

AGENDA

COLORADO SUPREME COURT COMMITTEE ON THE RULES OF CIVIL PROCEDURE

Friday, September 29, 2017, **12:00p.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 23, 2017 minutes [Page 1 to 4]
- III. Announcements from the Chair
- IV. Business
 - A. C.R.C.P. 57(j)—(Stephanie Scoville) [Page 5 to 10]
 - B. C.R.C.P. 58 & 59—(Judge Jones) [Page 11 to 18]
 - C. C.R.C.P. 80—(Judge Espinosa) [Page 19 to 41]
 - D. C.R.C.P. 107—(Lisa Hamilton-Fieldman) [Page 42 to 44]
 - E. C.R.C.P. 26—(Damon Davis & Richard Holme)
 - F. C.R.C.P. 69—(Brent Owen)
 - G. C.R.C.P. 79 & 379—(Claire Walker) [Page 45 to 50]
- V. New Business
- VI. Adjourn—Next meeting is October 27, 2017 at 1:30pm

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Conference Call Information:

Dial (720) 625-5050 (local) or 1-888-604-0017 (toll free) and enter the access code, 74629601, followed by # key.

**Colorado Supreme Court Advisory Committee on the Rules of Civil Procedure
June 23, 2017 Minutes**

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

Name	Present	Excused
Judge Michael Berger, Chair	X	
Chief Judge (Ret.) Janice Davidson	X	
Damon Davis	X	
David R. DeMuro	X	
Judge J. Eric Elliff	X	
Judge Adam Espinosa		X
Judge Fred Gannett		X
Peter Goldstein	X	
Lisa Hamilton-Fieldman	X	
Richard P. Holme	X	
Judge Jerry N. Jones	X	
Judge Thomas K. Kane	X	
Debra Knapp	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	
Gordon "Skip" Netzorg		X
Brent Owen	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 Allison Eid, Liaison	X	
Jeannette Kornreich		X

I. Attachments & Handouts

- A. June 23, 2017 agenda packet
- B. Supplemental Material – Rule 121 §1-15 memo

II. Announcements from the Chair

- The March 31, 2017 minutes were approved with one correction. In subsection III. (E), in the second sentence “langue” was corrected to “language”;
- C.R.C.P. 16.1 and JDF 601 have been posted for comment, and comments are due September 5, 2017, and;
- Due to time constraints, Judge Frick has resigned from the committee. She enjoyed her service and sends the committee her best.

III. Business

A. C.R.C.P. 53

Judge Zenisek began and reminded the committee that Rule 53 was posted for public comment and the court received one comment. The subcommittee reviewed the comment and unanimously recommends one change. The subcommittee recommends the comment to Rule 53 be amended; specifically, the first sentence will be a reference to C.R.C.P. 122, and the second sentence will be struck. The committee was in favor of the subcommittee’s proposal, with one additional amendment: in the first sentence, the parenthetical information would be struck and the title of Rule 122 will be inserted. The amended rule was adopted unanimously, and Judge Berger will resubmit the rule to the supreme court.

B. C.R.C.P. 57(j) & Fed. R. Civ. P. 5.1

Passed to September 29, 2017 meeting.

C. C.R.C.P 121 § 1-15

Judge Jones began, and reminded the committee that at the January 27, 2017, meeting, the committee approved three subcommittee recommendations. However, the committee asked the subcommittee to draft illustrative exception language to the duty to confer in subsection 8. The subcommittee presented its amendment, and acknowledged that the use of “impracticable” in the draft was a point of extensive discussion, but ultimately it was the word the subcommittee settled on. The committee discussed the use of the word “impracticable” and a straw vote was taken to remove the word; the committee voted 16:10 to remove it. There was a motion to amend subsection 8, as follows:

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.

The motion was adopted 20:4. Judge Berger will submit the rule to the supreme court.

D. C.R.C.P. 58 & 59

Judge Jones described issues surrounding Rules 58 and 59. The committee agreed that a subcommittee needed to be set-up to study the issues. The subcommittee will follow-up at the September meeting.

E. C.R.C.P. 80

The subcommittee was studying how districts handle issues surrounding Rule 80. It visited with a court reporter and received information about costs, as well as information about For The Record (FTR), a court recording system. The subcommittee will continue to meet and follow-up when they have a recommendation.

F. C.R.C.P. 107

Lisa Hamilton-Fieldman stated that the subcommittee is studying the issue and will follow-up at the September meeting.

G. Consideration of detailed rules governing the making and opposition to summary judgment motions

Judge Berger received a suggestion from Judge Freyre asking if the committee had any interest looking into whether a statewide rule regarding the content of summary judgment motions, similar to what some federal judges require, should be adopted. The district court judges on the committee were opposed to the idea because summary judgment motions differ from one another based on the underlying basis for the motion. Also, the committee didn't believe this would save time or expense. After discussion, the consensus was that standing summary judgment orders don't work well in practice and the committee does not want to pursue this. There was a motion to table this indefinitely that passed unanimously.

H. C.R.C.P. 16 & 26

Damon Davis brought three issues to the committee as outlined in his letter.

1. C.R.C.P. 16(b)(1) states that a case is at issue when, "all parties have been served and all pleadings permitted by C.R.C.P. 7 have been filed or defaults or dismissals have been entered against all non-appearing parties..." Mr. Davis had a situation where a party appeared by filing a C.R.C.P. 12 motion and was dismissed on that motion, and there was a problem getting the other party acknowledge that the case was at issue. Other members hadn't experienced a problem here, and the committee thought that Rule 16 should not be amended at this time. The

committee agreed that the extensive changes in 2015 need more time to play out, and it was too soon to make an amendment here.

2. CRCP 16(f)(3)(I); here, what if a claim or defense is pled, but it is not listed either as an issue for trial or as being withdrawn or resolved? There is an ambiguity here, and a potential for gamesmanship, where a party can fail to list a claim or defense, hoping it'll be overlooked, and then spring it on the other party at trial. The committee discussed this at length, and a motion was made to amend the subsection in the following way:

I. STATEMENT OF CLAIMS AND DEFENSES. The parties shall set forth a brief description of the nature of the case and a summary identification of the claims and defenses remaining for trial. ~~Any claims or defenses set forth in the pleadings which will not be at issue at trial shall be designated as “withdrawn” or “resolved.”~~ Any claim or defense not listed in the Trial Management Order is presumptively withdrawn.

During discussion, there was a motion to table the amendment that passed 16:0; ultimately, the committee agreed that the extensive changes in 2015 need more time to play out, and it was too soon to make an amendment here.

3. C.R.C.P. 26(a)(2)(B)(II); here, there may be some confusion on how the subsection applies, because parties are moving to strictly limit non-retained experts to what is contained in their written reports. For instance, a motion is filed to limit a doctor to what is in his or her medical records, even if the doctor has additional opinions formed during the course of treatment. Some trial courts are granting these motions and limiting non-retained experts. Mr. Davis is suggesting a variation of language, written by Richard Holme in a Colorado Lawyer article, be added to Rule 26's comment. The committee approved 13:6 the concept of adding similar language to the comment. Mr. Holme offered to draft some language for the committee to consider.

I. C.R.C.P. 69

Brent Owen submitted a letter recommending the committee consider a revision to Rule 69, which has inconsistent practices and antiquated language. The committee was in favor of creating a subcommittee to study the rule.

IV. Future Meeting

September 29, 2017

The Committee adjourned at 3:55 p.m.

*Respectfully submitted,
Jenny A. Moore*

CYNTHIA H. COFFMAN
Attorney General
MELANIE J. SNYDER
Chief Deputy Attorney General
LEORA JOSEPH
Chief of Staff
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STATE OF COLORADO
DEPARTMENT OF LAW

Office of the Attorney General

September 20, 2017

M E M O R A N D U M

TO: The Honorable Michael Berger & Colorado Civil Rules Committee
FROM: Stephanie Scoville
RE: C.R.C.P. 57(j)/F.R.C.P. 5.1

The Committee asked me to consider whether the Colorado Rules should be amended to include a provision similar to F.R.C.P. 5.1, which provides for notice to a state attorney general when the constitutionality of a state statute is challenged. I do not recommend adoption of F.R.C.P. 5.1 for the reasons described below, and instead propose modest modifications to Rule 57(j).

CURRENT STATE RULES AND STATUTES:

Rule 57 Declaratory Judgments

(j) Parties; 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 the validity of a municipal ordinance or franchise, such municipality shall be made a party, and is entitled to be heard, and if the statute, ordinance, or franchise is alleged to be unconstitutional, the attorney general of the state shall also be served with a copy of the proceeding and is entitled to be heard.

Rule 57(j) mirrors § 13-15-115, C.R.S.:

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 the validity of a municipal ordinance or franchise, such municipality shall be made a party and is entitled to be heard, and, if the statute, ordinance, or franchise is alleged to

be unconstitutional, the attorney general of the state shall also be served with a copy of the proceeding and be entitled to be heard.

CURRENT FEDERAL RULES:

(There is no analog to Rule 57 in the Federal Rules. F.R.C.P. 57 is a single paragraph referring practitioners to the federal statute governing declaratory judgments.)

F.R.C.P. 5.1 Constitutional Challenge to a Statute- Notice, Certification, and Intervention

(a) Notice by a Party. A party that files a pleading, written motion, or other paper drawing into question the constitutionality of a federal or state statute must promptly:

(1) file a notice of constitutional question stating the question and identifying the paper that raises it, if:

(A) a federal statute is questioned and the parties do not include the United States, one of its agencies, or one of its officers or employees in an official capacity; or

(B) a state statute is questioned and the parties do not include the state, one of its agencies, or one of its officers or employees in an official capacity; and

(2) serve the notice and paper on the Attorney General of the United States if a federal statute is questioned—or on the state attorney general if a state statute is questioned—either by certified or registered mail or by sending it to an electronic address designated by the attorney general for this purpose.

(b) Certification by the Court. The court must, under 28 U.S.C. § 2403, certify to the appropriate attorney general that a statute has been questioned.

(c) Intervention; Final Decision on the Merits. Unless the court sets a later time, the attorney general may intervene within 60 days after the notice is filed or after the court certifies the challenge, whichever is earlier. Before the time to intervene expires, the court may reject the constitutional challenge, but may not enter a final judgment holding the statute unconstitutional.

