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The New Denver District Court Rules: Their Application and Implementation

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THE NEW DENVER DISTRICT COURT RULES: THEIR APPLICATION AND IMPLEMENTATION*

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The new Denver District Court rules represent a significant step forward in the administration of civil justice in our local courts.

On February 7, 1961, the judges of the second Judicial District adopted "Rules of Practice" for the District Court of Denver County. These rules were adopted as a result of considerable effort and work by a group of distinguished and dedicated trial lawyers and trial judges in the Denver area. These rules were approved by the Colorado Supreme Court on March 16, 1961. They are effective as of May 15, 1961. Presumably the rules will not be retroactive as to cases filed with the court prior to May 15, 1961, or to any matters, including motions, pending prior to May 15, 1961.

Judge Neil Horan, the presiding judge of the court, states that these rules were adopted and approved in the hope that their strict application would serve the litigating public by relieving the congestion of the trial dockets in the Denver courts. The rules and their intended implementation by the court sound a clear warning to the practicing trial lawyer that the rules should be observed and heeded. If the rules are followed and applied by the bar in the spirit in which they were promulgated, they can spell the end of frustration to the lawyer and the litigant alike.

Although many lawyers were unaware that local rules of the Denver District Court had existed in the past, the new rules supplant those of February 7, 1942. The court has indicated that the new rules, unlike the old, will be observed, applied and enforced.

The new rules are not unlike the local rules of practice of the United States District Court for the District of Colorado, adopted and effective on March 1, 1960. This is significant in that the practicing lawyer in the Denver area now has a relatively uniform system of procedure and practice which can be followed whether the litigation rests in the state or in the federal court.

These rules were designed to supplement the Colorado Rules of Civil Procedure, and Judge Horan believes that they have dignity equal to that of the Colorado Rules of Civil Procedure in that in each instance they have the sanction of the supreme court. Whether this shall prove to be true or not, it is significant that the new local rules provide the answer to many questions raised and left unanswered by the Colorado Rules of Civil Procedure. For example, Rule 16 of the local rules provides what shall be "reasonable notice" for the taking of depositions under Rule 30(a) of the Colorado Rules of Civil Procedure, the local rule providing that such reasonable notice shall be five days.

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* On June 10, 1961, a Denver Bar Association Institute was held on the subject of this article. The Honorable Neil Horan and the Honorable Edward E. Pringle, Judges (then) of the Denver District Court, and Eugene S. Hames and Robert H. Harry, both practicing lawyers, constituted the panel. The writer was privileged to moderate that discussion and acknowledges that many of the questions and thoughts presented in this article were raised by the panel and the thoughtful lawyers attending the institute.

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1 Although the rules are not retroactive, it is recommended that lawyers utilize the rules as to those matters pending prior to May 15, 1961; particularly those rules pertaining to pre-trial conferences.

I. SIGNIFICANT NEW RULES

The most significant of the new rules appear to be Rules 4, 5, 6, and 7. Questions raised by these rules will be touched on later. Their provisions are described briefly here.

Rule 4

Rule 4 deals primarily with those motions in which defenses may be made by motion before further pleading, viz., motion to strike, for a more definite statement, to state separately and number, for change of venue, to dismiss for lack of jurisdiction over the subject matter or over the person, or matters relating to process, as well as a motion to join an indispensable party or to dismiss for failure to state a claim upon which relief can be granted. The rule provides that within ten days after the filing of the motion a memorandum brief must be filed containing a short concise statement of the reasons in support of the motion and citing legal authorities upon which the moving party relies. Motions to quash are considered as motions to dismiss, and in such case memoranda briefs should be filed.

Rule 5

Rule 5 pertains to pre-trial conferences and sets forth in explicit detail how a case is set for pre-trial, what practice the attorneys must follow prior to a pre-trial, as well as what shall be accomplished at the time of pre-trial.

Rule 6

Rule 6 makes it clear that if a case is settled or otherwise disposed of prior to *any* hearing the lawyer must notify the clerk's office of such disposition or the lawyer may be subject to disciplinary action.

Rule 7

Rule 7 provides the procedure for setting a case for trial at the time the pre-trial conference has been completed. Rule 7 contains a further significant change from the prior practice in the Denver district courts. It provides that if it is not possible to begin a case on the trial date set, the case shall go to the top of the trial list for the following day and shall have priority for trial then. In former practice, the case went to the bottom of the list for recalling at a future date. The obvious problems raised by the prior procedure require little comment for the lawyer who has experienced having out-of-state witnesses gathered in Division 1 waiting to give their testimony.

