

AGENDA

COLORADO SUPREME COURT COMMITTEE ON THE RULES OF CIVIL PROCEDURE

Friday, September 22, 2023, 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 23, 2023, minutes [Pages 1 to 2]
- III. Announcements from the Chair
 - A. 2024 Meeting Dates: January 26, April 5, June 28, September 27, and November 1
 - B. General
- IV. Present Business
 - A. JDF 250 SC—SCAO Proposal—(Judge Jones) [Pages 3 to 11]
 - B. Captions of Proposed Orders—Proposed Changes from Judge Leith—(Judge Jones) [Page 12]
 - C. C.R.C.C.P. 310—Proposed Changes in Light of Legislative Changes—(Alana Percy) [Pages 13 to 14]
 - D. Colorado Small Claims Rules—Concerned Citizen Email—(Judge Jones) [Pages 15 to 17]
 - E. Magistrate Rules—Cleanup—(Damon Davis) [Pages 18 to 19]
 - F. C.R.C.P. 121 § 1-21(1)—Remove Old Designation of Record Process—(Judge Jones) [Pages 20 to 22]
- V. Adjourn—Next meeting is November 3, 2023, 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 23, 2023, Minutes**

A quorum being present, the Colorado Supreme Court Advisory Committee on the Rules of Civil Procedure was called to order by Substitute Chair Judge Michael Berger 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
Su Cho	X	

I. Attachments & Handouts

- June 23, 2023, agenda packet.

II. Announcements from the Chair

- January 27, 2023, minutes were approved as submitted.

III. Present Business

There was an audio system failure during the meeting. As a result, the Committee kept the conversations brief and held no votes.

A. Out of State Subpoenas in Light of SB23-188

A new statute prohibits Colorado courts from issuing subpoenas arising from out of state proceedings involving protected health care as defined. Judge Berger formed a Subcommittee, designated Judge Elliff Chair, and requested volunteers email to join.

B. Licensed Legal Paraprofessional Program

The Licensed Legal Paraprofessional (LLP) Subcommittee of the OARC Advisory Committee submitted proposed amendments to several rules. Judge Berger formed a Subcommittee to address these proposed rule changes; volunteers should email Judge Jones to join.

C. C.R.C.P. 10—Proposed Changes from the Pathways to Access Standing Committee (PAC)

The PAC asks this Committee to consider proposed changes to Rule 10 aimed at adding plain language, creating consistency, and updating pronoun language. Judge Berger set up a Subcommittee, and volunteers should email Judge Jones to join. Judge Berger also noted that this work might relate to the currently formed Pronouns Subcommittee.

D. Colorado Small Claims Rules—Concerned Citizen Email

Passed to September.

E. Magistrate Rules Cleanup

Passed to September.

F. C.R.C.P. 121 § 1-21(1)—Remove Old Designation of Record Process

C.R.C.P. 121 § 1-21(1) may need updates in response to recent changes to the Colorado Appellate Rules. The Committee will consider this further at the September meeting.

Future Meetings

September 22; November 3

The Committee adjourned at 2:29 p.m.

From: [slagle, sean](#)
Sent: Monday, August 14, 2023 10:28 AM
To: [michaels, kathryn](#)
Subject: Suggested Edit: JDF 250 SC - Small Claims Notice and Summons
Attachments: [JDF 250 \[redline\] - Small Claims Notice and Summons.docx](#)

Hi Kathryn,

I've attached a small redline edit to JDF 250 SC – Small Claims Notice and Summons for the rules committee's consideration.

- On page 5, § A(3) the wording on the 2nd bullet is “less than \$7,500.00:”
- This caused someone to question whether that included a claim for exactly \$7,500.00.
- To remove any doubt, I've suggested the change to “***no more*** than \$7,500.00:” to match the language in statute.
- [C.R.S. § 13-32-101\(c\)\(IV\)\(C\)](#).

Please let me know if you or the Committee has any questions.

Best,

Sean Slagle, J.D. (she/her)
Court Forms Coordinator
Judicial Access & Inclusion Unit
Court Services Division | SCAO

Empowering people to engage with the court system.

