

**RULE CHANGE 2017(12)
COLORADO RULES OF CIVIL PROCEDURE**

**Rule 16
Forms 10, 11, 37, and 38 (New)
Effective immediately.**

**Rule 53
Effective January 1, 2018.**

**Rule 121 § 1-15
Effective January 1, 2018.**

**Rule 120
Effective March 1, 2018.**

Rule 16. Case Management and Trial Management

(a) – (e) [NO CHANGE]

(f) (1) – (3) [NO CHANGE]

(I) – (V) [NO CHANGE]

(VI) (A) [NO CHANGE]

(B). Exhibits. Each party shall attach to the proposed trial management order a list of exhibits including physical evidence which the party intends to introduce at trial. Unless stipulated by the parties, each list shall assign a number (for plaintiff or petitioner) or letter (for defendant or respondent) designation for each exhibit. Proposed excerpted or highlighted exhibits shall be attached. If any party objects to the authenticity of any exhibit as offered, such objection shall be noted on the list, together with the ground therefor. If any party stipulates to the admissibility of any exhibit, such stipulation shall be noted on the list. [Records of regularly conducted activity to be offered pursuant to CRE 902\(11\) and \(12\) may be supported by use of Forms 37 and 38 in the Appendix to Chapters 1 to 17A, Forms.](#) On or before the trial date, a set of the documentary exhibits shall be provided to the court.

(C) – (D) [NO CHANGE]

(VII) [NO CHANGE]

(4) – (5) [NO CHANGE]

(g) [NO CHANGE]

Rule 16. Case Management and Trial Management

(a) – (e) [NO CHANGE]

(f) (1) – (3) [NO CHANGE]

(I) – (V) [NO CHANGE]

(VI) (A) [NO CHANGE]

(B). Exhibits. Each party shall attach to the proposed trial management order a list of exhibits including physical evidence which the party intends to introduce at trial. Unless stipulated by the parties, each list shall assign a number (for plaintiff or petitioner) or letter (for defendant or respondent) designation for each exhibit. Proposed excerpted or highlighted exhibits shall be attached. If any party objects to the authenticity of any exhibit as offered, such objection shall be noted on the list, together with the ground therefor. If any party stipulates to the admissibility of any exhibit, such stipulation shall be noted on the list. Records of regularly conducted activity to be offered pursuant to CRE 902(11) and (12) may be supported by use of Forms 37 and 38 in the Appendix to Chapters 1 to 17A, Forms. On or before the trial date, a set of the documentary exhibits shall be provided to the court.

(C) – (D) [NO CHANGE]

(VII) [NO CHANGE]

(4) – (5) [NO CHANGE]

(g) [NO CHANGE]

INSTRUCTIONS FOR FORMS 10 AND 11

Records of a regularly conducted activity, often business records, may be admissible by affidavit if Colorado Rules of Evidence 902(11) or 902(12) are followed. Forms 10 and 11 provide a means to comply with the requirements of CRE 902(11) and 902(12) to allow the admission of the records of a regularly conducted activity (otherwise known as business records). These forms are not the exclusive means of complying with the rules and parties may use other forms of certification and written notice, so long as they comply with the requirements of the rules.

Form 10

Form 10 should be completed by the person in charge of the records at the business or organization, or by another person who is familiar with how the records are kept. It must be notarized. If the business or organization does not have a notary, it may be necessary to find a notary who can notarize the signature on the affidavit, such as a notary willing to go to the business or organization.

Form 10 may be provided to the business or organization at the time records are requested, in person, by letter, or by subpoena. The form may then be completed at the time the records are provided. However, completion of the form is voluntary and the business or organization may refuse.

If a party desires a business or organization to complete Form 10 after the documents have been provided, it may be necessary to give the business a copy of the documents, so it can verify exactly what was earlier provided.

Form 10 calls for a description of the documents being certified. This description may be brief, such as: “medical records;” “architects notes and blue prints;” or “repair estimates.” A Bates number range may be used as a description, so long as it allows the attached documents to be identified.

The subject matter of the documents is the person, place, or thing that the documents are about. This would be the patient the “medical records” are for; the address the “architect notes” apply to; or the car the “repair estimate” applies to.

The number of pages should be included to assist in identifying what records are certified by the affidavit.

Form 10 calls for a date range for the documents. This is to assist in determining what specific documents have been certified. If the documents are undated, and the date range cannot be ascertained, then this may be left blank.

The completed Form 10 must accompany the documents when they are offered at trial or a hearing.

Form 11

CRE 902(11) and 902(12) require advance notice if documents will be offered into evidence through a certification of the records. Form 11 provides a means to provide this notice.

Form 11 should list each record that may be offered through a certification, unless all records may be offered in this manner, in which case Form 11 may state “all records.” By way of example, the records may be listed by name or description, Bate’s number, or trial exhibit number.

Both the records to be offered and the certifications must be provided to all adverse parties, or at least made available for inspection and copying. If the records or certifications have not already been provided, they should be attached to Form 11 or be made available for inspection and copying. The serving party need only attach those records and certifications that have not already been provided.

Form 11 must be served on all adverse parties before of the use of the records at a trial or hearing. For the sake of simplicity, it may be desirable to serve all parties, and not just all adverse parties. The service must be sufficiently in advance of the trial or hearing that the adverse parties may prepare to address the documents.

What constitutes sufficient advance notice is decided on a case-by-case basis. But Form 11 should be served sufficiently in advance of the trial or hearing that the adverse parties have an opportunity to raise any concerns with the court and to subpoena witnesses to testify about the documents if they so desire.

Form 10. CERTIFICATION OF RECORDS UNDER CRE 902(11) AND 902(12)

Name of Organization or Business: _____

Address: _____

City/State/Zip Code: _____

Telephone Number: _____

Subject Matter of the Records: _____

Description or Bates Number Range
of the Attached Records: _____

Number of Pages: _____

Date Range of the Records: _____

I am the custodian of the attached records, or I am an employee familiar with the manner and process in which these records are created and maintained by virtue of my duties and responsibilities. I swear or affirm that to the best of my knowledge and belief that the attached records:

1) Were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters; 2) Were kept in the course of the regularly conducted activity; 3) Were made by the regularly conducted activity as a regular practice.

[Remainder of page intentionally left blank - signature on next page]

Date: _____

Signature: _____

Print Name: _____

Job Title or Position: _____

Subscribed and affirmed or sworn before me on this _____ day of _____,
20____, in the County of _____, State of _____.