(d) No Forfeiture. A party's failure to file and serve the notice, or the court's failure to certify, does not forfeit a constitutional claim or defense that is otherwise timely asserted.

The Colorado Attorney General’s Office (OAG) does not favor replicating F.R.C.P. 5.1 in the Colorado Rules for several reasons:

- The OAG currently receives approximately 6-12 notices of constitutional challenges in criminal cases per week, but only 1-2 per month for civil cases. The OAG has an established internal mechanism for receiving and evaluating challenges. The OAG rarely intervenes at the trial court level; the OAG is more likely to file an amicus brief at the appellate level.
- The OAG is reluctant to impose an additional requirement on district courts to certify issues to the OAG when the parties already are directed to provide the notice.
- C.R.C.P. 24 currently requires intervention of right or permissive intervention “on timely application,” whereas F.R.C.P. 5.1 directs that a motion to intervene be filed by an attorney general within 60 days of the parties’ notice or the court’s certification. The OAG believes that “timely application” is a standard that is reasonably applied in most instances and covers a broader range of possible circumstances than F.R.C.P. 5.1’s 60-day response requirement.
- The City and County of Denver indicated a preference for the notification provision to remain in Rule 57(j).
- Practitioners currently look to Rule 57(j) for guidance on notification.

OAG PROPOSAL TO AMEND RULE 57(j):

(j) Parties; ~~notice to state 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.

Rationale for the Colorado Attorney General’s Proposal:

- The current heading of Rule 57(j) is confusing. The heading refers only to municipal ordinances, but the body refers to challenges to municipal ordinances and state statutes.
- The current rule does not specify who should provide notice of a constitutional challenge or when or how that notice should be provided.
- The current language of Rule 57 should be clarified to provide guidance to parties to the extent that it does not conflict with § 13-51-115.

West's Colorado Revised Statutes Annotated
West's Colorado Court Rules Annotated
Colorado Rules of Civil Procedure
Chapter 6. Judgment

C.R.C.P. Rule 57

RULE 57. DECLARATORY JUDGMENTS

Currentness

(a) Power to Declare Rights, etc.; Force of Declaration. District and superior courts within their respective jurisdictions shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceedings shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree.

(b) Who May Obtain Declaration of Rights. Any person interested under a deed, will, written contract, or other writings constituting a contract, or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract, or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status, or other legal relations thereunder.

(c) Contract Construed Before Breach. A contract may be construed either before or after there has been a breach thereof.

(d) For What Purposes Interested Person May Have Rights Declared. Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust, in the administration of a trust, or of the estate of a decedent, an infant, lunatic, or insolvent, may have a declaration of rights or legal relations in respect thereto:

(1) To ascertain any class of creditors, devisees, legatees, heirs, next of kin or other; or

(2) To direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity; or

(3) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

(e) Not a Limitation. The enumeration in sections (b), (c), and (d) of this Rule does not limit or restrict the exercise of the general powers conferred in section (a) of this Rule, in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

(f) When Court May Refuse to Declare Right. The court may refuse to render or enter a declaratory judgment or decree where such judgment or decree if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding.

(g) Review. All orders, judgments, and decrees under this Rule may be reviewed as other orders, judgments, and decrees.

(h) Further Relief. Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application therefor shall be by petition to a court having jurisdiction to grant the relief. If the application is deemed sufficient, the court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be granted forthwith.

(i) Issues of Fact. When a proceeding under this Rule involves the determination of an issue of fact, such issues may be tried and determined in the same manner as issues of facts are tried and determined in other actions in the court in which the proceeding is pending.

(j) Parties; 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 the validity of a municipal ordinance or franchise, such municipality shall be made a party, and is entitled to be heard, and if the statute, ordinance, or franchise is alleged to be unconstitutional, the attorney general of the state shall also be served with a copy of the proceeding and is entitled to be heard.

(k) Rule is Remedial; Purpose. This Rule is declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations; and is to be liberally construed and administered.

(l) Interpretation and Construction. This Rule shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it, and to harmonize, as far as possible, with federal laws and regulations on the subject of declaratory judgment and decrees.

(m) Trial by Jury; Remedies; Speedy Hearing. Trial by jury may be demanded under the circumstances and in the manner provided in [Rules 38](#) and [39](#). The existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate. The court may order a speedy hearing of an action for a declaratory judgment and may advance it on the calendar.

[Notes of Decisions \(260\)](#)

Rules Civ. Proc., Rule 57, CO ST RCP Rule 57
Current with amendments received through July 15, 2017

MEMORANDUM

TO: Civil Rules Committee
FROM: Judge Jones
RE: Subcommittee on C.R.C.P. 58 and 59

Before the full committee's last meeting, I prepared a memo discussing a problem I saw with Rule 59(a) relating to post-trial motions; namely, that although Rule 58(a) says that a court must "immediately" serve parties with a written, signed judgement, sometimes that doesn't happen, and when it doesn't happen, parties' time to file post-trial motions under rule 59 can be significantly shortened (or eliminated altogether). This is so because Rule 59(a) gives parties 14 days from the entry of judgment under Rule 58 to file such motions, and Rule 58 says that a judgment is entered on the date the judge signs it.

With the full committee's concurrence, Judge Berger directed that a subcommittee be formed to look into this issue and others pertaining to Rule 59. The members of the subcommittee are myself, Chief Judge Loeb, Judge Davidson, Damon Davis, Dave

DeMuro, Lisa Hamilton-Fieldman, John Lebsack, Brad Levine, and Brent Owen.

Before the subcommittee met, I looked at the interplay between Rules 6(b) (concerning extensions of time), 58, 59, and 60(b). I suggested to the subcommittee that we look at the following issues:

1. Is it a problem that the Rule 59(b) time for filing post-trial motions runs from the Rule 58 entry of judgment rather than the service of the judgment?
2. Does Rule 6(b), which says that a court may not extend the time for filing a post-trial motion under Rule 59 “except and to the extent and under the conditions therein stated,” conflict with Rule 59(a), which doesn’t appear to mention any “conditions” for extending the time?
3. Does that part of Rule 6(b) saying that a court may not extend the time to file a Rule 60(b) motion “except to the extent and under the conditions therein stated” make sense or create confusion given that Rule 60(b) doesn’t say anything about extensions of time?

The subcommittee met twice, and considered a variety of options for addressing these issues. We reached a consensus as to only one thing: we all agree that no change to Rule 58 is warranted. As for the issues identified above, there are ranging degrees of support for the following options:

1. Do nothing. A couple members of the subcommittee aren't convinced that there is a significant enough problem to justify changing any of the rules at issue.
2. One subcommittee member favors changing Rule 59(a) to tie the deadline for filing post-trial motions to the service of the judgment when the court doesn't "immediately" serve it on the parties as required by Rule 58(a).
3. There is some support for saying expressly in Rule 59(a) that a motion for extending the time for filing post-trial motions must be filed within the 14-day period.
4. There is some support for making it clear in Rule 6(b) that the court may not extend the time for filing a Rule 60(b) motion for any reason.
5. A few members support changing Rules 6(b) and 59(a) to match their federal counterparts. This would entail three

changes: (a) deleting the last clause of Rule 6(b), which says “except to the extent and under the conditions stated therein,” so that motions for extension of time to file post-trial motions under Rules 59 and 60(b) would no longer be allowed; (b) deleting “or such greater time as the court may allow” in Rule 59(a), again to make it clear that extensions aren’t allowed; and (c) changing the time for filing post-trial motions under Rule 59 from 14 days to 28 days. The net effect would that parties get more time to file post-trial motions under Rule 59, but can’t get an extension of time.

These options reflect subcommittee members’ differing levels of concern over issues such as fairness, clarity, finality, flexibility, and unintended consequences. Subcommittee members will be prepared to discuss these options, and their reasons for favoring one or more over others, at the full committee meeting on September 29.

West's Colorado Revised Statutes Annotated
West's Colorado Court Rules Annotated
Colorado Rules of Civil Procedure
Chapter 6. Judgment

C.R.C.P. Rule 58

RULE 58. ENTRY OF JUDGMENT

Currentness

(a) Entry. Subject to the provisions of [C.R.C.P. 54\(b\)](#), upon a general or special verdict of a jury, or upon a decision by the court, the court shall promptly prepare, date, and sign a written judgment and the clerk shall enter it on the register of actions as provided in [C.R.C.P. 79\(a\)](#). The term “judgment” includes an appealable decree or order as set forth in [C.R.C.P. 54\(a\)](#). The effective date of entry of judgment shall be the actual date of the signing of the written judgment. The notation in the register of actions shall show the effective date of the judgment. Entry of the judgment shall not be delayed for the taxing of costs. Whenever the court signs a judgment and a party is not present when it is signed, a copy of the signed judgment shall be immediately mailed or e-served by the court, pursuant to [C.R.C.P. 5](#), to each absent party who has previously appeared.

(b) Satisfaction. Satisfaction in whole or in part of a money judgment may be entered in the judgment record ([Rule 79\(d\)](#)) upon an execution returned satisfied in whole or in part, or upon the filing of a satisfaction with the clerk, signed by the judgment creditor's attorney of record unless a revocation of authority is previously filed, or by the signing of such satisfaction by the judgment creditor, attested by the clerk, or notary public, or by the signing of the judgment record ([Rule 79\(d\)](#)) by one herein authorized to execute satisfaction. Whenever a judgment shall be so satisfied in fact otherwise than upon execution, it shall be the duty of the judgment creditor or the judgment creditor's attorney to give such satisfaction, and upon motion the court may compel it or may order the entry of such satisfaction to be made without it.

Credits

Amended eff. Jan. 1, 1987; April 1, 1988; June 1, 1991; July 1, 1994; July 1, 1997; Jan. 1, 2012.

