

**RULE CHANGE 2023(03)**

**RULES GOVERNING LAWYER DISCIPLINE AND DISABILITY PROCEEDINGS,  
PROTECTIVE APPOINTMENT OF COUNSEL, CONTINUING LEGAL AND JUDICIAL  
EDUCATION, ATTORNEYS' FUND FOR CLIENT PROTECTION, AND LAWYER  
ASSISTANCE PROGRAMS**

### **Rule 242.37.5. Proceedings Requiring a Special Tribunal**

(a) When Required. A special tribunal shall replace the Supreme Court in the following circumstances in disciplinary proceedings under C.R.C.P. 242 and disability proceedings governed by part VIII of C.R.C.P. 242: (1) When the proceeding involves a complaint against a current or former Supreme Court justice; (2) When a current or former Supreme Court justice is a complainant or material witness in the proceeding; (3) When a staff member to a current Supreme Court justice is a complainant or material witness in the proceeding; (4) When a family member of a current Supreme Court justice is a complainant or material witness in the proceeding; (5) When any other circumstances exist due to which more than two Supreme Court justices have recused themselves from the proceeding.

(b) How Comprised. In any proceeding in which any of the circumstances described in part (a) of this rule are present, the entire Supreme Court shall recuse itself, and a special tribunal composed of seven Colorado Court of Appeals judges shall replace the Supreme Court for the limited purpose of exercising any authority conferred by law to the Supreme Court as to the proceeding giving rise to recusal. The State Court Administrator, or the Administrator's designee, shall randomly select members of the tribunal from among all active, non-senior-status Court of Appeals judges who are not the subject of a current disciplinary investigation or proceeding pending before the Commission on Judicial Discipline; have not received a disciplinary sanction from the Commission or Supreme Court; and are not otherwise required by law, court rule, or judicial canon to recuse themselves from the tribunal. The random selection of tribunal members is a purely administrative function.

### **Rule 242.37.5. Proceedings Requiring a Special Tribunal**

(a) When Required. A special tribunal shall replace the Supreme Court in the following circumstances in disciplinary proceedings under C.R.C.P. 242 and disability proceedings governed by part VIII of C.R.C.P. 242: (1) When the proceeding involves a complaint against a current or former Supreme Court justice; (2) When a current or former Supreme Court justice is a complainant or material witness in the proceeding; (3) When a staff member to a current Supreme Court justice is a complainant or material witness in the proceeding; (4) When a family member of a current Supreme Court justice is a complainant or material witness in the proceeding; (5) When any other circumstances exist due to which more than two Supreme Court justices have recused themselves from the proceeding.

(b) How Comprised. In any proceeding in which any of the circumstances described in part (a) of this rule are present, the entire Supreme Court shall recuse itself, and a special tribunal composed of seven Colorado Court of Appeals judges shall replace the Supreme Court for the limited purpose of exercising any authority conferred by law to the Supreme Court as to the proceeding giving rise to recusal. The State Court Administrator, or the Administrator's designee, shall randomly select members of the tribunal from among all active, non-senior-status Court of Appeals judges who are not the subject of a current disciplinary investigation or proceeding pending before the Commission on Judicial Discipline; have not received a disciplinary sanction from the Commission or Supreme Court; and are not otherwise required by law, court rule, or judicial canon to recuse themselves from the tribunal. The random selection of tribunal members is a purely administrative function.

**Adopted by the Court, En Banc, February 16, 2023, effective immediately. Justice Márquez recused from any participation in this rulemaking proceeding.**

**By the Court:**

**Brian D. Boatright  
Chief Justice, Colorado Supreme Court**