Name: _____ Signature: _____

Witness my hand and official seal.

My commission expires _____.

Notary Public

FORM 11. DISCLOSURE OF RECORDS TO BE OFFERED THROUGH A CERTIFICATION OF RECORDS PURSUANT TO CRE 902(11) AND 902(12)

<p>COUNTY COURT, _____ COUNTY, COLORADO Address:</p> <hr/> <p>Plaintiff(s):</p> <p>v.</p> <p>Defendant(s):</p> <hr/> <p>Attorney or Party Without Attorney (Name and Address):</p> <p>Telephone Number:</p> <p>E-Mail:</p> <p>FAX Number:</p> <p>Atty. Reg. #:</p>	<p style="text-align: center;"><input type="checkbox"/> COURT USE ONLY <input type="checkbox"/></p> <p>Case No.</p> <p>Div.</p>
<p><u>[NAME OF PARTY]</u> DISCLOSURE OF RECORDS TO BE OFFERED THROUGH A CERTIFICATION OF RECORDS</p>	

 [Name of Party] Hereby submits this Disclosure of Records to be Offered Through A Certification of Records.

 [Name of Party] provides notice to all adverse parties of the intent to offer the following records through a Certification of Records Pursuant to CRE 902(11) and 902(12):

[List all records to be offered through a certification of records. If you intend to offer all records through a certification, you may state “all records.” Use additional Pages if necessary]

These records with the accompanying certification (*check applicable line*):

_____ Have already been provided to all adverse parties.

_____ Are being provided to all adverse parties with this Disclosure.

_____ Have been provided to all adverse parties in part, with the remainder being provided with this Disclosure

_____ Are available for inspection and copying on reasonable notice at this location:

Date: _____

(*Signature of Party or Attorney*)

CERTIFICATE OF SERVICE

I certify that on _____ (*date*) a copy of this **DISCLOSURE OF RECORDS TO BE OFFERED THROUGH A CERTIFICATION OF RECORDS** was served on the following parties (*list all parties served by name and address, use extra pages if necessary*):

_____	_____
_____	_____
_____	_____

(*Signature of Party or Attorney*)

INSTRUCTIONS FOR FORMS 37 AND 38

Records of a regularly conducted activity, often business records, may be admissible by affidavit if Colorado Rules of Evidence 902(11) or 902(12) are followed. Forms 37 and 38 provide a means to comply with the requirements of CRE 902(11) and 902(12) to allow the admission of the records of a regularly conducted activity (otherwise known as business records). These forms are not the exclusive means of complying with the rules and parties may use other forms of certification and written notice, so long as they comply with the requirements of the rules.

Form 37

Form 37 should be completed by the person in charge of the records at the business or organization, or by another person who is familiar with how the records are kept. It must be notarized. If the business or organization does not have a notary, it may be necessary to find a notary who can notarize the signature on the affidavit, such as a notary willing to go to the business or organization.

Form 37 may be provided to the business or organization at the time records are requested, in person, by letter, or by subpoena. The form may then be completed at the time the records are provided. However, completion of the form is voluntary and the business or organization may refuse.

If a party desires a business or organization to complete Form 37 after the documents have been provided, it may be necessary to give the business a copy of the documents, so it can verify exactly what was earlier provided.

Form 37 calls for a description of the documents being certified. This description may be brief, such as: “medical records;” “architects notes and blue prints;” or “repair estimates.” A Bates number range may be used as a description, so long as it allows the attached documents to be identified.

The subject matter of the documents is the person, place, or thing that the documents are about. This would be the patient the “medical records” are for; the address the “architect notes” apply to; or the car the “repair estimate” applies to.

The number of pages should be included to assist in identifying what records are certified by the affidavit.

Form 37 calls for a date range for the documents. This is to assist in determining what specific documents have been certified. If the documents are undated, and the date range cannot be ascertained, then this may be left blank.

The completed Form 37 must accompany the documents when they are offered at trial or a hearing.

Form 38

CRE 902(11) and 902(12) require advance notice if documents will be offered into evidence through a certification of the records. Form 38 provides a means to provide this notice.

Form 38 should list each record that may be offered through a certification, unless all records may be offered in this manner, in which case Form 38 may state “all records.” By way of example, the records may be listed by name or description, Bate’s number, or trial exhibit number.

Both the records to be offered and the certifications must be provided to all adverse parties, or at least made available for inspection and copying. If the records or certifications have not already been provided, they should be attached to Form 38 or be made available for inspection and copying. The serving party need only attach those records and certifications that have not already been provided.

Form 38 must be served on all adverse parties before of the use of the records at a trial or hearing. For the sake of simplicity, it may be desirable to serve all parties, and not just all adverse parties. The service must be sufficiently in advance of the trial or hearing that the adverse parties may prepare to address the documents.

What constitutes sufficient advance notice is decided on a case-by-case basis. But Form 38 should be served sufficiently in advance of the trial or hearing that the adverse parties have an opportunity to raise any concerns with the court and to subpoena witnesses to testify about the documents if they so desire.

Form 37. CERTIFICATION OF RECORDS UNDER CRE 902(11) AND 902(12)

Name of Organization or Business: _____

Address: _____

City/State/Zip Code: _____

Telephone Number: _____

Subject Matter of the Records: _____

Description or Bates Number Range
of the Attached Records: _____

Number of Pages: _____

Date Range of the Records: _____

I am the custodian of the attached records, or I am an employee familiar with the manner and process in which these records are created and maintained by virtue of my duties and responsibilities. I swear or affirm that to the best of my knowledge and belief that the attached records:

1) Were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters; 2) Were kept in the course of the regularly conducted activity; 3) Were made by the regularly conducted activity as a regular practice.

[Remainder of page intentionally left blank - signature on next page]

Date: _____

Signature: _____

Print Name: _____

Job Title or Position: _____

Subscribed and affirmed or sworn before me on this _____ day of _____,
20____, in the County of _____, State of _____.

Name: _____ Signature: _____

Witness my hand and official seal.

My commission expires _____.