[Notes of Decisions \(87\)](#)

Rules Civ. Proc., Rule 58, CO ST RCP Rule 58
Current with amendments received through July 15, 2017

West's Colorado Revised Statutes Annotated
West's Colorado Court Rules Annotated
Colorado Rules of Civil Procedure
Chapter 6. Judgment

C.R.C.P. Rule 59

RULE 59. MOTIONS FOR POST-TRIAL RELIEF

Currentness

(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, 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) No Post-Trial Motion Required. Filing of a motion for post-trial relief shall not be a condition precedent to appeal or cross-appeal, nor shall filing of such motion limit the issues that may be raised on appeal.

(c) On Initiative of Court. Within the time allowed the parties and upon any ground available to a party, the court on its own initiative, may:

- (1) Order a new trial of all or part of the issues;
- (2) Order judgment notwithstanding the verdict;
- (3) Order an amendment of its findings; or
- (4) Order an amendment of its judgment.

The court's order shall specify the grounds for such action.

(d) Grounds for New Trial. Subject to provisions of [Rule 61](#), a new trial may be granted for any of the following causes:

- (1) Any irregularity in the proceedings by which any party was prevented from having a fair trial;
- (2) Misconduct of the jury;
- (3) Accident or surprise, which ordinary prudence could not have guarded against;
- (4) Newly discovered evidence, material for the party making the application which that party could not, with reasonable diligence, have discovered and produced at the trial;
- (5) Excessive or inadequate damages; or
- (6) Error in law.

When application is made under grounds (1), (2), (3), or (4), it shall be supported by affidavit filed with the motion. The opposing party shall have 21 days after service of an affidavit within which to file opposing affidavits, which period may be extended by the court or by written stipulation between the parties. The court may permit reply affidavits.

(e) Grounds for Judgment Notwithstanding Verdict. A judgment notwithstanding verdict may be granted for either of the following grounds:

- (1) Insufficiency of evidence as a matter of law; or
- (2) No genuine issue as to any material fact and the moving party being entitled to judgment as a matter of law.

A motion for directed verdict shall not be a prerequisite to any form of post-trial relief, including judgment notwithstanding verdict.

(f) Scope of Relief in Trials to Court. On motion for post-trial relief in an action tried without a jury, the court may, if a ground exists, open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct entry of a new judgment.

(g) Scope of Relief in Trials to a Jury. On motion for post-trial relief in a jury trial, the court may, if a ground exists, order a new trial or direct entry of judgment. If no verdict was returned, the court may, if a ground exists, direct entry of judgment or order a new trial.

(h) Effect of Granting New Trial. The granting of a new trial shall not be an appealable order, but a party by participating in the new trial shall not be deemed to have waived any objection to the granting of the new trial, and the validity of the order granting new trial may be raised by appeal after final judgment has been entered in the case.

(i) Effect of Granting Judgment Notwithstanding Verdict, Amendment of Findings or Amendment of Judgment. Subject to [C.R.C.P. 54\(b\)](#), granting of judgment notwithstanding the verdict, amendment of findings or amendment of judgment shall be an appealable order.

(j) Time for Determination of Post-Trial Motions. The court shall determine any post-trial motion within 63 days (9 weeks) of the date of the filing of the motion. Where there are multiple motions for post-trial relief, the time for determination shall commence on the date of filing of the last of such motions. Any post-trial motion that has not been decided within the 63-day determination period shall, without further action by the court, be deemed denied for all purposes including [Rule 4\(a\) of the Colorado Appellate Rules](#) and time for appeal shall commence as of that date.

(k) When Judgment Becomes Final. For purposes of this Rule 59, judgment shall be final and time for filing of notice of appeal shall commence as set forth in [Rule 4\(a\) of the Colorado Appellate Rules](#).

Credits

Amended eff. July 1, 1983; Jan. 1, 1985; July 1, 1994; Oct. 11, 2001; Jan. 1, 2012.

[Notes of Decisions \(631\)](#)

Rules Civ. Proc., Rule 59, CO ST RCP Rule 59
Current with amendments received through July 15, 2017

RULE 80. REPORTER; STENOGRAPHIC REPORT OR TRANSCRIPT AS
EVIDENCE

(a) Reporter. In each judicial district, the Chief Judge, or the assigned trial judge, referee, or master in consultation with the Chief Judge, has discretion to order that testimony be recorded by a court reporter. The reporter's fee shall be fixed by the court subject to limitations imposed by law, and shall be paid in the manner provided by law; and if taxed to litigant may be taxed ultimately as costs in the discretion of the court. The cost of a transcript shall be paid in the first instance by the party ordering same.

(b) Official Reporters. Each court of record may designate one or more official court reporters.

(c) Stenographic Report or Transcript as Evidence. Whenever the testimony of a witness at a trial or hearing which was stenographically or otherwise recorded is admissible in evidence at a later trial or hearing, it may be proved by the transcript thereof duly certified by the person who reported or transcribed the testimony.

(d) Reporter's Notes: Custody, Use, Ownership, Retention. All reporter's notes shall be the property of the state. Reporter's notes shall be retained by the court for no less than twenty-one years after the creation of the notes, or such other period as prescribed by supreme court directive or by the Colorado Judicial Department, Records Retention Manual. During the period of retention, reporter's notes shall be made available to the reporter of record, or to any other reporter or person the court may designate. During the trial or the taking of other matters on the record, the notes shall be considered the property of the state, even though in the custody of the reporter. After the trial and appeal period, the reporter shall list, date, and index all notes and shall properly pack them for storage. The state shall provide the storage containers and space.

West's Colorado Revised Statutes Annotated
West's Colorado Court Rules Annotated
Colorado Rules of Civil Procedure
Chapter 9. Court Administration

C.R.C.P. Rule 80

RULE 80. REPORTER; STENOGRAPHIC REPORT OR TRANSCRIPT AS EVIDENCE

Currentness

(a) Reporter. Unless the parties stipulate to the contrary, a district court or superior court shall, and any other court or referee or master in its discretion may, direct that evidence be taken stenographically and appoint a reporter for that purpose. His fee shall be fixed by the court subject to limitations imposed by law, and shall be paid in the manner provided by law; and if taxed to litigant may be taxed ultimately as costs in the discretion of the court. The cost of a transcript shall be paid in the first instance by the party ordering same.

(b) Official Reporters. Each court of record may designate one or more official court reporters.

(c) Stenographic Report or Transcript as Evidence. Whenever the testimony of a witness at a trial or hearing which was stenographically reported is admissible in evidence at a later trial, it may be proved by the transcript thereof duly certified by the person who reported the testimony.

(d) Reporter's Notes: Custody, Use, Ownership, Retention. All reporter's notes shall be the property of the state. Reporter's notes shall be retained by the court for no less than twenty-one years after the creation of the notes, or such other period as may be prescribed by supreme court directive or by instructions in the manual entitled, Colorado Judicial Department, Records Management. During the period of retention, reporter's notes shall be made available to the reporter of record, or to any other reporter or person the court may designate. During the trial or the taking of other matters on the record, the notes shall be considered the property of the state, even though in the custody of the reporter. After the trial and appeal period, the reporter shall list, date, and index all notes and shall properly pack them for storage. The state shall provide the storage containers and space.

Notes of Decisions (10)

Rules Civ. Proc., Rule 80, CO ST RCP Rule 80
Current with amendments received through July 15, 2017

SUPREME COURT OF COLORADO OFFICE OF THE CHIEF JUSTICE

Management Plan for Court Reporting and Recording Services

Background

An accurate record of all court proceedings is an essential requirement of due process of law and is required by Article VI and Article II, Section 25 of the Colorado Constitution.

This plan is adopted to promote the effective use of court reporters and electronic record operators (ERO) in the Colorado Judicial Branch and is applicable to all official court reporters, all personnel, and contract court reporters or transcribers employed by the Colorado Judicial Branch or under employment contract with the Colorado Judicial Branch. This plan does not apply to court reporters hired by a litigant to provide services as an independent contractor in a civil case unless explicitly stated.

The preferred method of making an accurate record of court proceedings is with the assistance of a realtime certified court reporter; therefore, all proceedings conducted before a district court judge may be reported by a court reporter using a stenotype machine on a “realtime” basis. An electronic record operator using digital electronic sound recording equipment can record proceedings. This provision shall in no way prohibit a judge or magistrate from operating the equipment needed to make an accurate record of any proceeding. Realtime court reporting is the standard in Colorado courts.

Pursuant to this directive, the chief judge of each judicial district shall determine which methods of recording court proceedings are to be used based upon current economic issues, availability of reporters, and other relevant factors.

I. RESPONSIBILITIES OF CHIEF JUDGE

A. Prioritization of Reported vs. Recorded Cases

Each district shall establish a case-type priority that shall be reported, if district resources permit, by court reporters.

B. Prioritization of Felony Cases

When a judicial district assigns a court reporter to report a proceeding that requires the taking of testimony in a class one or two felony case, the court reporter shall be at a minimum a Registered Professional Reporter (RPR) if an RPR certified reporter is available. Districts without an RPR court reporter should contact the State Court Administrator’s Office for assistance.

C. Prioritization of Death Penalty Cases

In a death penalty case, Realtime reporting shall be used. If reasonable attempts to locate or appoint a Realtime reporter have been made without success, districts without Realtime reporting capability should contact the State Court Administrator’s Office for assistance. A reporter reporting a death penalty case shall be, at a minimum, RPR certified. Should Realtime equipment failures or personnel emergencies occur, other court reporting methods may be used in extreme circumstances for the shortest amount of time possible.

D. Supervision of Court Reporters/Recorders

The chief judge is ultimately responsible for the administration of any court reporting services in her or his district as well as the timeliness of the production of transcripts whether on appeal or for other purposes. This responsibility may be delegated at the discretion of the chief judge.

