

AGENDA

COLORADO SUPREME COURT COMMITTEE ON THE RULES OF CIVIL PROCEDURE

Friday, October 28, 2016, 1:30p.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 September 30, 2016 minutes [Page 1 to 3]
- III. Announcements from the Chair
- IV. Business
 - A. CRCP 16.1—(Judge Davidson)
 - B. CRCP 53—(Judge Zenisek) [Page 4 to 11]
 - C. CRCP 52—Approval of final language (Lee Sternal) [Page 12 to 14]
 - D. New Form for admission of business records under hearsay exception rule—(Damon Davis and David Little) [Page 15 to 27]
 - E. CRCP 57(j) & Fed. R. Civ. P. 5.1—(Stephanie Scoville)
 - F. County and municipal appeals to district court—(Judge Espinosa)
 - G. CRCP 83—(Jeannette Kornreich)
 - H. CRCP 121 §1-15—Confession of motions (Judge Berger) [Page 28 to 31]
 - I. JDF 1111—(Jeannette Kornreich) [Page 32 to 38]
- V. New Business
- VI. Adjourn—Next meeting is November 18, 2016 at 1:30pm

Michael H. Berger, Chair
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720 625-5231

Jenny Moore
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Conference Call Information:

Dial (720) 625-5050 (local) or 1-888-604-0017 (toll free) and enter the access code, 93723471, followed by # key.

**Colorado Supreme Court Advisory Committee on the Rules of Civil Procedure
September 30, 2016 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 Ann Frick	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	
Richard Laugesen	X	
Cheryl Layne	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	
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. September 30, 2016 agenda packet
- B. Supplemental Material – CBA’s position on proposed CRCP 121 §1-27

II. Announcements from the Chair

- The June 24, 2016 minutes were approved as submitted;
- Chapter 23.3, Rules Governing Contingent Fees, will no longer be amended by the Civil Rules Committee. The Rules of Professional Conduct Committee is responsible for Chapter 23.3. moving forward;
- A sign-up sheet for the CRCP 83 subcommittee chaired by Jeannette Kornreich will be circulated; and
- *Warne v Hall*, 2016 CO 50, was generally discussed by the committee. A subcommittee will be formed to consider rule and form amendments in light of the opinion.

III. Business

A. C.R.C.P. 121 § 1-27

Judge Shamis presented the proposal and stated that the rule will promote professionalism in the courtroom, and it can be used to enforce small infractions. The rule was modeled after Wyoming Uniform Rules for District Courts, Rule 801. Wyoming has found the rule helpful and hasn’t used it to enforce any sanctions. The rule has been presented to the Chief Judges and they thought it would be helpful; however, the Colorado Bar Association doesn’t endorse the rule. The Judicial Branch has an affirmative duty to promote professionalism, and Jim Coyle, who was in attendance, agreed that this rule complements the mission of the Office of Attorney Regulation. Some members thought the rule is too subjective, that conduct cannot be legislated, and the rule will lead to increased motions practice. Others thought it could be helpful, it could start a new conversation related to professionalism, and it would promote efficiency. A subcommittee will be formed to study the issue.

B. C.R.C.P. 52

Lee Sternal reported that there was a lot of interest around surrounding the subcommittees’ work, and a few guests were present today to comment. Discussion centered on stakeholder input, as well as the the majority and minority positions. After discussion, there was a motion to replace the last sentence of C.R.C.P. 52 with the text appearing at the top of page 55 of the agenda packet, and add a comment using a modified version of the language appearing at the bottom of page 53 of the agenda packet; the motion passed 13:9. The subcommittee will prepare a revised proposal for the committee to consider based on the motion.

C. Integrated Colorado Courts E-Filing System name change

The proposed changes to C.R.C.P. 121 §1-26 and C.R.C.P. 305.5 were adopted with one no vote.

D. C.R.C.P. 53

Judge Zenisek reported that the subcommittee had met over the summer and it had considered the committee's concerns, such as, access to justice, proportionality, and costs, and a revised proposal was in the agenda packet. There were many questions, and discussion centered on whether the proposal is privatizing the judiciary and when delegation to a master is appropriate in state court. There was lengthy discussion, but due to the late hour this will be taken up at the October meeting.

E. New Form for Admission of business records under hearsay exception rule

Tabled to the October 28, 2016 meeting.

Future Meetings

October 28, 2016

The Committee adjourned at 4:00p.m.

*Respectfully submitted,
Jenny A. Moore*

SECOND SUPPLEMENTAL REPORT

The Civil Rules' Committee, Subcommittee regarding Special Masters, met July 6, 2016. The Subcommittee met to consider and address questions raised at the full committee meeting in May, 2016. The following individuals were present at the January, 2016 meeting:

Judge Christopher Zenisek, (Chair)

Richard Holme, Esq.

Brent Owen, Esq.

Gregory Whitehair, Esq.

David Tenner, Esq.

The following members were unable to attend:

Judge Michael Berger (Full Committee Chair)

Chief Judge Janice Davidson (Ret.)

The questions raised at the full committee meeting were:

1. The Committee requested that the Subcommittee research what the term “de novo” means in the draft rule, section (f)(3). Does it mean a new hearing, or review by the trial court akin to a review by an appellate court?
2. Some committee members raised concern over access to justice. Namely, how should we ensure that courts do not appoint special masters in circumstances where some litigants cannot afford it, or where the economics circumstances might favor a better funded party over a lesser-funded party?
3. What is the proper directive over the circumstances that should allow for appointment of a special master? In particular, should judges be permitted to appoint special masters because a case demands so much of the judge’s time that she or he cannot effectively and timely address the case?

Question 1: What does the term “de novo” mean in section (f)(3). Does it mean a new hearing, or review by the trial court akin to a review by an appellate court?

The Subcommittee answers that the term “de novo” in Section (f)(3) is a review, not a new hearing. However, the Committee should keep in mind that a new hearing by the judge remains permitted by Section (f)(1). Thus, the proposed rule would allow the judge to review the

master's findings, or to hold a new hearing if the judge believed that to be appropriate.

Subcommittee member Gregory Whitehair prepared a memorandum and presented it to the full committee in June. Footnote 13 of the memorandum cites to the 2003 Committee Note regarding Federal subsection (g). The Note reads, "The requirement that the court must afford an opportunity to be heard can be satisfied by taking written submissions when the court acts on the report without taking live testimony."

In addition, Section (f)(1) of the proposed rule reads that "In acting on a master's order, report, or recommendations, the court must give the parties notice and an opportunity to be heard; may receive evidence; and may adopt or affirm, modify, wholly or partly reject or reverse, or resubmit to the master with instructions."

Based on the Federal Committee Note, and the fact that Section (f)(1) permits a new hearing, the Subcommittee concludes that the term "de novo" in Section (f)(3) means a review of the prior proceedings, not a mandatory new hearing.

