AGENDA

COLORADO SUPREME COURT
COMMITTEE ON THE
RULES OF CIVIL PROCEDURE

Friday, January 25, 2019 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 16, 2018 minutes [Pages 1 to 6]

III. Announcements from the Chair

A. Introduction of New Members
B. Introduction of Returning Members
C. Transmittal Letter to Supreme Court—December 19, 2018 [Pages 7 to 12]
D. Email from Justice Gabriel to Judge Berger—January 10, 2019 [Page 13]
E. Order Regarding C.R.C.P. 6, 57, and 59—January 10, 2019 [Pages 14 to 22]

IV. Present Business

A. C.R.C.P. 69—(Brent Owen)

B. C.R.C.P. 16.2(e)(10)—(Judge Jones & Lisa Hamilton-Fieldman) [Page 23]

C. C.R.C.P. 17(c)—GAL proposal from CBA committee via Mr. David Kirch—(Lisa Hamilton-Fieldman and Judge Dunkelman)

D. C.R.C.P. 304—Time Limit for Service from Attorney Daniel Vedra—(Ben Vinci)

E. C.R.C.P. 4 + 304—Unsworn Declarations—(David DeMuro) [Pages 24 to 38]

F. C.R.C.P. 16.1—Evaluating the new rule—(Richard Holme) [Page 39]

G. Denver County Court procedures—Colorado Lawyer article—*Denver County Court: The Pursuit of Procedural Fairness*—(Richard Holme) [Pages 40 to 44]

V. Adjourn—**Next meeting is MARCH 29, 2019 at 1:30 pm.**

Michael H. Berger, Chair
michael.berger@judicial.state.co.us
720 625-5231

Conference Call Information:

Dial (720) 625-5050 (local) or 1-888-604-0017 (toll free) and enter the access code, 551050, followed by # key.

Colorado Supreme Court Advisory Committee on the Rules of Civil Procedure
November 16, 2018 Minutes

A quorum being present, the Colorado Supreme Court Advisory Committee on the Rules of Civil Procedure was called to order by Judge Michael Berger at 1:30 p.m., in the Court of Appeals Full Court Conference Room on the third floor of the Ralph L. Carr Colorado Judicial Center. Members present at the meeting were:

Name	**Present**	**Not Present**
Judge Michael Berger, Chair	x	
Chief Judge (Ret.) Janice Davidson	x	
Damon Davis	x	
David R. DeMuro	x	
Judge Paul R. Dunkelman	x	
Judge J. Eric Elliff	x	
Judge Adam Espinosa	x	
Peter Goldstein	x	
Lisa Hamilton-Fieldman	x	
Michael J. Hofmann	x	
Richard P. Holme	x	
Judge Jerry N. Jones		x
Judge Thomas K. Kane	x	
Cheryl Layne	x	
John Lebsack	x	
Judge Cathy Lemon	x	
Bradley A. Levin	x	
David C. Little	x	
Chief Judge Alan Loeb		x
Professor Christopher B. Mueller	x	
Brent Owen	x	
John Palmeri	x	
Judge Sabino Romano	x	
Stephanie Scoville	x	
Lee N. Sternal		x
Magistrate Marianne Tims		x
Jose L. Vasquez	x	
Ben Vinci	x	
Judge John R. Webb	x	
J. Gregory Whitehair	x	
Judge Christopher Zenisek	x	
Non-voting Participants		
Justice Richard Gabriel, Liaison	x	
Jeremy Botkins (Kyle Sauer substituted)	x	

I. Attachments & Handouts

- November 16, 2018 agenda packet.

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II. Announcements from the Chair

- The September 28, 2018 minutes were approved with one correction: change *C.R.C.P. 21* to *C.A.R. 21* on the fourth page;
- The 2019 meeting schedule is set with five meetings rather than seven; and
- There will be several new members joining the committee at the January meeting.

III. Present Business

A. C.R.C.P. 69

Subcommittee member Brent Owen reported that after circulating the memo, the subcommittee received additional comments. The subcommittee would like to discuss their proposal further before bringing it to the committee in light of the comments received. Subcommittee member Ben Vinci shared that he took the proposal to some of his colleagues who do C.R.C.P 69 work, and they expressed concern regarding limiting a C.R.C.P. 69 deposition.

The committee then discussed writs of execution. Mr. Owen explained that they are a procedure to execute on property, but they are not used for garnishments. Mr. Vinci stated that he has used a writ of execution to seize a restaurant bar's assets.

Judge Berger tabled the discussion until the January meeting.

B. C.R.C.P. 16.2(e)(10)

Tabled to January 25, 2019 meeting.

C. C.R.C.P. 47

Judge Elliff explained that this issue was brought to his attention by a colleague. He went on to state that there is a discrepancy between C.R.C.P. 47(b) and C.R.S. § 13-71-142. C.R.C.P. 47(b) provides that each *side* is entitled to one peremptory challenge, while C.R.S. § 13-71-142 provides that each *party* is entitled to an additional peremptory challenge. There is no case law addressing this discrepancy. If the rule was changed to follow the statute, multi-party complex cases would be unworkable. Further, this committee does not have jurisdiction to change the statute. As to C.R.C.P. 47(b), in *Blades v. DaFoe*, the supreme court has asserted that, "[T]he rule in Colorado is that multiple litigants, designated as co-plaintiffs or co-defendants, are together entitled to only one set of peremptory challenges, regardless of whether their interests are essentially common or generally antagonistic." Judge Berger also pointed out that the rule trumps statute under case law. Judge Elliff recommends that the committee take no action.

Bradley Levin queried whether the committee should approach the appropriate legislative office to resolve this discrepancy. He does not feel comfortable having a statute that doesn't comport with the rule. Judge Dunkelman pointed out that this inconsistency is probably in the criminal rules as well. Justice Gabriel said that if Mr. Levin approaches the supreme court lobbyists with this issue, they may suggest contacting the Colorado Bar Association's Legislative Policy Committee. Mr. Levin agreed that it might make sense to approach the bar, and that he will do so.

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D. C.R.C.P. 121

Subcommittee member Judge Kane explained that this issue came to the committee by a letter from a practitioner who asked about the applicability of C.R.C.P. 121-1-14(f) to electronic instruments. The subcommittee looked at legal authority to resolve this and didn't find much. Judge Kane called a public trustee, a lawyer who represents the public trustee, and other practitioners to discuss this matter. Judge Kane reported that the people he talked to seemed comfortable managing cases with electronic instruments without marking them with any notation of judgment or payment. Per the rule, if the instrument is paper based it is marked. If the instrument is electronic, there is no marking because it is difficult to designate an original. The subcommittee proposed adding ", and the original note is paper based" to make the rule more specific.

The committee turned to the second sentence in (f) regarding withdrawing a note from the court. Different courts around Colorado treat notes differently. Mr. Vinci pointed out that practically speaking, the second sentence in (f) is not followed by any courts and is archaic in requiring the court to keep a copy.

Judge Romano asked whether there are smaller districts around Colorado that keep the original. Judge Dunkelman reported that in Eagle County, they keep neither the original nor a photocopy because there is a copy on jPOD already.

A motion was taken to add ", and the original note is paper based", to the first sentence and to remove the second sentence altogether. The committee voted 17:5 in favor of this motion.

E. C.R.C.P. 106

Subcommittee member Judge Zenisek reminded everyone that at the last full committee meeting, the subcommittee had submitted several alternatives for changing C.R.C.P. 106(a)(4), all intended to address the problem of delays caused by filing interlocutory appeals in district court to challenge rulings in criminal cases filed in county court. At the last meeting, the committee directed the subcommittee to draft a proposal that was simple. At this meeting, the subcommittee recommended inserting the limitation ", in any civil matter" into the rule and suggested two comments.

The committee first considered whether the suggested language excludes only criminal cases and not appeals from administrative agencies. Michael Hofmann reminded the committee that Judge Jones stated at the last meeting that civil includes agency appeals. Gregory Whitehair asked whether non-criminal would be more accurate. Mr. Holme asserted that the comment makes it clear that the target is criminal cases.

Mr. Owen suggested removing the last sentence in the first comment, as it is not sure what appellate mechanism would be available, and the committee doesn't want unintended consequences. Judge Lemon voiced support for this as well, stating that stray citations wreak havoc when changes are later made to those references.

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The committee discussed the usage of the word *inferior* in the comment. Judge Berger suggested using *lower* instead. Judge Davidson pointed out that lower makes her think of municipal court. David Demuro stated that lower is used in the rule already. Damon Davis contended that lower is more consistent with the current rule.

A motion was made for the rule change mentioned above to be adopted, along with the first comment with the following changes: the word *changed* replaced with *amended*, the last sentence of the comment struck, and the word *inferior* replaced with *lower*. This motion passed unanimously.

The committee then considered the second comment. Judge Zenisek explained that the comment was meant to reinforce the idea that this is a unique procedure utilized when there is no other remedy. Lisa Hamilton-Fieldman, a member of the subcommittee, didn't agree with adding the second comment. She did not favor putting interpretative information into comments. Judge Berger questioned the necessity of a comment that parrots part of the rule. A motion was made to permanently table comment 2. It passed overwhelmingly.

John Lebsack mentioned that the rule contains a reference to superior court, which does not exist. Judge Berger noted that when taking up a rule for another matter, it has been the committee's custom to fix other issues in the rule. A motion was made to remove the reference to superior court. It passed overwhelmingly.

