

## AGENDA

### COLORADO SUPREME COURT COMMITTEE ON RULES OF CIVIL PROCEDURE

Friday, September 25, 2015, 1:30p.m.  
Ralph L. Carr Colorado Judicial Center  
2 E.14<sup>th</sup> Ave., Denver CO 80203  
Fourth Floor, Supreme Court Conference Room

- I. Call to order
- II. Approval of June 26, 2015 Meeting Minutes [Page 4 to 7 ]
- III. Civil Rules Committee Roster [Page 8 to 11]
  - A. We have a growing list of people who desire to become members of the committee and we are not inclined to further increase the size of the committee.
  - B. We need to insure that we have proper representation on the committee of the relevant constituencies: lawyers in private practice; government lawyers; academics; magistrates; county judges; district court judges; appellate judges.
  - C. For those whose terms expire on December 31, 2015, it is necessary that you send me a letter or email by November 30, 2015, stating whether you wish to be reappointed to the Committee.
  - D. Failure to attend at least a majority of the meetings of the committee in a calendar year will establish a presumption of non-renewal of appointment to the committee.
- IV. Announcements from the Chair
  - A. Establishment of the Supreme Court Committee on Rules of Probate Procedure—Chair: Colorado Court of Appeals Judge Diana Terry—all further proceeding regarding the probate rules will be referred to that committee and the Civil Rules Committee will have no further responsibilities with respect to the probate rules.
  - B. 2016 Meeting Schedule
    - January 29
    - March 18
    - May 20
    - June 24
    - September 30
    - October 28
    - November 18

C. CRCP 121 and 305.5 (Conforming amendments to Attorney Regulation Rule Change 2014(9)) adopted and effective September 9, 2015 [Page 12 to 13]

V. Existing Business

A. Rule 121 §1-15 Subcommittee—(David DeMuro and Damon Davis) [Page 14 to 29 ]

B. Form 35.1 and Rule 120—Proposed edits by Editing Subcommittee (Judge Webb and Judge Jones) [Page 30 to 36]

C. Rule 53 Masters—(Judge Zenisek) [Page 37 to 42]

D. Rule 23 Class Action—(payment of unclaimed settlement funds to COLTAF)—(Dick Laugesen)

E. County Court Jurisdictional limits and Rule 16.1 (Chief Judge Davidson)

F. Rule 122(c)(7)—(Case Specific Appointment of Appointed Judges Pursuant to C.R.S. §13-3-111) (requested by Judge Edward Moss) [Page 43 to 48]

G. Rule 359(b) and §13-6-311(b)—(Jeannette Kornreich SCAO Assistant Legal Counsel) [Page 49 to 53]

H. Amendment to C.R.M. 6—(Judge Webb) [Page 54 to 55]

I. Amendment to C.R.M. 6—(Jeannette Kornreich SCAO Assistant Legal Counsel) [Page 56 to 60]

J. New Form for admission of business records under hearsay exception rule—(Damon Davis) [Page 61 to 63]

K. Rule 121 §1-14 citation update—(email from an attorney) [Page 64 to 66]

L. Rule 84—(Dick Holme) [Page 67 to 102]

VI. New Business

VII. Adjourn—Next meeting is November 20, 2015 at 1:30pm

Michael H. Berger, Chair  
[Michael.berger@judicial.state.co.us](mailto:Michael.berger@judicial.state.co.us)  
720 625-5231

Jenny Moore  
Rules Attorney  
Colorado Supreme Court  
[Jenny.moore@judicial.state.co.us](mailto:Jenny.moore@judicial.state.co.us)  
720-625-5105

**Conference Call Information:**

**Dial (720) 625-5050 (local) or 1-888-604-0017 (toll free) and enter the access code, 64176913, followed by # key.**

**Colorado Supreme Court Advisory Committee on the Rules of Civil Procedure  
Minutes of June 26, 2015 Meeting**

A quorum being present, the Colorado Supreme Court Advisory Committee on Rules of Civil Procedure was called to order by Judge Michael Berger at 1:30 p.m., in the Supreme Court Conference Room on the fourth floor of the Ralph L. Carr Colorado Judicial Center. Members present or excused from the meeting were:

<b>Name</b>	<b>Present</b>	<b>Excused</b>
Judge Michael Berger, Chair	X	
Chief Judge (Ret.) Janice Davidson	X	
Damon Davis	X	
David R. DeMuro	X	
Judge Ann Frick	X	
Peter Goldstein	X	
Lisa Hamilton-Fieldman	X	
Richard P. Holme	X	
Judge Jerry N. Jones	X	
Judge Thomas K. Kane	X	
Debra Knapp	X	
Richard Laugesen	X	
Cheryl Layne	X	
Judge Cathy Lemon	X	
David C. Little	X	
Chief Judge Alan Loeb		X
Professor Christopher B. Mueller	X	
Gordon "Skip" Netzorg	X	
Brent Owen	X	
Judge Ann Rotolo		X
Stephanie Scoville	X	
Frederick B. Skillern	X	
Lee N. Sternal	X	
Magistrate Marianne Tims	X	
Ben Vinci		X
Judge John R. Webb	X	
J. Gregory Whitehair		X
Judge Christopher Zenisek		X
<b>Non-voting Participants</b>		
Justice Allison Eid, Liaison	X	
Teresa Tate	X	

**I. Attachments & Handouts**

- A. June 26, 2015 Agenda Packet
- B. Revised Rule 120 draft

**II. Announcements from the Chair**

The April 24, 2015 minutes were adopted with no corrections.

Judge Berger announced that after twelve years Chuck Kall resigned from the committee. Mr. Kall received a certificate of appreciation from the supreme court, and Judge Berger recognized Mr. Kall's service to the committee. As a result of Mr. Kall's resignation Damon Davis had been appointed to the committee. Judge Berger welcomed Mr. Davis to his first meeting and introduced other recently appointed members: Chief Judge (Ret.) Janice Davison, Gordon Netzorg, Brent Owens, and Stephanie Scoville.

Fred Baumann, Chair of the Colorado Access to Justice Commission, and Diana Poole, Executive Director of the Legal Aid Foundation of Colorado, appeared on behalf of the Rule 23 proposal.

Elizabeth Marcus, of the Janeway Law Firm, Terry Jones and Mike Rosser, of the Colorado Mortgage Bankers Association, and Keith Gantenbein, who practices in defense of debtors, appeared on behalf of the Rule 120 proposal.

Justice Eid thanked the committee for their hard work on the Improving Access to Justice (IAJ) Proposal that was adopted by the supreme court May 28, 2015, effective to cases filed on or after July 1, 2015.

Judge Berger announced a new subcommittee would be formed looking at possible amendments to Rule 16.1 and a study of the jurisdictional limits of county and small claims courts. A sign-up sheet was passed around and the subcommittee will report at the September 25 meeting.

**III. Business**

**A. Rule 23**

Fred Baumann began and explained that in May 2012 the supreme court granted two emergency distributions from attorney regulation funds to Colorado Legal Services to ameliorate a funding crisis. The Colorado Access to Justice Commission and the Colorado Bar Association worked together to develop long range funding planning that included an amendment to Rule 23. The amendment would require at least 50% of class action residual funds be disbursed to the Colorado Lawyer Trust Account Foundation to be used to support civil legal aid. A sign-up sheet was passed around and the Rule 23 subcommittee will report at the September 25 meeting.

## **B. Rule 120 Subcommittee**

Fred Skillern began and said that the subcommittee unanimously adopted the proposal with the exception of section (b)(4). The following amendments were offered by the committee.

### Section (b)(4)

If the moving party or authorized servicer, if different, is not authorized to modify the evidence of the debt, the notice shall state in addition the name, address, and telephone number of the person authorized to modify the evidence of debt. A copy of Rule 120 shall be included with or attached to the notice.

### Section (c)(2)

If a response is filed stating grounds for opposition to the motion within the scope of this rule as provided for in subsection (d).

A member voiced concern that this came to the committee after a failed attempt to legislate, and the committee was usurping a legislative function by deciding policy here; but, after discussion, the committee decided to move forward with the Rule 120 amendments. A motion to adopt the rule as amended, including the additional amendments to sections (b)(4) and (c)(2) from today's meeting, was seconded, and passed with one opposing vote. Judge Berger asked the Editing Subcommittee to look over the proposal and present the edited draft at the September 25 meeting.

## **C. Probate Rules**

The Probate Rules, with the additional edits noted in Assistant Legal Counsel Teresa Tate's Memo on page 60 of the Agenda Packet passed unopposed.

## **D. Antero v. Strudley**

In *Antero v. Strudley*, 2015 CO 26, the supreme court held that modified case management orders, such as a Lone Pine order, are not authorized under the Colorado Rules of Civil Procedure. The committee discussed the merits of allowing trial courts to enter Lone Pine orders. Many members noted that *Antero* was decided under old Rule 16, not Rule 16 as amended by the AIJ Proposal. While amended Rule 16 doesn't authorize Lone Pine orders, it does require more active judicial case management.

Judge Berger explained that the committee could appoint a subcommittee to investigate whether or not Rule 16 needed an amendment to expressly allow trial courts to enter a Lone Pine order, or the committee could wait and see how amended Rule 16 worked in practice and if it alleviated the problem Lone Pine orders addressed. The committee's consensus was to let amended Rule 16 operate and come back to this issue later if necessary.

**E. Rule 53 Masters**

A subcommittee of Judge Zenisek, Dick Holme, Brent Owen, and David Tenner was formed and will report at the September 25 meeting.

**F. Rule 121, §1-15 Subcommittee**

The discussion of Rule 121, §1-15 was tabled until the September 25 meeting.

**G. Rule 84 Forms**

The discussion of Rule 84 was tabled until the September 25 meeting.

**H. New Disclosure Form**

The discussion of the New Disclosure Form was tabled until the September 25 meeting.

**I. Rule 122(c)(7) Case Specific Appointment of Appointed Judges Pursuant to C.R.S. §13-3-111**

The discussion of Rule 122 was tabled until the September 25 meeting.

**IV. Future Meetings**

September 25, 2015

November 20, 2015

January 29, 2016

The Committee adjourned at 3:39 p.m.

*Respectfully submitted,  
Jenny A. Moore*

Name and Address	Contact	Term
1. Justice Allison Eid, Liaison Colorado Supreme Court 2 East 14 <sup>th</sup> Avenue Denver, CO 80203	<a href="mailto:allison.eid@judicial.state.co.us">allison.eid@judicial.state.co.us</a> 720-625-5150	N/A
2. Judge Michael Berger, Chair Colorado Court of Appeals 2 East 14 <sup>th</sup> Avenue Denver, CO 80203	<a href="mailto:michael.berger@judicial.state.co.us">michael.berger@judicial.state.co.us</a> 720-625-5150	1/1/2014 – 12/31/2017
3. The Honorable Janice B. Davidson Institute for the Advancement of the American Legal System 2060 S. Gaylord Way Denver, CO 80208	<a href="mailto:janice.davidson@du.edu">janice.davidson@du.edu</a> 303-871-6611	4/1/2015 – 3/31/2018
4. Damon Davis Killian Davis Richter & Mayle, P.C. 202 North 7th Street Grand Junction, CO 81502	<a href="mailto:damon@killianlaw.com">damon@killianlaw.com</a> 970-241-0707	5/15/2015- 5/14/2018
5. David R. DeMuro, Esq. Vaughan & DeMuro 3900 E. Mexico Ave., Suite 620 Denver, Colorado 80210	<a href="mailto:ddemuro@vaughandemuro.com">ddemuro@vaughandemuro.com</a> 303-837-9200 303-837-9400 Fax	1986- 12/31/2017
6. Judge Ann Frick Lindsey-Flanigan Courthouse 520 West Colfax Room 135 Denver, Colorado 80204	<a href="mailto:ann.frick@judicial.state.co.us">ann.frick@judicial.state.co.us</a> 720-865-8301	2010- 12/31/2017
7. Peter A. Goldstein, Esq. 217 E. Fillmore St. Colorado Springs, CO 80907	<a href="mailto:pagpc@prodigy.net">pagpc@prodigy.net</a> 719-473-3040 719-473-0138 Fax	2001- 12/31/2017
8. Lisa Hamilton-Fieldman, Esq. 7125 W 32 <sup>nd</sup> Ave Wheat Ridge CO 80033	<a href="mailto:artldf@yahoo.com">artldf@yahoo.com</a> 720-318-5637	2004- 12/31/2017
9. Richard P. Holme, Esq. Davis Graham & Stubbs 1550 17 <sup>th</sup> St., Ste. 500 Denver, CO 80202	<a href="mailto:richard.holme@dgsllaw.com">richard.holme@dgsllaw.com</a> 303-892-9400 x7340 303-893-1379 Fax	1994- 12/31/2017



<b>Name and Address</b>	<b>Contact</b>	<b>Term</b>
10. Judge Jerry N. Jones CO Court of Appeals 2 East 14 <sup>th</sup> Avenue Denver, CO 80203	<a href="mailto:jerry.jones@judicial.state.co.us">jerry.jones@judicial.state.co.us</a> 720-625-5150 720-625-5148 Fax	8/1/2013- 12/31/2015
11. Judge Thomas K. Kane El Paso County Judicial Building 270 S. Tejon St. P.O. Box 2980 Colorado Springs, CO 80903	<a href="mailto:thomas.kane@judicial.state.co.us">thomas.kane@judicial.state.co.us</a> 719-452-5000 719-452-5006 Fax	2000- 12/31/2017
12. Debra R. Knapp, Esq. Denver City Attorney's Office 201 W Colfax Avenue, # 1207 Denver, CO 80202	<a href="mailto:Debra.knapp@denvergov.org">Debra.knapp@denvergov.org</a> 720-913-8408	8/1/2013- 12/31/2015
13. Richard W. Laugesen, Esq. 1830 S. Monroe St. Denver, CO 80210	<a href="mailto:Laugesen@indra.com">Laugesen@indra.com</a> 303-300-1006 303-300-1008 Fax	1978- 12/31/2017
14. Cheryl Layne, Clerk of Court Eighteenth Judicial District 4000 Justice Way #2009 Castle Rock CO 80109	<a href="mailto:cheryl.layne@judicial.state.co.us">cheryl.layne@judicial.state.co.us</a> 720-437-6200	2010- 12/31/2015
15. Judge Cathy Lemon Denver City & County Building 1437 Bannock Street Denver, CO 80202	<a href="mailto:cathy.lemon@judicial.state.co.us">cathy.lemon@judicial.state.co.us</a> 720-865-8301	9/1/2014- 8/31/17
16. David C. Little, Esq. Montgomery, Little, & Soran 5445 DTC Pkw., Ste. 800 Englewood, CO 8011	<a href="mailto:dlittle@montgomerylittle.com">dlittle@montgomerylittle.com</a> 303-779-2720 303-220-0412 Fax	1987- 12/31/2015

Name and Address	Contact	Term
17. Chief Judge Alan Loeb CO Court of Appeals 2 East 14th Avenue Denver, CO 80203	<a href="mailto:alan.loeb@judicial.state.co.us">alan.loeb@judicial.state.co.us</a> 720-625-5305 720-625-5148 Fax	8/1/2013- 12/31/2015
18. Professor Christopher B. Mueller University of CO School of Law Campus Box 401 Boulder, CO 80309	<a href="mailto:muellerc@spot.colorado.edu">muellerc@spot.colorado.edu</a> 303-492-6973 303-492-1200 Fax	1996- 12/31/2015
19. Gordon “Skip” Netzorg Sherman & Howard, LLC 633 17 <sup>th</sup> Street Ste. 3000 Denver, CO 80202	<a href="mailto:gnetzorg@shermanhoward.com">gnetzorg@shermanhoward.com</a> 303-299-8381	4/1/2015 – 3/31/2018
20. Brent Owen Lewis Roca Rothgerber 1200 17 <sup>th</sup> Street, Suite 3000 Denver, CO 80202	<a href="mailto:Bowen@LRRLaw.com">Bowen@LRRLaw.com</a> 303-628-9575	4/1/2015 – 3/31/2018
21. Judge Ann Rotolo El Paso County Judicial Building 270 S. Tejon St. Colorado Springs, CO 80903	<a href="mailto:ann.rotolo@judicial.state.co.us">ann.rotolo@judicial.state.co.us</a> 719-452-5000 719-329-5006 Fax	2006- 12/31/2015
22. Stephanie Scoville Office of the Attorney General Ralph L. Carr Colorado Judicial Center 1300 Broadway, 10 <sup>th</sup> Floor Denver, CO 80203	<a href="mailto:stephanie.scoville@state.co.us">stephanie.scoville@state.co.us</a> 720-508-6573	4/15/2015 – 3/15/2018
23. Frederick B. Skillern, Esq. Montgomery, Little, & Soran 5445 DTC Pkwy., Ste. 800 Englewood, CO 80111	<a href="mailto:fskillern@montgomerylittle.com">fskillern@montgomerylittle.com</a> 303-773-8100 303-220-0412 Fax	1987- 12/31/2015
24. Lee N. Sternal, Esq. 414 W. 9 <sup>th</sup> St. Pueblo, CO 81003-4718	<a href="mailto:lnslaw@msn.com">lnslaw@msn.com</a> 719-545-9746 719-545-1122 Fax	1984- 12/31/2015

<b>Name and Address</b>	<b>Contact</b>	<b>Term</b>
25. Magistrate Marianne Tims Jefferson Combined Court 100 Jefferson County Parkway Golden, CO 80401	<a href="mailto:marianne.tims@judicial.state.co.us">marianne.tims@judicial.state.co.us</a> 303-271-6145	9/1/2014- 8/31/2017
26. Ben Vinci, Esq. Vinci Law Office 2250 S Oneida St, Suite 303 Denver, CO 80224-2559	<a href="mailto:ben@vincilaw.com">ben@vincilaw.com</a> 303-512-0340 303- 872-1898	2011- 12/31/2015
27. Judge John R. Webb CO Court of Appeals 2 East 14 <sup>th</sup> Avenue Denver, CO 80203	<a href="mailto:john.webb@judicial.state.co.us">john.webb@judicial.state.co.us</a> 720-625-5150 720-625-5148 Fax	2003 - 12/31/2015
28. J. Gregory Whitehair, Esq. The Whitehair Law Firm, LLC 12364 W. Nevada Pl., Ste. 305 Lakewood, CO 80228	<a href="mailto:jgw@whitehairlaw.com">jgw@whitehairlaw.com</a> 303-908-5762	8/1/2013- 12/31/2015
29. Judge Christopher Zenisek Jefferson County District Court 100 Jefferson County Parkway Golden, CO 80401	<a href="mailto:Christopher.zenisek@judicial.state.co.us">Christopher.zenisek@judicial.state.c o.us</a> 303-271-6145	8/1/2013 – 12/31/2015
30. Jeannette Kornreich Assistant Legal Counsel State Court Administrator’s Office 1300 Broadway, Suite 1200 Denver, CO 80203	<a href="mailto:Jeannette.kornreich@judicial.state.co.us">Jeannette.kornreich@judicial.state.c o.us</a>  720-625-5823	N/A
31. Jenny Moore Rules Research Attorney Colorado Supreme Court Ralph L. Carr Judicial Center 2 East 14 Avenue Denver, CO 80203	<a href="mailto:jenny.moore@judicial.state.co.us">jenny.moore@judicial.state.co.us</a> 720-625-5105	N/A

RULE CHANGE 2015(07)

**COLORADO RULES OF CIVIL PROCEDURE  
Rule 121 and Rule 305.5**

**Rule 121. Local Rules — Statewide Practice Standards**

**Section 1-1 [NO CHANGE]**

**Section 1-2**

**SPECIAL ADMISSION OF OUT-OF-STATE AND FOREIGN ATTORNEYS**

Special admission of an out-of-state or foreign attorney shall be in accordance with C.R.C.P. Chapter 18, Rules Governing Admission to the Bar 205.3 and 205.5~~220 and 221~~.

**Section 1-3 through 1-25 [NO CHANGE]**

**Section 1-26**

**ELECTRONIC FILING AND SERVICE SYSTEM**

**1. - 2. [NO CHANGE]**

**3. To Whom Applicable:**

(a) Attorneys licensed or certified to practice law in Colorado, or admitted pro hac vice under C.R.C.P. 205.3 or 205.5, ~~C.R.C.P. 221~~ may register to use the E-System. The E-System provider will provide an attorney permitted to appear pursuant to C.R.C.P. 205.3 or 205.5 ~~C.R.C.P. 221~~ with a special user account for purposes of E-Filing and E-Serving only in the case identified by a court order approving pro hac vice admission. The E-System provider will provide an attorney certified as pro bono counsel pursuant to C.R.C.P. 204.6 with a special user account for purposes of E-Filing and E-Serving in pro bono cases as contemplated by that rule. An attorney may enter an appearance pursuant to Rule 121, Section 1-1, through E-Filing. In districts where E-Filing is mandated pursuant to Subsection 13 of this Practice Standard 1-26, attorneys must register and use the E-System.

(b) Where the system and necessary equipment are in place to permit it, pro se parties and government entities and agencies may register to use the E-System.

4. - 15. [NO CHANGE]

**COMMITTEE COMMENT**

[NO CHANGE]

**Rule 305.5. Electronic Filing and Serving**

(a) - (b) [NO CHANGE]

(c) **To Whom Applicable:**

(1) Attorneys licensed or certified to practice law in Colorado, or admitted pro hac vice under C.R.C.P. 205.3 or 205.5 ~~C.R.C.P. 221~~ may register to use the E-System. The E-System provider will provide an attorney permitted to appear pursuant to C.R.C.P. 205.3 or 205.5 ~~C.R.C.P. 221~~ with a special user account for purposes of E-Filing and E-Serving only in the case identified by a court order approving pro hac vice admission. The E-System provider will provide an attorney certified as pro bono counsel pursuant to C.R.C.P. 204.6 with a special user account for purposes of E-Filing and E-Serving in pro bono cases as contemplated by that rule. An attorney may enter an appearance pursuant to C.R.C.P. 121, Section 1-1, through E-Filing. Where E-Filing is mandated pursuant to Section (o) of this Rule 305.5, attorneys must register and use the E-System.

(2) Where the system and necessary equipment are in place to permit it, pro se parties and government entities and agencies may register to use the E-System.

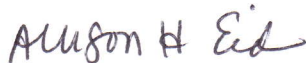
(d) - (q) [NO CHANGE]

**COMMITTEE COMMENT**

[NO CHANGE]

Amended and Adopted by the Court, En Banc, September 9, effective immediately.

By the Court:



Allison H. Eid  
Justice, Colorado Supreme Court

Judge Berger: Attached are the subcommittee's updated proposals on CRCP 121, sec. 1-15 and 1-12, plus CRCP 10. Once again, these proposals relate to the length of briefs and other matters that were "left over" from Dick Holme's subcommittee.

As you remember, I brought proposals on these rules before the committee earlier in 2015 and some changes were made. Then, the committee was tied up on other matters at the June 26 meeting so you asked me to resubmit these proposals for the September 25 meeting. Since then, new committee member Damon Davis joined the subcommittee and made some additional suggestions which I have incorporated into this revision of the proposals.