Finally, the Subcommittee notes that the review in the proposed rule is to "decide de novo all objections to findings of fact made or recommended." This standard may, or may not, have a different application than a "de novo" appellate review.

Question 2: How should we ensure that courts do not appoint special masters in circumstances where some litigants cannot afford it, or where the economics circumstances are such that an appointment favors a better funded party over a lesser-funded party?

The Subcommittee views that the draft rule accommodates these concerns by directing the district court to consider the fairness of expense (section (a)(3)), and by requiring the Court to consider the parties' means and other factors with regard to the allocation of payment (section (g)(3)).

However, the Subcommittee views that further directive for the court to consider the proportionality of the appointment to the issues and needs of the case would be beneficial. Thus, the Subcommittee recommends added language in section (a)(3) to that effect. The revised proposed rule is included herein.

The red-line indicates differences between the Subcommittee's current proposed rule and the **Federal rule**.

Question 3: What is the proper directive over the circumstances that should allow for appointment of a special master? Should judges be permitted to appoint special masters because a case demands so much of the judge's time that she or he cannot effectively and timely address the case?

Following the last consideration of this rule, the Subcommittee received a request from Judge Webb to consider adding the following language to the introductory paragraph:

“A reference to a master shall be the exception and not the rule, and should be utilized only when the proceeding will involve factual findings that require special expertise not likely held by the court.”

The Subcommittee believes that this added language would remove an important function of special masters: to assist with the administration of justice in extraordinary cases that judges cannot reasonably undertake on their own. One example was a case where thousands of documents are claimed as privileged, requiring the judge to conduct in camera review. Members of the subcommittee viewed that appointing a special master to assist in the review likely would be appropriate in these circumstances. Members of the subcommittee who have served as special masters articulated that, functionally, this is the reasoning behind most special master appointments today.

The Subcommittee further viewed that the Rule's section (a)(1)(C) expressly allows for this type of appointment. Thus, should the Committee wish to consider this proposal, the Committee also should consider deletion of proposed section (a)(1)(C).

Ultimately, the Subcommittee discussed and acknowledged that judges should not be permitted to “privatize disputes” for their own convenience, or because a certain case is distasteful to work on, or because the attorneys are behaving poorly. However, the Subcommittee views that overwhelming matters which cannot reasonably be administered while keeping up a full docket would create an appropriate circumstance for appointment of a master, so long as the financial considerations of sections (a)(3) and (g)(3) warrant it.

Thus, the Subcommittee recommends no change with regard to scope of permissible appointment.

Ultimately, the Subcommittee views that the options presented are (a) to amend the present rule; or (b) to leave the present rule as-is. Although elimination of special masters may be an appropriate consideration for the Committee, the Subcommittee understands that its directive is to consider the proper wording of the rule, not to decide whether or not a rule should be in place.

Final Amendment

The Subcommittee discussed the remainder of the proposed rule in general. The Subcommittee voted to place the word “trial” back into section (a)(1)(B). The Subcommittee understands the intent of this rule is to have three distinct sections for appointment: by consent; for trial; or for pre-trial or post-trial matters. In the Subcommittee’s view, this distinction is wise, as it makes clear that there are very few circumstances that permit a master to hold a trial, but that the standard for having a pre- or post-trial master would be more permissive than the standard required for a trial.

C.R.C.P. 53 (PROPOSED)

(a) Appointment.

(1) *Scope.* A reference to a master shall be the exception and not the rule. Unless a statute provides otherwise, a court may appoint a master only to:

(A) perform duties consented to by the parties;

(B) hold trial proceedings and make or recommend findings of fact on issues to be decided without a jury if appointment is warranted by:

(i) some exceptional condition; or

(ii) the need to perform an accounting or resolve a difficult computation of damages; or

(C) address pretrial and posttrial matters that cannot be effectively and timely addressed by ~~an available~~the appointed district judge ~~or magistrate judge of the district.~~

(2) *Disqualification.* A master must not have a relationship to the parties, attorneys, action, or court that would require disqualification of a judge under 28 U.S.C. § 455, the Colorado Code of Judicial Conduct, Rule 2.11, unless the parties, with the court's approval, consent to the appointment after the master discloses any potential grounds for disqualification.

(3) *Possible Expense or Delay.* In appointing a master, the court must consider the proportionality of the appointment to the issues and needs of the case, consider the ~~—~~fairness of imposing the likely expenses on the parties, and ~~must~~ protect against unreasonable expense or delay.

(b) Order Appointing a Master.

(1) *Notice.* Before appointing a master, the court must give the parties notice and an opportunity to be heard. If requested by the Court, ~~A~~any party may suggest candidates for appointment.

(2) *Contents.* The appointing order must direct the master to proceed with all reasonable diligence and must state:

(A) the master's duties, including any investigation or enforcement duties, and any limits on the master's authority under Rule 53(c);

(B) the circumstances, if any, in which the master may communicate ex parte with the court or a party;

(C) the nature of the materials to be preserved and filed as the record of the master's activities;

(D) the time limits, method of filing the record, other procedures, and standards for reviewing the master's

orders, findings, and recommendations; and

(E) the basis, terms, and procedure for fixing the master's compensation under Rule 53(g).

(3) **Issuing.** The court may issue the order only after:

(A) the master files an affidavit disclosing whether there is any ground for disqualification under [the Colorado Code of Judicial Conduct, Rule 2.11](#), [28 U.S.C. § 455](#); and

(B) if a ground is disclosed, the parties, with the court's approval, waive the disqualification.

(4) **Amending.** The order may be amended at any time after notice to the parties and an opportunity to be heard.

(5) Meetings. When a reference is made, the clerk shall forthwith furnish the master with a copy of the order of reference. Upon receipt thereof unless the order of reference otherwise provides, the master shall forthwith set a time and place for the first meeting of the parties or their attorneys to be held within 14 days after the date of the order of reference and shall notify the parties or their attorneys.

(c) **Master's Authority.**

(1) **In General.** Unless the appointing order directs otherwise, a master may:

(A) regulate all proceedings;

(B) take all appropriate measures to perform the assigned duties fairly and efficiently; and

(C) if conducting an evidentiary hearing, exercise the appointing court's power to compel, take, and record evidence.

(2) **Sanctions.** The master may by order impose on a party any noncontempt sanction provided by [Rule 37](#) or [45](#), and may recommend a contempt sanction against a party and sanctions against a nonparty.

(d) **Master's Orders.** A master who issues ~~an~~ a written order must file it and promptly serve a copy on each party. The clerk must enter the written order on the docket. A master's order shall be effective upon issuance subject to the provisions of section (f) of this Rule.

(e) **Master's Reports.** A master must report to the court as required by the appointing order. The master must file the report and promptly serve a copy on each party, unless the court orders otherwise. A report is final upon issuance. A master's report shall be effective upon issuance subject to the provisions of section (f) of this Rule.

