



**RULE CHANGE 2011(18)**

**TIME CALCULATION CHANGES TO COLORADO RULES**

This rule change includes only sections where amendments to the rules have been made. Any sections of the rules not specifically included remain unchanged.

	<b>PAGE</b>
<b>COLORADO RULES OF CIVIL PROCEDURE (RULES 1-122) .....</b>	<b>2</b>
<b>COLORADO RULES OF CIVIL PROCEDURE (RULES 201-260) .....</b>	<b>28</b>
<b>COLORADO RULES OF CIVIL PROCEDURE (RULES 303-411) .....</b>	<b>43</b>
<b>MISCELLANEOUS CIVIL RULES .....</b>	<b>50</b>
<b>COLORADO APPELLATE RULES .....</b>	<b>53</b>
<b>COLORADO RULES OF PROBATE PROCEDURE .....</b>	<b>61</b>

**Amended and adopted by the Court, En Banc, December 14, 2011, effective January 1, 2012.**

**By the Court:**

**Nancy E. Rice  
Justice, Colorado Supreme Court**

**APPROVED TIME CALCULATION CHANGES:**

**The amendments to these rules are effective for all cases pending on or filed on or after January 1, 2012, pursuant to C.R.C.P. 1(b)**

**COLORADO RULES OF CIVIL PROCEDURE (RULES 1-122)**

**Rule 3. Commencement of Action.**

**(a) How Commenced.** A civil action is commenced (1) by filing a complaint with the court, or (2) by service of a summons and complaint. If the action is commenced by the service of a summons and complaint, the complaint must be filed within 14 days after service. If the complaint is not filed within 14 days, the service of summons shall be deemed to be ineffective and void without notice. In such case the court may, in its discretion, tax a reasonable sum in favor of the defendant to compensate the defendant for expense and inconvenience, including attorney's fees, to be paid by the plaintiff or his attorney. The 14 day filing requirement may be expressly waived by a defendant and shall be deemed waived upon the filing of a responsive pleading or motion to the complaint without reserving the issue.

**(b) Time of Jurisdiction.** The court shall have jurisdiction from (1) the filing of the complaint, or (2) the service of the summons and complaint; provided, however, if more than 14 days elapses after service upon any defendant before the filing of the complaint, jurisdiction as to that defendant shall not attach by virtue of the service.

**Rule 4. Process.**

**(e) Personal Service**

(10) (C) For all purposes the date of service upon the officer, agent, employee, department, or agency shall control, except that failure to serve copies upon the attorney general within 7 days of service upon the officer, agent, employee, department, or agency shall extend the time within which the officer, agent, employee, department, or agency must file a responsive pleading for 63 days (9 weeks) beyond the time otherwise provided by these rules.

**(g) Other Service.**

(2) Order publication of the process in a newspaper published in the county in which the action is pending. Such publication shall be made once each week for five successive weeks. Within 14 days after the order the party shall mail a copy of the process to each person whose address or last known address has been stated in the motion and file proof thereof. Service shall be complete on the day of the last publication. If no newspaper is published in the county, the court shall designate one in some adjoining county.

**Rule 6 Time**

**(a) Computation.** (1) In computing any period of time prescribed or allowed by these rules, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Thereafter, every day shall be counted, including holidays, Saturdays or Sundays.

The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. The “next day” is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.

(2) As used in this Rule, "Legal holiday" includes the first day of January, observed as New Year's Day; the third Monday in January, observed as Martin Luther King Day; the third Monday in February, observed as Washington-Lincoln Day; the last Monday in May, observed as Memorial Day; the fourth day of July, observed as Independence Day; the first Monday in September, observed as Labor Day; the second Monday in October, observed as Columbus Day; the 11th day of November, observed as Veteran's Day; the fourth Thursday in November, observed as Thanksgiving Day; the twenty-fifth day of December, observed as Christmas Day, and any other day except Saturday or Sunday when the court is closed.

(c) Unaffected by Expiration of Term. Repealed.

(d) For Motions -- Affidavits. Repealed.

(e) Additional Time After Service Under C.R.C.P. 5(b)(2)(B), (C), or (D). Repealed.

COMMITTEE COMMENT to Rule 6(e). Delete in full.

### **Rule 12 Defenses and Objections – When and How Presented – By Pleading or Motion – Motion for Judgment on Pleadings.**

**(a) When Presented.** A defendant shall file his answer or other response within 21 days after the service of the summons and complaint on him. If, pursuant to special order, a copy of the complaint is not served with the summons, or if the summons is served without the state, or by publication, a defendant shall file his answer or other response within 35 days after the service thereof on him. A party served with a pleading stating a cross claim against him shall file an answer or other response thereto within 21 days after the service upon him. The plaintiff shall file his reply to a counterclaim in the answer within 21 days after the service of the answer. If reply is made to any affirmative defense such reply shall be filed within 21 days after service of the pleading containing such affirmative defense. If a pleading is ordered by the court, it shall be filed within 21 days after the entry of the order, unless the order otherwise directs. The filing of a motion permitted under this Rule alters these periods of time, as follows: (1) If the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleadings shall be filed within 14 days after notice of the court's action; (2) if the court grants a motion for a more definite statement, or for a statement in separate counts or defenses, the responsive pleadings shall be filed within 14 days after the service of the more definite statement or amended pleading.

**(e) Motion for Separate Statement, or for More Definite Statement.** Before responding to a pleading or, if no responsive pleading is permitted by these rules, within 21 days after the service of the pleading upon him, a party may file a motion for a statement in separate counts or defenses, or for a more definite statement of any matter which is not averred with sufficient definiteness or particularity to enable him properly to prepare his responsive pleading. If the motion is granted and the order of the court is not obeyed within 14 days after notice of the order

or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just.

**(f) Motion to Strike.** Upon motion filed by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion filed by a party within 21 days after the service of any pleading, motion, or other paper, or upon the court's own initiative at any time, the court may order any redundant, immaterial, impertinent, or scandalous matter stricken from any pleading, motion, or other paper. The objection that a responsive pleading or separate defense therein fails to state a legal defense may be raised by motion filed under this section (f).

#### **Rule 14. Third-Party Practice**

**(a) When Defendant May Bring in Third Party.** At any time after commencement of the action a defending party, as a third-party plaintiff, may cause a summons and complaint to be served upon a person not a party to the action who is or may be liable to him for all or part of the plaintiff's claim against him. The third-party plaintiff need not obtain leave to make the service if he files the third-party complaint not later than 14 days after he serves his original answer. Otherwise he must obtain leave on motion upon notice to all parties to the action. The person served with the summons and third-party complaint, hereinafter called the third-party defendant, shall make his defenses to the third party plaintiff's claim as provided in Rule 12 and his counterclaim against the third-party plaintiff and cross claims against other third-party defendants as provided in Rule 13. The third-party defendant may assert against the plaintiff any defenses which the third-party plaintiff has to the plaintiff's claim. The third-party defendant may also assert any claim against the plaintiff arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff. The plaintiff may assert any claim against the third-party defendant arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff, and the third-party defendant thereupon shall assert his defenses as provided in Rule 12 and his counterclaim and cross claims as provided in Rule 13. Any party may move to strike the third-party claim, or for its severance or separate trial. A third-party defendant may proceed under this Rule against any person not a party to the action who is or may be liable to him for all or part of the claim made in the action against the third-party defendant.

#### **Rule 15. Amended and Supplemental Pleadings**

**(a) Amendments.** A party may amend his pleading once as a matter of course at any time before a responsive pleading is filed or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, he may so amend it any time within 21 days after it is filed. Otherwise, a party may amend his pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 14 days after service of the amended pleading, whichever period may be the longer, unless the court otherwise orders.

## **Rule 16. Case Management and Trial Management**

### **(b) Presumptive Case Management Order.**

**(3) Meet and Confer.** No later than 14 days after the case is at issue, lead counsel for each party and any party who is not represented by counsel shall confer with each other about the nature and basis of the claims and defenses; the matters to be disclosed pursuant to C.R.C.P. 26(a)(1); and whether a Modified Case Management Order is necessary pursuant to subsection (c) of this Rule.

**(4) Trial Setting.** No later than 42 days after the case is at issue, the responsible attorney shall set the case for trial pursuant to C.R.C.P. 121 §1-6, unless otherwise ordered by the Court.

**(5) Disclosures.** No later than 35 days after the case is at issue, the parties shall serve their C.R.C.P. 26(a)(1) disclosures. The parties shall disclose expert testimony in accordance with C.R.C.P. 26(a)(2).

**(7) Certificate of Compliance.** No later than 49 days after the case is at issue, the responsible attorney shall file a Certificate of Compliance. The Certificate of Compliance shall state that the parties have complied with all requirements of subsections (b)(3)-(6), inclusive, of this Rule or, if they have not complied with each requirement, shall identify the requirements which have not been fulfilled and set forth any reasons for the failure to comply.

**(8) Time to Join Additional Parties and Amend Pleadings.** No later than 119 days (17 weeks) after the case is at issue, all motions to amend pleadings and add additional parties to the case shall be filed.

**(9) Pretrial Motions.** No later than 35 days before the trial date, pretrial motions shall be filed, except for motions pursuant to C.R.C.P. 56, which must be filed no later than 91 days (13 weeks) before the trial- and except for motions challenging expert testimony pursuant to C.R.E. 702, which must be filed no later than 70 days (10 weeks) before the trial.

**(10) Discovery Schedule.** Discovery shall be limited to that allowed by C.R.C.P. 26(b) (2). Except as provided in C.R.C.P. 26(d), discovery may commence 42 days after the case is at issue. The date for completion of all discovery shall be 49 days before the trial date.

**(c) Modified Case Management Order.** Any of the provisions of section (b) of this Rule may be modified by the entry of a Modified Case Management Order pursuant to this section and section (d) of this Rule. If a trial is set to commence less than 182 days (26 weeks) after the at-issue date as defined in C.R.C.P. 16(b)(1), and if a timely request for a modified case management order is made by any party, the case management order shall be modified to allow the parties an appropriate amount of time to meet case management deadlines, including discovery, expert disclosures, and the filing of summary judgment motions. The amounts of time allowed shall be within the discretion of the court on a case-by-case basis.

**(1) Stipulated Modified Case Management Order.** No later than 42 days after the case is at issue, the parties may file a Stipulated proposed Modified Case Management Order, supported by a specific showing of good cause for each modification sought including, where applicable, the grounds for good cause pursuant to C.R.C.P. 26(b)(2). Such proposed order only needs to set forth the proposed provisions which would be changed from the presumptive Case Management Order set forth in section (b) of this Rule. The Court may approve and enter the Stipulated Modified Case Management Order, or may set a case management conference.

**(2) Disputed Motions for Modified Case Management Orders.** If any party wishes to move for a Modified Case Management Order, lead counsel and any unrepresented parties shall confer and cooperate in the development of a proposed Modified Case Management Order. A motion for a Modified Case Management Order and one form of the proposed Order shall be filed no later than 42 days after the case is at issue. To the extent possible, counsel and any unrepresented parties shall agree to the contents of the proposed Modified Case Management Order but any matter upon which all parties cannot agree shall be designated as "disputed" in the proposed Modified Case Management Order. The proposed Order shall contain specific alternate provisions upon which agreement could not be reached and shall be supported by specific showing of good cause for each modification sought including, where applicable, the grounds for good cause pursuant to C.R.C.P. 26(b)(2). Such motion only needs to set forth the proposed provisions which would be changed from the presumptive case management Order set forth in section (b) of this Rule. The motion for a modified case management order shall be signed by lead counsel and any unrepresented parties, or shall contain a statement as to why it is not so signed.

**(e) Amendment of the Case Management Order.** At any time following the entry of the Case Management Order, a party wishing to amend the presumptive Case Management Order or a Modified Case Management Order shall file a motion stating each proposed amendment and a specific showing of good cause for the timing and necessity for each modification sought including, where applicable, the grounds for good cause pursuant to C.R.C.P. 26(b)(2).

**(f) Trial Management Order.** No later than 28 days before the trial date, the responsible attorney shall file a proposed Trial Management order with the court. Prior to trial, a Trial Management Order shall be entered by the Court.

**(2) All Parties Represented by Counsel.**

**(B)** Not later than 42 days before the trial date, each counsel shall exchange a draft of the lists of witnesses and exhibits required in subsections (f)(3)(VI)(A) and (B) of this Rule together with a copy of each documentary exhibit to be listed pursuant to subsection (f)(3)(VI)(B) of this Rule.

**IV. TRIAL BRIEFS.** The parties shall indicate whether trial briefs will be filed, including a schedule for their filing. Trial briefs shall be filed no later than 14 days before the trial date.

**VI. IDENTIFICATION OF WITNESSES AND EXHIBITS--JUROR NOTEBOOKS.** Each party shall provide the following information:

**(D) Deposition and other preserved testimony.** If the preserved testimony of any witness is to be presented the proponent of the testimony shall provide the other parties with its designations of such testimony at least 28 days before the trial date. Any other party may provide all other parties with its designations and shall do so at least 14 days before the trial date. The proponent may provide reply designations and shall do so at least 7 days before the trial date. A copy of the preserved testimony to be presented at trial shall be submitted to the court and include the proponent's and opponent's anticipated designations of the pertinent portions of such testimony or a statement why designation is not feasible at least 3 days before the trial date. If any party wishes to object to the admissibility of the testimony or to any tendered question or answer therein, it shall be noted, setting forth the grounds therefor.

**(g) Jury Instructions and Verdict Forms.** Counsel for the parties shall confer to develop jointly proposed jury instructions and verdict forms to which the parties agree. No later than 7 days prior to the date scheduled for commencement of the trial or such other time as the court shall direct, a set of the proposed jury instructions and verdict forms shall be filed with the courtroom clerk. The first party represented by counsel to demand a jury trial pursuant to C.R.C.P. 38 and who has not withdrawn such demand shall be responsible for filing the proposed jury instructions and verdict forms. If any jury instruction or verdict form is disputed, the party propounding the instruction or verdict form shall separately file with the courtroom clerk a set of the disputed jury instructions and verdict forms. Each instruction or verdict form shall have attached a brief statement of the legal authority on which the proposed instruction or verdict form is based. Compliance with this Rule shall not deprive parties of the right to tender additional instructions or verdict forms or withdraw proposed instructions or verdict forms at trial. All jury instructions and verdict forms submitted by the parties shall be in final form and reasonably complete. The court shall permit the use of photocopied instructions and verdict forms, without citations, in its submission to the jury.

### **Rule 16.1. Simplified Procedure for Civil Actions**

**(e) Election for Inclusion Under This Rule.** In actions excluded by subsection (b)(2) of this Rule, within 49 days after the case is at issue, as defined in C.R.C.P. 16(b)(1), the parties may file a stipulation to be governed by this Rule. In such event, they will not be bound by the \$100,000 limitation on judgments contained in section (c) of this Rule.

**(g) Trial Setting.** No later than 42 days after the case is at issue, the responsible attorney shall set the case for trial pursuant to C.R.C.P. 121, section 1-6, unless otherwise ordered by the court.

**(h) Certificate of Compliance.** No later than 49 days after the case is at issue, the responsible attorney shall also file a Certificate of Compliance stating that the parties have complied with all the requirements of sections (f) and (g) of this Rule or, if they have not complied with each requirement, shall identify the requirements which have not been fulfilled and set forth any reasons for the failure to comply.

#### **(k) Simplified Procedure.**

##### **(1) Required Disclosures.**

**(A) Disclosures in All Cases.** Each party shall make disclosures pursuant to C.R.C.P. 26(a)(1), 26(a)(4), 26(b)(5), 26(c), 26(e) and 26(g), no later than 35 days after the case is at issue as defined in C.R.C.P. 16(b)(1). In addition to the requirements of C.R.C.P. 26(g), the disclosing party shall sign all disclosures under oath.

**(iii) Requested Disclosures.** Before or after the initial disclosures, any party may make a written designation of specific information and documentation that party believes should be disclosed pursuant to C.R.C.P. 26(a)(1). The other party shall provide a response and any agreed upon disclosures within 21 days of the request or at the time of initial disclosures, whichever is later. If any party believes the responses or disclosures are inadequate, it may seek relief pursuant to C.R.C.P. 37.

**(2) Disclosure of Expert Witnesses.** The provisions of C.R.C.P. 26(a)(2)(A) and (B), 26(a)(4), 26(a)(6), 26(c), 26(e) and 26(g) shall apply to disclosure for expert witnesses. Written

disclosures of experts shall be served by parties asserting claims 91 days (13 weeks) before trial; by parties defending against claims 56 days (8 weeks) before trial; and parties asserting claims shall serve written disclosures for any rebuttal experts 35 days before trial.

**(3) Disclosure of Non-expert Trial Testimony.** Each party shall serve written disclosure statements identifying the name, address, telephone number, and a detailed statement of the expected testimony for each witness the party intends to call at trial whose deposition has not been taken, and for whom expert reports pursuant to subparagraph (k)(2) of this Rule have not been provided. For adverse party or hostile witnesses, written disclosure of the expected subject matters of the witness's testimony, rather than a detailed statement of the expected testimony, shall be sufficient. Written disclosure shall be served by parties asserting claims 91 days (13 weeks) before trial; by parties defending against claims 56 days (8 weeks) before trial; and parties asserting claims shall serve written disclosures for any rebuttal witnesses 35 days before trial.

**(4) Depositions of Witnesses in Lieu of Trial Testimony.** A party who intends to offer the testimony of an expert or other witness may, pursuant to C.R.C.P. 30(b)(1)-(4), take the deposition of that witness for the purpose of preserving the witness' testimony for use at trial. Such a deposition shall be taken at least 7 days before trial. In that event, any party may offer admissible portions of the witness' deposition, including any cross-examination during the deposition, without a showing of the witness' unavailability. Any witness who has been so deposed may not be offered as a witness to present live testimony at trial by the party taking the deposition.

**(6) Trial Exhibits.** All exhibits to be used at trial which are in the possession, custody or control of the parties shall be identified and exchanged by the parties at least 35 days before trial. Authenticity of all identified and exchanged exhibits shall be deemed admitted unless objected to in writing within 14 days after receipt of the exhibits. Documents in the possession, custody and control of third persons that have not been obtained by the identifying party pursuant to document deposition or otherwise, to the extent possible shall be identified 35 days before trial and objections to the authenticity of those documents may be made at any time prior to their admission into evidence.

