

AGENDA

COLORADO SUPREME COURT COMMITTEE ON THE RULES OF CIVIL PROCEDURE

Friday, September 23, 2022, 1:30 p.m.
Ralph L. Carr Colorado Judicial Center
2 E.14th Ave., Denver, CO 80203

Fourth Floor, Supreme Court Conference Room

- I. Call to order
- II. Approval of June 24, 2022, minutes [Pages 1 to 4]
- III. Announcements from the Chair
 - A. General
 - B. 2023 Meeting Dates: January 27; April 7; June 23; September 22; November 3
 - C. Rule Changes 2022(11) and (12) [Pages 5 to 33]
- IV. Present Business
 - A. C.R.C.C.P. Forms 4 and 5—Appeal Forms Workgroup Request—(Ana Rodriguez) [Pages 34 to 38]
 - B. C.R.C.P. 16.2—Simplified Process for Dissolution of Marriage in Low-Income/Low-Conflict Situations—(Judge Brody) (materials will be sent out as a supplement)
 - C. Proposed Amendments in FED Actions—(Judge Espinosa) [Pages 39 to 71]
 - D. Proposed Changes to Forms 29 and 30 Relating to SB 22-0086—(Jose Vasquez) [Pages 72 to 80]
- V. Adjourn—**Next meeting is November 4, 2022, at 1:30 pm.**

Jerry N. Jones, Chair
jerry.jones@judicial.state.co.us
720-625-5335

**Colorado Supreme Court Advisory Committee on the Rules of Civil Procedure
June 24, 2022, Minutes**

A quorum being present, the Colorado Supreme Court Advisory Committee on the Rules of Civil Procedure was called to order by Judge Jerry N. Jones at 1:30 p.m. in the Supreme Court Conference Room. Members present at the meeting were:

Name	Present	Not Present
Judge Jerry N. Jones, Chair	X	
Judge Michael Berger	X	
Judge Karen Brody	X	
Miko Ando Brown		X
Judge Catherine Cheroutes	X	
Damon Davis	X	
David R. DeMuro	X	
Judge Stephanie Dunn	X	
Judge J. Eric Elliff		X
Judge Adam Espinosa		X
Peter Goldstein	X	
Magistrate Lisa Hamilton-Fieldman	X	
Michael J. Hofmann	X	
Judge Thomas K. Kane	X	
John Lebsack	X	
Bradley A. Levin	X	
Professor Christopher B. Mueller		X
Brent Owen	X	
John Palmeri	X	
Alana Percy		X
Lucas Ritchie	X	
Chief Judge Gilbert M. Román		X
Judge (Ret.) Sabino Romano		X
Judge Stephanie Scoville	X	
Lee N. Sternal		X
Magistrate Marianne Tims	X	
Andi Truett	X	
Jose L. Vasquez	X	
Judge Juan G. Villaseñor	X	
Ben Vinci		X
Judge (Ret.) John R. Webb	X	
J. Gregory Whitehair	X	
Judge Christopher Zenisek		X
Non-voting Participants		
Justice Richard Gabriel, Liaison	X	
Jeremy Botkins		X

I. Attachments & Handouts

- June 24, 2022, agenda packet.

II. Announcements from the Chair

- Chair Judge Jones recognized three new members: Judge Cathy Cheroutes, Andi Truett, and Alana Percy.
- The April 8, 2022, minutes were approved as submitted.

III. Present Business

A. C.R.C.P. 42.1

Judge Jones explained that this proposed change comes from the clerk's office and is intended to conform the rule to current practice. A motion was made, seconded, and passed unanimously.

B. C.R.C.P. 23

Judge Jones said that this proposal comes from the Colorado Rules of Appellate Procedure Committee. That Committee is proposing a rule change to C.A.R. 3.3 and recommends a similar change to C.R.C.P. 23, since the rules mirror each other. The appellate rule has not yet been sent to the court for consideration. A motion and second were taken to approve the proposed change to C.R.C.P. 23. It passed unanimously.

C. Colorado Rules for Magistrates

Magistrate Tims explained that the Subcommittee has met several times this year and that the proposal before the committee currently includes more specifics about what a magistrate has the authority to do. There are still issues about what should be on the list related to consent. Magistrate Tims noted that during the last legislative session, dozens more magistrates were added because magistrates cost less than do district court judges, and that judicial districts use magistrates in different ways.

Following the Committee's discussion, Judge Jones noted that members seemed to have some basic disagreements: Is the clarity gained by requiring everything go through a district court before appeal to Court of Appeals worth the potential increase in the district courts' workload? A few members noted that anything that makes everything go through the district court will disrupt the magistrate system to some degree (the possible "ping-pong" effect). One member suggested a middle ground whereby a limited class of things must go through the district court. Magistrate Tims noted the Subcommittee hasn't determined how to define a list of issues that must be appealed first through the district courts.

A motion and second were made to limit the class of orders yet to be defined that **must** be appealed through the district court; everything else **may** be appealed through the district court if desired, and those issues may still be appealed to the Court of Appeals.

This motion passed 17-5. The Subcommittee will take this back and come up with language. Judge Jones and Judge Berger offered to assist should the Subcommittee desire it.

Judge Jones then directed the committee to vote on the proposals offered by the Subcommittee:

1) Motion to reconsider – should magistrates have the authority to reconsider? The Subcommittee will rework the exact timeline given other changes made today. This motion passed 20-0.

2) Everything else – save for other issues, should the series of 15-20 proposed changes be adopted, subject to the Subcommittee needing to tweak something? This motion passed 20-0.

3) Standard of review – clarifies that factual findings are subject to the clearly erroneous test, but it also takes away the discretion of district courts to hear matters anew. A motion was taken and seconded to leave the last sentences of C.R.M. 7(i) in place. By a vote of 18-2, it passed.

D. C.R.C.P. 16.2

Judge Brody updated the Committee on the process of crafting a simplified Rule 16.2, which is a domestic relations civil procedure rule that governs the life cycle of domestic cases. The rule addresses case management, permitted motions, disclosures and discovery, trial prep, sanctions, etc. The Subcommittee has been working on difficult questions, such as should the rule be for the majority of people doing dissolutions themselves? Pro se litigants often have difficulty navigating this area and the current rule isn't being uniformly applied.

Judge Brody said that the idea to update this rule arose 4-5 years ago and was brought to a standing committee on family justice. From there, a subcommittee formed and worked on a proposal and sent it to this Committee for consideration. Judge Brody's Subcommittee does have some issues with the original proposal. For example, it would be possible to come into court with no exchange of financial information between a divorcing couple. This Subcommittee is looking at some minimum of financial disclosure but perhaps limited to the sworn financial statement. In developing the rule and forms, complicating issues exist: People seem to lie a lot in domestic cases; power imbalances often exist; and many cases also involve domestic violence concerns. The Subcommittee is also considering a two-tiered system for short- and long-term marriages. The Subcommittee hopes to bring a proposal to the Committee in September.

E. Proposed Amendments for FED Actions

Held over.

F. C.R.C.C.P. Forms 4 and 5

Held over.

G. C.R.C.C.P. Forms 29 and 30

Held over.

H. The Professionals and Legal Services Group

Held over.

Future Meetings

September 23, 2022; and November 4, 2022

The Committee adjourned at 4:02 p.m.

RULE CHANGE 2022(11)
COLORADO RULES OF CIVIL PROCEDURE
Rules 6, 23, 42.1, 55 and JDF 187

Rule 6. Time

(a)(1) [NO CHANGE]

(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 nineteenth day of June, observed as Juneteenth Day](#); the fourth day of July, observed as Independence Day; the first Monday in September, observed as Labor Day; the first Monday in October, observed as Frances Cabrini 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.

(b) – (e) [NO CHANGE]

COMMENTS [NO CHANGE]

Rule 23. Class Actions

(a) - (e) [NO CHANGE]

(f) **Appeals.** An appeal from a written, signed, and dated order granting or denying class certification under this rule may be allowed pursuant to the procedures set forth in C.R.S. § 13-20-901 (2003).

(g) [NO CHANGE]

Rule 42.1. Consolidated Multidistrict Litigation

(a) – (c) [NO CHANGE]

(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.

(1) Except by permission of the Panel, briefs shall not exceed five (5) pages, exclusive of appendices. An original ~~and seven (7) copies~~ of each brief shall be filed with the Clerk of the Panel.

(2) Each side shall be allowed fifteen (15) minutes of oral argument at the hearing, unless extended by the Panel.

(e) - (l) [NO CHANGE]

Rule 55. Default

(a) Entry. When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter his default.

(b) Judgment.

(1) 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.

(2) In forcible entry and detainer cases, a court may enter default pursuant to subsection (1) above; however, the court shall not enter a default judgment for possession before the close of business on the date upon which an appearance is due as set forth by C.R.S. 13-40-111(1).

(c) - (f) [NO CHANGE]

District Court _____ County, Colorado Court Address: _____	
Plaintiff(s): v. Defendant(s):	
Attorney or Party Without Attorney (Name and Address): Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> Case Number: _____ Division _____ Courtroom _____
REQUEST FOR DOCUMENTS IN EVICTION CASES	

I _____, am the Plaintiff Defendant in this case.

I ask that the court order the other party in this case to give me all documents that the party has that are relevant to this case including:
(Relevant documents may include: A lease, the rent ledger or payment history, the eviction notice, and any other documents that you believe are necessary to be presented at trial.)

Please send documents to me at the following location and manner: _____

Dated: _____

Printed name of Plaintiff/Petitioner Defendant/Respondent Signature of Plaintiff/Petitioner Defendant/Respondent

CERTIFICATE OF SERVICE

I certify that on _____ (date) a true and accurate copy of this *REQUEST FOR DOCUMENTS IN EVICTION CASES* was served on the other party by:

Hand Delivery E-filed Faxed to this number _____ or by placing it in the United States mail, postage pre-paid, and addressed to the following:

Signature

FOR COURT USE ONLY BELOW THIS LINE:

ORDER

The Court orders that the party who was asked to provide documents in the above Request for Documents in Eviction Case must provide all documents related to this case to the party that made the request before trial occurs.

Dated: _____
 Judge Magistrate

Rule 6. Time

(a)(1) [NO CHANGE]

(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 nineteenth day of June, observed as Juneteenth Day; the fourth day of July, observed as Independence Day; the first Monday in September, observed as Labor Day; the first Monday in October, observed as Frances Cabrini 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.

(b) – (e) [NO CHANGE]

COMMENTS [NO CHANGE]

Rule 23. Class Actions

(a) - (e) [NO CHANGE]

(f) Appeals. An appeal from a written, signed, and dated order granting or denying class certification under this rule may be allowed pursuant to the procedures set forth in C.R.S. § 13-20-901 (2003).

(g) [NO CHANGE]

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(b) Judgment.

(1) 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.

(2) In forcible entry and detainer cases, a court may enter default pursuant to subsection (1) above; however, the court shall not enter a default judgment for possession before the close of business on the date upon which an appearance is due as set forth by C.R.S. 13-40-111(1).

(c) - (f) [NO CHANGE]

District Court _____ County, Colorado Court Address: _____ <hr/> Plaintiff(s): v. Defendant(s):	
Attorney or Party Without Attorney (Name and Address): Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____	▲ COURT USE ONLY ▲ Case Number: _____ Division _____ Courtroom _____
REQUEST FOR DOCUMENTS IN EVICTION CASES	

I, _____, am the Plaintiff Defendant in this case.

I ask that the court order the other party in this case to give me all documents that the party has that are relevant to this case including: _____.
 (Relevant documents may include: A lease, the rent ledger or payment history, the eviction notice, and any other documents that you believe are necessary to be presented at trial.)

Please send documents to me at the following location and manner: _____.

Dated: _____

 Printed name of Plaintiff/Petitioner Defendant/Respondent

 Signature of Plaintiff/Petitioner Defendant/Respondent

CERTIFICATE OF SERVICE

I certify that on _____ (date) a true and accurate copy of this *REQUEST FOR DOCUMENTS IN EVICTION CASES* was served on the other party by:

Hand Delivery E-filed Faxed to this number _____ or by placing it in the United States mail, postage pre-paid, and addressed to the following:

 Signature

FOR COURT USE ONLY BELOW THIS LINE:

ORDER

The Court orders that the party who was asked to provide documents in the above Request for Documents in Eviction Case must provide all documents related to this case to the party that made the request before trial occurs.

Dated: _____

 Judge Magistrate

Amended and Adopted by the Court, En Banc, June 29, 2022. Effective immediately.

By the Court:

**Richard L. Gabriel
Justice, Colorado Supreme Court**

RULE CHANGE 2022(12)

COLORADO RULES OF CIVIL PROCEDURE
Chapter 25 The Colorado Rules of County Court Civil Procedure

Rule 355
Forms 1A and 185

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).