(f) **Action on the Master's Order, Report, or Recommendations.**

(1) **Opportunity for a Hearing; Action in General.** In acting on a master's order, report, or recommendations, the

court must give the parties notice and an opportunity to be heard; may receive evidence; and may adopt or affirm, modify, wholly or partly reject or reverse, or resubmit to the master with instructions.

~~(2) *Time to Object or Move to Adopt or Modify.* A party may file objections to or a motion to adopt or modify the master's order, report, or recommendations no later than 21 days after a copy is served, unless the court sets a different time.~~ *Time to Object or Move to Modify.* A party may file objections to or a motion to modify the Master's proposed rulings, order, report or recommendations no later than 7 days after service of any of those matters, except when the Master held a hearing and took sworn evidence, in which case objections or a motion to modify shall be filed no later than 14 days after service of any of those matters.

(3) *Reviewing Factual Findings.* The court must decide de novo all objections to findings of fact made or recommended by a master, unless the parties, with the court's approval, stipulate that:

(A) the findings will be reviewed for clear error; or

(B) the findings of a master appointed under Rule 53(a)(1)(A) or (C) will be final.

(4) *Reviewing Legal Conclusions.* The court must decide de novo all objections to conclusions of law made or recommended by a master.

(5) *Reviewing Procedural Matters.* Unless the appointing order establishes a different standard of review, the court may set aside a master's ruling on a procedural matter only for an abuse of discretion.

(g) Compensation.

(1) *Fixing Compensation.* Before or after judgment, the court must fix the master's compensation on the basis and terms stated in the appointing order, but the court may set a new basis and terms after giving notice and an opportunity to be heard.

(2) *Payment.* The compensation must be paid either:

(A) by a party or parties; or

(B) from a fund or subject matter of the action within the court's control.

(3) *Allocating Payment.* The court must allocate payment among the parties after considering the nature and amount of the controversy, the parties' means, and the extent to which any party is more responsible than other parties for the reference to a master. An interim allocation may be amended to reflect a decision on the merits.

~~(h) *Appointing a Magistrate Judge.* A magistrate judge is subject to this rule only when the order referring a matter to the magistrate judge states that the reference is made under this rule.~~

Comment In appointing special masters, judges should be mindful of C.R.C.P. 122 regarding appointed judges. In this regard, Section (a)(1)(B) of this Rule should be utilized only when the appointment

requires special expertise not likely held by a former judge, such as that of an accountant, engineer or doctor.

TO: JUDGE BERGER

FROM: LEE STERNAL

RE: REPORT OF C.R.C.P. 52 SUBCOMMITTEE

DATE: ~~SEPT~~OCT. __, 2016

The C.R.C.P. 52 subcommittee¹ respectfully submits the following supplemental report.

At the September 30, 2016 meeting, the Standing Committee approved two changes to C.R.C.P. 52, subject to the subcommittee reviewing the language and making a final proposal for the October 28 meeting. Specifically, the current last sentence would be deleted and replaced as follows:

- **Current:** Findings of fact and conclusions of law are unnecessary on decisions of motions under Rule 12 or 56 or any other motion except as provided in Rule 41(b).
- **New:** Findings of fact and conclusions of law are unnecessary on decisions on motions under Rule 12 or 56 or any other motion except as provided in these rules or other law.

In addition, the following comment would be added:

¹ The subcommittee consists of Lee Sternal (chair), Brad Levin, Judge Kane, Judge Lemon, and Judge Webb.

The final sentence, “Findings of fact and conclusions of law are unnecessary on decisions of motions under Rule 12 or 56 or any other motion except as provided in Rule 41(b),” was deleted because of requirements for findings and conclusions in rules other than Rule 41(b) and in some statutes, as well as concern that the phrase “are unnecessary” could discourage judges from including in decisions on motions explanation that would be useful to either the parties or a reviewing court. Even where such findings and conclusions are not required, however, the better practice is to explain in a decision on any written motion the court’s reasons for granting or denying the motion.

On further review by the subcommittee, however, a member pointed out the anomaly of the comment addressing a possible problem with “as necessary,” although this phrase remained in the proposed new final sentence. To resolve this anomaly, the subcommittee stays with its recommendation as to the wording of the final sentence, but now proposes that the comment read as follows:

The final sentence, "Findings of fact and conclusions of law are unnecessary on decisions of motions under Rule 12 or 56 or any other motion except as provided in Rule 41(b)," was modified because of requirements for findings and conclusions in rules other than Rule 41(b) and in some statutes. **Regardless, judges are encouraged to include in decisions on motions sufficient explanation that would be helpful to the parties and a reviewing court. Thus,**

even where findings and conclusions are not required, the better practice is to explain in a decision on any **contested**, written motion the court's reasons for granting or denying the motion.

The new language appears in bold.

RESPECTFULLY SUBMITTED,

_____/s/_____

Lee Sternal

Dear Judge Berger and Ms. Moore,

Attached are Dave and my proposals for forms to use in conjunction with C.R.E. 902(11) and 902(12). There are forms for both district court and county court. Form 10 is the county court certification and Form 41 is the district court certification. Form 10 and 41 are essentially identical, they just have separate numbering because of the number of already existing forms for each rule. Dave and I have included two versions of Form 10 and 41. They have the same information, just presented in a different fashion. We would like the committee to decide which they prefer. The instructions are the same regardless of which form is preferred. Forms 11 and 42 are the disclosure form to be used in conjunction with forms 10 and 41, respectively. They are also essentially identical. If the committee is satisfied with the forms and instructions, we would propose approving them and sending them to the Supreme Court.

Sincerely,

Damon Davis

Killian Davis Richter & Mayle, P.C.

202 North 7th Street

Grand Junction, CO 81502

Ph. 970-241-0707

Fax. 970-242-8375

Form 10. CERTIFICATION OF RECORDS UNDER C.R.E. 902(11) AND 902(12)

Name of Organization or Business: _____

Address: _____

City/State/Zip Code: _____

Telephone Number: _____

I am the custodian of the attached records, or I am an employee familiar with the manner and process in which these records are created and maintained by virtue of my duties and responsibilities. I swear or affirm that to the best of my knowledge and belief the following is true for the attached documents, which are _____ (*describe documents*), consisting of _____ number of pages, dated from _____ to _____:

1) The records were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters; 2) Were kept in the course of the regularly conducted activity; 3) Were made by the regularly conducted activity as a regular practice.

Date: _____ Signature: _____

Subscribed and affirmed or sworn before me on this _____ day of _____, 20____, in the County of _____, State of _____.

Name: _____ Signature: _____

Witness my hand and official seal.

My commission expires _____.