## **Rule 16.2. Court Facilitated Management of Domestic Relations Cases and General Provisions Governing Duty of Disclosure**

### **(c) Scheduling and Case Management for New Filings.**

(1) Initial status conferences/Stipulated Case Management Plans.

(E) The initial status conference shall take place, or the Stipulated Case Management Plan shall be filed with the court, as soon as practicable but no later than 42 days from the filing of the petition.

**(d) Scheduling and Case Management for post-decree/modification matters.** Within-49-days of the date a post decree motion or motion to modify is filed, the court shall review the matter and determine whether the case will be scheduled and resolved under the provisions of (c) or will be handled on the pleadings or otherwise.

### **(e) Disclosure.**



(2) A party shall, without a formal discovery request, provide the Mandatory Disclosures, as set forth in the form and content of Appendix to Chapters 1 to 17A, Form 35.1, C.R.C.P., and shall provide a completed Sworn Financial Statement and (if applicable) Supporting Schedules as set forth in the form and content of Appendix to Chapters 1 to 17A, Form 35.2 and Form 35.3, C.R.C.P, to the other party within 42 days after service of a petition or a post decree motion involving financial issues. The parties shall exchange the required Mandatory Disclosures, the Sworn Financial Statement and (if applicable) Supporting Schedules by the time of the initial status conference to the extent reasonably possible.

(3) A party shall, without a formal discovery request, also provide a list of expert and lay witnesses whom the party intends to call at a contested hearing or final orders. This disclosure shall include the address, phone number and a brief description of the testimony of each witness. This disclosure shall be made no later than 63 days (9 weeks) prior to the date of the contested hearing or final orders, unless the time for such disclosure is modified by the court.

**(f) Discovery.**

(5) All discovery shall be initiated so as to be completed not later than 28 days before hearing, except that the court shall extend the time upon good cause shown or to prevent manifest injustice.

**(g) Use of Experts. I**

(5) Unless otherwise ordered by the court, expert reports shall be provided to the parties 56 days (8 weeks) prior to hearing. Rebuttal reports shall be provided 21 days thereafter.

**(h) Trial Management Certificates.**

(1) If both parties are not represented by counsel, then each party shall file with the court a brief statement identifying the disputed issues and that party's witnesses and exhibits including updated Sworn Financial Statements and (if applicable) Supporting Schedules, together with copies thereof, mailed to the opposing party at least 7 days prior to the hearing date or at such other time as ordered by the court.

(2) If at least one party is represented by counsel, the parties shall file a joint Trial Management Certificate 7 days prior to the hearing date or at such other time as ordered by the court. Petitioner's counsel (or respondent's counsel if petitioner is pro se) shall be responsible for scheduling meetings among counsel and parties and preparing and filing the Trial Management Certificate. The joint Trial Management Certificate shall set forth stipulations and undisputed facts, any requests for attorney fees, disputed issues and specific points of law, lists of lay witnesses and expert witnesses the parties intend to call at hearing, and a list of exhibits, including updated Sworn Financial Statement, Supporting Schedules (if applicable) and proposed child support work sheets. The parties shall exchange copies of exhibits at least 7 days prior to hearing.

**Rule 25. Substitution of Parties.**

**(a) Death.**

(1) If a party dies and the claim is not thereby extinguished, the court may order substitution of the proper parties. The motion for substitution may be made by any party or by the successors or

representatives of the deceased party and, together with the notice of hearing, shall be served on the parties as provided in Rule 5 and upon persons not parties in the manner provided in Rule 4 for the service of process, and may be served in any county. Suggestion of death upon the record is made by service of a statement of the fact of death as provided herein for the service of the motion and by filing of proof thereof. If the motion for substitution is not made within 91 days (13 weeks) after such service, the action shall be dismissed as to the deceased party.

## **Rule 26. General Provisions Governing Discovery; Duty of Disclosure**

### **(a) Required Disclosures; Methods to Discover Additional Matter.**

#### **(1) Disclosures.**

The timing of disclosures shall be within 35 days after the case is at issue as defined in C.R.C.P.16(b). A party shall make the required disclosures based on the information then known and reasonably available to the party and is not excused from making such disclosures because the party has not completed investigation of the case or because the party challenges the sufficiency of another party's disclosures or because another party has not made the required disclosures.

#### **(2) Disclosure of Expert Testimony.**

(C) Unless otherwise provided in the Case Management Order, the timing of the disclosures shall be as follows:

(I) The disclosure by a claiming party under a complaint, counterclaim, cross-claim or third-party claim shall be made at least 126 days (18 weeks) before the trial date.

(II) The disclosure by a defending party shall be made within 28 days after service of the claiming party's disclosure, provided, however, that if the claiming party serves its disclosure earlier than required under subparagraph 26(a)(2)(C)(I), the defending party is not required to serve its disclosures until 98 days (14 weeks) before the trial date.

(III) If the evidence is intended to contradict or rebut evidence on the same subject matter identified by another party under subparagraph (a)(2)(C)(II) of this Rule, such disclosure shall be made no later than 77 days (11 weeks) before the trial date.

## **Rule 27. Depositions Before Action or Pending Appeal**

### **(a) Before Action.**

(1) **Petition; Order; Notice.** A person who desires to perpetuate his own testimony or that of other persons may file in a district court a petition verified by his oath (or, if there be more than one petitioner, then by the oath of at least one of them) stating either: (1) That the petitioner expects to be a party to an action in a court in this state and, in such case, the name of the persons who he expects will be adverse parties; or (2) that the proof of some facts is necessary to perfect the title to property in which petitioner is interested or others similarly situated may be interested or to establish any other matter which it may hereafter become material to establish, including marriage, divorce, birth, death, descent or heirship, though no action may at any time be anticipated, or, if anticipated, the expected adverse parties to such action are unknown to

petitioner. The petition shall also state the names of the witnesses to be examined and their places of residence and a brief outline of the facts expected to be proved, and if any person named in the petition as an expected adverse party is known to the petitioner to be an infant or incompetent person the petition shall state such fact. If the expected adverse parties are unknown, it shall be so stated. The court shall make an order allowing the examination and directing notice to be given, which notice, if the expected adverse parties are named in the petition, shall be personally served on them in the manner provided in Rule 4(e) and, if the expected adverse parties are stated to be unknown, and if real property is to be affected by such testimony a copy of such notice shall be served on the county clerk and recorder, or his deputy, of the county where the property to be affected by such testimony or some part of such property is situated but in any event said notice shall be published for not less than two weeks in some newspaper to be designated by the court making the order in such manner as may be designated by such court. If service of said notice cannot with due diligence be made, in the manner provided in Rule 4(e), upon any expected adverse party named in the petition, the court may make such order as is just for service upon him by publication or otherwise and shall appoint, for persons named in the petition as expected adverse parties who are not served in the manner provided in Rule 4(e), an attorney who shall represent them, and, in case they are not otherwise represented, shall cross-examine the witness. Such notice shall state the title of the proceeding, including the court and county in which it is pending, the time and place of the examination and either a brief outline of the facts expected to be proved or a description of the property to be affected by such testimony. Any notice heretofore given which contains the above required matters shall be deemed sufficient. Any personal service required by the provisions hereof shall be made at least 14 days before the testimony is taken. If any person named in the petition as an expected adverse party is stated in any paper filed in such proceeding to be an infant or incompetent person, the provisions of Rule 17(c) apply, but no guardian ad litem need be appointed for any expected adverse party whose name is unknown.

**(b) After Judgment or After Appeal.** If an appeal of a judgment is pending, or, if none is pending, then at any time within 35 days from the entry of such judgment, the court in which the judgment was rendered may allow the taking of the depositions of witnesses to perpetuate their testimony for use in the event of further proceedings in such court. In such case the party who desires to perpetuate the testimony may make a motion in such court for leave to take the depositions, upon the same notice and service thereof as if the action were pending in such court. The motion shall show: (1) The names and addresses of the persons to be examined and the substance of the testimony, so far as known, which he expects to elicit from each; (2) the reasons for perpetuating their testimony. If the court finds that the perpetuation of the testimony is proper to avoid a failure or delay of justice, it may make an order allowing the depositions to be taken, and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in these rules for depositions taken in actions pending in trial courts.

### **Rule 30. Depositions upon Oral Examination**

**(e) Review by Witness; Changes; Signing.** If requested by the deponent or a party before completion of the deposition, the deponent shall be notified by the officer that the transcript or recording is available. Within 35 days of receipt of such notification the deponent shall review the transcript or recording and, if the deponent makes changes in the form or substance of the deposition, shall sign a statement reciting such changes and the deponent's reasons for making

them and send such statement to the officer. The officer shall indicate in the certificate prescribed by subsection (f)(1) of this rule whether any review was requested and, if so, shall append any changes made by the deponent.

### **Rule 31. Depositions Upon Written Questions**

#### **(a) Serving Questions; Notice.**

(4) Within 21 days after the notice and written questions are served, a party may serve cross questions upon all other parties. Within 14 days after being served with cross questions, a party may serve redirect questions upon all other parties. Within 7 days after being served with redirect questions, a party may serve re-cross questions upon all other parties. The court may for cause shown enlarge or shorten the time.

### **Rule 32. Use of Depositions in Court Proceedings**

#### **(d) Effect of Errors and Irregularities in Depositions.**

#### **(3) As to Taking of Deposition.**

(C) Objections to the form of written questions submitted under Rule 31 are waived unless served in writing upon the party propounding them within the time allowed for serving the succeeding cross or other questions and within 7 days after service of the last questions authorized.

### **Rule 33. Interrogatories to Parties**

#### **(b) Answers and Objections.**

(3) The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 35 days after the service of the interrogatories. A shorter or longer time may be directed by the court or, in the absence of such an order, agreed to in writing by the parties pursuant to C.R.C.P. 29.

### **Rule 34. Production of Documents and Things and Entry Upon Land for Inspection and Other Purposes**

#### **(b) Procedure.**

The party upon whom the request is served shall serve a written response within 35 days after the service of the request. A shorter or longer time may be directed by the court or agreed to in writing by the parties pursuant to C.R.C.P. 29. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. The party submitting the request may move for an order pursuant to C.R.C.P. 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

### **Rule 36. Requests for Admission**

#### **(a) Request for Admission.**

Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within 35 days after service of the request, or within such shorter or longer time as the court may allow or as the parties may agree to in writing pursuant to C.R.C.P. 29, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by the party's attorney. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify an answer or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states that the party has made reasonable inquiry and that the information known or readily obtainable by the party is insufficient to enable the party to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; the party may, subject to the provisions of C.R.C.P. 37(c), deny the matter or set forth reasons why the party cannot admit or deny it.

### **Rule 38. Right to Trial by Jury**

**(b) Demand.** Any party may demand a trial by jury of any issue triable by a jury by filing and serving upon all other parties, pursuant to Rule 5(d), a demand therefor at any time after the commencement of the action but not later than 14 days after the service of the last pleading directed to such issue, except that in actions subject to mandatory arbitration under Rule 109.1 the demand for trial by jury shall be filed and served not later than 14 days following a demand for trial de novo. A demand for trial by jury may be endorsed upon a pleading. The demanding party shall pay the requisite jury fee upon the filing of the demand.

**(c) Jury Fees.** When a party to an action has exercised the right to demand a trial by jury, every other party to such action shall also pay the requisite jury fee unless such other party, pursuant to Rule 5(d), files and serves a notice of waiver of the right to trial by jury within 14 days after service of the demand.

**(d) Specification of Issues.** A demand may specify the issues to be tried to the jury; in the absence of such specification, the party filing the demand shall be deemed to have demanded trial by jury of all issues so triable. If a party demands trial by jury on fewer than all of the issues so triable, any other party, within 14 days after service of the demand, may file and serve a demand for trial by jury of any other issues so triable.

## **Rule 42.1. Consolidated Multidistrict Litigation**

### **(c) Initiation of Proceedings.:**

(2) Upon a motion filed with the Panel by a party in any action in which transfer under this rule may be appropriate, which motion shall not be entertained unless filed more than 91 days (13 weeks) next preceding any trial date set in the affected actions, unless a showing of good cause is made. A copy of such motion shall be filed in the district court in which the moving party's action is pending.

**(d) Order to Show Cause; Hearing; Response.** When the transfer of multidistrict litigation is being considered, an order shall be entered by the Panel directing the parties in each action to show cause why the action or actions should not be transferred. A hearing shall be set at the time the show cause order is entered. Any party may file a response to the show cause order and an accompanying brief within 14 days after the order is entered, unless otherwise provided in the order. Within 7 days of receipt of a party's response or brief, any party may file a reply brief limited to new matters.

**(i) Appellate Review; Assignment of Judge.** No proceedings for review of any certification order or other order entered by the Panel shall be permitted except as permitted by Rule 21 C.A.R. If no original proceedings are commenced in the Supreme Court or a show cause order is not issued by the Supreme Court within 21 days after entry of the certification order by the Panel, the Chief Justice shall assign the actions to a judge.

**(j) Other Cases; Transfer by Clerk.** Upon learning of the pendency of a civil action apparently sharing common questions of law or fact with actions previously transferred under this rule, an order may be entered by the Clerk transferring the action to the assigned judge. A copy of the order shall be served on each party to the litigation. The order shall not become final until 14 days after entry thereof. Any party opposing the transfer shall file a notice of opposition with the Clerk within 14 days from the date the order is entered. The notice of opposition shall be supported by a brief. Any party shall have 14 days to file an answer brief. The filing of a notice of opposition and brief shall suspend the finality of the Clerk's order pending action by the Panel.

## **Rule 45. Subpoena**

**(c) Service.** Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and by tendering to such person the fees for ~~one~~ 1 day's attendance and the mileage allowed by law. Service is also valid if the person named in the subpoena has signed a written admission or waiver of personal service. When the subpoena is issued on behalf of the state of Colorado, or an officer or agency thereof, fees and mileage need not be tendered. Proof of service shall be made as in Rule 4(h). Unless otherwise ordered by the court for good cause shown, such subpoena shall be served no later than forty-eight (48) hours before the time for appearance set out in said subpoena. The party issuing or causing the issuance of the subpoena pursuant to this rule, except in post-judgment proceedings, shall serve a copy of the subpoena (including a complete list of documents and things requested to be provided pursuant to the subpoena) upon all parties of record, including pro se parties, in the manner prescribed by C.R.C.P. 5(b). Service on the other parties shall be made promptly after the service of the subpoena upon the person named therein. Original subpoenas and returns of service of such subpoenas need not be filed with the court.

**(d) Subpoena for Taking Depositions; Place of Examination.**

(1) A Deposition subpoena, upon notice to all parties to the action, may require the production of documentary evidence which is within the scope of discovery permitted by Rule 26. Any party, the person to whom a deposition subpoena is directed, or any other person claiming an interest in the documents affected, may move for a protective order under Rule 26, in addition to any other remedy available under Rule 45. The person to whom the subpoena is directed may, within ~~ten~~ 14 days after the service thereof or on or before the time specified in the subpoena for compliance if such time is less than 14 days after service, serve upon the attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials. If objection is made, the party serving the subpoena is not entitled to inspect and copy the materials except pursuant to an order of the court from which the subpoena was issued. The party serving the subpoena may, if objection has been made, move upon notice to the deponent for an order at any time before or during the taking of the deposition.

**Rule 53. Masters.**

**(d) Proceedings.**

(1) **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 21 days after the date of the order of reference and shall notify the parties or their attorneys. It is the duty of the master to proceed with all reasonable diligence. Either party, on notice to the parties and master, may apply to the court for an order requiring the master to speed the proceedings and to make his or her report. If a party fails to appear at the time and place appointed, the master may proceed ex parte or, in the master's discretion, adjourn the proceedings to a future day, giving notice to the absent party of the adjournment.

**(e) Report.**

(2) **In Nonjury Actions.** In an action to be tried without a jury the court shall accept the master's finding of fact unless clearly erroneous. Within 14 days after being served with notice of the filing of the report any party may serve written objections thereto upon the other parties. Application to the court for action upon the report and upon objections thereto shall be by motion. The court, after hearing, may adopt the report or may modify it or may reject it in whole or in part or may receive further evidence or may recommit it with instructions.

**Rule 54. Judgments; Costs**

**(d) Costs.** Except when express provision therefor is made either in a statute of this state or in these rules, costs shall be allowed as of course to the prevailing party unless the court otherwise directs; but costs against the state of Colorado, its officers or agencies, shall be imposed only to the extent permitted by law.

**(h) Revival of Judgments.** A judgment may be revived against any one or more judgment debtors whether they are jointly or severally liable under the judgment. To revive a judgment a motion shall be filed alleging the date of the judgment and the amount thereof which remains unsatisfied. Thereupon the clerk shall issue a notice requiring the judgment debtor to show cause

within-14 days after service thereof why the judgment should not be revived. The notice shall be served on the judgment debtor in conformity with Rule 4. If the judgment debtor answer, any issue so presented shall be tried and determined by the court. A revived judgment must be entered within twenty years after the entry of the judgment which it revives, and may be enforced and made a lien in the same manner and for like period as an original judgment. If a judgment is revived before the expiration of any lien created by the original judgment, the filing of the transcript of the entry of revivor in the register of actions with the clerk and recorder of the appropriate county before the expiration of such lien shall continue that lien for the same period from the entry of the revived judgment as is provided for original judgments. Revived judgments may themselves be revived in the manner herein provided.

### **Rule 55. Default**

**(b) Judgment.** A party entitled to a judgment by default shall apply to the court therefor; but no judgment by default shall be entered against an infant or incompetent person unless represented in the action by a general guardian, guardian ad litem, conservator, or such other representative who has appeared in the action. If the party against whom judgment by default is sought has appeared in the action, the party (or, if appearing by representative, the party's representative) shall be served with written notice of the application for judgment at least 7 days prior to the hearing on such application. If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearings or order such references as it deems necessary and proper. However, before judgment is entered, the court shall be satisfied that the venue of the action is proper under Rule 98.

### **Rule 56. Summary Judgment and Rulings on Questions of Law**

**(a) For Claimant.** A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory judgment may, after the expiration of 21 days from the commencement of the action or after filing of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in the claiming party's favor upon all or any part thereof.

