governed by C.R.S. § 13-40-113.5.

(h.5) *All Other Civil Proceedings – Request for Absentee Testimony*

(1) *Request for Absentee Testimony*. A party may request that testimony be presented at a trial or hearing by a person absent from the courtroom by means of telephone or some other suitable and equivalent medium of communication. A request for absentee testimony shall be made by written motion or stipulation filed as soon as practicable after the need for absentee testimony becomes known. The motion shall include:

(A) The reason(s) for allowing such testimony.

(B) A detailed description of all testimony which is proposed to be taken by telephone or other medium of communication.

(C) Copies of all documents or reports which will be used or referred to in such testimony.

(2) *Response.* If any party objects to absentee testimony, said party shall file a written response within 7 days following service of the motion unless the opening of the proceeding occurs first, in which case the objection shall be made orally in open court at the commencement of the proceeding or as soon as practicable thereafter. If no response is filed or objection is made, the motion may be deemed confessed.

(3) *Determination.* Subject to the requirements of section 13-40-113.5, C.R.S., concerning remote residential eviction proceedings, the court shall determine whether in the interest of justice absentee testimony may be allowed. The facts to be considered by the court in determining whether to permit absentee testimony shall include but not be limited to the following:

(A) Whether there is a statutory right to absentee testimony.

(B) The cost savings to the parties of having absentee testimony versus the cost of the witness appearing in person.

(C) The availability of appropriate equipment at the court to permit the presentation of absentee testimony.

(D) The availability of the witness to appear personally in court.

(E) The relative importance of the issue or issues for which the witness is offered to testify.

(F) If credibility of the witness is an issue.

(G) Whether the case is to be tried to the court or to a jury.

(H) Whether the presentation of absentee testimony would inhibit the ability to cross examine the witness.

(I) The efforts of the requesting parties to obtain the presence of the witness.

If the court orders absentee testimony to be taken, the court may issue such orders as it deems appropriate to protect the integrity of the proceedings.

From: Dave Johnson <dave@johnsonkush.com>
Sent: Tuesday, July 8, 2025 3:41 PM
To: gabriel, richard <richard.gabriel@judicial.state.co.us>
Cc: Ashley Staab <astaab@cobar.org>; Jessica Lindzy <jlindzy@cobar.org>; Nicoal Sperrazza <nsperrazza@cobar.org>; shamis, jonathan <jonathan.shamis@judicial.state.co.us>; David W. Stark <david.stark@faegredrinker.com>; yates, jessica <j.yates@csc.state.co.us>; Donald Alperstein <dwa@alpersteincovell.com>; large, bryon <b.large@pdj.state.co.us>; Erika Holmes <erika@elholmeslaw.com>; jkush@mullikenlaw.com; Peter B. Goldstein <peter@harrisfamilylaw.com>; Christine Francescani <cfrancescani@frederickco.gov>; Ryann Peyton <r.peyton@csc.state.co.us>
Subject: [EXTERNAL] RE: [EXTERNAL] RE: Proposed Rule 121 Sec 1-27

Justice Gabriel: Attached is the current draft of the proposed new Rule 121, Sec 1-27 titled "Judicial Expectations for Professionalism and Civility". As you know, the Professionalism Coordinating Council has been working on this draft for many months. The Executive Council of the CBA approved this draft at their meeting on April 4. I am advised that the Executive Council of the DBA has also approved this draft at its meeting in June. This draft was also circulated to the various specialty bars for their review and comment with a deadline of June 27 for comment. At this time we have received no comments.

The CBA's Professionalism Coordinating Committee would like to now present this draft to the Civil Rules Committee for its consideration. I, and I'm sure other drafting committee members, will be happy to answer any questions or appear at the Committee if that will be helpful. I'll wait to hear from you or the Civil Rules Committee as to next steps.

Thank you for assisting with this process.

David M. Johnson

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 the underlying facts in court filings or 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.

(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 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.

8. Enforcement.

(a) **Scope and Effect.** Attorneys and LLPs may not rely on this rule as grounds for a motion for sanctions 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 under the circumstances, including, but not limited to:

1. A formal or informal reprimand;

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. Other sanctions, as provided by statute or rule.

(c) **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

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.