Notary Public

Form 10. CERTIFICATION OF RECORDS UNDER C.R.E. 902(11) AND 902(12)

Name of Organization or Business: _____

Address: _____

City/State/Zip Code: _____

Telephone Number: _____

I am the custodian of the attached records, which are _____ (*describe documents*), consisting of _____ number of pages, dated from _____ to _____, or I am an employee familiar with the manner and process in which these records are created and maintained by virtue of my duties and responsibilities. I swear or affirm that to the best of my knowledge and belief the following is true for the attached documents:

- 1) The records were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters;
- 2) Were kept in the course of the regularly conducted activity;
- 3) Were made by the regularly conducted activity as a regular practice.

Date: _____ Signature: _____

Subscribed and affirmed or sworn before me on this _____ day of _____, 20____, in the County of _____, State of _____.

Name: _____ Signature: _____

Witness my hand and official seal.

My commission expires _____.

Notary Public

FORM 11. DISCLOSURE OF RECORDS TO BE OFFERED THROUGH A CERTIFICATION OF RECORDS PURSUANT TO C.R.E. 902(11) AND 902(12)

<p>COUNTY COURT, _____ COUNTY, COLORADO Address:</p> <hr/> <p>Plaintiff(s):</p> <p>v.</p> <p>Defendant(s):</p> <hr/> <p>Attorney or Party Without Attorney (Name and Address):</p> <p>Telephone Number:</p> <p>E-Mail:</p> <p>FAX Number:</p> <p>Atty. Reg. #:</p>	<p style="text-align: center;"><input type="checkbox"/> COURT USE ONLY <input type="checkbox"/></p> <p>Case No.</p> <p>Div.</p>
<p><u>[NAME OF PARTY]</u> DISCLOSURE OF RECORDS TO BE OFFERED THROUGH A CERTIFICATION OF RECORDS</p>	

 [Name of Party] Hereby submits this Disclosure of Records to be Offered Through A Certification of Records.

 [Name of Party] provides notice to all adverse parties of the intent to offer the following records through a certification of records pursuant to C.R.E. 902(11) and 902(12):

[List all records to be offered through a certification of records. If you intend to offer all records through a certification, you may state “all records.” Use additional Pages if necessary]

These records with the accompanying certification (*check applicable line*):

_____ Have already been provided to all adverse parties.

_____ Are being provided to all adverse parties with this Disclosure.

_____ Have been provided to all adverse parties in part, with the remainder being provided with this Disclosure

_____ Are available for inspection and copying on reasonable notice at this location:

Date: _____

(*Signature of Party or Attorney*)

CERTIFICATE OF SERVICE

I certify that on _____ (*date*) a copy of this **DISCLOSURE OF RECORDS TO BE OFFERED THROUGH A CERTIFICATION OF RECORDS** was served on the following parties (*list all parties served by name and address, use extra pages if necessary*):

_____	_____
_____	_____
_____	_____

(*Signature of Party or Attorney*)

INSTRUCTIONS FOR FORMS 10 AND 11

Records of a regularly conducted activity, often business records, may be admissible by affidavit if Colorado Rules of Evidence 902(11) or 902(12) are followed. Forms 10 and 11 provide a means to comply with the requirements of C.R.E. 902(11) and 902(12) to allow the admission of the records of a regularly conducted activity (otherwise known as business records). These forms are not the exclusive means of complying with the rules and parties may use their own forms so long as they comply with the requirements of the rules.

Form 10

Form 10 should be completed by the person in charge of the records at the business or organization, or by another person who is familiar with how the records are kept. It must be notarized. If the business or organization does not have a notary, it may be necessary to find a notary willing to go to the business.

Form 10 may be provided to the business or organization at the time records are requested, in person, by letter, or by subpoena. The form may then be completed at the time the records are provided. However, completion of the form is voluntary and the business or organization may refuse.

If a party desires a business or organization to complete Form 10 after the documents have been provided, it may be necessary to give the business a copy of the documents, so it can verify exactly what was earlier provided.

Form 10 calls for a description of the documents being certified. This description may be brief, such as: “medical records;” “architects notes and blue prints;” or “repair estimates.” The number of pages should be included to assist in identifying what records are certified by the affidavit.

Form 10 calls for a date range for the documents. This is to assist in determining what specific documents have been certified. If the documents are undated, and the date range cannot be ascertained, then this may be left blank.

The completed Form 10 must accompany the documents when they are offered at trial or a hearing.

Form 11

C.R.E. 902(11) and 902(12) require advance notice if documents will be offered into evidence through a certification of the records. Form 11 provides a means to provide this notice.

Form 11 should list each record that may be offered through a certification, unless all records may be offered in this manner, in which case Form 11 may state “all records.” By way of

example, the records may be listed by name or description, Bate's number, or trial exhibit number.

Both the records to be offered and the certifications must be provided to all adverse parties, or at least made available for inspection and copying. If the records or certifications have not already been provided, they should be attached to Form 11 or be made available for inspection and copying. The serving party need only attach those records and certifications that have not already been provided.

Form 11 must be served on all adverse parties before of the use of the records at a trial or hearing. For the sake of simplicity, it may be desirable to serve all parties, and not just all adverse parties. The service must be sufficiently in advance of the trial or hearing that the adverse parties may prepare to address the documents.

What constitutes sufficient advance notice is decided on a case-by-case basis. But Form 11 should be served sufficiently in advance of the trial or hearing that the adverse parties have an opportunity to raise any concerns with the court and to subpoena witnesses to testify about the documents if they so desire.

Form 41. CERTIFICATION OF RECORDS UNDER C.R.E. 902(11) AND 902(12)

Name of Organization or Business: _____

Address: _____

City/State/Zip Code: _____

Telephone Number: _____

I am the custodian of the attached records, or I am an employee familiar with the manner and process in which these records are created and maintained by virtue of my duties and responsibilities. I swear or affirm that to the best of my knowledge and belief the following is true for the attached documents, which are _____ (*describe documents*), consisting of _____ number of pages, dated from _____ to _____:

1) The records were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters; 2) Were kept in the course of the regularly conducted activity; 3) Were made by the regularly conducted activity as a regular practice.

Date: _____ Signature: _____

Subscribed and affirmed or sworn before me on this _____ day of _____, 20____, in the County of _____, State of _____.

Name: _____ Signature: _____

Witness my hand and official seal.

My commission expires _____.

Notary Public

Form 41. CERTIFICATION OF RECORDS UNDER C.R.E. 902(11) AND 902(12)

Name of Organization or Business: _____

Address: _____

City/State/Zip Code: _____

Telephone Number: _____

I am the custodian of the attached records, which are _____ (*describe documents*), consisting of _____ number of pages, dated from _____ to _____, or I am an employee familiar with the manner and process in which these records are created and maintained by virtue of my duties and responsibilities. I swear or affirm that to the best of my knowledge and belief the following is true for the attached documents:

- 1) The records were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters;
- 2) Were kept in the course of the regularly conducted activity;
- 3) Were made by the regularly conducted activity as a regular practice.

