

**COLORADO SUPREME COURT
ADVISORY COMMITTEE ON RULES OF CIVIL PROCEDURE**

**Minutes of Meeting
Friday, March 21, 2014**

A quorum being present, the Colorado Supreme Court’s Advisory Committee on Rules of Civil Procedure was called to order by the Honorable Michael H. 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
Judge Thomas K. Kane	X	
Debra Knapp		X
Cheryl Layne		X
Richard Laugesen	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 Chris Voisinet		X
Judge John R. Webb	X	
J. Gregory Whitehair	X	
Judge Christopher Zenisek		X
Non-voting Participants		
Justice Allison Eid, Liaison		X
Carol Haller	X	

I. Attachments & Handouts

- A. Agenda packet
- B. *Colorado Lawyer* Court Business section

II. Announcements from the Chair

The 2014 Meeting Schedule was announced. The Committee currently has five scheduled meetings: March 21, May 30, September 26, October 30, and November 21. The meeting schedule will be modified as needed.

Since the last meeting the supreme court accepted the Committee's recommended changes to C.R.C.P. 121 §1-15, C.R.M. 7, C.R.C.P. 121 §1-26, and C.R.C.P. 305.5. All court rule adoptions are posted on the Judicial Branch's website www.courts.state.co.us.

A public hearing on the proposed rule changes to C.R.C.P. 54(d) and local rule C.R.C.P. 121, §1-22 will take place on Tuesday, April 29th at 1:30pm in the Colorado Supreme Court Courtroom. It was decided that Dick Holme, chairman of the costs subcommittee, will speak on the Committee's behalf.

III. New Business

A. The Civil Access Pilot Project

The Civil Access Pilot Project (CAPP) began on January 1, 2012 and will end, after a one year extension, on December 31, 2014. In April 2014, a preliminary findings report will be published by the Institute for the Advancement of the American Legal System. A subcommittee, chaired by Richard Holme, was formed to look at the preliminary report and to make recommendations to the Committee regarding the future of the CAPP rules. The Committee shared comments and concerns about CAPP, which focused on its scope and structure. Much of 2014 will be spent analyzing both the first preliminary report, and the second final report that is expected in September. The Committee will use its best efforts to make recommendations to the court by the end of the year.

B. Claw Back, F.R.C.P. 26

The Federal Rules Subcommittee, chaired by David DeMuro, submitted a proposal to change C.R.C.P. 26 to integrate the portion of F.R.C.P. 26 commonly referred to as the claw back procedure. The proposed rule change addresses the appropriate procedure for when a party unknowingly discloses privileged materials to opposing counsel. The Committee discussed creating a time period within which the disclosed material could be clawed back, the importance of F.R.C.P. 502 to the federal claw back procedure, and which party has the burden in court under the proposed rule, the disclosing or receiving party. The subcommittee will take the Committee's comments into consideration and present a revised proposal at the next meeting.

C. C.R.C.P. 47, Juror Questions

Judge Terry wrote a special concurrence in the unpublished case, *People v. Gallo*, No. 09CA1308, 2014 WL 786769 (Colo. App. Feb. 27, 2014) regarding the lack of a specified procedure in the rules for when a juror's question is not clear to a witness. The Committee decided this is an issue it should address. A subcommittee was set up to examine the proper procedure for clarifying juror questions.

D. C.R.C.P. 103 §4(f), Court order on garnishment answer

A standing garnishment subcommittee was formed, with Ben Vinci as Chair. From now on, the Committee will only consider a garnishment proposal after the subcommittee has submitted a proposed language change.

E. Other Business

Two additional subcommittees were formed: a magistrate subcommittee with Magistrate Chris Voisinet as Chair, and a Motion for Reconsideration Subcommittee, chaired by the Honorable John Webb. These subcommittees will meet as necessary.

IV. Future Meetings

May 30, 2014
September 26, 2014

The Committee adjourned at 3:15 pm.

Respectfully submitted,

Jenny A. Moore