Notary Public

FORM 38. DISCLOSURE OF RECORDS TO BE OFFERED THROUGH A CERTIFICATION OF RECORDS PURSUANT TO CRE 902(11) AND 902(12)

DISTRICT COURT, _____ COUNTY, COLORADO Address: <hr/> Plaintiff(s): v. Defendant(s): <hr/> Attorney or Party Without Attorney (Name and Address): Telephone Number: E-Mail: FAX Number: Atty. Reg. #:	<div style="text-align: center; border: 1px solid black; padding: 5px; margin-bottom: 10px;"> <input type="checkbox"/> COURT USE ONLY <input type="checkbox"/> </div> Case No. Div.
<p><u>[NAME OF PARTY]</u> DISCLOSURE OF RECORDS TO BE OFFERED THROUGH A CERTIFICATION OF RECORDS</p>	

 [Name of Party] Hereby submits this Disclosure of Records to be Offered Through A Certification of Records.

 [Name of Party] provides notice to all adverse parties of the intent to offer the following records through a Certification of Records Pursuant to CRE 902(11) and 902(12):

[List all records to be offered through a certification of records. If you intend to offer all records through a certification, you may state “all records.” Use additional Pages if necessary]

These records with the accompanying certification (*check applicable line*):

_____ Have already been provided to all adverse parties.

_____ Are being provided to all adverse parties with this Disclosure.

_____ Have been provided to all adverse parties in part, with the remainder being provided with this Disclosure

_____ Are available for inspection and copying on reasonable notice at this location:

Date: _____

(*Signature of Party or Attorney*)

CERTIFICATE OF SERVICE

I certify that on _____ (*date*) a copy of this **DISCLOSURE OF RECORDS TO BE OFFERED THROUGH A CERTIFICATION OF RECORDS** was served on the following parties (*list all parties served by name and address, use extra pages if necessary*):

_____	_____
_____	_____
_____	_____

(*Signature of Party or Attorney*)

Rule 53. Masters

(a) Appointment.

(1) Scope. A reference to a master shall be the exception and not the rule. Unless a statute provides otherwise, a court may appoint a master only to:

(A) perform duties consented to by the parties;

(B) hold trial proceedings and make or recommend findings of fact on issues to be decided without a jury if appointment is warranted by:

(i) some exceptional condition; or

(ii) the need to perform an accounting or resolve a difficult computation of damages; or

(C) address pretrial and posttrial matters that cannot be effectively and timely addressed by the appointed district judge.

(2) Disqualification. A master must not have a relationship to the parties, attorneys, action, or court that would require disqualification of a judge under the Colorado Code of Judicial Conduct, Rule 2.11, unless the parties, with the court's approval, consent to the appointment after the master discloses any potential grounds for disqualification.

(3) Possible Expense or Delay. In appointing a master, the court must consider the proportionality of the appointment to the issues and needs of the case, consider the fairness of imposing the likely expenses on the parties, and protect against unreasonable expense or delay.

(b) Order Appointing a Master.

(1) Notice. Before appointing a master, the court must give the parties notice and an opportunity to be heard. If requested by the Court, any party may suggest candidates for appointment.

(2) Contents. The appointing order must direct the master to proceed with all reasonable diligence and must state:

(A) the master's duties, including any investigation or enforcement duties, and any limits on the master's authority under Rule 53(c);

(B) the circumstances, if any, in which the master may communicate ex parte with the court or a party;

(C) the nature of the materials to be preserved and filed as the record of the master's activities;

(D) the time limits, method of filing the record, other procedures, and standards for reviewing the master's orders, findings, and recommendations; and

(E) the basis, terms, and procedure for fixing the master's compensation under Rule 53(g).

(3) Issuing. The court may issue the order only after:

(A) the master files an affidavit disclosing whether there is any ground for disqualification under the Colorado Code of Judicial Conduct, Rule 2.11; and

(B) if a ground is disclosed, the parties, with the court's approval, waive the disqualification.

(4) Amending. The order may be amended at any time after notice to the parties and an opportunity to be heard.

(5) Meetings. When a reference is made, the clerk shall forthwith furnish the master with a copy of the order of reference. Upon receipt thereof unless the order of reference otherwise provides, the master shall forthwith set a time and place for the first meeting of the parties or their attorneys to be held within 14 days after the date of the order of reference and shall notify the parties or their attorneys.

(c) Master's Authority.

(1) In General. Unless the appointing order directs otherwise, a master may:

(A) regulate all proceedings;

(B) take all appropriate measures to perform the assigned duties fairly and efficiently; and

(C) if conducting an evidentiary hearing, exercise the appointing court's power to compel, take, and record evidence.

(2) Sanctions. The master may by order impose on a party any noncontempt sanction provided by Rule 37 or 45, and may recommend a contempt sanction against a party and sanctions against

a nonparty.

(d) Master's Orders. A master who issues a written order must file it and promptly serve a copy on each party. The clerk must enter the written order on the docket. A master's order shall be effective upon issuance subject to the provisions of section (f) of this Rule.

(e) Master's Reports. A master must report to the court as required by the appointing order. The master must file the report and promptly serve a copy on each party, unless the court orders otherwise. A report is final upon issuance. A master's report shall be effective upon issuance subject to the provisions of section (f) of this Rule.

(f) Action on the Master's Order, Report, or Recommendations.

(1) Opportunity for a Hearing; Action in General. In acting on a master's order, report, or recommendations, the court must give the parties notice and an opportunity to be heard; may receive evidence; and may adopt or affirm, modify, wholly or partly reject or reverse, or resubmit to the master with instructions.

(2) Time to Object or Move to Modify. A party may file objections to or a motion to modify the master's proposed rulings, order, report or recommendations no later than 7 days after service of any of those matters, except when the master held a hearing and took sworn evidence, in which case objections or a motion to modify shall be filed no later than 14 days after service of any of those matters.

(3) Reviewing Factual Findings. The court must decide de novo all objections to findings of fact made or recommended by a master, unless the parties, with the court's approval, stipulate that:

(A) the findings will be reviewed for clear error; or

(B) the findings of a master appointed under Rule 53(a)(1)(A) or (C) will be final.

(4) Reviewing Legal Conclusions. The court must decide de novo all objections to conclusions of law made or recommended by a master.

(5) Reviewing Procedural Matters. Unless the appointing order establishes a different standard of review, the court may set aside a master's ruling on a procedural matter only for an abuse of discretion.

(g) Compensation.

(1) Fixing Compensation. Before or after judgment, the court must fix the master's compensation on the basis and terms stated in the appointing order, but the court may set a new basis and terms after giving notice and an opportunity to be heard.

(2) Payment. The compensation must be paid either:

(A) by a party or parties; or

(B) from a fund or subject matter of the action within the court's control.

