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Philip S. Van Cise

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Amendments to Colorado Rules of Civil Procedure

Amendments to Colorado Rules of Civil Procedure

By PHILIP S. VAN CISE*

Since January 6, 1941, the Supreme Court, at the request of the committee, has made changes in the text and the committee has made changes in the editorial context. As the Annotated Rules and Volume 107 of the Colorado Reports, both of which will shortly be published, will have these corrections, it is thought advisable that these changes be published in advance so that each lawyer may correct his pamphlet copy now.

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(Bradford edition), change "86 to 97" to read "86 to 96."

KEY

Line 2, change "subparagraphs" to "subdivisions."

Paragraph 3, line 3 (Bradford edition), change "98" to "97."

At the bottom of the page after paragraph 6, add two new paragraphs:

"7. Source references are to Vol. 1, C. S. A."

"8. As the use of the prefix capital 'C' for Colorado, is rather confusing in citations, and is only a guide for comparison with the Federal Rules, we recommend that it be omitted in references. Example: Refer to 'Rule 9 (a) (1)' rather than 'Rule 9 C (a) (1).'

TABLE I.

Make these changes in cross-references: After old Rule "3" strike "64 (k)" and "(g)" and after Rule "14 C" strike "64."

TABLE II.

After Code Sec. 1 insert semicolon before "2"; after 64 change "(g)" to "(j)"; after 159 strike "64 (g)"; after 160, 163, 167, 177 strike "(b)"; after 161 strike "62 (b)"; after 162 strike "4 (d)"; after 170 strike "65 (b)" and have it read "43 C (e); 65"; after 171 strike "(b)"; after 175 strike "13 (a)" and add "110 (d)" after "65 (b)"; after 181 strike "66 (b)" and change "7 C (b)" to "7 (a), (b)"; after 180 and 183 strike "C"; after 365 change "37 (b) (2) (iv)" to "107 (d)"; after 417 change "(b)" to "C (b)"; after 458 change "110 (c)" to "Superseded."

CHAPTERS, RULES AND SUBDIVISIONS

In Rule 6 insert "C" before "(b)."

In Rule 9 (2) insert "C" before "2."

*Chairman of the Rules Committee of the Supreme Court and Chairman of the State Bar Committee.

In Rule 12 change "(e)" to "C (e)."
 In Rule 45 insert "C" before "(a)."
 In Rule 55 insert "C" before "(f)."
 In Rule 98 (d) strike "at law."

RULES

Rule 4, Note, line 1, change "(i)" to "(j)."
 Rule 4 (b), change "134, 171" to "and 134."
 Rule 4 (g) (1), third sentence, after the word "process" add "and a copy of the complaint."
 Rule 4 (i) (5), change "defendant" to "person to be served."
 Rule 6 (b) add the prefix "C" before (b).
 Rule 7 (a) in brackets change "and 54" to "54 and 181."
 Rule 8 C (a) change "Rule 13 C (k)" to "Rule 13 C (1)." At the end of this subdivision take the first sentence out of the brackets and put "bracket" before "Supplants." Place the first sentence under the subdivision thus:

"NOTE

(1) was amended because it was Federal and the change was made because of the County Court limitation of \$2,000.00."

Rule 9 (2) change to "C (2)." Place the following after subdivision C (3):

"NOTE

See Rule 54 C (g)."

Rule 11, in the last line of the note strike "and" and at the end add "motion for service by mail, Rule 4 (g); motion for service by publication, Rule 4 (h); and motion for order authorizing sale under power, Rule 120 (a)."

Rule 12 (b) in the second paragraph of the note change "(1 to 5)" to "(1) to (5)", and make the same change in the first line of the third paragraph. In Subdivision (e) insert "C" before (e).

Between the caption of Rule 13 and Rule 13 (a) insert:

"NOTE TO RULE

See Rule 110 (d)."

Rule 13 (g) strike everything in the brackets.

Rule 13 C (j) in the brackets change "Sec. 4" to "Secs. 4 and 64."

Rule 14 (a) after the subdivision add:

"NOTE

See Rule 110 (d)."

Rule 20 (a) (Hirschfeld edition only), line 2, change "is" to "if"; also line 11, change "of fact" to "or fact."