1. All reporters (current and future) who are employees shall be under the direction and management of the chief judge of each district. Some of the functions assigned to the chief judge may be delegated, but the chief judge has the ultimate authority and responsibility for the supervision of court reporters and the implementation and enforcement of this plan.
2. All court reporters, except managing court reporters, shall be non-exempt from the Fair Labor Standards Act and shall provide timesheets of hours worked each workweek on a monthly basis to their supervisors.
3. The chief judge shall ensure that all judges provide court reporters regularly scheduled breaks during the workday.
4. The chief judge shall have the sole authority to assign or reassign court reporters and electronic recorder operators to courtrooms as necessary and appropriate in his or her discretion.
5. The chief judge shall have the authority to hire and designate court reporters and electronic recorder operators (including contract staff); however, each chief judge shall develop policies and procedures for hiring that include the district judges and any staff designated by the chief judge. The chief judge shall have the sole authority to reassign, correct, discipline or terminate court reporters and electronic recorder operators.
6. The chief judge shall be the ultimate supervisor of the district's managing court reporter, if appointed. The duty to supervise the district's managing court reporter may be delegated, in part, by the chief judge. The person supervising the managing court reporter shall have the following duties and may delegate these duties to the managing court reporter including but not limited to the following:
 - a. Investigating complaints of improper state-paid transcript billings. All court reporters/transcribers must take necessary measures to assure that authorized transcript rates are charged and transcripts are in proper form. (See Appendix A for rates and Appendix C for information required to be included on all billings.)
 - b. Monitoring the timeliness of the transcription of the record, or such parts thereof, as a judge, party or attorney may request. This applies to the transcript being prepared by a court reporter, transcriber, or outside firm preparing transcripts on behalf of the court.
 - c. Monitoring transcripts produced by transcription services to assure compliance with the transcript format and fee requirements of this Chief Justice Directive (CJD) or applicable contract.
 - d. Preserving the audio records (tape, digital or other electronic), court reporter transcripts or notes according to the current Colorado Judicial Department Retention and Disposition Schedules.

E. Managing Court Reporter

1. Each district with two or more court reporters shall have a managing court reporter selected in a manner designated by the chief judge, or the chief judge shall assign these duties to administrative staff.
2. Districts may elect to rotate the responsibilities of the managing court reporter among all reporters on a regular basis.

3. The managing court reporter shall be an exempt employee under the supervision of the chief judge or designee.
4. The managing court reporter shall be responsible to:
 - a. Assign and reassign court reporters and EROs within the district for the purpose of distributing fairly and equitably the workload and transcript preparation of all court reporting services and transcribers, with goals of minimizing travel and assuring the lowest overall cost to the Colorado Judicial Branch and State of Colorado.
 - b. Supervise the business relationship among attorneys, litigants, other parties, and court reporters/EROs/transcribers.
 - c. Develop a form to monitor and keep a record of transcript orders and requests and, if necessary, tape and/or digital recording orders and requests made in district court. In larger districts this portion of the workload may be distributed between the managing court reporter and other administrative staff.
 - d. Coordinate any transcript requests involving court reporters who no longer work for the Colorado Judicial Branch or work in another district.
 - e. Report to the chief judge on a monthly basis any late or deficient transcripts.
 - f. Maintain certification records for all court reporters within a district.
 - g. Hire substitute court reporters. Court reporters may not hire substitute reporters at their own expense. The district administrator or designee at the state's expense must hire all substitutes.
 - h. Generate the appellate query of late transcripts and provide a report to the chief judge or designee on a monthly basis.

F. Cross-Training and Backup

To assure that the needs of the judicial district are met, the chief judge or designee shall provide cross-training for the EROs and court reporters so that they can perform work for any division. EROs and court reporters may be assigned to cover other division work as may be necessary.

G. Grand Jury

The costs associated with providing a Court Reporter for grand jury proceedings including transcript fees shall be the responsibility of the district and shall be billed to the applicable Colorado Judicial Department accounting codes for grand jury expenses.

II. COURT REPORTER RESPONSIBILITIES

A. RPR Certification

1. All court reporters hired shall be RPR certified unless the district is unable to hire an acceptable certified reporter within three months of posting the position. If the district hires a non-certified reporter, that reporter must become RPR certified within two years of hire. Non-certified reporters may be used on a per case basis if certified reporters are not available.
2. All certified court reporters must maintain certification by completing three continuing education units (CEUs) every three years and maintaining certification status with National Court Reporters Association (NCRA).
3. Current Colorado Certified Shorthand Reporters (CSRs) must obtain RPR certification and must take the RPR certification exam at least once per year until certification is obtained.
4. Current court reporters who are uncertified will be placed on a performance plan to assist the reporter in obtaining certification and must take the RPR certification exam at least once per year until certification is obtained.

5. Failure to obtain or maintain RPR certification may be grounds for corrective or disciplinary action in accordance with the Colorado Judicial System Personnel Rules.

B. Realtime Certification

1. Realtime reporting can help to alleviate the problems of late transcripts; assist trial judges in deciding issues faster by seeing and keeping the Realtime notes for review and having text files for their use for the preparation of their orders; allow reporters to get the bulk of transcript work done as they are reporting; and enable all reporting staff to be at the same or similar level of skill. All court reporters must obtain and maintain NCRA's Registered Professional Reporter status and must attain official status as a Colorado Certified Realtime Reporter by meeting one of the following requirements by passing the:
 - a. NCRA Certified Realtime Reporter (CRR) test with 96 percent accuracy; or
 - b. NCRA CRR test with 94 percent accuracy (the Colorado standard); or
 - c. NCRA Certified Broadcast Captioner (CBC) / Certified CART Provider (CCP) skills test with 96 percent accuracy; or
 - d. NCRA CBC/CCP test with 94 percent accuracy (the Colorado standard); or
 - e. Federal Certified Realtime Reporter (FCRR) test with 96 percent accuracy
 - f. FCRR test with 94 percent accuracy (the Colorado standard); or
 - g. Colorado Realtime Certified Reporter (CRCR) test with 96 percent accuracy; or
 - h. CRCR test with 94 percent accuracy (the Colorado standard)
2. Current court reporters who do not have Realtime certification as described in II.B.1. of this CJD must apply for waiver to certification once per year. In order for waivers to be approved, the court reporter must demonstrate at least one testing attempt per year to maintain employment.
3. Failure to obtain or maintain CRR certification may be grounds for corrective or disciplinary action in accordance with the Colorado Judicial System Personnel Rules

C. Conduct of Court Reporter

1. The court reporter shall present him or herself to the judge in charge of the proceedings in accordance with the assignment made by the chief judge or designee.
2. The reporter shall observe, comply with, and be bound by all of the assigned judge's instructions in matters affecting the composition of the record, the marking of exhibits and maintenance of the evidence, the public or private nature of the proceeding, the adjournment of the proceeding to other times or places, the appropriate demeanor of the reporter, and other like matters.
3. The court reporter shall report by appropriate equipment all of the proceedings that he or she attends.
4. The court reporter shall take all the testimony, rulings, exceptions, oral instructions, and other proceedings during the trial of any cause, and in such causes as the court may designate.
5. The court reporter is not required to report or transcribe .WAV files or other audio or video recordings submitted or presented as part of the record.

D. Records to be Maintained by Court Reporters

1. In order to permit the routine audit and inspection of records, court reporters shall maintain accurate, legible, and up-to-date records of their transcript orders, invoices, and transcript payments.
2. Extension of time for transcripts must be obtained from the court pursuant to the appropriate rule. The chief judge or designee shall be advised in writing by the reporter or transcriber at any time the reporter or transcriber requests an extension of time on any transcript. These written records shall be maintained at the direction of the chief judge. Court reporters shall provide the chief judge and designee a copy of any request for an extension to provide an appellate record prior to submitting the affidavit to the appellate court.

III. ELECTRONIC RECORDING OPERATORS RESPONSIBILITIES

A. Conduct of Electronic Record Operator

1. The ERO shall present himself or herself to the judge in charge of the proceedings in accordance with the assignment made by the chief judge or designee.
2. The ERO shall observe, comply with, and be bound by all of the assigned judge's instructions in matters affecting the composition of the record, the marking of exhibits and maintenance of the evidence, the public or private nature of the proceeding, the adjournment of the proceeding to other times or places, the appropriate demeanor of the ERO(s), and other like matters.
3. The ERO shall record with appropriate equipment all of the proceedings that he or she attends.
4. The ERO shall record all the testimony, rulings, exceptions, oral instructions, and other proceedings during the trial of any cause, and in such causes as the court may designate.

B. Records to be Maintained by EROs

1. In order to permit the routine audit and inspection of records, EROs shall maintain accurate, legible, and up-to-date records of their transcript orders, invoices, transcript payments, expenses and attendance in court.
2. Extension of time for transcripts must be obtained from the court pursuant to the appropriate rule. The chief judge or designee shall be advised in writing by the transcriber at any time the transcriber requests an extension of time on any transcript. These written records shall be maintained at the direction of the chief judge. Transcribers shall provide the chief judge and designee a copy of any request for an extension to provide an appellate record prior to submitting the affidavit to the appellate court.

IV. COURT REPORTERS HIRED BY LITIGANTS IN CIVIL CASES

A. Scope

Court reporters hired by a party in a civil case are not Colorado Judicial Department employees. Such individuals may provide services through a company or individually to party(ies) in a civil case.

B. Hiring and Per Page Rates

The party(ies) are responsible for the court reporter's page rate and for paying any associated fees based on the negotiated page rate. The court will not set the court reporter's page rate for parties in civil cases.

C. Official File

The court may, but is not required to, order the privately hired court reporter's notes and subsequent transcript to serve as the official record of the court in place of an electronic record in which event the court reporter's notes and dictionary will become the property of the Colorado Judicial Department.

D. Objections to Creation of the Official Record

If a party objects to the creation of the official record or per page rate negotiated, the court reporter's notes shall not serve as the official record. The objecting party shall make such objections at least seven working days prior to the commencement of the proceeding, at which time the Court shall determine the method for recording the official transcript for the proceeding.

E. Rates for the Court

Transcripts ordered by the Court from a privately retained court reporter will be paid for by the Colorado Judicial Department, and are subject to Appendix A regardless of rates negotiated between the parties.

V. TRANSCRIPTS

A. Persons Authorized to Prepare Transcripts from Electronic Recordings

1. Contract transcript service companies may prepare transcripts, as determined by each judicial district policy.
2. If a judicial district enters into an agreement with a transcript service company, such contract must be in the format prescribed by the State Court Administrator.
3. Non-court reporter Colorado Judicial Branch employees shall not be allowed to transcribe court transcripts outside working hours unless the employee is a member of an independent contracting firm that provides contract transcript services as a company that has been selected by the district to prepare transcripts. This is in compliance with the requirements of the Fair Labor Standards Act, PERA rules, and IRS regulations regarding the issuance of a 1099 and W-2 to the same employee.
4. If non-court reporter Colorado Judicial Branch employees prepare transcripts from electronic recordings during established working hours, this task shall be included in the individual's normal work assignment and compensation and such individual shall not be paid the per-page rate, §13-5-128, C.R.S.

