

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

**Minutes of Meeting
March 8, 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. March 8, 2016 agenda
- B. October 19, 2015 minutes
- C. Proposed amendments to Rules 35, 39.5, 40, 41, 41.1, and 42

II. Approval of Minutes

The Committee approved the October 19, 2015 minutes as submitted.

III. Announcements from the Chair

Chief Judge Loeb announced that:

- Rule 3.4 has been posted for public comment and comments were due April 6, 2016;

- New member Dan Domenico was introduced and welcomed; and
- The committee still needs to address the supreme court rules and Rules 8 and 10 that were assigned to subcommittees.

IV. New Business: Proposed drafts of Colorado Appellate Rules

The following revisions were discussed and adopted by the committee:

- Rule 35; subsection (a) was redrafted because it contained many trial court functions, and the committee divided it into two additional subsections: (b) Equally Divided Supreme Court and (c) Harmless Error that passed 6 to 2; all other revisions passed unanimously;
- Rule 39.5 has been renumbered to 39.1 to be consistent with other appellate rules; a subcommittee was formed to address the issue of when appellate fees are recoverable and the rule is tabled until the next meeting;
- Rule 40; new section (c) addresses when a petition for rehearing can't be filed; all amendments passed unanimously;
- Rule 41; the contents of Rule 41.1 are added to subsections (b) and (e); separate sections for staying and issuing a mandate, when the mandate becomes effective, and recalling the mandate were added; all amendments passed unanimously;
- Rule 41.1; the contents of the rule were added to Rule 41 and the rule has been deleted; and
- Rule 42; clarifies when an appellate court must dismiss an appeal or other appellate proceeding, versus when an appellate court may dismiss an appeal or other appellate proceeding; all amendments passed unanimously.

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

Future Meeting

TBD

The committee adjourned at 4:00 pm.

*Respectfully submitted,
Jenny A. Moore*