Please let me know if you have any questions about this. I plan to attend the September 25 meeting.

Dave

Revised 9/07/15

Section 1-12

**MATTERS RELATED TO DISCOVERY**

1. Unless otherwise ordered by the court, reasonable notice for the taking of depositions pursuant to [C.R.C.P. 30\(b\)\(1\)](#) shall not be less than 7 days. Before serving a notice to take a deposition, counsel seeking the deposition shall make a good faith effort to schedule it by agreement at a time reasonably convenient and economically efficient to the proposed deponent and counsel for all parties. Prior to scheduling or noticing any deposition, all counsel shall confer in a good faith effort to agree on a reasonable means of limiting the time and expense of that deposition. Pending resolution of any motion pursuant to [C.R.C.P. 26\(c\)](#), the filing of the motion shall stay the discovery at which the motion is directed. IF THE COURT DIRECTS THAT ANY DISCOVERY MOTION UNDER RULE 26(C) BE MADE ORALLY, THEN MOVANT'S WRITTEN NOTICE OF THE MOTION TO THE OTHER PARTIES THAT A HEARING HAS BEEN REQUESTED SHALL STAY THE DISCOVERY TO WHICH THE MOTION IS DIRECTED.
2. Motions under [Rules 26\(c\)](#) and [37\(a\)](#), [C.R.C.P.](#), shall set forth the interrogatory, request, question or response constituting the subject matter of the motion.
3. Interrogatories and requests under [Rules 33, 34, and 36](#), [C.R.C.P.](#), and the responses thereto shall be served upon other counsel or parties, but shall not be filed with the court. If relief is sought under [Rule 26\(c\)](#), [C.R.C.P.](#), or [Rule 37\(a\)](#), [C.R.C.P.](#), copies of the portions of the interrogatories, requests, answers or responses in dispute shall be filed with the court contemporaneously with the motion. If interrogatories, requests, answers or responses are to be used at trial, the portions to be used shall be made available and placed, but not filed, with the trial judge at the outset of the trial insofar as their use reasonably can be anticipated. IF THE COURT REQUIRES THAT ANY DISCOVERY MOTION UNDER RULES 26(C) OR 37 BE MADE ORALLY, THEN, PRIOR TO THE HEARING, THE MOVANT SHALL PROVIDE EACH PARTY AND THE COURT WITH A COPY OF THE PORTIONS OF ANY WRITTEN DISCOVERY AT ISSUE, UNLESS THE COURT ORDERS OTHERWISE.
4. The originals of all stenographically reported depositions shall be delivered to the party taking the deposition after submission to the deponent as required by [Rule 30\(e\)](#), [C.R.C.P.](#) The original of the deposition shall be retained by the party to whom it is delivered to be available for appropriate use by any party in a hearing or trial of the case. If a deposition is to be used at trial, it shall be made available for inspection and placed, but not filed with the trial judge at the outset of the trial insofar as its use reasonably can be anticipated.
5. Unless otherwise ordered, the court will not entertain any motion under [Rule 37\(a\)](#), [C.R.C.P.](#), unless counsel for the moving party has conferred or made reasonable effort to confer with opposing counsel concerning the matter in dispute before the filing of the motion. Counsel for the moving party shall file a certificate of compliance with this rule at the time the motion under [Rule 37\(a\)](#), [C.R.C.P.](#), is filed. IF THE COURT REQUIRES THAT ANY DISCOVERY MOTION BE MADE ORALLY, THEN MOVANT MUST MAKE A REASONABLE EFFORT TO CONFER WITH OPPOSING COUNSEL BEFORE REQUESTING A HEARING FROM THE COURT.

**COMMITTEE COMMENT**

Provisions of the practice standard are patterned in part after the local rule now in effect in the United States District Court for the District of Colorado. This practice standard specifies the minimum time for the serving of a notice to take deposition. Before serving a notice, however, counsel are required to make a good faith effort to schedule the deposition by agreement at a time reasonably convenient and economically efficient to the deponent and all counsel. Counsel are also required to confer in a good faith effort to agree on a reasonable means of limiting the time and expense of any deposition. The provisions of this Practice Standard are also designed to lessen paper mass/filing space

problems and resolve various general problems related to discovery. THIS RULE WAS AMENDED TO ADDRESS SITUATIONS ARISING IN COURTS THAT REQUIRE ORAL DISCOVERY MOTIONS.



**Section 1-15**

**DETERMINATION OF MOTIONS**

**1. MOTIONS AND Briefs; When Required; Time for Serving and Filing--Length.**

(a) Except motions during trial or where the court ORDERS THAT CERTAIN OR ALL NON-DISPOSITIVE MOTIONS BE MADE ORALLY ~~deems an oral motion to be appropriate~~, any motions involving a contested issue of law shall be supported by a recitation of legal authority incorporated into the motion, WHICH SHALL NOT BE FILED WITH A SEPARATE BRIEF. ~~except for a motion pursuant to C.R.C.P. 56. Motions or briefs in excess of 10 pages in length, exclusive of tables and appendices, are discouraged. Except for electronic filings made pursuant to Section 1-26 of this Rule, the original and one copy of all motions and briefs shall be filed with the court, and a copy served as required by law.~~ UNLESS THE COURT ORDERS OTHERWISE, MOTIONS AND RESPONSIVE BRIEFS NOT UNDER C.R.C.P. 12(b)(1), (2) OR (5), 12(c) OR 56 ARE LIMITED TO 15 PAGES (BUT NOT MORE THAN 4,000 WORDS), AND REPLY BRIEFS TO 10 PAGES (BUT NOT MORE THAN 2,500 WORDS), NOT INCLUDING THE CASE CAPTION, SIGNATURE BLOCK, CERTIFICATE OF SERVICE AND ATTACHMENTS. UNLESS THE COURT ORDERS OTHERWISE, MOTIONS AND RESPONSIVE BRIEFS UNDER C.R.C.P. 12(b)(1), (2) OR (5), 12(c) or 56 ARE LIMITED TO 25 PAGES (BUT NOT MORE THAN 6,500 WORDS), AND REPLY BRIEFS TO 15 PAGES (BUT NOT MORE THAN 4,000 WORDS), NOT INCLUDING THE CASE CAPTION, SIGNATURE BLOCK, CERTIFICATE OF SERVICE AND ATTACHMENTS.

(b) The responding party shall have 21 days after the filing of the motion or such lesser or greater time as the court may allow in which to file a responsive brief. If a motion is filed 42 days or less before the trial date, the responding party shall have 14 days after the filing of the motion or such lesser or greater time as the court may allow in which to file a responsive brief.

(c) Except for a motion pursuant to C.R.C.P. 56, the moving party shall have 7 days after the filing of the responsive brief or such greater or lesser time as the court may allow to file a reply brief. For a motion pursuant to C.R.C.P. 56, the moving party shall have 14 days after the filing of the responsive brief or such greater or lesser time as the court may allow to file a reply brief.

(d) A MOTION SHALL NOT BE INCLUDED IN A RESPONSE OR REPLY TO THE ORIGINAL MOTION. A MOTION SHALL BE FILED IN A SEPARATE DOCUMENT.

**2. Affidavits.** If facts not appearing of record may be considered in disposition of the motion, the parties may file affidavits with the motion or within the time specified for filing the party's brief in this Section 1-15, Rules 6, 56 or 59, C.R.C.P., or as otherwise ordered by the court. Copies of such affidavits and any documentary evidence used in connection with the motion shall be served on all other parties.

**3. Effect of Failure to File Legal Authority.** If the moving party fails to incorporate legal authority into ~~the motion or fails to file a brief with a~~ C.R.C.P. 56 motion, the court may deem the motion abandoned and may enter an order denying the motion. Failure of a responding party to file a responsive brief may be considered a confession of the motion.

**4. Motions to Be Determined on Briefs, When Oral Argument Is Allowed; Motions Requiring Immediate Attention.** [NEW ALTERNATIVE:] MOTIONS SHALL BE DETERMINED PROMPTLY

IF POSSIBLE. THE COURT HAS DISCRETION TO ORDER BRIEFING OR SET A HEARING ON THE MOTION. [PRIOR PROPOSAL:] If possible, WRITTEN motions shall be determined promptly upon the written motion and briefs submitted. However, the court may order oral argument or an evidentiary hearing, or if the request for oral argument or an evidentiary hearing is requested in a motion, or any brief, oral argument may be allowed by the court at its discretion. IF POSSIBLE, THE COURT SHALL DETERMINE ORAL MOTIONS AT THE CONCLUSION OF ARGUMENT, BUT MAY TAKE THE MOTION UNDER ADVISEMENT OR REQUIRE BRIEFING BEFORE RULING. [RETAIN THIS SENTENCE:] Any motion requiring immediate disposition shall be called to the attention of the courtroom clerk by the party filing such motion.

**5. Notification of Court's Ruling; Setting of Argument or Hearing When Ordered.** Whenever the court enters an order denying or granting a motion without a hearing, all parties shall be forthwith notified by the court of such order. If the court desires or authorizes oral argument or an evidentiary hearing, all parties shall be so notified by the court. After notification, it shall be the responsibility of the moving party to have the motion set for oral argument or hearing. A UNLESS THE COURT ORDERS OTHERWISE, A notice to set oral argument or hearing shall be filed in accordance with Practice Standard § 1-6 within 7 days of notification that oral argument or hearing is required or authorized.

**6. Effect of Failure to Appear at Oral Argument or Hearing.** If any of the parties fails to appear at an oral argument or hearing, without prior showing of good cause for non-appearance, the court may proceed to hear and rule on the motion.

**7. Sanctions.** If a frivolous motion is filed or if frivolous opposition to a motion is interposed, the court may assess reasonable attorney's fees against the party or attorney filing such motion or interposing such opposition.

**8. Duty to Confer.** Unless a statute or rule governing the motion provides that it may be filed without notice, moving counsel shall confer with opposing counsel before filing a motion. The motion shall, at the beginning, contain a certification that the movant in good faith has conferred with opposing counsel about the motion. If the relief sought by the motion has been agreed to by the parties or will not be opposed, the court shall be so advised in the motion. If no conference has occurred, the reason why shall be stated.

**9. Unopposed Motions.** All unopposed motions shall be so designated in the title of the motion.

**10. Proposed Order.** Except for orders containing signatures of the parties or attorneys as required by statute or rule, each motion shall be accompanied by a proposed order submitted in editable format. The proposed order complies with this provision if it states that the requested relief be granted or denied.

**11. Motions to Reconsider.** Motions to reconsider interlocutory orders of the court, meaning motions to reconsider other than those governed by [C.R.C.P. 59](#) or [60](#), are disfavored. A party moving to reconsider must show more than a disagreement with the court's decision. Such a motion must allege a manifest error of fact or law that clearly mandates a different result or other circumstance resulting in manifest injustice. The motion shall be filed within 14 days from the date of the order, unless the party seeking reconsideration shows good cause for not filing within that time. Good cause for not filing within 14 days from the date of the order includes newly available material

evidence and an intervening change in the governing legal standard. The court may deny the motion before receiving a responsive brief under paragraph 1(b) of this standard.

#### **COMMITTEE COMMENT**

This Practice Standard was necessary because of lack of uniformity among the districts concerning how motions were to be made, set and determined. The Practice Standard recognizes that oral argument and hearings are not necessary in all cases, and encourages disposition of motions upon written submissions. The standard also sets forth the uniform requirements concerning filing of legal authority, filing of matters not already of record necessary to determination of motions, and the manner of setting an oral argument if argument is permitted. The practice standard is broad enough to include all motions, including venue motions. Some motions will not require extended legal analysis or affidavits. Obviously, if the basis for a motion is simple and routine, the citation of authorities can be correspondingly simple. Motions or briefs in excess of 10 pages are discouraged. This standard specifies contemporaneous recitation of legal authority either in the motion itself for all motions except those under [C.R.C.P. Rule 56](#). Moving counsel ~~should~~ **SHALL, UNLESS A STATUTE OR RULE PROVIDES OTHERWISE**, confer with opposing counsel before filing a motion to attempt to work out the difference prompting the motion. Every motion must, at the beginning, contain a certification that the movant, in good faith, has conferred with opposing counsel about the motion. If there has been no conference, the reason why must be stated. To assist the court, if the relief sought by the motion has been agreed to or will not be opposed, the court is to be so advised in the motion.

Paragraph 4 of the standard contains an important feature. Any matter requiring immediate action should be called to the attention of the courtroom clerk by the party filing a motion for forthwith disposition. Calling the urgency of a matter to the attention of the court is a responsibility of the parties. The court should permit a forthwith determination. Paragraph 11 of the standard neither limits a trial court's discretion to modify an interlocutory order, on motion or sua sponte, nor affects [C.R.M. 5\(a\)](#).

West's Colorado Revised Statutes Annotated

West's Colorado Court Rules Annotated

Colorado Rules of Civil Procedure

Chapter 2. Pleadings and Motions

## C.R.C.P. Rule 10

### RULE 10. FORM AND QUALITY OF PLEADINGS, MOTIONS AND OTHER DOCUMENTS

Currentness

**(a) Caption; Names of Parties.** Every pleading, motion, E-filed document under C.R.C.P. 121 (1-26), or any other document filed with the court (hereinafter “document”) in both civil and criminal cases shall contain a caption setting forth the name of the court, the title of the action, the case number, if known to the person signing it, the name of the document in accordance with Rule 7(a), and the other applicable information in the format specified by paragraph (d) and the captions illustrated by paragraph (e) or (f) of this rule. In the complaint initiating a lawsuit, the title of the action shall include the names of all the parties to the action. In all other documents, it is sufficient to set forth the name of the first-named party on each side of the lawsuit with an appropriate indication that there are also other parties (such as “et al.”). A party whose name is not known shall be designated by any name and the words “whose true name is unknown”. In an action in rem, unknown parties shall be designated as “all unknown persons who claim any interest in the subject matter of this action”.

**(b) Paragraphs; Separate Statements.** All averments of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances. A paragraph may be referred to by its paragraph number in all succeeding documents. Each claim founded upon a separate transaction or occurrence, and each defense other than denials, shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth.

**(c) Incorporation by Reference; Exhibits.** A statement in a document may be incorporated by reference in a different part of the same document or in another document. An exhibit to a document is a part thereof for all purposes.

**(d) General Rule Regarding Paper Size, Format, and Spacing.** All documents filed after the effective date of this rule, including those filed through the E-Filing System under C.R.C.P. 121(1-26), shall meet the following criteria:

(1) **Paper:** Where a document is filed on paper, it shall be on plain, white, 8 ½ by 11 inch paper (recycled paper preferred).

(2) **Format:** All documents shall be legible. They shall be printed on one side of the page only (except for E-Filed documents).

(I) **Margins:** All documents shall use margins of 1 1/2 inches at the top of each page, and 1 inch at the left, right, and bottom of each page. Except for the caption, a left-justified margin shall be used for all material.

(II) **Font:** No less than twelve (12) point font shall be used for all documents, INCLUDING FOOTNOTES.

(III) **Case Caption Information:** All documents shall contain the following information arranged in the following order, as illustrated by paragraphs (e) and (f) of this rule, except that documents issued by the court under the signature of the clerk or judge should omit the attorney section as illustrated in paragraphs (e)(2) and (f)(2). Individual boxes should separate this case caption information; however, vertical lines are not mandatory.

On the left side:

Court name and mailing address.

Name of parties.

Name, address, and telephone number of the attorney or pro se party filing the document. Fax number and e-mail address are optional.

Attorney registration number.

Document title.

On the right side:

An area for "Court Use Only" that is at least 2 1/2 inches in width and 1 3/4 inches in length (located opposite the court and party information).

Case number, division number, and courtroom number (located opposite the attorney information above).

(3) **Spacing:** ~~The following spacing guidelines should be followed.~~ ALL PLEADINGS, MOTIONS, BRIEFS AND OTHER DOCUMENTS FILED AND SERVED UNDER THESE RULES WHICH ARE MORE THAN TWO PAGES IN LENGTH SHALL BE DOUBLE SPACED.

(4) **Single spacing for all:**

-

Affidavits

~~Complaints, Answers, and Petitions~~

~~Criminal Informations and Complaints~~

~~Interrogatories and Requests for Admissions~~

~~Motions~~

~~Notices~~

~~Pleading forms (all case types)~~

~~Probation reports~~

~~All other documents not listed in subsection (H) below~~

**(H) Double spacing for all:**

~~Briefs and Legal Memoranda~~

-

~~Depositions~~

-

~~Documents that are complex or technical in nature~~

-

~~Jury Instructions~~

-

~~Petitions for Rehearing~~

-

~~Petitions for Writ of Certiorari~~

-

~~Petitions pursuant to C.A.R. 21~~

-

~~Transcripts~~

(4) **Signature Block:** All documents which require a signature shall be signed at the end of the document. The attorney or pro se party need not repeat his or her address, telephone number, fax number, or e-mail address at the end of the document.

**(e) Illustration of Preferred Case Caption Format:**

**(1) Preferred Caption for documents initiated by a party:**

<p>[Designation of Court from subsection (g) below]</p> <p>Court Address:</p>	
<p><b>Plaintiff(s):</b></p> <p><i>[Substitute appropriate party designations &amp; names]</i></p> <p>v.</p> <p><b>Defendant(s):</b></p>	<p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p> <hr/> <p>Case Number:</p> <p>Div:</p> <p>Ctrm.:</p>
<p>Attorney or Party Without Attorney:</p> <p>Name:</p> <p>Address:</p> <p>Phone Number:</p> <p>FAX Number:</p> <p>E-mail:</p> <p>Atty. Reg. #:</p>	<p>Case Number:</p>

---

**NAME OF DOCUMENT**

---

**(2) Preferred Caption for documents issued by the court under the signature of the clerk or judge:**

---

[Designation of Court from subsection (g) below]

Court Address:

---

**Plaintiff(s):**

*[Substitute appropriate party designations & names]*

v.

**Defendant(s):**

▲ COURT USE ONLY ▲

---

Case Number:

Div.:

Ctm.:

---

**NAME OF DOCUMENT**

---

**(f) Illustration of Optional Case Caption:**

**(1) Optional Caption for documents initiated by a party:**



[Designation of Court from subsection (g) below]

Court Address:

**Plaintiff(s):**

v.

*[Substitute appropriate party designations & names]*

**Defendant(s):**

**▲ COURT USE ONLY ▲**

Attorney or Party Without Attorney:

Case Number:

Name:

Address:

Phone Number:

Div.:

Ctrm.:

FAX Number:

E-mail:

Atty. Reg. #:

---

**NAME OF DOCUMENT**

---

**(2) Optional Caption for documents issued by the court under signature of the clerk or judge:**

---

[Designation of Court from subsection (g) below]

Court Address:

---

**Plaintiff(s):**

*[Substitute appropriate party designations & names]*

v.

**Defendant(s):**

▲ COURT USE ONLY ▲

---

Case Number:

Div.:

Ctrlm.:

NAME OF DOCUMENT

---

**(g) Court Designation Examples:**

APPELLATE

SUPREME COURT, STATE OF COLORADO

COURT OF APPEALS, STATE OF COLORADO

WATER

DISTRICT COURT, WATER DIVISION \_\_\_\_, COLORADO

DISTRICT

DISTRICT COURT, \_\_\_\_\_ COUNTY, COLORADO

COUNTY

COUNTY COURT, \_\_\_\_\_ COUNTY, COLORADO

CITY AND COUNTY

COUNTY COURT, CITY AND COUNTY OF \_\_\_\_\_, COLORADO

PROBATE COURT, CITY AND COUNTY OF \_\_\_\_\_, COLORADO

JUVENILE COURT, CITY AND COUNTY OF \_\_\_\_\_, COLORADO

DISTRICT COURT, CITY AND COUNTY OF \_\_\_\_\_, COLORADO

**(h)** The forms of case captions provided for in this rule replace those forms of captions otherwise provided for in other Colorado rules of procedure, including but not limited to the Colorado Rules of County Court Procedure, the Colorado Rules of Procedure for Small Claims Courts, and the Colorado Appellate Rules. These forms of case captions apply to criminal

cases, as well as civil cases.

**(i) State Judicial Pre-Printed or Computer-Generated Forms.** Forms approved by the State Court Administrator’s Office (designated “JDF” or “SCAO” on pre-printed or computer-generated forms), forms set forth in the Colorado Court Rules, volume 12, C.R.S., (including those pre-printed or computer-generated forms designated “CRCP” or “CPC” and those contained in the appendices of volume 12, C.R.S.), and forms generated by the state’s judicial electronic system, “ICON,” shall conform to criteria established by the State Court Administrator’s Office with the approval of the Colorado Supreme Court. Such forms, whether preprinted or computer-generated, shall employ a form of caption similar to those contained in this rule, contain check-off boxes for the court designation, have at least a 9-point font, and 1 inch left margin, ½ inch right and bottom margins, and at least 1 inch top margin, except that for forms designated “JDF” or “SCAO” the requirement of at least 1 inch for the top margin shall apply to forms created or revised on and after April 5, 2010.

### Credits

Amended eff. Jan. 1, 1984; Sept. 6, 1990; July 1, 2000; July 1, 2001. Amended Nov. 6, 2003, eff. July 1, 2004. Amended June 10, 2004, effective for District Court Civil Actions filed on or after July 1, 2004. Amended eff. March 30, 2006; April 5, 2010.

### Editors’ Notes

#### COMMENT

This rule sets forth forms of case captions for all documents that are filed in Colorado courts, including both criminal and civil cases. The purpose of the form captions is to provide a uniform and consistent format that enables practitioners, clerks, administrators, and judges to locate identifying information more efficiently. Judges are encouraged in their orders to employ a caption similar to that found in paragraph (e)(2).

The preferred case caption format for documents initiated by a party is found in paragraph (e)(1). The preferred caption for documents issued by the court under the signature of a clerk or judge is found in paragraph (e)(2). Because some parties may have difficulty formatting their documents to include vertical lines and boxes, alternate case caption formats are found in paragraphs (f)(1) and (f)(2). However, the box format is the preferred and recommended format.

The boxes may be vertically elongated to accommodate additional party and attorney information if necessary. The “court use” and “case number” boxes, however, shall always be located in the upper right side of the caption.

Forms approved by the State Court Administrator’s Office (designated “JDF” or “SCAO”), forms set forth in the Colorado Court Rules, volume 12, C.R.S. (including those designated “CRCP” or “CPC” and those contained in the appendices of volume 12, C.R.S.), and forms generated by the state’s judicial electronic system, “ICON,” shall conform to criteria established by the State Court Administrator’s Office as approved by the Colorado Supreme Court. This includes pre-printed and computer-generated forms. JDF and SCAO forms and a flexible form of caption which allows the entry of additional party and attorney information are available and can be downloaded from the Colorado courts web page at <http://www.courts.state.co.us/scao/Forms.htm>.