B. Compensation

1. Total Compensation

The total compensation package offered to court reporters shall be established in accordance with the Colorado Judicial System Personnel Rules and Annual Compensation Plan. Base salary, benefits, paid time off, and paid time off prorated for part-time employees for continuing education required to maintain certification shall be provided to classified court reporters, as well as variable pay, such as per page rates. When determining the total compensation package of court reporters, consideration shall also be made for expenditures incurred by court reporters on equipment, software, employment of scopists and proofreaders used during the course of business conducted for the state. Appendix F of this CJD provides a more exhaustive list of items, which should be taken into consideration in the determination of fair and equitable compensation for court reporters.

a. Court reporters are eligible for promotional increases for obtaining certification under the following conditions:

- (i) In instances where the difference in compensation midpoint between the Court Reporter's current job class and the job class the Court Reporter will promote to is more than 5%, the Court Reporters shall receive a promotional increase for attaining the certification in accordance with the Colorado Judicial System Personnel Rules.

- (ii) In instances where the difference in the compensation midpoint between the Court Reporter's current job class and the job class the Court Reporter will promote to is less than 5%, a 4% pay increase will be given for attaining certification.
2. Transcripts requested by judges
 - a. Colorado Judicial Branch court reporters and other employees who prepare transcripts as part of their regular duties shall provide transcripts requested by and used only by the judge or magistrate who presided over the matter or the chief judge and shall not be paid the transcript page rate in addition to their regular salary. These employees shall be allowed to prepare transcripts requested by judicial officers during work hours.
 - b. Court reporters and transcribers who are not Colorado Judicial Branch employees shall be considered "substitutes" and shall be compensated the state-paid transcript rate to prepare a transcript requested by and used only by the judge or magistrate who presided over the matter or the chief judge. The judicial district shall be responsible for compensation of the "substitute" court reporter or transcriber if not paid by the parties in a civil case as described in Section IV above.
 3. State-Paid Transcripts
 - a. State-paid transcripts are all transcripts requested by judicial officers, the district attorney, public defender, the Office of the Child's Representative and its contract attorneys, pro se indigent criminal defendants or advisory counsel representing an indigent criminal defendant, the Attorney General's Office, the Office of the Alternate Defense and its contract attorneys the Office of Respondent Parents' Counsel and its contract attorneys. Colorado Judicial Branch court reporters who prepare transcripts as a normal part of their job and compensation shall be allowed to prepare state-paid transcripts during work hours.
 - b. Copy costs for state-paid transcripts are eliminated and the original per-page cost applies in accordance with Appendix A of this directive. The court reporter shall provide a state-purchased disk or may email a PDF or other word-searchable protected version of the transcript to an attorney or party requesting a copy of a transcript.
 4. Private-Paid Transcripts
 - a. Private-paid transcripts are all transcripts requested by all parties, attorneys, media and entities not listed in 3 (a) above.
 - b. Colorado Judicial Branch court reporters and other employees who prepare transcripts shall not be allowed to use state time, equipment, supplies or copiers to prepare private-paid transcripts; except that a court reporter may prepare private-paid transcripts during regular working hours in the following circumstances:
 - i) Criminal transcripts requested by non-state paid attorneys
 - ii) Juvenile court transcripts requested by non-state paid attorneys
 - iii) Transcripts prepared for cases on appeal
 - iv) Transcripts of an oral ruling of a trial court ordered for the preparation of the written order at the request of the trial court.
 - c. The original per page rate and copy rates are applied as defined in Appendix A.
 - d. Court reporters shall delineate the fees for originals and copies separately in all transcript invoices.
 5. Non-Appellate Transcripts

The full price may be charged only if the independent contractor delivers the transcript within the time frame agreed upon, including any extensions that have been authorized by the chief judge.

6. Appellate Transcripts

In accordance with §13-5-128, C.R.S., the shorthand reporter of a court of record shall be compensated for preparation of the original and copies of the **transcript** of notes at such rates described in this policy.

The full price may be charged only if the transcript is delivered within the time frame prescribed by the chief judge of the district court or the appellate court. A transcript delivered within the time allowed by a timely extension granted for good cause pursuant to Colorado Rules of Appellate Procedure (C.A.R.) 11(a) and (d) is entitled to full payment. The appellate court may extend the due date for a transcript and order the reduced rate if the “good cause” requirement is not met. (See Appendix D for computation of transcript delivery dates and reductions in per page rates for late transcripts.)

C. Hourly or Daily Transcripts

Unless otherwise ordered by the trial judge assigned to the case, there shall be no hourly or daily transcripts delivered to any party or attorney. If any person desires such services, he or she must seek permission of the court to have a Realtime court reporter present for a hearing or trial.

D. Unedited Transcripts

The use of an unedited transcript as a working document shall be permitted if allowed and approved by the trial judge and the court reporter, or as permitted by court rule such as C.A.R. 3.4(e)(6). Such transcript shall not be the official record of the court unless so certified by the court reporter. The rate for the unedited transcript shall be applied according to Appendix A. Pursuant to CAR 3.4 the reporter may require a signed waiver of liability for any errors in the unedited transcript. Unedited transcripts shall include the disclaimer, Uncertified Transcript Disclaimer, in Appendix G.

E. Ordering of Transcripts, Tapes or Digital Recording Disks

Each district shall determine and post on the Colorado Judicial Branch website a policy that outlines the procedures for that particular district for ordering of transcripts, tapes or digital recording disks.

1. Transcripts may be ordered from the court following the procedure below.
 - a. The requesting party should use the request forms for transcript of a hearing or trial approved by the State Court Administrator. Blank forms can be procured from the clerk of the court or district administrator as set forth by each district. The completed form should be sent to the address listed on the form for the appropriate district.
 - b. Persons ordering transcripts will be contacted directly by the court reporter or transcriber concerning payment of the appropriate fees. Transcripts will not be started and the time limits stated for delivery of transcripts will not commence until satisfactory arrangements are made with the transcriber for the payment of required fees.
 - c. It is the requestor’s responsibility to properly pay or obtain a court order approving waiver of the fees in ordering transcripts. The requestor also must obtain and the reporter or transcriber must produce a dated receipt for the payment. This is to avoid any dispute as to the date, manner of payment and whether payment has in fact been made.
2. Copies of all or part of tapes or digital records (CD-ROM) may be ordered in those districts that are able to provide this service. The court may, based upon each district’s policy, reproduce tapes or create CDs on its own duplicating equipment and may sell copies of electronic sound recording tapes made. The district may sell a whole or partial copy of the

- proceeding if available on CD, disk or tape to the public at the prevailing rate prescribed by this CJD. The rate shall be that rate in effect at the time of ordering.
- a. Orders for copies should be submitted to the court on the request forms for tapes or CDs approved by the SCAO. Blank forms can be obtained from the clerk of the court or district administrator as set forth by each district. The completed form should be sent to the address that is listed on the form for the appropriate district.
 - b. Copies of tapes or CDs shall not be used as the official record for purposes of appeal, motions or other court proceedings. Only certified transcripts by reporters or authorized transcribers shall be used as the official records of court proceedings.
 - c. In those districts that do not provide this service, parties shall request a transcript using the procedure outlined in V(E)(1) above.
3. Districts shall not accommodate requests to listen to recorded proceedings (tapes or CDs).

F. Standards for the Production of Transcripts

The following standards apply to the production of all transcripts for Colorado courts:

1. All transcripts shall be produced in the format required by this CJD (Appendix B).
2. No court reporter/transcriber employed by the Colorado Judicial Branch shall charge fees for transcripts of official proceedings that exceed those set forth in this CJD, except as approved by the chief judge in writing for extraordinary circumstances.
3. Each court reporter/transcriber is required to certify on each invoice that the fees charged and page format used conform to this CJD.
4. If transcripts of proceedings are prepared by contract transcription services and paid for by the state:
 - a. All format, delivery time schedule, and fee requirements adopted by this CJD apply as if the transcript was produced by one of the court's reporters or other Colorado Judicial Branch employee unless the contract entered into provides otherwise.
 - b. The transcriber designated to transcribe the proceedings recorded by electronic sound recording shall clearly specify on the billing or invoice and the transcript cover page that the proceedings which were transcribed were recorded on an electronic recording, and shall clearly certify the transcript as follows: "I (we) certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter." [Signature of transcriber and date].
 - c. Each transcriber may charge and collect fees for transcripts requested at rates prescribed by this CJD.
5. Appellate transcripts may be provided in electronic format as part of an electronic record submitted pursuant to C.A.R. 10 and 11. In criminal cases, an electronic transcript may be provided as part of an electronic record where electronic records are available.

G. Time Limits for Delivery of Transcripts

1. Original transcripts ordered by judicial officers shall be provided to the judicial officer within the time prescribed by the order.
2. All transcripts of official proceedings prepared for the purpose of appeal shall be delivered to the ordering party, if a copy is requested, and the original filed with the clerk of court within the prescribed time limits of the Colorado Rules of Appellate Procedure.
3. Extension of time for appellate transcripts must be sought from the court pursuant to the appropriate rule.

H. Distribution of Transcripts

1. At the request of the ordering party, a non-appellate transcript may be provided in electronic format, if the reporter or transcriber agrees.
2. For state-paid transcripts, the court reporter shall provide the transcript in PDF or other word-searchable protected format to the party requesting a copy of a transcript. Replacement copies shall be made available in accordance with the fee structure below for both state-paid and private-paid requests. The intent of this provision is for only one state agency to pay for the transcript; therefore, copy costs for state-paid copy requests shall not apply. If the state agency requests the first copy, copy costs for private parties shall be in accordance with Appendix A.
3. Any requests for transcripts from persons or entities who are not parties to the case must be forwarded to the district administrator or chief judge prior to the court reporter agreeing to arrangements to furnish a copy. No court reporter or transcriber shall create a distribution list for anyone other than parties or attorneys of record.