(b) Judgment for Possession in Forcible Entry and Detainer Cases. A court may enter judgment pursuant to statute; however, the court shall not enter a default judgment for possession before the close of business on the date upon which an appearance is due as set forth by C.R.S. 13-40-111(1) and if the court is satisfied that service is complete pursuant to C.R.S. 13-40-112.

(c) At Time of Trial. Failure to appear on any date set for trial shall be grounds for entering a default and judgment thereon against the non-appearing party. For good cause shown, the court may set aside an entry of default and the judgment entered thereon in accordance with Rule 360.

Court <input type="checkbox"/> County Colorado County: _____ Court Address: _____	
Plaintiffs: _____ V. Defendants: _____ <input type="checkbox"/> Any and all other occupants	↑ Court Use Only ↑
My Name: _____ Address: _____ Phone _____ Fax: _____ Email: _____ Atty. Reg.#: _____	Case Number: _____ Division: _____ Courtroom: _____
Court Summons: Eviction / Forcible Entry and Detainer	

To the above-named Defendant(s), take notice that [your landlord is attempting to evict you. You need to take an action or an eviction order will enter against you. Your options are below:](#)

1. [If you do not agree with the Complaint, then you must either:](#)

a. [File your Answer with the Court on or before \(enter day\)](#) _____

[or](#)

b. [Attend court on \(enter date\)](#) _____, [at \(enter time\)](#) _____,
[at the court above in \(enter location/room number\)](#) _____

[and, if you choose not to reach a written settlement agreement with the Plaintiff, file your Answer that same day.](#)

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Court Date

On (enter date) _____,

at (enter time) _____,

at the court above in (enter location/room number) _____. ~~A copy of the complaint against you, a blank answer form, blank request for documents form, blank fee waiver forms, and an eviction information form are attached for your use.~~

the Plaintiff may ask the Court to enter judgment against you. This means you will have to move out and it may mean you have to pay money to the landlord.

2. [A copy of the Complaint against you, a blank answer form, blank request for documents form, blank fee waiver forms, and an eviction information form are attached for your use.](#)

~~3. If you do not agree with the complaint, then you must either:~~

~~File your answer with the Court at or before the court date specified above stating any legal reason you have why judgment should not be entered against you, or~~

~~Attend the court date and time above and file your answer.~~

~~3. To avoid being evicted for non-payment of rent, you can pay all amounts you owe stated in the Notice plus any other amounts due under your rental agreement. You must pay this amount before the Court enters an eviction order. A copy of the complaint against you, a blank answer form, blank request for documents form, blank fee waiver forms, and an eviction information form are attached for your use.~~

~~3. If you do not agree with the complaint, then you must either:~~

~~a. File your answer with the Court at or before the court date specified above stating any legal reason you have why judgment should not be entered against you, or~~

~~b. a. Attend the court date and time above and file your answer.~~

4. [If you take no action, the Plaintiff may ask the Court to enter an eviction order against you. If the Court grants that request, that means you will have to move out and it may mean you have to pay money to the landlord. However, the Court is not allowed to enter a default judgment for possession before the close of business on the date upon which your appearance is due.](#)

5. [When you file your Answer, you must pay all applicable filing fees to the Clerk of the Court. If you are eligible for a jury trial, you must ask for one in the answer and pay a jury fee in addition to the filing fee. If you cannot afford the filing fee or jury fee, file JDF 205 - Motion to Waive Fees and JDF 206 - Order for Fee Waiver.](#)

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~~56.~~ If you file an your Answer, you must provide a copy to the Plaintiff or the attorney who signed the complaint.

~~6.~~ If you do not respond to the landlord's complaint by filing a written answer with the Court, as set forth above, or appear in court at the date and time in this summons, the judge may enter a default judgment against you in favor of your landlord for possession. A default judgment for possession means that you will have to move out, and it may mean that you will have to pay money to the landlord.

~~7.~~ In your Answer to the Court, you can state:

- Why you believe you have a right to remain in the property,
- Whether you admit or deny the landlord's factual allegations against you and your legal defenses,
- Whether you believe you were given proper notice of the landlord's reasons for terminating your tenancy before you got this summons, and
- Whether you have a counterclaim or cross claim against ~~the landlord~~ a party.

~~87.~~ If you are claiming that the landlord's failure to repair the residential premises is a defense to the landlord's allegation of nonpayment of rent, the Court will require you to pay into the registry of the Court, at the time of filing your Answer, the rent due less any expenses you have incurred based upon the landlord's failure to repair the residential premises. If you cannot pay this amount, you may be eligible for a waiver by filing a motion. (See JDF 109). ~~In addition to filing an answer, you are required to complete an Affidavit (JDF 109) to support the amount you will need to pay into the registry of the Court or to seek waiver of this requirement.~~

89. Any records associated with the action are suppressed and not accessible to the public until an order is entered granting the Plaintiff possession of the premises.

40. ~~If the Plaintiff is granted possession of the premises, the court records may remain suppressed if both parties agree to suppress the records.~~

Dated: _____

Signed: _____ Dated: _____

Deputy Clerk of Court or Attorney for Plaintiff(s) (if applicable)

Address(es) of Plaintiff(s) (if applicable): _____

Telephone Number(s) of Plaintiff(s) _____

This Summons is issued pursuant to C.R.S. § 13-40-111. A copy of the Complaint together with a blank answer form, blank request for documents form, blank fee waiver forms, and an eviction information form must be served with this eSummons. ~~This form should be used only for actions filed under Colorado's Forcible Entry and Detainer Act.~~

~~To the clerk: If this summons is issued by the Clerk of the Court, the seal of the Court should be provided by stamp, or typewriter, in the space to the right of the signature.~~

~~WARNING: ALL FEES ARE NON-REFUNDABLE. IN SOME CASES, REQUEST FOR A JURY TRIAL MAY BE DENIED PURSUANT TO LAW EVEN THOUGH A JURY FEE HAS BEEN PAID.~~

- By checking this box, I am acknowledging I am filling in the blanks and not changing anything else on the form.
- By checking this box, I am acknowledging that I have made a change to the original content of this form.

CERTIFICATE OF MAILING

I/we, the undersigned Plaintiff(s) (or agent for Plaintiff(s)), certify that on _____ (date)

I/we mailed a copy of the Summons, Complaint, blank answer form, request for documents form, fee waiver forms, and an eviction information form by postage prepaid, first class mail, to

_____, the Defendant(s) at the following address(es):

_____.

Plaintiff(s)/Agent for Plaintiff(s)

Certificate of Service

~~I/we, certify that a copy of the summons, complaint, blank answer form, request for documents form, fee waiver forms, and an eviction information form were:~~

~~Served personally upon the following person on the following date and time:~~

_____.

OR

~~After diligent efforts, on (date) _____ were posted in some conspicuous place on the premises, and mailed by first class mail to the Defendants at the following address:~~

_____.

Signature of: Plaintiff(s) / Agent for Plaintiff(s)

Resources

- Colorado Judicial Branch Self Help Center
 - Your local Self Help Center can be found by following this link:
https://www.courts.state.co.us/Self_Help/center.cfm
 - Colorado Legal Services
 - Free legal services to low income tenants facing evictions.
 - Call (303) 837-1313 ext. 444 or visit <https://www.coloradolegalservices.org/>
 - Colorado Department of Local Affairs
 - The Division of Housing can help with rental assistance programs, housing counseling, eviction and foreclosure prevention, and other programs.
 - Call (303) 864-7810 or visit <https://cdola.colorado.gov/housing>
 - Colorado Housing Connects
 - Free housing, eviction, and foreclosure resources for tenants, landlords, homeowners, and homebuyers.
 - Call (844) 926-6632 or visit <https://coloradohousingconnects.org/>
 - Colorado Poverty Law Project
 - Free legal services to fight eviction and housing insecurity.
 - <https://www.copovertylawproject.org/>
 - COVID-19 Eviction Defense Project
 - Free legal aid and guidance to tenants facing eviction and housing insecurity.
 - Visit <https://www.cedproject.org>
-

Relevant Colorado Statutes

~~Colorado Revised Statutes section 13-40-111, as amended.~~

13-40-111. Issuance and return of summons.

(1) Upon filing the complaint as required in section 13-40-110, the clerk of the court or the attorney for the plaintiff shall issue a summons. The summons must command the Defendant to appear before the Court at a place named in the summons and at a time and on a day not less than seven days but not more than fourteen days from the day of issuing the same to answer the complaint of plaintiff. A court shall not enter a default judgment for possession before the close of business on the date upon which an appearance is due. The summons must also contain a statement

addressed to the Defendant stating: "If you do not respond to the landlord's complaint by filing a written answer with the court on or before the date and time in this summons or appearing in court at the date and time in this summons, the judge may enter a default judgment against you in favor of your landlord for possession. A default judgment for possession means that you will have to move out, and it may mean that you will have to pay money to the landlord. In your answer to the court, you can state why you believe you have a right to remain in the property, whether you admit or deny the landlord's factual allegations against you, and whether you believe you were given proper notice of the landlord's reasons for terminating your tenancy before you got this summons. When you file your answer, you must pay a filing fee to the clerk of the court. If you are claiming that the landlord's failure to repair a residential premises is a defense to the landlord's allegation of nonpayment of rent, the court will require you to pay into the registry of the court, at the time of filing your answer, the rent due less any expenses you have incurred based upon the landlord's failure to repair the residential premises; unless the court determines that you qualify to have this requirement waived due to your income."

13-40-112. Service.

(1)—Such summons may be served by personal service as in any civil action. A copy of the complaint must be served with the summons.

(2)—If personal service cannot be had upon the Defendant by a person qualified under the Colorado Rules of Civil Procedure to serve process, after having made diligent effort to make such personal service, such person may make service by posting a copy of the summons and the complaint in some conspicuous place upon the premises. In addition thereto, the Plaintiff shall mail, no later than the next day following the day on which he/she files the complaint, a copy of the summons, or, in the event that an alias summons is issued, a copy of the alias summons, and a copy of the complaint to the Defendant at the premises by postage prepaid, first class mail.

(3)—Personal service or service by posting shall be made at least seven days before the day for appearance specified in such summons, and the time and manner of such service shall be endorsed upon such summons by the person making service thereof.

County Court _____ County, Colorado Court Address:	
Plaintiff(s): v. Defendant(s):	▲ COURT USE ONLY ▲
Attorney or Party Without Attorney (Name and Address):	Case Number:
Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____	Division _____ Courtroom _____
REQUEST FOR DOCUMENTS IN EVICTION CASES	

I, _____, am the Plaintiff Defendant in this case.

I ask that the court order the other party in this case to give me all documents that the party has that are relevant to this case including: [\(Relevant documents may include: A lease, the rent ledger or payment history, the eviction notice, and any other documents that you believe are necessary to be presented at trial.\)](#)

[Please send documents to me at the following location and manner:](#) _____.

Dated: _____

Printed name of Plaintiff/Petitioner Defendant/Respondent

Signature of Plaintiff/Petitioner Defendant/Respondent

CERTIFICATE OF SERVICE

I certify that on _____ (date) a true and accurate copy of this *REQUEST FOR DOCUMENTS IN EVICTION CASES* was served on the other party by:

Hand Delivery E-filed Faxed to this number _____ or by placing it in the United States mail, postage pre-paid, and addressed to the following:

Signature

FOR COURT USE ONLY BELOW THIS LINE:

ORDER

The Court orders that the party who was asked to provide documents in the above Request for Documents in Eviction Case must provide all documents related to this case to the party that made the request ~~within the earlier of (a) two business days after this Order is received or (b) two days before the trial in this case is scheduled to begin~~ [before trial occurs.](#)

Dated: _____

 Judge Magistrate

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).

(b) Judgment for Possession in Forcible Entry and Detainer Cases. A court may enter judgment pursuant to statute; however, the court shall not enter a default judgment for possession before the close of business on the date upon which an appearance is due as set forth by C.R.S. 13-40-111(1) and if the court is satisfied that service is complete pursuant to C.R.S. 13-40-112.

(c) At Time of Trial. Failure to appear on any date set for trial shall be grounds for entering a default and judgment thereon against the non-appearing party. For good cause shown, the court may set aside an entry of default and the judgment entered thereon in accordance with Rule 360.