Notes of Decisions (17)



Ble - Terry

**Mandatory Disclosure  
FORM 35.1 - Reference to 16.2(e)(2)**

These disclosure forms are not to be filed with the court, except as may be ordered pursuant to C.R.C.P. 16.2

Formatted: Left

**Mandatory Disclosures.** (Complete and accurate copies may replace originals. "Children" refers to minor children of both parties.)

Each party shall provide:

(a) Financial Statement. ~~Each party shall provide a~~ <sup>using</sup> complete and signed Sworn Financial Statement and (if applicable) Supplemental Schedule (JDF 1111 and/or JDF 1111SS) ~~in~~ the Supreme Court approved forms.

(b) Income Tax Returns (Most Recent 3 Years). ~~Provide~~ <sup>Each</sup> the personal and business federal income tax returns for the three years before filing of the petition or post decree motion. The business returns shall be for any business ~~for in~~ which a party has an interest entitling the party to a copy of such returns. ~~Provide. The return shall include all schedules and attachments including, such as W-2's, 1099's and K-1. If a return is not completed at the time of disclosure, provide include the documents necessary to prepare the return, such as including W-2's, 1099's, and K-1's, copies of extension requests, and the estimated amount of tax payments.~~

(c) Personal Financial Statements (Last 3 Years). ~~Provide a~~ All personal financial statements, statements of assets or liabilities, and credit ~~and or~~ loan applications prepared during the last three years.

(d) Business Financial Statements (Last 3 Years). For every business ~~for in~~ which a party has access to financial statements, ~~provide~~ the last three fiscal years' financial statements, all year-to-date financial statements, and the same periodic financial statements for the prior year.

Comment [CJB1]: inconsistent with "Last three years"

(e) Real Estate Documents. ~~Provide~~ <sup>the</sup> the title documents and all documents stating value of all real property in which a party has a personal or business interest. This section shall not apply to post decree motions unless so ordered by the court.

(f) Personal Debt. ~~Provide a~~ All documents creating debt, and the most recent debt statements showing the outstanding balance and payment terms.

(g) Investments. ~~Provide. The most recent~~ account statements or other documents identifying each investment in which a party has any personal or business interest, and stating the its current value.

(h) Employment Benefits. ~~Provide. The most recent~~ account statements or other documents identifying each employment benefit of a party, and stating the current value.

(i) Retirement Plans. ~~Provide. The most recent~~ documents identifying each retirement plan of which a party is a beneficiary, and stating the current value, and all the Plan-Summary Plan Descriptions.

(j) Bank/Financial Institution Accounts. ~~Provide. The most recent~~ account documents-statements identifying each account of a party at banks and other financial institutions, and stating the current value.

(k) Income Documentation. For each income source of a party in the current and prior calendar year, including income from employment, investment, government programs, gifts, trust distributions, prizes, and income from every other source, ~~provide~~ pay stubs, a current income statement, and the final income statement for the prior year. <sup>Each</sup> self-employed party shall provide a sworn statement of gross income, business expenses necessary to produce income, and net income for the three months before filing of the petition or post decree motion.

"All" instead? see (c), (f), (m)

(l) Employment and Education-Related Child Care Documentation. ~~Provide. Any~~ documents that show a party's average monthly employment-related child care expense, including child care expense related to the parent's education and job search.

(m) Insurance Documentation. Provide All life, health, and property insurance policies and current documents that show beneficiaries, coverage, cost (including the portion payable to provide health insurance for children), and payment schedule.

(n) Extraordinary Children's Expense Documentation. Provide documents that show average monthly expense for all recurring extraordinary children's expenses.

All

^

?  
time period?

Blue - Jay  
Red - John's  
response

[JRW Track Changes]

**Rule 120. Orders Authorizing Foreclosure Sale Under Power in a Deed of Trust to the Public Trustee**

(a) **Motion for order authorizing sale.** When an order of court is desired authorizing a foreclosure sale under a power of sale contained in a deed of trust to a public trustee, any person entitled to enforce the deed of trust may file a verified motion in a district court seeking such an order. The motion shall be captioned: "Verified Motion for Order Authorizing a Foreclosure Sale under C.R.C.P. 120," and shall be verified by a person ~~other than counsel~~ with direct knowledge who is competent to testify regarding the facts stated in the motion.

"personal" ?  
perhaps, but excluding counsel creates a higher standard  
- does the new clause at the end of the sentence solve this problem

Comment [CJB1]: Cases that I have seen suggest this is an abuse common to collection mills.

(1) **Contents of Motion.** The motion shall include a copy of the evidence of debt, the deed of trust containing the power of sale, and any subsequent modifications of these documents. The motion shall describe the property to be sold, shall specify the facts giving rise to the default, and may include documents relevant to the claim of a default.

Comment [CJB2]: Subsequent to what? I would delete.

(A) When the property to be sold is personal property, the motion shall state the names and last known addresses, as shown by the records of the moving party, of all persons known or believed by the moving party to have an interest in such property which may be materially affected or extinguished by such sale.

(B) When the property to be sold is real property and the power of sale is contained in a deed of trust to a public trustee, the motion shall state the name and last known address, as shown by the real property records of the clerk and recorder and the records of the moving party, of:

- (i) the grantor of the deed of trust,
- (ii) the current record owner of the property to be sold,
- (iii) ~~any all~~ persons known or believed by the moving party to be personally liable for the debt secured by the deed of trust, and
- (iv) those persons who appear to have an interest in such real property that is evidenced by a document recorded after the recording of the deed of trust and before the recording of the notice of election and demand for sale, or is otherwise subordinate to the lien of the deed of trust.

that

OK

(C) In describing and giving notice to persons who appear to have acquired a record interest in real property, the address of each such person shall be the address ~~which~~ that is given in the recorded instrument evidencing such person's interest. If such recorded instrument does not give an address or if only the county and state are given as the address of such person, no address need be stated for such person in the motion.

(2) **Setting of Response Deadline; Hearing Date.** Upon receipt of the motion, the clerk shall set a deadline by which any response to the motion must be filed. The deadline shall be not less than 21 nor more than 35 days after the filing of the motion. For purposes of any



statutory reference to the date of a hearing under C.R.C.P. 120, the response deadline set by the clerk shall be regarded as the scheduled hearing date unless a later hearing date is set by the court pursuant to section (c)(3) below.

**(b) Notice of Response Deadline; Service of Notice.** The moving party shall issue a notice stating:

(1) a description of the deed of trust containing the power of sale, the property sought to be sold at foreclosure, and the facts asserted in the motion to support the claim of default;

OK

see (a)(1)

(2) the right of any interested person to file and serve a responses as provided in section (c), including the addresses at which such responses must be filed and served and the deadline set by the clerk for filing a response.

OK

(3) the following advisement: "If this case is not filed in the county where your property or a substantial part of your property is located, you have the right to ask the court to move the case to that county. If you file a response and the court sets a hearing date, your request to move the case must be filed with the court at least 7 days before the hearing unless the request was included in your response."; and

?

(4) the mailing address of the moving party and, if different, the name and address of any authorized servicer for the loan secured by the deed of trust. If the moving party or authorized servicer, if different, is not authorized to modify the evidence of the debt, the notice shall state in addition the name, address, and telephone number of the person authorized to modify the evidence of debt. A copy of this Rule 120 shall be included with or attached to the notice. The notice shall be served by the moving party not less than 14 days prior to the response deadline set by the clerk, by:

mailing OK

Comment [CJB3]: telephone number? email address?

Comment [CJB4]: email address?

OK (A) mailing a true copy of the notice to each person named in the motion (other than any persons for whom no address is stated) at that person's address or addresses stated in the motion;

(B) filing a copy with the clerk for posting by the clerk in the courthouse in which the motion is pending; and

(C) if the property to be sold is a residential property as defined by statute, by posting a true copy of the notice in a conspicuous place on the subject property as required by statute. Proof of mailing and delivery of the notice to the clerk for posting in the courthouse, and proof of posting of the notice on the residential property, shall be evidenced by the certificate of the moving party or moving party's agent. For the purpose of this section, posting by the clerk may be electronic on the court's public website so long as the electronic address for the posting is displayed conspicuously at the courthouse.

better ↘

Comment [CJB5]: set forth in?

**(c) Response Stating Objection to Motion for Order Authorizing Sale; Filing and Service.**

(1) Any interested person who disputes, on grounds within the scope of the hearing provided for in section (d), the moving party's right to an order authorizing sale may file and serve a response to the motion. The response must describe the facts the respondent relies upon in

OK, if you have taken out any other "upon" 7

objecting to the issuance of an order authorizing sale, and may include copies of documents which ~~that~~ support the respondent's position. The response shall be filed and served not later than the response deadline set by the clerk. The response shall include contact information for the respondent including name, mailing address, telephone number, and if applicable, an e-mail address. Service of the response upon the moving party shall be made in accordance with C.R.C.P. 5(b). *ok on*

(2) If a response is filed stating grounds for opposition to the motion within the scope of this rule as provided for in subsection (d), the court shall set the matter for hearing at a later date. The clerk shall set the matter for hearing at a later date. The clerk shall clear available hearing dates with the parties and counsel, if practical, and shall give notice to counsel and any self-represented parties who have appeared in the matter, in accordance with the rules applicable to e-filing, no less than 14 days before the new hearing date.

**(d) Scope of Issues at the Hearing; Order Authorizing Foreclosure Sale; Effect of Order.**  
The court shall examine the motion and any responses.

(1) If the matter is set for hearing, the scope of inquiry at the hearing shall not extend beyond

(A) the existence of a default authorizing exercise of a power of sale under the terms of the deed of trust described in the motion,

(B) consideration by the court of the requirements of the Servicemembers Civil Relief Act, 50 U.S.C. A.P.P § 501, as amended,

(C) whether the moving party is the real party in interest, and

(D) whether the status of any request for a loan modification agreement bars a foreclosure sale as a matter of law.

The court shall determine whether there is a reasonable probability that a default justifying the sale has occurred, whether an order authorizing sale is otherwise proper under the Servicemembers Civil Relief Act, whether the moving party is the real party in interest, and, if each of those matters is determined in favor of the moving party, whether evidence presented in support of defenses raised by the respondent and within the scope of this rule prevents the court from finding that there is a reasonable probability that the moving party is entitled to an order authorizing a foreclosure sale. The court shall grant or deny the motion in accordance with such determination. ~~Nothing in this rule shall preclude the court from continuing a hearing for~~ For good cause shown, the court may continue a hearing. *ok*

(2) If no response has been filed by the response deadline set by the clerk, and if the court is satisfied that venue is proper and the moving party is entitled to an order authorizing sale, the court shall forthwith enter an order authorizing sale.

(3) Any order authorizing sale shall recite the date the hearing was completed, if a hearing was held, or, if no response was filed and no hearing was held, shall recite the response deadline set by the clerk as the date a hearing was scheduled, but that no hearing occurred.

*I would prefer to leave "shall," as otherwise we end up with some "shall"*

*"must" instead?*

*rules and some "must" rules for no apparent reason.*

Comment [CJB6]: Redundant?

Comment [CJB7]: What about the validity of the DOT and underlying debt instrument?

Comment [CJB8]: Clearer, especially to pro ses, if cast in terms of the validity of the assignment of the evidence of debt to the moving party

(4) An order granting or denying a motion filed under this Rule shall not constitute an appealable order or final judgment. The granting of a motion authorizing a foreclosure shall be without prejudice to the right of any person aggrieved to seek injunctive or other relief in any court of competent jurisdiction, and the denial of any such motion shall be without prejudice to any other right or remedy of the moving party.

(e) The court shall not require the appointment of an attorney to represent any interested person as a condition of granting such motion, unless it appears from the motion or other papers filed with the court that there is a reasonable probability that the interested person is in the military service.

(f) **Venue.** For the purposes of this section, a consumer obligation is any obligation

(1) as to which the obligor is a natural person, and

(2) is incurred primarily for a personal, family, or household purpose.

Any proceeding under this Rule involving a consumer obligation shall be brought in and heard in the county in which such consumer signed the obligation or in which the property or a substantial part of the property is located. ~~Any proceeding under this Rule which that does not involve a consumer obligation or an instrument securing a consumer obligation may be brought and heard in any county.~~ However, in any proceeding under this Rule, if a response is filed, and if in the response or in any other writing filed with the court, the responding party requests a change of venue to the county in which the encumbered property or a substantial part thereof is situated, the court shall order transfer of the proceeding to such county.

**Comment [CJB9]:** Even if no part of the property is located there?

(g) **Return of Sale.** The court shall require a return of sale to be made to the court. If it appears from the return that the sale was conducted in conformity with the order authorizing the sale, the court shall enter an order approving the sale. This order shall not have preclusive effect on the parties in any action for a deficiency judgment or in a civil action challenging the right of the moving party to foreclosure or to set aside the foreclosure sale.

(h) **Docket Fee.** A docket fee in the amount specified by law shall be paid by the person filing the motion. Unless the court shall otherwise order, any person filing a response to the motion shall pay, at the time of the filing of such response, a docket fee in the amount specified by law for a defendant or respondent in a civil action under section 13-32-101(1)(d), C.R.S.

### COMMENTS

#### 1989

The 1989 amendment to C.R.C.P. 120 (Sales Under Powers) is a composite of changes necessary to update the Rule and make it more workable. The amendment was developed by a special committee made up of practitioners and judges having expertise in that area of practice, with both creditor and debtor interests represented.

The changes are in three categories. There are changes that permit court clerks to perform many of the tasks that were previously required to be accomplished by the Court and thus save valuable Court time. There are changes to venue provisions of the Rule for compliance with the Federal Fair Debt Collection Practices Act. There are also a number of editorial changes to improve the language of the Rule.

There was considerable debate concerning whether the Federal "Fair Debt Collection Practices Act" is applicable to a C.R.C.P. 120 proceeding. Rather than attempting to mandate compliance with that federal statute by specific rule provision, the Committee recommends that a person acting as a debt collector in a matter covered by the provisions of the Federal "Fair Debt Collection Practices Act" be aware of the potential applicability of the Act and comply with it, notwithstanding any provision of this Rule.

The Civil Rules' Committee, Subcommittee regarding Special Masters, met on September 4, 2015. The Committee discussed the current Colorado Rule, and potential suggestions for improvement. The following individuals were present:

Judge Christopher Zenisek, (Chair)  
Richard Holme, Esq.  
Brent Owen, Esq.  
David Tenner, Esq.

The Subcommittee believed the following considerations justified a review and significant amendment of Rule 53:

- The Colorado Rule's requirement of a "report" for any action taken by a Master is needless and burdensome
- The Colorado Rule has different standards for appointment in jury and non-jury cases, but the Subcommittee felt that distinction was not well-reasoned
- Report standards are likewise different in jury vs. non-jury cases
- The timing of objections to masters' reports is different in jury vs. non-jury cases
- The standards of review differ depending on jury vs. non-jury cases

Upon discussing starting points for revision, the Subcommittee considered the following advantages for starting with the premise of adopting Fed. R. Civ. P. 53 in significant part. The Subcommittee felt the following advantages were present:

- More case law to provide clarification when necessary
- Some members felt the Federal Rule is more clearly written
- Federal Rule was amended recently
- Special masters should be permitted without reaching Colorado's requirement for an "exceptional condition" in a jury case

The Subcommittee unanimously agreed to start with adoption of the Federal Rule, and amend from there.

The Subcommittee initially considered striking 53(a)(1)(B) out of consideration for C.R.C.P. 122 (allowing appointed judges). However, after reflecting upon areas of specific expertise (such as architects, accountant, engineers, etc.), the subcommittee left 53(a)(1)(B) intact. The subcommittee instead recommends a comment to remind readers of Rule 122 and its utility.

As to Section (a)(1)(C), the Subcommittee removed "magistrate judge" and reference to other

district court judges because it believed magistrates and other district judges are unlikely to manage casework that might otherwise be assigned to a special master.

In Section (a)(2) and (b)(3)(A), the Subcommittee removed reference to US Code, and inserted the corresponding Colorado Code of Judicial Conduct Rule regarding recusal.

The Subcommittee amended subsection (b)(1) in order to allow a court to forego the formality of requesting names if the court already has a good candidate in mind.

The Subcommittee added subsection (b)(5) to include part of the current Colorado Rule 53 that the Subcommittee believed to be beneficial. The Subcommittee believed this provision helps keep the case moving, and helps the master where one or more parties is delaying action. The Subcommittee shortened the time frame for the first meeting from 21 days to 14 days.

Subsection (d) is amended to clarify that only written orders must be filed promptly, and additional language is added to reflect that the order is effective upon issuance. The subcommittee added similar language in subsection (e) regarding reports.

The Subcommittee amended subsection (f)(2) to make the master's order or report adopted without necessity of motion. It leaves in place the parties' ability to object, but allows shortened time frames – namely 7 days for most matters, but 14 days where the Master held a hearing and took sworn evidence.

The Subcommittee amended subsection (f)(3), to review factual findings for clear error (rather than de novo), except if the parties stipulate that the findings will be final.

Finally, the Subcommittee struck subsection (h), as the Subcommittee did not anticipate overlap between duties of special masters and those of magistrates, based on common practice within the state.

Attached is a red line version of **Federal** Rule 53, as amended to reflect the Subcommittee's recommendations.

**C.R.C.P. 53 (PROPOSED)**

**(a) Appointment.**

(1) *Scope.* Unless a statute provides otherwise, a court may appoint a master only to:

(A) perform duties consented to by the parties;

(B) hold trial proceedings and make or recommend findings of fact on issues to be decided without a jury if appointment is warranted by:

(i) some exceptional condition; or

(ii) the need to perform an accounting or resolve a difficult computation of damages; or

(C) address pretrial and posttrial matters that cannot be effectively and timely addressed by ~~an available~~the appointed district judge ~~or magistrate judge of the district.~~

(2) *Disqualification.* A master must not have a relationship to the parties, attorneys, action, or court that would require disqualification of a judge under ~~28 U.S.C. § 455,~~ the Colorado Code of Judicial Conduct, Rule 2.11, unless the parties, with the court's approval, consent to the appointment after the master discloses any potential grounds for disqualification.

(3) *Possible Expense or Delay.* In appointing a master, the court must consider the fairness of imposing the likely expenses on the parties and must protect against unreasonable expense or delay.

**(b) Order Appointing a Master.**

(1) *Notice.* Before appointing a master, the court must give the parties notice and an opportunity to be heard. If requested by the Court, ~~A~~ny party may suggest candidates for appointment.

(2) *Contents.* The appointing order must direct the master to proceed with all reasonable diligence and must state:

(A) the master's duties, including any investigation or enforcement duties, and any limits on the master's authority under Rule 53(c);

(B) the circumstances, if any, in which the master may communicate ex parte with the court or a party;

(C) the nature of the materials to be preserved and filed as the record of the master's activities;

(D) the time limits, method of filing the record, other procedures, and standards for reviewing the master's orders, findings, and recommendations; and

(E) the basis, terms, and procedure for fixing the master's compensation under Rule 53(g).

(3) **Issuing.** The court may issue the order only after:

(A) the master files an affidavit disclosing whether there is any ground for disqualification under [the Colorado Code of Judicial Conduct, Rule 2.11, 28 U.S.C. § 455](#); and

(B) if a ground is disclosed, the parties, with the court's approval, waive the disqualification.

(4) **Amending.** The order may be amended at any time after notice to the parties and an opportunity to be heard.

(5) **Meetings.** When a reference is made, the clerk shall forthwith furnish the master with a copy of the order of reference. Upon receipt thereof unless the order of reference otherwise provides, the master shall forthwith set a time and place for the first meeting of the parties or their attorneys to be held within 14 days after the date of the order of reference and shall notify the parties or their attorneys.

Formatted: Font: 10 pt

Formatted: Font: 10 pt

(c) **Master's Authority.**

(1) **In General.** Unless the appointing order directs otherwise, a master may:

(A) regulate all proceedings;

(B) take all appropriate measures to perform the assigned duties fairly and efficiently; and

(C) if conducting an evidentiary hearing, exercise the appointing court's power to compel, take, and record evidence.

(2) **Sanctions.** The master may by order impose on a party any noncontempt sanction provided by [Rule 37](#) or [45](#), and may recommend a contempt sanction against a party and sanctions against a nonparty.

(d) **Master's Orders.** A master who issues ~~an~~ [a written](#) order must file it and promptly serve a copy on each party. The clerk must enter the [written](#) order on the docket. [A master's order shall be effective upon issuance subject to the provisions of section \(f\) of this Rule.](#)

(e) **Master's Reports.** A master must report to the court as required by the appointing order. The master must file the report and promptly serve a copy on each party, unless the court orders otherwise. [A report is final upon issuance. A master's report shall be effective upon issuance subject to the provisions of section \(f\) of this Rule.](#)

(f) **Action on the Master's Order, Report, or Recommendations.**

(1) **Opportunity for a Hearing; Action in General.** In acting on a master's order, report, or recommendations, the court must give the parties notice and an opportunity to be heard; may receive evidence; and may adopt or affirm,



modify, wholly or partly reject or reverse, or resubmit to the master with instructions.

~~(2) **Time to Object or Move to Adopt or Modify.** A party may file objections to or a motion to adopt or modify the master's order, report, or recommendations no later than 21 days after a copy is served, unless the court sets a different time.~~ (f)(2) – **Time to Object or Move to Modify.** A party may file objections to or a motion to modify the Master's proposed rulings, order, report or recommendations no later than 7 days after service of any of those matters, except when the Master held a hearing and took sworn evidence, in which case objections or a motion to modify shall be filed no later than 14 days after service of any of those matters.

Formatted: Font: 10 pt

**(3) Reviewing Factual Findings.** The court must ~~decide de novo~~review all objections to findings of fact made or recommended by a master for clear error, unless the parties, with the court's approval, stipulate that:

~~(A) the findings will be reviewed for clear error; or~~

~~(B) the findings of a master appointed under Rule 53(a)(1)(A) or (C) will be final.~~

Formatted: Justified, Indent: Left: 0.13"

Formatted: Indent: Left: 0"

Formatted: Justified, Indent: Left: 0.25"

Formatted: Indent: Left: 0"

**(4) Reviewing Legal Conclusions.** The court must decide de novo all objections to conclusions of law made or recommended by a master.

**(5) Reviewing Procedural Matters.** Unless the appointing order establishes a different standard of review, the court may set aside a master's ruling on a procedural matter only for an abuse of discretion.

**(g) Compensation.**

**(1) Fixing Compensation.** Before or after judgment, the court must fix the master's compensation on the basis and terms stated in the appointing order, but the court may set a new basis and terms after giving notice and an opportunity to be heard.

**(2) Payment.** The compensation must be paid either:

**(A)** by a party or parties; or

**(B)** from a fund or subject matter of the action within the court's control.

**(3) Allocating Payment.** The court must allocate payment among the parties after considering the nature and amount of the controversy, the parties' means, and the extent to which any party is more responsible than other parties for the reference to a master. An interim allocation may be amended to reflect a decision on the merits.

