

## DEPARTMENT OF LAW

### Consumer Protection Section

#### Investigative Hearing Rules

##### 4 CCR 904-2

The following non-exhaustive list of rules shall govern Investigative hearings conducted by the Office of the Attorney General, pursuant to the Colorado Consumer Protection Act, C.R.S. § 6-1-108(1), and the Colorado Antitrust Act, C.R.S. § 6-4-110(1)(b).

- A. Investigative Hearings – Form. Investigative Hearings, conducted by the Attorney General, may be conducted in the form of a deposition, under oath, at the sole discretion of the Attorney General. Investigative Hearings may be conducted in-person, over the phone, or through videoconferencing technology, at the sole discretion of the Attorney General. Unless otherwise stated in C.R.S. §§ 6-1-108 and 6-4-110, such Investigative Hearings are not subject to the Colorado Rules of Civil Procedure.
- B. Who May Conduct Investigative Hearings. The Attorney General, at its sole discretion, may designate which personnel will conduct Investigative Hearings, ask questions, and state objections during such hearings. The Attorney General expressly prohibits counsel representing a witness during Investigative Hearings from asking questions during such hearings absent express consent from the Attorney General.
- C. Who May Attend Investigative Hearings. Absent the Attorney General's express consent, attendance at the Investigative Hearing shall be limited to the witness and his or her counsel; any employees and unpaid personnel of the Attorney General; any experts retained by the Attorney General; any court reporter, videographer, stenographer, or other person designated to produce a record of the Investigative Hearing by the Attorney General; and employees and unpaid personnel of state and federal law enforcement agencies designated by the Attorney General.
- D. Investigative Hearings of Entities. The Attorney General may issue subpoenas to any for-profit or non-profit corporation or partnership or association or governmental entity to produce witnesses to appear and give oral testimony at Investigative Hearings. The subpoenas may designate with reasonable particularity the matters on which examination is requested. In response to such subpoenas, the entity must designate one or more officers, directors, or managing agents, or designate other persons to testify on its behalf. Unless a single individual is designated by the entity, the entity must designate in advance and in writing the matters on which each designee will testify. The persons designated must testify about information known or reasonably available to the entity and their testimony shall be binding upon the entity.
- E. Recording of Investigative Hearings. The Attorney General may, at its sole discretion, direct that the testimony be transcribed by a certified court reporter and recorded by audio, audiovisual, or other means.
- F. Permissible Objections. Any objection during an Investigative Hearing shall be stated concisely and in a non-argumentative and non-suggestive manner. An instruction not to answer may be made during an Investigative Hearing only when necessary to preserve a legally recognized privilege.
- G. Length of Investigative Hearings. Investigative Hearings are not subject to the time limitations described in C.R.C.P. 30(d)(2)(A) or the Federal Rules of Civil Procedure. An Investigative Hearing shall be continuing for a reasonable amount of time unless and until the Attorney General specifies that it has ended.

- H. Number of Investigative Hearings. The Attorney General may conduct as many Investigative Hearings of an individual or organization as reasonably necessary to carry out an investigation. Investigative Hearings are not subject to the quantitative limitations described in C.R.C.P. 26(b)(2)(A) or the Federal Rules of Civil Procedure.
- I. Confidential Nature. Exhibits and copies of exhibits used during Investigative Hearings are a part of the confidential investigation files of the Office of the Attorney General and disclosure during an interview does not waive the confidential nature of the investigation. Transcripts and recordings of Investigative Hearings are a part of the confidential investigation files of the Office of the Attorney General and will not be made available without the express consent of the Attorney General. Witnesses and counsel may not record the Investigative Hearing or retain exhibits, or copies of exhibits, used during the Investigative Hearing.