Small Claims Court _____ County, Colorado Court Address: _____	
PLAINTIFF(S): _____ Address: _____ City/State/Zip: _____ Phone: Home _____ Work _____ Cell _____ v. DEFENDANT(1): _____ Address: _____ City/State/Zip: _____ Phone: Home _____ Work _____ Cell _____ DEFENDANT(2): _____ Address: _____ City/State/Zip: _____ Phone: Home _____ Work _____ Cell _____	<div style="border: 1px solid black; padding: 5px; margin: 0 auto; width: 80%;"> <p style="text-align: center; margin: 0;">▲ COURT USE ONLY ▲</p> <p style="text-align: center; margin: 0;">Case Number: _____</p> <p style="font-size: 2em; text-align: center; margin: 10px 0 10px 0;">S</p> <p style="text-align: center; margin: 0;">Division Courtroom</p> </div>
NOTICE, CLAIM AND SUMMONS TO APPEAR FOR TRIAL (Part 1)	

If Defendant(s) is/are other than a person, go on-line at www.coloradosos.gov to determine the registered agent for service of this notice. Please enter name and address of the agent. Name: _____
 Address: _____

1. The Defendant(s) is/are in the military service: Yes No Unknown
2. The Defendant(s) reside(s), is/are regularly employed, has/have an office for the transaction of business, or is/are a student in this county, or real property located in this county is the subject of claim(s) arising from a restrictive covenant or security deposit dispute. Yes No
3. I/We understand that it is my/our responsibility to have each Defendant served with the "Defendant's Copy" of this Notice by a person whose age is 18 years or older and who is not a party to this action 15 days prior to the trial and to provide the Court with written proof of service. Yes No
4. I am an attorney: Yes No

Notice and Summons to Appear for Trial

To the Defendant(s):
 You are scheduled to have your trial in this case on _____ (date) at _____ (time) at the Court address stated in the above caption. Bring with you all books, papers and witnesses you need to establish your defense. **If you do not appear, judgment may be entered against you.** If you wish to defend the claim or present a counterclaim, you must provide a written response or written counterclaim on or before the scheduled trial date and pay a **nonrefundable** filing fee.

Dated: _____
Clerk of Court/Deputy Clerk

Plaintiff(s)'s Claim (Please summarize reasons to support your claim below.)
 The Defendant(s) owe(s) me \$ _____, which includes penalties, plus interest and costs allowed by law, and/or should be ordered to return property, perform a contract or set aside a contract or comply with a restrictive covenant for the following reasons. (If seeking return of property, please describe the property being requested).

Note: The combined value of money, property, specific performance or cost to remedy a covenant violation cannot exceed \$7,500.00.
 I/we declare under penalty of perjury under the law of Colorado that the foregoing is true and correct. I/we have not filed in any Small Claims Court in this County more than 2 claims during this calendar month, nor more than 18 claims in this County this calendar year.

Dated: _____

 Plaintiff's Signature

 Plaintiff's Signature

Small Claims Court _____ County, Colorado Court Address: _____ <hr/> PLAINTIFF(S): _____ Address: _____ City/State/Zip: _____ Phone: Home _____ Work _____ Cell _____ v. DEFENDANT(1): _____ Address: _____ City/State/Zip: _____ Phone: Home _____ Work _____ Cell _____ DEFENDANT(2): _____ Address: _____ City/State/Zip: _____ Phone: Home _____ Work _____ Cell _____	<div style="text-align: center; border-top: 1px solid black; border-bottom: 1px solid black;"> ▲ COURT USE ONLY ▲ </div> Case Number: _____ <div style="text-align: center; font-size: 2em; font-weight: bold; margin: 20px 0;">S</div> Division _____ Courtroom _____
NOTICE, CLAIM AND SUMMONS TO APPEAR FOR TRIAL (Part 2)	

If Defendant(s) is/are other than a person, go on-line at www.coloradosos.gov to determine the registered agent for service of this notice. Please enter name and address of the agent. Name: _____
 Address: _____

1. The Defendant(s) is/are in the military service: Yes No Unknown
2. The Defendant(s) reside(s), is/are regularly employed, has/have an office for the transaction of business, or is/are a student in this county, or real property located in this county is the subject of claim(s) arising from a restrictive covenant or security deposit dispute. Yes No
3. I/We understand that it is my/our responsibility to have each Defendant served with the "Defendant's Copy" of this Notice by a person whose age is 18 years or older and who is not a party to this action 15 days prior to the trial and to provide the Court with written proof of service. Yes No
4. I am an attorney: Yes No

Notice and Summons to Appear for Trial

To the Defendant(s):
 You are scheduled to have your trial in this case on _____ (date) at _____ (time) at the Court address stated in the above caption. Bring with you all books, papers and witnesses you need to establish your defense. **If you do not appear, judgment may be entered against you.** If you wish to defend the claim or present a counterclaim, you must provide a written response or written counterclaim on or before the scheduled trial date and pay a **nonrefundable** filing fee.

Dated: _____
Clerk of Court/Deputy Clerk

Plaintiff(s)'s Claim (Please summarize reasons to support your claim below.)
 The Defendant(s) owe(s) me \$ _____, which includes penalties, plus interest and costs allowed by law, and/or should be ordered to return property, perform a contract or set aside a contract or comply with a restrictive covenant for the following reasons. (If seeking return of property, please describe the property being requested).