Court <input type="checkbox"/> County Colorado County: _____ Court Address: _____	
Plaintiffs: _____ v. Defendants: _____ <input type="checkbox"/> Any and all other occupants	↑ Court Use Only ↑
My Name: _____ Address: _____ Phone _____ Fax: _____ Email: _____ Atty. Reg.#: _____	Case Number: _____ Division: _____ Courtroom: _____
Court Summons: Eviction / Forcible Entry and Detainer	

To the above-named Defendant(s), take notice that your landlord is attempting to evict you. You need to take an action or an eviction order will enter against you. Your options are below:

1. If you do not agree with the Complaint, then you must either:
 - a. File your Answer with the Court on or before (enter day) _____
or
 - b. Attend court on (enter date) _____, at (enter time) _____,
 at the court above in (enter location/room number) _____
and, if you choose not to reach a written settlement agreement with the Plaintiff, file your Answer that same day.

2. A copy of the Complaint against you, a blank answer form, blank request for documents form, blank fee waiver forms, and an eviction information form are attached for your use.

3. To avoid being evicted for non-payment of rent, you can pay all amounts you owe stated in the Notice plus any other amounts due under your rental agreement. You must pay this amount before the Court enters an eviction order.

4. If you take no action, the Plaintiff may ask the Court to enter an eviction order against you. If the Court grants that request, that means you will have to move out and it may mean you have to

pay money to the landlord. However, the Court is not allowed to enter a default judgment for possession before the close of business on the date upon which your appearance is due.

5. When you file your Answer, you must pay all applicable filing fees to the Clerk of the Court. If you cannot afford the filing fee, file *JDF 205 - Motion to Waive Fees* and *JDF 206 - Order for Fee Waiver*.

6. If you file your Answer, you must provide a copy to the Plaintiff or the attorney who signed the complaint. In your Answer to the Court, you can state:

- Why you believe you have a right to remain in the property,
- Whether you admit or deny the landlord's factual allegations against you and your legal defenses,
- Whether you believe you were given proper notice of the landlord's reasons for terminating your tenancy before you got this summons, and
- Whether you have a counterclaim or cross claim against a party.

7. If you are claiming that the landlord's failure to repair the residential premises is a defense to the landlord's allegation of nonpayment of rent, the Court will require you to pay into the registry of the Court, at the time of filing your Answer, the rent due less any expenses you have incurred based upon the landlord's failure to repair the residential premises. If you cannot pay this amount, you may be eligible for a waiver by filing a motion. (See JDF 109).

8. Any records associated with the action are suppressed and not accessible to the public until an order is entered granting the Plaintiff possession of the premises. If the Plaintiff is granted possession of the premises, the court records may remain suppressed if both parties agree to suppress the records.

Signed: _____ Dated: _____

Deputy Clerk of Court or Attorney for Plaintiff(s) (if applicable)

Address(es) of Plaintiff(s) (if applicable): _____

Telephone Number(s) of Plaintiff(s) _____

This Summons is issued pursuant to C.R.S. § 13-40-111. A copy of the Complaint together with a blank answer form, blank request for documents form, blank fee waiver forms, and an eviction information form must be served with this Summons.

- By checking this box, I am acknowledging I am filling in the blanks and not changing anything else on the form.
 By checking this box, I am acknowledging that I have made a change to the original content of this form.

CERTIFICATE OF MAILING

I/we, the undersigned Plaintiff(s) (or agent for Plaintiff(s)), certify that on _____(date)
I/we mailed a copy of the Summons, Complaint, blank answer form, request for documents form, fee waiver forms, and an eviction information form by postage prepaid, first class mail, to _____, the Defendant(s) at the following address(es):
_____.

Plaintiff/(s)/Agent for Plaintiff(s)

Resources

- Colorado Judicial Branch Self Help Center
 - Your local Self Help Center can be found by following this link: https://www.courts.state.co.us/Self_Help/center.cfm
- Colorado Legal Services
 - Free legal services to low income tenants facing evictions.
 - Call (303) 837-1313 ext. 444 or visit <https://www.coloradolegalservices.org/>
- Colorado Department of Local Affairs
 - The Division of Housing can help with rental assistance programs, housing counseling, eviction and foreclosure prevention, and other programs.
 - Call (303) 864-7810 or visit <https://cdola.colorado.gov/housing>
- Colorado Housing Connects
 - Free housing, eviction, and foreclosure resources for tenants, landlords, homeowners, and homebuyers.
 - Call (844) 926-6632 or visit <https://coloradohousingconnects.org/>
- Colorado Poverty Law Project
 - Free legal services to fight eviction and housing insecurity.
 - <https://www.copovertylawproject.org/>
- COVID-19 Eviction Defense Project
 - Free legal aid and guidance to tenants facing eviction and housing insecurity.
 - Visit <https://www.cedproject.org>

Relevant Colorado Statutes

13-40-111. Issuance and return of summons.

(1) Upon filing the complaint as required in section 13-40-110, the clerk of the court or the attorney for the plaintiff shall issue a summons. The summons must command the Defendant to appear before the Court at a place named in the summons and at a time and on a day not less than seven days but not more than fourteen days from the day of issuing the same to answer the complaint of plaintiff. A court shall not enter a default judgment for possession before the close of business on the date upon which an appearance is due. The summons must also contain a statement addressed to the Defendant stating: "If you do not respond to the landlord's complaint by filing a written answer with the court on or before the date and time in this summons or appearing in court at the date and time in this summons, the judge may enter a default judgment against you in favor of your landlord for possession. A default judgment for possession means that you will have to move out, and it may mean that you will have to pay money to the landlord. In your answer to the court, you can state why you believe you have a right to remain in the property, whether you admit or deny the landlord's factual allegations against you, and whether you believe you were given proper notice of the landlord's reasons for terminating your tenancy before you got this summons. When you file your answer, you must pay a filing fee to the clerk of the court. If you are claiming that the landlord's failure to repair a residential premises is a defense to the landlord's allegation of nonpayment of rent, the court will require you to pay into the registry of the court, at the time of filing your answer, the rent due less any expenses you have incurred based upon the landlord's failure to repair the residential premises; unless the court determines that you qualify to have this requirement waived due to your income."

13-40-112. Service.

(1) Such summons may be served by personal service as in any civil action. A copy of the complaint must be served with the summons.

(2) If personal service cannot be had upon the Defendant by a person qualified under the Colorado Rules of Civil Procedure to serve process, after having made diligent effort to make such personal service, such person may make service by posting a copy of the summons and the complaint in some conspicuous place upon the premises. In addition thereto, the Plaintiff shall mail, no later than the next day following the day on which he/she files the complaint, a copy of the summons, or, in the event that an alias summons is issued, a copy of the alias summons, and a copy of the complaint to the Defendant at the premises by postage prepaid, first class mail.

(3) Personal service or service by posting shall be made at least seven days before the day for appearance specified in such summons, and the time and manner of such service shall be endorsed upon such summons by the person making service thereof.

County Court _____ County, Colorado Court Address: _____ Plaintiff(s): _____ v. Defendant(s): _____	▲ COURT USE ONLY ▲
Attorney or Party Without Attorney (Name and Address): _____ Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____	Case Number: _____ Division _____ Courtroom _____
REQUEST FOR DOCUMENTS IN EVICTION CASES	

I, _____, am the Plaintiff Defendant in this case.

I ask that the court order the other party in this case to give me all documents that the party has that are relevant to this case including: _____.
 (Relevant documents may include: A lease, the rent ledger or payment history, the eviction notice, and any other documents that you believe are necessary to be presented at trial.)

Please send documents to me at the following location and manner: _____.

Dated: _____

 Printed name of Plaintiff/Petitioner Defendant/Respondent

 Signature of Plaintiff/Petitioner Defendant/Respondent

CERTIFICATE OF SERVICE

I certify that on _____ (date) a true and accurate copy of this *REQUEST FOR DOCUMENTS IN EVICTION CASES* was served on the other party by:

Hand Delivery E-filed Faxed to this number _____ or by placing it in the United States mail, postage pre-paid, and addressed to the following:

 Signature

FOR COURT USE ONLY BELOW THIS LINE:

ORDER

The Court orders that the party who was asked to provide documents in the above Request for Documents in Eviction Case must provide all documents related to this case to the party that made the request before trial occurs.

Dated: _____

 Judge Magistrate

Amended and Adopted by the Court, En Banc, June 29, 2022, effective immediately.

By the Court:

**Richard L. Gabriel
Justice, Colorado Supreme Court**

Appeal Forms Workgroup
Request to Civil Rules Committee
April 14th, 2022

The Appeal Forms workgroup is requesting the following updates to County to District appeal forms- 4CRCCP Notice of Appeal and JDF 5CRCCP Designation of Record.

CRCCP Form 4 SC - Notice of Appeal

- Update language on Certificate of Mailing to read “I certify that a true copy of the Notice of Appeal and the Designation on Appeal was mailed, postage prepaid, to....”
- Add “Rule 411” to the footer of the document or other language indicating it is County Civil.

CRCCP Form 5 SC – Designation of Record

- Change document title from “Designation of Record on Appeal” to “Designation of Transcripts”.
- Update language throughout the body of document-Please see attached “Proposed Changes CRCCP 5 Form” document.
- OR new document for the purpose of designation of transcripts and make CRCCP Designation of Record on Appeal obsolete.

<input type="checkbox"/> County Court _____ County, Colorado Court Address: _____ <hr/> Plaintiff(s): _____ v. Defendant(s): _____	▲ COURT USE ONLY ▲
Attorney or Party Without Attorney (Name and Address): _____ Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____	Case Number: _____ Division _____ Courtroom _____
NOTICE OF APPEAL	

To: The County Court in and for the County of _____, State of Colorado and the above named _____.

Please take notice that the undersigned will file an appeal.

- By checking this box, I am acknowledging I am filling in the blanks and not changing anything else on the form.
 By checking this box, I am acknowledging that I have made a change to the original content of this form.

Said appeal will be docketed in the District Court pursuant to Rule 411, Rules of County Court Civil Procedure.

Done this _____ day of _____, 20 _____.

 Signature(s) of Appellant(s)

 Signature of Attorney for Appellant(s), if applicable

 Name, Address(es) of Appellant(s)

 Telephone Number(s) of Appellant(s)

CERTIFICATE OF MAILING

I certify that a true copy of the Notice of Appeal and the Designation ~~of Record~~ on Appeal was mailed, postage prepaid, to _____ (opposing party(ies) or attorney), at _____ (address), on _____ (date).

 Appellant(s) or Attorney for Appellant(s)

County Court _____ County, Colorado Court Address: _____ Plaintiff(s): _____ v. Defendant(s): _____	▲ COURT USE ONLY ▲
Attorney or Party Without Attorney (Name and Address): _____ Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____	Case Number: _____ Division _____ Courtroom _____
DESIGNATION OF RECORD ON APPEAL TRANSCRIPTS	

1. [I would like the following transcripts included in the Record on Appeal:](#)

[\(For an event that lasted more than one day, please list each day separately.\)](#)

Type of Event <small>(Examples: Motions Hearing, Trial Day 1, Conference)</small>	Date	Start Time	Court Reporter Name <i>(If Any)</i>
1)			
2)			
3)			
4)			
5)			
6)			
7)			
8)			
9)			

2. [I will submit a Transcript Request Form to the District Court along with this Designation.](#)

3. [I Understand:](#)

- [I will have to pay for each transcript I list.](#)
- [I will **NOT** attach any transcripts to this document.](#)
- [This document just lists the transcripts to be included in the appeal.](#)
- [The transcriptionist will send the transcripts to the District Court.](#)
- [The transcripts are sent when they are completed and only if I fully pay for them.](#)

4. I certify that on (date) _____, I (check one)

mailed | hand delivered | E-filed

a copy of this document to:

1) Name: _____
Address: _____
City: _____ State: _____ Zip: _____

2) Name: _____
Address: _____
City: _____ State: _____ Zip: _____

5. Respectfully submitted on (dated) _____, by

Print Name: _____

Signature: _____

The clerk will prepare for the District Court a record on appeal which shall include the following:

- 1. All original process and pleadings on file in the trial court.
- 2. All exhibits.
- 3. Jury instructions.
- 4. Judgments and orders of the Court.
- 5. Reporter's original transcript - excluding transcript of jury voir dire, opening statements, and closing summation, but including all evidence.

By checking this box, I am acknowledging I am filling in the blanks and not changing anything else on the form.

By checking this box, I am acknowledging that I have made a change to the original content of this form.

Please prepare and certify with all convenient speed.

Requested this _____ day of _____, 20____.

_____ Appellant(s) or Attorney for Appellant(s)

Amount deposited \$_____ for record.