~~**(h) Appointing a Magistrate Judge.** A magistrate judge is subject to this rule only when the order referring a matter to the magistrate judge states that the reference is made under this rule.~~

Comment In appointing special masters, judges should be mindful of C.R.C.P. 122 regarding appointed judges. In this regard, Section (a)(1)(B) of this Rule should be utilized only when the appointment

requires special expertise not likely held by a former judge, such as that of an accountant, engineer or doctor.

**From:** eid, allison  
**Sent:** Sunday, April 19, 2015 3:32 PM  
**To:** berger, michael  
**Subject:** FW: Please forward this to the civil rules committee

**From:** moss, edward  
**Sent:** Thursday, April 16, 2015 12:22 PM  
**To:** eid, allison  
**Subject:** Please forward this to the civil rules committee

Justice Eid,  
Please forward this to the Civil Rules Committee. Thanks!  
- Ed Moss

Regarding, Colorado Rules, Chapter 17B, Appointed Judges, Rule 122(c)(7).

Rule 122(c)(7) requires the motion for appointment of a judge to include the proposed judge's oath, as follows: "I, \_\_\_\_\_ do solemnly swear or affirm by the ever living God. . . ."

Those of us who believe in a supreme being may easily swear an oath "by the ever living God." Atheists and others of similar persuasion use an affirmation. It's pretty difficult for someone who uses an affirmation to do so "by the ever living God."

Of course, in Colorado, it may be entirely appropriate to require an atheist to swear "by the ever living God." The Colorado supreme court repealed CRCP 43(b), which was likely similar to the federal rule (although I'm not sure and haven't taken the time to research it). The Federal Rule of Civil Procedure 43(b) allows someone to take an affirmation instead of an oath.

Not sure why our supreme court justices would want to repeal such a provision (if they did), especially since we are supposed to follow Code of Judicial Conduct Rule 2.3 (religious bias or prejudice) -- but that's way above my pay grade.

Anyway, when the civil rules committee has a slow month, maybe someone could look into this. 😊

Best,  
Ed



Edward C. Moss  
District Court Judge  
Adams - Broomfield Counties  
1100 Judicial Center Drive  
Brighton, Colorado 80601-8872

C.R.C.P. Rule 122

RULE 122. CASE SPECIFIC APPOINTMENT OF APPOINTED JUDGES PURSUANT TO C.R.S. § 13-3-111

Currentness

**(a) Appointed Judges.**

(1) At any time after a civil action, excluding juvenile delinquency proceedings, is filed in a trial court of record, upon agreement of all parties that a specific retired or resigned justice of the Supreme Court, or a retired or resigned judge of any other court of record within the state of Colorado be appointed to hear the action and upon agreement that one or more of the parties shall pay the agreed upon compensation of the selected justice or judge, together with all other compensation and expenses incurred, the Chief Justice may appoint such justice or judge who consents to perform judicial duties for such action.

(2) The decision as to whether such justice or judge shall be appointed to judicial duties, pursuant to subsection (1) of this section, shall be entirely within the discretion of the Chief Justice. The Chief Justice has the authority to reject or approve any deviations from these rules agreed to by the parties. The Chief Justice may require such undertakings as in his or her opinion may be necessary to ensure that proceedings held pursuant to this section shall be without expense to the state of Colorado.

(3) The compensation and expenses paid to an Appointed Judge shall be at the rate agreed upon by the parties and the Appointed Judge and rate of compensation must be approved by the Chief Justice at the time of making the appointment.

(4) The Appointed Judge shall have the same authority as a full-time sitting judge. Orders, decrees, verdicts and judgments entered by an Appointed Judge shall have the same force and effect and may be enforced or appealed in the same manner as any other order, decree, verdict, or judgment.

**(b) Qualifications.** To be eligible to serve as an Appointed Judge, a person must be a Senior Judge, a retired or resigned justice of the Supreme Court, or a retired or resigned judge of the court of appeals, a district court, probate court, juvenile court or county court, who has served as a judge in one or more of said courts for a total of at least six years. If a judge has served in the Colorado State Court System and as a judge in the Federal Court System, those years of service may be combined for the purpose of meeting the six year requirement. Such person must be currently licensed to practice law in Colorado.

**(c) Motion for Appointment.** A request for the appointment of an Appointed Judge shall be made by a joint motion filed by all parties to a case and shall be signed as approved by the Appointed Judge. The original of such motion shall be filed with the Supreme Court with a copy filed in the originating court--the court of record in which the case was originally filed. Such motion shall include:

(1) The name of the Appointed Judge;

(2) The rate of compensation agreed to be paid to the Appointed Judge;

(3) The Appointed Judge's agreement to be bound by Section II of the Colorado Code of Judicial Conduct, Applicability of Code to Senior and Retired Judges, and the Appointed Judge's agreement that the Chief Justice may ask the Office of Attorney Regulation Counsel and the Colorado Commission on Judicial Discipline for any record of his or her imposed discipline, or pending disciplinary proceeding, if any;

(4) A realistic estimate of all compensation and expenses for the Appointed Judge, any needed personnel, rental of an appropriate facility outside the courthouse, if needed, in which to hold the proceedings, payment for any requested jury, and all other anticipated compensation and expenses, including travel, lodging and meals, and provisions assuring that all such compensation and expenses will be paid by the parties; and

(5) An agreement as to who is responsible for initial payment of the compensation and expenses of the action, and who is responsible for payment of the compensation and expenses upon final judgment;

(6) The agreement of the parties and the Appointed Judge that none of the compensation and expenses shall be paid by the state of Colorado;

(7) A copy signed by the Appointed Judge of the following oath: "I, (name of Appointed Judge), do solemnly swear or affirm by the ever living God, that I will support the Constitution of the United States and of the State of Colorado, and faithfully perform the duties of the office upon which I am about to enter."

(8) Any other matters the parties desire to be considered by the Chief Justice in exercising his or her discretion.

(9) A form order approving the appointment.

(10) A statement acknowledging that the Chief Justice may approve or reject the order or, upon the agreement of all the

parties and of the Appointed Judge, may change any of the provisions of the order.

The parties shall file the Chief Justice's ruling on the motion in the case file in the originating court.

**(d) Duration of Appointment.** The appointment shall last for so long as the parties specify in the motion and order of appointment. In the absence of such specification, the appointment shall last until entry of a final, appealable judgment, order or decree or, in dissolution actions, until the entry of Permanent Orders.

**(e) Compensation and Expenses.** Upon the appointment of an Appointed Judge by the Chief Justice, the parties shall forthwith deposit in an agreed escrow or trust account to be administered by the Appointed Judge or some other person acceptable to the parties and the Appointed Judge, sufficient funds to pay the estimated compensation and expenses of the case for the duration of the appointment. If, at any time, the Appointed Judge determines that the funds on deposit are insufficient to cover all further compensation and expenses, the Appointed Judge may order the parties promptly to deposit sufficient additional funds to cover such amount. An Appointed Judge may withdraw from the appointment after reasonable notice and with permission of the Chief Justice if this order is not complied with, and the case proceedings shall revert to the originating court. Within a reasonable time after the conclusion of the Appointed Judge's duties on the case, the parties shall file in the record of the case in the originating court a report of the total compensation paid for the Appointed Judge's services and the total expenses paid by the parties in the case.

**(f) Rules Applicable to Proceedings.** Proceedings before an Appointed Judge shall be conducted pursuant to Rules applicable to the originating court. All filings shall be open records available for public review and inspection unless sealed upon motion and order, and all proceedings shall be open to the public in the same manner and pursuant to the same law applicable to the originating court.

**(g) Record.**

(1) The original of each filing in all proceedings before an Appointed Judge shall be filed with the clerk of the originating court and a copy shall be provided to the Appointed Judge.

(2) The parties and the Appointed Judge shall comply with all applicable rules and Chief Justice Directives relating to reporting, filing and maintaining the record.

(3) The originals of any reporter's notes or recording medium, along with any exhibits tendered, shall be filed with the clerk of the originating court pursuant to [C.R.C.P. 80\(d\)](#). The parties shall pay the costs of a court reporter or for any recording equipment that is acceptable to all parties.

**(h) Location of Proceedings.**

(1) Unless consented to by the parties and ordered by the Appointed Judge for good cause, the location of evidentiary proceedings and trial of a matter subject to this rule shall be pursuant to [C.R.C.P. 98](#).

(2) The parties and the Appointed Judge shall arrange for an appropriate facility in which proceedings shall be held. If available, a room in the courthouse may be used for one or more proceedings in the case. Use of available court rooms, equipment or facilities within the courthouse shall not be considered an expense to the state that the parties are required to bear or reimburse;

(3) Whenever proceedings are scheduled in advance, the Appointed Judge shall timely file a Notice of Hearing with the clerk of the originating court giving notice of the date, time, nature and location of the proceedings.

(4) Except when proceedings are taking place in a courthouse, the parties shall arrange for or assure that there is sufficient premises liability insurance to assure that any injury to a party, other participant or spectator at the proceedings is covered without expense to the state of Colorado. Such insurance shall name the state of Colorado as an additional insured.

**(i) Jury Trials.**

(1) The Colorado Uniform Jury Selection and Service Act applies to jury trials conducted pursuant to this rule.

(2) When a trial by jury has been properly demanded, before setting the case for trial the Appointed Judge shall coordinate the start of the trial with the jury commissioner and the district administrator for the originating court so that jurors are selected and voir dire is held in the courthouse to which the prospective jurors are summoned.

(3) If the trial is held outside the courthouse, the parties shall be responsible for offering transportation from the courthouse to the location of the trial for the duration of the trial. Such transportation shall be at no cost to the jurors or the state of Colorado. The parties shall arrange for or assure that there is sufficient liability insurance to assure that any injury to a juror related to such transportation is covered without expense to the state of Colorado. Such insurance shall name the state of Colorado as an additional insured.

(4) Not later than 3 business days following the conclusion of their service as jurors, the parties shall pay the jurors at the statutory rate pursuant to the Colorado Uniform Jury Selection and Service Act. The parties also shall pay all related expenses such as meals for the jurors and the costs of a bailiff. Payments made pursuant to this section should not be made through the court.

(5) If the trial is held outside the courthouse, jurors shall be instructed to the effect that such fact does not affect their responsibility and the importance of their service.

(6) In the event the jury is cancelled, postponed or a jury is waived, the Appointed Judge shall notify the jury commissioner as soon as possible.

**(j) Removal.** An Appointed Judge shall preside over all matters throughout the duration of the appointment unless the Appointed Judge recuses, is removed pursuant to [C.R.C.P. 97](#), dies or becomes incapacitated. In any such circumstance, the case proceedings shall immediately revert to the originating court.

**(k) Immunity.** An Appointed Judge shall have immunity in the same manner and to the same extent as any other judge in the state of Colorado.

### Credits

Adopted eff. July 1, 2005. Amended eff. June 16, 2011; Jan. 1, 2012.

### Table of Rules

### Editors' Notes

### GENERAL NOTES

**Publisher's Note:** C.R.C.P. 122 and Canon 9 of the Colorado Code of Judicial Conduct are hereby enacted and adopted by the Court, En Banc, June 23, 2005 and shall be effective so as to allow the appointment of an Appointed Judge in any case within the scope of C.R.C.P. 122 that is pending in a court as of July 1, 2005 or is filed in a court on or after July 1, 2005. C.R.C.P. 122 and Canon 9 do not apply to appointments of Appointed Judges made prior to July 1, 2005, which appointments shall continue to be effective according to their terms.

Rules Civ. Proc., Rule 122, CO ST RCP Rule 122  
Current with amendments received through 7/15/15

---

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.



**From:** taylor, todd  
**Sent:** Thursday, March 19, 2015 10:34 AM  
**To:** morrison, terri  
**Subject:** County court appeal problem

Terri:

This issue is not a high priority. I bring it to your attention because I'm uncertain who else to contact. Please let me know if I should direct my email to someone else.

In preparing to give a recent presentation on county court appeal procedures, I came across a discrepancy between section 13-6-311(b) and C.R.C.P. 359(b). Section 13-6-311(b) provides that:

(b) Upon filing of the notice of appeal, the posting and approval of the bond, and the deposit by the appellant of an estimated fee in advance for preparing the record, the county court shall discontinue all further proceedings and recall any execution issued. The appellant shall then docket his or her appeal in the district court. A motion for new trial is not required as a condition of appeal. *If a motion for new trial is made within fourteen days, the time for appeal shall be extended until **fourteen** days after disposition of the motion, but only matters raised on the motion for new trial shall be considered on an appeal thereafter*

But C.R.C.P. 359(b) provides that:

**(b) Time for Motion.** A motion for new trial (which must be in writing) may be made within 14 days of entry of judgment and *if so made the time for appeal shall be extended until **21** days after disposition of the motion.* Only matters raised in said motion shall be considered on appeal.

I can foresee a litigant relying on the 21 days in Rule 359, rather than the 14 days in the statute. But this position, despite being understandable, might not confer jurisdiction. Our Supreme Court held in *People ex rel. City of Aurora v. Smith*, 162 Colo. 72, 75, 424 P.2d 772, 774 (1967), that a portion of a rule it had promulgated in the context of county court criminal appeals, which conflicted with a similar statutory provision, "was in the first instance erroneously promulgated by us and is therefore invalid and of no effect."

So I propose that the Civil Rules Committee look into this issue and decided whether a change to Rule 359 is warranted.

Please contact me if you have any questions.

Thanks, Todd

Todd Taylor

District Court Judge

19th Judicial District

P.O. Box 2038

Greeley, CO 80632

(970) 475-2540

[todd.taylor@judicial.state.co.us](mailto:todd.taylor@judicial.state.co.us)

West's Colorado Revised Statutes Annotated

Title 13. Courts and Court Procedure

Courts of Record

Article 6. County Courts (Refs & Annos)

Part 3. General Procedural Provisions (Refs & Annos)

C.R.S.A. § 13-6-311

§ 13-6-311. Appeals from county court--simplified procedure

Effective: July 1, 2013

Currentness

(1)(a) If either party in a civil action believes that the judgment of the county court is in error, he or she may appeal to the district court by filing notice of appeal in the county court within fourteen days after the date of entry of judgment and by filing within the said fourteen days an appeal bond with the clerk of the county court. The bond shall be furnished by a corporate surety authorized and licensed to do business in this state as surety, or one or more sufficient private sureties, or may be a cash deposit by the appellant and, if the appeal is taken by the plaintiff, shall be conditioned to pay the costs of the appeal and the counterclaim, if any, and, if the appeal is taken by the defendant, shall be conditioned to pay the costs and judgment if the appealing party fails. The bond shall be approved by the judge or the clerk.

(b) Upon filing of the notice of appeal, the posting and approval of the bond, and the deposit by the appellant of an estimated fee in advance for preparing the record, the county court shall discontinue all further proceedings and recall any execution issued. The appellant shall then docket his or her appeal in the district court. A motion for new trial is not required as a condition of appeal. **If a motion for new trial is made within fourteen days, the time for appeal shall be extended until fourteen days after disposition of the motion,** but only matters raised on the motion for new trial shall be considered on an appeal thereafter.

(2)(a) Upon the deposit of the estimated record fee, the clerk of the court shall prepare and issue as soon as possible a record of the proceedings in the county court, including the summons, the complaint, proof of service, and the judgment. The record shall also include a transcription of such part of the actual evidence and other proceedings as the parties may designate or, in lieu of transcription, to which they may stipulate. If a stenographic record has been maintained or the parties agree to stipulate, the party appealing shall lodge with the clerk of the court the reporter's transcript of the designated evidence or proceedings or a stipulation covering such items within forty-two days after the filing of the notice of appeal. If the proceedings have been recorded electronically, the transcription of designated evidence and proceedings shall be prepared in the office of the clerk of the county court, either by him or her or under his or her supervision, within forty-two days after the filing of the notice of appeal.

(b) The clerk shall notify, in writing, the opposing parties of the completion of the record, and the parties have fourteen days within which to file objections. If none are received, the record shall be certified forthwith by the clerk. If objections are made, the parties shall be called for hearing and the objections settled by the county judge as soon as possible and the record

then certified.

(3) When the record has been duly certified and any additional fees therefor paid, it shall be filed with the clerk of the district court by the clerk of the county court, and the opposing parties shall be notified of such filing by the clerk of the county court.

(4) A written brief setting out matters relied upon as constituting error and outlining any arguments to be made shall be filed in the district court by the appellant within twenty-one days after filing of the record therein. A copy of the brief shall be served on the appellee. The appellee may file an answering brief within twenty-one days after such service. In the discretion of the district court, time for filing of briefs and answers may be extended.

(5) Unless there is further review by the supreme court upon writ of certiorari and pursuant to the rules of that court, after final disposition of the appeal by the district court, the judgment on appeal therein shall be certified to the county court for action as directed by the district court, except upon trials de novo held in the district court or in cases in which the judgment is modified, in which cases the judgment shall be that of the district court and enforced therefrom.

(6) Repealed by Laws 1985, H.B.1074, § 12, eff. Nov. 14, 1986.

#### **Credits**

Amended by Laws 1980, H.B.1071, § 1, eff. April 6, 1980; Laws 1985, H.B.1074, § 12, eff. Nov. 14, 1986; [Laws 2012, Ch. 208, § 3, eff. July 1, 2012](#); [Laws 2013, Ch. 32, § 1, eff. July 1, 2013](#); [Laws 2013, Ch. 58, § 3, eff. July 1, 2013](#).

[Notes of Decisions \(40\)](#)

C. R. S. A. § 13-6-311, CO ST § 13-6-311

Current through the First Regular Session of the 70th General Assembly (2015).

---

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.

West's Colorado Revised Statutes Annotated

West's Colorado Court Rules Annotated

Rules of County Court Civil Procedure

Chapter 25. Colorado Rules of County Court Civil Procedure (Refs & Annos)

C.R.C.P. Rule 359

RULE 359. NEW TRIALS; AMENDMENT OF JUDGMENTS

Currentness

**(a) No Motion for New Trial Necessary.** Motion for new trial shall not be a condition of appeal from the county to district court.

**(b) Time for Motion.** A motion for new trial (which must be in writing) may be made within 14 days of entry of judgment and if so made the time for appeal shall be extended until 21 days after disposition of the motion. Only matters raised in said motion shall be considered on appeal.

**(c) Grounds.** A new trial may be granted to all or any of the parties, and on all or a part of the issues, after trial by jury or by the court. On a motion for a new trial in an action tried without a jury, the court may upon the judgment, if one has been entered, take additional testimony and direct the entry of a new judgment. Subject to the provisions of Rule 361, a new trial may be granted for any of the following causes:

(1) Any irregularity in the proceedings by which any party was prevented from having a fair trial.

(2) Misconduct of the jury.

(3) Accident or surprise, which ordinary prudence could not have guarded against.

(4) Newly discovered evidence, material for the party making the application which he could not, with reasonable diligence, have discovered and produced at the trial.

(5) Excessive or inadequate damages.

(6) Insufficiency of the evidence.

(7) Error in law.

When application is made under subsection 1, 2, 3, or 4 of section (c) of this Rule it shall be supported by affidavit filed with the motion. When application is made under any of the subsections (1) to (7) of section (c) of this Rule there shall be filed with the motion a short memorandum brief including authorities, if any, upon which the applicant relies in support of the motion.

**(d) Time for Filing and Serving Affidavits.** When a motion for a new trial is based upon affidavits they shall be filed with the motion. The opposing party has ten calendar days after service thereof within which to file opposing affidavits, which period maybe extended for an additional period not exceeding twenty days either by the court for good cause shown or by the parties by written stipulation. The court may permit reply affidavits.

**(e) On Initiative of Court.** Not later than fifteen days after entry of judgment, the court on its own initiative may order a new trial for any reason for which it might have granted a new trial on motion of a party, and in the order shall specify the grounds therefor.

**(f) Motion to Alter or Amend a Judgment.** A motion to alter or amend the judgment shall be filed not later than 21 days after entry of the judgment.

**(g) Effect of Granting Motion.** The granting of a motion for a new trial shall not be an appealable order, but a party by participating in the new trial shall not be deemed to have waived any objections to the granting of the motion, and the validity of the order granting the motion may be raised on appeal to the district court and in the petition in the Supreme Court for writ of certiorari.

#### **Credits**

Amended eff. June 28, 2007; Jan. 1, 2012.

#### [Notes of Decisions \(1\)](#)

Rules Civ. Proc., County Court Rule 359, CO ST CTY CT RCP Rule 359  
Current with amendments received through 7/15/15

TO: Judge Berger

FROM: Judge Webb

DATE: September \_\_, 2015

RE: Possible change to C.R.M. 6

Unpublished Court of Appeals opinions involving actions of district court magistrates where consent is required have left me concerned that parties may not know their consent is required, consent will be implied from failure to file a written objection under C.R.M. 3(f)(1)(A)(ii), or both. The right to be heard by a district court judge is important. This right should not, in my view, be lost through ignorance.

For these reasons, I propose a new subsection to C.R.M. 5, possibly between (f) and (g):

In any proceeding where a district court magistrate may perform a function for which consent is required under C.R.M. 6, the notice of referral, setting, or hearing of the proceeding shall inform the parties that:

(1) All parties must consent to the proceeding being conducted by the magistrate, and

(2) Any party who fails to file a written objection within 14 days of the notice will be deemed to have consented.

To implement this approach, a new subsection C.R.M.

6(f) should be added:

A district court magistrate shall not perform any function for which consent is required under any provision of this Rule unless the notice of the referral, setting, or hearing of the proceeding before the magistrate complied with [cross reference to new subsection in Rule 5].

For consideration at our September meeting, attached is a proposed change to the Colorado Rules for Magistrates Rule 6 correcting the statutory citation and clarifying that probable cause hearings are governed by the Interstate Compact for Adult Offender Supervision.

Teresa

Teresa Taylor Tate  
Assistant Legal Counsel  
Colorado Judicial Branch  
State Court Administrator's Office  
1300 Broadway, Suite 1200  
Denver, CO 80203  
(720)625-5825

**From:** morrison, terri  
**Sent:** Monday, June 15, 2015 6:07 PM  
**To:** tate, teresa  
**Cc:** van gheem, veronique  
**Subject:** RULE\_6\_FUNCTIONS\_OF\_DISTRICT\_COURT\_MAGISTRATES.rtf

Teresa,

Sorry if I have missed the deadline for getting this to the civil rules committee. If I have, no problem it can be addressed at the next meeting. This proposed change updates the Rules for Magistrates to reflect the current statute on Interstate Compact, which was changed in 2000. The compact that appears in statute only sets out the framework for the compact and in it, authorizes Rules to be promulgated. In those Rules, is the requirement for a probable cause hearing, whereas the requirement for a PC hearing used to be in statute under the old compact that is currently referenced in the Rules for Magistrates. So, instead of just inserting the change in statute I tried to indicate that it is the Rules, which are promulgated under the ICAOS that cause there to be a PC hearing. If there is a cleaner way to state this other than what I have proposed, I have no ownership in how that is accomplished.