(3) Allocating Payment. The court must allocate payment among the parties after considering the nature and amount of the controversy, the parties' means, and the extent to which any party is more responsible than other parties for the reference to a master. An interim allocation may be amended to reflect a decision on the merits.

COMMENT

2018

See also C.R.C.P. 122 Case Specific Appointment of Appointed Judges pursuant to C.R.S. § 13-3-111.

Rule 53. Masters

(a) Appointment.

(1) Scope. A reference to a master shall be the exception and not the rule. Unless a statute provides otherwise, a court may appoint a master only to:

(A) perform duties consented to by the parties;

(B) hold trial proceedings and make or recommend findings of fact on issues to be decided without a jury if appointment is warranted by:

(i) some exceptional condition; or

(ii) the need to perform an accounting or resolve a difficult computation of damages; or

(C) address pretrial and posttrial matters that cannot be effectively and timely addressed by the appointed district judge.

(2) Disqualification. A master must not have a relationship to the parties, attorneys, action, or court that would require disqualification of a judge under the Colorado Code of Judicial Conduct, Rule 2.11, unless the parties, with the court's approval, consent to the appointment after the master discloses any potential grounds for disqualification.

(3) Possible Expense or Delay. In appointing a master, the court must consider the proportionality of the appointment to the issues and needs of the case, consider the fairness of imposing the likely expenses on the parties, and protect against unreasonable expense or delay.

(b) Order Appointing a Master.

(1) Notice. Before appointing a master, the court must give the parties notice and an opportunity to be heard. If requested by the Court, any party may suggest candidates for appointment.

(2) Contents. The appointing order must direct the master to proceed with all reasonable diligence and must state:

(A) the master's duties, including any investigation or enforcement duties, and any limits on the master's authority under Rule 53(c);

(B) the circumstances, if any, in which the master may communicate ex parte with the court or a party;

(C) the nature of the materials to be preserved and filed as the record of the master's activities;

(D) the time limits, method of filing the record, other procedures, and standards for reviewing the master's orders, findings, and recommendations; and

(E) the basis, terms, and procedure for fixing the master's compensation under Rule 53(g).

(3) Issuing. The court may issue the order only after:

(A) the master files an affidavit disclosing whether there is any ground for disqualification under the Colorado Code of Judicial Conduct, Rule 2.11; and

(B) if a ground is disclosed, the parties, with the court's approval, waive the disqualification.

(4) Amending. The order may be amended at any time after notice to the parties and an opportunity to be heard.

(5) Meetings. When a reference is made, the clerk shall forthwith furnish the master with a copy of the order of reference. Upon receipt thereof unless the order of reference otherwise provides, the master shall forthwith set a time and place for the first meeting of the parties or their attorneys to be held within 14 days after the date of the order of reference and shall notify the parties or their attorneys.

(c) Master's Authority.

(1) In General. Unless the appointing order directs otherwise, a master may:

(A) regulate all proceedings;

(B) take all appropriate measures to perform the assigned duties fairly and efficiently; and

(C) if conducting an evidentiary hearing, exercise the appointing court's power to compel, take, and record evidence.

(2) Sanctions. The master may by order impose on a party any noncontempt sanction provided by Rule 37 or 45, and may recommend a contempt sanction against a party and sanctions against

a nonparty.

(d) Master's Orders. A master who issues a written order must file it and promptly serve a copy on each party. The clerk must enter the written order on the docket. A master's order shall be effective upon issuance subject to the provisions of section (f) of this Rule.

(e) Master's Reports. A master must report to the court as required by the appointing order. The master must file the report and promptly serve a copy on each party, unless the court orders otherwise. A report is final upon issuance. A master's report shall be effective upon issuance subject to the provisions of section (f) of this Rule.

(f) Action on the Master's Order, Report, or Recommendations.

(1) Opportunity for a Hearing; Action in General. In acting on a master's order, report, or recommendations, the court must give the parties notice and an opportunity to be heard; may receive evidence; and may adopt or affirm, modify, wholly or partly reject or reverse, or resubmit to the master with instructions.

(2) Time to Object or Move to Modify. A party may file objections to or a motion to modify the master's proposed rulings, order, report or recommendations no later than 7 days after service of any of those matters, except when the master held a hearing and took sworn evidence, in which case objections or a motion to modify shall be filed no later than 14 days after service of any of those matters.

(3) Reviewing Factual Findings. The court must decide de novo all objections to findings of fact made or recommended by a master, unless the parties, with the court's approval, stipulate that:

(A) the findings will be reviewed for clear error; or

(B) the findings of a master appointed under Rule 53(a)(1)(A) or (C) will be final.

(4) Reviewing Legal Conclusions. The court must decide de novo all objections to conclusions of law made or recommended by a master.

(5) Reviewing Procedural Matters. Unless the appointing order establishes a different standard of review, the court may set aside a master's ruling on a procedural matter only for an abuse of discretion.

(g) Compensation.

(1) Fixing Compensation. Before or after judgment, the court must fix the master's compensation on the basis and terms stated in the appointing order, but the court may set a new basis and terms after giving notice and an opportunity to be heard.

(2) Payment. The compensation must be paid either:

(A) by a party or parties; or

(B) from a fund or subject matter of the action within the court's control.

(3) Allocating Payment. The court must allocate payment among the parties after considering the nature and amount of the controversy, the parties' means, and the extent to which any party is more responsible than other parties for the reference to a master. An interim allocation may be amended to reflect a decision on the merits.

COMMENT

2018

See also C.R.C.P. 122 Case Specific Appointment of Appointed Judges pursuant to C.R.S. § 13-3-111.

Rule 121. Local Rules—Statewide Practice Standards

(a) – (c) [NO CHANGE]

Section 1 – 1 to 1 – 14 [NO CHANGE]

Section 1-15

Determination of Motions

1. Motions and Briefs; When Required; Time for Serving and Filing—Length.

(a) Except motions during trial or where the court orders that certain or all non-dispositive motions be made orally, any motions involving a contested issue of law shall be supported by a recitation of legal authority incorporated into the motion, which shall not be filed with a separate brief. Unless the court orders otherwise, motions and responsive briefs not under C.R.C.P. 12(b)(1) or (2), or 56 are limited to 15 pages ~~(but not more than 4,000 words), and reply briefs to 10 pages (but not more than 2,500 words)~~, not including the case caption, signature block, certificate of service and attachments. Unless the court orders otherwise, motions and responsive briefs under C.R.C.P. 12(b)(1) or (2) or 56 are limited to 25 pages ~~(but not more than 6,500 words)~~, and reply briefs to 15 pages ~~(but not more than 4,000 words)~~, not including the case caption, signature block, certificate of service and attachments. All motions and briefs shall comply with C.R.C.P. 10(d) ~~All motions and briefs shall be double spaced, except for footnotes and quotes.~~

(b) – (d) [NO CHANGE]

2. [NO CHANGE]

3. Effect of Failure to File Legal Authority. If the moving party fails to incorporate legal authority into a written C.R.C.P. 56 motion, the court may deem the motion abandoned and may enter an order denying the motion. Other than motions seeking to resolve a claim or defense under C.R.C.P. 12 or 56, fFailure of a responding party to file a responsive brief may be considered a confession of the motion.