**(c) Motion and Proceedings Thereon.** Unless otherwise ordered by the court, any motion for summary judgment shall be filed no later than 91 days (13 weeks) prior to trial. A cross-motion for summary judgment shall be filed no later than 70 days (10 weeks) prior to trial. The motion may be determined without oral argument. The opposing party may file and serve opposing affidavits within the time allowed for the responsive brief, unless the court orders some lesser or greater time. The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.



### **Rule 58. Entry Of Judgment**

**(a) Entry.** Subject to the provisions of C.R.C.P. 54(b), upon a general or special verdict of a jury, or upon a decision by the court, the court shall promptly prepare, date, and sign a written judgment and the clerk shall enter it on the register of actions as provided in C.R.C.P. 79(a). The term “judgment” includes an appealable decree or order as set forth in C.R.C.P. 54(a). The effective date of entry of judgment shall be the actual date of the signing of the written judgment. The notation in the register of actions shall show the effective date of the judgment. Entry of the judgment shall not be delayed for the taxing of costs. Whenever the court signs a judgment and a party is not present when it is signed, a copy of the signed judgment shall be immediately mailed or e-served by the court, pursuant to C.R.C.P. 5, to each absent party who has previously appeared.

### **Rule 59. Motions for Post-Trial Relief**

**a) Post-Trial Motions.** Within 14 days of entry of judgment as provided in C.R.C.P. 58 or such greater time as the court may allow, a party may move for post-trial relief including:

Motions for post-trial relief may be combined or asserted in the alternative. The motion shall state the ground asserted and the relief sought.

**(d) Grounds for New Trial.** Subject to provisions of Rule 61, a new trial may be granted for any of the following causes:

When application is made under grounds (1), (2), (3), or (4), it shall be supported by affidavit filed with the motion. The opposing party shall have 21 days after service of an affidavit within which to file opposing affidavits, which period may be extended by the court or by written stipulation between the parties. The court may permit reply affidavits.

**(j) Time for Determination of Post-Trial Motions.** The court shall determine any post-trial motion within 63 days (9 weeks) of the date of the filing of the motion. Where there are multiple motions for post-trial relief, the time for determination shall commence on the date of filing of the last of such motions. Any post-trial motion that has not been decided within the 63-day determination period shall, without further action by the court, be deemed denied for all purposes including Rule 4(a) of the Colorado Appellate Rules and time for appeal shall commence as of that date.

### **Rule 62. Stay of Proceedings to Enforce a Judgment**

**(a) Automatic Stay; Exceptions; Injunctions; Receiverships.** Except as stated herein, no execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until the expiration of 14 days after its entry; provided that an interlocutory or final judgment in an action for an injunction or in a receivership action shall not be stayed during the period after its entry and until an appeal is taken or during the pendency of an appeal. Unless otherwise ordered by the court, the provisions of section (c) of this Rule govern the suspending, modifying, restoring, or granting of an injunction during the pendency of an appeal.

## **Rule 65. Injunction**

**(b) Temporary Restraining Order; Notice; Hearing; Duration.** A temporary restraining order may be granted without written or oral notice to the adverse party or his attorney only if: (1) It clearly appears from specific facts shown by affidavit or by the verified complaint or by testimony that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or his attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court in writing or on the record the efforts, if any, which have been made to give the notice and the reasons supporting his claim that notice should not be required. Every temporary restraining order granted without notice shall be endorsed with the date and hour of issuance; shall be filed forthwith in the clerk's office and entered of record; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after entry not to exceed 14 days, as the court fixes, unless within the time so fixed, the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be entered of record. In case a temporary restraining order is granted without notice, the motion for a preliminary injunction shall be set down for hearing at the earliest possible time and take precedence of all matters except older matters of the same character; and when the motion comes on for hearing the party who obtained the temporary restraining order shall proceed with the application for a preliminary injunction and, if he does not do so, the court shall dissolve the temporary restraining order. On two (2) business days' notice to the party who obtained the temporary restraining order without notice or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

**(i) State Court's Jurisdiction When Suit Commenced in Federal Court; Stay of Proceedings; Notice; Appeal.** Whenever a suit praying for an interlocutory injunction shall have been begun in a federal district court to restrain any official or officials of this state from enforcing or administering any statute or administrative order of this state, or to set aside such statute or administrative order, any defendant in such suit or the attorney general of the state may bring a suit to enforce such statute or order in the district court of the state at any time before the hearing on the application for an interlocutory injunction in the suit in the federal court; and the district courts of this state may entertain such suits and the state appellate courts may entertain appeals from judgments therein. When such suit is brought, the district court shall grant a stay of proceedings by any state officer or officers under such statute or order pending the determination of such suit in the courts of this state. Upon the bringing of such suit, the district court shall at once cause a notice thereof together with a copy of the stay order by it granted, to be sent to the federal district court in which the action was originally begun. An appeal may be taken within 14 days after the termination of the suit in the state district court to the appropriate state appellate court and such appeal shall be in every way expedited and set for an early hearing.

## **Rule 69. Execution and Proceedings Subsequent to Judgment**

**(d) Requirement That Judgment Debtor Answer Written Interrogatories.** (1) At any time after entry of a final money judgment, the judgment creditor may serve written interrogatories upon the judgment debtor in accordance with C.R.C.P. 45, requiring the judgment debtor to

answer the interrogatories. Within 21 days of service of the interrogatories upon the judgment debtor, the judgment debtor shall appear before the clerk of the court in which the judgment was entered to sign the answers to the interrogatories under oath and file them.

(2) If the judgment debtor, after being properly served with written interrogatories as provided by this Rule, fails to answer the served interrogatories, the judgment creditor may file a motion, with return of the previously served written interrogatories attached thereto, and request an order of court requiring the judgment debtor to either answer the previously served written interrogatories within 21 days in accordance with the provisions of (d)(1) of this Rule or appear in court at a specified time to show cause why the judgment debtor shall not be held in contempt of court for failure to comply with the order requiring answers to interrogatories; a copy of the motion, written interrogatories and a certified order of court shall be served upon judgment debtor in accordance with C.R.C.P. 45.

### **Rule 90. Dispositions of Water Court Applications (See, Rule Change 2011(19))**

#### **Rule 98. Place of Trial**

##### **(e) Motion to Change Venue; When Presented; Waiver; Effect of Filing.**

(2) If a motion to change venue is filed within the time permitted by section (a) of Rule 12 for the filing of a motion under the defenses numbered (1) to (4) of section (b) of Rule 12, the filing of such motion by a party under the provisions of subsection (1) of this section (e) alters his time to file his responsive pleading as follows: If the motion is overruled the responsive pleading shall be filed within 14 days thereafter unless a different time is fixed by the court, and if it is allowed the responsive pleading shall be filed within 14 days after the action has been docketed in the court to which the action is removed unless that court fixes a different time.

#### **Rule 100. Contested elections**

**(a) Statement of Contest; Where Filed.** Any qualified elector wishing to contest the election of any person to the office of presidential elector, supreme court justice, court of appeals judge, district, or county judge, shall within 35 days after the canvass of the secretary of state, in case of a presidential elector, supreme court justice, court of appeals judge, or district judge, file in the office of the secretary of state a written statement of his intention to contest; and where the contest is for the office of county judge, such statement shall be filed in the office of the county clerk of the proper county within 35 days after the canvass by the county board of canvassers, which statement shall set forth: (1) The name of the contestor; (2) the name of the contestee; (3) the office; (4) the time of the election; (5) the particular cause of contest. The statement shall be verified by the affidavit of the contesting party.

**(b) Trial.** The contestor, or some one in behalf of the person for whose benefit the contest is made, shall, within 35 days after the filing of the statement of contest, file a complaint in the office of the clerk of the supreme court, if the contest relates to a presidential elector or supreme court justice, or in the office of the clerk of the court of appeals, if the contest relates to a court of appeals judge, or in the office of the clerk of the district court in the proper county, if the contest relates to a district or county judge. Upon the filing of such complaint the clerk shall issue

summons. When the case is at issue, the court shall hear and determine the same in a summary manner, without the intervention of a jury.

### **Rule 102. Attachments**

**(i) Return of Writ.** The sheriff shall return the writ of attachment within 21 days after its receipt, with a certificate of his proceedings endorsed thereon, or attached thereto, making a full inventory of the property attached as a part of his return upon the writ.

#### **(k) No Final Judgment Until 35 Days After Levy.**

(1) **Creditors.** No final judgment shall be rendered in a cause wherein an attachment writ has been issued and a levy made thereunder, until the expiration of 35 days after such levy has been made; and any creditor of the defendant making and filing within said 35-day period an affidavit and undertaking, as hereinbefore required of the plaintiff, together with his complaint setting forth his claim against the defendant, shall be made a party plaintiff and have like remedies against the defendant to secure his claim, as the law gives to the original plaintiff.

(2) **Judgment Creditors.** Any other creditor whose claim has been reduced to judgment in this state may upon motion filed within said 35 days be made a party and have like remedies against the attached property. Such judgment creditor shall not be required to make or file an affidavit, undertaking or complaint, or have summons issue, provided, that any such judgment creditor may be required to prove to the satisfaction of the court that his judgment is bona fide and not in fraud of the rights of other creditors.

**(n) Traverse of Affidavit.** (1) The defendant may, at any time before trial, by affidavit, traverse and put in issue the matters alleged in the affidavit, testimony, or other evidence upon which the attachment is based and if the plaintiff shall establish the reasonable probability that any one of the causes alleged in the affidavit exists, said attachment shall be sustained, otherwise the same shall be dissolved. A hearing on the defendant's traverse shall be held within 7 days from the filing of the traverse and upon no less than two business days' notice to the plaintiff. If the debt for which the action is brought is not due and for that reason the attachment is not sustained, the action shall be dismissed; but if the debt is due, but the attachment nevertheless is not sustained, the action may proceed to judgment after the attachment is dissolved, as in other actions where no attachment is issued.

**(x) New Bond; When Ordered; Failure to Furnish.** If at any time where an attachment has been issued it shall appear to the court that the undertaking is insufficient, the court shall order another undertaking, and if the plaintiff fails to comply with such order within 21 days after the same shall be made, all or any writs of attachment issued therein shall be quashed. The additional undertaking shall be executed in the same manner as the original, and the sureties therein shall be jointly and severally liable with those in the original undertaking.

### **Rule 103. Garnishment** (See, *Rule Change 2011(19)*)

## **Rule 104. Replevin**

**(c) Show Cause Order; Hearing within 14 Days.** The court shall without delay, examine the complaint and affidavit, and if it is satisfied that they meet the requirements of section (b), it shall issue an order directed to the defendant to show cause why the property should not be taken from the defendant and delivered to the plaintiff. Such order shall fix the date and time for the hearing thereof. The hearing date shall be not more than 14 days from the date of the issuance of the order and the order must have been served at least 7 days prior to the hearing date. The plaintiff may request a hearing date beyond 14 days, which request shall constitute a waiver of the right to a hearing not more than 14 days from the date of issuance of the order. Such order shall inform the defendant that he may file affidavits on his behalf with the court and may appear and present testimony in his behalf at the time of such hearing, or that he may, at or prior to such hearing, file with the court a written undertaking to stay the delivery of the property, in accordance with the provisions of section (j) of this rule, and that, if he fails to appear at the hearing on the order to show cause or to file an undertaking, plaintiff may apply to the court for an order requiring the sheriff to take immediate possession of the property described in the complaint and deliver same to the plaintiff. The summons and complaint, if not previously served, and the order shall be served on the defendant and the order shall fix the manner in which service shall be made, which shall be by service in accordance with the provisions of Rule 4, C.R.C.P., or in such manner as the court may determine to be reasonably calculated to afford notice thereof to the defendant under the circumstances appearing from the complaint and affidavit.

**(j) When Returned to Defendant; Bond.** At any time prior to the hearing on the order to show cause, or before the delivery of the property to the plaintiff, the defendant may require the return thereof upon filing with the court a written undertaking, in an amount set by the court in its discretion not to exceed double the value of the property and executed by the defendant and such surety as the court may direct for the delivery of the property to the plaintiff, if such delivery be ordered, and for the payment to the plaintiff of such sum as may for any cause be recovered against the defendant. At the time of filing such undertaking, the defendant shall serve upon the plaintiff or his attorney, in the manner provided by Rule 5, C.R.C.P., a notice of filing of such undertaking, to which a copy of such undertaking shall be attached, and shall cause proof of service thereof to be filed with the court. If such undertaking be filed prior to hearing on the order to show cause, proceedings thereunder shall terminate, unless exception is taken to the amount of the bond or the sufficiency of the surety. If, at the time of filing of such undertaking, the property shall be in the custody of the sheriff, such property shall be redelivered to the defendant 7 days after service of notice of filing such undertaking upon the plaintiff or his attorney.

**(k) Exception to Sureties.** Either party may, within two business days after service of an undertaking or notice of filing and undertaking under the provisions of this Rule, give written notice to the court and the other party that he excepts to the sufficiency of the surety or the amount of the bond. If he fails to do so, he is deemed to have waived all objections to them. When a party excepts the court shall hold a hearing to determine the sufficiency of the bond or surety. If the property be in the custody of the sheriff, he shall retain custody thereof until the hearing is completed or waived. If the excepting party prevails at the hearing, the sheriff shall proceed as if no such undertaking had been filed. If the excepting party does not prevail at the

hearing, or the exception is waived, he shall deliver the property to the party filing such undertaking.

**(n) Return; Papers by Sheriff.** The sheriff shall return the order of possession and undertakings and affidavits with his proceedings thereon, to the court in which the action is pending, within-21 days after taking the property mentioned therein.

### **Rule 105. Actions Concerning Real Estate**

**(d) Execution of Quitclaim Deed Saves Costs.** If a party, 21 days or more before bringing an action for obtaining an adjudication of the rights of another person with respect to any real property, shall request of such person the execution of a quitclaim deed to such property and shall also tender to such person \$20.00 to cover the expense of the execution and delivery of a deed and if such person shall refuse or neglect to execute and deliver such deed, the filing by such person of a disclaimer shall not avoid the imposition upon such person of the costs in the action afterwards brought.

### **Rule 105.1. Spurious Lien or Document** *(See, Rule Change 2011(19))*

### **Rule 106. Forms Of Writs Abolished**

**(a) Habeas Corpus, Mandamus, Quo Warranto, Certiorari, Prohibition, Scire Facias and Other Remedial Writs in the District Court.**

(4) Where any governmental body or officer or any lower judicial body exercising judicial or quasi-judicial functions has exceeded its jurisdiction or abused its discretion, and there is no plain, speedy and adequate remedy otherwise provided by law:

(IV) Within 21 days after the date of receipt of an order requiring certification of a record, a defendant may file with the clerk a statement designating portions of the record not set forth in the order which it desires to place before the court. The cost of preparing the record shall be advanced by the plaintiff, except that the court may, on objection by the plaintiff, order a defendant to advance payment for the costs of preparing such portion of the record designated by the defendant as the court shall determine is unessential to a complete understanding of the controversy; and upon a failure to comply with such order, the portions for which the defendant has been ordered to advance payment shall be omitted from the record. Any party may move to correct the record at any time.

(VII) A defendant required to certify a record shall give written notice to all parties, simultaneously with filing, of the date of filing the record with the clerk. The plaintiff shall file, and serve on all parties, an opening brief within 42 days after the date on which the record was filed. If no record is requested by the plaintiff, the plaintiff shall file an opening brief within 42 days after the defendant has served its answer upon the plaintiff. The defendant may file and serve an answer brief within 35 days after service of the plaintiff's brief, and the plaintiff may file and serve a reply brief to the defendant's answer brief within 14 days after service of the answer brief.

**(b) Limitations as to Time.** Where a statute provides for review of the acts of any governmental body or officer or judicial body by certiorari or other writ, or for a proceeding in quo warranto, relief therein provided may be had under this Rule. If no time within which review may be sought is provided by any statute, a complaint seeking review under subsection (a)(4) of this Rule shall be filed in the district court not later than 28 days after the final decision of the body or officer. A timely complaint may be amended at any time with leave of the court, for good cause shown, to add, dismiss or substitute parties, and such amendment shall relate back to the date of filing of the original complaint.

### **Rule 106.5. Correctional Facility Quasi--Judicial Hearing Review**

**(e) Response of Defendant.** Within 21 days after the date on which the Attorney General sends acknowledgment that it has received the notice and complaint from the Clerk of the District Court, the Defendants shall file either (1) an answer to the complaint and a certified copy of the record as explained below, or (2) a motion in response to the complaint.

**(f) Notice to Submit Record.** The facility shall file the certified record and affidavit of certification directly to the Court no later than the deadline to file an answer or motion as indicated above. This obligation to submit the record shall not apply if the Attorney General notifies the Warden within 14 days of the electronic service that a motion to dismiss the complaint for lack of subject matter jurisdiction has been filed, in which event the filing of the record shall be suspended pending disposition of the motion.

#### **(i) Briefs.**

(1) If counsel for the Defendants files a motion to dismiss, the inmate shall have 14 days after service of the motion to file a brief in response, and the defense counsel shall have 14 days after service of the response to file a reply.

(2) If the defense counsel files an answer and the Warden files the certified record, the inmate shall have 42 days following notice of filing of the record in which to file a brief. In this event, the brief shall set forth the reasons why the inmate believes that the District Court should rule that the Warden has exceeded his or her jurisdiction or abused his or her discretion. The inmate must set forth in the brief specific references to the record that support the inmate's position. Defense counsel shall have 35 days after service of the brief to file a response and the inmate shall have 14 days after service of the response to file a reply.

### **Rule 107. Remedial and Punitive Sanctions for Contempt**

**(c) Indirect Contempt Proceedings.** When it appears to the court by motion supported by affidavit that indirect contempt has been committed, the court may ex parte order a citation to issue to the person so charged to appear and show cause at a date, time and place designated why the person should not be punished. The citation and a copy of the motion, affidavit and order shall be served directly upon such person at least 21 days before the time designated for the person to appear. If such person fails to appear at the time so designated, and it is evident to the court that the person was properly served with copies of the motion, affidavit, order, and citation, a warrant for the person's arrest may issue to the sheriff. The warrant shall fix the date, time and place for the production of the person in court. The court shall state on the warrant the amount

and kind of bond required. The person shall be discharged upon delivery to and approval by the sheriff or clerk of the bond directing the person to appear at the date, time and place designated in the warrant, and at any time to which the hearing may be continued, or pay the sum specified. If the person fails to appear at the time designated in the warrant, or at any time to which the hearing may be continued, the bond may be forfeited upon proper notice of hearing to the surety, if any, and to the extent of the damages suffered because of the contempt, the bond may be paid to the aggrieved party. If the person fails to make bond, the sheriff shall keep the person in custody subject to the order of the court.