Date: _____ Signature: _____

Subscribed and affirmed or sworn before me on this _____ day of _____, 20____, in the County of _____, State of _____.

Name: _____ Signature: _____

Witness my hand and official seal.

My commission expires _____.

Notary Public

FORM 42. DISCLOSURE OF RECORDS TO BE OFFERED THROUGH A CERTIFICATION OF RECORDS PURSUANT TO C.R.E. 902(11) AND 902(12)

DISTRICT COURT, _____ COUNTY, COLORADO Address: <hr/> Plaintiff(s): v. Defendant(s): <hr/> Attorney or Party Without Attorney (Name and Address): Telephone Number: E-Mail: FAX Number: Atty. Reg. #:	<div style="text-align: center; border: 1px solid black; padding: 5px; margin-bottom: 10px;"> <input type="checkbox"/> COURT USE ONLY <input type="checkbox"/> </div> Case No. Div.
<p><u>[NAME OF PARTY]</u> DISCLOSURE OF RECORDS TO BE OFFERED THROUGH A CERTIFICATION OF RECORDS</p>	

 [Name of Party] Hereby submits this Disclosure of Records to be Offered Through A Certification of Records.

 [Name of Party] provides notice to all adverse parties of the intent to offer the following records through a certification of records pursuant to C.R.E. 902(11) and 902(12):

[List all records to be offered through a certification of records. If you intend to offer all records through a certification, you may state “all records.” Use additional Pages if necessary]

These records with the accompanying certification (*check applicable line*):

_____ Have already been provided to all adverse parties.

_____ Are being provided to all adverse parties with this Disclosure.

_____ Have been provided to all adverse parties in part, with the remainder being provided with this Disclosure

_____ Are available for inspection and copying on reasonable notice at this location:

Date: _____

(*Signature of Party or Attorney*)

CERTIFICATE OF SERVICE

I certify that on _____ (*date*) a copy of this **DISCLOSURE OF RECORDS TO BE OFFERED THROUGH A CERTIFICATION OF RECORDS** was served on the following parties (*list all parties served by name and address, use extra pages if necessary*):

_____	_____
_____	_____
_____	_____

(*Signature of Party or Attorney*)

INSTRUCTIONS FOR FORMS 41 AND 42

Records of a regularly conducted activity, often business records, may be admissible by affidavit if Colorado Rules of Evidence 902(11) or 902(12) are followed. Forms 41 and 42 provide a means to comply with the requirements of C.R.E. 902(11) and 902(12) to allow the admission of the records of a regularly conducted activity (otherwise known as business records). These forms are not the exclusive means of complying with the rules and parties may use their own forms so long as they comply with the requirements of the rules.

Form 41

Form 41 should be completed by the person in charge of the records at the business or organization, or by another person who is familiar with how the records are kept. It must be notarized. If the business or organization does not have a notary, it may be necessary to find a notary willing to go to the business.

Form 41 may be provided to the business or organization at the time records are requested, in person, by letter, or by subpoena. The form may then be completed at the time the records are provided. However, completion of the form is voluntary and the business or organization may refuse.

If a party desires a business or organization to complete Form 41 after the documents have been provided, it may be necessary to give the business a copy of the documents, so it can verify exactly what was earlier provided.

Form 41 calls for a description of the documents being certified. This description may be brief, such as: “medical records;” “architects notes and blue prints;” or “repair estimates.” The number of pages should be included to assist in identifying what records are certified by the affidavit.

Form 41 calls for a date range for the documents. This is to assist in determining what specific documents have been certified. If the documents are undated, and the date range cannot be ascertained, then this may be left blank.

The completed Form 41 must accompany the documents when they are offered at trial or a hearing.

Form 42

C.R.E. 902(11) and 902(12) require advance notice if documents will be offered into evidence through a certification of the records. Form 42 provides a means to provide this notice.

Form 42 should list each record that may be offered through a certification, unless all records may be offered in this manner, in which case Form 42 may state “all records.” By way of

example, the records may be listed by name or description, Bate's number, or trial exhibit number.

Both the records to be offered and the certifications must be provided to all adverse parties, or at least made available for inspection and copying. If the records or certifications have not already been provided, they should be attached to Form 42 or made available for inspection and copying. The serving party need only attach those records and certifications that have not already been provided.

Form 42 must be served on all adverse parties before of the use of the records at a trial or hearing. For the sake of simplicity, it may be desirable to serve all parties, and not just all adverse parties. The service must be sufficiently in advance of the trial or hearing that the adverse parties may prepare to address the documents.

What constitutes sufficient advance notice is decided on a case-by-case basis. But Form 42 should be served sufficiently in advance of trial or hearing that the adverse parties have an opportunity to raise any concerns with the court and to subpoena witnesses to testify about the documents if they so desire.

From: Richard W. Laugesen [<mailto:laugesen@indra.com>]
Sent: Monday, July 11, 2016 10:58 AM
To: berger, michael
Cc: rjtlaw@montrose.net
Subject: FW: Rule Change 2016(1) (re C.R.C.P. 121 ¶ 1-15 (Motions))

SENT ON BEHALF OF RICHARD LAUGESSEN, ESQ.:

Judge Berger:

I have received an inquiry from Bob Thomas of Montrose, Colorado (shown below) concerning newly-revised CRCP 121, Sec. 1-15. I thought it best that you respond and take whatever action (if any) that may be required.

Respectfully,

Richard W. Laugesen
1830 South Monroe Street
Denver, Colorado 80210
Phone: 303-300-1006
Fax: 303-300-1008
E-Mail: laugesen@indra.com

From: Bob [<mailto:rjtlaw@montrose.net>]
Sent: Sunday, July 10, 2016 11:48 AM
To: Laugesen@indra.com
Subject: Rule Change 2016(1) (re C.R.C.P. 121 ¶ 1-15 (Motions))

Hi Dick,

I've got a quick question/comment on the recent change to CRCP 121, and you're the only one I know on the Rules Committee. (I "know" you primarily through various consults I've had on the phone, which you've always be so gracious to give your time).

Anyway, I've been in practice since 1981. I am currently working on a response to a motion to dismiss filed under 5 subparts of CRCP 12(b) (including 12(b) (1) and (2)). The motion completely fails to give a recitation of legal authority, and so I was going to cite the rule that allowed the Court to deny the motion as being deemed "abandoned." That was, however, until I double checked the recent rule change, which removed this provision excepting only as to CRCP 56 motions for summary judgment. The recent change is as follows:

3. Effect of Failure to File Legal Authority. If the moving party fails to incorporate legal authority into ~~the motion or fails to file a brief with~~ a C.R.C.P. 56 motion, the court may deem the motion abandoned and may enter an order denying the motion. Failure of a responding party to file a responsive brief may be considered a confession of the motion.