Note: The combined value of money, property, specific performance or cost to remedy a covenant violation cannot exceed \$7,500.00. I/we declare under penalty of perjury under the law of Colorado that the foregoing is true and correct. I/we have not filed in any Small Claims Court in this County more than 2 claims during this calendar month, nor more than 18 claims in this County in this calendar year.

Dated: _____

 Plaintiff's Signature

 Plaintiff's Signature

Small Claims Court _____ County, Colorado Court Address: _____ <hr/> PLAINTIFF(S): _____ Address: _____ City/State/Zip: _____ Phone: Home _____ Work _____ Cell _____ v. DEFENDANT(1): _____ Address: _____ City/State/Zip: _____ Phone: Home _____ Work _____ Cell _____ DEFENDANT(2): _____ Address: _____ City/State/Zip: _____ Phone: Home _____ Work _____ Cell _____	<div style="text-align: center; border-top: 1px solid black; border-bottom: 1px solid black;"> ▲ COURT USE ONLY ▲ </div> Case Number: _____ <div style="text-align: center; font-size: 2em; font-weight: bold; margin: 20px 0;">S</div> <div style="display: flex; justify-content: space-between;"> Division _____ Courtroom _____ </div>
NOTICE, CLAIM AND SUMMONS TO APPEAR FOR TRIAL (Part 3)	

If Defendant(s) is/are other than a person, go on-line at www.coloradosos.gov to determine the registered agent for service of this notice. Please enter name and address of the agent. Name: _____
 Address: _____

1. The Defendant(s) is/are in the military service: Yes No Unknown
2. The Defendant(s) reside(s), is/are regularly employed, has/have an office for the transaction of business, or is/are a student in this county, or real property located in this county is the subject of claim(s) arising from a restrictive covenant or security deposit dispute. Yes No
3. I/We understand that it is my/our responsibility to have each Defendant served with the "Defendant's Copy" of this Notice by a person whose age is 18 years or older and who is not a party to this action 15 days prior to the trial and to provide the Court with written proof of service. Yes No
4. I am an attorney: Yes No

Notice and Summons to Appear for Trial

To the Defendant(s):
 You are scheduled to have your trial in this case on (date) _____ (time) _____
 at the Court address stated in the above caption. Bring with you all books, papers and witnesses you need to establish your defense. **If you do not appear, judgment may be entered against you.** If you wish to defend the claim or present a counterclaim, you must provide a written response or written counterclaim on or before the scheduled trial date and pay a **nonrefundable** filing fee.

Dated: _____
Clerk of Court/Deputy Clerk

Plaintiff(s)'s Claim (Please summarize reasons to support your claim below.)
 The Defendant(s) owe(s) me \$ _____, which includes penalties, plus interest and costs allowed by law, and/or should be ordered to return property, perform a contract or set aside a contract or comply with a restrictive covenant for the following reasons. (If seeking return of property, please describe the property being requested).

Note: The combined value of money, property, specific performance or cost to remedy a covenant violation cannot exceed \$7,500.00.
 I/we declare under penalty of perjury under the law of Colorado that the foregoing is true and correct. I/we have not filed in any Small Claims Court in this County more than 2 claims during this calendar month, nor more than 18 claims in this County in this calendar year.

Dated: _____

 Plaintiff's Signature

 Plaintiff's Signature

INFORMATION FOR PLAINTIFFS IN SMALL CLAIMS CASES

A. FILING. You may file your claim in this Court if:

1. Your claim is for money, property, specific performance or rescission of a contract, or enforcement of a restrictive covenant that does not exceed \$7,500.00. You may reduce a larger claim and waive the balance. You cannot divide a claim and file two separate cases.
2. At least one of the parties you sue resides, is regularly employed, has an office for the transaction of business, or is a student in this county, or they own rental property in the county that is the subject of this claim.
3. You pay the clerk one of the following **NONREFUNDABLE** filing fees.
 - ◆ **Claim \$500.00 or less:** **\$31.00**
 - ◆ **Claim over \$500.00 but less-no more than \$7,500.00:** **\$55.00**

B. SERVICE. This notice to appear must be served at least 15 days prior to the trial on each Defendant. It may be served by:

1. Any person whose age is 18 years or older and who is not a party to this action.
2. Sheriff or process server.
3. Certified Mail that is mailed by the clerk. You must deposit the cost for certified mail in advance.

C. SETTLEMENT. If you settle your claim before trial, you must notify the Small Claims Court and Defendant in writing.

D. SUBPOENAS. Upon your request, the clerk will issue a subpoena to require witnesses to appear or bring documents for your trial. It is your responsibility to complete the information needed on the subpoena and to have the subpoena served. Subpoenas must be served personally and may be served by a person over the age of 18 that is not a party to the case. Subpoenas must be accompanied by a check for payment of witness fees and mileage for any witnesses served.