Appeal bond in the amount of \$_____ filed.

michaels, kathryn

From: espinosa, adam
Sent: Tuesday, June 7, 2022 3:22 PM
To: jones, jerry
Cc: michaels, kathryn
Subject: Eviction Subcommittee Materials for the Civil Rules Committee Meeting scheduled for June 24, 2022
Attachments: Rule 16.5 final marked up copy 6 7 2022.docx; Rule 16.5 final clean copy 6 7 2022.docx; Rule 316.5 Mark up 6 7 22.docx; Rule 316.5 Clean 6 7 22.docx; Rule 16.5 Mark Up Version 2 5 17 2022.docx

Hi Judge Jones,

The Eviction Subcommittee of the Civil Rules Committee met four times since the last larger Civil Rules Committee meeting on April 8, 2022. We have been working through our review and possible amendments to the District Court rules to conform with the recently enacted eviction laws and to reflect existing eviction laws. We have two additional proposals which are attached to this email.

First, we are recommending the creation of a Rule 16.5 to address the specific statutory requirements in eviction cases including the unique request for documents provision and trial scheduling provisions. Proposed Rule 16.5 largely mirrors the language and content of Rule 316.5, which we recommended last year and has been adopted by the Court. In fact, we used Rule 316.5 as a template for the creation of Rule 16.5. I have attached a marked-up version of Rule 316.5 to compare the changes we made to Rule 316.5 in creating the proposed Rule 16.5. That document is titled, "Rule 16.5 Mark Up Version 2 5 17 2022."

Next, we decided to do a look back at the current Rule 316.5 to determine if any amendments need to be made to that rule in light of our proposed Rule 16.5. We concluded that only one minor edit needs to be made to Rule 316.5 to the jury notebook provision.

I have attached clean and marked up versions of proposed Rule 16.5 and Rule 316.5 for the Committee to consider and to vote on at our next meeting scheduled for June 24, 2022.

Our subcommittee continues to work hard on this important project, and we believe we have to review and consider amendments to Rules 4 and 12 to conclude our work on this subcommittee. However, some subcommittee members have asked that we review JDF Forms 109 (Unlivable Conditions at Home/Warranty of Habitability) and 102 (Stipulation for FED/Eviction) also. We plan to take those up unless we are directed not to do so. Please let me know if you have any questions or concerns.

Best,
Adam



Adam J. Espinosa
District Court Judge,
Second Judicial District
Lindsey-Flanigan Courthouse, 5E
Denver, CO, 80202
(303) 606-2737
adam.espinosa@judicial.state.co.us

Rule 316.5. Pretrial Procedure – Forcible Entry and Detainer Proceedings for Possession Cases -- Requests for Documents and Conference.

(a) Purpose and Scope. This rule applies to Forcible Entry and Detainer proceedings for possession, unless otherwise provided by statute, by agreement of the parties, or by order of the court.

(b) Requests for Documents.

(1) Either party may request all documents in the other party's possession relevant to the current action. To make this request, a party must complete, file, and send Form JDF 1857 SC (Request for Documents in Eviction Cases) to the opposing party.

(2) Any party failing to comply with a court order requiring such party to provide documentation relevant to the current action shall be subject to imposition of appropriate sanctions.

(c) Trial Scheduling and Pretrial Conferences. Except as provided by statute, if the defendant files an answer, the court shall schedule a possession trial no sooner than seven days, but not more than ten days, after the answer is filed, unless (1) the defendant requests a waiver of this requirement in the defendant's answer or after filing the answer, (2) the court sets the trial date beyond ten days if either party demonstrates good cause for an extension or if the court otherwise finds justification for the extension. Prior to such trial, the court may in its discretion and upon reasonable notice order a pretrial conference. Conferences by telephone or videoconference are encouraged. Following a pretrial conference, the court may issue an order which may include limitations on the issues to be raised and the witnesses and exhibits to be allowed at trial, entry of judgment, or dismissal, if appropriate. Failure to appear at a pretrial conference may result in appropriate sanctions, including an award of attorney's fees and expenses incurred by the appearing party. Courts may encourage the parties to engage in mediation.

(d) Pretrial Discovery. Any party may request that discovery be permitted to assist in the preparation for trial. The request shall be made only during the pretrial conference. The discovery may include depositions, requests for admission, interrogatories, physical or mental examinations, or requests for production or inspection. If the court enters a discovery order, it shall set forth the extent and terms of the discovery as well as the time for compliance. If the court fails to specify any term, then the provisions of C.R.C.P. 30, 32, 33, 34, 35, and 36 shall be followed as to the missing term.

(e) Resolution of Disputes. All issues regarding discovery shall be resolved on or before the day of trial and shall not cause any undue delay in the proceedings. No party shall be entitled to seek protective orders following the conference. Unless otherwise ordered by the court, a dispute over compliance with the discovery order shall be resolved at the time of trial, and the court may impose appropriate sanctions, including attorney's fees and costs, against the non-complying party.

~~(e) Juror Notebooks. The court may order the use of juror notebooks. If notebooks are to be used, counsel for each party shall confer about items to be included in juror notebooks and at the pretrial conference or other date set by the court make a joint submission to the court of items to be included in the juror notebook.~~

Rule 16.5. Pretrial Procedure – Forcible Entry and Detainer Proceedings for Possession -- Requests for Documents and Conference.

(a) Purpose and Scope. This rule applies to Forcible Entry and Detainer proceedings for possession, unless otherwise provided by statute, by agreement of the parties, or by order of the court.

(b) Requests for Documents.

(1) Either party may request all documents in the other party's possession relevant to the current action. To make this request, a party must complete, file, and send Form JDF 187 SC (Request for Documents in Eviction Cases) to the opposing party.

(2) Any party failing to comply with a court order requiring such party to provide documentation relevant to the current action shall be subject to imposition of appropriate sanctions.

(c) Trial Scheduling and Pretrial Conferences. Except as provided by statute, if the defendant files an answer, the court shall schedule a possession trial no sooner than seven days, but not more than ten days, after the answer is filed, unless (1) the defendant requests a waiver of this requirement in the defendant's answer or after filing the answer, (2) the court sets the trial date beyond ten days if either party demonstrates good cause for an extension or if the court otherwise finds justification for the extension. Prior to such trial, the court may in its discretion and upon reasonable notice order a pretrial conference. Conferences by telephone or videoconference are encouraged. Following a pretrial conference, the court may issue an order which may include limitations on the issues to be raised and the witnesses and exhibits to be allowed at trial, entry of judgment, or dismissal, if appropriate. Failure to appear at a pretrial conference may result in appropriate sanctions, including an award of attorney's fees and expenses incurred by the appearing party. Courts may encourage the parties to engage in mediation.

(d) Pretrial Discovery. Any party may request that discovery be permitted to assist in the preparation for trial. The request shall be made only during the pretrial conference. The discovery may include depositions, requests for admission, interrogatories, physical or mental examinations, or requests for production or inspection. If the court enters a discovery order, it shall set forth the extent and terms of the discovery as well as the time for compliance. If the court fails to specify any term, then the provisions of C.R.C.P. 30, 32, 33, 34, 35, and 36 shall be followed as to the missing term.

(e) Resolution of Disputes. All issues regarding discovery shall be resolved on or before the day of trial and shall not cause any undue delay in the proceedings. No party shall be entitled to seek protective orders following the conference. Unless otherwise ordered by the court, a dispute over compliance with the discovery order shall be resolved at the time of trial, and the court may impose appropriate sanctions, including attorney's fees and costs, against the non-complying party.

Rule 16.5. Pretrial Procedure – Forcible Entry and Detainer Proceedings for Possession -- Requests for Documents and Conference.

(a) Purpose and Scope. This rule applies to Forcible Entry and Detainer proceedings for possession, unless otherwise provided by statute, by agreement of the parties, or by order of the court.

(b) Requests for Documents.

(1) Either party may request all documents in the other party's possession relevant to the current action. To make this request, a party must complete, file, and send Form JDF 187 SC (Request for Documents in Eviction Cases) to the opposing party.

(2) Any party failing to comply with a court order requiring such party to provide documentation relevant to the current action shall be subject to imposition of appropriate sanctions.

(c) Trial Scheduling and Pretrial Conferences. Except as provided by statute, if the defendant files an answer, the court shall schedule a possession trial no sooner than seven days, but not more than ten days, after the answer is filed, unless (1) the defendant requests a waiver of this requirement in the defendant's answer or after filing the answer, (2) the court sets the trial date beyond ten days if either party demonstrates good cause for an extension or if the court otherwise finds justification for the extension. Prior to such trial, the court may in its discretion and upon reasonable notice order a pretrial conference. Conferences by telephone or videoconference are encouraged. Following a pretrial conference, the court may issue an order which may include limitations on the issues to be raised and the witnesses and exhibits to be allowed at trial, entry of judgment, or dismissal, if appropriate. Failure to appear at a pretrial conference may result in appropriate sanctions, including an award of attorney's fees and expenses incurred by the appearing party. Courts may encourage the parties to engage in mediation.

(d) Pretrial Discovery. Any party may request that discovery be permitted to assist in the preparation for trial. The request shall be made only during the pretrial conference. The discovery may include depositions, requests for admission, interrogatories, physical or mental examinations, or requests for production or inspection. If the court enters a discovery order, it shall set forth the extent and terms of the discovery as well as the time for compliance. If the court fails to specify any term, then the provisions of C.R.C.P. 30, 32, 33, 34, 35, and 36 shall be followed as to the missing term.

(e) Resolution of Disputes. All issues regarding discovery shall be resolved on or before the day of trial and shall not cause any undue delay in the proceedings. No party shall be entitled to seek protective orders following the conference. Unless otherwise ordered by the court, a dispute over compliance with the discovery order shall be resolved at the time of trial, and the court may impose appropriate sanctions, including attorney's fees and costs, against the non-complying party.

Rule 316.5. Pretrial Procedure – Forcible Entry and Detainer Cases -- Requests for Documents and Conference.

(a) Requests for Documents.

(1) Either party may request all documents in the other party's possession relevant to the current action. To make this request, a party must complete, file, and send Form JDF 185 SC (Request for Documents in Eviction Cases) to the opposing party.

(2) Any party failing to comply with a court order requiring such party to provide documentation relevant to the current action shall be subject to imposition of appropriate sanctions.

(b) Trial Scheduling and Pretrial Conferences. Except as provided by statute, if the defendant files an answer, the court shall schedule a trial no sooner than seven days, but not more than ten days, after the answer is filed, unless (1) the defendant requests a waiver of this requirement in the defendant's answer or after filing the answer, (2) the court sets the trial date beyond ten days if either party demonstrates good cause for an extension or if the court otherwise finds justification for the extension. Prior to trial, the court may in its discretion and upon reasonable notice order a pretrial conference. Conferences by telephone or videoconference are encouraged. Following a pretrial conference, the court may issue an order which may include limitations on the issues to be raised and the witnesses and exhibits to be allowed at trial, entry of judgment, or dismissal, if appropriate. Failure to appear at a pretrial conference may result in appropriate sanctions, including an award of attorney's fees and expenses incurred by the appearing party. Courts may encourage the parties to engage in mediation.

(c) Pretrial Discovery. Any party may request that discovery be permitted to assist in the preparation for trial. The request shall be made only during the pretrial conference. The discovery may include depositions, requests for admission, interrogatories, physical or mental examinations, or requests for production or inspection. If the court enters a discovery order, it shall set forth the extent and terms of the discovery as well as the time for compliance. If the court fails to specify any term, then the provisions of C.R.C.P. 30, 32, 33, 34, 35, and 36 shall be followed as to the missing term.

(d) Resolution of Disputes. All issues regarding discovery shall be resolved on or before the day of trial and shall not cause any undue delay in the proceedings. No party shall be entitled to seek protective orders following the conference. Unless otherwise ordered by the court, a dispute over compliance with the discovery order shall be resolved at the time of trial, and the court may impose appropriate sanctions, including attorney's fees and costs, against the non-complying party.

(e) Juror Notebooks. [If applicable,](#) ~~t~~The court may order the use of juror notebooks. If notebooks are to be used, counsel for each party shall confer about items to be included in juror notebooks and at the pretrial conference or other date set by the court make a joint submission to the court of items to be included in the juror notebook.

Rule 316.5. Pretrial Procedure – Forcible Entry and Detainer Cases -- Requests for Documents and Conference.

(a) Requests for Documents.

(1) Either party may request all documents in the other party's possession relevant to the current action. To make this request, a party must complete, file, and send Form JDF 185 SC (Request for Documents in Eviction Cases) to the opposing party.

(2) Any party failing to comply with a court order requiring such party to provide documentation relevant to the current action shall be subject to imposition of appropriate sanctions.