F. C.R.C.P. 17(c)

Subcommittee chair Lisa Hamilton-Fieldman stated that considering the bar committee's proposal presents a huge task. At the last meeting, the committee voiced appreciation for the hard work that went into creating the proposal but was skeptical that these sweeping changes should be made. She also commented that the proposal looks less like a rule and more like a statute. Fellow subcommittee member Judge Dunkelman echoed these sentiments and stated that he and Ms. Hamilton-Fieldman will together determine whether the larger committee should take this up. Judge Berger stated that if this subcommittee determines the proposal should be considered, then he will appoint additional members to the subcommittee to help in this large task.

G. C.R.C.P. 304

Judge Berger turned the committee's attention to a letter from a practitioner who stated that there's a time limit for service in district court but not in county court.

The committee explored this issue. Mr. Vinci stated that county courts set limitations and handle cases in different ways to clear the docket, such as a delay reduction order. Judge Espinosa stated that they use delay reduction orders in Denver County, and the plaintiff is required to act, or the matter is dismissed.

Jose Vasquez stated that he's concerned that there are a lot of pro se litigants who don't understand or know that they must take action or be dismissed. He also stated that part of

the concern is that collection attorneys are instructing the court to keep cases open. This puts the burden on the defendant and may leave cases open for a long time.

Judge Berger sent this matter to the standing county court subcommittee for their consideration.

H. C.R.C.P. 4 + 304

The Process Servers Association of Colorado (PSACO) wrote a letter to the committee pointing out that recent Colorado legislation impacted notarization requirements. PSACO suggests rules 4 and 304 should allow unsworn declarations signed under penalty of perjury.

Mr. Demuro stated that he's not sure the change is necessary, as the statute already addresses the rule. A few members suggested the rule should be changed to comport with the newly-changed statute. Mr. Demuro agreed to look further into this issue and will also determine if other rules are impacted.

I. Form 1.3, JDF 602

Ms. Hamilton-Fieldman recommended that the committee immediately repeal Form 1.3, JDF 602, Notice to Elect Exclusion From C.R.C.P. 16.1 Simplified Procedure and also update the instructions for completing the civil case cover sheet, found on the judicial branch's website.

The committee discussed the fact that having Form 1.3 available is quite dangerous, and that cases could be proceeding under the wrong rule.

A motion was made to repeal Form 1.3, and it passed unanimously. Judge Berger stated he will get the form change proposal to the supreme court right away, and he will also talk to Polly Brock about updating the website.

J. C.R.C.P. 30(c)

Mr. Lebsack noticed a discrepancy between the Federal and Colorado rules on who has a right to attend depositions. He brought this to the committee today to explore because there is a general sense that Colorado rules should conform to Federal rules.

Mr. Levin reported that this issue has come up a few times in his 38 years of practice, and that often, it is difficult to resolve if a judge is not available at that moment. Other committee members mentioned that sometimes, you want a person excluded from a deposition to avoid having that person's later testimony be influenced by what they hear at the deposition. Judge Berger mentioned that barring someone from viewing a deposition is moot unless you also have an order prohibiting them from reading the transcript of the testimony.

Mr. Levin voiced support for referring to Rule 615 in C.R.C.P. 30(c), especially given that one doesn't anticipate this issue until the morning of the deposition. John Palmeri stated that he's not sure the rule should be changed, and that because this rarely comes up, the additional burden wouldn't be worth it. Mr. Holme stated that given the varying

views on this issue, and that there is a supreme court opinion already discussing this, the committee should not take the considerable time necessary to consider this issue. A straw vote was taken. By a vote of 11:14, a subcommittee will NOT further consider this issue.

K. Amount of Cases in Courts

Jose Vasquez asked whether the committee had discussed the impact of Colorado increasing jurisdictional limits in county courts. Justice Gabriel replied that there is a yearlong SCAO study currently underway, and a report will come out when the study is finalized.

IV. Future Meetings

January 25, 2019
March 29, 2019
June 28, 2019

The Committee adjourned at 3:22 p.m.

Respectfully submitted,
Kathryn Michaels

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Court of Appeals
STATE OF COLORADO
2 EAST FOURTEENTH AVENUE
DENVER, COLORADO 80203
720-625-5000

Michael H. Berger
Judge

December 19, 2018

Honorable Richard L. Gabriel, Liaison Justice
Colorado Supreme Court

Re: Colorado Supreme Court Civil Rules Committee

Dear Justice Gabriel:

The Civil Rules Committee respectfully submits the following recommendations to the Supreme Court:

Proposed Rule Changes:

1. **C.R.C.P. 6, Time and C.R.C.P. 59, Motions for Post-Trial Relief**

   A. The existing rules have caused repeated problems because the timely filing of a C.R.C.P. 59 motion tolls the finality of the judgment, and the deadline for filing a notice of appeal. The provisions for extension of time in C.R.C.P. 6 and 59 are in conflict. Accordingly, the Committee unanimously recommends that both C.R.C.P. 6 and C.R.C.P 59 be amended to provide that an extension of time to file a C.R.C.P. 59 motion may be granted only under the circumstances prescribed by that rule.

   B. Clean and marked versions of the proposed rule amendments are contained in Appendix 1A to this letter.

C. The subcommittee report which informed the Committee's deliberations on this matter is attached as Appendix 1B.[1]

2. C.R.C.P. 57. Declaratory Judgments.

A. The existing rule is confusing and is under-inclusive because its title includes only municipal ordinances (although the text of the rule appears to address state statutes). The proposed amendments prescribe a unified notice requirement when the validity or constitutionality of an ordinance or statute is at issue. The proposed rule also prescribes the time within which such notice must be given.

B. Clean and marked versions of the proposed amended rule are contained in Appendix 2A to this letter.

C. The subcommittee report that was considered by the Committee in making this recommendation is attached as Appendix 2B.

3. C.R.C.P. 16.1. Notice to Elect Exclusion from C.R.C.P. 16.1 Simplified Procedure, JDF 602SC 3/18.

A. This form is inconsistent with the amendments to C.R.C.P. 16.1, which the Supreme Court adopted effective September 1, 2018. The form purportedly permits exclusions from the operation of the rule which no longer exist in the amended rule. Accordingly, the Committee unanimously recommends that the Court withdraw this form from the official forms to the Colorado Rules of Civil Procedure.

B. A strikeout of form JDF 602SC 3/18 is attached as Appendix 3.

4. C.R.C.P. 26. General Provisions Governing Discovery; Duty of Disclosure

A. Problems have arisen regarding the interpretation of the rules revised in 2015 governing expert witness disclosures. Some district courts have interpreted the rule to mean that if an expert witness (this problem almost always arises in connections with treating

[1] The subcommittee reports are provided as background information for the Court. They do not necessarily reflect the final language recommended by the full Committee.

physicians) goes beyond those opinions expressly contained in the expert's records, the expert must prepare a full, retained expert report. Other courts have applied this provision more liberally to permit opinions properly disclosed in a written report or statement as described in Comment [2] to be offered into evidence, even in the absence of a full, retained expert report. The Committee believes the latter interpretation is what was intended by the Committee in making its prior recommendations regarding C.R.C.P. 26. The difficulty of obtaining a full, retained expert report from a treating physician (next to impossible and where available, extremely expensive), militates in favor of this interpretation. To implement this interpretation, the Committee recommends an addition to Comment [18] to C.R.C.P. 26. The additional language reads as follows:

"For example, in addition to the opinions and diagnoses reflected in a plaintiff's medical records, a treating physician may have reached an opinion as to the cause of those injuries beyond treating the patient. Those opinions may not have been noted in the medical records but if sufficiently disclosed in a written report or statement as described in Comment [21], below, such opinions may be offered at trial without the witness having first prepared a full, retained expert report. In any event, the expert testimony is to be limited to what is disclosed in detail in the disclosures. Rule 26(a)(2)(B)(II)."

B. A typographical error has been discovered in the first sentence of C.R.C.P. 26 (b)(4). The Committee proposes to fix this error.

C. Clean and marked versions of these proposed amendments are attached as Appendix 4.

5. C.R.C. P. 80 and C.R.C.P. 380. Reporter; Stenographic Report of Transcript as Evidence.

A. C.R.C.P. 80(a) is obsolete. It no longer reflects the actual practice in civil cases in the district courts. Moreover, it is inconsistent with Chief Justice Directive 05-03, which comprehensively addresses this subject. Accordingly, the Committee unanimously recommends that

C.R.CP. 80 be repealed and that a Comment be added to C.R.C.P. 80 to read as follows: "C.R.C.P. 80 has been repealed as Chief Justice Directive 05-03 entitled Management Plan for Court Reporting and Recording Services, addresses matters related to court reporters in district court proceedings."

B. Chief Justice Directive 05-03 applies, by its terms, only to district court matters. Therefore, C.R.C.P. 380, which addresses reporting of county court proceedings remains necessary. However, that rule already provides that the records of those courts be maintained electronically. Therefore, the Committee recommends the retention of that rule, with certain non-substantive amendments.

C. Clean and marked versions of these proposed rule changes are attached as Appendix 5A.

D. The subcommittee report considered by the Committee in recommending these amendments is attached as Appendix 5B.

6. C.R.C.P. 106. Forms of Writs Abolished.

A. The Committee has learned that C.R.C.P. 106 is being used to obtain interlocutory appeals of rulings in county court criminal cases. No comparable right to appeals of district court interlocutory orders is afforded to criminal defendants in district court cases. There is no good reason to permit such interlocutory appeals in county court criminal cases. In fact, the opposite is true. County court criminal cases, by definition, address less serious crimes than those adjudicated in the district courts. If anything, procedures should be more streamlined, not more cumbersome, in the county courts.

