

Rule Change 2003(21)

Colorado Rules of County Court
Civil Procedure

CHAPTER 25

Rule 404. Replevin

(a)-(b) [NO CHANGE].

(c) Show Cause Order; Hearing within Ten Days. The court shall, without delay, examine the complaint and affidavit, and if it is satisfied that they meet the requirements of subsection (b), it shall issue an order directed to the defendant and delivered to the plaintiff. Such order shall fix the date and time for the hearing thereof. The hearing date shall not be more than ten days from the date of the issuance of the order and the order must have been served at least five days prior to the hearing date. The plaintiff may request a hearing date beyond ten days, which request shall constitute a waiver of the right to a hearing not more than ten days from the date of issuance of the order. Such order shall inform the defendant that if the hearing date on the order to show cause and the appearance date fixed in the summons are different dates, the defendant must appear at both times, that the defendant may file affidavits on the defendant's behalf with the court and may appear and present testimony on the defendant's behalf at the time of such hearing, or that the defendant may, at or prior to such hearing, file with the court a written undertaking to stay the delivery of the property, in accordance with the provisions of section (j) of this Rule, and that, if the defendant fails to appear at the hearing on the order to show cause or to file an undertaking, plaintiff may apply to the court for an order requiring the sheriff to take immediate possession of the property described in the complaint and deliver same to the plaintiff. The summons and complaint, if not previously served, and the order shall be served on the defendant and the order shall fix the manner in which service shall be made, which shall be by service in accordance with the provisions of Rule 304, C.R.C.P., on or in such manner that the court may determine to be reasonably calculated to afford notice thereof to the defendant under the circumstances appearing from the complaint and affidavit.

(d)-(p) [NO CHANGE].

Amended and adopted by the Court, En Banc, December 4, 2003, effective January 1, 2004.

BY THE COURT:

Nancy E. Rice
Justice, Colorado Supreme Court