

Rule Change 2007 (14)

CHAPTER 25

**COLORADO RULES OF COUNTY
COURT CIVIL PROCEDURE**

Rule 303. Commencement of Action

(a) How Commenced. A simplified civil action is commenced: (1) by filing with the court a complaint consisting of a statement of claim setting forth briefly the facts and circumstances giving rise to the action in the manner and form provided in Rule 308; or (2) by service of a summons and complaint. The complaint must be filed within fifteen days of the service of the summons and not less than five days in advance of the return date. If the complaint is not timely filed, ~~within ten days~~ the service of the summons shall be deemed ineffective and void without notice. In such case the court may, in its discretion, tax a reasonable sum in favor of the defendant to compensate the defendant for expense and inconvenience, including attorney's fees, to be paid by plaintiff or the plaintiff's attorney. The ~~ten~~ fifteen day filing requirement may be expressly waived by a defendant and shall be deemed waived upon the filing of an answer or motion to the complaint without reserving the issue.

(b) Issuance of Summons. Upon the filing of a complaint as provided in section (a) of this rule and the payment of the docket fee, the clerk shall docket the case and assign it a number. Unless summons has prior thereto been issued and signed by an attorney, the clerk shall then sign and issue a summons under the seal of the court. Separate, additional, and amended summons may be issued by the clerk or an attorney of record against any defendant at any time, and when issued by an attorney, it must be filed with the court no later than five days in advance of the return date. All process shall be issued by the clerk except as otherwise provided by these rules.

(c) [No Change]

Rule 305. Service and Filing of Pleadings and other Papers is hereby repealed and readopted [See Clean Copy]

Rule 306. Time

(a) **Computation.** In computing any period of time prescribed or allowed by these rules, ~~by the local rules of any court,~~ by order of court, or by an applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. The term "calendar days" shall mean consecutive days including holidays, Saturdays or Sundays. Unless otherwise specifically ordered, when the period of time prescribed or allowed is less than seven eleven days, and not specified as "calendar days", intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday. As used in this Rule, "Legal holiday" includes the first day of January, observed as New Year's Day; Lincoln's birthday, Washington's birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or the Congress of the United States, or pursuant to Colorado statute. the third Monday in January, observed as Martin Luther King Day; the third Monday in February, observed as Washington-Lincoln Day; the last Monday in May, observed as Memorial Day; the fourth day of July, observed as Independence Day; the first Monday in September, observed as Labor Day; the second Monday in October, observed as Columbus Day; the eleventh day of November, observed as Veteran's Day; the fourth Thursday in November, observed as Thanksgiving Day; the twenty-fifth day of December, observed as Christmas Day, and any other day except Saturday or Sunday when the court is closed.

(b) through (d) [No Change]

(e) **Additional Time on Service ~~by mail.~~** Under C.R.C.P. 305(b) (2) (B), (C), or (D). When a written motion and notice of the application to set the same for hearing is served by mail or when a party has the right or is required to do some act or take some proceedings other than process under Rule 304, and the notice or paper is served by mail, Unless otherwise specifically ordered, whenever a party must or may act within a prescribed period after service is made under C.R.C.P. 305(b) (2) (B), (C), or (D), three calendar days shall be added to after the prescribed period would expire under the rule that defines the length of the prescribed period. For the purposes of this rule,

~~service by facsimile transmission is not service by mail.~~

COMMITTEE COMMENT to Rule 306(e).

The three extra days for service under rule 305(b)(2)(B), (C), and (D) are calendar days and do not exclude weekends and holidays. Of course, if the newly-calculated date, after adding the three additional days under Rule 306(e) following service other than personal service, ends on a weekend or holiday, the deadline will be extended to the next business day.

When a deadline for action calculated under Rule 306(a) lands on a Saturday, Sunday or holiday, the three days under Rule 306(e) are to be added from that day, not from the first business day following the originally-determined date. Thus, for example, if a motion is e-filed on a Friday so that the deadline for filing an answer brief falls on a Saturday, the addition of the three days for service by e-filing would extend the actual filing deadline to the following Tuesday (Saturday deadline, plus Sunday, Monday and Tuesday).

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

(a) Responsive Pleadings; When Presented. The defendant shall file an answer including any counterclaim or cross-claim on or before the appearance date as fixed in the summons. Except as otherwise provided in this rule, the appearance date shall not be more than sixty days from the date of the issuance of the summons and the summons must have been served at least ten calendar days before the appearance date. When circumstances require that the plaintiff proceed under Rule 304(e), the above limitation shall not apply and the appearance date shall not be less than ten calendar days after the completion of service by publication of mail.