E. TRIAL RESPONSIBILITY. You have a right to a trial. Bring all evidence necessary to prove your case: books, papers, repair bills, photographs or other exhibits. Be on time. If you are late or do not appear, the Court may enter judgment in favor of the Defendant and against you if the Defendant filed a counterclaim.

F. APPEAL. If you wish to appeal, you must file your notice of appeal within 14 days of the judgment and proceed according to C.R.C.P. 411.

G. JUDGMENT. THE COURT DOES NOT COLLECT ANY JUDGMENT, but will help with the necessary forms.

Money Judgment. If judgment is entered in favor of the Defendant and against you, you are expected to immediately pay the judgment, including filing fees and court costs. If the judgment is not paid immediately, you must answer questions about your assets and income and the other party can obtain a writ of garnishment or execution against your wages or property. Once the judgment is paid, you are entitled to have the judgment satisfied.

Non-monetary Judgment. If the Court orders immediate possession of the property, performance of a contract, setting aside of a contract or compliance with a restrictive covenant, failure to comply with the Court order may result in an award of damages and or being held in contempt.

H. CASE INQUIRIES. When inquiring about this case, refer to the case number on the other side of this document. Direct all inquiries to the clerk, not the judge or magistrate.

I. ATTORNEY. If the Defendant(s) want(s) to be represented by an attorney, the Defendant(s) or attorney must file a Notice of Representation of Attorney (JDF 256) at least 7 days before the trial date on this notice. Then, you may have representation by an attorney. If either party is an attorney, the other party may be represented by an attorney without filing a notice of representation. Even if there are attorneys in the case, the rules and procedures of the Small Claims Court will still apply.

J. JUDICIAL OFFICER. A magistrate or judge may hear your case. If you want a judge to hear your case, you must file an Objection to a Magistrate Hearing Case (JDF 259) at least 7 days before the trial date set in this notice. The rules and procedures of the Small Claims Court will still apply.

K. Language Interpreter. If you or a witness requires a language interpreter to be present for hearings, you must contact the Managing Interpreter corresponding to the district in which the case will be heard at least 7 days before the trial date is set on this notice. A language interpreter may only interpret what is said between parties during a hearing and immediately prior to or after the hearing. A language interpreter may not provide legal advice or any other service that is not related to interpreting. Interpreters may not provide any services that may constitute a violation of the language interpreter's Code of Professional Responsibility. A current list of Managing Interpreters can be viewed at:
http://www.courts.state.co.us/Administration/Custom.cfm?Unit=interp&Page_ID=117.

Commented [ss1]: Old language cause some confusion for claims of \$7,500.00. "No More than" matches the language from the statute C.R.S. § 13-32-101(c)(IV)(C) and would include a \$7,500.00 claim.

Small Claims Court _____ County, Colorado Court Address: _____ <hr/> PLAINTIFF(S): _____ Address: _____ City/State/Zip: _____ Phone: Home _____ Work _____ Cell _____ v. DEFENDANT(1): _____ Address: _____ City/State/Zip: _____ Phone: Home _____ Work _____ Cell _____ DEFENDANT(2): _____ Address: _____ City/State/Zip: _____ Phone: Home _____ Work _____ Cell _____	<div style="text-align: center; border-top: 1px solid black; border-bottom: 1px solid black;"> ▲ COURT USE ONLY ▲ </div> Case Number: _____ <div style="text-align: center; font-size: 2em; font-weight: bold; margin: 20px 0;">S</div> <div style="display: flex; justify-content: space-between;"> Division Courtroom </div>
NOTICE, CLAIM AND SUMMONS TO APPEAR FOR TRIAL (Part 4)	

If Defendant(s) is/are other than a person, go on-line at www.coloradosos.gov to determine the registered agent for service of this notice. Please enter name and address of the agent. Name: _____
 Address: _____

1. The Defendant(s) is/are in the military service: Yes No Unknown
2. The Defendant(s) reside(s), is/are regularly employed, has/have an office for the transaction of business, or is/are a student in this county, or real property located in this county is the subject of claim(s) arising from a restrictive covenant or security deposit dispute. Yes No
3. I/We understand that it is my/our responsibility to have each Defendant served with the "Defendant's Copy" of this Notice by a person whose age is 18 years or older and who is not a party to this action 15 days prior to the trial and to provide the Court with written proof of service. Yes No
4. I am an attorney: Yes No

Notice and Summons to Appear for Trial

To the Defendant(s):
 You are scheduled to have your trial in this case on (date) _____ (time) _____
 at the Court address stated in the above caption. Bring with you all books, papers and witnesses you need to establish your defense. **If you do not appear, judgment may be entered against you.** If you wish to defend the claim or present a counterclaim, you must provide a written response or written counterclaim on or before the scheduled trial date and pay a **nonrefundable** filing fee.

