

**Colorado Supreme Court Rules of Juvenile Procedure Committee
Minutes of February 2, 2018 Meeting**

I. Call to Order

The Rules of Juvenile Procedure Committee came to order 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 Karen Ashby, Chair	X	
David P. Ayraud	X	
Magistrate Howard Bartlett		X
Cynthia Cavo	X	
Jennifer Conn	X	
Sheri Danz	X	
Traci Engdol-Fruhworth		X
Judge David Furman	X	
Ruchi Kapoor	X	
Andi Truett for Shana Kloek	X	
Wendy Lewis		X
Judge Ann Meinster	X	
Judge Dave Miller		X
Chief Judge Mick O'Hara		X
Trent Palmer	X	
Professor Colene Robinson		X
Magistrate Fran Simonet		X
Judge Traci Slade		X
Magistrate Kent S. Spangler		X
John Thirkell	X	
Pam Wakefield	X	
Chief Judge Jeffrey Wilson		X
Non-voting Participants		
Justice Richard Gabriel, Liaison	X	
Terri Morrison	X	
J.J. Wallace	X	

Attachments & Handouts

- (1) Minutes from 12/8/17 Meeting
- (2) Updated Short Version of the Rules
 - a. Proposed CMO (with Section IV)

- b. Proposed Release Form
- (3) Proposed Permanency Planning Rule
 - a. Proposed Notice

II. Chair's Report

The minutes were approved unanimously after amending them to reflect Pam Wakefield's attendance at the last meeting.

The chair, liaison justice, and chair of the subcommittee that will be presenting next, are not available for the March 16th meeting. The meeting on March 16th is cancelled and reset to April 6, 2018 at 9:00 AM in the Supreme Court Conference Room.

III. Old Business

A. Updated Version of the Short Version of the Disclosure/Discovery Rules:

John Thirkell, co-chair of the discovery subcommittee, and Cara Nord, a subcommittee member, presented the updated version of the shorter rules and asked for the committee's feedback.

The committee offered the following feedback:

- add language to subsection (a) to recognize § 19-3-203 (requires certain information to be shared with a GAL) and § 19-1-210 (same for CASAs);
- subsection (b) should make clear that the parties must stipulate to a case management order or the court should hold a case management conference;
- subsection (d) was modified to cover other case participants entirely and authorizes the court to have them engage in or be subject to discovery and disclosures. This allowed the committee to remove the clunky phrase "or other person approved by the court in accordance with law" from all of the discovery mechanisms;
- the committee decided to break out disclosures into two categories: (1) "mandatory disclosures," which are ICWA information and UCCJEA information and are set out in a new subsection and (2) "disclosures upon written request," which are those listed in subsection (e);
- a county attorney expressed concern over law enforcement reports in the petitioner's possession being a disclosure upon written request. His jurisdiction has a memorandum of understanding with local law enforcement that the county attorney's office can be provided with law enforcement reports but only on the condition that the county attorney not provide the reports to others. In response, the committee added language to the rule allowing the petitioner to provide written notice of the items not disclosed and the reason that it was not disclosed and then leaving to the court the resolution of any dispute about items not disclosed;

- ICWA information, previously, a respondent’s “disclosures upon written request,” was made a mandatory disclosure and the committee decided to remove the child’s records from the respondent’s disclosure obligations. It was decided that if the child’s records were needed, the discovery mechanisms would be a better way to address those issues. It was also thought that the discovery mechanisms would be a better way for information about the parent or other respondent to be sought by the petitioner or GAL;
- the committee considered again whether depositions should be authorized under the rules. The representative from ORPC indicated that her office has a process in place to approve deposition requests. She acknowledged that they are expensive but felt they may be necessary in some cases. Other committee members also had experience with depositions in D&N cases, but the consensus was that they were very rare. Another committee member also shared that, in her experience, depositions have been useful for unavailable witnesses. The committee decided to leave depositions (and other discovery mechanisms) in the rule but did amend the language of the oral deposition rule to say “up to” four persons.

The committee feels satisfied with the shorter version of the disclosure/discovery rules.

IV. New Business

- A. Permanency Planning-due to time, this item is tabled until the next meeting.

The Committee adjourned at 12:07 PM.

*Respectfully Submitted,
J.J. Wallace*