VI. OWNERSHIP, CUSTODY, USE, RETENTION AND FILING OF THE NOTES AND ELECTRONIC RECORDINGS

A. The notes of all court reporters:

1. Shall remain property of the Colorado Judicial Branch controlled by the chief judge or designee to ensure transcripts may be prepared by another reporter, if and when necessary;
2. Shall be retained by the appropriate court for a period prescribed by the Colorado Judicial Department Retention and Disposition Schedules; AND
3. Are not public records.

B. The work of all court reporters shall be readable and shall remain in the ultimate control of the chief judge or designee so that another reporter, if necessary, can read the notes of a court reporter.

C. Each court reporter shall be required to sign a statement (Appendix E) acknowledging the ownership of the notes and of the dictionary provision below.

1. When a court reporter leaves the employment of the Colorado Judicial Branch, the court reporter shall provide the chief judge with paper or electronic notes and a copy of his or her dictionary for the cases they have done while a state employee prior to the reporter's last day of employment.
2. The court reporter leaving employment with the branch shall be given a right of first refusal regarding preparation of any outstanding transcripts on those cases so long as:
 - a. The Court Reporter provides the district with the reporter's address, phone number and other contact information and keeps that information current with the district administrator and chief judge, and
 - b. The Court Reporter does not have more than one outstanding appeal transcript beyond the 180 day allotted time frame.
3. In the event that another court reporter must prepare any such outstanding transcripts, that court reporter shall not use the departing court reporter's dictionary for any purpose other than preparation of the outstanding transcripts.

D. During the trial or the taking of other matters on the record, the paper or electronic notes shall be considered the property of the Colorado Judicial Branch, even though in custody of the reporter, judge or clerk.

- E. After the trial and review or appeal period, the reporter shall list, date and index all of the notes and shall properly pack them for storage. The court shall store such records.
- F. There shall be no additional charges for securing the record of a proceeding and for transporting the record to the clerk of court. The costs of these services are included in the schedule of rates for transcripts.
- G. During the period of retention, paper or electronic notes shall be made available to the reporter of record, or to any other reporter or person the court may designate.
- H. An electronic PDF or other word-searchable protected format version of any final transcripts prepared in all criminal and juvenile cases by any court reporter or transcriber shall be filed with the court.
- I. Copies of these transcripts may be obtained from the court reporter at the rates designated within Appendix A herein.
- J. The court may provide additional copies of these state-paid transcripts without any additional expense to the attorney general, district attorney, public defender, Office of the Child's Representative, pro se indigent criminal defendant or advisory counsel representing an indigent criminal defendant, Alternate Defense Counsel and state-paid respondents' attorneys in dependency and neglect cases. If a court reporter is no longer a full-time, part-time or contract employee of the Colorado Judicial Branch, individuals may obtain copies of these transcripts at the rate set forth in the Colorado Judicial Department Fiscal Rules by contacting the district administrator of the district.

VII. TRANSCRIPT BACKLOGS

The chief judge or designee is authorized to take necessary steps to reduce backlog transcript, tape, or disk copy production delays. Such steps may include, but are not necessarily limited to the following:

- A. Adjusting the workload of the court reporter or transcriber to reduce backlogs.
- B. Terminating a contract with an outside vendor of transcription services and/or adding contract vendors of transcription services.

VIII. APPELLATE TRANSCRIPTS

All transcripts in appellate cases shall be uploaded to the Court of Appeals or Supreme Court as read-only PDF documents.

CJD 05-03 is amended and adopted effective March 14th, 2017.

/s/
Nancy E. Rice, Chief Justice

APPENDIX A

Below are transcript fee rates for the preparation and transcription of court proceedings. Additionally, in accordance with V(B)(6) of this directive, and pursuant to §13-5-128, C.R.S., the shorthand reporter of a court of record shall be compensated for preparation of the original and copies of the transcript of notes at such rates described in this policy.

	Original Per Page	Copy to State Agency per Page**	Copy to Non-State Agency Party per Page	Each Add'l Copy to Non-State Agency Party or Non-Party Per Page
State-paid Ordinary Transcript	\$3.00	\$0.00	\$.75	\$.75
Private-paid Ordinary Transcript (Private paid original) (within 11 days and up to 30 calendar days, or as agreed upon by the requesting party and transcriber)	\$3.00	\$.75	\$.75	
Expedited Transcript (10 calendar days)	\$3.75	\$0.00	\$.75	\$.75
Daily Transcript (Prior to normal opening of court the following day)	\$5.25	\$0.00	\$1.00	\$1.00
Unedited Transcript (Rough draft, unedited, non-certified)	\$.75 per page per agency. If ordered by two agencies, limit \$1.25 per page	\$0.00	\$1.25	\$1.25
Hourly	\$6.25	\$1.25	\$1.25	\$1.25

**State agency as defined in V.B.3.a (excluding judicial officers).

REPLACEMENT OR ADDITIONAL CD'S OF TRANSCRIPTS (Applies to transcripts prepared by a court reporter where the per-page costs have already been paid in accordance with the fee structure above.)

\$35

REDUCED RATES

Reduced rates for late delivery to the appellate court may apply. The rate for a late transcript, which would be billed at the ordinary rate if submitted on time, is 90% of the ordinary rate if 10 days or less; 75% if 11 to 30 days late and 50% if more than 30 days late.

A transcript ordered on an "expedited" basis shall be billed at the "ordinary" rate if not delivered within 10 days.

The above rates are applicable to each page of transcript, excluding the certification page, which must be at the end of each volume of transcript.

DEFINITIONS OF METHOD OF TRANSCRIPTION

ORDINARY: Appellate transcripts shall be delivered within time prescribed by C.A.R. 11(a) and (d). Any other transcripts shall be prepared within 30 days from the date when the requesting party and the reporter agree on arrangements for the transcript or a mutually agreed upon time frame outside the 30 days that is reasonable and meets the needs of the requesting party.

EXPEDITED: Transcript to be delivered within 10 days from the date when the requesting party and the reporter agree on arrangements for the transcript. When transcripts are delivered on or after the 11th day after the arrangements for the transcript, the ordinary transcript rates shall apply.

DAILY: Transcript to be delivered following adjournment and prior to normal opening hour of court on following morning whether or not it is a court workday.

HOURLY: Transcript, ordered under unusual circumstances, to be delivered within 2 hours of adjournment.

UNEDITED: Daily rough draft, unedited, non-certified transcript, which is not an official transcript.

PARTIAL: If the appellate court has previously received a partial transcript and the entire transcript is later ordered the reporter must put the entire transcript in sequential order in one document before it is sent to the appellate court.

Appendix B

STANDARDS FOR TRANSCRIPT PREPARATION

The standards for transcript preparation by all court reporters, including court reporters hired by litigants in civil cases, are:

Paper:

Size-Standard letter size, 8 ½ x 11

Weight- Not less than 13#

Paper shall be line numbered, 1 to 25, with no fewer than 25 typed lines

Type size- No fewer than nine or ten characters to the typed inch

Ink color- black

Margins:

- a) Typed margins shall start one inch from the top and no more than one and three-quarters inches from the left of the page. A justified left margin is used throughout.
- b) The right margin shall be no more than three-eighths inch.
- c) The lower margin will be set by line 25.

Binding: Transcripts shall be bound at the left. Binding shall be in daily volumes, approximately one inch thick.

Title pages: Prepare in accordance with attached sample, using plain language.

Page numbering: Official page numbering for transcripts shall be at the upper right, above line 1. Reporters shall ensure that page numbering is consecutive within each volume. If more than one volume is required, the reporter may number all volumes under a consecutive number sequence, or may begin each volume with page 1. Since citations will be by volume, one, and line number, the beginning number for each volume is no longer critical.

Parenthetical and exhibit markings: Begin no more than 15 spaces from the left-hand margin, with carry-over line to begin not more than 15 spaces from the left margin, with carry-over lines to begin no more than 15 spaces from the left-hand margin.

Quoted material: Begin no more than 15 spaces from the left-hand margin, with carry-over lines to begin no more than 10 spaces from the left-hand margin.

Colloquy material: Begin no more than fifteen spaces from the left-hand margin, with carry-over colloquy to the left-hand margin.

Question and Answer: Each question and answer to begin on a separate line. Each question and answer to begin no more than five spaces from the left-hand margin with no more than five spaces from the Q and A to the text. Carry-over Q and A lines to begin at the left-hand margin.

Electronic: Electronic transcripts standards adopted by the appellate courts pursuant to C.A.R. 10 and 11 apply.

All appellate transcripts shall be delivered to the trial court appeal clerk at least 2 working days prior to the date the record is due in the appellate court.

SAMPLE

1

1 -----
2 DISTRICT COURT |
3 BOULDER COUNTY |
4 COLORADO |
5 1777-6th Street |
6 Boulder, CO 80306 |
7 ----- |
8 |
9 |
10 |
11 |
12 |
13 |
14 |
15 ----- |

16 The matter came on for hearing on _____, before the HONORABLE Judge's
17 Full Name, Judge of the District Court, and the following proceedings were had.

18 -----

19 (Recorded and Transcribed)

20
21
22
23
24
25

APPENDIX C

INFORMATION REQUIRED TO BE INCLUDED ON ALL BILLINGS

1. Name of Client (Actual person ordering and paying for transcript)
2. Date Ordered
3. Date Delivered
4. Case Name and number
5. Number of Pages
6. Number of Copies
7. Type of Delivery Schedule
8. Discount
9. Refunds
10. Total Due
11. Certification of Reporter or Transcription Firm of Compliance with Fee and Transcript Format Prescribed by CJD

APPENDIX D

COMPUTATION OF TRANSCRIPT DELIVERY DATES

Transcripts delivery dates are computed from:

- a. The date on which satisfactory financial arrangements for payment are made, except for transcripts to be paid for by the State of Colorado or free copies ordered by a judge;
- b. The date on which the appropriate Transcript Order is received by the reporter/transcriber when the transcript is to be paid for by the State of Colorado;
- c. The date on which the court order is provided to the reporter/transcriber when a judicial officer has ordered a transcript.