The Committee unanimously recommends that the Court amend C.R.C.P. 106 to prohibit the use of that rule to obtain an appeal of county court interlocutory rulings in criminal cases. (The availability of extraordinary relief in the Supreme Court under C.A.R. 21 remains for all litigants in all state courts.)

Doing so, requires minimal change to the rule: the addition of the words "in any civil manner" in subsection (a)(4).

B. The Committee discovered an archaic reference in C.R.C.P. 106 to "superior courts" which no longer exist in Colorado. The Committee recommends the excision of that reference.

C. Clean and marked versions of the proposed amendments are attached as Appendix 6A.

D. The subcommittee report considered by the Committee in making this recommendation is attached as Appendix 6B.

7. C.R.C.P. 121, Section 1-14, Default Judgments, Subsection (f)

A. Several district court judges have pointed out that many promissory notes now exist only in electronic form; there is no original paper document. This is problematic under the current rule because the rule requires the "original note shall be presented to the court in order that the court may make a notation of the judgment on the face of the note." The Committee considered a number of fixes to this problem, none of which is ideal. After rejecting other, more far-reaching revisions of the rule, the Committee, by a vote of 17 to 5, recommends that the rule be amended to condition the requirement of presentation of the original note to those situations in which the original note is "paper based."

B. Clean and marked versions of the proposed amendment are attached as Appendix 7A.

C. The subcommittee report, considered by the full Committee, in making this recommendation, is attached as Appendix 7B

Public Hearings and Effective Dates

None of these proposed rule changes are substantive and none are likely to affect the substantial rights of any person or party. Accordingly, the Committee does not believe that a public hearing is necessary with respect to any of these rule changes. For similar reasons, the Committee recommends that these rule changes be effective immediately upon adoption by the Court.

For the Court's convenience, a complete copy of this letter together with all attachments, is being emailed to you so that you have the submission in electronic format.

Respectfully submitted,

Michael H. Berger, Chair
Supreme Court Civil Rules Committee

michaels, kathryn

From: gabriel, richard
Sent: Thursday, January 10, 2019 2:25 PM
To: berger, michael; michaels, kathryn
Cc: stevens, cheryl
Subject: Civil Rules Committee

Dear Judge Berger and Kathryn:

Today, the Court took up the Committee's recommendations re C.R.C.P. 6, 26, 57, 59, 80, 380, 106, and 121, section 1-14, as well as the recommendation re Form JDF 602SC. The Court has unanimously decided to do the following:

1. We would like to put out for public comment the suggested revisions to Rules 26 (comment 18), 106, and 121, section 1-14. The consensus was that the amendment to Rule 106 is substantive, and practitioners in the criminal arena may wish to weigh in on that one. And since we are putting out that rule for comment, we decided that we'd also put out the suggested changes to Rule 26, comment 18 (it could possibly be of interest to some) and Rule 121, section 1-14 (principally because there were five no votes on the committee). The decision here is not a reflection of concern from our court about any of the proposed revisions. We just want to ensure transparency and to give the public a chance to comment. After receiving any comments, we will decide whether a public hearing is necessary.
2. We will hold off on action on the proposed amendments to Rules 80 and 380, just to give the Criminal Rules Committee a chance to act. The thought here was that it would make sense to consider these amendments and any corresponding Criminal Rules amendments at the same time.
3. We approved all of the remaining rules (i.e., the proposed revisions to Rules 6, 57, and 59 and to Form JDF 602SC), to become effective immediately.

I will leave to you, working with Cheryl, to do what needs to be done to effectuate the request for public comments and the effective date of the rules that we approved.

As always, on behalf of the Court, I thank you and your Committee for your exception work on these amendments. We recognize and sincerely appreciate all of your efforts!

Sincerely yours,

Richard L. Gabriel
Justice, Colorado Supreme Court
2 East 14th Avenue
Denver, Colorado 80203
(720) 625-5440
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RULE CHANGE 2019(01)

COLORADO RULES OF CIVIL PROCEDURE

Rule 6. Time

(a) [NO CHANGE]

(b) Enlargement. When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may, at any time in its discretion (1) with or without motion or notice, order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action under Rule 60(b) and may extend the time for taking any action under Rule~~s~~ 59 only as allowed by that rule ~~and 60(b), except to the extent and under the conditions therein stated~~.

(**c) – (e)** [NO CHANGE]

COMMENTS

2012

[1] After the particular effective date, time computation in most situations is intended to incorporate the Rule of Seven. Under the Rule of Seven, a day is a day, and because calendars are divided into 7-day week intervals, groupings of days are in 7-day or multiples of 7-day intervals. Groupings of less than 7 days have been left as they were because such small numbers do not interfere with the underlying concept. Details of the Rule of Seven reform are set forth in an article by Richard P. Holme, 41 Colo. Lawyer, Vol. 1, P 33 (January 2012).

[2] Time computation is sometimes "forward," meaning starting the count at a particular stated event [such as date of filing] and counting forward to the deadline date. Counting "backward" means counting backward from the event to reach the deadline date [such as a stated number of days being allowed before the commencement of trial]. In determining the effective date of the Rule of Seven time computation/time interval amendments having a statutory basis, said amendments take effect on July 1, 2012 and regardless of whether time intervals are counted forward or backward, both the time computation start date and deadline date must be after June 30, 2012. Further, the time computation/time interval amendments do not apply to modify the settings of any dates or time intervals set by an order of a court entered before July 1, 2012.

Rule 57. Declaratory judgments

(a) – (i) [NO CHANGE]

(j) Parties; Notice to Sstate or Municipality~~Municipal Ordinances~~. When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves a challenge to ~~-~~the validity of a municipal ordinance or franchise, the party challenging the ordinance or franchise shall serve the municipality with a copy of the relevant motion or pleading and such municipality shall be made a party, and is entitled to be heard.~~,~~ If a party files a motion or other pleading asserting that a state ~~and if the~~ statute, ordinance, or franchise is ~~alleged to be~~ unconstitutional, that party shall serve the state attorney general ~~the attorney general of the state shall also be served~~ with a copy of the ~~proceeding~~motion or pleading, and the state ~~and~~ is entitled to be heard. Notice to the state or municipality required by this subsection (j) shall be made pursuant to Rule 5(b) within 21 days of the date when the motion or pleading challenging validity or constitutionality was filed.

(k) – (m) [NO CHANGE]

Rule 59. Motions for Post-Trial Relief

(a) Post-Trial Motions. Within 14 days of entry of judgment as provided in C.R.C.P. 58 or such greater time as the court may allow pursuant to a request for an extension of time made within that 14-day period, a party may move for post-trial relief including:
(1) A new trial of all or part of the issues;
(2) Judgment notwithstanding the verdict;
(3) Amendment of findings; or
(4) Amendment of judgment.

Motions for post-trial relief may be combined or asserted in the alternative. The motion shall state the ground asserted and the relief sought.

(b) – (k) [NO CHANGE]

District Court _____ County, Colorado Court Address: Plaintiff(s): v. Defendant(s):	▲ COURT USE ONLY ▲
Attorney or Party Without Attorney (Name and Address): Phone Number: E-mail: FAX Number: Atty. Reg. #:	Case Number: Division Courtroom

NOTICE TO ELECT EXCLUSION FROM C.R.C.P. 16.1 SIMPLIFIED PROCEDURE

Simplified Procedure under C.R.C.P. 16.1 is intended to be a less expensive and faster method of handling civil cases and applies where amount sought against each party is $100,000.00 or less, see C.R.C.P. 16.1(c). The Rule requires early and full disclosure of the information that each party has about the dispute and addresses what evidence will be introduced at trial.

The party and attorney, if applicable, signing this Notice hereby elect to exclude this case from the Simplified Procedure under C.R.C.P. 16.1. This election is being filed with the Court no later than the time provided by C.R.C.P. 16.1(d).

IT IS UNDERSTOOD THAT ONCE THIS NOTICE OF EXCLUSION IS FILED WITH THE COURT, THE PROCEDURES OF C.R.C.P. 16, CASE MANAGEMENT AND TRIAL MANAGEMENT WILL APPLY TO THIS CASE.

☐ By checking this box, I am acknowledging I am filling in the blanks and not changing anything else on the form.

☐ By checking this box, I am acknowledging that I have made a change to the original content of this form.

This Notice must be signed by the party and, if represented, by the attorney.

Date: _____ _____
Signature of Party

Date: _____ _____
Signature of Attorney for Party

CERTIFICATE OF SERVICE

I certify that on _____ (date) a true and accurate copy of this document was served on the other party by ☐Hand Delivery, ☐E-filed, ☐Faxed to this number _____, or
☐by placing it in the United States mail, postage pre-paid, and addressed to the following:

To: _____
_____
_____
_____
_____
Signature of Party or Attorney for Party

Rule 6. Time

(a) [NO CHANGE]

(b) Enlargement. When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may, at any time in its discretion (1) with or without motion or notice, order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action under Rule 60(b) and may extend the time for taking any action under Rule 59 only as allowed by that rule.