II. QUESTIONS RAISED: SOME ANSWERS GIVEN

Interesting and significant questions have been raised by the practicing lawyer as to the application of these new rules.

Rule 4

It is noted, pursuant to Rule 4, where memoranda must be filed ten days after the filing of the specified motions, that these memoranda should be filed with the clerk of Division 1 and not the clerk of the district court. The motions, however, should still be filed, as in the former practice, with the clerk of the district court. Does the party opposing the motion have the opportunity or right to file a memorandum in opposition to the motion? The court has indicated that the rules do not provide for a reply brief or a brief in opposition. This is unlike the practice in the federal courts, where an answer brief and a reply brief may be filed if the opposing party so desires.[2] The court points out that an answer brief will not necessarily be considered if filed. It may be considered and used, however, if the motion is deemed meritorious enough to warrant oral argument. There is sanction in Rule 4 as well, for if the party filing the motion fails to file his memorandum within the ten day period, the court must deny the motion. What if the ten day limit falls on a holiday or on a Sunday—may the lawyer file his memorandum on the succeeding business day of the court? It would appear that Rule 6 of the Colorado Rules of Civil Procedure applies to the local rules, and attorneys may file on the next business day of the court without waiving any rights.

If a motion and memorandum under Rule 4 are filed, the court has promised prompt determination of the motion.[3] If the court feels that the motion may be well founded, it may set the matter

[2] Rule 9, Local Rules of Practice of the United States District Court for the District of Colorado, provides that the adverse party may file within ten days after service a memorandum of his position; and if he does so, the moving party may file a reply memorandum within five days after service thereof.

[3] If the motion docket continues at its normal pace, it may well become necessary to provide the motion Judge with a law clerk.

for oral argument. The rule also provides that the court may set the time for the oral argument and the amount of time allotted for the argument. It would seem that this provision of Rule 4 is somewhat impractical. Many trial lawyers have arguments and cases set for trial many months in advance. A date selected by the trial court for an oral argument may conflict with a prior commitment of the lawyer. This could involve the motion judge in a telephone marathon. It is also difficult to see how the court, without knowing the position of the opposing party on a particular motion, can allot time for the argument. This could conceivably cause a harried and congested day in the life of the motion judge.

Rule 4 also provides that memoranda citing authorities and the position of the moving party may not be in printed, mimeographed or photostat form. This is obviously required to prevent the filing of a canned brief. What type of brief should be filed with the court in support of the moving party's position? It would seem that the wisest course for the lawyer to follow is to file a short and concise memorandum. This, of course, depends upon how complicated the position of the moving party would be. Certainly a rule of thumb—and one welcomed by the court—would be: the briefer the better.

Rule 4 does not specifically provide for a memorandum in support of a motion for a bill of particulars. Judge Edward E. Pringle, (formerly of the Court's Rules Committee), points out that although

a bill of particulars is not specifically covered, the Colorado Rules of Civil Procedure make no distinction between a motion for more definite statement or bill of particulars.

If the defense of failure to state a claim against a defendant upon which relief can be granted is asserted as a defense in the defendant's answer, counsel need not file a memorandum in support of that particular defense. This would likewise be true for similar defenses of failure to join an indispensable party or lack of jurisdiction over the person or the subject matter. But a memorandum must be filed if a cross-claimant, intervenor or third party files a Rule 4 motion directed to the pleadings of another party in the action and the matter has not reached the pretrial conference stage. If a memorandum is not filed, the motion will be considered abandoned.

Rule 4 further provides that in the event the moving party desires to support his motion by affidavits or other documentary evidence, such affidavits and documentary evidence should accompany the original memorandum.

Rule 4 is perhaps just as significant for those motions in which it does not require the written memoranda, such as motions for summary judgment, judgments on the pleading, motion to elect, and, in general, discovery motions. These are extremely important motions, and can have disastrous effect upon the parties under given circumstances. Perhaps a memorandum should be required when some of those motions are asserted, except general discovery motions.

By way of warning, it is important, under the system which is currently being used by the court in handling motions, that the lawyer not consolidate Rule 4 motions with other motions. For example, if the personal injury lawyer should file a motion to dismiss and consolidate it with a motion for physical examination and through inadvertence fail to file his memorandum in support of his motion to dismiss, the clerk's office will notify the erring lawyer that his pending motions have been denied. The clerk will undoubtedly fail to segregate the motion to dismiss from the motion for a physical examination, which, of course, does not require a written memorandum under Rule 4.