APPENDIX E COURT REPORTER ACKNOWLEDGMENT
(Concerning Stenographic and Electronic Notes)

_____ **Judicial District**

I acknowledge that all stenographic and electronic notes produced by me during the time I am employed by the Colorado Judicial Department are the property of the _____ Judicial District.

I will regularly back up all electronic notes as directed by the Chief Judge or designee. If I produce paper notes, I will maintain them in a secure location and in an organized fashion according to local policy.

Should I leave the employment of the Colorado Judicial Department, I will ensure that all the electronic notes for the cases I have reported while a state employee are properly lodged on the server or that I have provided a backup copy on CD. I also will ensure that a current copy of my dictionary is on the server, with a backup copy on CD, and that all docket sheets are current as required by local policy. I will provide verification of same to the Chief Judge, District Administrator or Managing Court Reporter.

I understand that I will be given first right of refusal regarding preparation of any transcripts on those cases I have reported so long as I provide the District with my address, phone number and other contact information and keep that information current with the Managing Court Reporter, District Administrator or Chief Judge, and provided I do not have more than one outstanding appeal transcript beyond the 180 day allotted timeframe.

Dated this _____ day of _____, 20 .

Official Court Reporter

APPENDIX F

COURT REPORTER TOTAL COMPENSATION

The compensation package for court reporters in the judicial system is based upon two components: salary paid by the Colorado Judicial Branch and income generated from the production of transcripts. Transcription preparation is part of the court reporters' essential functions upon which they are annually evaluated. This method of payment adequately compensates court reporters for their status as professionals and also takes into consideration the costs borne by court reporters. Court reporters provide their own computerized equipment and Realtime software to produce the record owned by judicial and simultaneously provide the instantaneous (Realtime) feed for the immediate use and benefit of court and counsel. Upon request, court reporters are then responsible for transcribing their stenographic and electronic notes on their own equipment to produce the final transcript, which is provided to the court at no cost. Court reporters, as a result, incur additional costs in order to ensure accurate and timely transcripts by employing support staff (i.e. scopists and proofreaders). As professionals, the court reporters are also required at their own expense to obtain and maintain Colorado Judicial Branch mandated certifications, which require membership in professional organizations and yearly continuing education credits. By providing this compensation package, the Colorado Judicial Department reaps the benefit of state-of-the art advances in computer technology, but the expense is not taken from the state budget instead it is covered by the per page rate (see Appendix A) paid in part by private parties. Requiring reduced fees for non-judicial department state agencies (reduced by the elimination of copies for state agencies) serves to control and limit the transcript requests for nonessential proceedings. **This type of compensation package strikes a fair balance among the Colorado Judicial Department, court reporters, and litigants.** This method of payment also creates a built-in incentive for the timely preparation of transcripts and prevents unnecessary backlogs in our appellate courts; while at the same time attracts and maintains qualified employees within our state. Realtime court reporting also complies with ADA requirements, when requested.

As an example of Court Reporter unreimbursed expenses, which are borne by a typical reporter include:

- Steno machine and yearly maintenance contract of which covers parts, cleaning & loaner;
- Computer Aided Transcription software and annual support contract,
- Support and software upgrades;
- Realtime software and annual license fee;
- Personal Computer;
- Proofreaders;
- Scopists;
- Annual Professional Memberships;
- Continuing Education Seminars, plus travel expenses;
- Testing Fees, plus travel expenses;
- Expenses vary per reporter.

Court Reporters own and maintain their court reporting equipment including hardware and software. The listed equipment is owned and used by the court reporter for the benefit of judicial in producing the record owned by judicial and for providing Realtime for court and counsel.

APPENDIX G

1 UNCERTIFIED TRANSCRIPT DISCLAIMER

2 The following transcript(s) of proceedings, or any
3 portion thereof, is being delivered *UNEDITED AND*
4 *UNCERTIFIED* by the official court reporter at the request
5 of the ordering party.

6 The purchaser agrees not to distribute this
7 uncertified and unedited transcript in any form (written or
8 electronic). This is an unofficial transcript, which
9 should NOT be relied upon for purposes of verbatim citation
10 of proceedings and should not be filed as an attachment to
11 any court pleadings. The judge in this case will be
12 provided a copy of these rough draft proceedings.

13 This transcript has not been checked, proofread, or
14 corrected. It is a draft transcript, NOT a certified
15 transcript. As such, it may contain computer-generated
16 mistranslations of stenotype code or electronic
17 transmission errors, resulting in inaccurate or nonsensical
18 word combinations, or untranslated stenotype symbols which
19 cannot be deciphered by non-stenotypists. Corrections will
20 be made in the preparation of the certified transcript
21 resulting in differences in content, page and line numbers,
22 punctuation, and formatting.

23 This realtime uncertified and unedited transcript
24 contains no appearance page, certificate page, index, or
25 certification.

West's Colorado Revised Statutes Annotated
 West's Colorado Court Rules Annotated
 Colorado Rules of Civil Procedure
 Chapter 15. Remedial Writs and Contempt

C.R.C.P. Rule 107

RULE 107. REMEDIAL AND PUNITIVE SANCTIONS FOR CONTEMPT

Currentness

(a) Definitions. (1) Contempt: Disorderly or disruptive behavior, a breach of the peace, boisterous conduct or violent disturbance toward the court, or conduct that unreasonably interrupts the due course of judicial proceedings; behavior that obstructs the administration of justice; disobedience or resistance by any person to or interference with any lawful writ, process, or order of the court; or any other act or omission designated as contempt by the statutes or these rules.

(2) **Direct Contempt:** Contempt that the court has seen or heard and is so extreme that no warning is necessary or that has been repeated despite the court's warning to desist.

(3) **Indirect Contempt:** Contempt that occurs out of the direct sight or hearing of the court.

(4) **Punitive Sanctions for Contempt:** Punishment by unconditional fine, fixed sentence of imprisonment, or both, for conduct that is found to be offensive to the authority and dignity of the court.

(5) **Remedial Sanctions for Contempt:** Sanctions imposed to force compliance with a lawful order or to compel performance of an act within the person's power or present ability to perform.

(6) **Court:** For purposes of this rule, "court" means any judge, magistrate, commissioner, referee, or a master while performing official duties.

(b) Direct Contempt Proceedings. When a direct contempt is committed, it may be punished summarily. In such case an order shall be made on the record or in writing reciting the facts constituting the contempt, including a description of the person's conduct, a finding that the conduct was so extreme that no warning was necessary or the person's conduct was repeated after the court's warning to desist, and a finding that the conduct is offensive to the authority and dignity of the court. Prior to the imposition of sanctions, the person shall have the right to make a statement in mitigation.

(c) Indirect Contempt Proceedings. When it appears to the court by motion supported by affidavit that indirect contempt has been committed, the court may ex parte order a citation to issue to the person so charged to appear and show cause at a date, time and place designated why the person should not be punished. The citation and a copy of the motion, affidavit and order shall be served directly upon such person at least 21 days before the time designated for the person to appear. If such person fails to appear at the time so designated, and it is evident to the court that the person was properly served with copies of the motion, affidavit, order, and citation, a warrant for the person's arrest may issue to the sheriff. The warrant shall fix the date, time and place for the production of the person in court. The court shall state

on the warrant the amount and kind of bond required. The person shall be discharged upon delivery to and approval by the sheriff or clerk of the bond directing the person to appear at the date, time and place designated in the warrant, and at any time to which the hearing may be continued, or pay the sum specified. If the person fails to appear at the time designated in the warrant, or at any time to which the hearing may be continued, the bond may be forfeited upon proper notice of hearing to the surety, if any, and to the extent of the damages suffered because of the contempt, the bond may be paid to the aggrieved party. If the person fails to make bond, the sheriff shall keep the person in custody subject to the order of the court.

(d) Trial and Punishment. (1) **Punitive Sanctions.** In an indirect contempt proceeding where punitive sanctions may be imposed, the court may appoint special counsel to prosecute the contempt action. If the judge initiates the contempt proceedings, the person shall be advised of the right to have the action heard by another judge. At the first appearance, the person shall be advised of the right to be represented by an attorney and, if indigent and if a jail sentence is contemplated, the court will appoint counsel. The maximum jail sentence shall not exceed six months unless the person has been advised of the right to a jury trial. The person shall also be advised of the right to plead either guilty or not guilty to the charges, the presumption of innocence, the right to require proof of the charge beyond a reasonable doubt, the right to present witnesses and evidence, the right to cross-examine all adverse witnesses, the right to have subpoenas issued to compel attendance of witnesses at trial, the right to remain silent, the right to testify at trial, and the right to appeal any adverse decision. The court may impose a fine or imprisonment or both if the court expressly finds that the person's conduct was offensive to the authority and dignity of the court. The person shall have the right to make a statement in mitigation prior to the imposition of sentence.

(2) **Remedial Sanctions.** In a contempt proceeding where remedial sanctions may be imposed, the court shall hear and consider the evidence for and against the person charged and it may find the person in contempt and order sanctions. The court shall enter an order in writing or on the record describing the means by which the person may purge the contempt and the sanctions that will be in effect until the contempt is purged. In all cases of indirect contempt where remedial sanctions are sought, the nature of the sanctions and remedies that may be imposed shall be described in the motion or citation. Costs and reasonable attorney's fees in connection with the contempt proceeding may be assessed in the discretion of the court. If the contempt consists of the failure to perform an act in the power of the person to perform and the court finds the person has the present ability to perform the act so ordered, the person may be fined or imprisoned until its performance.

(e) Limitations. The court shall not suspend any part of a punitive sanction based upon the performance or non-performance of any future acts. The court may reconsider any punitive sanction. Probation shall not be permitted as a condition of any punitive sanction. Remedial and punitive sanctions may be combined by the court, provided appropriate procedures are followed relative to each type of sanction and findings are made to support the adjudication of both types of sanctions.

(f) Appeal. For the purposes of appeal, an order deciding the issue of contempt and sanctions shall be final.

Credits

Amended eff. April 1, 1995; June 15, 1995; Jan. 1, 2012.

[Notes of Decisions \(517\)](#)

Rules Civ. Proc., Rule 107, CO ST RCP Rule 107
Current with amendments received through July 15, 2017

End of Document

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Rule 79. Records.