Dated: _____
Clerk of Court/Deputy Clerk

Plaintiff(s)'s Claim (Please summarize reasons to support your claim below.)
 The Defendant(s) owe(s) me \$ _____, which includes penalties, plus interest and costs allowed by law, and/or should be ordered to return property, perform a contract or set aside a contract or comply with a restrictive covenant for the following reasons. (If seeking return of property, please describe the property being requested).

Note: The combined value of money, property, specific performance or cost to remedy a covenant violation cannot exceed \$7,500.00
 I/we declare under penalty of perjury under the law of Colorado that the foregoing is true and correct. I/we have not filed in any Small Claims Court in this County more than 2 claims during this calendar month, nor more than 18 claims in this County in this calendar year.

Dated: _____
Plaintiff's Signature

Plaintiff's Signature

Case Name _____ v. _____

Case Number: _____

AFFIDAVIT OF SERVICE
(Must be returned to Court)

I swear/affirm under oath that I am 18 years or older and not a party to the action, and that I served the **Notice, Claim, and Summons to Appear for Trial (JDF 250)** on the following:

Name of Person Served	Date and Time of Service	Address of Service (Street, County, City, State)
-----------------------	--------------------------	---

Check type of Service:

- By handing the documents to a person identified to me as the Defendant.
- By identifying the documents, offering to deliver them to a person identified to me as the Defendant who refused service, and then leaving the documents in a conspicuous place.
- By leaving the documents at the Defendant's usual place of abode with _____ (Name of Person) who is a member of the Defendant's family and whose age is 18 years or older. (Identify family relationship _____.)
- By leaving the documents at the Defendant's usual workplace with _____ (Name of Person) who is the Defendant's secretary, administrative assistant, bookkeeper, or managing agent. (Circle title of person served.)
- By leaving the documents with _____ (Name of Person), who as _____ (title) is authorized by appointment or by law to receive service of process for the Defendant.
- By leaving the documents with an officer, partner, manager, stockholder, elected official or functional equivalent pursuant to C.R.C.P. 304 _____ (please identify) of the corporation or non-corporate entity which was to be served. (Circle title of person who was served.)
- By serving the documents as follows (other service under C.R.C.P. 304: _____)

I have charged the following fees for my services in this matter:

- Private process server
 - Sheriff, _____ County
Fee \$ _____ Mileage \$ _____
- _____
Signature of Process Server
- _____
Name (Print or type)

Subscribed and affirmed, or sworn to before me in the County of _____, State of _____, this _____ day of _____, 20 _____.

My Commission Expires: _____
Notary Public

CERTIFICATE OF SERVICE BY MAILING
(To be performed by Clerk within three days of filing)

I hereby certify that on _____ (date), I mailed a true and correct copy of the **NOTICE, CLAIM, AND SUMMONS TO APPEAR FOR TRIAL**, by placing it in the United States Mail, postage pre-paid to the Defendant(s) at the address(es) listed above.

Clerk of Court/Deputy Clerk

(If applicable) Plaintiff(s) notified of non-service on (date) _____. Clerk's Initials _____

Proposal for Change to Civil Rules
Submitted by Judge Elizabeth Leith

August 29, 2023

I propose changes be made to the civil rules concerning the caption of proposed orders.

REASON: Many attorneys who file proposed orders insert the word “PROPOSED” on the actual document filed into a case in addition to the description typed into the electronic e-filing system. Because the word “Proposed” is inserted into the caption, for example, the order will read:

(Proposed) Order for Continuance

If the signing judge does not strike out the word proposed, the signed order remains styled as proposed in its title. I would like to see this clarified so that attorneys are directed not to place the word proposed on the actual order they wish the court to sign, but only in the title that is entered on the electronic system when filing a motion and order.

Suggestions:

Modify C.R.C.P. 10(d)(2)(III) Case Caption Information: to add a sentence at the end of the paragraph:

Orders that are submitted as proposed shall not contain the word (PROPOSED) in the caption of the order.

Modify C.R.C.P. 121(1-26)(15)(c) Proposed Orders: to add a sentence at the end of the paragraph:

Orders that are submitted as proposed shall not contain the word (PROPOSED) in the caption of the order. Proposed Orders must only be designated as proposed in the e-filing transmission.

In reviewing the applicable rules, the Committee and the Court may wish to consider striking the word “ICON” from C.R.C.P. 10(i), as ICON is no longer the current name for the electronic filing system. If ICON is stricken, the paragraph should be suitable for the current and future names given to the electronic filing system.

From: [percy, alana](#)
Sent: Friday, September 1, 2023 1:38 PM
To: [jones, jerry](#); [michaels, kathryn](#)
Cc: [truett, andi](#); [cooley, kayla](#); [rodriguez, ana](#); [arencibia, marisa](#)
Subject: Civil Rules Committee agenda item request
Attachments: [Rule 310.docx](#)

Hello Judge Jones and Ms. Michaels,

I have a request for the next Civil Rules Committee meeting on 9/22/23 on behalf of the Clerks of Court.