(b) Trial Scheduling and Pretrial Conferences. Except as provided by statute, if the defendant files an answer, the court shall schedule a trial no sooner than seven days, but not more than ten days, after the answer is filed, unless (1) the defendant requests a waiver of this requirement in the defendant's answer or after filing the answer, (2) the court sets the trial date beyond ten days if either party demonstrates good cause for an extension or if the court otherwise finds justification for the extension. Prior to trial, the court may in its discretion and upon reasonable notice order a pretrial conference. Conferences by telephone or videoconference are encouraged. Following a pretrial conference, the court may issue an order which may include limitations on the issues to be raised and the witnesses and exhibits to be allowed at trial, entry of judgment, or dismissal, if appropriate. Failure to appear at a pretrial conference may result in appropriate sanctions, including an award of attorney's fees and expenses incurred by the appearing party. Courts may encourage the parties to engage in mediation.

(c) Pretrial Discovery. Any party may request that discovery be permitted to assist in the preparation for trial. The request shall be made only during the pretrial conference. The discovery may include depositions, requests for admission, interrogatories, physical or mental examinations, or requests for production or inspection. If the court enters a discovery order, it shall set forth the extent and terms of the discovery as well as the time for compliance. If the court fails to specify any term, then the provisions of C.R.C.P. 30, 32, 33, 34, 35, and 36 shall be followed as to the missing term.

(d) Resolution of Disputes. All issues regarding discovery shall be resolved on or before the day of trial and shall not cause any undue delay in the proceedings. No party shall be entitled to seek protective orders following the conference. Unless otherwise ordered by the court, a dispute over compliance with the discovery order shall be resolved at the time of trial, and the court may impose appropriate sanctions, including attorney's fees and costs, against the non-complying party.

(e) Juror Notebooks. The court may order the use of juror notebooks. If notebooks are to be used, counsel for each party shall confer about items to be included in juror notebooks and at the pretrial conference or other date set by the court make a joint submission to the court of items to be included in the juror notebook.

michaels, kathryn

From: espinosa, adam
Sent: Monday, September 19, 2022 8:17 AM
To: jones, jerry
Cc: michaels, kathryn
Subject: Civil Rules Committee Meeting Materials from the Eviction Subcommittee
Attachments: Rule 4 Process clean.rtf; Rule 4 Process redline.docx; Rule 12 Defenses and Objections redline.docx; Rule 12 Defenses and Objections--When and How Presented--By Pleading or Motion-- clean.rtf; Rule 312 Defenses and Objections redline.docx; Rule 312 Defenses and Objections--When and How Presented--By Pleading or Motion- clean.rtf; Rule 312.5 Defenses and Objections in Forcible Entry and Detainer Cases--clean.rtf; Rule 312.5 redline.docx

Good morning,

Please find attached to this email the most recent and final materials from the Eviction Subcommittee for the Civil Rules Committee to consider. We are recommending edits to Rule 4, 12, 312, and 312.5. Below are notes regarding those recommendations. Also, we had previously recommended the creation of Rule 16.5 and edits to Rule 316.5. Those recommendations were submitted to the Civil Rules Committee for consideration at the June 24, 2022 meeting but could not be taken up due to time constraints of that meeting. In total, we are asking the Civil Rules Committee to consider edits to the following rules: 16.5, 316.5, 312.5, 312, 12, and 4.

Notes on recommendations regarding Rule 4, 12, 312, and 312.5:

On July 12, 2022, the subcommittee unanimously voted to recommend edits to Rule 312.5 to the Civil Rules Committee to clean up some drafting errors and to include the right to cure language included in recent legislation.

On August 10, 2022, the subcommittee voted to edit Rule 4 by a 5 to 3 vote. The intent of the proposed edit is to include the statutorily required language and forms and the committee approved forms that must be included with an eviction summons. These edits would create consistency with Rule 4 and 304 and address District Court evictions.

On August 10, 2022, the subcommittee voted to edit Rule 12 by a 5 to 2 vote. The intent to the proposed edit to Rule 12 is to include language that addresses answers in eviction cases indirectly and without overhauling the current version of Rule 4. C.R.S. 13-40-113(1) requires a defendant to file their answer to a complaint at or before the day specified for the defendant's appearance on the summons.

On August 10, 2022, the subcommittee unanimously voted to edit Rule 312. The purpose of this proposed edit is to clarify some language in the title of the rule and to clarify the exceptions to Rule 312.

Best,
Adam

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West's Colorado Revised Statutes Annotated
Colorado Court Rules
Chapters 1--24. Rules of Civil Procedure
Chapter 1. Scope of Rules, One Form of Action, Commencement of Action, Service of Process, Pleadings, Motions and Orders

C.R.C.P. Rule 4

Rule 4. Process

Effective: April 17, 2020

[Currentness](#)

(a) To What Applicable. This Rule applies to all process except as otherwise provided by these rules.

(b) Issuance of Summons by Attorney or Clerk. The summons may be signed and issued by the clerk, under the seal of the court, or it may be signed and issued by the attorney for the plaintiff. Separate additional or amended summons may issue against any defendant at any time. All other process shall be issued by the clerk, except as otherwise provided in these rules.

(c) Contents of Summons. The summons shall contain the name of the court, the county in which the action is brought, the names or designation of the parties, shall be directed to the defendant, shall state the time within which the defendant is required to appear and defend against the claims of the complaint, and shall notify the defendant that in case of the defendant's failure to do so, judgment by default may be rendered against the defendant. If the summons is served by publication, the summons shall briefly state the sum of money or other relief demanded. The summons shall contain the name, address, and registration number of the plaintiff's attorney, if any, and if none, the address of the plaintiff. Except in case of service by publication under Rule 4(g) or when otherwise ordered by the court, the complaint shall be served with the summons. In any case, where by special order personal service of summons is allowed without the complaint, a copy of the order shall be served with the summons.

(d) By Whom Served. Process may be served within the United States or its Territories by any person whose age is eighteen years or older, not a party to the action. Process served in a foreign country shall be according to any internationally agreed means reasonably calculated to give notice, the law of the foreign country, or as directed by the foreign authority or the court if not otherwise prohibited by international agreement.

(e) Personal Service. Personal service shall be as follows:

(1) Upon a natural person whose age is eighteen years or older by delivering a copy thereof to the person, or by leaving a copy thereof at the person's usual place of abode, with any person whose age is eighteen years or older and who is a member

of the person's family, or at the person's usual workplace, with the person's supervisor, secretary, administrative assistant, bookkeeper, human resources representative or managing agent; or by delivering a copy to a person authorized by appointment or by law to receive service of process.

(2) Upon a natural person whose age is at least thirteen years and less than eighteen years, by delivering a copy thereof to the person and another copy thereof to the person's father, mother, or guardian, or if there be none in the state, then by delivering a copy thereof to any person in whose care or control the person may be; or with whom the person resides, or in whose service the person is employed; and upon a natural person under the age of thirteen years by delivering a copy to the person's father, mother, or guardian, or if there be none in the state, then by delivering a copy thereof to the person in whose care or control the person may be.

(3) Upon a person for whom a conservator has been appointed, by delivering a copy thereof to such conservator.

(4) Upon any form of corporation, partnership, association, cooperative, limited liability company, limited partnership association, trust, organization, or other form of entity that is recognized under the laws of this state or of any other jurisdiction, (including any such organization, association or entity serving as an agent for service of process for itself or for another entity) by delivering a copy thereof to the registered agent for service as set forth in the most recently filed document in the records of the secretary of state of this state or of any other jurisdiction, or that agent's secretary or assistant, or one of the following:

(A) An officer of any form of entity having officers, or that officer's secretary or assistant;

(B) A general partner of any form of partnership, or that general partner's secretary or assistant;

(C) A manager of a limited liability company or limited partnership association in which management is vested in managers rather than members, or that manager's secretary or assistant;

(D) A member of a limited liability company or limited partnership association in which management is vested in the members or in which management is vested in managers and there are no managers, or that member's secretary or assistant;

(E) A trustee of a trust, or that trustee's secretary or assistant;

(F) The functional equivalent of any person described in paragraphs (A) through (E) of this subsection (4), regardless of such person's title, under:

(I) the articles of incorporation, articles of organization, certificate of limited partnership, articles of association, statement of registration, or other documents of similar import duly filed or recorded by which the entity or any or all of its owners obtains status as an entity or the attribute of limited liability, or

(II) the law pursuant to which the entity is formed or which governs the operation of the entity;

(G) If no person listed in subsection (4) of this rule can be found in this state, upon any person serving as a shareholder, member, partner, or other person having an ownership or similar interest in, or any director, agent, or principal employee of such entity, who can be found in this state, or service as otherwise provided by law.

(5) [Repealed eff. March 23, 2006.]

(6) Upon a municipal corporation, by delivering a copy thereof to the mayor, city manager, clerk, or deputy clerk.

(7) Upon a county, by delivering a copy thereof to the county clerk, chief deputy, or county commissioner.

(8) Upon a school district, by delivering a copy thereof to the superintendent.

(9) Upon the state by delivering a copy thereof to the attorney general.

(10)(A) Upon an officer, agent, or employee of the state, acting in an official capacity, by delivering a copy thereof to the officer, agent, or employee, and by delivering a copy to the attorney general.

(B) Upon a department or agency of the state, subject to suit, by delivering a copy thereof to the principal officer, chief clerk, or other executive employee thereof, and by delivering a copy to the attorney general.

(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.

(11) Upon other political subdivisions of the State of Colorado, special districts, or quasi-municipal entities, by delivering a copy thereof to any officer or general manager, unless otherwise provided by law.

(12) Upon any of the entities or persons listed in subsections (4) through (11) of this section (e) by delivering a copy to any designee authorized to accept service of process for such entity or person, or by delivery to a person authorized by appointment or law to receive service of process for such entity or person. The delivery shall be made in any manner permitted by such appointment or law.

(f) Substituted Service. In the event that a party attempting service of process by personal service under section (e) is unable to accomplish service, and service by publication or mail is not otherwise permitted under section (g), the party may file a motion, supported by an affidavit of the person attempting service, for an order for substituted service. The motion shall state (1) the efforts made to obtain personal service and the reason that personal service could not be obtained, (2) the identity of the person to whom the party wishes to deliver the process, and (3) the address, or last known address of the workplace and residence, if known, of the party upon whom service is to be effected. If the court is satisfied that due diligence has been used to attempt personal service under section (e), that further attempts to obtain service under section (e) would be to no avail, and that the person to whom delivery of the process is appropriate under the circumstances and reasonably calculated to give actual notice to the party upon whom service is to be effective, it shall:

(1) authorize delivery to be made to the person deemed appropriate for service, and

(2) order the process to be mailed to the address(es) of the party to be served by substituted service, as set forth in the motion, on or before the date of delivery. Service shall be complete on the date of delivery to the person deemed appropriate for service.

(g) Other Service. Except as otherwise provided by law, service by mail or publication shall be allowed only in actions affecting specific property or status or other proceedings in rem. When service is by publication, the complaint need not be published with the summons. The party desiring service of process by mail or publication under this section (g) shall file a motion verified by the oath of such party or of someone in the party's behalf for an order of service by mail or publication. It shall state the facts authorizing such service, and shall show the efforts, if any, that have been made to obtain personal service and shall give the address, or last known address, of each person to be served or shall state that the address and last known address are unknown. The court, if satisfied that due diligence has been used to obtain personal service or that efforts to obtain the same would have been to no avail, shall:

(1) Order the party to send by registered or certified mail a copy of the process addressed to such person at such address, requesting a return receipt signed by the addressee only. Such service shall be complete on the date of the filing of proof thereof, together with such return receipt attached thereto signed by such addressee, or

(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.

(h) Manner of Proof. Proof of service shall be made as follows:

(1) If served personally, by a statement, certified by the sheriff, marshal or similar governmental official, or a sworn or unsworn declaration by any other person completing the service as to date, place, and manner of service;

(2) [Repealed eff. March 23, 2006.]

(3) If served by mail, by a sworn or unsworn declaration showing the date of the mailing with the return receipt attached, where required;

(4) If served by publication, by a sworn or unsworn declaration that includes the mailing of a copy of the process where required;

(5) If served by waiver, by a sworn or unsworn declaration admitting or waiving service by the person or persons served, or by their attorney;

(6) If served by substituted service, by a sworn or unsworn declaration as to the date, place, and manner of service, and that the process was also mailed to the party to be served by substituted service, setting forth the address(es) where the process was mailed.

(i) Waiver of Service of Summons. A defendant who waives service of a summons does not thereby waive any objection to the venue or to the jurisdiction of the court over the defendant.

(j) Amendment. At any time in its discretion and upon such terms as it deems just, the court may allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process is issued.

