

**Colorado Supreme Court Advisory Committee on the Rules of Civil Procedure
Minutes of February 27, 2015 Meeting**

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	
David R. DeMuro	X	
Judge Ann Frick		X
Peter Goldstein	X	
Lisa Hamilton-Fieldman		X
Richard P. Holme	X	
Judge Jerry N. Jones	X	
Charles Kall		X
Thomas K. Kane		X
Debra Knapp	X	
Cheryl Layne		X
Richard Laugesen	X	
Judge Cathy Lemon	X	
David C. Little	X	
Chief Judge Alan Loeb		X
Professor Christopher B. Mueller		X
Judge Ann Rotolo		X
Frederick B. Skillern		X
Lee N. Sternal	X	
Ben Vinci		X
Magistrate Marianne Tims	X	
Judge John R. Webb	X	
J. Gregory Whitehair		X
Christopher Zenisek	X	
Non-voting Participants		
Justice Allison Eid, Liaison	X	
Teresa Tate	X	

I. Attachments & Handouts

February 27, 2015 Agenda Packet

II. Announcements from the Chair

The January 30, 2015 Meeting Minutes were passed with no corrections.

The letter written by Judge Berger to the supreme court recommending a July 1, 2015 effective date for the Improving Access to Justice (IAJ) proposal was in the Agenda Packet at pages 7-9, and posted on the court's website. As a reminder, public comment to the proposed rule changes are due April 17, and a public hearing will be held on April 30 at 1:30 in the Supreme Court Courtroom.

III. Business

A. IAJ Proposal - Committee Comments

Judge Webb discussed the proposed committee comment amendments. The recommendation is, to delete the existing comments, add in a few new comments where necessary, and append the IAJ Report after Rule 1. The committee discussed whether or not the entire IAJ Report needed to be appended after Rule 1. Richard Holme made a motion to print relevant rule information from the IAJ Report after the appropriate rule, instead of appending the entire IAJ Report after Rule 1. Mr. Holme's motion was seconded and passed unanimously.

Mr. Holme had an additional amendment to the new committee comment in Rule 26. The new comment reads, "The 2015 amendments to C.R.C.P. 26, like the current proposed version of Rule 26 of the Federal Rules of Civil Procedure, emphasize the application of the concept of proportionality to disclosure and discovery" and Mr. Holme proposed adding "with robust disclosure followed by limited discovery." The motion passed by a vote of 7 to 6 (Judge Berger voted to break the 6-6 tie).

There was a question about Rules 30 and 54, where each had rule had a "Pre-2015 Committee Comment" title added to historic comments. A concern was raised about editing historic comments, and the committee agreed to take these comments under advisement. Judge Berger will write a supplemental letter regarding the committee comment amendments to Justice Eid.

B. Colorado Rules of Probate Procedure

Tabled until the April 24, 2015 Meeting.

C. Rule 120 Subcommittee

The subcommittee is still working on a final proposal, and subcommittee chair Fred Skillern will keep the committee updated.

D. Rule 121 §1-15 Subcommittee

Chair David DeMuro took the committee's January 30 comments into consideration and began describing the amended proposal. As before, oral motions would be allowed for discovery and other nondispositive motions, and word and page limits were added in paragraph 1. The Committee added language requiring the filing of a combined brief and

motion, and in paragraph 4 whether to keep “prompt” in the first sentence was discussed. Members wanted to add a double-spacing requirement, and they discussed how the use of 14 versus 12 point font would affect page limits. Through the discussion the committee decided an amendment to Rule 10 should be proposed. Mr. DeMuro said he would take all committee comments under consider and present a revised draft at the April 24 Meeting.

E. Rule 84, Forms

Mr. Holme began by stating that the federal rules that take effect in December abolish FRCP 84 and accompanying forms, because they are no longer relevant. In lieu of this, the committee should look at the standard forms in the CRS court rule books, and consider making changes. At the April 24 Meeting he will make a specific proposal.

F. Rule 53, Masters

Judge Berger received an email from attorney David Tenner, asking the committee to consider revision to Rule 53 similar to the 2003 amendments to FRCP 53. A subcommittee will be appointed to draft an amendment.

G. C.R.S. §2-4-401

In the federal rules restyling project, “shall” was replaced with “must”. Colorado Revised Statute §2-4-401, defines “shall” and “must”, and Judger Berger wanted to bring this to the committee’s attention as rule changes are proposed.

IV. Future Meetings

April 24, 2015

June 26, 2015

September 25, 2015

The Committee adjourned at 3:30 p.m.

Respectfully submitted,

Jenny A. Moore