(a) Register of Actions. The clerk shall keep a record known as the register of actions and shall enter ~~therein~~ those items set forth below. The register of actions may be in any of the following forms or styles:

- (1) ~~A page, sheet, or printed form in a book, case jacket, or separate file.~~ [Repeal.](#)
- (2) ~~A microfilm roll, film jacket, or microfiche card.~~ [Repeal.](#)
- (3) ~~Computer magnetic tape or magnetic disc storage, where the register of actions items appear on the terminal screen, or on a paper print out of the screen display.~~ [Repeal.](#)
- (4) Any ~~other~~ form or style ~~prescribed~~ [approved by the State Court Administrator, or](#) by supreme court directive [or order.](#)

A register of actions shall be prepared for each case or matter filed. The file number of each case or matter shall be ~~not entered~~ [in the court case management system.](#) ~~on every page, film, or computer record whereon the first and all subsequent entries of actions are made.~~ All ~~papers~~ [documents](#) filed with the clerk, ~~all process issued and return made thereon~~ [electronic data transfers submitted or received](#), all costs, appearances, orders, verdicts, and judgments shall be ~~not entered~~ chronologically in the register of actions. These ~~notations~~ [entries](#) shall be brief but shall show the [date and complete title](#) ~~nature~~ of each ~~document~~ [paper](#) filed, ~~order issued, and data transfer submitted or received.~~ ~~or writ issued and the substance of each order or judgment of the court and of the returns showing execution of process.~~ The notation of an order, or of the entry of judgment, shall show the date the order or judgment was ordered in open court, in chambers, or under the provisions of Rule 55 regarding default. When trial by jury has been demanded or ordered, the clerk shall enter the word jury on the page, film, or computer record assigned to that case.

(b) Copies of Civil Judgments and Orders. (Repealed effective September 4, 1974.)

(c) Indices; Calendars. The clerk shall keep ~~suitable~~ indices of all records, ~~as directed by the court.~~ The clerk shall also keep, as directed by the court, calendars of all hearings and all cases ready for trial, which shall distinguish trials to a jury from trials to the court. Indices ~~and calendars~~ may be in any of the following forms or styles:

- (1) ~~A page or sheet in a book or separate file.~~ [Repealed.](#)
- (2) ~~A mechanical or hand-operated index machine or card file.~~ [Repealed.](#)
- (3) ~~Computer magnetic tape or magnetic disc storage, where the information appears on the terminal screen, or on a print out of the screen display.~~ [Repealed.](#)
- (4) ~~Microfilm copies of 1, 2, and 3 above.~~ [Repealed.](#)
- (5) Any ~~other~~ form or style ~~prescribed~~ [approved by the State Court Administrator, or](#) supreme court directive [or order.](#)

(d) Judgment Record. The clerk shall keep a judgment record [in the court case management system for](#) ~~in which a notation shall be made of~~ every money judgment [ordered](#). The judgment record may be in any of the following forms or styles:

- (1) ~~A page, sheet, or printed form in a book, case jacket, or separate file.~~ [Repeal.](#)
- (2) ~~Computer magnetic tape or magnetic disc storage, where the judgment and subsequent transactions appear on the terminal screen, or on a paper print out of the screen display.~~ [Repeal.](#)
- (3) ~~A microfilm copy of 1 and 2 above.~~ [Repeal.](#)
- (4) Any ~~other~~ form or style ~~prescribed~~ [approved](#) by [the State Court Administrator, or](#) supreme court directive [or order](#).

(e) Retention and Disposition of Records. The clerk shall retain and dispose of all court records, ~~including those created under Rule 79(b) prior to its repeal,~~ in accordance with ~~instructions provided in the manual entitled, Colorado Judicial Department~~ [Records Retention Manual](#), ~~Records Management.~~

Rule 79. Records.

(a) Register of Actions. The clerk shall keep a record known as the register of actions and shall enter those items set forth below. The register of actions may be in any of the following forms or styles:

(1) Repeal.

(2) Repeal.

(3) Repeal.

(4) Any form or style approved by the State Court Administrator, or by supreme court directive or order.

A register of actions shall be prepared for each case or matter filed. The file number of each case or matter shall be entered in the court case management system. All documents filed with the clerk, electronic data transfers submitted or received, all costs, appearances, orders, verdicts, and judgments shall be entered chronologically in the register of actions. The entries shall be brief but shall show the date and complete title of each document filed, order issued, and data transfer submitted or received.

(b) Copies of Civil Judgments and Orders. (Repealed effective September 4, 1974.)

(c) Indices. The clerk shall keep indices of all records. Indices may be in any of the following forms or styles:

(1) Repealed.

(2) Repealed.

(3) Repealed.

(4) Repealed.

(5) Any form or style approved by the State Court Administrator, or supreme court directive or order.

(d) Judgment Record. The clerk shall keep a judgment record in the court case management system for every money judgment ordered. The judgment record may be in any of the following forms or styles:

(1) Repeal.

(2) Repeal.

(3) Repeal.

(4) Any form or style approved by the State Court Administrator, or supreme court directive or order.

(e) Retention and Disposition of Records. The clerk shall retain and dispose of all court records in accordance with the manual entitled, Colorado Judicial Department Records Retention Manual.

Rule 379. Records.

(a) Register of Actions ~~(Civil Docket)~~. The clerk shall keep a record known as the register of actions and shall enter ~~therein~~ those items set forth below. The register of actions may be in any of the following forms or styles:

- (1) ~~A page, sheet, or printed form in a book, case jacket, or separate file, or the cover of the case jacket.~~ [Repeal.](#)
- (2) ~~A microfilm roll, film jacket, or microfiche card.~~ [Repeal.](#)
- (3) ~~Computer magnetic tape or magnetic disc storage, where the register of actions items appear on the terminal screen, or on a paper print out of the screen display.~~ [Repeal.](#)
- (4) Any ~~other~~ form or style ~~prescribed~~ [approved by the State Court Administrator, or](#) by supreme court directive [or order.](#)

A register of actions shall be prepared for each case or matter filed. The file number of each case or matter shall be ~~not entered~~ [in the court case management system.](#) ~~on every page, jacket cover, film or computer record whereon the first and all subsequent entries of actions are made.~~ All ~~papers~~ [documents](#) filed with the clerk, [electronic data transfers submitted or received](#) ~~all process issued and returns made thereon,~~ all costs, appearances, orders, verdicts, and judgments shall be ~~not entered~~ chronologically in the register of actions. These ~~notations~~ [entries](#) shall be brief but shall show the [date and complete title of each document](#) ~~nature of each paper filed, order issued, or writ issued and data transfer submitted or received.~~ the substance of each order or judgment of the court and of the returns showing execution of process. The notation of an order or judgment shall show the date the notation is made. The notation of the judgment in the register of actions shall constitute the entry of judgment. When trial by jury has been demanded or ordered, the clerk shall enter the word jury on the page, jacket cover, film or computer record assigned to that case.

(b) Indices; ~~Calendars~~. The clerk shall keep ~~suitable~~ indices of all records, ~~as directed by the court.~~ The clerk shall also keep, as directed by the court, calendars of all hearings and all cases ready for trial, which shall distinguish trials to a jury from trials to the court. ~~Indices and calendars~~ may be in any of the following forms or styles:

- (1) ~~A page or sheet in a book or separate file.~~ [Repeal.](#)
- (2) ~~A mechanical or hand-operated index machine or card file.~~ [Repeal.](#)
- (3) ~~Computer magnetic tape or magnetic disc storage, where the information appears on the terminal screen, or on a print out of the screen display.~~ [Repeal.](#)
- (4) ~~Microfilm copies of 1, 2, and 3 above.~~ [Repeal.](#)
- (5) Any ~~other~~ form or style ~~prescribed~~ [approved by the State Court Administrator, or](#) by supreme court directive [or order.](#)

(c) Judgment Record. The clerk shall keep a judgment record in [the court case](#)

[management system](#) ~~which a notation shall be made~~ of every money judgment [ordered](#).
The judgment record may be in any of the following forms or styles:

(1) ~~A page, sheet, or printed form in a book, case jacket or separate file, or the cover of the case jacket.~~[Repeal.](#)

(2) ~~Computer magnetic tape or magnetic disc storage, where the judgment and subsequent transactions appear on the terminal screen, or on a paper print out of the screen display.~~[Repeal.](#)

(3) ~~A microfilm copy or variation of 1 and 2 above.~~[Repeal.](#)

(4) Any ~~other~~ form or style ~~prescribed~~ [approved by the State Court Administrator, or](#) by supreme court directive [or order](#).

(d) Retention and Disposition of Records. The clerk shall retain and dispose of all court records in accordance with ~~instructions provided in~~ the manual entitled, Colorado Judicial Department [Records Retention Manual.](#), ~~Records Management.~~

(a) Register of Actions. The clerk shall keep a record known as the register of actions and shall enter those items set forth below. The register of actions may be in any of the following forms or styles:

(1) Repeal.

(2) Repeal.

(3) Repeal.

(4) Any form or style approved by the State Court Administrator, or by supreme court directive or order.

A register of actions shall be prepared for each case or matter filed. The file number of each case or matter shall be entered in the court case management system. All documents filed with the clerk, electronic data transfers submitted or received all costs, appearances, orders, verdicts, and judgments shall be entered chronologically in the register of actions. The entries shall be brief but shall show the date and complete title of each document filed, order issued, and data transfer submitted or received.

(b) Indices. The clerk shall keep indices of all records. Indices may be in any of the following forms or styles:

(1) Repeal.

(2) Repeal.

(3) Repeal.

(4) Repeal.

(5) Any form or style approved by the State Court Administrator, or by supreme court directive or order.

(c) Judgment Record. The clerk shall keep a judgment record in the court case management system of every money judgment ordered. The judgment record may be in any of the following forms or styles:

(1) Repeal.

(2) Repeal.

(3) Repeal.

(4) Any form or style approved by the State Court Administrator, or by supreme court directive or order.

(d) Retention and Disposition of Records. The clerk shall retain and dispose of all court records in accordance with the manual entitled, Colorado Judicial Department Records Retention Manual.