### **Rule 120. Orders Authorizing Sales Under Powers**

**(a) Motion; Contents.** Whenever an order of court is desired authorizing a sale under a power of sale contained in an instrument, any interested person or someone on such person's behalf may file a verified motion in a district court seeking such order. The motion shall be 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 claimed by the moving party to justify invocation of the power of sale. 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 by such sale. 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 records of the moving party, of the grantor of such deed of trust, of the current record owner of the property to be sold, and of any person known or believed by the moving party to be personally liable upon the indebtedness secured by the deed of trust, as well as the names and addresses of those persons who appear to have acquired a record interest in such real property, subsequent to the recording of such deed of trust and prior to the recording of the notice of election and demand for sale, whether by deed, mortgage, judgment or any other instrument of record. In 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 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. The clerk shall 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.

**(b) Notice; Contents; Service.** The moving party shall issue a notice describing the instrument containing the power of sale, the property sought to be sold thereunder, and the default or other facts 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 to file and serve 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. The notice shall contain the following advisement: "If this case is not filed in the county where your property is located, you have the right to ask the court to move the case to that county. 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 hearing." The notice shall contain the return address of the moving party. Such notice shall be served by the moving party not less than 14 days prior to the date set for the hearing, by mailing a true copy thereof to each person named in the motion (other than persons for whom no address is stated) at the address or addresses stated in the motion and by filing a copy with the clerk and by delivering a second copy to the



clerk for posting by the clerk. Such mailing and delivery to the clerk for posting shall be evidenced by the certificate of the moving party or moving party's agent.

**(c) Response; Contents; Filing and Service.** Any interested person who disputes, on grounds within the scope of the hearing provided for in section (d), the moving party's entitlement to an order authorizing sale may file and serve a response to the motion, verified by the oath of such person, setting forth the facts upon which he relies and attaching copies of all documents which support his position. The response shall be filed and served not less than 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 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).

## **Rule 121. Local Rules – Statewide Practice Standards Section 1-1.**

### **ENTRY OF APPEARANCE AND WITHDRAWAL**

#### **2. Withdrawal From an Active Case.**

(b) Otherwise an attorney may withdraw from a case only upon approval of the court. Such approval shall rest in the discretion of the court, but shall not be granted until a motion to withdraw has been filed and served on the client and the other parties of record or their attorneys and either both the client and all counsel for the other parties consent in writing at or after the time of the service of said motion, or at least 14 days have expired after service of said motion. Every motion to withdraw shall contain the following advisements:

(IV) the client's and the other parties' right to object to the motion to withdraw within 14 days after service of the motion; and

(c) The client and the opposing parties shall have 14 days after service of a motion to withdraw within which to file objections to the withdrawal.

#### **3. Withdrawal From Completed Cases**

In any civil case which is concluded and in which all related orders have been submitted and entered by the court and complied with by the withdrawing attorney, an attorney may withdraw from the case without leave of court by filing a notice in the form and content of Appendix to Chapters 1 to 17A, Form 36, C.R.C.P. [JDF Form 83], which shall be served upon the client and all other parties of record or their attorneys, pursuant to C.R.C.P. 5. The withdrawal shall automatically become effective 14 days after service upon the client and all other parties of record or their attorneys unless there is an objection filed, in which event the matter shall be assigned to an appropriate judicial officer for determination.

## **District Court Practice Standards Section 1-10**

### **DISMISSAL FOR FAILURE TO PROSECUTE**

2. The court, on its own motion, may dismiss any action not prosecuted with due diligence, upon 35 days' notice in writing to each attorney of record and each appearing party not represented by counsel, or require the parties to show cause in writing why the case should not be dismissed. Showing of cause and objections thereto shall be determined in accordance with Practice Standard § 1-15 (Determination of motions).

## **District Court Practice Standards Section 1-12**

### **MATTERS RELATED TO DISCOVERY**

1. Unless otherwise ordered by the court, reasonable notice for the taking of depositions pursuant to C.R.C.P. 30(b)(1) shall not be less than 7 days. Before serving a notice to take a deposition, counsel seeking the deposition shall make a good faith effort to schedule it by agreement at a time reasonably convenient and economically efficient to the proposed deponent and counsel for all parties. Prior to scheduling or noticing any deposition, all counsel shall confer in a good faith effort to agree on a reasonable means of limiting the time and expense of that deposition. Pending resolution of any motion pursuant to C.R.C.P. 26(c), the filing of the motion shall stay the discovery at which the motion is directed.

## **District Court Practice Standards Section 1-15**

### **DETERMINATION OF MOTIONS**

#### **1. Briefs; When Required; Time for Serving and Filing -- Length.**

(a) Except motions during trial or where the court deems an oral motion to be appropriate, any motions involving a contested issue of law shall be supported by a recitation of legal authority incorporated into the motion except for a motion pursuant to C.R.C.P. 56. Motions or briefs in excess of 10 pages in length, exclusive of tables and appendices, are discouraged. Except for electronic filings made pursuant to Section 1-26 of this Rule, the original and one copy of all motions and briefs shall be filed with the court, and a copy served as required by law.

(b) The responding party shall have 21 days after the filing of the motion or such lesser or greater time as the court may allow in which to file a responsive brief. If a motion is filed 42 days or less before the trial date, the responding party shall have 14 days after the filing of the motion or such lesser or greater time as the court may allow in which to file a responsive brief.

(c) Except for a motion pursuant to C.R.C.P. 56, the moving party shall have 7 days after the filing of the responsive brief or such greater or lesser time as the court may allow to file a reply brief. For a motion pursuant to C.R.C.P. 56, the moving party shall have 14 days after the filing of the responsive brief or such greater or lesser time as the court may allow to file a reply brief.

#### **5. Notification of Court's Ruling; Setting of Argument or Hearing When Ordered.**

Whenever the court enters an order denying or granting a motion without a hearing, all parties shall be forthwith notified by the court of such order. If the court desires or authorizes oral argument or an evidentiary hearing, all parties shall be so notified by the court. After

notification, it shall be the responsibility of the moving party to have the motion set for oral argument or hearing. A notice to set oral argument or hearing shall be filed in accordance with Practice Standard § 1-6 within 7 days of notification that oral argument or hearing is required or authorized.

## **District Court Practice Standards Section 1-16**

### **PREPARATION OF ORDERS AND OBJECTIONS AS TO FORM**

1. When directed by the court, the attorney for the prevailing party or such attorney as the court directs shall file and serve a proposed order within 14 days of such direction or such other time as the court directs. Prior to filing the proposed order, the attorney shall submit it to all other parties for approval as to form. The proposed order shall be timely filed even if all parties have not approved it as to form. A party objecting to the form of the proposed order as filed with court shall have 7 days after service of the proposed order to file and serve objections and suggested modifications to the form of the proposed order.

2. Alternatively, when directed by the court, the attorney for the prevailing party or such attorney as the court directs shall file and serve a stipulated order within 14 days after the ruling, or such other time as the court directs. Any matter upon which the parties cannot agree as to form shall be designated in the proposed order as "disputed." The proposed order shall set forth each party's specific alternative proposal for each disputed matter.

## **District Court Practice Standards Section 1-22**

### **COSTS AND ATTORNEY FEES**

1. **COSTS.** A party claiming costs shall file a Bill of Costs within 21 days of the entry of order or judgment, or within such greater time as the court may allow. The Bill of Costs shall itemize and total costs being claimed. Taxing and determination of costs shall be in accordance with C.R.C.P. 54(d) and Practice Standard § 1-15.

#### **2. ATTORNEY FEES.**

(b) **Motion and Response.** Any party seeking attorney fees under this practice standard shall file and serve a motion for attorney fees within 21 days of entry of judgment or such greater time as the court may allow. The motion shall explain the basis upon which fees are sought, the amount of fees sought, and the method by which those fees were calculated. The motion shall be accompanied by any supporting documentation, including materials evidencing the attorney's time spent, the fee agreement between the attorney and client, and the reasonableness of the fees. Any response and reply, including any supporting documentation, shall be filed within the time allowed in practice standard § 1-15. The court may permit discovery on the issue of attorney fees only upon good cause shown when requested by any party.

## **District Court Practice Standards Section 1-23**

**6. Objections to Bonds.** Any party in interest may file an objection to any bond which is automatically effective under subsection 1 of this rule or to any proposed bond subject to

subsection 2 of this rule. A bond, which is automatically effective under subsection 1 remains in effect unless the court orders otherwise. Any objections shall be filed not later than 14 days after service of the bond or proposed bond except that objections based upon the entry of any amended or additional judgment shall be made not later than 14 days after entry of any such amended or additional judgment.

## **District Court Practice Standards Section 1-26**

### **ELECTRONIC FILING AND SERVICE SYSTEM**

**6. E-Service /- When Required /- Date and Time of Service:** Documents submitted to the court through E-Filing shall be served under C.R.C.P. 5 by E-Service. A document transmitted to the E-System Provider for service by 11:59 p.m. Colorado time shall be deemed to have been served on that date.

### **Rule 122. Case Specific Appointment of Appointed Judges Pursuant to C.R.S. § 13-3-111.**

#### **(i) Jury Trials.**

(4) Not later than 3 business days following the conclusion of their service as jurors, the parties shall pay the jurors at the statutory rate pursuant to the Colorado Uniform Jury Selection and Service Act. The parties also shall pay all related expenses such as meals for the jurors and the costs of a bailiff. Payments made pursuant to this section should not be made through the court.

### **Rule 201.9. Review By Inquiry Panel**

(2) The director shall notify the applicant in writing of the general matters in question and invite the applicant to appear for an interview with the inquiry panel. The applicant may be accompanied by counsel, and the notice shall so advise. The notice shall be sent by certified mail, at least 14 days before the interview is scheduled, to the address listed on the application or the address subsequently provided in writing to the Board by the applicant.

(6) If the inquiry panel determines that there is probable cause to believe that the applicant is unqualified,

(a) The panel shall set forth its findings in writing within 35 days after the panel meeting at which such determination is made;

(c) The executive director shall send a copy of the inquiry panel's findings to the applicant with a notice that these findings shall become the Bar Committee's recommendation to be filed with the Supreme Court, unless within 35 days after the notice is mailed, the applicant files with the Board a written request for a hearing. The request shall include the applicant's response to each of the specific matters in the inquiry panel findings.

### **Rule 201.10. Formal Hearings**

(2) If the applicant files a written request for a formal hearing, the hearing shall be conducted under the following rules of procedure.

(d) Within 28 days after the conclusion of the hearing, the hearing panel shall prepare and file with the Supreme Court its report including findings of fact, conclusions of law and recommendations as to admission. Copies of the hearing panel's report shall be supplied to the attorney regulation counsel and the applicant. Within 14 days after service of the hearing panel's report, both the applicant and the attorney regulation counsel shall have the right to file with the Supreme Court and serve on the opposing party written exceptions to the report.

#### **Rule 201.11. Request For Disclosure Of Confidential Information**

(2) If one of the above enumerated agencies requests confidential information, the Bar Committee shall give written notice to the applicant that the confidential information will be disclosed within 14 days unless the applicant obtains an order from the Supreme Court restraining such disclosure.

#### **Rule 201.13. Inspection Of Essay Examination Answers**

Beginning 21 days after the date the results from an examination are mailed and ending on the 56<sup>th</sup> day (8<sup>th</sup> week) after such date, any unsuccessful applicant shall be entitled to a reasonable inspection of the applicant's answers to the essay portion of the examination. After that time, the decision that an applicant has passed or failed the examination shall be final. This rule does not permit applicants to inspect the Multi-State Bar Examination.

#### **Rule 227. Registration Fee**

##### **A. REGISTRATION FEE OF ATTORNEYS AND ATTORNEY JUDGES**

###### **(1) General Provisions.**

(b) **Notification of Change.** Every attorney shall file a supplemental statement of change in the information previously submitted, including home and business addresses, within 28 days of such change. Such change shall include, without limitation, the lapse or termination of professional liability insurance without continuous coverage.

###### **(3) Compliance.**

(b) **Receipt--Demonstration of Compliance.** Within 28 days of the receipt of each fee and of each statement filed by an attorney in accordance with the provisions of this rule, receipt thereof shall be acknowledged on a form prescribed by the Clerk in order to enable the attorney on request to demonstrate compliance with the requirement of registration pursuant to this rule.

###### **(4) Suspension.**

(a) **Failure to Pay Fee or File Statement--Notice of Delinquency.** An attorney shall be summarily suspended if the attorney either fails to pay the fee or fails to file a complete statement or supplement thereto as required by this rule prior to May 1, provided a notice of delinquency has been issued by the Clerk and mailed to the attorney addressed to the attorney's last known mailing address at least 28 days prior to such suspension, unless an excuse has been granted on grounds of financial hardship.

(b) **Failure of Judge to Pay Fee or File Statement.** Any judge subject to the jurisdiction of the Commission on Judicial Qualifications or the Denver County Court Judicial Qualifications Commission who fails to timely pay the fee or file a complete statement or supplement thereto as required by this rule shall be reported to the appropriate commission, provided a notice of delinquency has been issued by the Clerk and mailed to the judge addressed to the judge's last known business address at least 28 days prior to such reporting, unless an excuse has been granted on grounds of financial hardship.

## **B. REGISTRATION FEE OF NONATTORNEY JUDGES**

(2) Any nonattorney judge who fails to timely pay the fee required under subparagraph (1) above shall be reported to the Commission on Judicial Qualifications, provided a notice of delinquency has been issued by the Clerk and mailed to the nonattorney judge by certified mail addressed to the county court in the respective county seat at least 28 days prior to such reporting, unless an excuse has been granted on grounds of financial hardship.

(5) Within 21 days after the receipt of each fee in accordance with the provisions of subparagraph (4) above, receipt thereof shall be acknowledged on a form prescribed by the Clerk.

### **Rule 232.5. Investigation; Procedure; Subpoenas**

(b) (2) If the Regulation Counsel determines to proceed with an investigation or refers the matter to a member of the Committee or an enlistee for investigation pursuant to C.R.C.P. 232.5(a), the respondent shall be: notified that the investigation is underway; provided with a copy of the complaint and of the rules governing the investigation; and asked to file with the Regulation Counsel or the person conducting the investigation a written answer to the complaint within 21 days after notice of the investigation is given.

### **Rule 234. Civil Injunction Proceedings; General**

(c) The Supreme Court, upon consideration of the petition so filed, may issue its order directed to the respondent commanding the respondent to show cause why the respondent should not be enjoined from the alleged unauthorized practice of law, and further requiring the respondent to file with the Supreme Court within 21 days after service of the petition and show cause order, a written answer admitting or denying the matter stated in the petition. The show cause order, together with a copy of the petition, shall be served upon the respondent. Service of process shall be sufficient when made either personally upon the respondent or by certified mail sent to the respondent's last known address.

### **Rule 235. Civil Injunction Proceedings; Hearing Master, Powers, Procedure**

(b) The People of the State of Colorado may be represented in proceedings before the hearing master by the Regulation Counsel, or by a member of the Bar appointed pursuant to Rule 234. Upon receipt of the order of reference, the hearing master shall set a date, time, and place for a first meeting of the parties which shall be within 28 days after the date notice thereof is given and notify the parties accordingly. At such meeting, a date, time, and place for hearing shall be

set, and any matters which may expedite the proceedings shall be considered. A complete record of this meeting shall be made unless jointly waived by the parties. After the first meeting, the hearing master shall issue a notice of hearing to the parties. The notice shall be in writing and shall designate the date, time, and place of the hearing. The notice shall also advise the respondent that the respondent is entitled to be represented by counsel at the hearing, to cross-examine witnesses, and to present evidence in the respondent's own behalf. The giving of notice shall be sufficient when made by certified mail sent to the respondent at the respondent's last known address.

### **Rule 236. Civil Injunction Proceedings; Report Of Hearing Master; Objections**

(b) Objections to the report of the hearing master may be filed with the Supreme Court by any party, within 28 days after copies of the report have been mailed to the parties.

(d) If objections are filed, the objecting party shall within 14 days thereafter request the reporter to prepare a transcript of the proceedings before the hearing master, or any portion of such transcript thereof as is deemed necessary for the consideration of the case. The objecting party shall file with the Supreme Court and serve on the opposing party a designation of those portions of the transcript and of the record before the hearing master which the party wishes added to the record before the Supreme Court.

The opposing party may within 14 days after service of the designation file and serve a cross-designation of any additional portions of the transcript and additional parts of the record before the hearing master as is deemed necessary for a proper consideration of the case. The objecting party is responsible for the expense of preparing the record, including the transcript or portions thereof.

The reporter shall prepare the transcript and file it, properly certified, with the Supreme Court within 63 days (9 weeks) after the filing of the objections.

(e) An objecting party shall have 28 days after the filing with the Supreme Court of the transcript and other additions to the record within which to file an opening brief. The opposing party shall have 28 days after the filing of the objecting party's opening brief within which to file an answer brief. The objecting party shall have 14 days after the filing of the answer brief within which to file a reply brief.

### **Rule 239. Contempt Determination By Court Proceedings; Report Of Hearing Master; Objections**

(b) Objections to the report of the hearing master may be filed with the Supreme Court by either party within 28 days after the filing of the report.

(d) If objections are filed, the objecting party shall within 14 days thereafter request the reporter to prepare a transcript of the proceedings before the hearing master, or any portion of such transcript thereof as is deemed necessary for the consideration of the case. The objecting party shall file with the Supreme Court and serve on the opposing party a designation of those portions of the transcript and of the record before the hearing master which the party wishes added to the record before the Supreme Court.

The opposing party may within 14 days after service of the designation file and serve a cross-designation of any additional portions of the transcript and additional parts of the record before the hearing master as is deemed necessary for a proper consideration of the case. The objecting party is responsible for the expense of preparing the record, including the transcript or portions thereof.

The reporter shall prepare the transcript and file it, properly certified, with the Supreme Court within 63 days (9 weeks) after the filing of the objections.

(e) An objecting party shall have 28 days after the filing with the Supreme Court of the transcript and other additions to the record within which to file an opening brief. The opposing party shall have 28 days after the filing of the objecting party's opening brief within which to file an answer brief. The objecting party shall have 14 days after the filing of the answer brief within which to file a reply brief.