Let me know if you have questions.

Best Regards,  
Terri

Terri S. Morrison  
Legal Counsel, Colorado Judicial Department  
1300 Broadway Suite 1200 | Denver, CO 80203

**(o) (720) 625-5817**  
**(c) (303) 522-7425**  
fax (720)-625-5837



C.R.M. Rule 6

RULE 6. FUNCTIONS OF DISTRICT COURT MAGISTRATES

Currentness

(a) Functions in Criminal Cases: A district court magistrate may perform any or all of the following functions in criminal proceedings:

(1) No consent necessary:

(A) Conduct initial appearance proceedings, including advisement of rights, admission to bail, and imposition of conditions of release pending further proceedings.

(B) Appoint attorneys for indigent defendants and approve attorney expense vouchers.

(C) Conduct bond review hearings.

(D) Conduct preliminary and dispositional hearings pursuant to [C.R.S. sections 16-5-301\(1\)](#) and [18-1-404\(1\)](#).

(E) Schedule and conduct arraignments on indictments, informations, or complaints.

(F) Order presentence investigations.

(G) Set cases for disposition, trial, or sentencing before a district court judge.

(H) Issue arrest and search warrants, including nontestimonial identifications under Rule 41.1.

(I) Conduct probable cause hearings pursuant to [rules promulgated under the Interstate Compact for Adult Offender Supervision, C.R.S. sections 24-60-2801 to 2803](#), ~~C.R.S. sections 24-60-301 to 309, the Uniform Act for Out-of-State Parolee Supervision.~~

(J) Any other function authorized by statute or rule.

(2) Consent necessary:

(A) Enter pleas of guilty.

(B) Enter deferred prosecution and deferred sentence pleas.

(C) Modify the terms and conditions of probation or deferred prosecutions and deferred sentences.

(D) Impose stipulated sentences to probation in cases assigned to problem solving courts.

(b) Functions in Matters Filed Pursuant to Colorado Revised Statutes Title 14 and Title 26:

(1) No Consent Necessary

(A) A district court magistrate shall have the power to preside over all proceedings arising under Title 14, except as described in section 6(b)(2) of this Rule.

(B) A district court magistrate shall have the power to preside over all motions to modify permanent orders concerning property division, maintenance, child support or allocation of parental responsibilities, except petitions to review as defined in [C.R.M. 7](#).

(C) A district court magistrate shall have the power to determine an order concerning child support filed pursuant to [Section 26-13-101 et. seq.](#)

(D) Any other function authorized by statute.

(2) Consent Necessary: With the consent of the parties, a district court magistrate may preside over contested hearings which result in permanent orders concerning property division, maintenance, child support or allocation of parental responsibilities.

(c) Functions in Civil Cases: A district court magistrate may perform any or all of the following functions in civil proceedings:

(1) No consent necessary

(A) Conduct settlement conferences.

(B) Conduct default hearings, enter judgments pursuant to [C.R.C.P. 55](#), and conduct post-judgment proceedings.

(C) Conduct hearings and enter orders authorizing sale, pursuant to [C.R.C.P. 120](#).

(D) Conduct hearings as a master pursuant to [C.R.C.P. 53](#).

(E) Hear and rule upon all motions relating to disclosure, discovery, and all [C.R.C.P. 16](#) and [16.1](#) matters.

(F) Conduct proceedings involving protection orders pursuant to [C.R.S. Section 13-14-101](#) et.seq.

(G) Any other function authorized by statute.

(2) Consent Necessary: A magistrate may perform any function in a civil case except that a magistrate may not preside over jury trials.

(d) Functions in Juvenile Cases: A juvenile court magistrate shall have all of the powers and be subject to the limitations prescribed for juvenile court magistrates by the provisions of Title 19, Article 1, C.R.S. Unless otherwise set forth in Title 19, Article 1, C.R.S., consent in any juvenile matter shall be as set forth in [CRM 3\(f\)\(1\)](#).

(e) Functions in Probate and Mental Health Cases:

(1) No consent necessary:

(A) Perform any or all of the duties which may be delegated to or performed by a probate registrar, magistrate, or clerk, pursuant to C.R.P.P. 34 and C.R.P.P. 35.

(B) Hear and rule upon petitions for emergency protective orders and petitions for temporary orders.

(C) Any other function authorized by statute.

(2) Consent Necessary

(A) Hear and rule upon all matters filed pursuant to C.R.S. Title 15.

(B) Hear and rule upon all matters filed pursuant to C.R.S. Title 25 and Title 27.

**Credits**

Amended eff. Jan. 1, 1991; Sept. 12, 1991. Revised eff. Jan. 1, 2000. Amended eff. Nov. 6, 2003; July 1, 2005; Jan. 11, 2007; Oct. 14, 2010.

[Notes of Decisions \(14\)](#)

Magistrates Rule 6, CO ST MAG Rule 6  
Current with amendments received through 4/15/15

---

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.

J. Keith Killian\*  
Damon J. Davis  
Christopher H. Richter\*  
Nicholas W. Mayle

# KILLIAN, DAVIS, RICHTER & MAYLE, PC

Daniel R. Robinson –  
Erin Burke ▲  
Andrew Petroski ▼•  
James P. Guthro  
Matt Parmenter ■  
Joseph H. Azbell |



◆ Also admitted in Navajo Nation ● Attorneys admitted in New Mexico  
All Attorneys admitted in Colorado | Also admitted in Wyoming

▲ Also admitted in California ▼ Also admitted in North Dakota and Minnesota  
■ Also admitted in Massachusetts ■ Also admitted in Indiana and Illinois

[www.killianlaw.com](http://www.killianlaw.com)

March 24, 2015

Colorado Civil Rules Commmittee  
Colorado Rules of Evidence Committee  
c/o Jenny Moore  
[jenny.moore@judicial.state.co.us](mailto:jenny.moore@judicial.state.co.us)

RE: Form to ease use of C.R.E. 803(6), 902(11), and 902(12), including disclosure of intent to use said rules

Dear Committee Members:

I am writing to encourage you to consider collaborating to draft a form for use with C.R.E. 803(6), 902(11), and 902(12), including disclosure of the intent to use these rules for the admission of documents. These rules allow a party to admit business records under the hearsay exception if the records are accompanied by an affidavit of a records custodian certifying the records fall within the hearsay exception. The rules also require disclosure of the intent to admit the records through an affidavit. A form easing the use of these rules would benefit both the bar and pro se parties, who often have difficulty admitting records.

My thought is a form would consist of three parts. First, there would be instructions on completion and use of the form. Second, would be an affidavit with blanks for the company name, description of the documents, and the like, which if completed and notarized would comply with C.R.E. 902(11) and (12). Third, would be a form disclosure that would indicate the intent to submit the records by affidavit, to which the affidavits would be attached. The disclosure could be a standalone document, part of the trial management order, or both. The form would apply in both district and county court. My thought is that the form would not be the exclusive means of complying with C.R.E. 902(11) and (12), but simply a way of complying.

Such a form would be of benefit to the bar. In my experience, some attorneys are still unaware of C.R.E. 902(11) and (12), and even if aware are resistant to the rules' use. A form would help publicize the rule to the bar and streamline its use. A form would be especially useful to pro se parties. Many pro se parties face difficulty in getting records admitted. Having a form will ease the process for them. It will also allow them to receive help from the self-represented litigant coordinators.

I am writing to both committees because this does not seem to be strictly an evidentiary issue. The rule has a disclosure component, which implicates the civil rules. Additionally, an records custodian affidavit is the type of document that is often obtained during the disclosure and discovery period. Lastly, for pro se parties, they often do not think about evidence

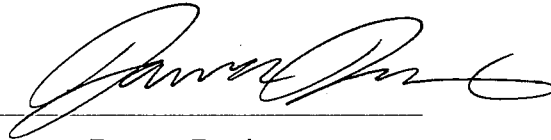
*Civil rules Committee  
Rules of Evidence Committee  
Re: Form for C.R.E. 902(11) and 902(12)  
Monday, March 23, 2015  
Page 2 of 2*

presentation until trial, if they think about it at all. Having a form within the civil rules, will hopefully prompt pro se parties to obtain the affidavit and disclose it in advance.

Thank you for taking the time to consider my letter. I am sure you have many other issues on your respective agendas. I hope you will consider the potential of the suggested form for use in Colorado.

Yours truly,

KILLIAN, DAVIS, Richter & Mayle, PC



---

Damon Davis

/DJD

cc: Hon. Michael Berger, Chair Civil Rules Committee: [michael.berger@judicial.state.co.us](mailto:michael.berger@judicial.state.co.us)  
Hon. Gale Miller, Chair Rules of Evidence Committee: [gale.miller@judicial.sate.co.us](mailto:gale.miller@judicial.sate.co.us)

Complaint Number

### CERTIFICATION OF RECORDS

This document is intended to meet the requirements set forth in Michigan Rules of Evidence, Rule 902(11), addressing certified records of regularly conducted activity

I swear or affirm that each of the following is true regarding the attached records, to the best of knowledge and belief:

1. I am the custodian of these records, or I am an employee familiar with the manner and process in which these records are created and maintained by virtue of my duties and responsibilities;
2. The records were made at or near the time of the occurrences of the matters set forth by, or from information transmitted by, people with knowledge of those matters;
3. The records were kept in the course of regularly conducted business activity; and
4. It was the regular practice of the business activity to make the record.

Organization

Signature

Date

Print or Type Name

Title

Business Telephone

Business Address

The attached record consists of \_\_\_\_\_ pages.

Subscribed and sworn to before a Notary Public, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public

My commission expires on: \_\_\_\_\_

In reviewing C.R.C.P. 121 § 1-14, regarding default judgments, it appears that the rule contains an error. The rule states, in part, under sub-paragraph 3 that, “the court shall require such additional evidence or proceeding as will protect the interest of such party in accordance with the Service Member Civil Relief Act (SCRA), 50 U.S.C. § 520, including the appointment of an attorney when necessary.” As you can see, the rule refers to 50 U.S.C. § 520. However, there is no such federal statutory section. The SCRA, as you may know, is found at 50 Appendix § 501, et seq. There is no § 520 (it skips from 519 to 521). I believe that the section of the SCRA that should be referred to in the rule is 50 Appendix U.S.C. § 521, which describes the necessity to appoint counsel for a defendant in the active military when a motion for default judgment is pending.

I’m not sure if this is a matter that can be brought to the attention of the rules committee, but if there actually is an error in the rule, which it seems there is, it would be helpful to have them work with the legislature to have it changed to reflect the proper statutory section.

Thank you very much for your time.



**Section 1-14**  
**DEFAULT JUDGMENTS**

1. To enter a default judgment under [C.R.C.P. 55\(b\)](#) of the Colorado Rules of Civil Procedure, the following documents in addition to the motion for default judgment are necessary:

(a) The original summons showing valid service on the particular defendant in accordance with [Rule 4, C.R.C.P.](#)

(b) An affidavit stating facts showing that venue of the action is proper. The affidavit may be executed by the attorney for the moving party.

(c) An affidavit or affidavits establishing that the particular defendant is not a minor, an incapacitated person, an officer or agency of the State of Colorado, or in the military service. The affidavit must be executed by the attorney for the moving party on the basis of reasonable inquiry.

(d) An affidavit or affidavits or exhibits establishing the amount of damages and interest, if any, for which judgment is being sought. The affidavit may not be executed by the attorney for the moving party. The affidavit must be executed by a person with knowledge of the damages and the basis therefor.

(e) If attorney fees are requested, an affidavit that the defendant agreed to pay attorney fees or that they are provided by statute; that they have been paid or incurred; and that they are reasonable. The attorney for the moving party may execute the affidavit setting forth those matters listed in or required by [Colorado Rule of Professional Conduct 1.5](#).

(f) If the action is on a promissory note, the original note shall be presented to the court in order that the court may make a notation of the judgment on the face of the note. If the note is to be withdrawn, a photocopy shall be substituted.

(g) A proposed form of judgment which shall recite in the body of the judgment:

(1) The name of the party or parties to whom the judgment is to be granted;

(2) The name of the party or the parties against whom judgment is being taken;

(3) Venue has been considered and is proper;

(4) When there are multiple parties against whom judgment is taken, whether the relief is intended to be a joint and several obligation;

(5) Where multiple parties are involved, language to comply with [C.R.C.P. 54\(b\)](#), if final judgment is sought against less than all the defendants;

(6) The principal amount, interest and attorney's fees, if applicable, and costs which shall be separately stated.

2. If further documentation, proof or hearing is required, the court shall so notify the moving party.

3. If the party against whom default judgment is sought is in the military service, or his status cannot be shown, the court shall require such additional evidence or proceeding as will protect the interests of such party in accordance with the Service Member Civil Relief Act (SCRA), 50 USC § 520, including the appointment of an attorney when necessary. The appointment of an attorney shall be made upon application of the moving party, and expense of such appointment shall be borne by the moving party, but taxable as costs awarded to the moving party as part of the judgment except as prohibited by law.

4. In proceedings which come within the provisions of [Rules 55](#) or [120, C.R.C.P.](#), attendance by the moving party or his attorney shall not be necessary in any instance in which all necessary elements for entry of default under those rules are self-evident from verified motion in the court file. When such

matter comes up on the docket with no party or attorney appearing and the court is of the opinion that necessary elements are not so established, the court shall continue or vacate the hearing and advise the moving party or attorney accordingly.

#### **COMMITTEE COMMENT**

This Practice Standard was needed because neither [C.R.C.P. 55](#), nor any local rule specified the elements necessary to obtain a default judgment and each court was left to determine what was necessary. One faced with the task of attempting to obtain a default judgment usually found themselves making several trips to the courthouse, numerous phone calls and redoing needed documents several times. The Practice Standard is designed to minimize both court and attorney time. The Practice Standard sets forth a standardized check list which designates particular items needed for obtaining a default judgment. For guidance on affidavits, see [C.R.C.P. 108](#). See also [Section 13-63-101, C.R.S.](#), concerning affidavits and requirements by the court.

June 16, 2015

Mike: At the last Civil Rules Committee meeting we briefly discussed my concept that a number of the Forms contained in the Appendix to Chapters 1-17A should be repealed, although not as much as was done by the Federal Civil Rules Committee. You asked that I submit a specific proposal. The following is my proposal. I have attached copies of the affected Forms for your and the Committee's information:

First, my thoughts on this were triggered by the complete repeal of Fed. R. Civ. P. 84 and its Forms. The federal advisory committee recommended abrogating Rule 84 after it had engaged in "significant efforts to gather information about how often the forms are used and whether they provide meaningful help to litigants."

When I looked over Colorado's Forms, a number of which were based on the federal Forms, it seemed to me that we had a number of forms which are rarely, if ever, used – although I could stand corrected if the judges on the Committee tell us that they regularly see pleadings that use the Colorado Forms. However, there are several unique Colorado Forms that do get regular usage. Thus, I do not propose abrogating our Rule 84, but rather I propose doing what has been done previously in some instances, which is to delete the language of the Form and replace it with the word "[REPEALED]". (See, e.g., Forms 20.2 and 21.)

I think my proposal is most easily considered in three parts: CAPP Rules and Forms; other Forms; and Form 20, Pattern Interrogatories.

1) CAPP – I recommend replacing the CAPP Rules and Forms with the word [REPEALED]. These are CAPP Rules with Appendices A, B and C, together with JDF Forms 600.5, 601, 603, 604, 634 and 635.

Given the Supreme Court's determination that CAPP will end as of June 30, 2015, I think this needs no further discussion.

2) Forms contained in the Appendix to Chapters 1-17A –

I have enclosed a list of all the forms indicating which ones I urge be repealed. I am *not* suggesting repeal of Forms 1, 1.1, 1.3, and 24-40. The Forms I suggest we repeal are:

1.2 – this is actually a CAPP impacted form (see first box under ¶ 2);

2-14 – these are all forms of complaints;

15 – Form of Rule 12 motions;

15A – certification of conferring;

16-17 – forms of answers;

18-19 – obscure motions;

21A-21B – Discovery forms;

22 – even more obscure allegation for complaint.

3) Form 20 – Pattern Interrogatories

More complex is the issue of Form 20, Pattern Interrogatories. Repealing this Form will also require repealing Rule 33(e).

Rule 33(e) provides as follows:

C.R.C.P. 33(e) – Pattern and Non-Pattern Interrogatories; Limitations. –  
The pattern interrogatories set forth in the Appendix to Chapter 4, Form 20, are approved. Any pattern interrogatory and its subparts shall be counted as one interrogatory. Any subpart to a non-pattern interrogatory shall be considered as a separate interrogatory.

My major problems with this Form are (1) that it was prepared for use under the existing culture, of parties getting everything they *want*, and is inappropriate under the new culture of robust disclosure and then parties getting what else they *need*; (2) authorizing “cut and paste” interrogatories enables lawyers to ask questions without thinking about either the questions or the necessity of the subparts; (3) it encourages overbroad discovery; (4) it ignores the reality that interrogatories are a notoriously ineffective way to get meaningful material factual discovery; (5) answering overly broad interrogatories is time consuming and quite expensive; (6) at the very least, these kinds of questions are likely to raise numerous objections and disputes that may have to be resolved by the trial court; and (7) perhaps most problematic is how one is supposed to count these interrogatories to determine whether the propounded interrogatories are within or exceed the limits on interrogatories set out in Rule 26(b)(2)(B).

Without belaboring these concerns, take the following example:

18 year old son is driving Dad, Mom and his 13 year-old sister home from a dinner party; runs a stop sign and injures plaintiff. Dad and Mom in backseat and sister in front passenger seat suffer cuts and bruises. Son had nothing to drink and used no drugs or prescriptions in prior 24 hours. Dad had three whiskies, and uses Viagra as needed; Mom had a class of wine, takes Lipitor and uses a prescription estrogen replacement; sister had nothing to drink but is taking drugs to treat her schizophrenia.

Plaintiff propounds Pattern Interrogatory 2.13.

2.13 Within 24 hours before the INCIDENT , did you or any person involved in the INCIDENT use or take any of the following substances: alcoholic beverage, marijuana, or other drug or medication of any kind (prescription or not)?

If so, for each person state:

- (a) the name, ADDRESS , and telephone number;
- (b) the nature or description of each substance
- (c) the quantity of each substance used or taken;
- (d) the date and time of day when each substance was used or taken;

- (e) the ADDRESS where each substance was used or taken;
- (f) the name, ADDRESS , and telephone number of each person who was present when each substance was used or taken;
- (g) the name, ADDRESS , and telephone number of any HEALTH CARE PROVIDER that prescribed or furnished the substance and the condition for which it was prescribed or furnished.

At our last meeting we touched on the single most egregious Pattern Interrogatory – No. 15.1. In any kind of a reasonably complex business dispute with a relatively detailed complaint, of the kind we like to encourage, this request that defending parties state “all” facts, identify all knowledgeable persons, and identify all documents supporting the denial of any allegation including the identity of those possessing the documents, can and will never be fully answered.

The counting issue arises due to the unresolved issue (as far as I know) of whether Interrogatory 2.0 is one interrogatory with 2.1-2.13 as subparts (along with their own 36 individual sub-subparts), and thus all counted as part of one interrogatory? Or is each of Interrogatories 2.1-2.13 separate interrogatories to be counted separately if their boxes are checked? I have seen lawyers take both of those positions, and have heard of judges going both ways.

Dick

## CIVIL ACCESS PILOT PROJECT

may thereafter accept a document in paper form and the court shall scan the document and upload it to the E-Service Provider. After notice to an attorney that all future documents are to be E-Filed, the court may charge a fee of \$50 per document for the service of scanning and uploading a document filed in paper form. Where E-Filing and E-Service are mandatory, the Chief Judge or appropriate judicial officer may exclude pro se parties from mandatory E-Filing requirements.

### 14. Relief in the Event of Technical Difficulties:

(a) Upon satisfactory proof that E-Filing or E-Service of a document was not completed because of: (1) an error in the transmission of the document to the E-System Provider which was unknown to the sending party; (2) a failure of the E-System Provider to process the E-Filing when received, or (3) other technical problems experienced by the filer or E-System Provider, the court may enter an order permitting the document to be filed nunc pro tunc to the date it was first attempted to be sent electronically.

(b) Upon satisfactory proof that an E-Served document was not received by or unavailable to a party served, the court may enter an order extending the time for responding to that document.

### 15. Form of Electronic Documents

(a) **Electronic Document Format, Size and Density.** Electronic document format, size, and density shall be as specified by Chief Justice Directive # 11-01.

(b) **Multiple Documents:** Multiple documents (including proposed orders) may be filed in a single electronic filing transaction. Each document (including proposed orders) in that filing must bear a separate document title.

(c) **Proposed Orders:** Proposed orders shall be E-Filed in editable format. Proposed orders that are E-Filed in a non-editable format shall be rejected by the Court Clerk's office and must be resubmitted.

### Committee Comment

The Court authorized service provider for the program is the Integrated Colorado Courts E-Filing System ([www.jbits.courts.state.co.us/icces/](http://www.jbits.courts.state.co.us/icces/)). "Editable Format" is one which is subject to modification by the court using standard means such as Word or WordPerfect format.

C.R.C.P. 77 provides that courts are always open for business. This Practice Standard is intended to comport with that rule.

Rule 121(a) and (b) amended and renumbered as (b) and (c) and new (a) adopted eff. as to cases filed on and after April 1, 1988. Secs. 1-8, 1-9, 1-11, 1-16, 1-22 adopted eff. July 1, 1983; Secs. 1-15, 1-18 amended eff. July 1, 1983; Sec. 1-6 amended eff. Aug. 1, 1983; Sec. 1-19 adopted eff. Aug. 1, 1983; Sec. 1-21 adopted eff. Jan. 1, 1984; Sec. 1-20 adopted eff. April 1, 1984; Sec. 1-23 adopted eff. Sept. 1, 1984; Secs. 1-17, 1-18 amended eff. as to cases filed on and after April 1, 1988; Sec. 1-3 amended eff. Sept. 1, 1990; Secs. 1-15, 1-20 amended eff. Sept. 6, 1990; Sec. 1-25 adopted eff. Sept. 6, 1990; Secs. 1-15, 1-20, 1-22 amended eff. Oct. 1, 1992; Sec. 1-20 amended eff. July 1, 1994; Secs. 1-11, 1-12, 1-15, 1-19 amended April 14, 1994; eff. Jan. 1, 1995, for all cases on or after that date; Sec. 1-1 Comment amended eff. July 1, 1999; Sec. 1-26 adopted eff. March 7, 2000; Sec. 1-26 amended eff. April 17, 2003; Sec. 1-17 amended Sept. 30, 2004, eff. for Domestic Relations Cases as defined in 16.2(a) filed on or after Jan. 1, 2005, and for post-decree motions filed on or after Jan. 1, 2005; Secs. 1-1, 1-2, 1-13, 1-14, 1-15, 1-16, 1-20, 1-21, 1-23, 1-26 amended and adopted Oct. 20, 2005, eff. Jan. 1, 2006. Sec. 1-15 amended eff. June 28, 2007. Sec. 1-15 corrected eff. Nov. 5, 2007. Sec. 1-15 amended eff. Oct. 12, 2009. Sec. 1-1 amended eff. Jan. 7, 2010. Sec. 1-1 amended eff. Oct. 20, 2011. Secs. 1-1, 1-10, 1-12, 1-15, 1-16, 1-22, 1-23, 1-26 amended eff. Jan. 1, 2012. Sec. 1-15 amended eff. Feb. 29, 2012. Sec. 1-26 amended eff. June 21, 2012; Sec. 1-26 amended eff. May 9, 2013; Sec. 1-15 amended eff. June 7, 2013; Secs. 1-15, 1-26 amended eff. Dec. 31, 2013; Sec. 1-15 amended eff. Sept. 18, 2014.

