

NOTICE TO ATTORNEYS

Re: Procedures in Pueblo County Court Civil Cases

SECTION 1: Assignment and Courtroom information:

- All County Court civil matters, including FED's, civil protection order cases (excluding name changes and Small claims) are currently handled by Judge Roberto A. Silva, Division 304 and conducted in courtroom 304.
- Case assignment may rotate every 2-3 years between the three county court divisions. Every effort is made to inform the bar when case assignments are changed. Therefore, it is important to consult the Tenth Judicial District website or contact the Clerk of the Court for the current division assignment.
- Summons return dates may change when division assignment changes.
- Reminder: Division clerks cannot clarify court orders. Attorneys should evaluate a court order and respond with an appropriate motion or as directed in the order. Judicial staff cannot give legal advice to anyone, including attorney/law firm staff.
- Division 304's direct phone number is: 719-404-8882

SECTION 2: Virtual Appearance/ WebEx info:

- Counsel may request to appear virtually by filing a motion and proposed order.
- Notice to set/motion to appear virtually shall advise the Court and opposing party that a party intends to appear virtually.
- When appearing virtually, your laptop or cell phone should have video capability so that judge can see you. To gain court access, click on the Appear Virtually for court hearing tab at : https://www.courts.state.co.us/Courts/County/Index.cfm?County_ID=27 find Courtroom 304 and click join meeting.
- Division 304 WebEx information: 1-720-650-7664 access code: 2591 388 5755

SECTION 3: Interpreter requests

- For interpreter needs, please contact the Managing Court Interpreter at 719-404-8794 with your name, date of your appearance, and your case number or in an e-mail providing the above information to james.v.garcia@judicial.state.co.us. and or natalie.pupo@judicial.state.co.us
"Para solicitar un intérprete, comuníquese con el Coordinador de intérpretes. Favor de llamar al 719-404-8794 indicando su nombre, la fecha de su comparecencia y su número de causa o envíe un correo electrónico con la información anterior a james.v.garcia@judicial.state.co.us." and/ or natalie.pupo@judicial.state.co.us
- Advisement Applicable to All Colorado Courts: If you require a language interpreter, you must inform the court prior to your hearing to ensure that an interpreter is present at all future court appearances. A court appointed interpreter will be scheduled to assist you at no charge. Information about obtaining an Interpreter can be found at www.courts.state.co.us.

Si usted requiere la asistencia de un intérprete, debe informarle al tribunal antes de su audiencia para poder asegurar la presencia de un intérprete en todas sus futuras comparecencias. Se le programará un intérprete asignado por el juez sin costo alguno. Puede obtener información sobre cómo obtener un intérprete en la página web www.courts.state.co.us.

SECTION 4: Civil Return Docket

- Civil summon returns are scheduled on Mondays and Wednesdays (excluding court holidays) at 1:30 p.m. and 2 p.m.
- Counsel for plaintiffs who have filed five (5) or less cases for a return docket, need not appear in person,
- Due to Covid 19 and personal preference, it is the choice of counsel to appear in person or not. If Plaintiffs are not appearing, The Plaintiffs attorney must be available by phone, so respondents have an opportunity to speak with them.
- The clerk will check in respondents for court and direct them to call petitioner in an attempt to reach a resolution. If respondents are disputing the claim, they will be directed to file an answer at the front counter by 4 pm,
- A motion for default judgment may be filed after the return date after determining that an answer has not been filed. If an Answer has been filed, Plaintiff is directed to contact the court and set a court trial. A notice to set will need to be filed with the court and mailed to defendant.
- If a court date has not been set within 30 days a notice for failure to prosecute will issue and will be e-served to petitioner.
- If you are asking the court to enter a judgment, provide the judgment breakdown (PRINCIPAL/INTEREST/COSTS/ATTORNEY FEES/INTEREST RATE) in both the motion and proposed order. Neither the clerk nor the Judge will guess or calculate what the judgment should be, in particular, Stipulations for Judgment, these proposed orders may be denied or given a “no action taken” ruling and thus delaying your request.
- If a summons and complaint have been filed but not properly served prior to the return date, Plaintiff may issue an alias summons and a subsequent pluries summons if necessary.

Don'ts:

- Please do not file a motion or proposed order for default judgment prior to the return date.
- Please do not file a proposed order that does not conform to the order that was entered in open court. For example, proposed orders that list alternative facts such as, defendant did/did not appear. This results in the unnecessary use of clerk time and judicial officer time in amending proposed orders.
- Don't file a motion to place a case in suspense. Cases will not be placed in suspense. A case can be administratively closed if a bankruptcy stay has been issued. The case can be reopened on motion if relief from stay is obtained or the bankruptcy is dismissed.
- Don't file a notice of dismissal when a pleading or answer has been filed by a Defendant or after judgment has entered. These situations require that a motion with factual allegations and proposed order be filed instead.

- Don't file a motion to dismiss if a judgment has entered. You may file a motion to vacate judgment or a motion to dismiss with/without prejudice.

SECTION 5: Garnishee Liability Hearings: Plaintiff('s) must follow the process outlined in Rule 403, Section 7.