I can't grasp the logic of this change: it provides a consequence for failure to comply as to CRCP 56 motions... but no consequence as to other motions. This had to be an oversight, as the rationale for treating motions differently on this point is not apparent..... and this is particularly puzzling since the new rule gives CRCP 12(b)(1) and (b)(2) motions/responses/replies the same special treatment as CRCP 56 motions on another issue (allowing for much larger page/word maximums). Which to me shows a recognition of the equal importance and need to fully cite legal authority in both types of motions.

What I think happened is that subpart 1(a) of the prior rule had a poorly worded provision which seemed to require the legal authority to be incorporated in the motion, excepting only Rule 56 (where separate briefs were contemplated).... So the Committee made the following change on that provision (to eliminate the separate brief requirement) for CRCP 56 motions:

- (a) any motions involving a contested issue of law shall be supported by a recitation of legal authority incorporated into the motion, **which shall not be filed with a separate brief.** ~~except for a motion pursuant to C.R.C.P. 56.~~

So perhaps the change I'm complaining about somehow got tangled up with this effort to remove the separate treatment that only CRCP 56 motions required a separate brief.

Anyway, the following is what I think would have been an appropriate change to the pre 2016 amendment version of subpart 3:

3. Effect of Failure to File Legal Authority. If the moving party fails to incorporate legal authority into the motion ~~or fails to file a brief with a C.R.C.P. 56 motion~~, the court may deem the motion abandoned and may enter an order denying the motion. Failure of a responding party to file a responsive brief may be considered a confession of the motion.

The change to the current version of subpart 3 would be simple:

3. Effect of Failure to File Legal Authority. If the moving party fails to incorporate legal authority into ~~a C.R.C.P. 56~~ the motion, the court may deem the motion abandoned and may enter an order denying the motion. Failure of a responding party to file a responsive brief may be considered a confession of the motion.

You can compare this to the actual 2016 amendment above and determine if this makes more sense.

Anyway, I would appreciate it if you could address this at your Committee the next time you meet. Or maybe there was a specific reason to draft it as it now stands?

Kind Regards,
Bob Thomas, Attorney
Cashen, Cheney & Thomas
400 S. 3rd St.; Montrose, CO 81401
Telephone: 970.249.6611
Email: rjtlaw@montrose.net

Section 1-13 – 1-14 [NO CHANGE]

Section 1-15

DETERMINATION OF MOTIONS

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

(a) Except motions during trial or where the court orders that certain or all non-dispositive motions be made orally~~deems an oral motion to be appropriate~~, any motions involving a contested issue of law shall be supported by a recitation of legal authority incorporated into the motion, which shall not be filed with a separate brief. ~~except for a motion pursuant to C.R.C.P. 56. Motions or briefs in excess of 10 pages in length, exclusive of tables and appendices, are discouraged. Except for electronic filings made pursuant to Section 1-26 of this Rule, the original and one copy of all motions and briefs shall be filed with the court, and a copy served as required by law. Unless the court orders otherwise, motions and responsive briefs not under C.R.C.P. 12(b)(1) or (2), or 56 are limited to 15 pages (but not more than 4,000 words), and reply briefs to 10 pages (but not more than 2,500 words), not including the case caption, signature block, certificate of service and attachments. Unless the court orders otherwise, motions and responsive briefs under C.R.C.P. 12(b)(1) or (2) or 56 are limited to 25 pages (but not more than 6,500 words), and reply briefs to 15 pages (but not more than 4,000 words), not including the case caption, signature block, certificate of service and attachments. All motions and briefs shall be double-spaced, except for footnotes and quotes.~~

(b) – (c) [NO CHANGE]

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

2. [NO CHANGE]

3. Effect of Failure to File Legal Authority. If the moving party fails to incorporate legal authority into ~~the motion or fails to file a brief with~~ a C.R.C.P. 56 motion, the court may deem the motion abandoned and may enter an order denying the motion. Failure of a responding party to file a responsive brief may be considered a confession of the motion.

4. Motions to Be Determined on Briefs, When Oral Argument Is Allowed; Motions Requiring Immediate Attention. ~~If possible, m~~Motions shall be determined promptly if possible. The ~~upon the written motion and briefs submitted. However, the court has discretion to may order briefing or set a oral argument or an evidentiary hearing, or if the request for oral argument or an evidentiary hearing is requested in a on the motion, or any brief, oral argument may be allowed by the court at its discretion. If possible, the court shall determine oral motions at the conclusion of the argument, but may take the motion under advisement or require briefing before ruling.~~ Any motion requiring immediate disposition shall be called to the attention of the courtroom clerk by the party filing such motion.

5. Notification of Court's Ruling; Setting of Argument or Hearing When Ordered. Whenever the court enters an order denying or granting a motion without a hearing, all parties shall be forthwith notified by the court of such order. If the court desires or authorizes oral argument or an evidentiary hearing, all parties shall be so notified by the court. After notification, it shall be the responsibility of the moving party to have the motion set for oral argument or hearing. Unless the court orders otherwise, A a

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

6. – 11. [NO CHANGE]

COMMITTEE COMMENTS

1994

[1] This Practice Standard was necessary because of lack of uniformity among the districts concerning how motions were to be made, set and determined. The Practice Standard recognizes that oral argument and hearings are not necessary in all cases, and encourages disposition of motions upon written submissions. The standard also sets forth the uniform requirements concerning filing of legal authority, filing of matters not already of record necessary to determination of motions, and the manner of setting an oral argument if argument is permitted. The practice standard is broad enough to include all motions, including venue motions. Some motions will not require extended legal analysis or affidavits. Obviously, if the basis for a motion is simple and routine, the citation of authorities can be correspondingly simple. Motions or briefs in excess of 10 pages are discouraged.

[2] This standard specifies contemporaneous recitation of legal authority either in the motion itself for all motions except those under C.R.C.P. Rule 56. Moving counsel should confer with opposing counsel before filing a motion to attempt to work out the difference prompting the motion. Every motion must, at the beginning, contain a certification that the movant, in good faith, has conferred with opposing counsel about the motion. If there has been no conference, the reason why must be stated. To assist the court, if the relief sought by the motion has been agreed to or will not be opposed, the court is to be so advised in the motion.

[3] Paragraph 4 of the standard contains an important feature. Any matter requiring immediate action should be called to the attention of the courtroom clerk by the party filing a motion for forthwith disposition. Calling the urgency of a matter to the attention of the court is a responsibility of the parties. The court should permit a forthwith determination.

2014

[4] Paragraph 11 of the standard neither limits a trial court's discretion to modify an interlocutory order, on motion or sua sponte, nor affects C.R.M. 5(a).