Considering the substantial legislative changes that impact trial courts' eviction processes, we are requesting an update to CRCP rule 310 to give guidance on appropriate forms for litigants specific to Forcible Entry and Detainers filed in County Court. Please see the attached redlined version of CRCP rule 310.

Thank you in advance for your time and attention to these requests. Looking forward to seeing you on the 22nd at the upcoming meeting.

Alana

Alana Percy

Clerk of Court
Adams County Court
1100 Judicial Center Drive
Brighton, CO 80601
P. (303) 654-3202



Rule 310. Form of Summons, Pleadings and Other Documents.

(a) Caption; Names of Parties. The complaint and answer shall be in the form shown in Appendix to Chapter 25, C.R.C.P. with a caption that conforms with C.R.C.P. 10. The complaint in an action brought pursuant to section 13-40-110, C.R.S., shall also include a demand for possession setting forth all jurisdictional prerequisites necessary for the entry of judgment for possession. The complaint in an action brought pursuant to section 13-6-104 (5) or (6), C.R.S., shall also be verified and include a demand for injunctive relief. The complaint in an action brought pursuant to section 13-6-105 (1)(f), C.R.S., shall also be verified and include a demand for injunctive relief, and a copy of the covenant shall be attached as an exhibit. Affidavits, written orders and all other documents authorized to be filed shall contain the form of caption as specified in C.R.C.P. 10. In all cases the case or docket number shall appear on the document if known.

(b) Exhibits. An exhibit is a part of the document to which it is attached for all purposes.

(c) Form of Summons. The summons shall be in the form and content prescribed by the Appendix to Chapter 25, Forms 1, 1A (for actions brought pursuant to section 13-40-110, C.R.S.), 1B (for actions brought pursuant to section 13-6-105 (1)(f), C.R.S.), or 1C (for actions where service is permitted to be by publication), with a caption that conforms with C.R.C.P. 10. The summons shall contain the name, address, telephone number, and registration number of the plaintiff's attorney, if any, and if not, the full name, address and daytime telephone number of the plaintiff.

(d) General Rule Regarding Paper Size and Quality. Only documents which are clear and legible and are on permanent plain 8 1/2 by 11 inch paper shall be filed.

[\(e\) In eviction matters pursuant to 13-40-101 et al and 38-12-200.1 et al Judicial Department Forms \(JDF\) shall be used where applicable. Any pleading, document, or form filed in an eviction proceeding should, insofar as possible, substantially follow the format and content of the approved JDF, if applicable.](#)

From: [gabriel, richard](#)
Sent: Wednesday, February 8, 2023 2:22 PM
To: [jones, jerry](#); [michaels, kathryn](#)
Subject: FW: Proposal for Changes to Small Claims Rules`

Hi Jerry and Kathryn!

I received another call from a citizen wanting us to consider changes to civil rules, in this case, the small claims rules. I promised her that if she put in writing what she was seeking, I would forward it to the committee. Her requested changes are below.

Thanks!

Rich



Richard L. Gabriel (he/him/his)
Justice, Colorado Supreme Court
2 East 14th Avenue
Denver, Colorado 80203
(720) 625-5440
richard.gabriel@judicial.state.co.us

From: Rachel Ciccateri <ciccateri@outlook.com>
Sent: Wednesday, February 8, 2023 1:17 PM
To: gabriel, richard <richard.gabriel@judicial.state.co.us>
Subject: [External] Proposal for Changes to Small Claims Rules`

EXTERNAL EMAIL: This email originated from outside of the Judicial Department. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Justice Gabriel,

Thank you for taking the time to speak with me about my concerns with Colorado Small Claims Rules and allowing me the opportunity to provide my input for consideration. Below are the rules I feel may require some "tweaking" to help ensure a fair process for all involved in the small claims process. Ultimately, I believe that to be a fair process, all rules broken by any litigant should provide for sanctions, up to and including default/striking of pleadings to discourage people taking advantage of their opponent and violating their right to access to the courts and due process. There is very little governing misconduct of the parties, to include ex parte communications with a judge or magistrate and I feel that is something that should be added to the rules with serious sanctions applicable to any violation. I would also like to see a process for allowing litigants in small claims to have judgments set aside based on fraud (esp. provable perjury) and/or also an appeals process that takes into consideration the fact that small claims rules are more relaxed than the higher court appeals process, ie, objections, case law, format, predicate, etc., etc. Litigants are being prejudiced by being allowed to operate with the more relaxed and judge controlled small claims process but then having to appeal at the higher court level (district court?) with much stricter standards being applied. Currently, it does appear that the appeals process from small claims is providing a fair opportunity for appealing small claims cases, especially with care to protect the rights of

access to the courts and due process. As most small claims litigants are pro se, I believe they should be afforded the most protections.