4 – 7 [NO CHANGE]

8. Duty to Confer. Unless a statute or rule governing the motion provides that it may be filed without notice, moving counsel and any self-represented party shall confer with opposing counsel and any self-represented parties before filing a motion. The requirement of self-represented parties to confer and the requirement to confer with self-represented parties shall not apply to any incarcerated person, or any self-represented party as to whom the requirement is contrary to court order or statute, including, but not limited to, any person as to whom contact would or precipitate a violation of a protection or restraining order. The motion shall, at the beginning, contain a certification that the movant in good faith has conferred with opposing

counsel [and any self-represented parties](#) about the motion. If the relief sought by the motion has been agreed to by the parties or will not be opposed, the court shall be so advised in the motion. If no conference has occurred, the reason why, [including all efforts to confer](#), shall be stated.

9 – 11 [NO CHANGE]

Section 1-16 – 1-26 [NO CHANGE]

COMMENTS [NO CHANGE]

Rule 121. Local Rules—Statewide Practice Standards

(a) – (c) [NO CHANGE]

Section 1 – 1 to 1 – 14 [NO CHANGE]

Section 1-15

Determination of Motions

1. Motions and Briefs; When Required; Time for Serving and Filing—Length.

(a) Except motions during trial or where the court orders that certain or all non-dispositive motions be made orally, any motions involving a contested issue of law shall be supported by a recitation of legal authority incorporated into the motion, which shall not be filed with a separate brief. Unless the court orders otherwise, motions and responsive briefs not under C.R.C.P. 12(b)(1) or (2), or 56 are limited to 15 pages, not including the case caption, signature block, certificate of service and attachments. Unless the court orders otherwise, motions and responsive briefs under C.R.C.P. 12(b)(1) or (2) or 56 are limited to 25 pages, and reply briefs to 15 pages, not including the case caption, signature block, certificate of service and attachments. All motions and briefs shall comply with C.R.C.P. 10(d).

(b) – (d) [NO CHANGE]

2. [NO CHANGE]

3. Effect of Failure to File Legal Authority. If the moving party fails to incorporate legal authority into a written motion, the court may deem the motion abandoned and may enter an order denying the motion. Other than motions seeking to resolve a claim or defense under C.R.C.P. 12 or 56, failure of a responding party to file a responsive brief may be considered a confession of the motion.

4 – 7 [NO CHANGE]

8. Duty to Confer. Unless a statute or rule governing the motion provides that it may be filed without notice, moving counsel and any self-represented party shall confer with opposing counsel and any self-represented parties before filing a motion. The requirement of self-represented parties to confer and the requirement to confer with self-represented parties shall not apply to any incarcerated person, or any self-represented party as to whom the requirement is contrary to court order or statute, including, but not limited to, any person as to whom contact would or precipitate a violation of a protection or restraining order. The motion shall, at the beginning, contain a certification that the movant in good faith has conferred with opposing counsel and any self-represented parties about the motion. If the relief sought by the motion has been agreed to by the parties or will not be opposed, the court shall be so advised in the motion. If no conference has occurred, the reason why, including all efforts to confer, shall be stated.

9 – 11 [NO CHANGE]

Section 1-16 – 1-26 [NO CHANGE]

COMMENTS [NO CHANGE]

Rule 120. Orders Authorizing Foreclosure Sales Under Powers in a Deed of Trust to the Public Trustee

(a) **Motion for Order Authorizing Sale**; ~~Contents~~. Whenever an order of court is desired authorizing a foreclosure sale under a power of sale contained in ~~an instrument~~ a deed of trust to a public trustee, any ~~interested~~ person entitled to enforce the deed of trust ~~or someone on such person's behalf~~ may file a verified motion in a district court seeking such order. The motion shall be captioned: "Verified Motion for Order Authorizing a Foreclosure Sale under C.R.C.P. 120," and shall be verified by a person with ~~direct~~ knowledge of the contents of the motion who is competent to testify regarding the facts stated in the motion.

(1) Contents of Motion. The motion shall include a copy of the evidence of debt, the deed of trust containing the power of sale, and any subsequent modifications of these documents. ~~The motion accompanied by a copy of the instrument containing the power of sale,~~ shall describe the property to be sold, ~~and~~ shall specify the ~~default or other~~ facts giving rise to the default, ~~and may include documents relevant to the claim of a default claimed by the moving party to justify invocation of the power of sale.~~

(A) When the property to be sold is personal property, the motion shall state the names and last known addresses, as shown by the records of the moving party, of all persons known or believed by the moving party to have an interest in such property which may be materially affected or extinguished by such sale.

(B) When the property to be sold is real property and the power of sale is contained in a deed of trust to a public trustee, the motion shall state the name and last known address, as shown by the real property records of the clerk and recorder of the county where the property or any portion thereof is located and the records of the moving party, of:

(i) the grantor of ~~such the~~ deed of trust;

(ii) ~~of~~ the current record owner of the property to be sold; ~~and of~~

(iii) ~~all~~ any persons known or believed by the moving party to be personally liable ~~upon the indebtedness for the debt~~ secured by the deed of trust; ~~and~~

(iv) ~~as well as the names and addresses of~~ those persons who appear to have an acquired-a-record interest in such real property that is evidenced by a document recorded after, subsequent to the recording of the such deed of trust and before prior ~~to~~ the recording of the notice of election and demand for sale, ~~or that is otherwise subordinate to the lien of the deed of trust whether by deed, mortgage, judgment or any other instrument of record;~~ and

(v) those persons whose interest in the real property may otherwise be affected by the foreclosure.