2015

[5] The sentence in the 1994 comment that “motions or briefs in excess of 10 pages are discouraged” has been superseded by the 2015 amendments to the rule on the length of motions and briefs. The sentence in the 1994 comment that “moving counsel should confer with opposing counsel before filing a motion to attempt to work out the difference prompting the motion” is corrected to change the word “should” to “shall” to be consistent with the wording of the rule.

Effective for motions filed on or after April 1, 2016

<input type="checkbox"/> District Court <input type="checkbox"/> Denver Juvenile Court _____ County, Colorado Court Address: _____ <hr/> In re: <input type="checkbox"/> The Marriage of: <input type="checkbox"/> The Civil Union of: <input type="checkbox"/> Parental Responsibilities concerning: _____ Petitioner: and Co-Petitioner/Respondent:	▲ COURT USE ONLY ▲
Attorney or Party Without Attorney (Name and Address): _____ Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____	Case Number: _____ Division _____ Courtroom _____
SWORN FINANCIAL STATEMENT	

I, _____ (full name) am am not currently employed.

I am employed _____ hours per week. I am paid weekly bi-weekly twice a month monthly.

My pay is based on a Monthly Salary Hourly rate of \$ _____ Other: _____

Date employment began _____.

My occupation is: _____ Name of employer: _____

Address of employer: _____

If unemployed, what date did you last work? _____

I am unemployed due to disability involuntary layoff at work other: _____

This household consists of _____ adult(s), and _____ minor child(ren).

I believe the monthly gross income of the other party is \$ _____.

Annual gross income (last tax year 20__) for Petitioner \$ _____, Co-Petitioner/Respondent \$ _____

1. Monthly Income (Convert annual, bi-monthly, and weekly amounts to monthly amounts.)

Gross Monthly Income (before taxes and deductions) from salary and wages, including commissions, bonuses, overtime, self-employment, business income, other jobs, and monthly reimbursed expenses.	\$	Social Security Benefits (SSA) <input type="checkbox"/> SSDI (Disability insurance – entitlement program) <input type="checkbox"/> SSI (supplemental income – need based)	\$
Unemployment & Veterans' Benefits		Disability, Workers' Compensation	
Pension & Retirement Benefits		Interest & Dividends	
Public Assistance (TANF)		Other - _____	
Total Monthly Income			\$
Miscellaneous Income			
Royalties, Trusts, and Other Investments	\$	Contributions from Others	\$
Dependent Children's monthly gross income. Source of Income: _____		All other sources, i.e. personal injury settlement, non-reported income, etc.	
Rental Net Income		Expense Accounts	
Child Support from Others		Other - _____	
Spousal/Partner Support from Others		Other - _____	
Total Monthly Miscellaneous Income			\$
Total Income			\$

2. Monthly Deductions (Mandatory and Voluntary)

Mandatory Deductions	Cost Per Month		Cost Per Month
Federal Income Tax	\$	State/Local Income Tax	\$
PERA/Civil Service		Social Security Tax	
Medicare Tax		Other - _____	
Total Mandatory Deductions			\$
Voluntary Deductions	Cost Per Month		Cost Per Month
Life and Disability Insurance	\$	Stocks/Bonds	\$
Health, Dental, Vision Insurance Premium		Retirement & Deferred Compensation	
Total number of people covered on Plan →			
Child Care (deducted from salary)		Other - _____	
Flex Benefit Cafeteria Plan		Other - _____	
Total Voluntary Deductions			\$
Total Monthly Deductions			\$

3. Monthly Expenses

Note: List regular monthly expenses below that you pay on an on-going basis and that are not identified in the deductions above.

A. Housing

	Cost Per Month		Cost Per Month
1 st Mortgage	\$	2 nd Mortgage	\$
Insurance (Home/Rental) & Property Taxes (not included in mortgage payment)		Condo/Homeowner's/Maintenance Fees	
Rent		Other - _____	
Total Housing			\$

B. Utilities and Miscellaneous Housing Services

	Cost Per Month		Cost Per Month
Gas & Electricity	\$	Water, Sewer, Trash Removal	\$
Telephone (local, long distance, cellular & pager)		Property Care (Lawn, snow removal, cleaning, security system, etc.)	
Internet Provider, Cable & Satellite TV		Other - _____	
Total Utilities and Miscellaneous Housing Services			\$

C. Food & Supplies

	Cost Per Month		Cost Per Month
Groceries & Supplies	\$	Dining Out	\$
Total Food & Supplies			\$

D. Health Care Costs (Co-pays, Premiums, etc.)

	Cost Per Month		Cost Per Month
Doctor & Vision Care	\$	Dentist and Orthodontist	\$
Medicine & RX Drugs		Therapist	
Premiums (if not paid by employer)		Other - _____	
Total Health Care			\$

E. Transportation & Recreation Vehicles (Motorcycles, Motor Homes, Boats, ATV, Snowmobiles, etc.)

	Cost Per Month		Cost Per Month
Primary Vehicle Payment	\$	Other Vehicle Payments	\$
Fuel, Parking, and Maintenance		Insurance & Registration/Tax Payments (yearly amount(s) ÷ 12)	
Bus & Commuter Fees		Other - _____	
Total Transportation			\$

F. Children's Expenses and Activities

	Cost Per Month		Cost Per Month
Clothing & Shoes	\$	Child Care	\$
Extraordinary Expenses i.e. Special Needs, etc.		Misc. Expenses, i.e. Tutor, Books, Activities, Fees, Lunch, etc.	
Tuition		Other - _____	
Total Children's Expenses and Activities			\$

G. Education for you - Please identify status: Full-time student Part-time student

	Cost Per Month		Cost Per Month
Tuition, Books, Supplies, Fees, etc.		Other - _____	
Total Education			\$

H. Maintenance (Spousal/Partner Support) & Child Support (that you pay)

	Cost Per Month		Cost Per Month
Maintenance		Child Support	
<input type="checkbox"/> This family	\$	<input type="checkbox"/> This family	\$
<input type="checkbox"/> Other family		<input type="checkbox"/> Other family	
Total Maintenance and Child Support			\$

I. Miscellaneous (Please list on-going expenses not covered in the sections above)

	Cost Per Month		Cost Per Month
Recreation/Entertainment	\$	Personal Care (Hair, Nail, Clothing, etc.)	\$
Legal/Accounting Fees		Subscriptions (Newspapers, Magazines, etc.)	
Charity/Worship		Movie & Video Rentals	
Vacation/Travel/Hobbies		Investments (Not part of payroll deductions)	
Membership/Clubs		Home Furnishings	
Pets/Pet Care		Sports Events/Participation	
Other - _____		Other - _____	
Other - _____		Other - _____	
Other - _____		Other - _____	
Other - _____		Other - _____	
Total Miscellaneous			\$

Total Monthly Expenses (Totals from A – I)	\$
---	-----------

4. Debts (unsecured)

List unsecured debts such as credit cards, store charge accounts, loans from family members, back taxes owed to the I.R.S., etc. **Do not** list debts that are liens against your property, such as mortgages and car loans, because that payment is already listed as an expense above, and the total of the debt is shown elsewhere as a deduction from value where that asset is listed, such as under Real Estate or Motor Vehicles.