(**c) – (e)** [NO CHANGE]

COMMENTS

2012

[1] After the particular effective date, time computation in most situations is intended to incorporate the Rule of Seven. Under the Rule of Seven, a day is a day, and because calendars are divided into 7-day week intervals, groupings of days are in 7-day or multiples of 7-day intervals. Groupings of less than 7 days have been left as they were because such small numbers do not interfere with the underlying concept. Details of the Rule of Seven reform are set forth in an article by Richard P. Holme, 41 Colo. Lawyer, Vol. 1, P 33 (January 2012).

[2] Time computation is sometimes "forward," meaning starting the count at a particular stated event [such as date of filing] and counting forward to the deadline date. Counting "backward" means counting backward from the event to reach the deadline date [such as a stated number of days being allowed before the commencement of trial]. In determining the effective date of the Rule of Seven time computation/time interval amendments having a statutory basis, said amendments take effect on July 1, 2012 and regardless of whether time intervals are counted forward or backward, both the time computation start date and deadline date must be after June 30, 2012. Further, the time computation/time interval amendments do not apply to modify the settings of any dates or time intervals set by an order of a court entered before July 1, 2012.

Rule 57. Declaratory Judgments

(a) – (i) [NO CHANGE]

(j) Parties; Notice to State or Municipality. When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves a challenge to the validity of a municipal ordinance or franchise, the party challenging the ordinance or franchise shall serve the municipality with a copy of the relevant motion or pleading and such municipality shall be made a party, and is entitled to be heard. If a party files a motion or other pleading asserting that a state statute, ordinance, or franchise is unconstitutional, that party shall serve the state attorney general with a copy of the motion or pleading, and the state is entitled to be heard. Notice to the state or municipality required by this subsection (j) shall be made pursuant to Rule 5(b) within 21 days of the date when the motion or pleading challenging validity or constitutionality was filed.

(k) – (m) [NO CHANGE]

Rule 59. Motions for Post-Trial Relief

(a) Post-Trial Motions. Within 14 days of entry of judgment as provided in C.R.C.P. 58 or such greater time as the court may allow pursuant to a request for an extension of time made within that 14-day period, a party may move for post-trial relief including:
(1) A new trial of all or part of the issues;
(2) Judgment notwithstanding the verdict;
(3) Amendment of findings; or
(4) Amendment of judgment.

Motions for post-trial relief may be combined or asserted in the alternative. The motion shall state the ground asserted and the relief sought.

(b) – (k) [NO CHANGE]

Amended and Adopted by the Court, En Banc, January 10, 2019, effective immediately.

By the Court:

Richard L. Gabriel
Justice, Colorado Supreme Court

MEMORANDUM

TO: Civil Rules Committee

FROM: Judge Jones

RE: Revised proposed revision to Rule 16.2(e)(10) to address the ambiguity flagged in *In re Marriage of Runge*, 2018 COA 23M, 415 P.3d 884

I proposed revisions to this rule at the last committee meeting. Several members expressed concerns regarding clarity. So I went back to the drawing board and, with input from a couple of folks, came up with the following:

> If a party believes that the disclosure contains a misstatement or omission materially affecting the division of assets or liabilities, the party may file and the court shall consider and rule on any motion seeking to reallocate assets and liabilities based on such a misstatement or omission, provided that the motion is filed within 5 years of the final decree or judgment. The court shall deny any such motion that is filed under this paragraph more than 5 years after the final decree or judgment.

Again, the intent is to make clear that a court must rule on a motion that is filed within 5 years of a final decree, but must deny such a motion that is filed more than 5 years after the final decree.

michaels, kathryn

From: David DeMuro <ddemuro@vaughandemuro.com>
Sent: Tuesday, December 11, 2018 11:44 AM
To: berger, michael
Cc: michaels, kathryn; layne, cheryl; botkins, jeremy
Subject: Civil Rules Committee - Request to add to the Agenda for 1/25/19
Attachments: Attachment 2 on UUDA - the UUDA statute.pdf; Attachment 1 on UUDA from Mr. Glenn.pdf; Proposal on UUDA - 12 11 18.pdf

Judge Berger: At the last meeting of the Civil Rules Committee, you asked me to look into a proposal from Steve Glenn, president of the Process Servers Association of Colorado, to amend Rules 4 and 304 based on the new Uniform Unsworn Declarations Act. I have done so and am now forwarding to Kathryn and you my memo on the issue and the 2 attachments to the memo. Please consider adding this to the agenda for the next meeting on 1/25/19.

When I spoke to Mr. Glenn he told me that his members had received some push back from court clerks and the Judicial Department (see last paragraph of the memo) on using the uniform act so I have taken the liberty of including Cheryl Lane and Jeremy Botkins on this email to give them a heads up. Mr. Glenn also mentioned that he intends to attend the Committee's 1/25/19 meeting.

Please let me know if you have any questions about this.

Dave

David R. DeMuro
ddemuro@vaughandemuro.com
Vaughan & DeMuro
720 S. Colorado Blvd.
North Tower, Penthouse
Denver, Colorado 80246
303-837-9200

Date: October 16, 2018

To: Colorado Supreme Court Civil Rules Committee

From: The Process Servers Association of Colorado, (PSACO), Board of Directors and its Members

Re: Unsworn Declarations – C.R.S. 13-27-101 [Formerly 12-55-301]

The Process Servers Association of Colorado (PSACO), respectfully requests, to be added to the Colorado Civil Rules Committee's November Agenda. Our topic will cover amendments to C.R.C.P. Rule 4 and 304 regarding Unsworn Declarations. Currently, process servers submit Affidavit(s) following the guidelines set forth in, C.R.C.P. Rule 4 (h) Manner of Proof and C.R.C.P. Rule 304 (g) Manner of Proof. Both Rules require persons other than the sheriff, marshal or similar governmental official to submit duly acknowledged affidavits.

During the 2017 Colorado Legislative Session, the Uniform Unsworn Declarations Act was amended. The Act now states:

Article 27

13-27-104. [Formerly 12-55-304] Validity of unsworn declaration.

(a) (1) Except as otherwise provided in subsection (b) SUBSECTION (2) of this section, if a law of this state requires or permits use of a sworn declaration in a court proceeding, an Unsworn Declaration (Affidavit) as they accept Sworn Affidavits meeting the requirements of this part 3 ARTICLE 27 has the same effect as a sworn declaration.

C.R.S. 13-27-101 defines Sworn Declarations to include Affidavits.

8480 E. Orchard Road, #5700, Greenwood Village, CO 80111
Phone: (720) 253-5773 Fax: (303) 778-1310

We respectfully request, the Colorado Rules of Civil Procedure be amended to allow the Colorado Court Clerks and Judges, to accept Unsworn Declarations meeting the requirements of part 3 Article 27 (See Sample Affidavit).

Respectfully,

Steven D. Glenn
President
Process Servers Association of Colorado (PSACO)

Enclosures

- CRCP Rule 4 (h) (Proposed)
- CRCP Rule 304 (g) (Proposed)
- Sample Affidavit

8480 E. Orchard Road, #5700, Greenwood Village, CO 80111
Phone: (720) 253-5773 Fax: (303) 778-1310

C.R.C.P. Rule 4 (Marked)

(a) – (g) [NO CHANGE]

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

(1) If served personally, by a statement, certified by the sheriff, marshal or similar governmental official, or ~~**statement duly acknowledged under oath**~~ **unsworn declaration signed under penalty of perjury under the law of Colorado** by any other person completing the service as to date, place, and manner of service;

(2) [NO CHANGE]

(3) [NO CHANGE]

(4) [NO CHANGE]

(5) [NO CHANGE]

(6) If served by substituted service, by ~~**a duly acknowledged statement**~~ **an unsworn declaration signed under penalty of perjury under the law of Colorado** as to the date, place, and manner of service, accompanied by an affidavit that the process was also mailed to the party to be served by substituted service, setting forth the address(es) where the process was mailed.

(i) – (m) [NO CHANGE]

27

C.R.C.P. Rule 4 (Clean)

(a) – (g) [NO CHANGE]

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

(1) If served personally, by a statement, certified by the sheriff, marshal or similar governmental official, or unsworn declaration signed under penalty of perjury under the law of Colorado by any other person completing the service as to date, place, and manner of service;

(2) [NO CHANGE]

(3) [NO CHANGE]

(4) [NO CHANGE]

(5) [NO CHANGE]

(6) If served by substituted service, by an unsworn declaration signed under penalty of perjury under the law of Colorado as to the date, place, and manner of service, accompanied by an affidavit that the process was also mailed to the party to be served by substituted service, setting forth the address(es) where the process was mailed.

(i) – (m) [NO CHANGE]

28

C.R.C.P. Rule 304 (Marked)

(a) – (f) [NO CHANGE]

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

(1) If served personally, by a statement, certified by the sheriff, marshal or similar governmental official, or **statement duly acknowledged under oath** **unsworn declaration signed under penalty of perjury under the law of Colorado** by any other person completing the service as to date, place, and manner of service;

(2) [NO CHANGE]

(3) [NO CHANGE]

(4) [NO CHANGE]

(5) [NO CHANGE]

(6) If served by substituted service, by ~~**a duly acknowledged statement**~~ **an unsworn declaration signed under penalty of perjury under the law of Colorado** as to the date, place, and manner of service, accompanied by an affidavit that the process was also mailed to the party to be served by substituted service, setting forth the address(es) where the process was mailed.