## CIVIL ACCESS PILOT PROJECT

### PILOT PROJECT RULE

1. SCOPE.
2. PLEADINGS—FORM AND CONTENT.
3. PLEADINGS AND INITIAL DISCLOSURES.
4. MOTION TO DISMISS.
5. SINGLE JUDGE.
6. PRESERVATION OF RELEVANT DOCUMENTS AND THINGS.
7. CASE MANAGEMENT CONFERENCES.
8. ONGOING ACTIVE CASE MANAGEMENT.
9. DISCOVERY.
10. EXPERT DISCOVERY.
11. COSTS AND SANCTIONS.

### App.

- A. ACTIONS IN THE COLORADO CIVIL ACCESS PILOT PROJECT.
- B. FORM FOR INITIAL CASE MANAGEMENT CONFERENCE JOINT REPORT OF THE PARTIES.
- C. FORM FOR DISCLOSURE OF EXPERT WITNESS(ES).

### Form

- JDF 600.5. SUMMONS COLORADO CIVIL ACCESS PILOT PROJECT FOR BUSINESS ACTIONS.
- JDF 601. DISTRICT COURT CIVIL (CV) CASE COVER SHEET FOR INITIAL PLEADING

## CIVIL ACCESS PILOT PROJECT

Form  
OF COMPLAINT, COUNTERCLAIM,  
CROSS-CLAIM OR THIRD PARTY COM-  
PLAINT.  
JDF 603. INSTRUCTIONS TO COMPLETE DIS-  
TRICT CIVIL (CV) CASE COVER  
SHEET JDF 601 FOR INITIAL PLEAD-  
ING OF COMPLAINT, COUNTER-  
CLAIM, CROSS-CLAIM, OR THIRD  
PARTY COMPLAINT.

Form  
JDF 604. NOTICE AND ORDER TO FILE JDF 601  
DISTRICT COURT CIVIL CASE COVER  
SHEET.  
JDF 634. COLORADO CIVIL ACCESS PILOT PRO-  
JECT INITIAL CASE MANAGEMENT  
CONFERENCE JOINT REPORT OF  
THE PARTIES (CJD 11-02, APPENDIX  
B).  
JDF 635. COLORADO CIVIL ACCESS PILOT PRO-  
JECT FOR DISCLOSURE OF EXPERT  
WITNESS[ES].

### Editorial Note

The Civil Access Pilot Project was sched-  
uled to be a two year pilot and applied to all  
applicable cases filed in the pilot district up  
to December 31, 2013 or until further order  
of the court. The Supreme Court extended  
the effective date of these rules until Decem-  
ber 31, 2014, or until further order of the  
court, by order dated June 26, 2013; and  
until June 30, 2015, or until further order of  
the court, by order dated July 11, 2014. The  
Court adopted these rules effective January  
1, 2012 for use in the First (Jefferson and  
Gilpin Counties), Second (Seventeenth  
(Adams County), and Eighteenth (Arapahoe  
County) Judicial Districts. These rules ap-  
ply to the cases described in Amended Ap-  
pendix A.

### PILOT PROJECT RULE 1. SCOPE

1.1. These Rules ("PPR") govern all pretrial pro-  
cess in all actions filed after January 1, 2012 that are  
part of the pilot project. They will be applied only to  
business actions as defined in Appendix A. Inclusion  
in the pilot project will be determined based on the  
contents of the complaint at the commencement of the  
action.

1.2. The PPR are not meant to be a complete set  
of rules. The Colorado Rules of Civil Procedure  
("CRCP") will govern except to the extent that there  
is an inconsistency, in which case the PPR will take  
precedence.

1.3. At all times, the court and the parties shall  
address the action in ways designed to assure that the  
process and the costs are proportionate to the needs  
of the case. The proportionality factors include, for  
example and without limitation: amount in controversy,  
and complexity and importance of the issues at  
stake in the litigation. This proportionality rule is  
fully applicable to all discovery, including the discov-  
ery of electronically stored information. This propor-  
tionality rule shall shape the process of the case in

order to achieve a just, timely, efficient and cost  
effective determination of all actions:

1.4. Continuances and extensions are strongly dis-  
favored. Absent extraordinary circumstances, mo-  
tions for continuances or extensions will be denied by  
the court upon receipt and without waiting for a  
response. Stipulated motions by the parties to contin-  
ue or extend are not binding on the court and parties  
should assume the motion will be denied.

Adopted eff. Jan. 1, 2012.

### PILOT PROJECT RULE 2. PLEADINGS— FORM AND CONTENT

2.1. The intent of PPR 2 is to utilize the pleadings  
to identify and narrow the disputed issues at the  
earliest stages of litigation and thereby focus the  
discovery.

2.2. The party that bears the burden of proof with  
respect to any claim or affirmative defense should  
plead all material facts that are known to that party  
that support that claim or affirmative defense and  
each remedy sought, including any known monetary  
damages.

2.3. Any statement of fact that is not denied with  
specificity in any responsive pleading is deemed ad-  
mitted. General denials of any statement of fact are  
not permitted and a denial that is based on the lack of  
knowledge or information shall be so pleaded.

Adopted eff. Jan. 1, 2012.

### PILOT PROJECT RULE 3. PLEADINGS AND INITIAL DIS- CLOSURES

3.1. No later than 21 days after service of a plead-  
ing making a claim for relief, the pleading party shall  
file with the court a statement listing all persons with  
information related to the claims and a brief descrip-  
tion of the information each such individual is believed  
to possess, whether the information is supportive or  
harmful. The statement shall also include a certifica-  
tion that the party has available for inspection and

## APPENDIX TO CHAPTERS 1 to 17A. FORMS

### Table of Forms

Form	Form	Form
1. DISTRICT COURT CIVIL SUMMONS.	21.	REQUESTS FOR ADMISSION UNDER RULE 36 [REPEALED].
1.1. SUMMONS BY PUBLICATION.		
<del>1.2. DISTRICT COURT CIVIL (CV) CASE COVER SHEET FOR INITIAL PLEADING OF COMPLAINT, COUNTERCLAIM, CROSS-CLAIM OR THIRD PARTY COMPLAINT.</del>	21A.	MOTION FOR PRODUCTION OF DOCUMENTS, ETC., UNDER RULE 34.
	21B.	REQUEST FOR ADMISSION UNDER RULE 36.
1.3. NOTICE TO ELECT EXCLUSION FROM C.R.C.P. 16.1 SIMPLIFIED PROCEDURE.	21.2.	PATTERN REQUESTS FOR PRODUCTION OF DOCUMENTS (DOMESTIC RELATIONS) [REPEALED].
2. ALLEGATION OF JURISDICTION (for cases in the County Court).	22.	ALLEGATION OF REASON FOR OMITTING PARTY.
3. COMPLAINT ON A PROMISSORY NOTE.	23.	AFFIDAVIT, WRIT OF GARNISHMENT AND INTERROGATORIES (RULE 103) [REPEALED].
4. COMPLAINT ON AN ACCOUNT.	24.	WRIT OF ASSISTANCE—PETITION FOR.
5. COMPLAINT FOR GOODS SOLD AND DELIVERED.	25.	REQUEST FOR PRODUCTION OF DOCUMENTS, ETC., UNDER RULE 34 [DELETED].
6. COMPLAINT FOR MONEY LENT.	26.	WRIT OF CONTINUING GARNISHMENT.
7. COMPLAINT FOR MONEY PAID BY MISTAKE.	27.	CALCULATION OF THE AMOUNT OF EXEMPT EARNINGS.
8. COMPLAINT FOR MONEY HAD AND RECEIVED.	28.	OBJECTION TO CALCULATION OF THE AMOUNT OF EXEMPT EARNINGS.
9. COMPLAINT FOR NEGLIGENCE.	29.	WRIT OF GARNISHMENT WITH NOTICE OF EXEMPTION AND PENDING LEVY.
10. COMPLAINT FOR NEGLIGENCE WHERE PLAINTIFF IS UNABLE TO DETERMINE DEFINITELY WHETHER THE PERSON RESPONSIBLE IS C. D. OR E. F. OR WHETHER BOTH ARE RESPONSIBLE AND WHERE HIS EVIDENCE MAY JUSTIFY A FINDING OF WILFULNESS OR OF RECKLESSNESS OR OF NEGLIGENCE.	30.	CLAIM OF EXEMPTION TO WRIT OF GARNISHMENT WITH NOTICE.
11. COMPLAINT FOR CONVERSION.	31.	WRIT OF GARNISHMENT FOR SUPPORT.
12. COMPLAINT FOR SPECIFIC PERFORMANCE OF CONTRACT TO CONVEY LAND.	32.	WRIT OF GARNISHMENT—JUDGMENT DEBT OR OTHER THAN NATURAL PERSON.
13. COMPLAINT ON CLAIM FOR DEBT AND TO SET ASIDE FRAUDULENT CONVEYANCE UNDER RULE 18(b).	33.	WRIT OF GARNISHMENT IN AID OF WRIT OF ATTACHMENT.
14. COMPLAINT FOR INTERPLEADER AND DECLARATORY RELIEF.	34.	NOTICE OF LEVY.
15. MOTION TO DISMISS, PRESENTING DEFENSES OF FAILURE TO STATE A CLAIM, AND OF LACK OF SERVICE OF PROCESS.	35.1.	MANDATORY DISCLOSURE.
16. ANSWER PRESENTING DEFENSES UNDER RULE 12(b).	35.2.	SWORN FINANCIAL STATEMENT.
17. ANSWER TO COMPLAINT SET FORTH IN FORM 8, WITH COUNTERCLAIM FOR INTERPLEADER.	35.3.	SUPPORTING SCHEDULES (SWORN FINANCIAL STATEMENT).
18. MOTION TO BRING IN THIRD-PARTY DEFENDANT.	35.4.	PATTERN INTERROGATORIES (DOMESTIC RELATIONS).
19. MOTION TO INTERVENE AS A DEFENDANT UNDER RULE 24.	35.5.	PATTERN REQUESTS FOR PRODUCTION OF DOCUMENTS (DOMESTIC RELATIONS).
20. PATTERN INTERROGATORIES UNDER RULE 33.	36.	NOTICE OF WITHDRAWAL AS ATTORNEY OF RECORD.
20.2. PATTERN INTERROGATORIES (DOMESTIC RELATIONS) [REPEALED].	37.	DISTRICT COURT SUBPOENA TO ATTEND OR ATTEND AND PRODUCE OR PRODUCE.
	38.	NOTICE TO SUBPOENA RECIPIENTS.
	39.	COUNTY COURT SUBPOENA TO ATTEND OR ATTEND AND PRODUCE.
	40.	COMPLAINT FOR REVIEW OF ADMINISTRATIVE ACTION OF THE COLORADO DEPARTMENT OF CORRECTIONS PURSUANT TO C.R.C.P. 106.5.

### Introductory Statement.

1. The following forms are intended for illustration only. They are limited in number. No attempt is made to furnish a manual of forms.

2. Except w  
below. Each c  
used. See the  
use a form of c  
should omit the  
pending, where  
and in the capti  
first party on b  
and 10(a).

3. When the  
in Form 2 below

4. Each for  
represented by  
plaintiff's addre

5. An adder  
computer-gene

6. Forms of



*Repeat*

**FORM 1.2. DISTRICT COURT CIVIL (CV) CASE COVER SHEET FOR INITIAL PLEADING OF COMPLAINT, COUNTERCLAIM, CROSS-CLAIM OR THIRD PARTY COMPLAINT**

District Court _____ County, Colorado		
Court Address:		
Plaintiff(s):		<b>▲ COURT USE ONLY ▲</b>
v. Defendant(s):		
Attorney or Party Without Attorney (Name and Address):		Case Number:
Phone Number:	E-mail:	Division:      Courtroom
FAX Number:	Atty. Reg. #:	
<b>DISTRICT COURT CIVIL (CV) CASE COVER SHEET FOR INITIAL PLEADING OF COMPLAINT, COUNTERCLAIM, CROSS-CLAIM OR THIRD PARTY COMPLAINT.</b>		

1. This cover sheet shall be filed with each pleading containing an initial claim for relief in every district court civil (CV) case, and shall be served on all parties along with the pleading. It shall not be filed in Domestic Relations (DR), Probate (PR), Water (CW), Juvenile (JA, JR; JD; JV), or Mental Health (MH) cases. Failure to file this cover sheet is not a jurisdictional defect in the pleading but may result in a clerk's show cause order requiring its filing.

2. Check one of the following:

- This case is governed by Chief Justice Directive ("CJD") 11-02 and the "Colorado Civil Access Pilot Project Rules Applicable to Business Actions in District Court" because:
  - The case is filed within the period of January 1, 2012 through June 30, 2015; AND
  - The case is filed in a Pilot Project participating jurisdiction (Adams County, Arapahoe County, Denver County, Gilpin County, or Jefferson County); AND
  - The case is a "Business Action" as defined in CJD 11-02, Amended Appendix A for inclusion in the Pilot Project.
- This case is not governed by the Colorado Civil Access Pilot Project Rules.

**NOTE: Cases subject to the Colorado Civil Access Pilot Project must be governed by the Rules in CJD 11-02 (available at [http://www.courts.state.co.us/Courts/Supreme\\_Court/Directives/Index.cfm](http://www.courts.state.co.us/Courts/Supreme_Court/Directives/Index.cfm)). The presiding judge will review Item 2 for accuracy. The designation on this initial Cover Sheet will control unless the Court orders otherwise.**

3. If this case is not governed by the Colorado Civil Access Pilot Project Rules as indicated in Item 2, check the following:

- This case is governed by C.R.C.P. 16.1 because:
  - The case is not a class action, domestic relations case, juvenile case, mental health case, probate case, water law case, forcible entry and detainer, C.R.C.P. 106, C.R.C.P. 120, or other similar expedited proceeding; AND

APPENDIX OF FORMS

Form 1.2

A monetary judgment over \$100,000 is not sought by any party against any other single party. This amount includes attorney fees, penalties, and punitive damages; it excludes interest and costs, as well as the value of any equitable relief sought.

This case is not governed by C.R.C.P. 16.1 because (check ALL boxes that apply):

The case is a class action, domestic relations case, juvenile case, mental health case, probate case, water law case, forcible entry and detainer, C.R.C.P. 106, C.R.C.P. 120, or other similar expedited proceeding.

A monetary judgment over \$100,000 is sought by any party against any other single party. This amount includes attorney fees, penalties, and punitive damages; it excludes interest and costs, as well as the value of any equitable relief sought.

NOTE: In any case to which C.R.C.P. 16.1 does not apply, the parties may elect to use the simplified procedure by separately filing a Stipulation to be governed by the rule within 49 days of the at-issue date. See C.R.C.P. 16.1(e). In any case to which C.R.C.P. 16.1 applies, the parties may opt out of the rule by separately filing a Notice to Elect Exclusion (JDF 602) within 35 days of the at-issue date. See C.R.C.P. 16.1(d).

A Stipulation or Notice with respect to C.R.C.P. 16.1 has been separately filed with the Court, indicating:

C.R.C.P. 16.1 applies to this case.

C.R.C.P. 16.1 does not apply to this case.

4.  This party makes a Jury Demand at this time and pays the requisite fee. See C.R.C.P. 38. (Checking this box is optional.)

Date: \_\_\_\_\_

Signature of Party or Attorney for Party

**FORM 2. ALLEGATION OF JURISDICTION (for cases in the County Court)**

1. That the amount (or value of the property) involved herein does not exceed \_\_\_\_\_ dollars.

**FORM 3. COMPLAINT ON A PROMISSORY NOTE**

1. Defendant on or about (date), executed and delivered to plaintiff a promissory note (in the following words and figures: (here set out the note verbatim)); (a copy of which is hereto annexed as Exhibit A); (whereby defendant promised to pay to plaintiff or order on (date), the sum of \_\_\_\_\_ dollars with interest thereon at the rate of \_\_\_\_\_ percent per annum).

2. Defendant owes to plaintiff the amount of said note and interest.

Wherefore plaintiff demands judgment against defendant for the amount of the note, interest, and costs.

Signed: \_\_\_\_\_ Attorney for Plaintiff.

Address of Plaintiff: \_\_\_\_\_

Amended eff. Jan. 1, 1988; July 10, 2000.

**NOTES**

1. The pleader may use the material in one of the three sets of brackets. His choice will depend upon whether he desires to plead the document verbatim, or by exhibit, or according to its legal effect.

2. Under the rules free joinder of claims is permitted. See Rules 8(e) and 18. Consequently the claims set forth in each and all of the following forms may be joined with this complaint or with each other. Ordinarily each claim should be stated in a separate division of the complaint, and the divisions should be designated as counts successively numbered. In particular the rules permit alternative and inconsistent pleading. See Form 10.

3. On complaint and answer, address of parties must be furnished. See Rule 11, C.R.C.P. and C.A.R. 3(d).

**FORM 4. COMPLAINT ON AN ACCOUNT**

Defendant owes plaintiff \_\_\_\_\_ dollars according to the account hereto annexed as Exhibit A.

Wherefore (etc. as in Form 3).

**FORM 5. COMPLAINT FOR GOODS SOLD AND DELIVERED**

Defendant owes plaintiff \_\_\_\_\_ dollars for goods sold and delivered by plaintiff to defendant between (date) and (date).

Wherefore (etc. as in Form 3).

Amended eff. July 10, 2000.

**NOTE**

This form may be used either where the action is for an agreed price or where it is for the reasonable value of the goods.

**FORM 6. COMPLAINT FOR MONEY LENT**

Defendant owes plaintiff \_\_\_\_\_ dollars for money lent by plaintiff to defendant on (date).

Wherefore (etc. as in Form 3).

Amended eff. July 10, 2000.

**FORM 7. COMPLAINT FOR MONEY PAID BY MISTAKE**

Defendant owes plaintiff \_\_\_\_\_ dollars for money paid by plaintiff to defendant by mistake on (date), under the following circumstances: (here state the circumstances with particularity—see Rule 9(b)).

Wherefore (etc. as in Form 3).

Amended eff. July 10, 2000.

*Repeal*

**FORM 8. COMPLAINT FOR MONEY HAD AND RECEIVED**

Defendant owes plaintiff \_\_\_\_\_ dollars for money had and received from one G. H. on (date), to be paid by defendant to plaintiff.

Wherefore (etc. as in Form 3).

Amended eff. July 10, 2000.

**FORM 9. COMPLAINT FOR NEGLIGENCE**

*Repeat*

1. On (date), in a public highway called Broadway Street in Denver, Colorado, defendant negligently drove a motor vehicle against plaintiff who was then crossing said highway.

2. As a result plaintiff was thrown down and had his leg broken and was otherwise injured, was prevented from transacting his business, suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization in the sum of \_\_\_\_\_ dollars.

Wherefore plaintiff demands judgment against defendant in the amount established by the evidence, interest and costs.

Amended eff. Jan. 1, 1988; July 10, 2000.

**NOTE**

Since contributory negligence is an affirmative defense, the complaint need contain no allegation of due care of plaintiff.

*Repeal*

**FORM 10. COMPLAINT FOR NEGLIGENCE WHERE PLAINTIFF IS UNABLE TO DETERMINE DEFINITELY WHETHER THE PERSON RESPONSIBLE IS C. D. OR E. F. OR WHETHER BOTH ARE RESPONSIBLE AND WHERE HIS EVIDENCE MAY JUSTIFY A FINDING OF WILFULNESS OR OF RECKLESSNESS OR OF NEGLIGENCE**

County Court     District Court  
County, Colorado

Court Address:

A.B.,  
Plaintiff:  
v.  
C.D. and E.F.,  
Defendant:

▲ COURT USE ONLY ▲

Attorney or Party Without Attorney (Name and Address):

Case Number:

Phone Number:  
FAX Number:

E-mail:  
Atty. Reg. #:

Division:    Courtroom:

**COMPLAINT**

1. On (date), in a public highway called Broadway Street, in Denver, Colorado, defendant C. D. or defendant E. F., or both defendants C. D. and E. F. willfully or recklessly or negligently drove or caused to be driven a motor vehicle against plaintiff who was then crossing said highway.

2. As a result plaintiff was thrown down and had his leg broken and was otherwise injured, was prevented from transacting his business, suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization in the sum of \_\_\_\_\_ dollars.

Wherefore plaintiff demands judgment against C. D. or against E. F. or against both in the amount established by the evidence, interest and costs.

Amended eff. Jan. 1, 1988; July 1, 2000; July 10, 2000.

Publishers Note: Please see introductory statement preceding Form 1.

**FORM 11. COMPLAINT FOR CONVERSION**

1. On or about (date), defendant converted to his own use ten bonds of the \_\_\_\_\_ Company (here insert brief identification as by number and issue) of the value of \_\_\_\_\_ dollars, the property of plaintiff.

Wherefore plaintiff demands judgment against defendant in the amount established by the evidence, interest, and costs:

Amended eff. Jan. 1, 1988; July 10, 2000.

*Repeal*

**FORM 12. COMPLAINT FOR SPECIFIC PERFORMANCE OF CONTRACT TO CONVEY LAND**

1. On or about (date), plaintiff and defendant entered into an agreement in writing a copy of which is hereto annexed as Exhibit A.

2. In accordance with the provisions of said agreement plaintiff tendered to defendant the purchase price and requested a conveyance of the land, but defendant refused to accept the tender and refused to make the conveyance.

3. Plaintiff now offers to pay the purchase price.

Wherefore plaintiff demands: (1) That defendant be required specifically to perform said agreement; (2) damages as established by the evidence; and (3) that if specific performance is not granted plaintiff have judgment against defendant for the value of the property, interest and costs.

Amended eff. Jan. 1, 1988; July 10, 2000.

**NOTE**

Here, as in Form 3, plaintiff may set forth the contract verbatim in the complaint or plead it, as indicated, by exhibit, or plead it according to its legal effect.