(C) In describing and giving notice to persons who appear to have acquired a record interest in real property, the address of each such person shall be the address ~~which that~~ is given in the recorded instrument evidencing such person's interest; ~~except that if~~ such

recorded instrument does not give an address or if only the county and state are given as the address of such person, no address need be stated for such person in the motion.

(2) Setting of Response Deadline; Hearing Date. On receipt of the motion, the clerk shall set a deadline by which any response to the motion must be filed. The deadline shall be fix a time not less than 21 nor more than 35 days after the filing of the motion and a place for the hearing of such motion. For purposes of any statutory reference to the date of a hearing under C.R.C.P. 120, the response deadline set by the clerk shall be regarded as the scheduled hearing date unless a later hearing date is set by the court pursuant to section (c)(2) below.

(b) Notice of Response Deadline; Contents; Service of Notice. The moving party shall issue a notice stating:

(1) a description of the deed of trust the instrument containing the power of sale, the property sought to be sold thereunder at foreclosure, and the default or other facts asserted in the motion to support the claim of a default;

(2) upon which the power of sale is invoked. The notice shall also state the time and place set for the hearing and shall refer to the right of any interested person to file and serve a responses as provided in section (c), including a reference to the last day for filing such responses and the addresses at which such responses must be filed and served and the deadline set by the clerk for filing a response;

(3) The notice shall contain the following advisement: "If this case is not filed in the county where your property or a substantial part of your property is located, you have the right to ask the court to move the case to that county. If you file a response and the court sets a hearing date, your request to move the case must be filed. Your request may be made as a part of your response or any paper you file with the court at least 7 days before the date of the hearing unless the request was included in your response."; and

(4) The notice shall contain the mailing return address of the moving party and, if different, the name and address of any authorized servicer for the loan secured by the deed of trust. If the moving party or authorized servicer, if different, is not authorized to modify the evidence of the debt, the notice shall state in addition the name, mailing address, and telephone number of the person authorized to modify the evidence of debt a representative authorized to address loss mitigation requests. A copy of C.R.C.P. 120 shall be included with or attached to the notice. The Such notice shall be served by the moving party not less than 14 days prior to the response deadline set by the clerk, date set for the hearing, by:

(A1) mailing a true copy thereof of the notice to each person named in the motion (other than any persons for whom no address is stated) at that the person's address or addresses stated in the motion;

(B2) and by filing a copy with the clerk and by delivering a second copy to the clerk for posting by the clerk in the courthouse in which the motion is pending; and

(C3) if the property to be sold is a residential property as defined by statute, by posting a true copy of the notice in a conspicuous place on the subject property as required by statute. Proof of Such mailing and delivery of the notice to the clerk for posting in the

courthouse, and proof of posting of the notice on the residential property, ~~posting~~ shall be ~~evidenced by~~ set forth in the certificate of the moving party or moving party's agent. For the purpose of this section, posting by the clerk may be electronic on the court's public website so long as the electronic address for the posting is displayed conspicuously at the courthouse.

(c) Response Stating Objection to Motion for Order Authorizing Sale; ~~Contents~~; ~~Filing and Service~~.

(1) Any interested person who disputes, on grounds within the scope of the hearing provided for in section (d), the moving party's right entitlement to an order authorizing sale may file and serve a response to the motion, verified by the oath of such person, setting forth tThe response must describe the facts the respondent relies upon in objecting to the issuance of an order authorizing sale, and may include which he relies and attaching copies of all documents which support his the respondent's position. The response shall be filed and served not less later than the response deadline set by the clerk. The response shall include contact information for the respondent including name, mailing address, telephone number, and, if applicable, an e-mail address. 7 days prior to the date set for the hearing, said interval including intermediate Saturdays, Sundays, and legal holidays, C.R.C.P. 6(a) notwithstanding, unless the last day of the period so computed is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next succeeding day which is not a Saturday, Sunday or a legal holiday. Service of the such response upon the moving party shall be made in accordance with C.R.C.P. 5(b). C.R.C.P. 6(e) shall not apply to computation of time periods under this section (c).

(2) If a response is filed stating grounds for opposition to the motion within the scope of this Rule as provided for in section (d), the court shall set the matter for hearing at a later date. The clerk shall clear available hearing dates with the parties and counsel, if practical, and shall give notice to counsel and any self-represented parties who have appeared in the matter, in accordance with the rules applicable to e-filing, no less than 14 days prior to the new hearing date.

(d) ~~Hearing~~; ~~Scope of Issues~~ at the Hearing; ~~Order~~ Authorizing Foreclosure Sale; ~~Effect of Order~~. ~~At the time and place set for the hearing or to which the hearing may have been continued, T~~the court shall examine the motion and ~~the responses, if any~~ responses.

(1) If the matter is set for hearing, tThe scope of inquiry at ~~the such~~ hearing shall not extend beyond

(A) the existence of a default or other circumstances authorizing exercise of a power of sale; under the terms of the ~~instrument~~ deed of trust described in the motion;;

(B) consideration by the court of the requirements of~~exercise of a power of sale contained therein, and such other issues required by~~ the Servicemembers ~~Member~~ Civil Relief Act (SCRA), 50 U.S.C. § 3931-520, as amended;;

(C) whether the moving party is the real party in interest; and

(D) whether the status of any request for a loan modification agreement bars a foreclosure sale as a matter of law.

The court shall determine whether there is a reasonable probability that ~~a such~~ default justifying the sale or other circumstance has occurred, ~~and~~ whether an order authorizing sale is otherwise proper under the Servicemembers said Service Member Civil Relief Act, whether the moving party is the real party in interest, and, if each of those matters is determined in favor of the moving party, whether evidence presented in support of defenses raised by the respondent and within the scope of this Rule prevents the court from finding that there is a reasonable probability that the moving party is entitled to an order authorizing a foreclosure sale. The court ~~shall~~ summarily grant or deny the motion in accordance with such determination. For good cause shown, the court may continue a hearing.

(2) If no response has been filed by the response deadline set by the clerk, and if the court is satisfied that venue is proper and the moving party is entitled to an order authorizing sale, the court shall forthwith enter an order authorizing sale.

(3) Any order authorizing sale shall recite the date the hearing was completed, if a hearing was held, or, if no response was filed and no hearing was held, shall recite the response deadline set by the clerk as the date a hearing was scheduled, but that no hearing occurred.

~~(4) Neither the granting nor the denial of a motion~~ An order granting or denying a motion filed under this Rule shall not constitute an appealable order or final judgment. The granting of ~~any such a~~ motion authorizing a foreclosure shall be without prejudice to the right of any person aggrieved to seek injunctive or other relief in any court of competent jurisdiction, and the denial of any such motion shall be without prejudice to any other right or remedy of the moving party.