(k) Refusal of Copy. If a person to be served refuses to accept a copy of the process, service shall be sufficient if the person serving the process knows or has reason to identify the person who refuses to be served, identifies the documents being served, offers to deliver a copy of the documents to the person who refuses to be served, and thereafter leaves a copy in a conspicuous place.

(l) No Colorado Rule.

(m) Time Limit for Service. If a defendant is not served within 63 days (nine weeks) after the complaint is filed, the court--on motion or on its own after notice to the plaintiff--shall dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period. This subdivision (m) does not apply to service in a foreign country under rule 4(d).

Credits

Amended effective July 1, 1997; March 23, 2006; February 7, 2008; January 1, 2012; June 21, 2012; September 5, 2013; April 17, 2020.

Editors' Notes

COMMENTS

2020 [Amendment]

Rule 4(h) on the manner of proving service was amended following the adoption in 2018 of the Uniform Unsworn Declarations Act. [C.R.S. § 13-27-101 et seq.](#) This Act defines a “sworn declaration,” which includes an affidavit, and an “unsworn declaration,” which “means a declaration in a signed record that is not given under oath, but is given under penalty of perjury.” [§ 13-27-102\(6\)](#) and [\(7\)](#). An unsworn declaration which complies with the Act is sufficient to prove service under Rule 4(h).

[Notes of Decisions \(305\)](#)

Rules Civ. Proc., Rule 4, CO ST RCP Rule 4

Current with amendments received through September 1, 2022. Some rules may be more current, see credits for details.

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West's Colorado Revised Statutes Annotated
Colorado Court Rules
Chapters 1--24. Rules of Civil Procedure
Chapter 1. Scope of Rules, One Form of Action, Commencement of Action, Service of Process, Pleadings,
Motions and Orders

C.R.C.P. Rule 4

Rule 4. Process

Effective: April 17, 2020

Currentness

(a) To What Applicable. This Rule applies to all process except as otherwise provided by these rules.

(b) Issuance of Summons by Attorney or Clerk. The summons may be signed and issued by the clerk, under the seal of the court, or it may be signed and issued by the attorney for the plaintiff. Separate additional or amended summons may issue against any defendant at any time. All other process shall be issued by the clerk, except as otherwise provided in these rules.

(c) Contents of Summons. The summons shall contain the name of the court, the county in which the action is brought, the names or designation of the parties, shall be directed to the defendant, shall state the time within which the defendant is required to appear and defend against the claims of the complaint, and shall notify the defendant that in case of the defendant's failure to do so, judgment by default may be rendered against the defendant. If the summons is served by publication, the summons shall briefly state the sum of money or other relief demanded. The summons shall contain the name, address, and registration number of the plaintiff's attorney, if any, and if none, the address of the plaintiff. Except in case of service by publication under Rule 4(g) or when otherwise ordered by the court, the complaint shall be served with the summons. In any case, where by special order personal service of summons is allowed without the complaint, a copy of the order shall be served with the summons. [In forcible entry and detainer cases, the summons shall contain all language and information required by statute, and in addition to the complaint, be accompanied by a blank copy of an answer form, Form JDF 186 SC Information for Eviction Cases, Form JDF 185 SC Request for Documents in Eviction Cases, and blank copies of forms JDF 205 and 206 \(fee waiver forms\).](#)

(d) By Whom Served. Process may be served within the United States or its Territories by any person whose age is eighteen years or older, not a party to the action. Process served in a foreign country shall be according to any internationally agreed means reasonably calculated to give notice, the law of the foreign country, or as directed by the foreign authority or the court if not otherwise prohibited by international agreement.

(e) Personal Service. Personal service shall be as follows:

(1) Upon a natural person whose age is eighteen years or older by delivering a copy thereof to the person, or by leaving a copy thereof at the person's usual place of abode, with any person whose age is eighteen years or older and who is a member of the person's family, or at the person's usual workplace, with the person's supervisor, secretary, administrative assistant, bookkeeper, human resources representative or managing agent; or by delivering a copy to a person authorized by appointment or by law to receive service of process.

(2) Upon a natural person whose age is at least thirteen years and less than eighteen years, by delivering a copy thereof to the person and another copy thereof to the person's father, mother, or guardian, or if there be none in the state, then by delivering a copy thereof to any person in whose care or control the person may be; or with whom the person resides, or in whose service the person is employed; and upon a natural person under the age of thirteen years by delivering a copy to the person's father, mother, or guardian, or if there be none in the state, then by delivering a copy thereof to the person in whose care or control the person may be.

(3) Upon a person for whom a conservator has been appointed, by delivering a copy thereof to such conservator.

(4) Upon any form of corporation, partnership, association, cooperative, limited liability company, limited partnership association, trust, organization, or other form of entity that is recognized under the laws of this state or of any other jurisdiction, (including any such organization, association or entity serving as an agent for service of process for itself or for another entity) by delivering a copy thereof to the registered agent for service as set forth in the most recently filed document in the records of the secretary of state of this state or of any other jurisdiction, or that agent's secretary or assistant, or one of the following:

(A) An officer of any form of entity having officers, or that officer's secretary or assistant;

(B) A general partner of any form of partnership, or that general partner's secretary or assistant;

(C) A manager of a limited liability company or limited partnership association in which management is vested in managers rather than members, or that manager's secretary or assistant;

(D) A member of a limited liability company or limited partnership association in which management is vested in the members or in which management is vested in managers and there are no managers, or that member's secretary or assistant;

(E) A trustee of a trust, or that trustee's secretary or assistant;

(F) The functional equivalent of any person described in paragraphs (A) through (E) of this subsection (4), regardless of such person's title, under:

(I) the articles of incorporation, articles of organization, certificate of limited partnership, articles of association, statement of registration, or other documents of similar import duly filed or recorded by which the entity or any or all of its owners obtains status as an entity or the attribute of limited liability, or

(II) the law pursuant to which the entity is formed or which governs the operation of the entity;

(G) If no person listed in subsection (4) of this rule can be found in this state, upon any person serving as a shareholder, member, partner, or other person having an ownership or similar interest in, or any director, agent, or principal employee of such entity, who can be found in this state, or service as otherwise provided by law.

(5) [Repealed eff. March 23, 2006.]

(6) Upon a municipal corporation, by delivering a copy thereof to the mayor, city manager, clerk, or deputy clerk.

(7) Upon a county, by delivering a copy thereof to the county clerk, chief deputy, or county commissioner.

(8) Upon a school district, by delivering a copy thereof to the superintendent.

(9) Upon the state by delivering a copy thereof to the attorney general.

(10)(A) Upon an officer, agent, or employee of the state, acting in an official capacity, by delivering a copy thereof to the officer, agent, or employee, and by delivering a copy to the attorney general.

(B) Upon a department or agency of the state, subject to suit, by delivering a copy thereof to the principal officer, chief clerk, or other executive employee thereof, and by delivering a copy to the attorney general.

(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.

(11) Upon other political subdivisions of the State of Colorado, special districts, or quasi-municipal entities, by delivering a copy thereof to any officer or general manager, unless otherwise provided by law.

(12) Upon any of the entities or persons listed in subsections (4) through (11) of this section (e) by delivering a copy to any designee authorized to accept service of process for such entity or person, or by delivery to a person authorized by appointment or law to receive service of process for such entity or person. The delivery shall be made in any manner permitted by such appointment or law.

(f) Substituted Service. In the event that a party attempting service of process by personal service under section (e) is unable to accomplish service, and service by publication or mail is not otherwise permitted under section (g), the party may file a motion, supported by an affidavit of the person attempting service, for an order for substituted service. The motion shall state (1) the efforts made to obtain personal service and the reason that personal service could not be obtained, (2) the identity of the person to whom the party wishes to deliver the process, and (3) the address, or last known address of the workplace and residence, if known, of the party upon whom service is to be effected. If the court is satisfied that due diligence has been used to attempt personal service under section (e), that further attempts to obtain service under section (e) would be to no avail, and that the person to whom delivery of the process is appropriate under the circumstances and reasonably calculated to give actual notice to the party upon whom service is to be effective, it shall:

(1) authorize delivery to be made to the person deemed appropriate for service, and

(2) order the process to be mailed to the address(es) of the party to be served by substituted service, as set forth in the motion, on or before the date of delivery. Service shall be complete on the date of delivery to the person deemed appropriate for service.

(g) Other Service. Except as otherwise provided by law, service by mail or publication shall be allowed only in actions affecting specific property or status or other proceedings in rem. When service is by publication, the complaint need not be published with the summons. The party desiring service of process by mail or publication under this section (g) shall file a motion verified by the oath of such party or of someone in the party's behalf for an order of service by mail or publication. It shall state the facts authorizing such service, and shall show the efforts, if any, that have been made to obtain personal service and shall give the address, or last known address, of each person to be served or shall state that the address and last known address are unknown. The court, if satisfied that due diligence has been used to obtain personal service or that efforts to obtain the same would have been to no avail, shall:

(1) Order the party to send by registered or certified mail a copy of the process addressed to such person at such address, requesting a return receipt signed by the addressee only. Such service shall be complete on the date of the filing of proof thereof, together with such return receipt attached thereto signed by such addressee, or

(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.

(h) Manner of Proof. Proof of service shall be made as follows:

(1) If served personally, by a statement, certified by the sheriff, marshal or similar governmental official, or a sworn or unsworn declaration by any other person completing the service as to date, place, and manner of service;

(2) [Repealed eff. March 23, 2006.]

(3) If served by mail, by a sworn or unsworn declaration showing the date of the mailing with the return receipt attached, where required;

(4) If served by publication, by a sworn or unsworn declaration that includes the mailing of a copy of the process where required;

(5) If served by waiver, by a sworn or unsworn declaration admitting or waiving service by the person or persons served, or by their attorney;

(6) If served by substituted service, by a sworn or unsworn declaration as to the date, place, and manner of service, and that the process was also mailed to the party to be served by substituted service, setting forth the address(es) where the process was mailed.

(i) Waiver of Service of Summons. A defendant who waives service of a summons does not thereby waive any objection to the venue or to the jurisdiction of the court over the defendant.

(j) Amendment. At any time in its discretion and upon such terms as it deems just, the court may allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process is issued.

(k) Refusal of Copy. If a person to be served refuses to accept a copy of the process, service shall be sufficient if the person serving the process knows or has reason to identify the person who refuses to be served, identifies the documents being served, offers to deliver a copy of the documents to the person who refuses to be served, and thereafter leaves a copy in a conspicuous place.

(l) No Colorado Rule.

(m) Time Limit for Service. If a defendant is not served within 63 days (nine weeks) after the complaint is filed, the court--on motion or on its own after notice to the plaintiff--shall dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period. This subdivision (m) does not apply to service in a foreign country under rule 4(d).

Credits

Amended effective July 1, 1997; March 23, 2006; February 7, 2008; January 1, 2012; June 21, 2012; September 5, 2013; April 17, 2020.

Editors' Notes

COMMENTS

2020 [Amendment]

Rule 4(h) on the manner of proving service was amended following the adoption in 2018 of the Uniform Unsworn Declarations Act. [C.R.S. § 13-27-101 et seq.](#) This Act defines a “sworn declaration,” which includes an affidavit, and an “unsworn declaration,” which “means a declaration in a signed record that is not given under oath, but is given under penalty of perjury.” [§ 13-27-102\(6\)](#) and [\(7\)](#). An unsworn declaration which complies with the Act is sufficient to prove service under Rule 4(h).

[Notes of Decisions \(302\)](#)

Rules Civ. Proc., Rule 4, CO ST RCP Rule 4

Current with amendments received through July 1, 2022.

West's Colorado Revised Statutes Annotated
Colorado Court Rules
Chapters 1--24. Rules of Civil Procedure
Chapter 2. Pleadings and Motions

C.R.C.P. Rule 12

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

Currentness

(a) When Presented.

(1) A defendant shall file his answer or other response within 21 days after the service of the summons and complaint, [except as otherwise provided by rule or statute](#). The filing of a motion permitted under this Rule alters these periods of time, as follows:

(A) 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;

(B) 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.

(2) If, pursuant to special order, a copy of the complaint is not served with the summons, or if the summons is served outside of Colorado or by publication, the time limit for filings under subsections (a)(1) and (e) of this Rule shall be within 35 days after the service thereof.

(3) A party served with a pleading stating a cross-claim against that party shall file an answer thereto within 21 days after the service thereof.

(4) The plaintiff shall file a reply to a counterclaim in the answer within 21 days after the service of the answer.

(5) If a reply is made to any affirmative defense, such reply shall be filed within 21 days after service of the pleading containing such affirmative defense.

(6) 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.