### **Rule 251.6. Forms Of Discipline**

**(d) Private Admonition.** Private admonition is an unpublished reproach. An attorney who has been admonished by the committee and who wishes to challenge the order of admonition may, by written petition filed with the Regulation Counsel within 21 days after the date the letter of admonition was mailed to the admonished attorney or personally read to the attorney, demand as a matter of right that imposition of the admonition be vacated, that a complaint be filed against the attorney, and that disciplinary proceedings continue in the manner prescribed by these rules.

### **Rule 251.7. Probation**

**(f) Termination.** Unless otherwise provided in the order of suspension, within 28 days and no less than 14 days prior to the expiration of the period of probation, the attorney shall file an affidavit with the Regulation Counsel stating that the attorney has complied with all terms of probation and shall file with the Presiding Disciplinary Judge notice and a copy of such affidavit and application for an order showing successful completion of the period of probation. Upon receipt of this notice and absent objection from the Regulation Counsel, the Presiding Disciplinary Judge shall issue an order showing that the period of probation was successfully completed. The order shall become effective upon the expiration of the period of probation.

### **Rule 251.8. Immediate Suspension**

#### **(b) Petition for Immediate Suspension.**

(2) The Presiding Disciplinary Judge, or the Supreme Court, by any justice thereof, may order the issuance of an order to show cause directing the attorney to show cause why the attorney should not be immediately suspended, which order shall be returnable within 14 days. After the issuance of an order to show cause, and after the period for response has passed without a response having been filed, or after consideration of any response and reply, the Presiding Disciplinary Judge shall prepare a report setting forth findings of fact and recommendation and file the report with the Supreme Court. After receipt of the report the Supreme Court may enter



an order immediately suspending the attorney from the practice of law, or dissolve the order to show cause.

(3) If a response to the order to show cause is filed and the attorney requests a hearing on the petition, said hearing shall be held within 14 days before the Presiding Disciplinary Judge. Thereafter, the Presiding Disciplinary Judge shall submit a transcript of the hearing and a report setting forth findings of fact and a recommendation to the Supreme Court within 7 days after the conclusion of the hearing. Upon the receipt of the recommendation and the record relating thereto, the Supreme Court may enter an order immediately suspending the attorney from the practice of law or dissolve the order to show cause.

**Rule 251.8.5. Suspension For Nonpayment Of Child Support, Or For Failure To Comply With Warrants Relating To Paternity Or Child Support Proceedings**

**(b) Petition for Suspension.**

(2) The presiding disciplinary judge shall order the issuance of an order to show cause directing the attorney to show cause why the attorney's license to practice law should not be immediately suspended, which order shall be returnable within 28 days. After the issuance of an order to show cause, and after the period for response has passed without a response having been filed, or after consideration of any response and reply, the presiding disciplinary judge shall enter an order immediately suspending the attorney from the practice of law, unless within the 28-day period: the attorney has paid the past-due obligation, negotiated a payment plan approved by the court or the state child support enforcement agency or agency having jurisdiction over the child support order, requested a hearing before the presiding disciplinary judge, or complied with the warrant or subpoena.

(3) If a response to the order to show cause is timely filed and the attorney or the regulation counsel requests a hearing before the presiding disciplinary judge on the petition, the hearing shall be held within 14 days of the request, or as soon thereafter as is practicable. At the hearing, the burden is initially on the regulation counsel to prove the allegations in the petition by a preponderance of the evidence. If the presiding disciplinary judge has determined that the regulation counsel has proved the allegations in the petition by a preponderance of the evidence, he or she shall issue an order immediately suspending the attorney, unless the attorney proves by a preponderance of the evidence that: (1) there is a mistake in the identity of the attorney; (2) there is a bona fide disagreement currently before a court or an agency concerning the amount of the child support debt, arrearage balance, retroactive support due, or the amount of the past-due child support when combined with maintenance; (3) all child support payments were made when due; (4) the attorney has complied with the subpoena or warrant; (5) the attorney was not served with the subpoena or warrant; or (6) there was a technical defect with the subpoena or warrant. No evidence with respect to the appropriateness of the underlying child support order or ability of the attorney in arrears to comply with such order shall be received or considered by the presiding disciplinary judge. Upon conclusion of the hearing, the presiding disciplinary judge shall promptly prepare an opinion setting forth his or her findings of facts and decision.

**(d) Reinstatement.**

(2) Immediately upon receipt of a petition for reinstatement, the regulation counsel shall have 28 days or, upon a showing of good cause, such greater time as authorized by the presiding

disciplinary judge within which to conduct any investigation deemed necessary. The attorney shall cooperate in any such investigation. At the end of the period of time allowed for the investigation, the regulation counsel shall file an answer. Based on the petition and answer, the presiding disciplinary judge may order reinstatement or hold a hearing to determine whether the attorney shall be reinstated. The attorney shall bear the burden of establishing the right to be reinstated by a preponderance of the evidence.

#### **Rule 251.8.6. Suspension For Failure To Cooperate**

**(b) Petition for Suspension.** Regulation Counsel may file a petition for suspension with the supreme court alleging that the attorney has not responded to requests for information, has not responded to the request for investigation, or has not produced records or documents requested by Regulation Counsel and has not interposed a good-faith objection to producing the records or documents. The petition shall be supported by an affidavit setting forth sufficient facts to give rise to reasonable cause to believe that the serious misconduct alleged in the request for investigation has in fact occurred. The affidavit shall also include the efforts undertaken by Regulation Counsel to obtain the attorney's cooperation. A copy of the petition shall be served on the attorney pursuant to C.R.C.P. 251.32(b). The failure of the attorney to file a response in opposition to the petition within 14 days may result in the entry of an order suspending the attorney's license to practice law until further order of the court. The attorney's response shall set forth facts showing that the attorney has complied with the requests, or the reasons why the attorney has not complied and may request a hearing.

Upon consideration of a petition for suspension and the attorney's response, if any, the supreme court may suspend the attorney's license to practice law for an indefinite period pending further order of the court; it may deny the petition; or it may issue any other appropriate orders. If a response to the petition is filed and the attorney requests a hearing on the petition, the supreme court may conduct such a hearing or it may refer the matter to the presiding disciplinary judge for resolution of contested factual matters. The presiding disciplinary judge shall submit a report setting forth findings of fact and a recommendation to the supreme court within 7 days of the conclusion of the hearing.

**(c) Reinstatement.** An attorney suspended under this rule may apply to the supreme court for reinstatement upon proof of compliance with the requests of Regulation Counsel as alleged in the petition, or as otherwise ordered by the court. A copy of the application must be delivered to Regulation Counsel, who may file a response to the application within two business days after being served with a copy of the application for reinstatement. The supreme court will summarily reinstate an attorney suspended under the provisions of this Rule upon proof of compliance with the requests of Regulation Counsel.

#### **Rule 251.10. Investigation Of Allegations**

**(a) When Commenced.** If, pursuant to C.R.C.P. 251.9, the Regulation Counsel makes a determination to proceed with an investigation, the Regulation Counsel shall give the attorney in question written notice that the attorney is under investigation and of the general nature of the allegations made against the attorney. The attorney in question shall file with the Regulation

Counsel a written response to the allegations made against the attorney within 21 days after notice of the investigation is given.

Upon receipt of the attorney's response, or at the expiration of the 21-day period if no response is received, the matter shall be assigned to an Investigator for investigation and report.

#### **Rule 251.14. Complaint--Contents, Service**

**(b) Service of Complaint.** The Regulation Counsel shall promptly serve upon the respondent, as provided in C.R.C.P. 251.32(b), a citation and a copy of the complaint filed against the respondent. The citation shall require the respondent within 21 days after service thereof to file an original and three copies of a written answer to the complaint, in compliance with C.R.C.P. 251.15.

#### **Rule 251.15. Answer--Filing, Failure To Answer, Default**

**(a) Answer.** Within 21 days after service of the citation and complaint, or within such greater period of time as may be approved by the Presiding Disciplinary Judge, the respondent shall file an original and three copies of an answer to the complaint with the Presiding Disciplinary Judge and one copy with the Regulation Counsel. In the answer the respondent shall either admit or deny every material allegation contained in the complaint, or request that the allegation be set forth with greater particularity. In addition, the respondent shall set forth in the answer any affirmative defenses. Any objection to the complaint which a respondent may assert, including a challenge to the complaint for failure to charge misconduct constituting grounds for discipline, must also be set forth in the answer.

#### **Rule 251.18. Hearings Before The Hearing Board**

**(a) Notice.** Not less than 56 days (8 weeks) before the date set for the hearing of a complaint, the Regulation Counsel shall give notice of such hearing as provided in C.R.C.P. 251.32(b) to the respondent, or the respondent's counsel, and to the complaining witness. The notice shall designate the date, place, and time of the hearing. The notice shall also advise the respondent that the respondent is entitled to be represented by counsel at the hearing, to cross-examine witnesses, and to present evidence in the respondent's own behalf.

#### **(b) Designation of a Hearing Board.**

(3) Once a default has been entered against a respondent, the respondent or Regulation Counsel has 28 days after notice of the default order to request a sanctions hearing before a three-person Hearing Board. The party requesting this hearing shall send notice of such request, in writing, to the Presiding Disciplinary Judge and the opposing party. If neither party requests a sanctions hearing before a three-person Hearing Board, the sanction shall be decided by the Presiding Disciplinary Judge.

**(e) Order for Examination.** When the mental or physical condition of the attorney in question has become an issue in the proceeding, the Presiding Disciplinary Judge, on motion of the Regulation Counsel, may order the attorney to submit to a physical or mental examination by a suitable licensed or certified examiner. The order may be made only upon a determination that

reasonable cause exists and after notice to the attorney. The attorney will be provided the opportunity to respond to the motion of the Regulation Counsel, and the attorney may request a hearing before the Presiding Disciplinary Judge. If requested, the hearing shall be held within 28 days of the date of the attorney's request, and shall be limited to the issue of whether reasonable cause exists for such an order.

**(f) Procurement of Evidence During Hearing.**

**(4) Discovery.**

(B) Meeting. A meeting of the parties must be held no later than 14 days after the case is at issue to confer with each other about the nature and basis of the claims and defenses and discuss the matters to be disclosed.

(C) Disclosures. No later than 28 days after the case is at issue, the parties shall disclose:

(D) Trial Management Order. Upon the request of one of the parties or upon order of the Presiding Disciplinary Judge or the presiding officer of the Hearing Board, no later than 42 days prior to the trial date, the parties shall disclose to the other party and file a trial management order containing the following matters under the following captions and in the following order:

(iii) Pretrial Motions. The parties shall list motions, if any, which are anticipated to be filed before trial as well as motions, if any, which are pending before the Hearing Board. The parties shall indicate a deadline for the filing of such motions which shall be no later than 14 days prior to the date set for trial.

(iv) Legal Issues. The parties shall set forth a list of legal issues that are controverted, including appropriate citation of statutory, case or other authority. In addition, the parties shall indicate whether trial briefs will be filed, including a schedule for their filing. Trial briefs shall be filed no later than 7 days before the commencement of the trial.

**Rule 251.19. Findings Of Fact And Decision**

**(a) Hearing Board Opinion and Decision.** Within 56 days (8 weeks) after the hearing, the Hearing Board shall prepare an opinion setting forth its findings of fact and its decision. In preparing its decision, the Hearing Board shall take into consideration the respondent's prior disciplinary record, if any. The opinion shall be signed by each concurring member of the Hearing Board. Two members are required to make a decision. Members of the Hearing Board who dissent shall also sign the opinion, provided they indicate the basis of their dissent in the opinion.

**(b) Decision of the Hearing Board.** When it renders its decision, the Hearing Board shall:

(4) Within 14 days of entry of an order as provided in this Rule or such greater time as the Hearing Board may allow, a party may move for post-hearing relief as provided in C.R.C.P. 59. In the event a motion for post-hearing relief is filed, the Presiding Disciplinary Judge or the presiding officer shall consult with the other members of the Hearing Board and then rule on the motion.

**(c) Decision of the Presiding Disciplinary Judge.** When the Presiding Disciplinary Judge renders a decision without a Hearing Board as provided in these rules, the Presiding Disciplinary Judge shall:

(3) Within 14 days of entry of an order as provided in this Rule or such greater time as the Presiding Disciplinary Judge may allow, a party may move for post-hearing relief as provided in C.R.C.P. 59.

#### **Rule 251.20. Attorney Convicted Of A Crime**

**(b) Duty to Report Conviction.** Every attorney subject to these rules, upon being convicted of a crime, except those misdemeanor traffic offenses or traffic ordinance violations, not including the use of alcohol or drugs, shall notify the Regulation Counsel in writing of such conviction within 14 days after the date of the conviction. In addition, the clerk of any court in this state in which the conviction was entered shall transmit to the Regulation Counsel within 14 days after the date of the conviction a certificate thereof.

#### **Rule 251.21. Discipline Imposed By Foreign Jurisdiction**

**(b) Duty to Report Discipline Imposed.** Any attorney subject to these rules against whom any form of public discipline has been imposed by the authorities of another jurisdiction, or who voluntarily surrenders the attorney's license to practice law in connection with disciplinary proceedings in another jurisdiction, shall notify the Regulation Counsel of such action in writing within 14 days thereof.

#### **(d) Commencement of Proceedings Upon Notice of Discipline Imposed.**

If the attorney intends to challenge the validity of the disciplinary order entered in the foreign jurisdiction, the attorney must file with the Presiding Disciplinary Judge an answer and a full copy of the record of the disciplinary proceedings which resulted in the imposition of that disciplinary order within 21 days after service of the complaint or such greater time as the Presiding Disciplinary Judge may allow for good cause shown.

#### **Rule 251.22. Discipline Based On Admitted Misconduct**

#### **(c) Conditional Admission--Hearing.**

(1) **Procedure.** Within 14 days of the date a conditional admission is filed, the respondent or the Regulation Counsel may request a hearing before the Presiding Disciplinary Judge. If a hearing is requested, it shall be set promptly.

(2) **Notice.** Not less than 14 days before the date set for the hearing on the conditional admission, the Regulation Counsel shall give notice of such hearing as provided in C.R.C.P. 251.32(b) to the respondent, the respondent's counsel, and the complaining witness. The notice shall designate the date, place, and time of the hearing. The notice shall advise the respondent that the respondent is entitled to be represented by counsel at the hearing and to present argument regarding the form of discipline to be ordered.

#### **Rule 251.27. Proceedings Before The Supreme Court**

**(g) Appeal--When Taken.** The notice of appeal required by this rule shall be filed with the Supreme Court with an advisory copy served on the Presiding Disciplinary Judge within 21 days

of the date of mailing the decision from which the party appeals. If a timely notice of appeal is filed by a party, the other party may file a notice of appeal within 14 days of the date on which the first notice of appeal is filed, or within the time otherwise prescribed by this section (g), whichever period last expires.

Upon a showing of excusable neglect, the Supreme Court may extend the time for filing the notice of appeal by a party for a period not to exceed 28 days from the expiration of the time otherwise prescribed by this section (g). Such an extension may be granted before or after the time otherwise prescribed by this section (g) has expired; but if a request for an extension is made after such time has expired, it shall be made by motion with such notice as the Supreme Court shall deem appropriate.

**(j) Record of Proceedings; Duty of Appellant to Order; Notice to Appellee if Partial Record is Ordered; Costs.** Within 14 days after filing the notice of appeal, the appellant shall file with the Presiding Disciplinary Judge and with the clerk of the Supreme Court either: (1) a statement that no portions of the record other than those enumerated in section (i) are desired or (2) a detailed designation of record, setting forth specifically those portions of the record to be included and all dates of proceedings for which transcripts are requested and the name(s) of the court reporter(s) who reported the proceedings that the appellant directs to be included in the record. The appellant shall serve a copy of the designation of record on each court reporter listed therein. If the appellant contends that a finding or conclusion is not supported by the evidence, the appellant shall include in the record a transcript of all evidence relevant to such finding or conclusion. Unless the entire transcript is to be included, the appellant shall include in the designation of record a description of the part of the transcript that the appellant intends to include in the record and a statement of the issues to be presented on appeal. If the appellee deems it necessary to include a transcript of other proceedings or other parts of the record, the appellee shall, within 14 days after the service of the statement or the appellant's designation of the record, file with the Presiding Disciplinary Judge and the Supreme Court, and serve on the appellant and on any court reporter who reported proceedings of which the appellee desires an additional transcript, a designation of the additional items to be included. Service on any court reporter of the appellant's designation of record or the appellee's additional designation of record shall constitute a request for transcription of the specified proceedings. Within 14 days after service of any such designation of record, each such court reporter shall provide in writing to all counsel in the appeal: (1) the estimated number of pages to be transcribed; (2) the estimated completion date; and (3) the estimated cost of transcription. Within 21 days after receiving the reporter's estimate, the designating party shall deposit the full amount of such estimate with the court reporter. For good cause shown, within said 21 days and upon the agreement of the court reporter, the Presiding Disciplinary Judge may order a payment schedule extending the time for payment. When the cost of the transcription will be paid by public funds, the public entity shall make arrangements with the court reporter for payment of the transcription costs. Within 28 days of the transmittal of the court reporter's cost estimate to the pro se party or counsel, the court reporter shall file with the Presiding Disciplinary Judge and Supreme Court a statement of: (1) the date the court reporter's estimate was provided and the date on which the reporter received full payment of the estimate; or (2) the schedule of payments approved by the Presiding Disciplinary Judge under a good cause extension; or (3) that the cost of the transcript will be paid from public funds. Each party shall advance the cost of preparing that part of the record designated by such party except as otherwise ordered by the Presiding Disciplinary Judge for good cause shown.

**(k) Transmission of the Record.**

(1) Time. The record on appeal, including the transcript and exhibits necessary for the determination of the appeal, shall be transmitted to the Supreme Court within 56 days (8 weeks) after the filing of the notice of appeal unless the time is shortened or extended by an order entered as provided in this rule. After filing the notice of appeal the appellant shall comply with the provisions of this rule and shall take any other action necessary to enable the Presiding Disciplinary Judge to assemble and transmit the record.

**(l) Docketing the Appeal.**

(4) The appellant shall have 28 days after the filing with the clerk of the Supreme Court of the record on appeal within which to file an opening brief. The appellee shall have 28 days after the filing of the appellant's opening brief within which to file an answer brief. The appellant shall have 14 days after the filing of the answer brief within which to file a reply brief.