My proposals for changes are provided below with each specific rule directly below it.

Rule 505: Litigants should be sanctioned for violating this rule, preferably the striking of pleadings resulting in default and/or the failure to respond. Litigants have been observed using documents written by attorneys that do not comply with this rule and/or Colorado Rules of Civil Procedure (CRCP 15/CRCP 11). There should be no ghostwriting by attorneys at all. This rule should be further clarified to preclude the use of amendments as well, unless leave of court is requested and obtained, if at all applicable or warranted.

Rule 505. Pleadings and Motions

(a) Pleadings. There shall be a claim and a response which may or may not include a counterclaim. No other pleadings shall be allowed.

(b) No Motions. There shall be no motions allowed except as contemplated by these rules.

Rule 512: As Rule 504 requires that a copy of the Plaintiff's notice, claim and summons to appear for trial be served on defendant at least fifteen days prior to the trial date, defendants should be required to submit a counterclaim 7 days prior to the trial or the court SHALL continue the proceedings if requested by the plaintiff to allow time to respond to any counterclaim. Currently, defendants are allowed to file counterclaims up to the day of trial and plaintiffs MAY ask for a continuance but are not guaranteed one.

Rule 512. Trial

(a) Date of Trial. The trial shall be held on the date set forth in the notice, claim, and summons to appear for trial unless the court grants a continuance for good cause shown. Good cause for a continuance may include a defense made in good faith raising jurisdictional grounds or defects in service of process. A plaintiff may request one continuance if a defendant files a counterclaim.

Rule 515: I would propose that this rule be amended to include appropriate sanctions for violating any of the small claims rules, to include the striking of pleadings and/or award of costs and fees, whether these sanctions are initiated by the court itself or requested by the party prejudiced by the rule violation(s).

Rule 515. Default and Judgment

(a) Entry at the Time of Trial. Upon the date and at the time set for trial, if the defendant has filed no response or fails to appear and if the plaintiff proves by appropriate return that proper service was made upon the defendant as provided herein at least fifteen days prior to the trial date, the court may enter judgment for the plaintiff for the amount due, as stated in the complaint, but in no event more than the amount requested in the plaintiff's claim, plus interest, costs, and other items provided by statute or agreement. However, before any judgment is entered pursuant to this rule, the court shall be satisfied that venue of the action is proper pursuant to C.R.C.P. 503 and may require the plaintiff to present sufficient evidence to support the plaintiff's claim.

(b) Entry at the Time of Continued Trial. Failure to appear at any other date set for trial shall be grounds for entering a default and judgment against the non-appearing party, whether on a plaintiff's claim or a defendant's counterclaim.

Rule 520: I propose that this rule be amended to either allow litigants to be represented by attorneys or not at all. It's unfair to allow the defendant to dictate representation in the current manner. Defendants have been observed having attorneys participating in proceedings behind the scenes (including being in attendance at trials unbeknownst to the other party) and the defendant asking for attorney fees without having noticed the plaintiff that they are in fact, represented. This is an unfair advantage to plaintiffs who are currently being blocked from having legal assistance at trial while the defendant is being allowed to request fees for an unnoticed attorney. This rule should also provide for sanctions if a litigant has a lawyer materially participating in the proceedings without having provided requisite notice and an opportunity for the plaintiff to obtain counsel. No attorney should be allowed to participate without complying with rules associated with notices of appearance.

Rule 520. Attorneys

(a) No Attorneys. Except as authorized by Section 13-6-407, C.R.S., rule 509(b)(2) and this rule, no attorney shall appear on behalf of any party in the small claims court.

(b) When Attorneys are Permitted in Small Claims Court. On the written notice of the defendant that the defendant will be represented by an attorney, pursuant to forms appended to

Small Claims Rules R11/08

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these rules filed not less than seven days before the first scheduled trial date, the defendant may be represented by an attorney. The Notice of Representation shall advise the plaintiff of the plaintiff's right to counsel. Thereupon, plaintiff may also be represented by an attorney. If the notice is not filed at least seven days before the date set for the first scheduled trial date in the small claims court, no attorney shall appear for either party.

(c) Cases Heard by County Court Judge. Cases in which attorneys will appear may be heard by a county court judge pursuant to a standing order of the chief judge of any judicial district or of the presiding judge of the Denver county court.

(d) Sanctions. If the defendant appears at the trial without an attorney or fails to appear at the trial, and the court finds that the defendant's notice of representation by an attorney was made in bad faith, the court may award the plaintiff any costs, including reasonable attorney fees, occasioned thereby.