Rule 22, at end of Note add: "For additional parties defendant, on counter-claim for interpleader, see Rule 13 (h)."

Rule 26 (d) (3) after "(5)" change "application" to "motion."

Rule 26 C (f), first paragraph of the note, strike the second "have" from the first quotation and after the second quotation add ", and."

Rule 30 C (h) amend last part of note by striking the last clause after "on" and adding "parties specified in the subdivision."

Rule 35 (b) (Bradford edition only) elide "(1)" from the subdivision and place "(b) Report of Findings" on the same line with "If requested," etc.

Rule 41 (b) C (2) change note to read: "There is no Federal subdivision (b) (2)."

Rule 43 C (b), last line of note, change "cross-examined" to "interrogated."

Rule 43 C (e) in brackets, insert "170" after "169."

Rule 44 C (d) in brackets, change "Supplants" to "From."

Rule 44 C (f) add:

"NOTE

See Rule 264 for copies of printed laws in Supreme Court Library."

Rule 45 (a) change to "C (a)."

Rule 45 (c) last line, change "C (g)" to "(i)."

Rule 47 (b) follow with this:

"NOTE

If one alternate juror is desired call three extra jurors into the box, and each side will exercise one peremptory challenge to said three jurors. If two alternate jurors are desired call four extra jurors to the box, and each side will exercise one peremptory challenge to said four jurors."

Rule 52 (b) add:

"NOTE

Compare Rule 59 C (e)."

Rule 55 (f) insert "C" before "(f)" to read "C (f)."

Rule 56, after subdivision "(e)" strike the note.

Rule 59 C (e) after first sentence in Note insert "Compare Rule 52 (b)."

Rule 60 C (b) (Bradford edition) in brackets insert "Sec." before "81."

Rule 64 (Bradford edition) place the word "Note" immediately under "Rule 64."

Rule 65 (b) in the brackets strike all after "Secs." and add "165 and 167.]"

Rule 65 C (i) change the Note to read: "Code Sec. 178 A and this subdivision are in conformity with Federal Judicial Code Sec. 266." Then add:

"NOTE TO RULE

In the opinion of the committee Rule 65 and other rules supplant

all of Code Sections 159 to 178 A, except that portion of Code Section 162 referred to in the 'Statement by the Revision Committee.'

Rule 66 (Bradford edition) place "Note" immediately under "Rule 66 Receivers."

Rule 66 (a) (3) add "[Supplants Code Sec. 180.]"

Rule 66 (b) in brackets change "181" to "183."

Rule 79 C (b) in brackets strike the "s" in "Rules"; also strike "and d."

Rule 79 C (c) insert:

"NOTE

For indices see 2 C. S. A. Chap. 46, Secs. 1 and 2."

Rule 79 C (d) strike wording in brackets and insert "From Code Secs. 248 and 250."

Rule 98 (d), line 1, strike "at law" in heading and body.

Rule 102 (q) last word in Note change "Rules" to "rules."

Rule 105 (b) add:

"NOTE

The language of this subdivision is contained in Senate Bill 712, Section 2, approved by Governor Carr April 17, 1941."

Rule 106 (3), second sentence, change "proper district may, and when" to "proper district may and, when."

Rule 107 (c) strike the second paragraph of the note.

Rule 107 (d) in the bracket change "and 364" to "364 and 365."

Rule 110 (d) strike "new" in the brackets and insert "[From Code Sec. 175 and new.]"

Rule 111 (a) at end insert:

"NOTE

Senate Bill 498, approved by Governor Carr April 10, 1941, abolishes all forms of review by the Supreme Court other than writs of error."

Rule 112 (a), next to last line, change "thirteen inches in length" to "thirteen or fourteen inches in length."

Rule 115 (a) (Bradford edition), line 1, change "(c)" to "(k)."

Rule 115 (c) change to read, "Every brief filed in the Supreme Court, except one filed in support of or in opposition to a motion, shall contain," etc.

Rule 115 (h), has been changed for printing specifications as follows:

Lengths of paper from "thirteen" to "thirteen or fourteen."

"Blue white wove" to "white wove."

"Eighty pounds" to "sixty pounds."

Page dimensions "nine and one-quarter" instead of "nine and one-eighth."

"Forty ems" instead of "forty-four."