**Rule 251.28. Required Action After Disbarment, Suspension, Or Transfer To Disability**

**(a) Effective Date of Order--Winding Up Affairs.** Orders imposing disbarment or a definite suspension shall become effective 35 days after the date of entry of the decision or order, or at such other time as the Supreme Court, a Hearing Board, or the Presiding Disciplinary Judge may order. Orders imposing immediate suspension, transferring an attorney to disability inactive status, or for failure to comply with rules governing attorney registration or continuing legal education, shall become effective immediately upon the date of entry of the order, unless otherwise ordered by the Supreme Court, a Hearing Board, or the Presiding Disciplinary Judge. After the entry of an order of disbarment, suspension unless fully stayed (see C.R.C.P. 251.7(a)(3)), or transfer to disability inactive status, the attorney may not accept any new retainer or employment as an attorney in any new case or legal matter; provided, however, that during any period between the date of entry of an order and its effective date the attorney may, with the consent of the client after full disclosure, wind up or complete any matters pending on the date of entry of the order.

**(b) Notice to Clients in Pending Matters.** An attorney against whom an order of disbarment, suspension unless fully stayed, or transfer to disability inactive status has been entered shall promptly notify in writing by certified mail each client whom the attorney represents in a matter still pending of the order entered against the attorney and of the attorney's consequent inability to act as an attorney after the effective date of such order, and advising such clients to seek legal services elsewhere. In addition, the attorney shall deliver to each client all papers and property to which the client is entitled. An attorney who has been suspended as provided in the rules governing attorney registration or continuing legal education need not comply with the requirements of this subsection if the attorney has sought reinstatement as provided by the rules governing attorney registration or continuing legal education and reasonably believes that reinstatement will occur within 14 days of the date of the order of suspension. If the attorney is not reinstated within those 14 days, then the attorney must comply with this subsection.

**(c) Notice to Parties in Litigation.** An attorney against whom an order of disbarment, suspension unless fully stayed, or transfer to disability inactive status is entered and who represents a client in a matter involving litigation or proceedings before an administrative body shall notify that client as required by section (b) of this rule, and shall recommend that the client

promptly obtain substitute counsel. In addition, the lawyer must notify in writing by certified mail the opposing counsel of the order entered against the attorney and of the attorney's consequent inability to act as an attorney after the effective date of the order. The notice to opposing counsel shall state the place of residence of the client of the attorney against whom the order was entered. An attorney who has been suspended as provided in the rules governing attorney registration or continuing legal education need not comply with the requirements of this section if the attorney has sought reinstatement as provided by the rules governing attorney registration or continuing legal education and reasonably believes that reinstatement will occur 14 days of the date of the order of suspension. If the attorney is not reinstated within those 14 days, then the attorney must comply with this section.

If the client of the attorney against whom an order was entered does not obtain substitute counsel before the effective date of such order, the attorney must appear before the court or administrative body in which the proceeding is pending and move for leave to withdraw.

**(d) Affidavit Filed With Supreme Court or the Hearing Board.** Within 14 days after the effective date of the order of disbarment, suspension, or transfer to disability inactive status, or within such additional time as allowed by the Supreme Court, the Hearing Board, or the Presiding Disciplinary Judge, the attorney shall file with the Supreme Court or the Hearing Board an affidavit setting forth a list of all pending matters in which the attorney served as counsel and showing:

#### **Rule 251.29. Readmission And Reinstatement After Discipline**

**(b) Reinstatement After Suspension.** Unless otherwise provided by the Supreme Court, a Hearing Board, or the Presiding Disciplinary Judge in the order of suspension, an attorney who has been suspended for a period of one year or less shall be reinstated by order of the Presiding Disciplinary Judge, provided the attorney files an affidavit with the Regulation Counsel within 28 days prior to the expiration of the period of suspension, stating that the attorney has fully complied with the order of suspension and with all applicable provisions of this chapter. Upon receipt of the attorney's affidavit that has been timely filed, the Regulation Counsel shall notify the Presiding Disciplinary Judge of the attorney's compliance with this rule. Upon receipt of the notice, the Presiding Disciplinary Judge shall issue an order reinstating the attorney. The order shall become effective upon the expiration of the period of suspension. If the attorney fails to file the required affidavit within the time specified, the attorney must seek reinstatement pursuant to section (c) of this Rule; provided, however, that a suspended attorney who fails to file a timely affidavit may obtain leave of the Presiding Disciplinary Judge to file an affidavit upon showing that the attorney's failure to file the affidavit was the result of mistake, inadvertence, surprise, or excusable neglect. An attorney reinstated pursuant to this section shall not be required to show proof of rehabilitation.

**(j) Reinstatement on Stipulation.** Provided the petition for reinstatement under section (c) of this rule is filed within 28 days prior to the expiration of the period of suspension or 91 days (13 weeks) if the period of suspension is longer than one year and provided the attorney seeking reinstatement and the Regulation Counsel, after any investigation the Regulation Counsel deems necessary, stipulate to reinstatement, the Regulation Counsel shall file with the Presiding Disciplinary Judge the stipulation containing such terms and conditions of reinstatement, if any, as may be agreed. Upon receipt of the stipulation, the Presiding Disciplinary Judge may approve



the stipulation following an appearance by the attorney before the Presiding Disciplinary Judge and enter an order of reinstatement on the terms and conditions contained in the stipulation or reject the stipulation and order that a hearing be held by a Hearing Board as provided in section (d) of this rule.

### **Rule 251.31. Access To Information Concerning Proceedings Under These Rules**

**(f) Disclosure to Law Firms.** When the Regulation Counsel obtains an order transferring the attorney to disability inactive status or immediately suspending the attorney, or is authorized to file a complaint as provided by C.R.C.P. 251.12, the attorney shall make written disclosure to the attorney's current firm and, if different, to the attorney's law firm at the time of the act or omission giving rise to the matter, of the fact that the order has been obtained or that a disciplinary proceeding as provided for in these rules has been commenced. The disclosures shall be made within 14 days of the date of the order or of the date the Regulation Counsel notified the attorney that a disciplinary proceeding has been commenced.

**(m) Notice to the Attorney.** Except as provided in subsection (l)(5) of this Rule, if the Regulation Counsel is permitted to provide nonpublic information requested, and if the attorney has not signed a waiver permitting the requesting agency to obtain nonpublic information, the attorney shall be notified in writing at his or her last known address of that information which has been requested and by whom, together with a copy of the information proposed to be released to the requesting agency. The notice shall advise the attorney that the information shall be released at the end of 21 days following mailing of the notice unless the attorney objects to the disclosure. If the attorney timely objects to the disclosure, the information shall remain confidential unless the requesting agency obtains an order from the Supreme Court requiring its release.

### **Rule 252.12. Procedures For Processing Claims**

**(g)** If, by the completion of the investigation, the attorney or the attorney's representative has not been notified of the claim and given an opportunity to respond to the claim, a copy of the claim shall be served upon the attorney, or the attorney's representative. The attorney or representative shall have 21 days in which to respond.

**(n)** The claimant may request in writing reconsideration within 35 days of the denial or determination of the amount of a claim. If the claimant fails to make a request or the request is denied, the decision of the Board is final.

### **Rule 260.3. Board Of Continuing Legal And Judicial Education**

**(3)** The Board shall administer the program of mandatory continuing legal education established by these rules. It may formulate rules and regulations and prepare forms not inconsistent with these rules pertaining to its functions and modify or amend the same from time to time. All such rules, regulations and forms and any modifications or amendments thereto shall be submitted to the Supreme Court and shall be made known to all registered attorneys and judges. Those rules, regulations and forms shall automatically become effective on the 28<sup>th</sup> day following submission unless they shall be suspended by the Supreme Court prior to that date.

### **Rule 260.6. Compliance**

(5) In the event a registered attorney or judge shall fail to complete the required units at the end of each applicable compliance period, the final Affidavit may be accompanied by a specific plan for making up the deficiency of units necessary within 119 days (17 weeks) after the date of the final Affidavit. When filed, the plan shall be accompanied by a make-up plan filing fee, the amount of which shall be determined by the Board annually and which shall be used to cover the costs of processing the plan. Such plan shall be deemed accepted by the Board unless within 14 days after the receipt of such final affidavit the Board notifies the affiant to the contrary. Full completion of the affiant's plan shall be reported by Affidavit to the Board not later than 14 days following such 119-day period. Failure of the affiant to complete the plan within such 119-day period shall invoke the sanctions set forth in Paragraph (6).

(6) In the event that any registered attorney or judge shall fail to comply with these rules or Rule 201.14 in any respect, the Board shall promptly notify such registered attorney or judge of the nature of the noncompliance by a statement of noncompliance. The statement shall advise the registered attorney or judge that within 14 days either the noncompliance must be corrected or a request for a hearing before the Board must be made, and that upon failure to do either, the statement of noncompliance shall be filed with the Supreme Court.

(7) If the noncompliance is not corrected within 14 days, or if a hearing is not requested within 14 days, the Board shall promptly forward the statement of noncompliance to the Supreme Court which may impose the sanctions set forth in Paragraph (10).

(8) If a hearing before the Board is requested, such hearing shall be held within 35 days after the request by the full Board or one or more of the members of the Board as it shall designate, provided that the presiding member at the hearing must be a registered attorney or judge. Notice of the time and place of the hearing shall be given to the registered attorney or judge at least 14 days prior thereto. The registered attorney or judge may be represented by counsel. Witnesses shall be sworn; and, if requested by the registered attorney or judge, a complete electronic record shall be made of all proceedings had and testimony taken. The presiding member shall have authority to rule on all motions, objections and other matters presented in connection with the hearing. The hearing shall be conducted in conformity with the Colorado Rules of Civil Procedure, and the practice in the trial of civil cases, except the registered attorney or judge involved may not be required to testify over his or her objection. The chairman of the Board shall have the power to compel, by subpoena issued out of the Supreme Court, the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary as evidence in the hearing.

(9) (a) If the Board determines that there was reasonable cause for noncompliance, the registered attorney or judge shall be allowed 14 days within which to file with the Board a specific plan for correcting the noncompliance within 119 days (17 weeks). Such plan shall be deemed accepted by the Board unless within 14 days after its receipt the Board notifies the registered attorney or judge to the contrary. Full completion of the plan shall be reported by Affidavit to the Board not later than 14 days following such 119-day period. If the registered attorney or judge shall fail to file an acceptable plan, or shall fail to complete and certify completion of the plan within such 119-day period, the Board shall proceed as set forth in Paragraph (b) as though it had determined that there was not reasonable cause for noncompliance.

(13) Any attorney who has been suspended for noncompliance pursuant to Rule 260.6(10) may be reinstated by order of the Court upon a showing that the attorney's current continuing legal education deficiency has been made up. The attorney shall file with the Board three (3) copies of a petition seeking reinstatement, addressed to the Supreme Court. The petition shall state with particularity the accredited programs of continuing legal education which the attorney has already completed, including dates of their completion, by which activity the attorney earned sufficient units of credit to make up the deficiency which was the cause of the attorney's suspension. The petition shall be accompanied by a reinstatement filing fee, the amount of which shall be determined by the Board annually and which shall be used to cover the costs associated with noncompliance. The Board shall file a properly completed petition, accompanied by the Board's recommendation, with the Clerk of the Supreme Court within 14 days after receipt.

### **Rule 303. Commencement of Action**

(a) **How Commenced.** A simplified civil action is commenced: (1) by filing with the court a complaint consisting of a statement of claim setting forth briefly the facts and circumstances giving rise to the action in the manner and form provided in Rule 308 or (2) by service of a summons and complaint. The complaint must be filed within 14 days of the service of the summons and not less than 7 days in advance of the return date. If the complaint is not timely filed, the service of the summons shall be deemed ineffective and void without notice. In such case the court may, in its discretion, tax a reasonable sum in favor of the defendant to compensate the defendant for expense and inconvenience, including attorney's fees, to be paid by plaintiff or the plaintiff's attorney. The 14 day filing requirement may be expressly waived by a defendant and shall be deemed waived upon the filing of an answer or motion to the complaint without reserving the issue.

(b) **Issuance of Summons.** Upon the filing of a complaint as provided in section (a) of this rule and the payment of the docket fee, the clerk shall docket the case and assign it a number. Unless summons has prior thereto been issued and signed by an attorney, the clerk shall then sign and issue a summons under the seal of the court. Separate, additional, and amended summons may be issued by the clerk or an attorney of record against any defendant at any time, and when issued by an attorney, it must be filed with the court no later than 7 days in advance of the return date. All process shall be issued by the clerk except as otherwise provided by these rules.

(c) **Time of Jurisdiction.** The court shall have jurisdiction from (1) the filing of the complaint, or (2) the service of the summons and complaint; provided, however, if more than 14 days elapses after service upon any defendant before the filing of the complaint, jurisdiction as to that defendant shall not attach by virtue of the service.

### **Rule 306. Time**

(a) **Computation.** (1) In computing any period of time prescribed or allowed by these rules, by order of court, or by an applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Thereafter, every day shall be counted including holidays, Saturdays or Sundays. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. The "next

day” is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.

(2) As used in this Rule, “Legal holiday” includes the first day of January, observed as New Year's Day; the third Monday in January, observed as Martin Luther King Day; the third Monday in February, observed as Washington-Lincoln Day; the last Monday in May, observed as Memorial Day; the fourth day of July, observed as Independence Day; the first Monday in September, observed as Labor Day; the second Monday in October, observed as Columbus Day; the eleventh day of November, observed as Veteran's Day; the fourth Thursday in November, observed as Thanksgiving Day; the twenty-fifth day of December, observed as Christmas Day, and any other day except Saturday or Sunday when the court is closed.

**(c) Unaffected by Expiration of Term, Repealed.**

**(d) For Motions -- Affidavits. Repealed.**

**(e) Additional Time After Service Under C.R.C.P. 5(b)(2)(B), (C), or (D). Repealed.**

**Rule 312. Defenses and Objections--When and How Presented--By Pleading or Motion--Motion for Judgment on Pleadings**

**(a) Responsive Pleadings; When Presented.** The defendant shall file an answer including any counterclaim or cross-claim on or before the appearance date as fixed in the summons. Except as otherwise provided in this rule, the appearance date shall not be more than 63 days from the date of the issuance of the summons and the summons must have been served at least 14 days before the appearance date. When circumstances require that the plaintiff proceed under Rule 304(e), the above limitation shall not apply and the appearance date shall not be less than 14 days after the completion of service by publication or mail.

**(b) Motions.** Motions raising defenses shall be made in accordance with Rule 302. If made by the defendant on or before the appearance date the motions shall be ruled upon before an answer is required to be filed. If the court rules upon such motions on the appearance date, the defendant may be required to file the answer immediately. The answer shall otherwise be filed within 14 days of the order. The court may permit the plaintiff to amend the complaint or supply additional facts and may permit additional time within which the answer shall be filed.

**Rule 316. Pretrial Procedure--Disclosure and Conference**

**(a) Disclosure Statement.**

(1) At any time after the answer is filed but no later than 21 days before trial, a party may request from an opposing party a list of witnesses who may be called at trial, and copies of documents and pictures, and a description of physical evidence which may be used at trial. Such request shall be made by serving pursuant to C.R.C.P. 305 a blank disclosure statement, which shall be in the form and content of Appendix to Chapter 25, Form 9, on the opposing party and shall be accompanied by the requesting party's properly completed Form 9 and its attachments. The opposing party shall serve pursuant to C.R.C.P. 305 a completed Form 9 with attachments on the requesting party within 21 days after service but not less than 7 days before trial. The court may

shorten or extend that time. A party may not supplement the disclosure statement except for good cause.

### **Rule 325. Substitution of Parties**

#### **(a) Death.**

(1) If a party dies and the claim is not thereby extinguished, the court may order substitution of the proper parties. The motion for substitution may be made by any party or by the successors or representatives of the deceased party and, together with the notice of hearing, shall be served on the parties as provided in Rule 307 and upon persons not parties in the manner provided in Rule 307 for the service of process, and may be served in any county. Suggestion of death upon the record is made by service of a statement of the fact of death as provided herein for the service of the motion and by filing of proof thereof. If the motion for substitution is not made within 91 days (13 weeks) after such service, the action shall be dismissed as to the deceased party.

### **Rule 331. Conducting Depositions to Preserve Testimony**

**(a) Serving Interrogatories; Notice.** If the court shall order the taking of a deposition of any person, the party desiring to take the deposition shall serve upon every other party not in default at least 7 days prior to the scheduled deposition copies of the written interrogatories, including the name and address of the person who is to answer them and the name, descriptive title, and address of the officer who will administer the interrogatories and transcribe the responses. Within 7 days thereafter a party so served may serve cross-interrogatories upon the party proposing to take the deposition. No redirect or recross interrogatories shall be permitted.

### **Rule 332. Effect of Errors and Irregularities in Depositions to Preserve Testimony**

**(c) As to Taking of Deposition.** Objections to the form of written interrogatories submitted under Rule 331 are waived unless served in writing upon the party propounding them within three days of receipt of said interrogatories.

### **Rule 338. Right to Trial by Jury**

**(c) Jury Fees.** When a party to an action has exercised the right to demand a trial by jury, every other party to such action shall also pay the requisite jury fee unless such other party files and serves a notice of waiver of the right to trial by jury within 14 days after service of the demand.

**(d) Specification of Issues.** A demand may specify the issues to be tried to the jury; in the absence of such specification, the party filing the demand shall be deemed to have demanded trial by jury of all issues so triable. If a party demands trial by jury on fewer than all of the issues so triable, any other party, within 14 days after the demand is made, may file and serve a demand for trial by jury of any other issues so triable.

### **Rule 341. Dismissal of Actions**

#### **(b) Involuntary Dismissal.**

(2) *By the Court.* Actions not prosecuted or brought to trial with due diligence may, upon notice, be dismissed without prejudice unless otherwise specified by the court upon 28 days' notice in writing to all appearing parties or their counsel of record, unless a party shows cause in writing within said 28 days why the case should not be dismissed.

### **Rule 343. Evidence**

#### **(h)(1) Request for absentee testimony.**

(h) (2) **Response.** If any party objects to absentee testimony, said party shall file a written response within 7 days following service of the motion unless the opening of the proceeding occurs first, in which case the objection shall be made orally in open court at the commencement of the proceeding or as soon as practicable thereafter. If no response is filed or objection is made, the motion may be deemed confessed.