From:	gabriel, richard
To:	jones, jerry; michaels, kathryn;
Subject:	Civil Rules Committee - Agenda Item
Sent:	8/14/2025 3:18:18 PM

Hi, Jerry and Kathryn –

I hope this finds you both well! The Housing Subcommittee of the Pathways to Access Committee has asked me to forward to the Civil Rules Committee the following proposed rule (the proposed rule is in italics and follows the explanation that comes from the PAC's minutes). The PAC would appreciate this being teed up for our September meeting:

TRIAL NOTICES FOR FED HEARINGS. The committee has agreed upon language for a proposed rule to be sent to the full PAC Committee requiring plaintiffs to post notice of FED trials, along with WebEx instructions if applicable, at the tenant's residence. This would address slow mailing times, barriers to technology access if notices are sent by e-mail, FTA defaults and the set-asides that come with that. The proposed verbiage is as follows:

Plaintiff is required, in cases where Defendant has not opted into e-filing, to serve each Defendant that has filed an Answer, within two business days after the trial date has been set, a Notice of Trial. Service shall be by posting the notice in a conspicuous place at the premises and by e-mail. The Notice of Trial must state the time, date, and place of trial, and if the trial is virtual, must also include virtual logon instructions. Failure to comply with this rule shall constitute good cause to continue the trial.

Thanks!!!

Rich

Richard L. Gabriel
Justice
Colorado Supreme Court
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2 East 14th Avenue

June 5, 2025

J. Aaron Atkinson, Esq.
aa@hsaglaw.com
(303) 534 -4317

VIA Electronic Mail
The Civil Rules Committee
Attention: Kathryn Michaels
Colorado Judicial Branch
Kathryn.michaels@judicial.state.co.us

Re: Proposed Rule Change
Subject: Colorado Rule of Civil Procedure 121(c), sections 1-1 and 1-15

Dear Ms. Michaels,

We are writing to the Civil Rules Committee to propose two changes to the Colorado Rules of Civil Procedure, specifically to Rule 121(c), sections 1–1 and 1–15. Attached to this letter in support is a draft of our proposed changes. Our analysis for these recommended amendments is set forth below.

Section 1-1. Entry of Appearance and Withdrawal

Our 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. Colorado Rule of Civil Procedure 121(c), which addresses standard practice for both motions and attorney fees, does not currently specify the procedures for a motion for attorney fees against counsel after the Court has granted the attorney leave to withdraw.

The lack of specificity in the Rules can result in a lack of proper notice and prevent withdrawn counsel from adequate participation in the proceedings against them.

This revision to the Practice Standard is necessary to cure the lack of guidance in these situations, thereby ensuring that withdrawn attorneys receive notice and opportunity to rebut the claims against them. Withdrawn attorneys occupy a unique position in the context of the case, as they were never parties to the case. However, they maintain a certain relationship to the case by virtue of

their licensure and appearance on behalf of a party. It is because of this that withdrawn attorneys may still be subject to court-ordered sanctions for their pre-withdrawal conduct in the case.

In these circumstances, the lack of guidance is found in the manner of notice that is necessary for this unique situation, i.e., service of the motion for attorney fees pursuant to Rule 4 or Rule 5. Further, there is no consistency as to the level of conferral that is necessary with the attorney who is no longer officially affiliated with a case following withdrawal because the Court has not formally joined the withdrawn attorney under these Rules. The amendment also reinforces the concepts of conferral prior to filing a motion and certification in the motion regarding the same.

The Committee should amend Section 1-1 in accordance with this proposal in order to establish the minimal level of compliance necessary to ensure due process to justice.

Section 1-15. Determination of Motions

Our second proposed revision addresses the proper mechanism for requesting attorney fees generally as pretrial sanctions. We recommend amending Rule 121(c), section 1-15(7), to include language clarifying that requests for attorney fees based on pretrial conduct must not be embedded within motions, response briefs, or reply briefs. Instead, parties must present such requests in a separate motion that complies with the procedural requirements set forth in section 1-15.

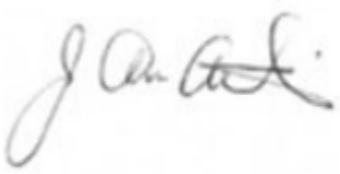
This clarification addresses the gross abuse and frequency of claims for attorney fees in the context of civil litigation in Colorado. The lack of guidance in the Rules regarding requests for sanctions under paragraph 7 leads to repetitive and often unfounded allegations of misconduct geared solely towards shifting risk or unfounded coercion in the case. By extension, this results in parties litigating threats of sanctions as opposed to the merits of a party's case. The current state of the Rules risks incentivizing the improper pursuit of attorney fees. Mandating that such requests be made independently serves to extricate threats from the process and thereby to foster a merit-based analysis of the relief requested.