As to those motions not covered by Rule 4, the procedure will remain the same: that is, either the moving party or the party opposing the motion may notify opposing counsel that he will appear in Division 1 to set the motion for hearing before the motion judge.

If counsel for the moving party desires more time within which to file his written memorandum in support of his motion, it is not enough that he merely obtain permission for an extension of time from opposing counsel. Rule 28 of the local rules provides that no oral agreements of counsel or litigants concerning the progress or management of any matter pending in court will be enforced by the court, unless made in open court or with the court's approval. The presiding judge and the presiding judge elect have made it quite clear that oral agreements or stipulations among the parties or their counsel will not be enforced unless the court approves the

stipulation and enters an order pertaining thereto. The lawyer should note this rule with extreme care, for the former practice of obtaining an agreement by telephone or by written stipulation will no longer be enforceable in the Denver District Court, unless the court is advised and approves. The lawyer, therefore, may be jeopardizing his client's position, as well as waiving his rights, if he relies on a verbal agreement.

Finally, it should be mentioned that the moving party, if he obtains oral argument on his motion after having filed his written memorandum in support of that motion, will not be limited by the court to the legal authority cited in his written memorandum.

Even though the local rules have been in operation for a short time, the effect of Rule 4 has already been felt in that far fewer motions covered by Rule 4 have been filed and a greater percentage of cases are more quickly coming to issue.

Rule 5

It is clear that litigants' counsel control and manage their cases from the moment they are filed and docketed in the Denver District Court until the matter reaches the state of the pretrial conference. From this point, the court firmly controls the litigation. Rule 5 provides that there shall be a pretrial conference in *every* contested civil case with certain exceptions, such as domestic relations cases, habeas corpus proceedings and proceedings to review administrative decisions. This does not mean that a pretrial conference will be had while the jury panel sits in the rear of the courtroom and the lawyers have appeared prepared to commence the trial of their

lawsuit. It is clear—and those lawyers who have already experienced a pretrial conference in the Denver District Court will confirm—that a significant, detailed and useful pre-trial conference will be had under this new rule.

Unlike the federal court system, the Denver District Court will not automatically set a case down for pretrial conference. This is solely the duty of the lawyer. His case is set for pretrial by his request and by his noticing opposing counsel into Division 1 for the setting of the conference. In his request for pretrial conference, counsel must state that the case is at issue, whether a jury has been demanded, the time required for a pretrial conference, and whether the case is entitled to a preference by statute. At the time the request for pretrial conference is made by counsel, he must file with the clerk "A Certificate of Readiness" in which counsel must certify as an officer of the court that before the pretrial conference is conducted all matters required by the order setting the case for pretrial will be complied with, and that he will be prepared to try his case within three weeks after the pretrial conference. The "Certificate of Readiness" requirement should indicate to the lawyer that the court is serious about its new rules.

When requesting counsel obtains his conference date and appears in Division 1 pursuant to the notice he has previously given, the presiding judge will sign an order setting the pretrial conference. It is the responsibility of counsel obtaining the order to serve it on opposing counsel.

Rule 5 contains a typical order setting a matter for pretrial conference. It imposes upon counsel definite and specific responsibilities. Prior to the pretrial conference, counsel must mark all exhibits and documents which he might offer and provide copies of these documents and exhibits for opposing counsel.[4] Counsel must also exchange lists of witnesses upon whom they will rely for testimony and a resume of that testimony. Discovery must be completed prior to the pretrial conference.

At the pretrial conference, each attorney must submit (this does not have to be in writing; however, it is preferable) a concise statement of the facts in the case, written stipulations reached by counsel, a list of witnesses, the documentary evidence to be introduced at trial, a waiver of claims or defenses, jury instructions, a statement of the contested issues of fact and issues of law and a brief statement of the points of law upon which counsel intends to rely at trial. The court has certain responsibilities at the pretrial conferences as well. It must rule on all proposed amendments, must decide all undecided preliminary motions, rule on the admissibility of documentary evidence, simplify the issues and explore prospects of settlement.