(h) – (j) [NO CHANGE]

29

C.R.C.P. Rule 304 (Clean)

(a) – (f) [NO CHANGE]

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

(1) If served personally, by a statement, certified by the sheriff, marshal or similar governmental official, or unsworn declaration signed under penalty of perjury under the law of Colorado by any other person completing the service as to date, place, and manner of service;

(2) [NO CHANGE]

(3) [NO CHANGE]

(4) [NO CHANGE]

(5) [NO CHANGE]

(6) If served by substituted service, by an unsworn declaration signed under penalty of perjury under the law of Colorado as to the date, place, and manner of service, accompanied by an affidavit that the process was also mailed to the party to be served by substituted service, setting forth the address(es) where the process was mailed.

(h) – (j) [NO CHANGE]

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COUNTY COURT, DENVER COUNTY, COLORADO

1437 Bannock Street Room #135, Denver, CO 80202

Plaintiff(s)
BOBINELL J. CASEY

AFFIDAVIT OF SERVICE

v.

Case #: 18C00694

Defendant(s)
JOSE ALEJANDRO RAMIREZ AND ANY AND ALL OTHER OCCUPANTS

Compliance Date: 09/24/2018

Received on **September 14, 2018 at 10:24 AM**

I, **Patrick Aragon III**, being duly sworn, depose and say, I have been duly authorized to make service of the document(s) listed herein, in the above mentioned case. I am over the age of 18, and am not a party to or otherwise interested in this matter.

On **Monday, September 17, 2018**, at **07:15 PM**, I executed service of a **SUMMONS IN FORCIBLE ENTRY AND UNLAWFUL DETAINER; COMPLAINT IN FORCIBLE ENTRY AND DETAINER; BLANK ANSWER UNDER SIMPLIFIED CIVIL PROCEDURE (INCLUDING COUNTERCLAIM(S) AND/OR CROSS CLAIM(S)); ATTACHMENTS**, on **ANY AND ALL OTHER OCCUPANTS** at **3115 South Colorado Boulevard, Denver, County of Denver, CO 80222.**

By Personal/Individual Service to: MARY RAMIREZ - WIFE

Description:
Age: 50's Ethnicity: Caucasian Gender: Female Weight: 120 Height: 5'4" Hair: Brown Glasses:

Additional Comments: Service by Refusal - Mary Ramirez answered the door. I recognized Mary Ramirez because I had served her personally on August 29, 2018 at 7:10 pm. I asked for Jose Ramirez and Mary told me that she did not know who Jose was and she closed the door. I said in a loud voice that I was serving her by refusal, the type of documents I was serving them, and I was posting them to the front door.

I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct

Executed on the _____ **day of** _____, _____, **at Greenwood Village, CO.**
(date) (month) (year)

_____
Patrick Aragon III

Client Reference: 18C00694
Field Sheet ID: 2632754

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of such trust records may be reproduced at any time and destroyed at any time, if done in good faith and without wrongful intent. Neither the manner in which an original is destroyed, whether voluntarily or by casualty or otherwise, nor the fact that it may have been destroyed while it was held in a custodial or fiduciary capacity shall affect the admissibility of a reproduction.

Source: L. 57: p. 367, § 1. **CRS 53:** § 52-2-4. **C.R.S. 1963:** § 52-2-4. **L. 87:** Entire section amended, p. 1577, § 16, effective July 10.

ANNOTATION

Law reviews. For article, "One Year Review of Evidence", see 35 Dicta 44 (1958).

13-26-104. Uniform construction. This article shall be so interpreted and construed as to effectuate its general purpose of making uniform the law of those states which enact it.

Source: L. 55: p. 374, § 2. **CRS 53:** § 52-2-2. **C.R.S. 1963:** § 52-2-2.

ARTICLE 27

Uniform Unsworn Declarations Act

Editor's note: This article 27 was added with relocations in 2018. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 27, see the comparative tables located in the back of the index.

PREFATORY NOTE

Declarations of persons are routinely received in state and federal courts and agencies. Many — but not all — of the declarations are affidavits and other documents sworn to by declarants before notaries public or authorized officials.

Courts and agencies do receive unsworn declarations. Unsworn declarations may be oral or in writing. For example, they may be in the form of:

- testimony given under affirmation rather than oath. See, e.g., Fed. R. Evid. 603 ("a witness must given oath or affirmation to testify truthfully"); Ala. R. Evid. 603 ("every witness [must] declare that the witness will testify truthfully, by oath or affirmation"); Mich. R. Evid. 603 (same); Wash. R. Evid. 603 (same);
- an attested (or witnessed) will. See, e.g., Ala. Code § 43-8-131; Cal. Prob. Code § 6110; Colo. Rev. Stats. § 15-11-502; Tex. Estates Code § 251.051; Va. Code § 64.2-403;
- other unsworn declarations authorized by a state's law or rules. See, e.g., Cal. Civ. Proc. Code § 2015.5; Fla. Stat. § 92.525; Kan. Stats. § 53-601; Va. Code § 8.01-4.3;
- statements made while under a belief of impending death. See, e.g., Fed. R. Evid. 804(b)(2) (statements under belief of imminent death); Ala. R. Evid. 804(b)(2) (statement under belief of impending death); Mich. Laws 767.72 (dying declarations admissible as evidence in manslaughter cases); Ohio R. Evid. 804(b)(2) (statement under belief of impending death); or
- declarations made by an officer of the court. See, e.g., Cox v. State, 279 So. 2d 143, 144-45 (Ala. Crim. App. 1973) ("[I]t was within the judge's judicial discretion as to whether or not he would take the unsworn statement of an officer of his court as evidence.").

In 2008 the Uniform Law Commission completed work on the Uniform Unsworn Foreign Declarations Act (UUFDA), which allows for the use of unsworn declarations under penalty of perjury when made outside the United States. The UUFDA extends to state proceedings the same flexibility that federal courts have had since 1976 under 28 U.S.C. § 1746. However, 28 U.S.C. § 1746 is broader than the UUFDA in

that it also covers unsworn declarations made within the United States. Additionally, while working on the UUF DA, the ULC identified 22 states with existing laws, procedural rules or statutes having a similar effect as 28 U.S.C. § 1746. It is noted in the comments of the UUFDA that the Drafting Committee considered expanding the UUFDA to include unsworn declarations made within the United States but decided against it due to the limited charge of the Committee as well as time and enactability concerns.

Since its promulgation, the UUFDA has been adopted in over 20 states and the District of Columbia. It is under consideration in additional states. Additionally, a number of states have existing or procedural rules that permit the use of unsworn declarations made within the United States.

The Uniform Unsworn Declarations Act (UUDA) affirms the use in state legal proceedings of unsworn declarations made by declarants. Under the UUDA, if an unsworn declaration is made subject to penalties for perjury and contains the information in the model form provided in the act, then the statement may be used as an equivalent of a sworn declaration. The UUDA excludes use of unsworn declarations for depositions, oaths of office, oaths related to self-proved wills, declarations recorded under certain real estate statutes, and oaths required to be given before specified officials other than a notary.

The UUDA will extend to state proceedings the same flexibility that federal — and a number of state — courts and agencies have employed for decades. Since 1976, federal law (28 U.S.C. § 1746) has allowed an unsworn declaration to be recognized and valid as the equivalent of a sworn affidavit if it contained an affirmation substantially in the form set forth in the federal act. The courts, though, have ruled that 28 U.S.C. § 1746 is inapplicable to state court proceedings. Several states also authorize the use of unsworn declarations (e.g., Cal. Civ. Proc. Code § 2015.5; Fla. Stat. § 92.525; Kan. Stats. § 53-601), but the state procedures are not uniform.

Existing state legislation varies significantly in content, scope and form. Enactment of the UUDA harmonizes state and federal treatment of unsworn declarations. Uniformity is important because many matters as to which the use of unsworn declarations is valuable will involve more than one state or jurisdiction. Further, the UUDA will reduce aspects of confusion regarding differences in federal and state litigation practice. The act also eases some of the declarants' burdens in providing important information for state proceedings.

The Uniform Unsworn Declarations Act should be enacted in every state.

13-27-101. Short title. The short title of this article 27 is the "Uniform Unsworn Declarations Act".

Source: L. 2018: Entire article added with relocations, (SB 18-032), ch. 8, p. 154, § 9, effective October 1.

Editor's note: This section is similar to former § 12-55-301 as it existed prior to 2018.

13-27-102. Definitions. In this article 27:

(1) "Boundaries of the United States" means the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

(2) "Law" includes the federal or a state constitution, a federal or state statute, a judicial decision or order, a rule of court, an executive order, and an administrative rule, regulation, or order.

(3) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(4) "Sign" means, with present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

(5) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(6) "Sworn declaration" means a declaration in a signed record given under oath. The term includes a sworn statement, verification, certificate, and affidavit.

(7) "Unsworn declaration" means a declaration in a signed record that is not given under oath, but is given under penalty of perjury.

Source: L. 2018: Entire article added with relocations, (SB 18-032), ch. 8, p. 154, § 9, effective October 1.

Editor's note: This section is similar to former § 12-55-302 as it existed prior to 2018.

COMMENT

1. The definition of "law" is drafted in an open - ended manner to give it the widest possible application. The term is not ordinarily defined in uniform acts but in this context it is important that judges applying the act be in no doubt about its breadth. The wording is taken from the definition contained in the Revised Model State Administrative Procedure Act.

In most instances, "law" is referring to the law of the enacting state. Section 7 is the exception; in that section, "law" would address the general law on the subject of declarations because the provision encourages interpretation to achieve uniformity in the law.