FORM 13. COMPLAINT ON CLAIM FOR DEBT AND TO SET ASIDE FRAUDULENT CONVEYANCE UNDER RULE 18(b)

County Court  District Court  
County, Colorado

Court Address:

A.B.,  
Plaintiff:  
v.  
C.D. and E.F.,  
Defendants:

*Repeal*

▲ COURT USE ONLY ▲

Attorney or Party Without Attorney (Name and Address):

Case Number:

Phone Number:  
FAX Number:

E-mail:  
Atty. Reg. #:

Division:

Courtroom:

COMPLAINT

1. Defendant C. D. on or about \_\_\_\_\_ executed and delivered to plaintiff a promissory note (in the following words and figures: [here set out the note verbatim]); (a copy of which is hereto annexed as Exhibit A); (whereby defendant C. D. promised to pay to plaintiff or order on \_\_\_\_\_ the sum of \_\_\_\_\_ dollars with interest thereon at the rate of \_\_\_\_\_ percent per annum).

2. Defendant C. D. owes to plaintiff the amount of said note and interest.

3. Defendant C. D. on or about \_\_\_\_\_ conveyed all his property, real and personal (or specify and describe) to defendant E. F. for the purpose of defrauding plaintiff and hindering and delaying the collection of the indebtedness evidenced by the note above referred to.

Wherefore plaintiff demands: (1) That plaintiff have judgment against defendant C. D. for the amount established by the evidence; (2) that the conveyance to defendant E. F. be declared void and the judgment herein be declared a lien on said property; and (3) that plaintiff have judgment against the defendants for interest and costs.

Amended eff. Jan. 1, 1988; July 1, 2000.

Publishers Note: Please see introductory statement preceding Form 1.

**FORM 14. COMPLAINT FOR INTERPLEADER AND DECLARATORY RELIEF**

*Repeal*

1. On or about (date), plaintiff issued to G. H. a policy of life insurance whereby plaintiff promised to pay to K. L. as beneficiary the sum of \_\_\_\_\_ dollars upon the death of G. H. The policy required the payment by G. H. of a stipulated premium on (date), and annually thereafter as a condition precedent to its continuance in force.

2. No part of the premium due (date), was ever paid and the policy ceased to have any force or effect on (date).

3. Thereafter, on (date), G. H. and K. L. died as the result of a collision between a locomotive and the automobile in which G. H. and K. L. were riding.

4. Defendant C. D. is the duly appointed and acting executor of the will of G. H.; defendant E. F. is the duly appointed and acting executor of the will of K. L.; defendant X. Y. claims to have been duly designated as beneficiary of said policy in place of K. L.

5. Each of defendants, C. D., E. F., and X. Y. is claiming that the above-mentioned policy was in full force and effect at the time of the death of G. H.; each of them is claimed to be the only person entitled to receive payment of the amount of the policy and has made demand for payment thereof.

6. By reason of these conflicting claims of the defendants, plaintiff is in great doubt as to which defendant is entitled to be paid the amount of the policy, if it was in force at the death of G. H.

Wherefore plaintiff demands that the court adjudge:

1. That none of the defendants is entitled to recover from plaintiff the amount of said policy or any part thereof.

2. That each of the defendants be restrained from instituting any action against plaintiff for the recovery of the amount of said policy or any part thereof.

3. That, if the court shall determine that said policy was in force at the death of G. H., the defendants be required to interplead and settle between themselves their rights to the money due under said policy, and that plaintiff be discharged from all liability in the premises except to the person whom the court shall adjudge entitled to the amount of said policy.

4. That plaintiff recover its costs.

Amended eff. July 10, 2000.



**FORM 15. MOTION TO DISMISS, PRESENTING DEFENSES OF FAILURE TO STATE A CLAIM, AND OF LACK OF SERVICE OF PROCESS**

The defendant moves the court as follows:

*Repeal*

1. To dismiss the action because the complaint fails to state a claim against defendant upon which relief can be granted.

2. To dismiss the action or in lieu thereof to quash the return of service of summons on the ground: (here state reasons, such as, (a) that the defendant is a corporation organized under the laws of Delaware and was not and is not subject to service of process within the State of Colorado; (b) that the defendant has not been properly served with process in this action, all of which more clearly appears in the affidavits of M. N. and X. Y. hereto annexed as Exhibit A and Exhibit B respectively; (c) etc.).

3. To dismiss the action on the ground: (here state the same.)

Signed: \_\_\_\_\_  
Attorney for Defendant

Notice of Motion

To: \_\_\_\_\_  
Attorney for Plaintiff.

Please take notice that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the undersigned will apply to the court to set the attached motion for hearing (or to hear the attached motion forthwith).

Signed: \_\_\_\_\_  
Attorney for Defendant

Received a copy of the within notice and motion at the City and County of Denver, Colorado, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at the hour of \_\_\_\_M.

\_\_\_\_\_  
Attorney for Plaintiff

Amended eff. July 10, 2000.

FORM 15A. CERTIFICATION OF CONFERRING [as required by  
C.R.C.P. 121 § 1-15 ¶ 8]

*Repeal*

---

\* C.R.C.P. 121 § 1-15 ¶ 8 Certification: Plaintiff's counsel has conferred in good faith with Defendant's counsel about this Motion. Defendant's counsel [opposes] [does not oppose] the relief requested in this motion.

---

Adopted eff. July 10, 2000.

FORM 16. ANSWER PRESENTING DEFENSES UNDER RULE 12(b)

*Repeal*

First Defense

The complaint fails to state a claim against defendant upon which relief can be granted.

Second Defense

If defendant is indebted to plaintiffs for the goods mentioned in the complaint, he is indebted to them jointly with G. H. G. H. is alive; is a citizen and resident of this state, is subject to the jurisdiction of this court, as to both service of process and venue; can be made a party, but has not been made one.

Third Defense

Defendant admits the allegation contained in paragraphs 1 and 4 of the complaint; alleges that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the complaint; and denies each and every other allegation contained in the complaint.

Fourth Defense

The right of action set forth in the complaint did not accrue within six years next before the commencement of this action.

Counterclaim

(Here set forth any claim as a counterclaim in the manner in which a claim is pleaded in a complaint.)

Cross Claim Against Defendant M. N.

(Here set forth the claim constituting a cross claim against defendant M. N. in the manner in which a claim is pleaded in a complaint.)

Signed: \_\_\_\_\_

Attorney for Defendant

Defendant's Address: \_\_\_\_\_

FORM 17. ANSWER TO COMPLAINT SET FORTH IN FORM 8,  
WITH COUNTERCLAIM FOR INTERPLEADER

Defense

Defendant denies the allegations stated to the extent set forth in the counterclaim herein.

Counterclaim for Interpleader

*Repeal*

1. Defendant received the sum of \_\_\_\_\_ dollars as a deposit from E. F.
2. Plaintiff has demanded the payment of such deposit to him by virtue of an assignment of it which he claims to have received from E. F.
3. E. F. has notified the defendant that he claims such deposit, that the purported assignment is not valid, and that he holds the defendant responsible for the deposit.

Wherefore defendant demands:

1. That the court order E. F. to be made a party defendant to respond to the complaint and to this counterclaim.
2. That the court order the plaintiff and E. F. to interplead their respective claims.
3. That the court adjudge whether the plaintiff or E. F. is entitled to the sum of money.
4. That the court discharge defendant from all liability in the premises except to the person it shall adjudge entitled to the sum of money.
5. That the court award to the defendant its costs and attorney's fees.

FORM 18. MOTION TO BRING IN THIRD-PARTY DEFENDANT

*Repeal*

Defendant moves for leave to make E. F. a party to this action and that there be served upon him summons and third-party complaint as set forth in Exhibit A hereto attached.

Signed: \_\_\_\_\_  
Attorney for Defendant C. D.

Notice of Motion

(Contents the same as in Form 15. No notice is necessary if the motion is made before the moving defendant has served his answer.)

County Court     District Court  
\_\_\_\_\_ County, Colorado

Court Address: \_\_\_\_\_

A.B.,  
Plaintiff:

v.  
C.D.,  
Defendant and  
Third-party Plaintiff:

v.  
E.F.,  
Third-party Defendant:

▲ COURT USE ONLY ▲

Attorney or Party Without Attorney (Name and Address): \_\_\_\_\_

Case Number: \_\_\_\_\_

Phone Number: \_\_\_\_\_  
FAX Number: \_\_\_\_\_

E-mail: \_\_\_\_\_  
Atty. Reg. #: \_\_\_\_\_

Division: \_\_\_\_\_ Courtroom: \_\_\_\_\_

SUMMONS

THE PEOPLE OF THE STATE OF COLORADO:

TO the above-named third-party defendant, GREETINGS:

You are hereby summoned and required to file with the clerk an answer to the third-party complaint, a copy of which is herewith served upon you, within 20 days after service of this summons upon you. If you fail so to do, judgment by default will be taken against you for the relief demanded in the third-party complaint.

If service upon you is made outside the State of Colorado, you are required to file your answer to said third-party complaint within 30 days after service of this summons upon you.\*

There is also served upon you herewith a copy of the complaint of the plaintiff which you may answer.

Dated \_\_\_\_\_, 20\_\_

Clerk of the \_\_\_\_\_ Court

Attorney for Third-party Plaintiff

\* If body execution is sought the summons must state the claim set-out in said third-party complaint is "founded upon tort."

THIRD PARTY COMPLAINT

County Court     District Court  
\_\_\_\_\_ County, Colorado

Court Address: \_\_\_\_\_

A.B.,  
Plaintiff:

v.  
C.D.,

Defendant and  
Third-party Plaintiff:

v.  
E.F.,  
Third-party Defendant:

▲ COURT USE ONLY ▲

Attorney or Party Without Attorney (Name and Address):

Case Number:

Phone Number:  
FAX Number:

E-mail:  
Atty. Reg. #:

Division:

Courtroom:

THIRD-PARTY COMPLAINT

1. Plaintiff A. B. has filed against defendant C. D. a complaint, a copy of which is hereto attached as Exhibit C.

2. (Here state the grounds upon which C. D. is entitled to recover from E. F., all or part of what A. B. may recover from C. D. The statement should be framed as in an original complaint.)

Wherefore C. D. demands judgment against third-party defendant E. F. for all sums that may be adjudged against defendant C. D. in favor of plaintiff A. B.

Signed: \_\_\_\_\_

Attorney for C. D.,  
Third-party Plaintiff

Address of Third-party Plaintiff:  
\_\_\_\_\_

Amended eff. July 1, 2000.

Publishers Note: Please see introductory statement preceding Form 1.

FORM 19. MOTION TO INTERVENE AS A DEFENDANT UNDER RULE 24

*Appeal*

County Court     District Court  
 \_\_\_\_\_  
 County, Colorado

Court Address: \_\_\_\_\_

---

A.B.,  
 Plaintiff:

v.  
 C.D.,  
 Defendant:

v.  
 E.F.,  
 Applicant for intervention

▲ COURT USE ONLY ▲

---

Attorney or Party Without Attorney (Name and Address): \_\_\_\_\_ Case Number: \_\_\_\_\_

Phone Number: \_\_\_\_\_ E-mail: \_\_\_\_\_  
 FAX Number: \_\_\_\_\_ Atty. Reg. #: \_\_\_\_\_ Division: \_\_\_\_\_ Courtroom: \_\_\_\_\_

---

MOTION TO INTERVENE AS A DEFENDANT

E. F. moves for leave to intervene as a defendant in this action, in order to assert the defenses set forth in his proposed answer, of which a copy is hereto attached, on the grounds (here state them) and as such has a defense to plaintiff's claim presenting (both questions of law and of fact) which are common to the main action.

Signed: \_\_\_\_\_  
 Attorney for E. F.,  
 Applicant for Intervention

Notice of Motion  
 (Contents the same as in Form 15.)

INTERVENER'S ANSWER

County Court     District Court  
 \_\_\_\_\_  
 County, Colorado

Court Address: \_\_\_\_\_

---

A.B.,  
 Plaintiff:

v.  
 C.D.,  
 Defendant:

v.  
 E.F.,  
 Intervener:

▲ COURT USE ONLY ▲

---

Attorney or Party Without Attorney (Name and Address): \_\_\_\_\_ Case Number: \_\_\_\_\_

Phone Number: \_\_\_\_\_ E-mail: \_\_\_\_\_  
 FAX Number: \_\_\_\_\_ Atty. Reg. #: \_\_\_\_\_ Division: \_\_\_\_\_ Courtroom: \_\_\_\_\_

---

INTERVENER'S ANSWER

First Defense

Intervener admits the allegations stated in paragraphs \_\_\_\_\_ and \_\_\_\_\_ of the complaint; denies the allegations in paragraphs \_\_\_\_\_ and \_\_\_\_\_.

Second Defense

(Set forth any defenses.)

Signed: \_\_\_\_\_

Attorney for E. F.,  
Intervener

Amended eff. July 1, 2000.

Publishers Note: Please see introductory statement preceding Form 1.



**FORM 20. PATTERN INTERROGATORIES UNDER RULE 33**

County Court     District 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:  
 FAX Number:

E-mail:  
 Atty. Reg. #:

Division:

Courtroom:  
 \_\_\_\_\_

**PATTERN INTERROGATORIES UNDER RULE 33**

The following Pattern Interrogatories are propounded to:

\_\_\_\_\_ pursuant to C.R.C.P. 16(a)(1)(IV), 26, and 33(e).

**Section 1. Instructions to All Parties**

- X (a) These are general instructions. For time limitations, requirements for service on other parties, and other details, see C.R.C.P. 16(b)(1)(IV), 26, 33, 121 § 1-12, and the cases construing those Rules.
- (b) These interrogatories do not change existing law relating to interrogatories nor do they affect an answering party's right to assert any privilege or objection.

**Section 2. Instructions to the Asking Party**

- (a) These interrogatories are designed for optional use in district courts only.
- (b) Check the box next to each interrogatory that you want the answering party to answer. Use care in choosing those interrogatories that are applicable to the case.
- (c) The interrogatories in section 16.0, Defendant's Contentions—Personal Injury, should not be used until the defendant has had a reasonable opportunity to conduct an investigation or discovery of plaintiff's injuries and damages.
- X (d) Subject to the limitations in C.R.C.P. 16(b)(1)(IV) and 33, additional interrogatories may be attached.

**Section 3. Instructions to the Answering Party**

- (a) An answer or other appropriate response must be given to each interrogatory checked by the asking party.
- (b) As a general rule, within 35 days after you are served with these interrogatories, you must serve your responses on the asking party and serve copies of your responses on all other parties to the action who have appeared. See C.R.C.P. 33 for details.
- (c) Each answer must be as complete and straightforward as the information reasonably available to you permits. If an interrogatory cannot be answered completely, answer it to the extent possible.
- (d) If you do not have enough personal knowledge to fully answer an interrogatory, say so, but make a reasonable and good faith effort to get the information by asking other persons or organizations, unless the information is equally available to the asking party.
- (e) Whenever an interrogatory may be answered by referring to a document, the document may be attached as an exhibit to the response and referred to in the

response. If the document has more than one page, refer to the page and section where the answer to the interrogatory can be found.

(f) Whenever an address and telephone number for the same person are requested in more than one interrogatory, you are required to furnish them in answering only the first interrogatory asking for that information.

(g) Your answers to these interrogatories must be verified, dated, and signed. You may wish to use the following form at the end of your answers: "I declare under penalty of perjury under the laws of the State of Colorado that the foregoing answers are true and correct."

(DATE) \_\_\_\_\_ (SIGNATURE) \_\_\_\_\_

#### Section 4. Definitions

Words in **BOLDFACE CAPITALS** in these interrogatories are defined as follows:

(a) **INCIDENT** includes the circumstances and events surrounding the alleged accident, injury, or other occurrence or breach of contract giving rise to this action or proceeding.

(b) **YOU OR ANYONE ACTING ON YOUR BEHALF** includes you, your agents, your employees, your insurance companies, their agents, their employees, your attorneys, your accountants, your investigators, and anyone else acting on your behalf.

(c) **PERSON** includes a natural person, firm, association, organization, partnership, business, trust, corporation, or public entity.

(d) **DOCUMENT** means a writing, as defined in CRE 1001 and includes the original or a copy of handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing and form of communicating or representation, including letters, words, pictures, sounds, or symbols, or combinations of them.

(e) **HEALTH CARE PROVIDER** includes any **PERSON** or entity referred to as a "Health Care Professional" or "Health Care Institution" in C.R.S. § 13-64-202(3) and (4).

(f) **ADDRESS** means the street address, including the city, state, and zip code.

#### Section 5. Interrogatories

The following interrogatories have been approved by the Colorado Supreme Court under C.R.C.P. 16(b)(1)(IV), 26, and 33(e):

#### CONTENTS

- 1.0 Identity of Persons Answering These Interrogatories
- 2.0 General Background Information—Individual
- 3.0 General Background Information—Business Entity
- 4.0 Insurance
- 5.0 *(Reserved)*
- 6.0 Physical, Mental, or Emotional Injuries
- 7.0 Property Damage
- 8.0 Loss of Income or Earning Capacity
- 9.0 Other Damages
- 10.0 Medical History
- 11.0 Other Claims and Previous Claims
- 12.0 Investigation—General
- 13.0 Investigation—Surveillance
- 14.0 Statutory or Regulatory Violations
- 15.0 Affirmative Defenses

- 16.0 Defendant's Contentions—Personal Injury
- 17.0 Responses to Request for Admissions
- 18.0 (Reserved)
- 19.0 (Reserved)
- 20.0 How the Incident Occurred—Motor Vehicle
- 25.0 (Reserved)
- 30.0 (Reserved)
- 40.0 (Reserved)
- 50.0 Contract
- 60.0 (Reserved)

**1.0 Identity of Persons Answering These Interrogatories**

- 1.1 State the name, ADDRESS, telephone number, and relationship to you of each PERSON who prepared or assisted in the preparation of the responses to these interrogatories. (Do not identify anyone who simply typed or reproduced the responses.)

**2.0 General Background Information—Individual**

- 2.1 State:
  - (a) your name;
  - (b) every name you have used in the past;
  - (c) the dates you used each name.
- 2.2 State the date and place of your birth.
- 2.3 At the time of the INCIDENT, did you have a driver's license?
  - If so, state:
    - (a) the state or other issuing entity;
    - (b) the license number and type;
    - (c) the date of issuance;
    - (d) all restrictions.
- 2.4 At the time of the INCIDENT, did you have any other permit or license for the operation of a motor vehicle?
  - If so, state:
    - (a) the state or other issuing entity;
    - (b) the license number and type;
    - (c) the date of issuance;
    - (d) all restrictions.
- 2.5 State:
  - (a) your present residence ADDRESS;
  - (b) your residence ADDRESSES for the last five years;
  - (c) the dates you lived at each ADDRESS.
- 2.6 State:
  - (a) the name, ADDRESS, and telephone number of your present employer or place of self-employment;
  - (b) the name, ADDRESS, dates of employment, job title, and nature of work for each employer or self-employment you have had from five years before the INCIDENT until today.
- 2.7 State:
  - (a) the name and ADDRESS of each school or other academic or vocational institution you have attended beginning with high school;
  - (b) the dates you attended;
  - (c) the highest grade level you have completed;
  - (d) the degrees received.
- 2.8 Have you ever been convicted of a felony?
  - If so, for each conviction state:
    - (a) the city and state where you were convicted;
    - (b) the date of conviction;
    - (c) the offense;
    - (d) the court and case number.
- 2.9 Can you speak English with ease?
  - If not, what language and dialect do you normally use?
- 2.10 Can you read and write English with ease?
  - If not, what language and dialect do you normally use?
- 2.11 At the time of the INCIDENT, were you acting as an agent or employee for any PERSON?
  - If so, state:

- (a) the name, ADDRESS, and telephone number of that PERSON;  
 (b) a description of your duties.
- 2.12 At the time of the INCIDENT, did you or any other person have any physical, emotional, or mental disability or condition that may have contributed to the occurrence of the INCIDENT?  
 If so, for each person state:  
 (a) the name, ADDRESS, and telephone number;  
 (b) the nature of the disability or condition;  
 (c) the manner in which the disability or condition contributed to the occurrence of the INCIDENT.
- 2.13 Within 24 hours before the INCIDENT, did you or any person involved in the INCIDENT use or take any of the following substances: alcoholic beverage, marijuana, or other drug or medication of any kind (prescription or not)?  
 If so, for each person state:  
 (a) the name, ADDRESS, and telephone number;  
 (b) the nature or description of each substance;  
 (c) the quantity of each substance used or taken;  
 (d) the date and time of day when each substance was used or taken;  
 (e) the ADDRESS where each substance was used or taken;  
 (f) the name, ADDRESS, and telephone number of each person who was present when each substance was used or taken;  
 (g) the name, ADDRESS, and telephone number of any HEALTH CARE PROVIDER that prescribed or furnished the substance and the condition for which it was prescribed or furnished.
- 3.0 General Background Information—Business Entity**
- 3.1 Are you a corporation?  
 If so, state:  
 (a) the name stated in the current articles of incorporation;  
 (b) all other names used by the corporation during the past ten years and the dates each was used;  
 (c) the date and place of incorporation;  
 (d) the ADDRESS of the corporation's principal place of business;  
 (e) whether you are qualified to do business in Colorado.
- 3.2 Are you a partnership?  
 If so, state:  
 (a) the current partnership name;  
 (b) all other names used by the partnership during the past ten years and the dates each was used;  
 (c) whether you are a limited partnership and, if so, under the laws of what jurisdiction;  
 (d) the name and ADDRESS of each general partner;  
 (e) the ADDRESS of the partnership's principal place of business.
- 3.3 Are you a joint venture?  
 If so, state:  
 (a) the current joint venture name;  
 (b) all other names used by the joint venture during the past ten years and the dates each was used;  
 (c) the name and ADDRESS of each joint venturer;  
 (d) the ADDRESS of the joint venturer's principal place of business.
- 3.4 Are you an unincorporated association?  
 If so, state:  
 (a) the current unincorporated association's name;  
 (b) all other names used by the unincorporated association during the past ten years and the dates each was used;  
 (c) the ADDRESS of the association's principal place of business.
- 3.5 Have you done business under a fictitious name during the past ten years?  
 If so, for each fictitious name state:  
 (a) the name;  
 (b) the dates the name was used;  
 (c) the state and county of each fictitious name filing;  
 (d) the ADDRESS of your principal place of business.
- 3.6 Within the past five years, has any public entity registered or licensed your businesses?  
 If so, for each license or registration:  
 (a) identify the license or registration;  
 (b) state the name of the public entity;

APPENDIX OF FORMS

Form 20

26(a)(1)(iv) 4.0  4.1

(c) state the dates of issuance and expiration:

**Insurance**

At the time of the INCIDENT, was there in effect any policy of insurance through which you were or might be insured in any manner (for example, primary, pro rata, or excess liability coverage or medical expense coverage) for the damages, claims, or actions that have arisen out of the INCIDENT?

If so, for each policy state:

- (a) the kind of coverage;
- (b) the name and ADDRESS of the insurance company;
- (c) the name, ADDRESS, and telephone number of each named insured;
- (d) the policy number;
- (e) the limits of coverage for each type of coverage contained in the policy;
- (f) whether any reservation of rights or controversy or coverage dispute exists between you and the insurance company;
- (g) the name, ADDRESS, and telephone number of the custodian of the policy.