This revision fits well within the current structure of section 1-15. For example, section 1-15(d) specifically provides that "[a] motion shall not be included in a response or reply to the original motion." And it has become more common in Colorado for district courts to issue pretrial orders *sua sponte* forbidding the inclusion of multiple requests for relief within a single motion.

Our proposed amendment does not curtail a party's right to seek attorney fees. Rather, it reinforces procedural integrity by requiring that such requests be made in a dedicated motion, allowing the opposing party a fair opportunity to respond. It also encourages moving parties to present well-supported and specific grounds for fee requests—rather than weaponizing them for intimidation. Ultimately, this revision promotes a more transparent and just system, discouraging the misuse of attorney fee claims and supporting the core adversarial principle that courts should decide motions on their merits.

We appreciate the Committee's consideration of our proposed revisions and welcome the opportunity to provide additional information or clarification that may assist in your review. We would be glad to discuss these recommendations further or offer supporting materials upon request. Thank you for your time and attention to these important issues.

Sincerely,



J. Aaron Atkinson
Kaylee A. Sims

JAA/kas

Rule 121. Local Rules—Statewide Practice Standards

(a)-(c) [NO CHANGE]

Section 1 – 1 ENTRY OF APPEARANCE WITH WITHDRAWAL

1. Entry of Appearance. No attorney shall appear in any matter 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.

2. Withdrawal From an Active Case.

(a) 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 1 of this Practice Standard as to the replacement attorney.

(b) 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 13-1-127, C.R.S.; and

(VI) the client's last known address and telephone number.

(c) 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.

(d) 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.

3. Withdrawal From Completed Cases. In any civil case 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.C.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.

In any civil case 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.C.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.

4. 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.

5. Notice of Limited Representation Entry of Appearance and Withdrawal. In accordance with C.R.C.P. 11(b) and C.R.C.P. Rule 311(b), an attorney may undertake to provide limited representation to a pro se party involved in a court proceeding. Upon the request and with the consent of a pro se party, an attorney may make a limited appearance for the pro se 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.

6. Requests for Attorney Fees Against Withdrawn Counsel. Any party requesting attorney fees as a pre-trial sanction against counsel who has withdrawn from the case shall confer with the withdrawn attorney before filing a motion in accordance with Practice Standard § 1-15(8). Upon filing, the moving party shall serve the motion for attorney fees, along with written notice that the moving party intends to seek attorney fees from the withdrawn attorney, upon withdrawn counsel pursuant to C.R.C.P. 5(b). In addition to meeting the other requirements of these Rules, the motion shall, at the beginning, contain a certification that the movant in good faith has conferred with withdrawn counsel and served a notice and copy of the motion in accordance with this standard.

COMMENTS [NO CHANGE]

Section 1 – 2 to 1 – 14 [NO CHANGE]

Section 1-15 DETERMINATION OF MOTIONS

1. Motions and Briefs; When Required; Time for Serving and Filing — Length.

(a) 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. Unless the court orders otherwise, motions and responsive briefs not under C.R.C.P. 12(b)(1) or (2), or 56 are limited to 15 pages, and reply briefs to 10 pages, not including the case caption, signature block, certificate of service and attachments. Unless the court orders otherwise, motions and responsive briefs under C.R.C.P. 12(b)(1) or (2) or 56 are limited to 25 pages, and reply briefs to 15 pages, not including the case caption, signature block, certificate of service and attachments. All motions and briefs shall comply with C.R.C.P. 10(d).

(b) The responding party shall have 21 days after the filing of the motion or such lesser or greater time as the court may allow in which to file a responsive brief. If a motion is filed 42 days or less before the trial date, the responding party shall have 14 days after the filing of the motion or such lesser or greater time as the court may allow in which to file a responsive brief.

(c) Except for a motion pursuant to C.R.C.P. 56, the moving party shall have 7 days after the filing of the responsive brief or such greater or lesser time as the court may allow to file a reply brief. For a motion pursuant to C.R.C.P. 56, the moving party shall have 14 days after the filing of the responsive brief or such greater or lesser time as the court may allow to file a reply brief.