2. A "record" includes information that is in intangible form (e.g., electronically stored) as well as tangible form (e.g., written on paper). It is consistent with the Uniform Electronic Transactions Act and the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7001 et seq.).

3. The definition of "sign" is broad enough to cover any writing containing a traditional signature and any record containing an electronic signature. It is consistent with the Uniform Electronic Transactions Act and the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7001 et seq.).

13-27-103. Applicability. This article 27 applies to an unsworn declaration by a declarant who at the time of making the declaration is physically located within or outside the boundaries of the United States whether or not the location is subject to the jurisdiction of the United States.

Source: L. 2018: Entire article added with relocations, (SB 18-032), ch. 8, p. 154, § 9, effective October 1.

Editor's note: This section is similar to former § 12-55-303 as it existed prior to 2018.

COMMENT

This act applies to unsworn declarations made by a declarant regardless of where the declarant was located at the time of the declaration. The declaration could have been made within the United States whether within the enacting state or in a different state (even if the location is under the control of another sovereign, such as foreign embassies or consulates or federally recognized Indian lands), or in a foreign country.

13-27-104. Validity of unsworn declaration. (1) Except as otherwise provided in subsection (2) of this section, if a law of this state requires or permits use of a sworn declaration in a court proceeding, an unsworn declaration meeting the requirements of this article 27 has the same effect as a sworn declaration.

(2) This article 27 does not apply to:

(a) A deposition;

(b) An oath of office;

(c) An oath required to be given before a specified official other than a notary public;

(d) A declaration to be recorded pursuant to article 35 of title 38 for the purposes of conveying and recording title to real property or a declaration required to be recorded for purposes of registering title to real property pursuant to article 36 of title 38; or

(e) An oath required by section 15-11-504 for a self-proved will.

Source: L. 2018: Entire article added with relocations, (SB 18-032), ch. 8, p. 154, § 9, effective October 1.

Editor's note: This section is similar to former § 12-55-304 as it existed prior to 2018.

COMMENT

Except as provided in subsection 4(b) of this section, an unsworn declaration meeting the requirements of this act may be used in a state proceeding or transaction whenever other state law authorizes the use of a sworn declaration. Thus, if other state law permits the use of an affidavit, an unsworn declaration meeting the requirements of this act would also suffice. Additionally, if other state law authorizes other substitutes for a sworn declaration, such as an affirmation, then as provided in subsection (a) of this section, an unsworn declaration meeting the requirements of this act could serve as a substitute for an affirmation. Nothing in this act affects the efficacy of sworn declarations. An unsworn declaration is an alternative to a sworn declaration. In perhaps most cases, sworn or notarized declarations may be preferred; unsworn declarations though may be used when necessary or suggested by circumstances.

The use of unsworn declarations is not limited to litigation. Unsworn declarations would be usable in civil, criminal, and regulatory proceedings and settings. However, there are certain contexts in which unsworn declarations should not be used, and these contexts are listed in subsection (b) of this section.

This act does not relieve a party from establishing the necessary foundation for the admission of an unsworn declaration. Authenticity is not addressed in this act.

The authenticity of the declaration must be established in accordance with the law of the enacting state. If authorized by the law of the enacting state, authenticity of written declarations might be established through, for example, testimony of witnesses to the declaration, handwriting experts or lay witnesses familiar with the signature of the declarant, comparison with authenticated specimens, or other recognized methods of authentication. See Fed. R. Evid. 901. Such approaches are commonly acceptable in cases involving attested wills. Although subscribing witnesses are preferred, their testimony is not necessary for authentication of the declaration if its authenticity can be established by other means. See, e.g., Fed. R. Evid. 903; Cal. Prob. Code §§ 8220 - 21, (attested wills may be proved by testimony or deposition to subscribing witness or absent a witness by proof of handwriting and affidavit of person with personal knowledge); Iowa Code § 622.24 (absent testimony of subscribing witness to attested will, execution of will may be proved by other evidence); Mass. Gen. Laws 190B § 3 - 406(a) (due execution of an attested will may be proved by evidence other than testimony of attesting witness); Mich. Comp. Laws § 700.3405(2) (authentication of attested wills by witnesses or other evidence authorized).

As noted in the Legislative Note, an enacting state should ensure that its perjury law includes unsworn declarations. For example, see Ore. Rev. Stats. § 162.065, which provides: "(1) A person commits the crime of perjury if the person makes a false sworn statement or a false unsworn declaration in regard to a material issue, knowing it to be false. (2) Perjury is a Class C felony." See also 11 Del. Code § 1224 (definition of "swears falsely" includes unsworn declarations).

13-27-105. Required medium. If a law of this state requires that a sworn declaration be presented in a particular medium, an unsworn declaration must be presented in that medium.

Source: L. 2018: Entire article added with relocations, (SB 18-032), ch. 8, p. 155, § 9, effective October 1.

Editor's note: This section is similar to former § 12-55-305 as it existed prior to 2018.

COMMENT

Courts and agencies often restrict the medium in which pleadings, motions, and other documents may be filed. This section recognizes that such a restriction is binding on a person seeking to introduce an unsworn declaration.

13-27-106. Form of unsworn declaration. An unsworn declaration under this article 27 must be in substantially the following form:

> I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

Executed on the _____ (date) day of _____ (month), _____ (year),

at _____ (city or other location, and state or country)

_____ (printed name)

_____ (signature)

Source: L. 2018: Entire article added with relocations, (SB 18-032), ch. 8, p. 155, § 9, effective October 1.

Editor's note: This section is similar to former § 12-55-306 as it existed prior to 2018.

COMMENT

The form informs the declarant that the declaration is made under penalty of perjury, thereby reminding the declarant of the potential liability it establishes. Section 3 of this act authorizes the use of unsworn declarations regardless of where the declaration was made. The form seeks the location of the declarant at the time of making the declaration which may be helpful for authentication purposes even though location does not affect admissibility.

13-27-107. Uniformity of application and construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Source: L. 2018: Entire article added with relocations, (SB 18-032), ch. 8, p. 155, § 9, effective October 1.

Editor's note: This section is similar to former § 12-55-307 as it existed prior to 2018.

COMMENT

This section recites the importance of uniformity among the adopting states when applying and construing the act.

13-27-108. Relation to "Electronic Signatures in Global and National Commerce Act". This article 27 modifies, limits, and supersedes the federal "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. sec. 7001, et seq., but does not modify, limit, or supersede section 101 (c) of that act, 15 U.S.C. sec. 7001 (c), or authorize electronic delivery of any of the notices described in section 103 (b) of that act, 15 U.S.C. sec. 7003 (b).

Source: L. 2018: Entire article added with relocations, (SB 18-032), ch. 8, p. 155, § 9, effective October 1.

Editor's note: This section is similar to former § 12-55-308 as it existed prior to 2018.

COMMENT

This section responds to the specific language of the Electronic Signatures in Global and National Commerce Act and is designed to avoid preemption of state law under that federal legislation.

MEMORANDUM

To: The Honorable Michael H. Berger, Judge, Colorado Court of Appeals
Chair, Colorado Supreme Court Advisory Committee on the Rules of Civil Procedure

From: Dave DeMuro

CC: Kathryn Michaels, Cheryl Lane, and Jeremy Botkins

Re: Request to Modify C.R.C.P. 4 (h) and 304 (g) on Proof of Service of Process

Date: December 11, 2018

The Request. In a letter dated October 16, 2018, Steven D. Glenn, President of the Process Servers Association of Colorado, requested the Civil Rules Committee to consider proposing an amendment to Rules 4 (h) and 304 (g) to allow private process servers to sign a return of service form with an "unsworn declaration signed under penalty of perjury under the law of Colorado," rather than completing a "statement duly acknowledged under oath," or affidavit form, as has been done in the past. Mr. Glenn's letter and his proposed changes are attached to this memo (this attachment to this memo duplicates pages 25-31 of the materials attached to the agenda for the Committee meeting of November 16, 2018).

Mr. Glenn based his request on the adoption in Colorado of the Uniform Unsworn Declarations Act (UUDA), codified at C.R.S. § 13-27-101 et seq., effective October 1, 2018. A copy of the statute is also attached. I agreed at the November 16 meeting to look into the request and report back to the Committee.

History of the Uniform Act. Before addressing Mr. Glenn's request, some history and explanation of the UUDA is needed. In 2009, the Colorado Legislature adopted the Uniform Unsworn Foreign Declarations Act (UUFDA), codified at C.R.S., § 12-55-301, until it was repealed in 2018. But, the UUFDA did not cover unsworn declarations made within the United States.

Therefore, the Commissioners recently issued a new, and very similar, uniform law, the UUDA, to cover such declarations made within or without the U.S. The Commissioners' website shows that it has been adopted in two states so far, Colorado and Utah. The editor's notes in C.R.S. state that this statute was merely relocated from § 12-55-301 et seq. to § 13-27-101 et seq., but it appears to me that the UUFDA was repealed and the slightly broadened UUDA is now the relevant statute.

Key Features of the UUDA . The Prefatory Note to the UUDA in article 27 of title 13 (attached) states that it "affirms the use in state legal proceedings of unsworn declarations made by declarants," and that "under the UUDA, if an unsworn declaration is made subject to penalties

for perjury and contains the information in the model form provided in the act, then the statement may be used as an equivalent of a sworn declaration," or affidavit. The Note also states that the UUDA extends to state proceedings the same flexibility that federal courts have had for decades under 28 U.S.C. § 1746, as well as a number of states under their state statutes.