Significant in Rule 5 is the provision that counsel bring with them either the party they represent or someone fully authorized by that party to settle the case and make admissions. This provision, however, is not intended to turn the pretrial conference into judicial arm-twisting to settle. Some of the judges currently sitting

4 This includes copies of all medical reports.

on the bench of the Denver District Court take the position that a party present at a pretrial conference, even though he is not under oath, may be forced to make admissions. On the other hand, some lawyers do not believe that a party not under oath can be forced to make an admission. The Colorado Supreme Court may have to answer this question. The plaintiff must prepare a pretrial order, a sample of which is found in Rule 5. The attorney for the defendant must approve the pretrial order, both as to form and content. If counsel for the parties cannot agree on the contents of a pretrial order, the matter will be resolved by the trial court conducting the pretrial conference.

Rule 5 poses several interesting questions. What if one of the attorneys representing a party does not comply with Rule 5, does not cooperate with counsel for the opposing party and appears at the pretrial conference unprepared? The rules contain no specific sanction, and it is difficult to anticipate what action, if any, the trial court conducting the pretrial conference will take. It would appear from the current attitude of the Denver District Court that if the same attorney consistently fails to observe the requirements of Rule 5, some disciplinary action will undoubtedly be taken.

The Rule 5 requirements and the form set forth therein for a pretrial conference order and for the conduct of the pretrial conference are flexible, and may be modified as circumstances require. For example, in a protracted case or in a case where there are innumerable exhibits or other matters of a similar nature, the procedures of the pretrial conference (as well as the order) may indeed be modified.

It is noted that counsel must submit a list of witnesses and a brief resume of their testimony at the pretrial conference; however, the resume need not be set forth in the pretrial order. The reason for this is obscure, particularly if the pretrial order is to be the law of the case and the guide to the conduct of the case. The question arises as to what happens when the resume of the testimony given at pretrial is not the testimony that is in fact given when the trial is conducted. This may change the course of the entire trial. What would the court do in such a circumstance? It is suggested that the court, upon analysis of the testimony given as compared to the testimony that was expected to be given, could, if it considered the matter sufficient "surprise" to seriously affect the conduct of oppos-

ing counsel's case, grant a continuance. The court should be aware of the fact that some attorneys may use this deceptive practice in order to obtain an advantage which they could not have otherwise obtained under the new rules, for the basic philosophy of the new rules is strict disclosure of one's case at a pretrial conference.

Although the rules do not provide, it is clear that plaintiff's counsel need not list rebuttal witnesses at pretrial; it is also clear that a summary of testimony expected of an adverse witness need not be given.

Some lawyers question the wisdom of submitting instructions at the pretrial conference, for the reason that in many cases instructions cannot be prepared and studied until the case is actually tried, and the evidence is in. Having to anticipate at the pretrial conference, what instructions might be applicable may be a waste of court's and counsel's time, as well as the client's money.

The court will consider defendant's defenses set forth in his pleadings at the time of pretrial conference. Judge Pringle (when acting as presiding judge elect) has indicated that the court should, if it finds that none of the defenses asserted by defendant are meritorious as a matter of law, enter judgment for the plaintiff forthwith at the pretrial conference. Conversely, he also indicated that some judges may, after a complete statement by plaintiff of the facts which he intends to prove, decide that these facts as a matter of law give rise to no cause of action, and enter judgment forthwith dismissing plaintiff's complaint. What the Colorado Supreme Court would do in such a circumstance is indeed interesting conjecture.

The pretrial order, once it is signed by the trial court, becomes the law of the case and will govern at the trial. Generally, no amendments will be permitted after the order is signed unless one of the parties can show manifest injustice. It would seem clear, for example, that if a defense having been stricken at the pretrial conference and in the pretrial order, appears at the time of trial to have merit, the pretrial order can be amended and the defense reinstituted and relied upon by the litigant. Although the form pretrial order in the rules does not contain a provision for counsel to use additional witnesses or additional documentary evidence, the court may permit counsel to certify additional witnesses and evidence his intent to profer additional documentary evidence if such witnesses and evidence are certified within a time specified by the court by written notice filed with the clerk of the district court and given to opposing counsel.

It is anticipated that trial may be held three to five weeks after the pretrial conference is conducted. The court, in implementing these rules, intends that wherever possible the judge who conducts the pretrial conference will also preside at the trial. This, of course, must be a flexible rule because of the practice of rotating judges among the criminal, domestic relations, and civil divisions. At the present time, trials are obtainable in approximately three months after the pretrial conference is conducted. This time, of course, will be shortened as the system governed by the new local rules progresses.

