

RULE CHANGE 2011(19) – CORRECTIVE ORDER

TIME CALCULATION CHANGES IN THE COLORADO RULES OF PROCEDURE

This Corrective Order pertains to the following:

Rule 103. and Rule 403. Garnishment; Rule 411. Appeals

Rule 103. Garnishment

This rule sets forth the exclusive process for garnishment. There shall be five (5) types of writs: (1) Writ of Continuing Garnishment, (2) Writ of Garnishment with Notice of Exemption and Pending Levy, (3) Writ of Garnishment for Support, (4) Writ of Garnishment-Judgment Debtor Other Than Natural Person, and (5) Writ of Garnishment in Aid of Writ of Attachment.

SECTION 1 [NO CHANGE]

SECTION 2

WRIT OF GARNISHMENT

(ON PERSONAL PROPERTY OTHER THAN
EARNINGS OF A NATURAL PERSON)

WITH NOTICE OF EXEMPTION AND PENDING LEVY

(a) through (f) [NO CHANGE]

(g) Court Order on Garnishment Answer.

(2) No such judgment and request shall enter until the judgment creditor has made a proper showing that: (A) a copy of the writ with notice was properly served upon the judgment debtor, and (B) no written claim of exemption was filed within ~~7~~ 14 days after such service or a written claim of exemption was properly filed and the same was disallowed.

(3) [NO CHANGE]

(4) No such order shall enter until the judgment creditor has made a proper showing that: (A) a copy of the writ with notice was properly served upon the judgment debtor, and (B) no written claim of exemption was filed within ~~7~~ 14 days after such service or a written claim of exemption was properly filed with the court and the same was disallowed.

(h) and (i) [NO CHANGE]

SECTION 3 THROUGH SECTION 13 [NO CHANGE]

Rule 403. Garnishment

This rule sets forth the exclusive process for garnishment. There shall be five (5) types of writs: (1) Writ of Continuing Garnishment, (2) Writ of Garnishment with Notice of Exemption and Pending Levy, (3) Writ of Garnishment for Support, (4) Writ of Garnishment-Judgment Debtor Other Than Natural Person, and (5) Writ of Garnishment in Aid of Writ of Attachment.

SECTION 1 [NO CHANGE]

SECTION 2

WRIT OF GARNISHMENT
(ON PERSONAL PROPERTY OTHER THAN
EARNINGS OF A NATURAL PERSON)
WITH NOTICE OF EXEMPTION AND PENDING LEVY

(a) through (f) [NO CHANGE]

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(3) [NO CHANGE]

(4) No such order shall enter until the judgment creditor has made a proper showing that: (A) a copy of the writ with notice was properly served upon the judgment debtor, and (B) no written claim of exemption was filed within ~~7~~ 14 days after such service or a written claim of exemption was properly filed with the court and the same was disallowed.

(h) and (i) [NO CHANGE]

SECTION 3 THROUGH SECTION 13 [NO CHANGE]

Rule 411. Appeals

(a) Notice of Appeal; Time for Filing; Bond. If either party in a civil action believes that the judgment of the county court is in error, that party may appeal to the district court by filing a notice of appeal in the county court within ~~14~~ 21 days after the date of entry of judgment. The notice shall be in the form appearing in the Appendix to Chapter 25, Form 4, C.R.C.P. If the notice of the entry of judgment is transmitted to the parties by mail, the time for the filing of the notice of appeal shall commence from the date of the mailing of the notice. The appealing party shall also file within the said ~~14~~ 21 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 a 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 fail. The bond shall be approved by the judge or the clerk. 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 also, within 35 days after the filing of the notice of appeal, docket the case in the district court and pay the docket fee.

(b) Preparation of Record on Appeal. Upon the deposit of the estimated record fee, the clerk of the court shall prepare and issue as soon as may be 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 42 days after judgment. If the proceedings have been electrically recorded, the transcription of designated evidence and proceedings shall be prepared in the office of the clerk of the county court or under the supervision of the clerk, within 42 days after judgment. The clerk shall notify, in writing, the opposing parties of the completion of the record, and such parties shall have ~~14~~ 21 days within which to file objections. If none are received, the record shall be certified forthwith by the judge. 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.

(c) through (e) [NO CHANGE].

Amended and adopted by the Court, En Banc, June 15, 2012, nunc pro tunc, December 14, 2011, effective July 1, 2012.

By the Court:

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