The key provision of the UUDA is found in § 13-27-104 (1) which provides that "if a law of this state requires or permits the use of a sworn declaration in a court proceeding, an unsworn declaration meeting the requirements of this article 27 has the same effect of a sworn declaration." The word "law" is broadly defined to include "the federal or a state constitution, a federal or state statute, a judicial decision or order, a rule of court, an executive order, and an administrative rule, regulation or order." C.R.S. § 13-27-102(2).

In other words, an unsworn declaration may be now be used in almost any situation where an affidavit was required before, and without having to find a notary, who merely certifies the identity of the signer. Section 13-27-104(2) lists only five exceptions where article 27 does not apply (a deposition, an oath of office, an oath before a specified official other than a notary, some declarations relating to real estate and an oath required for a self-proved will). The form of the unsworn declaration is set forth in § 13-27-106. Note that the UUDA merely allows, but does not require, the use of an unsworn declaration, so anyone may continue to use affidavits.

Rule 108. It also should be noted that C.R.C.P. 108 on affidavits states in its entirety: "An affidavit may be sworn to either within or without this state before any officer authorized by law to take and certify the acknowledgment of deeds conveying lands." But, remember that under the UUDA, any court rule is defined as a "law" and that an unsworn declaration may be used under any "law" requiring or permitting a sworn declaration. Therefore, I do not think that Rule 108 is inconsistent with the UUDA or that it needs to be modified. I reach the same conclusion about other rules and forms referring to affidavits.

Recommendation. Because the UUDA is available to all in the right circumstances and requires no action by the Colorado Supreme Court to acknowledge its existence, or to discourage the use of affidavits which continue to be available for use in court, I recommend that we take no action. Some Committee members might favor amending every rule that refers to affidavits or statements under oath, but I believe it is unnecessary and we may miss some (many such references are in rules not under our jurisdiction) leading to confusion about the applicability of the UUDA. I also recommend that we tell Mr. Glenn that he should change his form to comply with the UUDA and go forward with the unsworn declarations.

Please note: After I wrote above material, I spoke to Mr. Glenn. He told me that when the UUDA was passed, members of his organization informed court clerks that they would start to use unsworn declarations, but the clerks told them later that the Judicial Department had instructed the clerks to reject such declarations on returns of service because Rules 4 and 304 expressly required affidavits. If that is the Department's position, I disagree with it. He also said that it is a burden on the process servers who sometimes drive many miles to find a notary.

Please let me know if you have any questions about this memo.

michaels, kathryn

From: berger, michael
Sent: Thursday, January 10, 2019 10:48 AM
To: michaels, kathryn
Cc: Richard P. Holme (richard.holme@dgslaw.com)
Subject: FW: Gathering info on CRCP 16.1

Kathryn, please also include Dick's email on the January 25 agenda and also include Dick's email to me in the agenda packet.

Michael H. Berger

From: Holme, Richard <Richard.Holme@dgslaw.com>
Sent: Monday, January 7, 2019 10:43 AM
To: berger, michael <michael.berger@judicial.state.co.us>
Subject: Gathering info on CRCP 16.1

Mike: Rule 16.1 is probably just now beginning to have some impact on cases that were filed shortly after its effective date of September 1, 2018. I have a couple thoughts on this.

First, I think we should try to get some initial reactions to its implementation from some of the trial court judges who we could expect to have thoughts about that and who would be likely to share their experience with us, even though the experience levels will still be limited. For example, if given the authority to do so, I would be happy to talk or meet with Chris Zenisek, Jeff Pilkington, Ross Buchanan, Liz Starrs, Mike Martinez, Morris Hoffman, Bob McGahey, Tom Kane, Dave Prince, and Ed Moss for starters, and any others who might be recommended.

Second, in the past IAALS found that studying Rule 16.1 (original version) was hampered by the fact that some of the desired information was not being sought or captured by the state court administrator's office. This might be a particularly good time to deal with that issue before too many cases are lost for these purposes. I have got to believe that IAALS would be willing to help in developing a reasonably short list of desirable information to be gathered. It may be that Rich Gabriel would have to be brought in on this specifically and early in the process.

Dick

RICHARD P. HOLME ▪ Senior of Counsel

P: 303.892.7340 ▪ C: 303.250.2146 ▪ F: 303.893.1379 ▪ vcard

P.S. In answer to your undoubted specutlation, Yes, I have just returned from vacation.

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michaels, kathryn

From: berger, michael
Sent: Thursday, January 10, 2019 10:49 AM
To: michaels, kathryn
Cc: Richard P. Holme (richard.holme@dgslaw.com)
Subject: FW: Civil Rules Comm. -

Kathryn, please include a copy of the cited Colorado Lawyer article as part of the materials for the January 25 meeting, and show this as a discussion item on the agenda.

Michael H. Berger

From: Holme, Richard <Richard.Holme@dgslaw.com>
Sent: Monday, January 7, 2019 10:02 AM
To: berger, michael <michael.berger@judicial.state.co.us>
Subject: Civil Rules Comm. -

Mike: I was most impressed at the report from the Denver County Court in the current issue of The Colorado Lawyer (Jan. 2019, at 12-15). I suggest that we include a copy of this article in the January meeting packet with a question as to whether we should consider adopting or at least encouraging other county courts operating under state law to do whatever can be done to apply as many of the principles as possible that are presently being used by the Denver County Court to create procedural fairness.

FYI, these practices have been regularly used and strongly encouraged by Judge David Prince for many years now. It might be useful to get his reaction and input on this subject.

Dick

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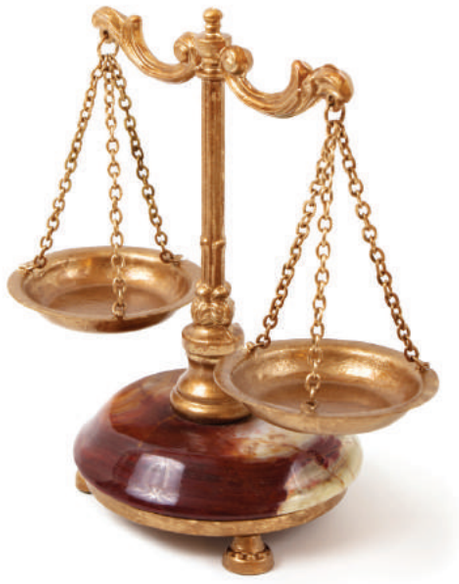

Denver County Court

The Pursuit of Procedural Fairness

BY ANDREA EDDY AND MORGAN CALI

People come to court for various reasons, especially Denver County Court, which handles over 150,000 cases each year ranging from civil disputes to traffic tickets to criminal felony advisements. Historically, courts are outcome-oriented, focused on the decision-making process through the application of law. Judicial officers and other courtroom stakeholders often fail to appreciate the impact that the process itself has on human lives. Denver County Court is working to shift its focus to the human side of this process through its pledge to "procedural fairness." There are four key elements to procedural fairness: "(1) treating court users with dignity and respect, (2) ensuring that they understand the process, (3) that they have a voice, and (4) that decisions are made neutrally."[1]

The Denver County Court judges recognize that how they handle cases affects how well individuals comply with court orders and how they feel about the overall court system. This is not to suggest that practicing procedural fairness will make people happy when they lose a hearing or receive a ruling that harms their life, but they might have a better understanding of what happened and why. National research shows that "when court users perceive the justice system to be fair, they are more likely to comply with Court orders and follow the law in the future—regardless of outcomes in the case."[2] The conscious implementation and practice of procedural fairness in court proceedings helps us as judicial officers shift the focus from outcomes and consequences toward fairness of the process.

Overview of Denver County Court

Denver County Court is unlike any other jurisdiction in Colorado in that it is not a combined court with the district court.[3] The Colorado Constitution carved Denver County Court out as separate from the Second Judicial District, and it handles both municipal and state cases. The City and County of Denver's charter and ordinance determines (1) the appointment, retention, and succession of judges; (2) the county court's jurisdiction, powers, and procedure; (3) the court's administration; and (4) the performance and discipline of its judicial officers.[4] The State does not fund the court. Instead, the City and County of Denver funds the court through appropriations. The court is an independent body from the State even though most cases that fall within the court's jurisdiction are state criminal and civil cases.

The Denver County Court Nominating Commission nominates judges, who are appointed by the Denver Mayor rather than the Governor. A separate discipline commission handles complaints filed against the court's judges. The court has the same appeals process as municipal and state appeals in other counties and jurisdictions; Denver District Court hears the court's appealed municipal and state cases.

Denver County Court is the largest court in Colorado. It handles a wide array of legal matters, including state criminal cases, preliminary felony hearings, state civil cases, state protection orders, city municipal cases, and traffic matters. Currently, its courtrooms span three courthouses in Denver: the City and County Building, the Lindsay Flannigan Courthouse, and the Van Cise-Simonet building. Our bench consists of 17 judges and three full-time magistrates. We are lucky to serve among the most diverse judicial officers in the state. Our judges are experienced, varied in legal background, and often recognized as progressive and forward-thinking.

The National Policy Movement Toward Procedural Fairness

"Treat litigants the way you would like for others to treat your loved ones. Simply treating them in the way you would like to be treated is not good enough."

—Judge Andre Rudolph

Courts across the nation struggle with overburdened dockets. People who often access the courts do so with great frustration and

experience long wait times. Others feel lost and confused in a foreign and overwhelming system. Many are experiencing financial hardship and struggling to make ends meet—some are just a few dollars away from falling into homelessness, losing a vehicle, or losing child care. Going to court adds to these existing life stresses.