Rule 6

One serious problem that the district court has encountered in the prior practice is the failure of counsel to notify the court and the clerk's office when a case is disposed of or settled. Rule 6 of the new local rules is aimed to correct a situation which has left the docket of the Denver District Court loaded with antique cases, long since settled or disposed of, but still carried on the master docket because of counsel's failure to advise. Rule 6 provides that counsel shall notify the clerk of the respective division in which his case is pending in the event it is disposed of or settled. The rule has teeth, for it provides that any violation may render counsel subject to "disciplinary action." What disciplinary action will be invoked remains as yet undisclosed; however, some judges presently on the bench make it clear that action will be taken "to educate" counsel who persist in violating this rule.

IV. OTHER INNOVATIONS WORTH MENTION

Of the thirty-one new local rules, there are several others that should be mentioned.

The lawyer who practices domestic relations law should note Rule 8 which is devoted to certain practices in Division 3, the Domestic Relations Division of the Denver District Court. He should also be aware that many of the new local rules do not apply to domestic relations cases. Rule 8 provides that Monday shall be devoted to non-contested divorce cases. The rule further provides that the plaintiff's attorney shall, in effect, protect and preserve the rights of the non-appearing defendant by keeping him advised by certified mail, return receipt requested, of the time and place the case will be heard and generally of his right to be present. Rule 8 also provides the procedure which a party shall follow in cases involving financial relief or the division of property. This rule should be carefully observed, as there are sanctions (such as counsel's losing his right to be heard when scheduled) for failure to do so. In the domestic relations division, no motion or petition may be called up for hearing "forthwith;" reasonable notice to the opposing party must be given and is defined in the rules to be three days.[5]

[5] Except, of course, no notice would be required in *ex parte* proceedings.

If the new local rules for the Denver District Court are strictly applied, and every indication is that they will be, continuances will be a rare thing, for Rule 9 provides that cases shall *not* be continued upon stipulation of counsel alone, but continuances may be granted only by order of court and on "good cause shown."

An interesting safeguard which may now be invoked by the lawyer under the new local rules is the suppression of information that an action has been filed while the process server seeks to serve the defendants. Rule 12 of the new local rules provides that the plaintiff may apply to the presiding judge for an order of suppression, and he may enter it in his discretion.

The new local rules of the Denver District Court also clarify several matters pertaining to jury trials. Rule 13 provides that if a party fails to demand a jury trial as provided by the Colorado Rules of Civil Procedure, no jury trial shall be had.[6] It has been understood in the past that the trial court could grant an untimely request for a jury trial if in its own discretion it felt a jury trial was warranted or advisable. There appears to be no change.[7] Rule 30 provides that the party who demands the jury trial shall deposit a jury fee with the clerk of the court within five days after the case has been set for trial. This procedure, as outlined by the local rules, has some practical implications. It would seem to be wise practice to pay the jury fee at the time the demand for jury is made rather than risk the possibility of inadvertent failure to pay within the proper time period. The litigant need not worry about recovering the jury fee in the event the case is settled, or in the event a jury trial is thereafter waived, for the jury fee will be refunded up to the time that the jury has reported for duty on the morning of trial. The court has indicated that if the party demanding a jury trial fails to pay the required jury fee and the opposing party also wished a jury trial but made no demand because the demand had previously been made, then he too loses his right to a jury trial. Failure to pay the jury fee by either party within the time prescribed renders the demand for jury trial null and void.

Rule 14 of the new local rules contains another significant change in the practice formerly followed in the Denver District Court. It was previously the practice in the ordinary case to record, verbatim, only the testimony taken. Often, opening statements, closing arguments and legal arguments on motions were unreported. As many lawyers, including the writer, are sadly aware, the failure to request the verbatim reporting of some of these matters can frustrate a meritorious point on review. Rule 14 provides that an official reporter shall attend each session of the court and record verbatim *all* proceedings, unless the parties, with the approval of the judge, shall specifically agree to the contrary. Rule 14 also eliminates another quirk of fate which often returns to haunt the practitioner: the loss of reporter's notes or the reporter's death with his secrets of transcription forever lost. The rule provides that the reporter shall attach his original certificate to notes or record so taken, together with a statement showing the date, division, name

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6 Rule 13(b) goes on to say: "However, nothing in this rule shall limit the court from ordering a jury trial on its own motion within the limits of its jurisdiction, or from granting a jury trial under the modification power of the court set forth in Rule 39 of the Colorado Rules of Civil Procedure."