(e) Small Claims Court Rules to Apply. Any small claims court action in which an attorney appears shall be processed and tried pursuant to the statutes and court rules governing small claims court actions.

[Rachel Ciccateri](#)

6325 Echo Ridge Heights
Colorado Springs, CO 80908
321-302-8540

From: [Damon Davis](#)
Sent: Tuesday, January 31, 2023 5:13 PM
To: [jones, jerry](#)
Cc: [michaels, kathryn](#)
Subject: [External] Civil Rules Committee

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Dear Judge Jones:

I first wanted to express my desire to be on the C.R.C.P. 107(c) subcommittee if there is still room.

Second, I wanted to follow up on your suggestion (I believe to Lee Sternal) that we could propose an amendment to the Magistrate Rules once the general package was approved, in order to prevent further delays.

Like Lee I would like to see magistrate jurisdiction over rule 16 and 16.1 and discovery matters be by consent. Given that so many cases settle, discovery and pretrial matters are really the heart of modern civil litigation. So I would like to see Rule 6 amended to move Rule 6(c)(1)(E) to 6(c)(2) – with necessary re-lettering of the subsections.

I would also propose to amend Rule 7(a) to add the following to the end (as language for the magistrate to include in every order or judgment): “If a petition for review is not ruled on by the district court judge within 63 days it shall be deemed denied without further notice to the parties as set forth in C.R.M. 7(k).”

My concern is that without such notification you will be trading one form of waived appeal for another. Instead of parties waiving their appeal because they filed in the wrong court, they will waive their appeal because they did not realize the petition had been denied and the time to appeal to the court of appeal began. No notice is given when a motion/petition is deemed denied by rule, and this can be hard enough for attorneys to keep track of. That’s why I propose the change.

Thank you for your consideration of these matters.

Sincerely,

Damon Davis
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From: gabriel, richard <richard.gabriel@judicial.state.co.us>
Sent: Monday, June 27, 2022 12:48 PM
To: jones, jerry <jerry.jones@judicial.state.co.us>; michaels, kathryn <kathryn.michaels@judicial.state.co.us>
Cc: stevens, cheryl <cheryl.stevens@judicial.state.co.us>; brock, polly <polly.brock@judicial.state.co.us>; rottman, andrew <andrew.rottman@judicial.state.co.us>
Subject: Civil Rules Committee - minor cleanup issue

Hi Jerry and Kathryn (and Cheryl, Polly, and Andy) –

Paul Bennington of the AG's office called to our attention a minor discrepancy between new CAR 10 and CRCP 121, section 1-21(1). As Paul notes, CAR 10 was amended to allow for electronic filing of records, and it dispensed with the old designation of record process. CRCP 121, section 1-21(1), however, retains a reference to the designation of the record. We probably need to amend CRCP 121, section 1-21(1) to be consistent with the new appellate rule. Just forwarding Paul's email to you (below) to get this issue on the next agenda. I don't think this is urgent.

Thanks!

Rich



Richard L. Gabriel (he/him/his)
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From: Paul Benington <Paul.Benington@coag.gov>
Sent: Friday, June 24, 2022 4:04 PM
To: rottman, andrew <andrew.rottman@judicial.state.co.us>
Cc: Will Davidson <Will.Davidson@coag.gov>
Subject: [External] Potential minor rule clean-up for C.R.C.P. 121

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Andy:

Hope all is well. Our unit is working on a couple appeals right now and we noticed something in C.R.C.P. 121 that may need to be cleaned up in light of the Supreme Court's change to the C.A.R. in Rule Change 2017(10), which is attached. My understanding of that rule change is that it basically replaced the old designation of record procedures with electronic filing of the record and a designation of transcripts procedure. Yet, the highlighted clause in C.R.C.P. 121 Section 1-21(1) still appears to refer to the old designation of record process. We thought I should bring this to your attention in case you agree it may need a fix. Caused a wee bit of confusion, but nothing major. If we are incorrect, please let me know. Thanks!

Section 1-21

COURT TRANSCRIPTS

1. A party requesting a transcript shall arrange for preparation of the transcript directly with the reporter, or if the session or proceeding was recorded by mechanical or electronic means, the courtroom clerk. Where a transcript is to be made a part of the record on appeal, a party shall request preparation of the transcript by reference in the Designation of Record and by direct arrangement with the court reporter or courtroom clerk as provided herein.

2. Unless otherwise ordered by the court, a court reporter may require a deposit of sufficient money to cover the estimated cost of preparation before preparing the transcript.

3.

The transcript shall be signed and certified by the person preparing the transcript. A transcript lodged with the court shall not be removed from the court without court order except when transmitted to the appellate court.

Source: 1. and 3. amended and adopted October 20, 2005, effective January 1, 2006.

Regards,

Paul L. Benington
First Assistant Attorney General
Water Resources Unit
Natural Resources & Environment Section



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