When parties go to court, especially high-volume courts, many report feeling like a widget in a factory rather than a human being. They feel discouraged because they do not believe that the court will hear them, and they lose confidence in the justice system. The best practices of procedural fairness encourage the court to pause and consider how court proceedings are conducted and the resulting effect on people's lives. Judicial officers and stakeholders are asked to consider:

- The defendant who has been waiting all morning to have her case called, and therefore is not at work earning wages needed to support her family.
- The defendant standing before the court who is anxious and scared, facing serious consequences such as incarceration, eviction, loss of employment, or immigration implications, and who lacks any support resources.
- The defendant who may be too intimidated to ask questions and may not understand that the judge cannot make frequent and meaningful eye contact while entering his case information into the computer system.
- The defendant who is suffering from an untreated mental illness.
- The defendant whose belongings remain in a single grocery cart behind a local grocery store as she sits in custody because she cannot post a $50 bond.
- The defendant who was incarcerated at the pretrial phase for two or three days waiting for a charging decision by the state; meanwhile, he is losing employment, housing, and possibly parenting rights.
- The juror who came to the courthouse at 7:00 a.m., found parking, went through security, missed work without pay, sat in the jury assembly room and, after hours of waiting, was told to return the next day because the trial did not start until mid-afternoon.

A person's unique circumstances should not impair the court's application of law. But under procedural fairness, judicial officers are committed to engaging each person as an individual with unique circumstances rather than as a number. This practice creates improved public trust and confidence in our justice system.

Denver County Court's Journey toward Procedural Fairness

Denver County Court can assess and create change to better serve the community in the interest of procedural fairness because it is uniquely positioned as a separate court. In 2017, the court spent time assessing its court assignments, staffing, docket settings, dispositions, and trends for case filings and trial settings. In doing so, we discovered that it was operating ineffectively in a few specific areas, thus creating a disservice to our community.

- **Scheduling.** We found continuous and unnecessary delays in the court's seven trial divisions.[5] One-day trials did not start until midday and often spilled over into the next day simply because the court had to attend to other scheduled docket matters in the morning. Many jurors waited hours to find out whether they would be called and missed work unnecessarily. Victims, witnesses, attorneys, and court staff were often at the courthouse from 8:00 a.m. until late into the evening.
- **Criminal Division.** The increase in felony filings, up by 41% at the time, pushed jail courtrooms in the Van-Cise-Simonet Courthouse to the brink. Detectives struggled to find judges to sign arrest and search warrants. The judges, burdened with heavy dockets, were spending most of their time on the bench, so detectives often had to bounce among three buildings to find an available judge. This created a substantial safety concern, as warrants carry a sense of urgency and often must be signed as soon as possible.
- **Civil Division.** In 2017, there were over 24,000 civil returns and small claims cases with as many as 400 processed in one day—yet all the court's civil returns were processed in a small room. This was too many people, in too small a room, and generally an inappropriate space for the return process. Further, a judge did not welcome parties or explain to them a comprehensive general advisement. Instead, a video advisement played on a loop. The room's overall environment gave the impression that the plaintiffs had the upper hand, which left litigants feeling they would not be treated impartially, fairly, or even humanely.

This assessment of the Denver County Court system made it abundantly clear that what worked in the past no longer constituted best practices. The court was not practicing procedural fairness in all areas, and there was generous room for improvement to better serve the Denver community.

The first step in reorganizing the court was to explore national procedural fairness best practices. So, in March 2018, the court held a two-day symposium at the University of Denver Sturm College of Law. Over 150 people attended, including representatives from Pretrial Services, the Denver District Attorney's Office, the State Public Defender's Office, the City Attorney's Office, the Municipal Public Defender's Office, the Private Defense Bar, Denver County Court staff, and Denver County Court judges. The symposium brought stakeholders together in a law school setting to challenge the group and to explore the question: Are there places in our court system where we can do better? This provided a thought-provoking environment where the stakeholders could collectively explore how our court system could do less harm while improving the safety of our community and outcomes for those who access the court. This opportunity brought new ideas and practices from all over the country. Attendees engaged in the symposium with great enthusiasm.

Procedural Fairness in Practice

"Denver County Court is focused on creating an environment based on neutrality, respect, and trust in the criminal proceedings."

—Judge Olympia Fay

After the symposium, the Denver County Court clarified and defined its goals by putting procedural fairness practices into action. The court's goal is for each litigant to leave the courthouse feeling that he or she (1) was treated fairly and humanely; (2) experienced an impartial court process; and (3) was provided a timely, neutral, and comfortable courtroom. We are proud to say Denver County Court implemented significant changes to better achieve these goals.

First, the court expanded the criminal trial divisions from four to five courtrooms and the general sessions trial divisions from three to four courtrooms. A rotating duty week was created so one division could handle various docket matters, thus generating an opportunity for the trial division to start trials at the beginning of the day and resume within an efficient and reasonable timeframe. As a result, jurors are selected no later than 10:00 a.m. These changes positively impacted everyone—from courtroom staff and attorneys, who found better work/life balance, to jurors, victims, and defendants, who provided unsolicited positive feedback to judges, courtroom supervisors, and the Jury Commissioner's Office. The Jury Commissioner's Office reported to the court that jurors often leave the courthouse with a positive impression, appreciated the process, and generally enjoyed their experience.

Second, the court created a dependable system for detectives to find an available judge. The civil division judges started a warrants rotation whereby the judges rotate weekly warrant duty to ensure a judicial officer is always available to sign warrants. During his or her duty week, the judge does not set anything on the docket so that detectives do not have to wait for the judge to conclude hearings and other docket matters.

Third, to address the increase in felony filings, both jail courtrooms now operate seven days a week. The court added a magistrate so that both courtrooms could handle all in-custody matters Saturday and Sunday mornings with efficiency. Pretrial services also began working 24 hours a day, seven days a week, to ensure necessary bond assessment reports were readily available to the court before bond settings. By making these changes, the court now issues more pretrial release bonds and personal recognizance bonds with appropriate expedience so that low-risk defendants maintain their employment, their housing, and a sense of stability while their criminal matter works through the criminal system.[6]

Fourth, the court reorganized its civil return process to accommodate new legislation and

to enhance procedural fairness.[7] The Colorado Legislature passed a bill that raised the statutory limit for county court civil cases from $15,000 to $25,000 effective January 1, 2019.[8] To better serve litigants and to accommodate the anticipated increase in civil cases, the court relocated all civil returns to a far larger courtroom. And, instead of the current advisement video, the judge assigned to duty week provides a morning welcome and judicial advisement. The court also advises parties of available resources, and defendants can now visit the legal self-help center. Additionally, a caseworker with Denver Department of Human Services is available in the courtroom who can help find other resources, such as temporary rental assistance, food stamps, and Medicaid. Defendants can also request to waive a filing fee or apply for legal representation with Colorado Legal Services based on indigency guidelines. In addition, tables have been placed outside the courtroom so parties can discuss possible settlement of the case. These changes help create an impartial and unbiased environment for both defendants and litigants.

While the four achievements discussed above exemplify some of our biggest improvements, other changes to the court include expansion of our sobriety courts to better serve and assist those who are drug-sick, suffer from mental illness, and are homeless. The court also improved its outreach and wellness courts to better accommodate the increasing mental health, homelessness, and general resource needs in our community. None of these changes could have been accomplished without the support and help of the many stakeholders, Denver County Court staff, and retired Judge John Marcucci.

The Continued Pursuit of Procedural Fairness

"We made these changes because procedural fairness demanded it. We knew that the people we serve deserved much better, including the public, the accused, victims, lawyers, and jurors. Our goal was to better serve and to increase public confidence in the justice system. It's one of our prouder moments."

—Judge Nicole Rodarte

Denver County Court is continuously improving its processes and changing to meet community demand. While the court has more to accomplish, it is committed to the fundamental principles of procedural fairness—that a justice system should treat everyone with dignity and respect from the first contact with the court through the conclusion of the case. Behind every case number and every case file are human lives that have been adversely impacted in some significant way. Our goal is to make sure all those individuals—whether victims, defendants, witnesses, family members, or jurors—feel heard, respected, and fairly treated throughout the process. CL

Andrea Eddy was appointed to the Denver County Court bench in 2016. She served as a Denver County Court magistrate in 2015. Before becoming a magistrate, Judge Eddy was a deputy district attorney for the Denver District Attorney's Office. **Morgan Cali** is the law clerk for Denver County Court Judge Theresa Spahn. She is a 2017 graduate of the University of Denver Sturm College of Law, where she participated in the school's Trial Advocacy Program and Civil Litigation Clinic.

Coordinating Editor: Hon. Stephanie E. Dunn, stephanie.dunn@judicial.state.co.us

NOTES

1. *See generally* Procedural Justice, Center for Court Innovation, www.courtinnovation.org/areas-of-focus/procedural-justice.
2. *Id.*
3. Colo. Const. art. 20, § 6; Colo. Const. art. 6, § 26.
4. Denver, Colo. Charter art. IV; Denver, Colo. Ordinance ch. 14, art. I.
5. Before 2017, Denver County Court had four criminal trial divisions and three general session divisions.
6. Between 2017 and 2018, the pretrial services' felony P.R. bond rate increased from 48% to 57%.
7. SB 18-056, 71st Gen. Assemb., Reg. Sess. (Colo. 2018).
8. *Id.*