4.2 Are you self-insured under any statute for the damages, claims, or actions that have arisen out of the INCIDENT?

If so, specify the statute.

5.0 (Reserved)

**6.0 Physical, Mental, or Emotional Injuries**

6.1 Do you attribute any physical, mental, or emotional injuries to the INCIDENT?

If your answer is "no," do not answer interrogatories 6.2 through 6.7.

6.2 Identify each injury you attribute to the INCIDENT and the area of your body affected.

6.3 Do you still have any complaints that you attribute to the INCIDENT?

If so, for each complaint state:

- (a) a description;
- (b) whether the complaint is subsiding, remaining the same, or becoming worse;
- (c) the frequency and duration.

6.4 Did you receive any consultation or examination (except from expert witnesses covered by C.R.C.P. 35 or treatment from a HEALTH CARE PROVIDER for any injury you attribute to the INCIDENT?

If so, for each HEALTH CARE PROVIDER state:

- (a) the name, ADDRESS, and telephone number;
- (b) the type of consultation, examination, or treatment provided;
- (c) the dates you received consultation, examination, or treatment;
- (d) the charges to date.

6.5 Have you taken any medication, prescribed or not, as a result of injuries that you attribute to the INCIDENT?

If so, for each medication state:

- (a) the name;
- (b) the PERSON who prescribed or furnished it;
- (c) the date prescribed or furnished;
- (d) the dates you began and stopped taking it;
- (e) the cost to date.

6.6 Are there any other medical services not previously listed (for example, ambulance, nursing, prosthetics)?

If so, for each service state:

- (a) the nature;
- (b) the date;
- (c) the cost;
- (d) the name, ADDRESS, and telephone number of each provider.

6.7 Has any HEALTH CARE PROVIDER advised that you may require future or additional treatment for any injuries that you attribute to the INCIDENT?

If so, for each injury state:

- (a) the name and ADDRESS of each HEALTH CARE PROVIDER;
- (b) the complaints for which the treatment was advised;
- (c) the nature, duration, and estimated cost of the treatment.

**7.0 Property Damage**

7.1 Do you attribute any loss of or damage to a vehicle or other property to the INCIDENT?

If so, for each item of property:

- (a) describe the property;
- (b) describe the nature and location of the damage to the property;
- (c) state the amount of damage you are claiming for each item of property and how the amount was calculated;

## RULES OF CIVIL PROCEDURE—CH. 1 to 17A APP.

- (d) if the property was sold, state the name, ADDRESS, and telephone number of the seller, the date of sale, and the sale price.
- 7.2 Has a written estimate or evaluation been made for any item of property referred to in your answer to interrogatory 7.1?  
If so, for each estimate or evaluation state:
- (a) the name, ADDRESS, and telephone number of the PERSON who prepared it and the date prepared;
- (b) the name, ADDRESS, and telephone number of each PERSON who has a copy;
- (c) the amount of damage stated.
- 7.3 Has any item of property referred to in your answer to interrogatory 7.1 been repaired?  
If so, for each item state:
- (a) the date repaired;
- (b) a description of the repair;
- (c) the repair cost;
- (d) the name, ADDRESS, and telephone number of the PERSON who repaired it;
- (e) the name, ADDRESS, and telephone number of the PERSON who paid for the repair.
- 8.0 Loss of Income or Earning Capacity**
- 8.1 Do you attribute any loss of income or earning capacity to the INCIDENT? If your answer is "no," do not answer interrogatories 8.2 through 8.8.
- 8.2 State:
- (a) the nature of your work;
- (b) your job title at the time of the INCIDENT;
- (c) the date your employment began.
- 8.3 State the last date before the INCIDENT that you worked for compensation.
- 8.4 State your monthly income at the time of the INCIDENT and how the amount was calculated.
- 8.5 State the date you returned to work at each place of employment following the INCIDENT.
- 8.6 State the dates you did not work and for which you lost income.
- 8.7 State the total income you have lost to date as a result of the INCIDENT and how the amount was calculated.
- 8.8 Will you lose income in the future as a result of the INCIDENT?  
If so, state:
- (a) the facts upon which you base this contention;
- (b) an estimate of the amount;
- (c) an estimate of how long you will be unable to work;
- (d) how the claim for future income is calculated.
- 9.0 Other Damages**
- 9.1 Are there any other damages that you attribute to the INCIDENT?  
If so, for each item of damage state:
- (a) the nature;
- (b) the date it occurred;
- (c) the amount;
- (d) the name, ADDRESS, and telephone number of each PERSON to whom an obligation was incurred.
- 9.2 Do any DOCUMENTS support the existence or amount of any item of damages claimed in interrogatory 9.1?  
If so, state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT.
- 10.0 Medical History**
- 10.1 At any time before the INCIDENT, did you have complaints or injuries that involved the same part of your body claimed to have been injured in the INCIDENT?  
If so, for each state:
- (a) a description;
- (b) the dates it began and ended;
- (c) the name, ADDRESS, and telephone number of each HEALTH CARE PROVIDER whom you consulted or who examined or treated you.
- 10.2 List all physical, mental, and emotional disabilities you had immediately before the INCIDENT. (You may omit mental or emotional disabilities unless you attribute any mental or emotional injury to the INCIDENT.)
- 10.3 At any time after the INCIDENT, did you sustain injuries of the kind for which you are now claiming damages?  
If so, for each incident state:
- (a) the date and the place it occurred;

- (b) the name, ADDRESS, and telephone number of any other PERSON involved;
- (c) the nature of any injuries you sustained;
- (d) the name, ADDRESS, and telephone number of each HEALTH CARE PROVIDER that you consulted or who examined or treated you;
- (e) the nature of the treatment and its duration.
- 11.0 Other Claims and Previous Claims**
- 11.1 Except for this action, in the last ten years have you filed an action or made a written claim or demand for compensation for personal injuries?  
If so, for each action, claim, or demand state:
- (a) the date, time, and place and location of the INCIDENT (closest street ADDRESS or intersection);
- (b) the name, ADDRESS, and telephone number of each PERSON against whom the claim was made or action filed;
- (c) the court, names of the parties, and case number of any action filed;
- (d) the name, ADDRESS, and telephone number of any attorney representing you;
- (e) whether the claim or action has been resolved or is pending.
- 11.2 In the last ten years have you made a written claim or demand for workers' compensation benefits?  
If so, for each claim or demand state:
- (a) the date, time, and place of the INCIDENT giving rise to the claim;
- (b) the name, ADDRESS, and telephone number of your employer at the time of the injury;
- (c) the name, ADDRESS, and telephone number of the workers' compensation insurer and the claim number;
- (d) the period of time during which you received workers' compensation benefits;
- (e) a description of the injury;
- (f) the name, ADDRESS, and telephone number of any HEALTH CARE PROVIDER that provided services;
- (g) the case number of the workers' compensation claim.
- 12.0 Investigation—General**
- 12.1 State the name, ADDRESS, and telephone number of each individual:
- (a) who witnessed the INCIDENT or the events occurring immediately before or after the INCIDENT;
- (b) who made any statement at the scene of the INCIDENT;
- (c) who heard any statements made about the INCIDENT by any individual at the scene;
- (d) who YOU OR ANYONE ACTING ON YOUR BEHALF claims to have knowledge of the INCIDENT (except for expert witnesses covered by C.R.C.P. 26(a)(2) and (b)(4)).
- 12.2 Have YOU OR ANYONE ACTING ON YOUR BEHALF interviewed any individual concerning the INCIDENT?  
If so, for each individual state:
- (a) the name, ADDRESS, and telephone number of the individual interviewed;
- (b) the date of the interview;
- (c) the name, ADDRESS, and telephone number of the PERSON who conducted the interview.
- 12.3 Have YOU OR ANYONE ACTING ON YOUR BEHALF obtained a written or recorded statement from any individual concerning the INCIDENT?  
If so, for each statement state:
- (a) the name, ADDRESS, and telephone number of the individual from whom the statement was obtained;
- (b) the name, ADDRESS, and telephone number of the individual who obtained the statement;
- (c) the date the statement was obtained;
- (d) the name, ADDRESS, and telephone number of each PERSON who has the original statement or a copy.
- 12.4 Do YOU OR ANYONE ACTING ON YOUR BEHALF know of any photographs, films, or videotapes depicting any place, object, or individual concerning the INCIDENT or plaintiff's injuries?  
If so, state:
- (a) the number of photographs or feet of film or videotape;
- (b) the places, objects, or persons photographed, filmed, or videotaped;
- (c) the date the photographs, films, or videotapes were taken;
- (d) the name, ADDRESS, and telephone number of the individual taking the photographs, films, or videotapes;

- (e) the name, ADDRESS, and telephone number of each PERSON who has the original or a copy.
- 12.5 Do YOU OR ANYONE ACTING ON YOUR BEHALF know of any diagram, reproduction, or model of any place or thing (except for items developed by expert witnesses covered by C.R.C.P. 26(a)(2) and (b)(4)) concerning the INCIDENT? If so, for each item state:
- the type (i.e., diagram, reproduction, or model);
  - the subject matter;
  - the name, ADDRESS, and telephone number of each PERSON who has it.
- 12.6 Was a report made by any PERSON concerning the INCIDENT? If so, state:
- the name, title, identification number, and employer of the PERSON who made the report;
  - the date and type of report made;
  - the name, ADDRESS, and telephone number of the PERSON for whom the report was made.
- 12.7 Have YOU OR ANYONE ACTING ON YOUR BEHALF inspected the scene of the INCIDENT? If so, for each inspection state:
- the name, ADDRESS, and telephone number of the individual making the inspection (except for expert witnesses covered by C.R.C.P. 26(a)(2) and (b)(4));
  - the date of the inspection.
- 13.0 Investigation—Surveillance
- 13.1 Have YOU OR ANYONE ACTING ON YOUR BEHALF conducted surveillance of any individual involved in the INCIDENT or any party to this action? If so, for each surveillance state:
- the name, ADDRESS, and telephone number of the individual or party;
  - the time, date, and place of the surveillance;
  - the name, ADDRESS, and telephone number of the individual who conducted the surveillance.
- 13.2 Has a written report been prepared on the surveillance? If so, for each written report state:
- the time;
  - the date;
  - the name, ADDRESS, and telephone number of the individual who prepared the report;
  - the name, ADDRESS, and telephone number of each PERSON who has the original or a copy.
- 14.0 Statutory or Regulatory Violations
- 14.1 Do YOU OR ANYONE ACTING ON YOUR BEHALF contend that any PERSON involved in the INCIDENT violated any statute, ordinance, or regulation and that the violation was a legal (proximate) cause of the INCIDENT? If so, identify each PERSON and the statute, ordinance, or regulation.
- 14.2 Was any PERSON cited or charged with a violation of any statute, ordinance, or regulation as a result of this INCIDENT? If so, for each PERSON state:
- the name, ADDRESS, and telephone number of the PERSON;
  - the statute, ordinance, or regulation allegedly violated;
  - whether the PERSON entered a plea in response to the citation or charge and, if so, the plea entered;
  - the name and ADDRESS of the court or administrative agency, names of the parties, and case number.
- 15.0 Affirmative Defenses
- 15.1 Identify each denial of a material allegation and each affirmative defense in your pleadings and for each:
- state all facts upon which you base the denial or affirmative defense;
  - state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of those facts;
  - identify all DOCUMENTS and other tangible things which support your denial or affirmative defense, and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT.
- 16.0 Defendant's Contentions—Personal Injury  
[See Instructions Section 2(c) ]
- 16.1 Do you contend that any PERSON, other than you or plaintiff, contributed to the occurrence of the INCIDENT or the injuries or damages claimed by plaintiff? If so, for each PERSON:



- (a) state the name, ADDRESS, and telephone number of the PERSON;
- (b) state all facts upon which you base your contention;
- (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts;
- (d) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- 16.2 Do you contend that plaintiff was not injured in the INCIDENT?  
If so:
- (a) state all facts upon which you base your contention;
- (b) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts;
- (c) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- 16.3 Do you contend that the injuries or the extent of the injuries claimed by plaintiff as disclosed in discovery proceedings thus far in this case were not caused by the INCIDENT?  
If so, for each injury:
- (a) identify it;
- (b) state all facts upon which you base your contention;
- (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts;
- (d) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- 16.4 Do you contend that any of the services furnished by any HEALTH CARE PROVIDER claimed by plaintiff in discovery proceedings thus far in this case were not due to the INCIDENT?  
If so:
- (a) identify each service;
- (b) state all facts upon which you base your contention;
- (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts;
- (d) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- 16.5 Do you contend that any of the costs of services furnished by any HEALTH CARE PROVIDER claimed as damages by plaintiff in discovery proceedings thus far in this case were unreasonable?  
If so:
- (a) identify each cost;
- (b) state all facts upon which you base your contention;
- (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts;
- (d) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- 16.6 Do you contend that any part of the loss of earnings or income claimed by plaintiff in discovery proceedings thus far in this case was unreasonable or was not caused by the INCIDENT?  
If so:
- (a) identify each part of the loss;
- (b) state all facts upon which you base your contention;
- (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts;
- (d) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- 16.7 Do you contend that any of the property damage claimed by plaintiff in discovery proceedings thus far in this case was not caused by the INCIDENT?  
If so:
- (a) identify each item of property damage;
- (b) state all facts upon which you base your contention;
- (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts;

## RULES OF CIVIL PROCEDURE—CH. 1 to 17A APP.

- (d) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- 16.8 Do you contend that any of the costs of repairing the property damage claimed by plaintiff in discovery proceedings thus far in this case were unreasonable?  
If so:
- identify each cost item;
  - state all facts upon which you base your contention;
  - state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts;
  - identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- 16.9 Do YOU OR ANYONE ACTING ON YOUR BEHALF have any DOCUMENT (for example, insurance bureau index reports) concerning claims for personal injuries made before or after the INCIDENT by a plaintiff in this case?  
If so, for each plaintiff state:
- the source of each DOCUMENT;
  - the date each claim arose;
  - the nature of each claim;
  - the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT.
- 16.10 Do YOU OR ANYONE ACTING ON YOUR BEHALF have any DOCUMENT concerning the past or present physical, mental, or emotional condition of any plaintiff in this case from a HEALTH CARE PROVIDER not previously identified (except for expert witnesses covered by C.R.C.P. 26(a)(2) and (b)(4))?  
If so, for each plaintiff state:
- the name, ADDRESS, and telephone number of each HEALTH CARE PROVIDER;
  - a description of each DOCUMENT;
  - the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT.
- 17.0 Responses to Request for Admissions
- 17.1 Is your response to each request for admission served with these interrogatories an unqualified admission?  
If not, for each response that is not an unqualified admission:
- state the number of the request;
  - state all facts upon which you base your response;
  - state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of those facts;
  - identify all DOCUMENTS and other tangible things that support your response and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- 18.0 (Reserved)
- 19.0 (Reserved)
- 20.0 How the Incident Occurred—Motor Vehicle
- 20.1 State the date, time, and place (closest street address, intersection, or highway) of the INCIDENT.
- 20.2 For each vehicle involved in the INCIDENT, state:
- the year, make, model, and license number;
  - the name, ADDRESS, and telephone number of the driver;
  - the name, ADDRESS, and telephone number of each occupant other than the driver;
  - the name, ADDRESS, and telephone number of each registered owner;
  - the name, ADDRESS, and telephone number of each lessee;
  - the name, ADDRESS, and telephone number of each owner other than the registered owner or lien holder;
  - the name of each owner who gave permission or consent to the driver to operate the vehicle.
- 20.3 State the ADDRESS and location where your trip began, and the ADDRESS and location of your destination.
- 20.4 Describe the route that you followed from the beginning of your trip to the location of the INCIDENT, and state the location of each stop, other than routine traffic stops, during the trip leading up to the INCIDENT.

- 20.5 State the name of the street or roadway, the lane of travel, and the direction of travel of each vehicle involved in the **INCIDENT** for the 500 feet of travel before the **INCIDENT**.
- 20.6 Did the **INCIDENT** occur at an intersection?  
If so, describe all traffic control devices, signals, or signs at the intersection.
- 20.7 Was there a traffic signal facing you at the time of the **INCIDENT**?  
If so, state:
  - (a) your location when you first saw it;
  - (b) the color;
  - (c) the number of seconds it had been that color;
  - (d) whether the color changed between the time you first saw it and the **INCIDENT**.
- 20.8 State how the **INCIDENT** occurred, giving the speed, direction, and location of each vehicle involved:
  - (a) just before the **INCIDENT**;
  - (b) at the time of the **INCIDENT**;
  - (c) just after the **INCIDENT**.
- 20.9 Do you have information that a malfunction or defect in a vehicle caused the **INCIDENT**?  
If so:
  - (a) identify the vehicle;
  - (b) identify each malfunction or defect;
  - (c) state the name, **ADDRESS**, and telephone number of each **PERSON** who is a witness to or has information about each malfunction or defect;
  - (d) state the name, **ADDRESS**, and telephone number of each **PERSON** who has custody of each defective part.
- 20.10 Do you have information that any malfunction or defect in a vehicle contributed to the injuries sustained in the **INCIDENT**?  
If so:
  - (a) identify the vehicle;
  - (b) identify each malfunction or defect;
  - (c) state the name, **ADDRESS**, and telephone number of each **PERSON** who is a witness to or has information about each malfunction or defect;
  - (d) state the name, **ADDRESS**, and telephone number of each **PERSON** who has custody of each defective part.
- 20.11 State the name, **ADDRESS**, and telephone number of each owner and each **PERSON** who has had possession since the **INCIDENT** of each vehicle involved in the **INCIDENT**.
- 25.0 (Reserved)
- 30.0 (Reserved)
- 40.0 (Reserved)
- 50.0 Contract
- 50.1 For each agreement alleged in the pleadings:
  - (a) identify all **DOCUMENTS** that are part of the agreement and for each state the name, **ADDRESS**, and telephone number of each **PERSON** who has the **DOCUMENT**;
  - (b) state each part of the agreement not in writing, the name, **ADDRESS**, and telephone number of each **PERSON** agreeing to that provision, and the date that part of the agreement was made;
  - (c) identify all **DOCUMENTS** that evidence each part of the agreement not in writing and for each state the name, **ADDRESS**, and telephone number of each **PERSON** who has the **DOCUMENT**;
  - (d) identify all **DOCUMENTS** that are part of each modification to the agreement, and for each state the name, **ADDRESS**, and telephone number of each **PERSON** who has the **DOCUMENT**;
  - (e) state each modification not in writing, the date, and the name, **ADDRESS**, and telephone number of each **PERSON** agreeing to the modification, and the date the modification was made;
  - (f) identify all **DOCUMENTS** that evidence each modification of the agreement not in writing and for each state the name, **ADDRESS**, and telephone number of each **PERSON** who has the **DOCUMENT**.
- 50.2 Was there a breach of any agreement alleged in the pleadings?  
If so, for each breach describe and give the date of every act or omission that you claim is the breach of the agreement.
- 50.3 Was performance of any agreement alleged in the pleadings excused?  
If so, identify each agreement excused and state why performance was excused.

**Form 20**

**RULES OF CIVIL PROCEDURE—CH. 1 to 17A APP.**

- 50.4. Was any agreement alleged in the pleadings terminated by mutual agreement, release, accord and satisfaction, or novation?  
If so, identify each agreement terminated and state why it was terminated including dates.
- 50.5. Is any agreement alleged in the pleadings unenforceable?  
If so, identify each unenforceable agreement and state why it is unenforceable.
- 50.6. Is any agreement alleged in the pleadings ambiguous?  
If so, identify each ambiguous agreement and state why it is ambiguous.

60.0 (Reserved)

Repealed and Adopted eff. Jan. 1, 1995. Amended eff. Nov. 9, 1995; July 1, 2000; Feb. 21, 2013.

Former Form 20, Motion for Production of Documents, etc., Under Rule 34, was repealed, effective January 1, 1995. See, now, Form 21A.

Publishers Note: Please see introductory statement preceding Form 1.

APPENDIX OF FORMS

Form 21.2  
Repealed

**FORM 20.2. PATTERN INTERROGATORIES (DOMESTIC RELATIONS) [REPEALED]**

Repealed eff. Jan. 1, 2005

[Publisher's Note: See, now, Form 35.3 et seq.]

**FORM 21. REQUESTS FOR ADMISSION UNDER RULE 36 [REPEALED]**

Repealed eff. Jan. 1, 1995.

See, now, Form 21B.

**FORM 21A. MOTION FOR PRODUCTION OF DOCUMENTS, ETC., UNDER RULE 34**

Plaintiff A.B. requests pursuant to C.R.C.P. 34 that defendant C.D.:

1. Produce and permit plaintiff to inspect and to copy each of the following document:

(Here list the documents individually or by category and describe each of them.)

(Here state the time, place, and manner of making the inspection and performance of any related acts.)

2. Produce and permit plaintiff to inspect and to copy, test, or sample each of the following objects:

(Here list the objects either individually or by category and describe each of them.)

(Here state the time, place, and manner of making the inspection and performance of any related acts.)

3. Permit plaintiff to enter (here describe property to be entered) and to inspect and to photograph, test or sample (here describe the portion of the real property and the objects to be inspected.)

Defendant C.D. has the possession, custody, or control of each of the foregoing documents and objects and of the above-mentioned real estate. Each of them constitutes or contains evidence relevant and material to a matter involved in this action, as is more fully shown in Exhibit A hereto attached.

Signed: \_\_\_\_\_

Attorney for Plaintiff

Adopted eff. Jan. 1, 1995. Amended eff. July 12, 1995; July 10, 2000.

**FORM 21B. REQUEST FOR ADMISSION UNDER RULE 36**

Plaintiff A.B. requests pursuant to C.R.C.P. 36 that defendant C.D. admit:

1. That each of the following documents, exhibited with this request, is genuine.

(Here list the documents and describe each document.)

2. That each of the following statements is true.

(Here list the statements.)

Signed: \_\_\_\_\_

Attorney for Plaintiff.

Adopted eff. Jan. 1, 1995. Amended eff. July 10, 2000.

**FORM 21.2. PATTERN REQUESTS FOR PRODUCTION OF DOCUMENTS (DOMESTIC RELATIONS) [REPEALED]**

Repealed eff. Jan. 1, 2005

[Publisher's Note: See, now, Form 21.2 et seq.]

See, now, Form 35.2 et seq.

Repeal

Repeal

**FORM 22. ALLEGATION OF REASON FOR OMITTING PARTY**

*Repeal*

When it is necessary, under Rule 19(c), for the pleader to set forth in his pleading the names of persons who ought to be made parties, but who are not so made, there should be an allegation such as the one set out below:

John Doe named in this complaint is not made a party to this action (because he is not subject to the jurisdiction of this court) or (for reasons stated).

**FORM 23. AFFIDAVIT, WRIT OF GARNISHMENT AND INTERROGATORIES (RULE 103) [REPEALED]**

Repealed eff. Jan. 1, 1985.

See, now, C.R.C.P. Form 29.