

**COLORADO SUPREME COURT
ADVISORY COMMITTEE ON THE RULES OF EVIDENCE**

October 30, 2015 Meeting Minutes

A quorum being present, the Colorado Supreme Court’s Advisory Committee on the Rules of Evidence was called to order by Judge Gale T. Miller at 1:30, in the Supreme Court Conference Room on the fourth floor of the Ralph L. Carr Colorado Judicial Center. Members and guests present or excused from the meeting were:

Name	Present	Excused
Judge Gale T. Miller, Chair	X	
Catherine P. Adkisson	X	
Fred Haines	X	
Harlan Bockman		X
Philip A. Cherner	X	
Judge Theresa Cisneros	X	
David DeMuro	X	
Judge Martin Egelhoff		X
Elizabeth F. Griffin	X	
Judge Marcelo Kopcow	X	
Professor Sheila Hyatt	X	
Chief Judge Alan Loeb	X	
Professor Christopher Mueller	X	
Norman Mueller	X	
Henry R. Reeve	X	
Robert M. Russel	X	

I. Attachments & Handouts

October 30, 2015 agenda packet

II. Announcements from the Chair

- The October 24, 2014 minutes were adopted as submitted;
- Judge Miller announced that today is Cathy Adkisson’s last meeting. She is retiring and he thanked Cathy for her years of service on the committee. Today the new representative from the AG’s office, Fred Haines, was in attendance; and
- New rule, CRE 502 was sent to the supreme court on August 27, 2015, and there has been no word on it. Judge Miller will keep the committee updated on its progress.

III. Old Business

Restyling

At the last meeting, the committee decided it was not interested in restyling the Colorado Rules of Evidence; however, Judge Miller asked the committee to think about whether certain rules should be restyled. The committee discussed the value of restyling certain rules, but ultimately decided against such a project. For now, the restyling project, in whole or in part, is tabled indefinitely.

IV. New Business

FRE 803 & 902

The committee considered the proposed amendments to FRE 803 & 902. Rule 803(16) provides a hearsay exception for ancient documents. The Advisory Committee recommended abrogating the exception, due to the flawed premise that the contents of a document are reliable because the document is old. Also, there are concerns given the development of electronically stored information that the exception could be abused, as unreliable electronic information could be admissible under the exception because it has been preserved electronically for 20 years.

Rule 902 has two new proposed subsections, (13) and (14) that would allow certain electronic evidence to be authenticated by certification of a qualified person, in lieu of that person's testimony. Specifically, subsection (13) would allow self-authentication of machine-generated information, upon certification by a qualified person, and subsection (14) would allow for a similar certification of a copy taken from an electronic device, media, or file. The goal of the amendments is to make authentication easier.

Both rules have been posted for public comment, so the committee will continue to monitor the proposals.

V. Future Meeting

TBD

The committee adjourned at 3:00pm.

Respectfully submitted,
Jenny A. Moore