7 See Jaynes v. Marrow, 355 P.2d 529 (Colo. 1961).

of judge, caption of the case and promptly file these notes with the clerk of the court, who will preserve them for not less than ten years—an important safeguard to an occasional bugaboo.

Rule 16 provides a further guide to counsel who wish to take depositions. Reasonable notice for the taking of depositions under Rule 30(a) of the Colorado Rules of Civil Procedure is defined as five days. Rule 16 further provides that upon application made within that five-day period, the time for the taking of the deposition may be enlarged or shortened. It is also interesting to note that Rule 16 provides that the failure of the witness to appear for the taking of his deposition pending the determination of an application to enlarge the time for the taking thereof will not be considered "willful failure to appear" within the meaning of Rule 37(d) of the Colorado Rules of Civil Procedure. This will obviate the necessity of the court's hearing applications to hold the non-appearing party in contempt or to strike a litigant's pleadings.

Rule 17 of the new local rules outlines how an attorney shall withdraw his appearance in a case. It provides very simply that the attorney may withdraw only by court order. The order of withdrawal may only be granted on evidence that the request to withdraw has been served upon the client[8] and opposing counsel, and that each has ten days to file objections to the withdrawal.

Rule 18 of the new local rules provides the method by which an action may be dismissed for lack of prosecution. It states generally that if a case has been pending for a year and no progress has been made in that case, or it has not been set for trial or pre-trial, the clerk shall give 30 days notice within which counsel may show good cause why the case should not be dismissed. If no showing is made, the court may enter an order of dismissal with *or* without prejudice. This is a departure from, and an improvement over, the old rule and practice where the action would be dismissed only with prejudice. The change was effected because it was felt that in some extraordinary cases the dismissal with prejudice for lack of prosecution could work a severe and unjust hardship on a litigating party. Rule 18 also provides that opposing counsel may file a motion to dismiss the case for lack of prosecution. This is a wise provision and may be put to good tactical use by the lawyer.

Another interesting innovation is contained in Rule 22 which provides that if in any proceeding a party attacks the validity or constitutionality of a Colorado statute or a municipal ordinance, franchise or charter provision of any Colorado municipality, that party shall serve copies of all pleadings upon either the chief executive officer of the municipality or upon the attorney general of the state. It is significant to note that the notice of claim of unconstitutionality must be filed on the respective public official when the issue is raised in *any* proceeding; this could include many criminal actions and administrative proceedings, as well as civil actions.

Those who practice criminal law should examine and study Rule 24 of the new local rules pertaining to criminal proceedings. This rule sets out the system of assignment of criminal cases to the judges in the criminal division. It also provides certain procedures and regulations pertaining to recognizance and bonds.

8 Details of what must be contained in the notice to the client appear in the Rule itself.

The new rules also provide an answer to a problem which has vexed many lawyers when the decision is made to appeal an adverse ruling of the trial court. The problem is when does the time on appeal begin to run? When was final judgment entered? As the lawyer knows, a slight miscalculation may forfeit the appeal. Rule 27 of the new local rules of the Denver District Court fixes the time for entry of judgment. It provides that judgment shall be entered on the docket by the clerk and such entry on the judgment docket shall constitute the entry of judgment under the Colorado Rules of Civil Procedure. Rule 27 further provides that when the court directs findings of fact and conclusions of law, a judgment or an order must be prepared and the clerk will enter on the minutes that the attorney is ordered to prepare an order in accordance with the ruling of the court. A draft of the order and judgment is then prepared, served on opposing counsel and lodged with the clerk for presentation to the court. If the judge is not satisfied with the judgment, he may notice the parties in to discuss and resolve the judgment. If opposing counsel is not satisfied with the proposed judgment, he may file a motion to amend or correct it. Most important, the judgment is not entered on the docket until signed by the court.

As with all mandatory rules of practice and procedure, some provision must be made for modification of the rule in the event of extraordinary circumstances in which the application of the rule would render the result manifestly unjust. Rule 31 of the new local rules provides for just such an exigency. Modification of the rule may be made by request in writing and an opportunity to be heard on the modification shall be given.

It is recognized by the bench and bar that the new Denver District Court Rules are not perfect. Those that prove to be weak or impractical will be changed or revoked and more workable rules adopted in their place. The bench in its implementation, and the bar in its application, of the rules can make this step forward in the administration of civil justice a firm one; a step which the bench, the bar and the litigating public may justly commend.