(d) A motion shall not be included in a response or reply to the original motion.

2. Affidavits. If facts not appearing of record may be considered in disposition of the motion, the parties may file affidavits with the motion or within the time specified for filing the party's brief in this section 1-15, Rules 6, 56 or 59, C.R.C.P., or as otherwise ordered by the court. Copies of such affidavits and any documentary evidence used in connection with the motion shall be served on all other parties.

3. 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. Other than motions seeking to resolve a claim or defense under C.R.C.P. 12 or 56, failure of a responding party to file a responsive brief may be considered a confession of the motion.

4. 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. Any motion requiring immediate disposition shall be called to the attention of the courtroom clerk by the party filing such motion.

5. 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 the court orders otherwise, a notice to set oral argument or hearing shall be filed in accordance with Practice Standard § 1-6 within 7 days of notification that oral argument or hearing is required or authorized.

6. 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.

7. 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. Requests for attorney fees related to pre-trial sanctions shall not be combined with any other motion, response brief, or reply brief. Such requests must be made in a separate motion in compliance with this section 1-15.

8. Duty to Confer. Unless a statute or rule governing the motion provides that it may be filed without notice, moving counsel and any self-represented party shall confer with opposing counsel and any self-represented parties before filing a motion. 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. The motion shall, at the beginning, contain a certification that the movant in good faith has conferred with opposing counsel and any self-represented parties about the motion. 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.

9. Unopposed Motions. All unopposed motions shall be so designated in the title of the motion.

10. 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.

11. Motions to Reconsider. Motions to reconsider interlocutory orders of the court, meaning motions to reconsider other than those governed by C.R.C.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 under paragraph 1(b) of this standard.

COMMENTS [NO CHANGE]

Section 1 – 16 to 1 – 26 [NO CHANGE]

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:	jones, jerry
To:	michaels, kathryn
Subject:	FW: Civil Rules Committee - VD rule changes
Sent:	8/29/2025 2:09:47 PM

Here's the one from Brad Levine.

From: Bradley A. Levin <brad@lsw-legal.com>
Sent: Monday, August 4, 2025 12:46 PM
To: jones, jerry <jerry.jones@judicial.state.co.us>
Subject: [EXTERNAL] FW: Civil Rules Committee - VD rule changes

Judge Jones,

I received the below email from Kevin Cheney, a member of the Colorado Trial Lawyers Association which, as I understand it, has a committee that has been studying potential changes to Colorado's rules concerning voir dire in civil cases. Mr. Cheney has asked whether members of the committee can be included on the agenda for the next meeting to present the proposals set forth in the email.

Brad

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From: Kevin Cheney <kevin@cghlawfirm.com>
Sent: Monday, August 4, 2025 10:30 AM
To: Bradley A. Levin <brad@lsw-legal.com>
Subject: Civil Rules Committee - VD rule changes

Hey Brad,

The VD reform group met today and we are now ready to move forward with

proposing it to the rules committee. Can you please ask about getting us on the agenda for the next meeting?

The proposal would be as follows:

Idea 1 - Questionnaires - make them mandatory upon request of either party

Change C.R.C.P. 47(a)(3) from "In the discretion of the judge, juror questionnaires, posterboards and other methods may be used." to "Upon request of either party, a questionnaire shall be provided to potential jurors. At the discretion of the judge, posterboards and other methods may be used."

Idea 2 - Length of VD - 1 hour mandatory minimum

Change C.R.C.P. 47(a)(3) from "The judge may limit the time available to the parties or their counsel for juror examination based on the needs of the case." to "The judge may limit the time available to the parties or their counsel for juror examination based on the needs of the case, but in no case shall the judge provide less than one hour per side."

Idea 3 - Rehabilitation reform

Change C.R.C.P. 47(e)(6 -7) by adding section (8) from "**(6)** Having formed or expressed an unqualified opinion or belief as to the merits of the action; **(7)** The existence of a state of mind in the juror evincing enmity against or bias to either party." to (8) no juror expressing unqualified opinions under section (6) or enmity or bias under section (7) may be deemed rehabilitated regardless of their willingness to follow the law or set those opinions or bias aside.

--

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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
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Colorado Court of Appeals
2 East 14th Avenue
Denver, CO 80203
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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/

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