(e) The court shall not require the appointment of an attorney to represent any interested person as a condition of granting such motion, unless it appears from the motion or other papers filed with the court that there is a reasonable probability that the interested person is in the military service.

~~(e) Hearing Dispensed with if no Response Filed. If no response has been filed within the time permitted by section (e), the court shall examine the motion and, if satisfied that venue is proper and the moving party is entitled to an order authorizing sale upon the facts stated therein, the court shall dispense with the hearing and forthwith enter an order authorizing sale.~~

(f) Venue. For the purposes of this section, a consumer obligation is any obligation

(1i) as to which the obligor is a natural person, and

(2ii) is incurred primarily for a personal, family, or household purpose.

Any proceeding under this Rule involving a consumer obligation shall be brought in and heard in the county in which such consumer signed the obligation or in which the property or a substantial part of the property thereof is located. Any proceeding under this Rule ~~which that~~ does not involve a consumer obligation or an instrument securing a consumer obligation may be brought and heard in any county. However, in any proceeding under this Rule, if a response is timely

filed, and if in the response or in any other writing filed with the court, the responding party requests a change of venue to the county in which the encumbered property or a substantial part thereof is situated, the court shall order transfer of the proceeding to such county.

(g) Return of Sale. The court shall require a return of ~~such~~ sale to be made to the court, ~~and if~~ it appears ~~therefrom~~ the return that ~~such the~~ sale was conducted in conformity with the order authorizing the sale, the court shall ~~thereupon~~ enter an order approving the sale. This order is not appealable and shall not have preclusive effect in any other action or proceeding~~shall not have preclusive effect on the parties in any action for a deficiency judgment or in a civil action challenging the right of the moving party to foreclosure or seeking to set aside the foreclosure sale.~~

(h) Docket Fee. A docket fee in the amount specified by law shall be paid by the person filing ~~the~~~~such~~ motion. Unless the court shall otherwise order, any person filing a response to the motion shall pay, at the time of the filing of such response, a docket fee in the amount specified by law for a defendant or respondent in a civil action under section 13-32-101(1)(d), C.R.S.

COMMITTEE COMMENTS

1989

[1] The 1989 amendment to C.R.C.P. 120 (Sales Under Powers) is a composite of changes necessary to update the Rule and make it more workable. The amendment was developed by a special committee made up of practitioners and judges having expertise in that area of practice, with both creditor and debtor interests represented.

[2] The changes are in three categories. There are changes that permit court clerks to perform many of the tasks that were previously required to be accomplished by the Court and thus save valuable Court time. There are changes to venue provisions of the Rule for compliance with the Federal Fair Debt Collection Practices Act. There are also a number of editorial changes to improve the language of the Rule.

[3] There was considerable debate concerning whether the Federal “Fair Debt Collection Practices Act” is applicable to a C.R.C.P. 120 proceeding. Rather than attempting to mandate compliance with that federal statute by specific rule provision, the Committee recommends that a person acting as a debt collector in a matter covered by the provisions of the Federal “Fair Debt Collection Practices Act” be aware of the potential applicability of the Act and comply with it, notwithstanding any provision of this Rule.

Rule 120. Orders Authorizing Foreclosure Sale Under Power in a Deed of Trust to the Public Trustee

(a) Motion for Order Authorizing Sale. When an order of court is desired authorizing a foreclosure sale under a power of sale contained in a deed of trust to a public trustee, any person entitled to enforce the deed of trust may file a verified motion in a district court seeking such order. The motion shall be captioned: "Verified Motion for Order Authorizing a Foreclosure Sale under C.R.C.P. 120," and shall be verified by a person with knowledge of the contents of the motion who is competent to testify regarding the facts stated in the motion.

(1) Contents of Motion. The motion shall include a copy of the evidence of debt, the deed of trust containing the power of sale, and any subsequent modifications of these documents. The motion shall describe the property to be sold, shall specify the facts giving rise to the default, and may include documents relevant to the claim of a default.

(A) When the property to be sold is personal property, the motion shall state the names and last known addresses, as shown by the records of the moving party, of all persons known or believed by the moving party to have an interest in such property which may be materially affected or extinguished by such sale.

(B) When the property to be sold is real property and the power of sale is contained in a deed of trust to a public trustee, the motion shall state the name and last known address, as shown by the real property records of the clerk and recorder of the county where the property or any portion thereof is located and the records of the moving party, of:

(i) the grantor of the deed of trust;

(ii) the current record owner of the property to be sold;

(iii) all persons known or believed by the moving party to be personally liable for the debt secured by the deed of trust;

(iv) those persons who appear to have an interest in such real property that is evidenced by a document recorded after the recording of the deed of trust and before the recording of the notice of election and demand for sale; and

(v) those persons whose interest in the real property may otherwise be affected by the foreclosure.

(C) In describing and giving notice to persons who appear to have acquired a record interest in real property, the address of each such person shall be the address that is given in the recorded instrument evidencing such person's interest. If such recorded instrument does not give an address or if only the county and state are given as the address of such person, no address need be stated for such person in the motion.

(2) Setting of Response Deadline; Hearing Date. On receipt of the motion, the clerk shall set a deadline by which any response to the motion must be filed. The deadline shall be not less than 21 nor more than 35 days after the filing of the motion. For purposes of any statutory reference to the date of a hearing under C.R.C.P. 120, the response deadline set by

the clerk shall be regarded as the scheduled hearing date unless a later hearing date is set by the court pursuant to section (c)(2) below.

