

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

**Minutes of Meeting
May 11, 2016**

A quorum being present, the Colorado Supreme Court's Advisory Committee on Rules of Appellate Procedure was called to order by Chief Judge Alan Loeb at 1:30 p.m., in the Court of Appeals Full Court Conference Room on the third floor of the Ralph L. Carr Colorado Judicial Center. Members and guests present or excused from the meeting were:

Name	Present	Excused
Chief Judge Alan Loeb, Chair	X	
Catherine P. Adkisson	X	
Judge Michael Berger	X	
Dan Domenico	X	
Anne Whalen Gill	X	
Marcy Glenn	X	
Dick Laugesen	X	
Andrew Low	X	
Norman Mueller	X	
Judge Todd Plewe	X	
Karen Taylor	X	
Non-voting participants		
Justice Allison Eid, Liaison	X	
Jane Bailey	X	
Polly Brock	X	
Chris Markman	X	
Melissa Meirink	X	

I. Attachments & Handouts

- A. May 11, 2016 agenda
- B. March 8, 2016 minutes
- C. Proposed amendments to Rules 3.4, 39.1, 43, 44.1, 45, and 44

II. Approval of Minutes

The Committee approved the March 8, 2015 minutes as submitted.

III. Announcements from the Chair

Chief Judge Loeb announced that:

- Rules 35, 40, 41, 41.1, and 42 were adopted by the supreme court on April 7, 2016, effective immediately; and

- New member Judge Todd Plewe was introduced and welcomed.

IV. Proposed drafts of Colorado Appellate Rules

The following revisions were discussed and adopted unanimously by the committee:

- Rule 3.4 and related forms had been posted for public comment. One comment was received that suggested a change to subsection (f)(1) to allow filing of the opening brief within 21 days after receipt of the record, instead of 21 days after filing of the record. The committee discussed the comment, but decided to make no additional changes, because this issue was discussed extensively in the subcommittee;
- Rule 39.1, formerly 39.5, had been reviewed by a subcommittee and the new proposal presented language that focused on the request for attorney fees, instead of the effect of the appellate court not ruling on the attorney fees issue;
- Rule 43. Changes were modeled after F.R.A.P. 43; in subsection (a) a statement was added that death must be verified with official proof, and additional changes were added to make the rule consistent with court practice;
- Rules 44 and 44.1. In Rule 44, subsections (b) and (c) were struck and added to new rule, Rule 44.1; Rule 44 will only deal with constitutional challenges to a statute when the state is not a party. Rule 44.1 will house provisions dealing with public utilities laws or the Public Utilities Commission when the commission is not a party; and
- Rule 45. Changes were modeled after F.R.A.P. 45, and other changes were added to make the rule consistent with court practice.

A transmittal letter will be prepared and the rules and forms will be submitted to the supreme court.

Future Meeting

TBD

The committee adjourned at 3:30 pm.

Respectfully submitted,
Jenny A. Moore