(b) through (d) [No Change]

Rule 316. Pretrial Procedure-Disclosure and Conference

(a) Disclosure Statement.

(1) At any time after the answer is filed but no later than

20 days before trial, a party may request from an opposing party a list of witnesses who may be called at trial, and copies of documents and pictures, and a description of physical evidence which may be used at trial. Such request shall be made by serving pursuant to C.R.C.P. 305 a blank disclosure statement, which shall be in the form and content of Appendix to Chapter 25, Form 9, on the opposing party and shall be accompanied by the requesting party's properly completed Form 9 and its attachments. The opposing party shall serve pursuant to C.R.C.P. 305 a completed Form 9 with attachments on the requesting party within 20 days after service but not less ~~that than~~ 10 calendar days before trial. The court may shorten or extend that time. A party may not supplement the disclosure statement except for good cause.

(2) The court may order the parties to exchange and file Form 9 disclosure statements at any time before trial.

(3) Any ~~part~~ party failing to respond in good faith to a Form 9 request or court order under this subsection (a) shall be subject to imposition of appropriate sanctions at the time of trial.

(b) through (e) [No Change]

Rule 331. Conducting Depositions to Preserve Testimony

(a) Serving Interrogatories; Notice. If the court shall order the taking of a deposition of any person, the party desiring to take the deposition shall serve upon every other party not in default at least seven calendar days prior to the scheduled deposition copies of the written interrogatories, including the name and address of the person who is to answer them and the name, descriptive title, and address of the officer who will administer the interrogatories and transcribe the responses. Within five calendar days thereafter a party so served may serve cross-interrogatories upon the party proposing to take the deposition. No redirect or recross interrogatories shall be permitted.

(b) through (d) [No Change]

Rule 338. Right to Trial by Jury

(a) through (b) [No Change]

(c) Jury Fees. When a party to an action has exercised the right to demand a trial by jury, every other party to such action shall also pay the requisite jury fee unless such other party files and serves a notice of waiver of the right to trial by jury within ten calendar days after service of the demand.

(d) Specification of Issues. A demand may specify the issues to be tried to the jury; in the absence of such specification, the party filing the demand shall be deemed to have demanded trial by jury of all issues so triable. If a party demands trial by jury on fewer than all of the issues so triable, any other party, within ten calendar days after the demand is made, may file and serve a demand for trial by jury of any other issues so triable.

(e) [No Change]

Rule 355. Default

(a) Entry at Time of Appearance. Upon the date and at the time set for appearance, if the defendant has filed no answer or fails to appear and if the plaintiff proves by appropriate return that service was made upon the defendant as provided herein at least ten calendar days prior the appearance date, the judge may enter judgment for the plaintiff for the amount due, including interest, costs and other items provided by statute or the agreement. However, before judgment is entered, the court shall be satisfied that the venue of the action is proper under Rule 398(c).

(b) [No Change]

Rule 359. New Trials; Amendment of Judgments

(a) through (c) [No Change]

(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) through (g) [No Change]

Rule 369. Execution and Proceedings Subsequent to Judgment

(a) through (b) [No Change]

(c) Debtor of Judgment; Debtor May Pay Sheriff. After issuance of an execution against property, any person indebted to the judgment debtor may pay to the sheriff the amount of ~~his~~

the debt, or so much as may be necessary to satisfy the execution, and the sheriff's receipt shall be sufficient discharge for the amount so paid.

(d) [No Change]

(e) Order for Interrogatories to Debtor of Judgment Debtor. At any time when execution may issue on a judgment, upon proof to the satisfaction of the court, by affidavit or otherwise, that any person or corporation has property of the judgment debtor or is indebted to him the judgment creditor in an amount exceeding fifty dollars not exempt from execution, the court may order such person to answer such interrogatories as the court may approve touching upon the matters set forth in the affidavit of the judgment creditor.

(f) [No Change]

(g) Pattern Interrogatories-Use Automatically Approved.
The pattern interrogatories set forth in Appendix to Chapter 25, Form Numbers 7 and 7A are approved, and as part of the judgment order, may be mailed by the clerk or served by the judgment creditor in accordance with rule 304 without any further order of court. Any proposed non-pattern interrogatory must be specifically approved by the court.

Amended and Adopted by the Court, En Banc June 28, 2007, effective immediately.

BY THE COURT:

**Nancy E. Rice
Justice, Colorado Supreme Court**