For name on account, "P" = Petitioner, "C/R" = Co-Petitioner or Respondent, "J" = Joint.

Name of Creditor	Account Number (last 4-digits only)	P	C/R	J	Date of Balance	Balance	Minimum Monthly Payment Required	Reason for Which Debt was Incurred
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$	\$	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
Unsecured Debt Balance						\$	\$	→Total Minimum Monthly Payment

**SWORN FINANCIAL STATEMENT SUMMARY
(INCOME/EXPENSES)**

Total Income (from Page 1) \$ _____ **A**

Total Monthly Deductions (from Page 2) \$ _____ **B**

Total Monthly Net Income (A minus B) \$ _____

Total Monthly Expenses (from Page 3) \$ _____ **C**

Total Minimum Monthly Payment Required - Debts Unsecured (from Page 4) \$ _____ **D**

Total Monthly Expenses and Payments (C plus D) \$ _____

Net Excess or Shortfall (Monthly Net Income less Monthly Expenses and Payments)	(+/-)	\$ _____
--	--------------	----------

5. Assets

You **MUST** disclose all assets correctly. By indicating "None", you are stating affirmatively that you or the other party, do not have assets in that category. Please attach additional copies of pages 5 & 6 to identify your assets, if necessary.

If the parties are married or partners in a civil union, check under the heading Joint (J) all assets acquired during the marriage/civil union but not by gift or inheritance. Under the headings of Petitioner (P) or Co-Petitioner/Respondent (C/R), check assets owned before this marriage/civil union and assets acquired by gift or inheritance.

If the parties were NEVER married to each other or are using this form to modify child support, list all of each party's assets under the headings of Petitioner (P) or Co-Petitioner/Respondent (C/R).

"P" = Petitioner, "C/R" = Co-Petitioner or Respondent, "J" = Joint.

A. Real Estate (Address or Property Description and Name of Creditor/ Lender) <input type="checkbox"/> None	P	C/R	J	Estimated Value as of Today Value = what you could sell it for in its current condition.	Amount Owed	Net Value/Equity (Value minus amount owed)
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	\$	\$
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
Total				\$	\$	\$

B. Motor Vehicles & Recreation Vehicles Including Motorcycles, ATV's, Boats, etc.) (Year, Make, Model) (Name of Creditor/Lender) <input type="checkbox"/> None	P	C/R	J	Estimated Value as of Today Value = what you could sell it for in its current condition.	Amount Owed	Net Value/Equity (Value minus amount owed)
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
Total				\$	\$	\$

C. Cash on Hand, Bank, Checking, Savings, or Health Accounts (Name of Bank or Financial Institution) <input type="checkbox"/> None	P	C/R	J	Type of Account	Account # (last 4-digits only)	Balance as of Today
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			\$
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
Total						\$

D. Life Insurance (Name of Company/Beneficiary) <input type="checkbox"/> None	P	C/R	J	Type of Policy	Face Amount of Policy	Cash Value today
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		\$	\$
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
Total				\$	\$

E. Furniture, Household Goods, and Other Personal Property, i.e. Jewelry, Antiques, Collectibles, Artwork, Power Tools, etc. Identify Items and report in total. <input type="checkbox"/> None	P	C/R	J	Current Possession Held by			Estimated Value as of Today Value = what you could sell it for in its current condition.
				P	C/R	J	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Total							\$

F. Stocks, Bonds, Mutual Funds, Securities & Investment Accounts <input type="checkbox"/> None <input type="checkbox"/> If owned please attach JDF 1111-SS.	Total	\$
G. Pension, Profit Sharing, or Retirement Funds <input type="checkbox"/> None <input type="checkbox"/> If owned please attach JDF 1111-SS.	Total	\$

H. Miscellaneous Assets <input type="checkbox"/> None If you own any of the assets identified below, please check the appropriate box and attach JDF 1111-SS to report the value.			
<input type="checkbox"/> Business Interests	<input type="checkbox"/> Stock Options	<input type="checkbox"/> Money/Loans owed to you	<input type="checkbox"/> IRS Refunds due to you
<input type="checkbox"/> Country Club & Other Memberships	<input type="checkbox"/> Livestock, Crops, Farm Equipment	<input type="checkbox"/> Pending lawsuit or claim by you	<input type="checkbox"/> Accrued Paid Leave (sick, vacation, personal)
<input type="checkbox"/> Oil and Gas Rights	<input type="checkbox"/> Vacation Club Points	<input type="checkbox"/> Safety Deposit Box/Vault	<input type="checkbox"/> Trust Beneficiary
<input type="checkbox"/> Frequent Flyer Miles	<input type="checkbox"/> Education Accounts	<input type="checkbox"/> Health Savings Accounts	<input type="checkbox"/> Mineral and Water Rights
<input type="checkbox"/> Other - _____	<input type="checkbox"/> Other - _____	<input type="checkbox"/> Other - _____	<input type="checkbox"/> Other - _____
Total			\$

I. Separate Property <input type="checkbox"/> None <input type="checkbox"/> If owned please attach JDF 1111-SS to identify the property and to report the value.	Total	\$
--	--------------	----

Total Value/Balance of All Assets (A – I)	\$
--	----

I swear or affirm under oath that this Sworn Financial Statement, attached schedules, and mandatory disclosures contain a complete disclosure of my income, expenses, assets, and debt as of the date of my signature.

I understand that if the information I have provided changes or needs to be updated before a final decree or order is issued by the Court, that I have a duty to provide the correct or updated information.

I understand that this oath is made under penalty of perjury. I understand that if I have omitted or misstated any material information, intentionally or not, the Court will have the power to enter orders to

address those matters, including the power to punish me for any statements made with the intent to defraud or mislead the Court or the other party.

Date: _____

Signature of Petitioner or Co-Petitioner/Respondent

Subscribed and affirmed, or sworn to before me in the
County of _____, State of
_____, this _____ day of _____, 20_____.

My Commission Expires: _____

Notary Public/Deputy Clerk

CERTIFICATE OF SERVICE

~~To be completed if the Sworn Financial Statement is not being filed with
JDF 1104 - Certificate of Compliance with Mandatory Financial Disclosures~~

I certify that on _____ (date) a true and accurate copy of the **SWORN FINANCIAL STATEMENT** was served on the other party by:

Hand Delivery, E-filed, Faxed to this number: _____, or

By placing it in the United States mail, postage pre-paid, and addressed to the following:

To: _____

Your signature