(b) Notice of Response Deadline; Service of Notice. The moving party shall issue a notice stating:

(1) a description of the deed of trust containing the power of sale, the property sought to be sold at foreclosure, and the facts asserted in the motion to support the claim of a default;

(2) the right of any interested person to file and serve a response as provided in section (c), including the addresses at which such response must be filed and served and the deadline set by the clerk for filing a response;

(3) the following advisement: “If this case is not filed in the county where your property or a substantial part of your property is located, you have the right to ask the court to move the case to that county. If you file a response and the court sets a hearing date, your request to move the case must be filed with the court at least 7 days before the date of the hearing unless the request was included in your response.”; and

(4) the mailing address of the moving party and, if different, the name and address of any authorized servicer for the loan secured by the deed of trust. If the moving party or authorized servicer, if different, is not authorized to modify the evidence of the debt, the notice shall state in addition the name, mailing address, and telephone number of a representative authorized to address loss mitigation requests. A copy of C.R.C.P. 120 shall be included with or attached to the notice. The notice shall be served by the moving party not less than 14 days prior to the response deadline set by the clerk, by:

(A) mailing a true copy of the notice to each person named in the motion (other than any person for whom no address is stated) at that person’s address or addresses stated in the motion;

(B) filing a copy with the clerk for posting by the clerk in the courthouse in which the motion is pending; and

(C) if the property to be sold is a residential property as defined by statute, by posting a true copy of the notice in a conspicuous place on the subject property as required by statute. Proof of mailing and delivery of the notice to the clerk for posting in the courthouse, and proof of posting of the notice on the residential property, shall be set forth in the certificate of the moving party or moving party's agent. For the purpose of this section, posting by the clerk may be electronic on the court’s public website so long as the electronic address for the posting is displayed conspicuously at the courthouse.

(c) Response Stating Objection to Motion for Order Authorizing Sale; Filing and Service.

(1) Any interested person who disputes, on grounds within the scope of the hearing provided for in section (d), the moving party's right to an order authorizing sale may file and serve a response to the motion. The response must describe the facts the respondent relies on in objecting to the issuance of an order authorizing sale, and may include copies of documents which support the respondent’s position. The response shall be filed and served not later than

the response deadline set by the clerk. The response shall include contact information for the respondent including name, mailing address, telephone number, and, if applicable, an e-mail address. Service of the response on the moving party shall be made in accordance with C.R.C.P. 5(b).

(2) If a response is filed stating grounds for opposition to the motion within the scope of this Rule as provided for in section (d), the court shall set the matter for hearing at a later date. The clerk shall clear available hearing dates with the parties and counsel, if practical, and shall give notice to counsel and any self-represented parties who have appeared in the matter, in accordance with the rules applicable to e-filing, no less than 14 days prior to the new hearing date.

(d) Scope of Issues at the Hearing; Order Authorizing Foreclosure Sale; Effect of Order.

The court shall examine the motion and any responses.

(1) If the matter is set for hearing, the scope of inquiry at the hearing shall not extend beyond

(A) the existence of a default authorizing exercise of a power of sale under the terms of the deed of trust described in the motion;

(B) consideration by the court of the requirements of the Servicemembers Civil Relief Act, 50 U.S.C. § 3931, as amended;

(C) whether the moving party is the real party in interest; and

(D) whether the status of any request for a loan modification agreement bars a foreclosure sale as a matter of law.

The court shall determine whether there is a reasonable probability that a default justifying the sale has occurred, whether an order authorizing sale is otherwise proper under the Servicemembers Civil Relief Act, whether the moving party is the real party in interest, and, if each of those matters is determined in favor of the moving party, whether evidence presented in support of defenses raised by the respondent and within the scope of this Rule prevents the court from finding that there is a reasonable probability that the moving party is entitled to an order authorizing a foreclosure sale. The court shall grant or deny the motion in accordance with such determination. For good cause shown, the court may continue a hearing.

(2) If no response has been filed by the response deadline set by the clerk, and if the court is satisfied that venue is proper and the moving party is entitled to an order authorizing sale, the court shall forthwith enter an order authorizing sale.

(3) Any order authorizing sale shall recite the date the hearing was completed, if a hearing was held, or, if no response was filed and no hearing was held, shall recite the response deadline set by the clerk as the date a hearing was scheduled, but that no hearing occurred.

(4) An order granting or denying a motion filed under this Rule shall not constitute an appealable order or final judgment. The granting of a motion authorizing a foreclosure shall be without prejudice to the right of any person aggrieved to seek injunctive or other relief in

any court of competent jurisdiction, and the denial of any such motion shall be without prejudice to any other right or remedy of the moving party.

(e) The court shall not require the appointment of an attorney to represent any interested person as a condition of granting such motion, unless it appears from the motion or other papers filed with the court that there is a reasonable probability that the interested person is in the military service.

(f) **Venue.** For the purposes of this section, a consumer obligation is any obligation

(1) as to which the obligor is a natural person, and

(2) is incurred primarily for a personal, family, or household purpose.

Any proceeding under this Rule involving a consumer obligation shall be brought in and heard in the county in which such consumer signed the obligation or in which the property or a substantial part of the property is located. Any proceeding under this Rule that does not involve a consumer obligation or an instrument securing a consumer obligation may be brought and heard in any county. However, in any proceeding under this Rule, if a response is timely filed, and if in the response or in any other writing filed with the court, the responding party requests a change of venue to the county in which the encumbered property or a substantial part thereof is situated, the court shall order transfer of the proceeding to such county.

(g) **Return of Sale.** The court shall require a return of sale to be made to the court. If it appears from the return that the sale was conducted in conformity with the order authorizing the sale, the court shall enter an order approving the sale. This order is not appealable and shall not have preclusive effect in any other action or proceeding.

(h) **Docket Fee.** A docket fee in the amount specified by law shall be paid by the person filing the motion. Unless the court shall otherwise order, any person filing a response to the motion shall pay, at the time of the filing of such response, a docket fee in the amount specified by law for a defendant or respondent in a civil action under section 13-32-101(1)(d), C.R.S.

COMMENTS

1989

[1] The 1989 amendment to C.R.C.P. 120 (Sales Under Powers) is a composite of changes necessary to update the Rule and make it more workable. The amendment was developed by a special committee made up of practitioners and judges having expertise in that area of practice, with both creditor and debtor interests represented.

[2] The changes are in three categories. There are changes that permit court clerks to perform many of the tasks that were previously required to be accomplished by the Court and thus save valuable Court time. There are changes to venue provisions of the Rule for compliance with the Federal Fair Debt Collection Practices Act. There are also a number of editorial changes to improve the language of the Rule.

[3] There was considerable debate concerning whether the Federal “Fair Debt Collection Practices Act” is applicable to a C.R.C.P. 120 proceeding. Rather than attempting to mandate compliance with that federal statute by specific rule provision, the Committee recommends that a person acting as a debt collector in a matter covered by the provisions of the Federal “Fair Debt Collection Practices Act” be aware of the potential applicability of the Act and comply with it, notwithstanding any provision of this Rule.

Amended and Adopted by the Court, En Banc, December 7, 2017, effective as stated.

By the Court:

**Richard L. Gabriel
Justice, Colorado Supreme Court**