### **Rule 354. Judgments; Costs**

**(d) Costs.** Except when express provision therefor is made either in a statute of this state or in these rules, costs shall be allowed as of course to the prevailing party unless the court otherwise directs; but costs against the state of Colorado, its officers or agencies, shall be imposed only to the extent permitted by law.

**(h) Revival of Judgments.** A judgment may be revived against any one or more judgment debtors whether they are jointly or severally liable under the judgment. To revive a judgment a motion shall be filed alleging the date of the judgment and the amount thereof which remains unsatisfied. Thereupon the clerk shall issue a notice requiring the judgment debtor to show cause within 14 days after service thereof why the judgment should not be revived. The notice shall be served on the judgment debtor in conformity with Rule 304. If the judgment debtor answers, any issue so presented may be tried and determined by the court. A revived judgment must be entered within twenty years after the entry of the judgment which it revives, and may be enforced and made a lien in the same manner and for like period as an original judgment. A judgment entered on or after July 1, 1981 must be revived within six years after the entry of the judgment which it revives, and may be enforced and made a lien in the same manner and for like period as an original judgment. If a judgment is revived before the expiration of any lien created by the original judgment, the filing of the transcript of the entry of revivor in the register of actions with the clerk and recorder of the appropriate county before the expiration of such lien shall continue that lien for the same period from the entry of the revived judgment as is provided for original judgments. Revived judgments may themselves be revived in the manner herein provided.

### **Rule 355. Default**

**(a) Entry at Time of Appearance.** Upon the date and at the time set for appearance, if the defendant has filed no answer or fails to appear and if the plaintiff proves by appropriate return

that the summons was served at least 14 days before the appearance date, the judge may enter judgment for the plaintiff for the amount due, including interest, costs and other items provided by statute or the agreement. However, before judgment is entered, the court shall be satisfied that the venue of the action is proper Under Rule 398(c).

### **Rule 359. New Trials; Amendment of Judgments**

**(b) Time for Motion.** A motion for new trial (which must be in writing) may be made within 14 days of entry of judgment and if so made the time for appeal shall be extended until 21 days after disposition of the motion. Only matters raised in said motion shall be considered on appeal.

**(f) Motion to Alter or Amend a Judgment.** A motion to alter or amend the judgment shall be filed not later than 21 days after entry of the judgment.

### **Rule 369. Execution and Proceedings Subsequent to Judgment**

**(d) Order for Debtor to Answer.** At any time when execution may issue on a judgment, the judgment creditor shall be entitled to an order requiring the judgment debtor to answer such interrogatories concerning his property as shall be approved by the court. The interrogatories when so approved shall be mailed by the clerk to the judgment debtor, who shall answer the said interrogatories and mail or file them with the court within 14 days after receipt thereof by the judgment debtor. The interrogatories, upon approval, may also be served upon the judgment debtor in accordance with Rule 304.

### **Rule 402. Attachments**

**(i) Return of Writ.** The sheriff shall return the writ of attachment within 21 days after its receipt, with a certificate of his proceedings endorsed thereon, or attached thereto, making a full inventory of the property attached as a part of his return upon the writ.

#### **(k) No Final Judgment Until 35 Days After Levy.**

(1) **Creditors.** No final judgment shall be rendered in a cause wherein an attachment writ has been issued and a levy made thereunder, until the expiration of 35 days after such levy has been made; and any creditor of the defendant making and filing within said 35-day period an affidavit and undertaking, as hereinbefore required of the plaintiff, together with his complaint setting forth his claim against the defendant, shall be made a party plaintiff and have like remedies against the defendant to secure his claim, as the law gives to the original plaintiff.

(2) **Judgment Creditors.** Any other creditor whose claim has been reduced to judgment in this state may upon motion filed within said 35 days be made a party and have like remedies against the attached property. Such judgment creditor shall not be required to make or file an affidavit, undertaking or complaint, or have summons issue, provided, that any such judgment creditor may be required to prove to the satisfaction of the court that his judgment is bona fide and not in fraud of the rights of other creditors.

**(n) Traverse of Affidavit.** (1) The defendant may, at any time before trial, by affidavit, traverse and put in issue the matters alleged in the affidavit, testimony, or other evidence upon which the

attachment is based and if the plaintiff shall establish the reasonable probability that any one of the causes alleged in the affidavit exists, said attachment shall be sustained, otherwise the same shall be dissolved. A hearing on the defendant's traverse shall be held within 7 days from the filing of the traverse and upon no less than two business days' notice to the plaintiff. If the debt for which the action is brought is not due and for that reason the attachment is not sustained, the action shall be dismissed; but if the debt is due, but the attachment nevertheless is not sustained, the action may proceed to judgment after the attachment is dissolved, as in other actions where no attachment is issued.

**(x) New Bond; When Ordered; Failure to Furnish.** If at any time where an attachment has been issued it shall appear to the court that the undertaking is insufficient, the court shall order another undertaking, and if the plaintiff fails to comply with such order within 21 days after the same shall be made, all or any writs of attachment issued therein shall be quashed. The additional undertaking shall be executed in the same manner as the original, and the sureties therein shall be jointly and severally liable with those in the original undertaking.

#### **Rule 403. Garnishment** (*See, Rule Change 2011(19)*)

#### **Rule 404. Replevin**

**(c) Show Cause Order; Hearing within 14 Days.** The court shall without delay, examine the complaint and affidavit, and if it is satisfied that they meet the requirements of section (b), it shall issue an order directed to the defendant to show cause why the property should not be taken from the defendant and delivered to the plaintiff. Such order shall fix the date and time for the hearing thereof. The hearing date shall be not more than 14 days from the date of the issuance of the order and the order must have been served at least 7 days prior to the hearing date. The plaintiff may request a hearing date beyond 14 days, which request shall constitute a waiver of the right to a hearing not more than 14 days from the date of issuance of the order. Such order shall inform the defendant that he may file affidavits on his behalf with the court and may appear and present testimony in his behalf at the time of such hearing, or that he may, at or prior to such hearing, file with the court a written undertaking to stay the delivery of the property, in accordance with the provisions of section (j) of this rule, and that, if he fails to appear at the hearing on the order to show cause or to file an undertaking, plaintiff may apply to the court for an order requiring the sheriff to take immediate possession of the property described in the complaint and deliver same to the plaintiff. The summons and complaint, if not previously served, and the order shall be served on the defendant and the order shall fix the manner in which service shall be made, which shall be by service in accordance with the provisions of Rule 4, C.R.C.P., or in such manner as the court may determine to be reasonably calculated to afford notice thereof to the defendant under the circumstances appearing from the complaint and affidavit.

**(j) When Returned to Defendant; Bond.** At any time prior to the hearing on the order to show cause, or before the delivery of the property to the plaintiff, the defendant may require the return thereof upon filing with the court a written undertaking, in an amount set by the court in its discretion not to exceed double the value of the property and executed by the defendant and such surety as the court may direct for the delivery of the property to the plaintiff, if such delivery be



ordered, and for the payment to the plaintiff of such sum as may for any cause be recovered against the defendant. At the time of filing such undertaking, the defendant shall serve upon the plaintiff or his attorney, in the manner provided by Rule 5, C.R.C.P., a notice of filing of such undertaking, to which a copy of such undertaking shall be attached, and shall cause proof of service thereof to be filed with the court. If such undertaking be filed prior to hearing on the order to show cause, proceedings thereunder shall terminate, unless exception is taken to the amount of the bond or the sufficiency of the surety. If, at the time of filing of such undertaking, the property shall be in the custody of the sheriff, such property shall be redelivered to the defendant 7 days after service of notice of filing such undertaking upon the plaintiff or his attorney.

**(k) Exception to Sureties.** Either party may, within two business days after service of an undertaking or notice of filing and undertaking under the provisions of this Rule, give written notice to the court and the other party that he excepts to the sufficiency of the surety or the amount of the bond. If he fails to do so, he is deemed to have waived all objections to them. When a party excepts the court shall hold a hearing to determine the sufficiency of the bond or surety. If the property be in the custody of the sheriff, he shall retain custody thereof until the hearing is completed or waived. If the excepting party prevails at the hearing, the sheriff shall proceed as if no such undertaking had been filed. If the excepting party does not prevail at the hearing, or the exception is waived, he shall deliver the property to the party filing such undertaking.

**(n) Return; Papers by Sheriff.** The sheriff shall return the order of possession and undertakings and affidavits with his proceedings thereon, to the court in which the action is pending, within 21 days after taking the property mentioned therein.

#### **Rule 407. Remedial And Punitive Sanctions For Contempt.**

**(c) Indirect Contempt Proceedings.** When it appears to the court by motion supported by affidavit that indirect contempt has been committed, the court may ex parte order a citation to issue to the person so charged to appear and show cause at a date, time and place designated why the person should not be punished. The citation and a copy of the motion, affidavit and order shall be served directly upon such person at least 21 days before the time designated for the person to appear. If such person fails to appear at the time so designated, and it is evident to the court that the person was properly served with copies of the motion, affidavit, order, and citation, a warrant for the person's arrest may issue to the sheriff. The warrant shall fix the date, time and place for the production of the person in court. The court shall state on the warrant the amount and kind of bond required. The person shall be discharged upon delivery to and approval by the sheriff or clerk of the bond directing the person to appear at the date, time and place designated in the warrant, and at any time to which the hearing may be continued, or pay the sum specified. If the person fails to appear at the time designated in the warrant, or at any time to which the hearing may be continued, the bond may be forfeited upon proper notice of hearing to the surety, if any, and to the extent of the damages suffered because of the contempt, the bond may be paid to the aggrieved party. If the person fails to make bond, the sheriff shall keep the person in custody subject to the order of the court.

**Rule 411. Appeals** (*See, Rule Change 2011(19)*)

**MISCELLANEOUS CIVIL RULES**

**COLORADO RULES OF JUVENILE PROCEDURE (CH. 28)**

**Rule 3.2. Responsive Pleadings and Motions**

(e) A request for waiver of jurisdiction to the district court for criminal proceedings shall be in writing and filed within 28 days of the initial advisement. Upon application to the court by the district attorney, and for good cause shown, a request may, in the discretion of the court, be filed at any time prior to the adjudicatory trial.

**Rule 4. Petition Initiation, Form and Content**

(a) A petition concerning a child who is alleged to be dependent and neglected shall be initiated in accordance with Section 19-3-501, C.R.S., and shall be in the form set forth in Section 19-3-502, C.R.S. Said petition shall be filed within 14 days from the day a child is taken into custody, unless otherwise directed by the court.

**Rule 4.5. Contempt in Dependency and Neglect Cases**

The citation, copy of the motion, affidavit, and order in contempt proceedings pursuant to C.R.C.P. 107, shall be served personally upon any respondent or party to the dependency and neglect action, at least 14-days before the time designated for the person to appear before the court. Proceedings in contempt shall be conducted pursuant to C.R.C.P. 107, except that the time for service under subsection (c) shall be not less than 14 days before the time designated for the person to appear.

**Rule 6. Petition in Adoption** (*See, Rule Change 2011(19)*)

**COLORADO MUNICIPAL COURT RULES OF PROCEDURE (CH. 30)**

**Rule 204. Simplified Procedure for Trial of Municipal Charter and Ordinance Violations**

(e) Service of Summons and Complaint. A copy of a summons or summons and complaint issued pursuant to these rules shall be served personally upon the defendant. In lieu of personal service, service may be made by leaving a copy of the summons or summons and complaint at the defendant's usual place of abode with some person over the age of eighteen years residing therein or by mailing a copy to the defendant's last known address by certified mail, return receipt requested, not less than 7-days prior to the time the defendant is required to appear.

**CMCR 210** (*See, Rule Change 2011(19)*)

**Rule 235. Correction or Vacation of Sentence**

(b) Reduction of Sentence. The court may reduce the sentence provided that a motion for reduction of sentence is filed (1) within 91 days (13 weeks) after the sentence is imposed, or (2) within 91 days (13 weeks) after receipt by the court of a remittitur issued upon affirmance of the judgment or sentence or dismissal of the appeal, or (3) within 91 days (13 weeks) after entry of any order or judgment of the appellate court denying review or having the effect of upholding a judgment of conviction or sentence. The court may, after considering the motion and supporting documents, if any, deny the motion without a hearing. The court may reduce a sentence on its own initiative within any of the above periods of time.

**Rule 246. Bail.**

(d) Forfeiture.

(3) Enforcement When Forfeiture Not Set Aside. By entering into a bond each obligor, whether the principal or a surety, submits to the jurisdiction of the court. Liability under the bond may be enforced, without the necessity of an independent action, as follows: The court shall order the issuance of a citation directed to the obligor to show cause, if any there be, why judgment should not be entered forthwith and execution issue thereon. Said citation shall issue promptly may be served personally or by first class mail upon the obligor directed to the addresses given in the bond. Hearing on the citation shall be held not less than 21 days after service. The defendant and the prosecution shall be given notice of the hearing. At the conclusion of the hearing, the court may enter a judgment against the obligor, and execution shall issue thereon as on other judgments.

**Rule 248. Dismissal**

(b) By the Court. If there is unnecessary delay in the trial of a defendant, the court may dismiss the case. If the trial of a defendant is delayed more than 91 days (13 weeks) after the arraignment of the defendant, or unless the delay is occasioned by the action or request of the defendant, the court shall dismiss the case and the defendant shall not thereafter be tried for the same offense; except that if on the day of a trial set within the last 7 days of the above time limit a necessity for a continuance arises which the court in the exercise of sound judicial discretion determines would warrant an additional delay, then one continuance, not exceeding 28 days, may be allowed, after which the dismissal shall be entered as above provided if trial is not held within the additional time allowed.

## **COLORADO RULES FOR MAGISTRATES (CH. 35)**

### **Rule 3. Definitions**

(f) Consent:

(1) Consent in District Court:

(ii) The party has been provided notice of the referral, setting, or hearing of a proceeding before a magistrate and failed to file a written objection within 14 days of such notice; or

### **Rule 7. Review of District Court Magistrate Orders or Judgments**

(a) Orders or judgments entered when consent not necessary. Magistrates shall include in any order or judgment entered in a proceeding in which consent is not necessary a written notice that the order or judgment was issued in a proceeding where no consent was necessary, and that any appeal must be taken within 21 days pursuant to Rule 7(a).

(5) A party may obtain review of a magistrate's final order or judgment by filing a petition to review such final order or judgment with the reviewing judge no later than 14 days subsequent to the final order or judgment if the parties are present when the magistrate's order is entered, or 21 days from the date the final order or judgment is mailed or otherwise transmitted to the parties.

(6) A request for extension of time to file a petition for review must be made to the reviewing judge within the 21 day time limit within which to file a petition for review. A motion to correct clerical errors filed with the magistrate pursuant to C.R.C.P. 60(a) does not constitute a petition for review and will not operate to extend the time for filing a petition for review.

(7) A petition for review shall state with particularity the alleged errors in the magistrate's order or judgment and may be accompanied by a memorandum brief discussing the authorities relied upon to support the petition. Copies of the petition and any supporting brief shall be served on all parties by the party seeking review. Within 14 days after being served with a petition for review, a party may file a memorandum brief in opposition.

## **COLORADO APPELLATE RULES**

### **Rule 3.1. Appeals from Industrial Claim Appeals Office**

14 days after return of the record, the appellant shall file an opening brief. Within 14 days after service of the opening brief, the appellee shall file an answer brief. Within 7 days after service of the answer brief, the appellant may file a reply brief. Briefs may be printed, typewritten, mimeographed, or otherwise reproduced in conformity with the provisions of C.A.R. 28.

### **Rule 3.4. Appeals from Proceedings in Dependency or Neglect**

(b) Time for Appeal.

(1) A Notice of Appeal and Designation of Record (Form 1) shall be filed with the clerk of the Court of Appeals and an advisory copy served on the clerk of the trial court within 21 days after the entry of the order from which the appeal is taken. If a motion for post-trial relief is timely filed pursuant to C.R.C.P. 59, the time for filing the notice of appeal begins to run upon the entry of an order denying the motion or upon the date the motion is deemed denied under C.R.C.P. 59(j), whichever occurs first. An order is entered within the meaning of this rule when it is entered pursuant to C.R.C.P. 58. If notice of the entry of the order is mailed to the parties, the time for filing the notice of appeal shall commence from the date of mailing.

(2) If a timely notice of appeal is filed, any other party may file a Notice of Cross-Appeal and Designation of Record (Form 1) within 7 days of the date on which the notice of appeal was filed or within the 21 days for the filing of the notice of appeal, whichever period expires last.

(e) Record on Appeal.

(4) Within 7 days after service of a designation of record, any appellee may complete and file a Supplemental Designation of Record (Form 3) with the clerk of the trial court and the clerk of the Court of Appeals and serve it on the court reporter listed therein.

(5) Within 7 days after service of the Notice of Appeal and Designation of Record (Form 1), the designating party or public entity responsible for the cost of transcription shall make arrangements for payment with the court reporter. Within 14 days after service of the Notice of Appeal and Designation of Record (Form 1), the court reporter shall file a statement with the clerk of the trial court and the clerk of the Court of Appeals indicating whether arrangements for payment have been made.

(f) Transmission of Record.

(1) Within 42 days after the filing of the Notice of Appeal and Designation of Record (Form 1), the record, including any transcripts or exhibits, shall be transmitted to the Court of Appeals in accordance with C.A.R. 11(b).

(2) The appellant may request an extension of time of no more than 14 days in which to file the record, which will be granted only upon a showing of good cause. If the request is based on the court reporter's inability to complete the transcript, it must be supported by an affidavit of the reporter specifying why the transcript has not been completed.

(g) Petition on Appeal.

(1) Within 21 days after the filing of the Notice of Appeal and Designation of Record (Form 1), the appellant shall file an original and five copies of a Petition on Appeal (Form 4). The petition shall be prepared by appellant if proceeding pro se, by appellant's trial counsel, or by substitute counsel so long as substitute counsel has filed an entry of appearance. Except for extraordinary circumstances, substitution of counsel shall not be grounds for an extension of time.

(2) The appellant may request one extension of time of no more than 7 days in which to file the petition, which will be denied except upon a showing of manifest injustice.

(h) Response to Petition on Appeal (Cross-Appeal).