(b) How Presented. Every defense, in law or in fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following

defenses may at the option of the pleader be made by separate motion filed on or before the date the answer or reply to a pleading under C.R.C.P. 12(a) is due:

- (1) lack of jurisdiction over the subject matter;
- (2) lack of jurisdiction over the person;
- (3) insufficiency of process;
- (4) insufficiency of service of process;
- (5) failure to state a claim upon which relief can be granted; or
- (6) failure to join a party under [C.R.C.P. 19](#).

No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or with any other motion permitted under this Rule or [C.R.C.P. 98](#). If a pleading sets forth a claim for relief to which the adverse party is not required to file a responsive pleading, the adverse party may assert at the trial any defense in law or fact to that claim for relief. If, on a motion asserting the defense numbered (5) to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in [C.R.C.P. 56](#), and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by [C.R.C.P. 56](#).

(c) Motion for Judgment on the Pleadings. After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings. If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in [Rule 56](#), and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by [Rule 56](#).

(d) Preliminary Hearings. The defenses specifically enumerated in subsections (1)-(6) of section (b) of this Rule, whether made in a pleading or by motion, and the motion for judgment mentioned in section (c) of this Rule, shall be heard and determined before trial on application of any party, unless the court orders that the hearing and determination thereof be deferred until the trial.

(e) Motion for Separate Statement or for More Definite Statement. Within the time limits for filings under subsections (a) (1) and (a)(2) of this Rule, the party may file a motion for a statement in separate counts or defenses or for a more definite statement of any matter that is not averred with sufficient definiteness or particularity to enable the party properly to prepare a 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 within the time for 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).

(g) Consolidation of Defenses in Motion. A party who makes a motion under this Rule may join with it any other motions herein provided for and then available to that party. If a party makes a motion under this Rule but omits therefrom any defense or objection then available to that party which this Rule permits to be raised by motion, that party shall not thereafter make a motion based on the defense or objection so omitted, except a motion as provided in section (h)(2) of this Rule on any of the grounds there stated.

(h) Waiver or Preservation of Certain Defenses.

(1) A defense of lack of jurisdiction over the person, insufficiency of process, or insufficiency of service of process is waived: (A) If omitted from a motion in the circumstances described in section (g); or (B) if it is neither made by motion under this Rule nor included in a responsive pleading or an amendment thereof permitted by [Rule 15\(a\)](#) to be made as a matter of course.

(2) A defense of failure to state a claim upon which relief can be granted, a defense of failure to join a party under [Rule 19](#), and an objection of failure to state a legal defense to a claim may be made in any pleading permitted or ordered under [Rule 7\(a\)](#), or by motion for judgment on the pleadings, or at the trial on the merits.

(3) Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action.

Credits

Amended effective January 1, 2012; July 1, 2015.

Editors' Notes

COMMENTS

2015 [Amendment]

[1] The practice of pleading every affirmative defense listed in [C.R.C.P. 8\(c\)](#), irrespective of a factual basis for the defense, is improper under [C.R.C.P. 11\(a\)](#). The pleading of affirmative defenses is subject not only to [C.R.C.P. 8\(b\)](#), which requires a party to “state in short and plain terms his defense to each claim asserted,” but also to [C.R.C.P. 11\(a\)](#): “The signature of an attorney constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.” Some affirmative defenses are also subject to the special pleading requirements of [C.R.C.P. 9](#). To the extent a defendant does not have sufficient information under [Rule 11\(a\)](#) to plead a particular affirmative defense when the answer must be filed but later discovers an adequate basis to do so, the defendant should move to amend the answer to add the affirmative defense.

Notes of Decisions (936)

Rules Civ. Proc., Rule 12, CO ST RCP Rule 12
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West's Colorado Revised Statutes Annotated

Colorado Court Rules

Chapters 1--24. Rules of Civil Procedure

Chapter 2. Pleadings and Motions

C.R.C.P. Rule 12

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

Currentness

(a) When Presented.

(1) A defendant shall file his answer or other response within 21 days after the service of the summons and complaint. The filing of a motion permitted under this Rule alters these periods of time, as follows:

(A) 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;

(B) 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.

(2) If, pursuant to special order, a copy of the complaint is not served with the summons, or if the summons is served outside of Colorado or by publication, the time limit for filings under subsections (a)(1) and (e) of this Rule shall be within 35 days after the service thereof.

(3) A party served with a pleading stating a cross-claim against that party shall file an answer thereto within 21 days after the service thereof.

(4) The plaintiff shall file a reply to a counterclaim in the answer within 21 days after the service of the answer.

(5) If a reply is made to any affirmative defense, such reply shall be filed within 21 days after service of the pleading containing such affirmative defense.

(6) 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.

(b) How Presented. Every defense, in law or in fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by separate motion filed on or before the date the answer or reply to a pleading under C.R.C.P. 12(a) is due:

(1) lack of jurisdiction over the subject matter;

(2) lack of jurisdiction over the person;

(3) insufficiency of process;

(4) insufficiency of service of process;

(5) failure to state a claim upon which relief can be granted; or

(6) failure to join a party under [C.R.C.P. 19](#).

No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or with any other motion permitted under this Rule or [C.R.C.P. 98](#). If a pleading sets forth a claim for relief to which the adverse party is not required to file a responsive pleading, the adverse party may assert at the trial any defense in law or fact to that claim for relief. If, on a motion asserting the defense numbered (5) to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in [C.R.C.P. 56](#), and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by [C.R.C.P. 56](#).

(c) Motion for Judgment on the Pleadings. After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings. If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in [Rule 56](#), and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by [Rule 56](#).

(d) Preliminary Hearings. The defenses specifically enumerated in subsections (1)-(6) of section (b) of this Rule, whether

made in a pleading or by motion, and the motion for judgment mentioned in section (c) of this Rule, shall be heard and determined before trial on application of any party, unless the court orders that the hearing and determination thereof be deferred until the trial.

(e) Motion for Separate Statement or for More Definite Statement. Within the time limits for filings under subsections (a)(1) and (a)(2) of this Rule, the party may file a motion for a statement in separate counts or defenses or for a more definite statement of any matter that is not averred with sufficient definiteness or particularity to enable the party properly to prepare a 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 within the time for 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).

(g) Consolidation of Defenses in Motion. A party who makes a motion under this Rule may join with it any other motions herein provided for and then available to that party. If a party makes a motion under this Rule but omits therefrom any defense or objection then available to that party which this Rule permits to be raised by motion, that party shall not thereafter make a motion based on the defense or objection so omitted, except a motion as provided in section (h)(2) of this Rule on any of the grounds there stated.

(h) Waiver or Preservation of Certain Defenses.

(1) A defense of lack of jurisdiction over the person, insufficiency of process, or insufficiency of service of process is waived: (A) If omitted from a motion in the circumstances described in section (g); or (B) if it is neither made by motion under this Rule nor included in a responsive pleading or an amendment thereof permitted by [Rule 15\(a\)](#) to be made as a matter of course.

(2) A defense of failure to state a claim upon which relief can be granted, a defense of failure to join a party under [Rule 19](#), and an objection of failure to state a legal defense to a claim may be made in any pleading permitted or ordered under [Rule 7\(a\)](#), or by motion for judgment on the pleadings, or at the trial on the merits.

(3) Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action.

Credits

Amended effective January 1, 2012; July 1, 2015.

Editors' Notes

COMMENTS

2015 [Amendment]

[1] The practice of pleading every affirmative defense listed in [C.R.C.P. 8\(c\)](#), irrespective of a factual basis for the defense, is improper under [C.R.C.P. 11\(a\)](#). The pleading of affirmative defenses is subject not only to [C.R.C.P. 8\(b\)](#), which requires a party to “state in short and plain terms his defense to each claim asserted,” but also to [C.R.C.P. 11\(a\)](#): “The signature of an attorney constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.” Some affirmative defenses are also subject to the special pleading requirements of [C.R.C.P. 9](#). To the extent a defendant does not have sufficient information under [Rule 11\(a\)](#) to plead a particular affirmative defense when the answer must be filed but later discovers an adequate basis to do so, the defendant should move to amend the answer to add the affirmative defense.

[Notes of Decisions \(938\)](#)

Rules Civ. Proc., Rule 12, CO ST RCP Rule 12

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West's Colorado Revised Statutes Annotated
Colorado Court Rules
Chapter 25. Rules of County Court Civil Procedure

C.R.C.P. Rule 312

Rule 312. Defenses and Objections [in non-Forcible Entry and
Detainer Cases](#) --When and How Presented-- By Pleading or
Motion--Motion for Judgment on Pleadings

Effective: January 6, 2022

[Currentness](#)

(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 [and Rule 312.5](#), 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. [Except as otherwise provided in Rule 312.5](#), motions raising defenses made by the defendant on or before the appearance date 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.

(c) Waiver of Defenses. A party waives all defenses and objections which are not raised either by motion or in his answer except that the defense of lack of jurisdiction of the subject matter may be made at any time.

(d) Motion for Judgment on the Pleadings. At any time after the last pleading is filed, but within such time as not to delay the trial, any party may move for judgment on the pleadings. A party shall not submit matters outside the pleadings in support of the motion.

Credits

Amended effective January 1, 1984; January 1, 1994; April 23, 1998; June 28, 2007; January 1, 2012; January 6, 2022.

Rules Civ. Proc., County Court Rule 312, CO ST CTY CT RCP Rule 312
Current with amendments received through July 1, 2022.

West's Colorado Revised Statutes Annotated

Colorado Court Rules

Chapter 25. Rules of County Court Civil Procedure

C.R.C.P. Rule 312

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

Effective: January 6, 2022

[Currentness](#)

(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 made by the defendant on or before the appearance date 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.

(c) Waiver of Defenses. A party waives all defenses and objections which are not raised either by motion or in his answer except that the defense of lack of jurisdiction of the subject matter may be made at any time.

(d) Motion for Judgment on the Pleadings. At any time after the last pleading is filed, but within such time as not to delay the trial, any party may move for judgment on the pleadings. A party shall not submit matters outside the pleadings in support of the motion.

Credits

Amended effective January 1, 1984; January 1, 1994; April 23, 1998; June 28, 2007; January 1, 2012; January 6, 2022.

Rules Civ. Proc., County Court Rule 312, CO ST CTY CT RCP Rule 312

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Colorado Court Rules

Chapter 25. Rules of County Court Civil Procedure

C.R.C.P. Rule 312.5

Rule 312.5. Defenses and Objections in Forcible Entry and Detainer Cases--When and How. Defenses and Objections in Forcible Entry and Detainer Cases--By Pleadings or Motion

Effective: October 13, 2021

[Currentness](#)

(a) Responsive Pleadings; When Presented. The defendant shall file an answer including any counterclaim or cross-claim on or before, and shall appear in court at, the date and time as fixed in the summons, or such other date as fixed by the court.

(b) Motions. A defendant may file a motion setting forth defenses simultaneously with the defendant's answer. All other motions, except for motions arising at trial, must be filed at least three days before the earlier of the date of any pretrial conference or the trial date.

(c) Waiver of Defenses. A party waives all defenses and objections which are not raised either by motion or in his answer except that the defense of lack of jurisdiction of the subject matter may be made at any time.

(d) Motion for Judgment on the Pleadings. At any time after the last pleading is filed, but within such time as not to delay the trial, any party may move for judgment on the pleadings. A party shall not submit matters outside the pleadings in support of the motion.

Credits

Adopted effective October 13, 2021.

Rules Civ. Proc., County Court Rule 312.5, CO ST CTY CT RCP Rule 312.5

Current with amendments received through September 1, 2022. Some rules may be more current, see credits for details.

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Rule 312.5. Defenses, ~~and~~ Objections, Responses in Forcible Entry and Detainer Cases -- When and How. ~~Defenses and Objections in Forcible Entry and Detainer Cases~~ -- by Pleading or Motion.

(a) Responsive Pleadings; When Presented. The defendant shall file an answer including any counterclaim or cross-claim on or before, and shall appear in court at, the date and time as fixed in the summons, or such other date as fixed by the court.

(b) Motions. A defendant may file a motion setting forth defenses simultaneously with the defendant's answer. All other motions, except for motions arising at trial, must be filed at least three days before the earlier of the date of any pretrial conference or the trial date.

(c) Waiver of Defenses. A party waives all defenses and objections which are not raised either by motion or in his answer except that the defense of lack of jurisdiction of the subject matter may be made at any time.

(d) Motion for Judgment on the Pleadings. At any time after the last pleading is filed, but within such time as not to delay the trial, any party may move for judgment on the pleadings. A party shall not submit matters outside the pleadings in support of the motion.