(1) Within 21 days after service of the appellant's petition on appeal, any appellee may file an original and five copies of a Response to Petition on Appeal (Cross-Appeal) (Form 5). The response (cross-appeal) shall be prepared by trial counsel or by substitute counsel so long as substitute counsel has filed an entry of appearance. Except for extraordinary circumstances, substitution of counsel shall not be grounds for an extension of time.

(2) An appellee may request one extension of time of no more than 7 days in which to file a response (cross-appeal), which will be denied except upon a showing of manifest injustice.

(j) Ruling.

(2) After reviewing the petition on appeal, any response, and the record, the Court of Appeals may, by opinion in conformity with C.A.R. 35, affirm the trial court decision, reverse, or vacate the trial court decision, remand the case to the trial court, or set the case for supplemental briefing on issues raised by the parties or noticed by the court. If supplemental briefing is ordered, new counsel may be substituted upon a showing of good cause. Such request must be filed with the Court of Appeals within 7 days after the case is set for supplemental briefing.

(k) (1) Petition for Rehearing. A petition for rehearing in the form prescribed by C.A.R. 40(b) may be filed within 14 days after entry of judgment. The time in which to file the petition for rehearing shall not be extended.

(2) Petition for Writ of Certiorari. Review of the judgment of the Court of Appeals may be sought by filing a petition for writ of certiorari in the Supreme Court in accordance with C.A.R. 51. The petition shall be filed within 14 days after the expiration of the time for filing a petition for rehearing or the date of denial of a petition for rehearing by the Court of Appeals. Any cross-petition or opposition brief to a petition for writ of certiorari shall be filed within 14 days after the filing of the petition. The petition for writ of certiorari, any cross-petition, and any opposition brief shall be in the form prescribed by C.A.R. 53(a)-(c) and filed and served in accordance with C.A.R. 53(f).

(l) Issuance of Mandate. The mandate shall be in the form prescribed by C.A.R. 41(a) and shall issue 29 days after entry of the judgment. The timely filing of a petition for rehearing will stay the mandate until the Court of Appeals has ruled on the petition. If the petition is denied, the mandate shall issue 14 days after entry of the order denying the petition. The mandate may also be stayed in accordance with C.A.R. 41.1.

#### **Rule 4.1. Interlocutory Appeals in Criminal Cases**

(b) **Limitation on Time of Issuance.** No interlocutory appeal shall be filed after 14 days from the entry of the order complained of. It shall not be a condition for the filing of such interlocutory appeal that a motion for a new trial or rehearing shall have been filed and denied in the trial court.

(d) **Record.** The record for an interlocutory appeal shall consist of the information or indictment, the plea of the defendant or the defendants, the motions filed by the defendant or defendants on the grounds stated in section (a) above, the reporter's transcript of all testimony taken at the hearing on said motions and such exhibits or reasonable copies, facsimiles, or photographs thereof as the parties may designate (subject to the provisions in C.A.R. 11 (b) pertaining to exhibits of bulk), the order of court ruling on said motions together with the date, if one has been fixed, that the case is set for trial or a certificate by the clerk that the case has not been set for trial. After the filing of the record, such other exhibits or reasonable copies, facsimiles, or photographs thereof shall be transmitted by the clerk of the trial court to the appellate court as the appellate court may order. The record shall be filed within 14 days of the date of filing the notice of appeal.

(f) **Briefs.** Within 14 days after the record has been filed in the supreme court, the state shall file ten copies of a typewritten, mimeographed, or otherwise reproduced brief, and within 14 days thereafter, the appellee shall file ten copies of a typewritten, mimeographed, or otherwise reproduced answer brief, and the state shall have 7 days after service of said answer brief to file ten copies of a typewritten, mimeographed, or otherwise reproduced reply brief.

#### **Rule 4.2. Interlocutory Appeals in Civil Cases**

(c) **Procedure in the Trial Court.** The party seeking to appeal shall move for certification or submit a stipulation signed by all parties within 14 days after the date of the order to be appealed, stating that the appeal is not being sought for purposes of delay. The trial court may, in its discretion, certify an order as immediately appealable, but if all parties stipulate, the trial court must forthwith certify the order. Denial of a motion for certification is not appealable.

(d) **Procedure in the Appellate Court.** If the trial court certifies an order for an interlocutory appeal, the party seeking an appeal shall file a petition to appeal with the clerk of the court of appeals with an advisory copy served on the clerk of the trial court within 14 days of the date of the trial court's certification.

#### **Rule 5. Entry of Appearance and Withdrawal**

(b) **Withdrawal.**

(8) Of the client's right to object within 14 days of the date of the notice.

(c) **Written Notification Certificate.** The attorney seeking to withdraw shall prepare a notification certificate stating that the above notification requirements have been met and the manner by which such notification was given to the client, and setting forth the client's last known address and telephone number. The notification certificate shall be filed with the court and a copy mailed to the client and all other parties. The client and opposing counsel shall have 14 days prior to

entry of an order permitting withdrawal or such lesser time as the court may permit within which to file objections to the withdrawal. After order permitting withdrawal, the client shall be notified by the withdrawing attorney of the effective date of the withdrawal and all pleadings, notices or other papers may be served on the party directly by mail at the last known address of the party until new counsel enters an appearance.

### **Rule 10. Record on Appeal**

(b) Record of Proceedings; Duty of Appellant to Order; Notice to Appellee if Partial Record is Ordered; Costs. Within 14 days after filing the notice of appeal, the appellant shall file with the clerk of the trial court and with the clerk of the appellate court in which the notice of appeal has been filed either: (1) A statement that no portions of the record other than those numerated in section (a) are desired or (2) a detailed designation of record, setting forth specifically those portions of the record to be included and all dates of proceedings for which transcripts are requested and the name(s) of the court reporter(s) who reported the proceedings which the appellant directs to be included in the record. The appellant shall serve a copy of the designation of record on each court reporter listed therein. If the appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant shall include in the record a transcript of all evidence relevant to such finding or conclusion. Unless the entire transcript is to be included, the appellant shall include in the designation of record a description of the part of the transcript which the appellant intends to include in the record and a statement of the issues to be presented on appeal. If the appellee deems to be necessary a transcript of other proceedings, or other parts of the record, the appellee shall, within 14 days after the service of the statement or the appellant's designation of the record, file with the trial court and the appellate court and serve on the appellant and on any court reporter who reported proceedings of which the appellee desires additional transcript a designation of additional items to be included. Service on any court reporter of the appellant's designation of record or the appellee's additional designation of record shall constitute a request for transcription of the specified proceedings. Within 14 days after service of any such designation of record, each such court reporter shall provide in writing to all counsel and pro se parties in the appeal: (1) the estimated number of pages to be transcribed; (2) the estimated completion date; and (3) the estimated cost of transcription. Within 21 days after receiving the reporter's estimate, the designating party shall deposit the full amount of such estimate with the court reporter. For good cause shown, within said 21 days and upon the agreement of the court reporter, the trial court may order a payment schedule extending the time for payment. When the cost of the transcription will be paid by public funds, the public entity shall make arrangements with the court reporter for payment of the transcription costs. Within 28 days of transmittal of the court reporter's cost estimate to the pro se party or counsel, the court reporter shall file with the trial court and the appellate court a statement of: (1) The date the court reporter's estimate was provided and the date on which the reporter received full payment of the estimate, or (2) the schedule of payments approved by the trial court under a good cause extension, or (3) that the cost of the transcript will be paid from public funds. Each party shall advance the cost of preparing and transmitting to the appellate court that part of the record designated by such party, except as otherwise ordered by the trial court for good cause shown.

(c) Statement of the Evidence or Proceedings When No Report Was Made or When the Transcript is Unavailable. If no report of the evidence or proceedings at a hearing or trial was



made, or if a transcript is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including his recollection. The statement shall be served on the appellee, who may serve objections or propose amendments thereto within 14 days after service. Thereupon the statement and any objections or proposed amendments shall be submitted to the trial court for settlement and approval and as settled and approved shall be included by the clerk of the trial court in the record on appeal.

### **Rule 11. Transmission of Record**

(a) Time for Transmission; Duty of Appellant; 91 Days (13 weeks) to Transmit. The record on appeal, including the transcript and exhibits necessary for the determination of the appeal, shall be transmitted to the appellate court within 91 days (13 weeks) after the filing of the notice of appeal unless the time is shortened or extended by an order entered under section (d) of the Rule. After filing the notice of appeal the appellant shall comply with the provisions of C.A.R. 10(b) and shall take any other action necessary to enable the clerk to assemble and transmit the record. If more than one appeal is taken, each appellant shall comply with the provisions of C.A.R. 10(b) and this section (a), and a single record shall be transmitted within 91 days (13 weeks) after the filing of the final notice of appeal.

[Comment: This change increases the time for transmitting of the record to 91 days (13 weeks) and provides due date for the record filing to be tied with the date the notice of appeal is filed. The appellate court will not need to set this due date.]

(d) Extension of Time for Transmission of the Record; Reduction of Time.

[Comment: This rule removes from the trial court the authority to extend the time to transmit the record. The initial time for transmission of the record is set at 91 days (13 weeks) because trial courts appeared to require that amount of time on almost every case. The change should eliminate excess paperwork by attorneys and the court.]

### **Rule 21.1. Certification of Questions of Law**

(f) Briefs and Argument. Upon the agreement of the Supreme Court to answer the questions certified to it, notice shall be given to all parties. The plaintiff in the trial court, or the appealing party in the appellate court shall file his opening brief within 35 days from the date of receipt of the notice, and the opposing parties shall file an answer brief within 35 days from service upon him of copies of the opening brief. A reply brief may be filed within 21 days of the service of the answer brief. Briefs shall be in the manner and form of briefs as provided in C.A.R. 28. Oral arguments shall be as provided in C.A.R. 34.

## **Rule 26. Computation and Extension of Time**

(a) Computation of Time. In computing any period of time prescribed or allowed by these rules the day of the act, event, or default from which the designated period of time begins to run shall not be included. Thereafter, every day shall be counted including holidays, Saturdays and Sundays. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. As used in these Rules, "Legal holiday" includes the first day of January, observed as New Year's Day; the third Monday in January, observed as Martin Luther King Day; the third Monday in February, observed as Washington-Lincoln Day; the last Monday in May, observed as Memorial Day; the fourth day of July, observed as Independence Day; the first Monday in September, observed as Labor Day; the second Monday in October, observed as Columbus Day; the 11th day of November, observed as Veteran's Day; the fourth Thursday in November, observed as Thanksgiving Day; the twenty-fifth day of December, observed as Christmas Day, and any other day except Saturday or Sunday when the court is closed.

(c) Repealed.

## **Rule 27. Motions**

(a) Content of Motions; Response. Unless another form is elsewhere prescribed by these rules, an application for an order or other relief shall be made by filing a motion for such order or relief with proof of service on all other parties. The motion shall contain or be accompanied by any matter required by a specific provision of these rules governing such a motion, shall state with particularity the grounds on which it is based, and shall set forth the order or relief sought. If the motion is supported by briefs, affidavits, or other papers, they shall be served and filed with the motion. A motion to consolidate an appeal with another appeal shall be served on all other parties in both appeals. Any party may file a response in opposition to a motion other than one for a procedural order [for which see section (b)] within 7 days after service of the motion, but motions authorized by C.A.R. 8, 8.1, 9, and 41 may be acted upon after reasonable notice, and the court may shorten or extend the time for responding to any motion.

## **Rule 30. E-Filing**

(e) E-Service -- When Required -- Date and Time of Service. Documents submitted to the court through E-Filing shall be served under C.A.R. 25 by E-Service. A document transmitted to the E-System Provider for service by 11:59 p.m. Colorado time shall be deemed to have been served on that date.

## **Rule 31. Filing and Service of Briefs**

(a) Time for Serving and Filing Briefs. The appellant shall serve and file the opening brief within 42 days after the date on which the record is filed. The appellee shall serve and file the answer brief within 35 days after service of the opening brief. The appellant may serve and file a reply brief within 21 days after service of the answer brief. In cases involving cross-appeals, the cross-appellant's opening-answer brief and the appellant's answer-reply brief shall be served and filed

within 35 days after service of the opposing party's brief. The cross-appellant may serve and file a reply brief within 21 days after service of the appellant's answer-reply brief.

### **Rule 34. Oral Argument**

(b) Time Allowed for Argument.

(1) In the Supreme Court. Oral argument may be allowed at the discretion of the court. A request for oral argument shall be made in a separate, appropriately titled document and filed no later than 7 days after the briefs are closed. In the absence of a request for oral argument, the court may order oral argument. Unless otherwise ordered by the court, each side will be allowed thirty minutes for argument. A request for additional time may be made by motion filed within 7 days after the briefs are closed, but shall be granted only if good cause is shown. The court may terminate the argument whenever in its judgment further argument is unnecessary.

(2) In the Court of Appeals. Oral argument in the Court of Appeals will be allowed upon the written request of a party or upon the court's own motion, unless the court, in its discretion, dispenses with oral argument. A request for oral argument shall be made in a separate, appropriately titled document filed no later than 7 days after the briefs are closed. Unless otherwise ordered, argument shall not exceed fifteen minutes for the appellants and fifteen minutes for the appellees. The court may terminate the argument whenever in its judgment further argument is unnecessary.

### **Rule 39. Costs**

(c) Costs on Appeal Taxable in the Appellate Court. The cost of printing or otherwise producing necessary copies of briefs or copies of records shall be taxable in the appellate court at rates not higher than those generally charged for such work in Denver. Docket fees charged pursuant to C.A.R. 12(a) shall be taxed in the appellate court as costs of the appeal in favor of a party entitled to costs under the Rule. A party who desires such costs to be taxed shall state them in an itemized and verified bill of costs which shall be filed with the clerk, with proof of service, within 14 days after the entry of judgment.

### **Rule 40. Petition for Rehearing**

(a) Time for Filing; Content; Answer; Action by Court if Granted. A petition for rehearing may be filed within 14 days after entry of judgment unless the time is shortened or enlarged by order. The petition shall state with particularity the points of law or fact which in the opinion of the petitioner the court has overlooked or misapprehended and shall contain such argument in support of the petition as the petitioner desires to present. Oral argument in support of the petition will not be permitted. No answer to a petition for rehearing will be received unless requested by the court. If a petition for rehearing is granted the court may make a final disposition of the cause without reargument or may restore it to the calendar for reargument or resubmission or make such other orders as are deemed appropriate under the circumstances of the particular case.

**Rule 41. Issuance of Mandate**

(b) Time.

(1) The mandate of the court of appeals shall issue 43 days after entry of the judgment. In workers' compensation and unemployment insurance cases, the mandate of the court of appeals shall issue thirty-one days after entry of the judgment. The timely filing of a petition for rehearing will stay the mandate until the court has ruled on the petition. If a motion for enlargement of time to file a petition for rehearing is granted but no petition for rehearing is filed within the extended period, the mandate may issue following the last day of the extended period for filing the petition for rehearing or after the day specified by this rule, whichever occurs later.

(2) If a petition for rehearing is denied, the mandate shall issue 29 days after entry of the order denying the petition. In workers' compensation and unemployment insurance cases, the mandate of the court of appeals shall issue 15 days after entry of the order denying a petition for rehearing.

(3) The mandate of the Supreme Court shall issue 15 days after the entry of judgment. The timely filing of a petition for rehearing will stay the mandate until the court has ruled on the petition. If the petition for rehearing is denied, the mandate shall issue two days after entry of the order denying the petition.

**Rule 51.1. Exhaustion of State Remedies Requirement in Criminal Cases**

(b) Savings Clause. If a litigant's petition for federal habeas corpus is dismissed or denied for failure to exhaust state remedies based on a decision that this rule is ineffective, the litigant shall have 49 days from the date of such dismissal or denial within which to file a motion to recall the mandate together with a writ of certiorari presenting any claim of error not previously presented in reliance on this rule.

**Rule 52. Review on Certiorari -- Time for Petitioning**

(a) To Review a District Court Judgment. A petition for writ of certiorari to review a judgment of a district court on appeal from a county court, shall be filed not later than 42 days after the rendition of the final judgment in said court.

(b) To Review Court of Appeals Judgment.

(3) Any petition for writ of certiorari to review a judgment of the Court of Appeals shall be filed in the Supreme Court within 42 days of the issuance of the opinion of the Court of Appeals, if no petition for rehearing is filed, or within 28 days after the denial of a petition for rehearing by the Court of Appeals. Any petition for writ of certiorari to review a judgment of the Court of Appeals in workers' compensation and unemployment insurance cases shall be filed in the Supreme Court within 28 days after the issuance of the opinion of the Court of Appeals, if no petition of rehearing is filed, or within 14 days after the denial of a petition for rehearing by the Court of Appeals.

**Rule 53. Petition for Certiorari and Cross-Petition for Certiorari**

(b) The Cross-Petition. Within 14 days after service of the petition for certiorari, a respondent may file and serve a cross-petition. A cross-petition shall be succinct and shall not exceed twelve pages, unless it contains no more than 3,800 words, exclusive of appendix. The cross-petition shall comply with C.A.R. 32. A cross-petition shall have the same contents, in the same order, as the petition.

(c) Opposition Brief. Within 14 days after service of the petition, respondent may file and serve an opposition brief, a cross-petition or both. The petitioner may file an opposition brief within 10 days after service of a cross-petition. An opposition brief shall be succinct and shall not exceed twelve pages, unless it contains no more than 3,800 words. The opposition brief shall comply with C.A.R. 32.

(d) Reply Brief. Within 7 days after service of an opposition brief, a petitioner or cross-petitioner may file and serve a reply brief. A reply brief shall be succinct and shall not exceed ten pages, unless it contains no more than 3,150 words. The reply brief shall comply with C.A.R. 32.

**COLORADO RULES OF PROBATE PROCEDURE**

**Rule 8.8. Non-Appearance Hearings**

(a)(4) If any objection is filed, the objecting party shall, within 14 days after filing the objection, set the objection for an Appearance Hearing.

(b) The notice of a Non-Appearance Hearing, together with copies of the motion or petition and proposed order must be served on all interested persons no less than 14 days prior to the setting of the hearing and shall include a clear statement of the rules governing such hearings. Form JDF 712 or JDF 963 in the Appendix to these Probate Rules may be used and shall be sufficient. The authorization of this Form shall not prevent use of another Form consistent with this rule.