(e) Tender of Full Payment. A landlord who provides a tenant with proper notice of nonpayment shall accept payment of the tenant's full payment of all amounts due according to the notice, as well as any rent that remains due under the rental agreement, at any time until a judge issues a judgment for possession. A tenant may pay this amount to either the landlord or to the court. Once a court has confirmation that the full amount has been timely paid, the court shall: (1) vacate any judgments that have been issued; and (2) dismiss the action with prejudice.

michaels, kathryn

From: jvasquez@colegalserv.org on behalf of Jose Vasquez <jvasquez@colegalserv.org>
Sent: Friday, April 22, 2022 9:46 AM
To: jones, jerry
Cc: michaels, kathryn
Subject: [External] Registered: Re: Newly enacted changes to exemptions resulting from SB 22-0086
Attachments: Form 30 Claim of Exemption to Writ of Garnishment with Notice R5-11 revisions.docx; Form29SC revisions.docx



You have received an encrypted email from **Jose Vasquez**. To reply to this message encrypted, please [click here](#).

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Judge Jones,

It appears that only forms that were impacted by the changes in SB 22-0086 and that the changes that will be need to be made are minimal.

Form 29 SC - Writ of Garnishment with Notice of Exemption

The exemption protecting a cumulative amount of \$4,000 in a depository account or accounts which expired June 12, 2021, has been made permanent, though the amount is now \$2,500.00.

Form 30 SCSC - R1-18 CLAIM OF EXEMPTION TO WRIT OF GARNISHMENT WITH NOTICE

Since the exemption for monies in a depository account is accumulative and can involve more than one account, the current form does not provide enough room in the event that there is more than one account in which monies have been held. Thus, there needs to be more room to permit the debtor to add more than one account in the form.

I have attached drafts of both forms which contain proposed suggestions for changes. As you can see in Form 30 SC, I added language informing the debtor that if there is more than one account in which monies are held that they can include that in the lines above or add a separate sheet. The other option would be to repeat the above information but that would lengthen the form to more than one page and then it goes into the question of if not repeating the information once whether it makes sense to repeat it three or more times.

Please let me know if you have any questions about the forms or if there is anything else I can do to help.

Jose L. Vasquez

Supervising Attorney, Consumer Law Unit

jvasquez@colegalserv.org

COLORADO LEGAL SERVICES

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From: Jose Vasquez <jvasquez@colegalserv.org>
Sent: Tuesday, April 19, 2022 2:47 AM
To: jones, jerry <jerry.jones@judicial.state.co.us>
Cc: michaels, kathryn <kathryn.michaels@judicial.state.co.us>
Subject: Re: Newly enacted changes to exemptions resulting from SB 22-0086

Judge Jones,

Thank you for your response to my email. I will get a draft for you and email it to you within the next couple of days.

Jose L. Vasquez

Supervising Attorney, Consumer Law Unit

jvasquez@colegalserv.org

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From: jones, jerry <jerry.jones@judicial.state.co.us>
Sent: Friday, April 15, 2022 2:39 AM
To: Jose Vasquez <jvasquez@colegalserv.org>
Cc: michaels, kathryn <kathryn.michaels@judicial.state.co.us>
Subject: Re: Newly enacted changes to exemptions resulting from SB 22-0086

Mr. Vasquez, thanks for the update. It looks like the form references types of exempt property but not amounts. What changes do you believe are necessary? Because I am out of the country it might be a little difficult for me to stay on top of this. Perhaps you could prepare a redline of the form?

Judge Jones

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From: jvasquez@colegalserv.org <jvasquez@colegalserv.org> on behalf of Jose Vasquez <jvasquez@colegalserv.org>
Sent: Wednesday, April 13, 2022 10:45:35 PM
To: jones, jerry <jerry.jones@judicial.state.co.us>
Cc: michaels, kathryn <kathryn.michaels@judicial.state.co.us>
Subject: [External] Registered: Newly enacted changes to exemptions resulting from SB 22-0086



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Judge Jones,

On April 7, 2022, the Governor signed SB22-0086 which made several substantial changes to the Colorado exemptions, including the following:

- Increasing the homestead exemption from \$75,000/\$105,000 to \$250,000/\$350,000 if debtor or family =60+ or if debtor or family disabled];
- having the homestead exemption cover non-traditional housing (like tiny homes)
- reinstating the bank account exemption [up to \$2,500 regardless of the source of funds];
- increasing vehicle exemption from \$7,500/\$12,500 to \$12,000/\$25,000 [60+ or disabled];
- increasing household goods exemption from \$3,000/person to \$6,000/person;
- increase disability benefit exemption from \$4,000/mo. to \$5,000/mo;
- increase farm equipment/livestock exemption to \$100,000;
- add an exemption for future economic stimulus payments;
- add firearm/hunting equipment exemption [up to \$1,000];
- add exemption for health savings accounts [HSAs];
- add exemption for funds reserved for taxes & insurance on some reverse mortgages;
- keep exemptions on unemployment & child support even if funds commingled;

I am including a copy of the bill for reference, along with the following link to the bill and the summary:

<https://leg.colorado.gov/bills/sb22-086>

Homestead Exemption And Consumer Debt Protection | Colorado General Assembly

Concerning assets exempted from seizure in certain proceedings, and, in connection therewith, expanding the amount and application of the homestead exemption to include personal property that is actually used as a residence, increasing the scope and amount of assets that may be exempted, adding certain new exemptions, recreating and increasing an exemption for money in depository accounts, and ...

leg.colorado.gov

Since this bill is currently in effect, I was wondering if the Rules Committee could take a look at making changes to certain judicial forms related to debt collection, including Form 29SC (which I have attached) which

includes a partial list of exemptions that will need to be changed. I am not certain at the present time whether there are any other forms that need to be revised as a result of the passing of this bill but a review of any others might be helpful.

Please let me know if you have any questions or if I can be of any assistance.

Jose L. Vasquez

Supervising Attorney, Consumer Law Unit

jvasquez@colegalserv.org

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with proper return of service to be made to the Court.

To The Garnishee:

You are hereby summoned as garnishee in this action and ordered:

- a. To answer the following questions under oath and file your answers with the Clerk of the Court (AND to mail a completed copy with your answers to the Judgment Creditor or attorney when a stamped envelope is attached) within 14 days following service of this Writ upon you.

Your failure to answer this writ with notice may result in the entry of a default against you.

- b. To hold pending court order the personal property of any kind (other than earnings of a natural person) in your possession or control, including the debts, credits, choses in action or money owed to the Judgment Debtor whether they are due at the time of the service of the writ or are to become due thereafter.

You Are Notified:

- a. This Writ with Notice applies to all personal property (other than earnings) owed to or owned by the Judgment Debtor and in your possession or control as of the date and time this Writ was served upon you.
- b. In no case may you withhold any personal property greater than the amount on Line 5 on the front of this Writ unless the personal property is incapable of being divided.
- c. After you file your answers to the following questions, and after receiving a separate notice or order from the court, **make checks payable** and mail to: the Judgment Creditor named above (May select only if the Judgment Creditor is a licensed collection agency pursuant to 5-16-101, et. seq., C.R.S.); the Judgment Creditor's Attorney (if applicable); or to the Clerk of the County Court or District Court in _____ (city), Colorado (Must select if the Judgment Creditor is not represented by an attorney AND is not a licensed collection agency pursuant to 5-16-101, et. seq., C.R.S.) at the address below:

Name: _____

Address: _____

Please Put the Case Number (Above) on the Front of the Check.

CLERK OF THE COURT

By Deputy Clerk: _____

Date: _____

Questions to be Answered by Garnishee

Judgment Debtor's Name: _____ **Case Number:** _____

The following questions MUST be answered by you under oath:

- a. On the date and time this Writ was served upon you, did you possess or control any personal property of the Judgment Debtor or did you owe any rents, payments, obligations, debts or moneys other than earnings to the Judgment Debtor?

YES NO

- b. If YES, list all items of personal property and their location(s) and/or describe the nature and amount of the debt or obligation: (Attach additional pages if necessary): _____

- c. Do you claim any setoff against any property, debt or obligation listed above? YES NO

- d. If you answered YES to question c, describe the nature and amount of the setoff claimed: (Attach additional pages if necessary): _____

Verification

I declare under penalty of perjury under the law of Colorado that I am authorized to act for the Garnishee and the foregoing is true and correct.

Name of Garnishee (Print) _____

Executed on the _____ day of _____, _____, at _____
(date) (month) (year) (city or other location, and state OR country)

(Printed name of Person Answering)

Signature of Person Answering

Notice to Judgment Debtor of Exemption and Pending Levy

This Writ with Notice is a Court order which may cause your property or money to be held and taken to pay a judgment entered against you. You have legal rights which may prevent all or part of your money or property from being taken. That part of the money or property which may not be taken is called "exempt property". A partial list of "exempt property" is shown below, along

with the law which may make all or part of your money or property exempt. The purpose of this notice is to tell you about these rights.

Partial List of Exempt Property

1. All or part of your property listed in Sections 13-54-101 and 102, C.R.S., including clothing, jewelry, books, burial sites, household goods, food and fuel, farm animals, seed, tools, equipment and implements, military allowances, stock-in-trade and certain items used in your occupation, bicycles, motor vehicles (greater for disabled persons), life insurance, income tax refunds, attributed to an earned income tax credit or child tax credit, money received because of loss of property or for personal injury, equipment that you need because of your health, or money received because you were a victim of a crime.
2. All or part of your earnings under Section 13-54-104, C.R.S.
3. Worker's compensation benefits under Section 8-42-124, C.R.S.
4. Unemployment compensation benefits under Section 8-80-103, C.R.S.
5. Group life insurance benefits under Section 10-7-205, C.R.S.
6. Health insurance benefits under Section 10-16-212, C.R.S.
7. Fraternal society benefits under Section 10-14-403, C.R.S.
8. Family allowances under Section 15-11-404, C.R.S.
9. Teachers' retirement fund benefits under Section 22-64-120, C.R.S.
10. Public employees' retirement benefits (PERA) under Sections 24-51-212 and 24-54-111, C.R.S.
11. Social Security benefits (OASDI, SSI) under 42 U.S.C. §407.
12. Railroad employee retirement benefits under 45 U.S.C. §231m.
13. Public assistance benefits (OAP, AFDC, TANF, AND, AB, LEAP) under Section 26-2-131, C.R.S.
14. Police Officer's and Firefighter's pension fund payments under Sections 31-30-1117 & 31-30.5-208 and 31-31-203, C.R.S.
15. Utility and security deposits under Section 13-54-102(1)(r), C.R.S.
16. Proceeds of the sale of homestead property under Section 38-41-207, C.R.S.
17. Veteran's Administration benefits under 38 U.S.C. §5301.
18. Civil service retirement benefits under 5 U.S.C. §8346.
19. Mobile homes and trailers under Section 38-41-201.6, C.R.S.
20. Certain retirement and pension funds and benefits under Section 13-54-102(1)(s), C.R.S.
21. A Court-ordered child support or maintenance obligation or payment under Section 13-54-102(1)(u), C.R.S.
22. Public or private disability benefits under Section 13-54-102(1)(v), C.R.S.
23. ~~Through February 1, 2021, up to four thousand dollars cumulative in a depository account or accounts in the name of the debtor~~ Up to two thousand five hundred dollars cumulative in a depository account or accounts in the name of the debtor. under Section 13-54-102, C.R.S.

If the money or property which is being withheld from you includes any "exempt property," you must file within 14 days of receiving this notice a written Claim of Exemption with the Clerk of the Court describing what money or property you think is "exempt property" and the reason that it is exempt. YOU MUST USE THE APPROVED FORM attached to this Writ or a copy of it. When you file the claim, you must immediately deliver, by certified mail, return receipt requested, a copy of your claim to the Garnishee (person/place that was garnished) and to the Judgment Creditor's attorney, or if none, to the Judgment Creditor at the address shown on this Writ with Notice. Notwithstanding your right to claim the property as "exempt," no exemption other than the exemptions set forth in Section 13-54-104(3), C.R.S., may be claimed for a Writ which is the result of a judgment taken for arrearages for child support or for child support debt.

Once you have properly filed your claim, the court will schedule a hearing within 14 days. The Clerk of the Court will notify you and the Judgment Creditor or attorney of the date and time of the hearing, by telephone, by mail or in person.

When you come to your hearing, you should be ready to explain why you believe your money or property is "exempt property". If you do not appear at the scheduled time, your money or property may be taken by the Court to pay the judgment entered against you.

Remember that this is only a partial list of "exempt property"; you may wish to consult with a lawyer who can advise you of your rights. If you cannot afford one, there are listings of legal assistance and legal aid offices in the yellow pages of the telephone book.

You must act quickly to protect your rights. Remember, you only have 14 days after receiving this notice to file your claim of exemption with the Clerk of the Court.