- Plaintiff must personally serve either a subpoena or a notice to show cause to the garnishee. The subpoena or notice to show cause must set forth the relevant advisement pursuant to Rule 403, Section 7.
- Plaintiff's counsel must appear in person for these hearings. Relief from the court will only be granted if the case is called on the record. Upon receipt of a motion to prove liability of garnishee, the Court's order will give the Plaintiff the proposed date/time for their Subpoena or Notice to Show Cause. Alternatively, counsel/staff may call the Division Clerk and obtain a date/time.

SECTION 6: Replevins:

- Fill out the caption box on JDF 117 the order to Show Cause. The Court will give you a court date, which should be scheduled within 7 to 14 days of your filing your case.
- As an attorney if you choose a date, it must be scheduled within fourteen (14) days of issuance.
- Place this date on your proposed citation and the Court will grant/deny/modify the date as needed.

SECTION 7: Contempt Citations:

- Motions authorizing the issuance of a contempt citation shall be filed with the proposed date/time of hearing included in the Proposed Citation. Preferably 35 days out for service.
- Plaintiff may select a Hearing time on any Monday or Wednesday at 1:30 or 2:00 p.m. (excluding court holidays)
- Plaintiff must appear on this date/time unless a motion to vacate the hearing is filed due to non-service.
- If a defendant appears for a contempt citation hearing, that contempt citation hearing will be continued only if authorized by the Court on the record.
- The hearing may also be continued to a date, no longer than 90 days in the future, if a signed stipulation is filed before the hearing and the parties have filed a motion to vacate the hearing.

Warrants:

- Plaintiff may request for a warrant to issue if a party fails to appear for a contempt citation hearing.
- A Fugitive Information Sheet will need to be filed with the court prior to an issuance of a warrant. The fugitive Information will provide the court with demographic information such as date of birth, race, sex, height, weight, hair color and eye color.
- The return of service will need to be filed with the court prior to the contempt citation hearing.

Bonds:

- Cash bonds posted by a party, which have not been forfeited, will not be applied to a judgment unless the posting party consents to the application in a written stipulation or on the record.
- If the defendant or a surety fails to appear for a bond forfeiture hearing, a cash bond will only be applied to the judgment if the attorney requests the case to be called and moves for application of the bond to the judgment on the record.

SECTION 8: FED's/Evictions: C.R.S. 13-40-101.

- Attorney filed cases are scheduled on Mondays and Thursdays at 8:30 am.
- Pro Se cases are scheduled on Mondays and Thursdays at 9:30 am
- On the RDOS court date parties may appear virtually by joining division 304 Webex. See section 2 for Webex info. For Fedh possession hearings, parties must indicate how they intend to appear on the answer form or complaint.
- The Court Summons: Eviction/ Forcible Entry and Detainer provided in C.R.C.C.P. Form 1A (rev 6/22) contains the proper statutory advisement C.R.S 13-40-111 regarding claims of breach of warranty of habitability.

SECTION 9: Temporary Protection Orders:

- Complaints for Civil Temporary Protection Orders per C.R.S.§ 13-14-101 et seq. are held daily.
- Attorneys may e-file complaints for temporary protection orders, complaints must be filed by the 10:30 am deadline.
- Parties will be reporting the same day to Division 304 at 1:30 pm for pickup of orders.
- Permanent protection order hearings are scheduled within 14 days according to Statute and according to division calendar

Section 10: Court trial dates/ Jury Trial Settings:

- Court trials or Jury trials may be requested on money cases. Plaintiff may contact the court to obtain a ctrl date and send notice to the defendant. *The court prefers to set a CTRL over a PTCF to get the case scheduled quickly.
- Before setting of trial, respondent will need to file an answer and mailed to opposing party.
- If a jury trial is requested, the jury trial fee must be first paid, prior to any setting of a Jury trial. a waiver of indigency can be filled with the court if litigant is indigent.
- A mandatory pretrial conference will be set prior to the Jury trial date, Pretrial conferences are scheduled any Monday or Wednesday (excluding a court holiday) at 1:30 p.m. or 2:00 p.m.
- All parties must appear in person for the pretrial conference. After the parties discuss pretrial matters, the parties shall inform the clerk that they are ready to set the next court date or trial date.
- If there are disputes regarding discovery, the Court will hear those issues on the record and then set the trial on the record.

Vacating Trials: A scheduled trial will only be vacated under the following conditions:

- if a settlement stipulation has been filed and approved by the judge or is called on the record

- if the trial date has been continued by the judge in writing or on the record before the trial date;
- A motion to dismiss has been granted by the judge in writing or on the record before the trial court date.
- Failure to appear at the scheduled trial will result in dismissal of claims and/or default judgment.
- Please do not leave the clerk a phone message telling him/her the parties have reached an agreement and the trial can be vacated or requesting new dates as it is not appropriate

SECTION 11: Mediation:

- Mandatory pre-filing evictions for HB 23-1120 cases can be directly scheduled here at <https://www.courts.state.co.us/Administration/Program.cfm?Program=78>
- For scheduling questions, please email odrmediations@judicial.state.co.us or via phone at 720-625-5940.:
- Civil cases other than evictions in the 10th Judicial District may be scheduled by attorneys and/or parties through private mediators of choice when both parties agree to attend mediation.
- Plaintiff must file a Notice to Set within 30 days after the mediation is held to avoid the issuance of a Notice of Dismissal.
- The Court will issue an Order for Mediation if the Parties agree.
- Court Ordered Mediation can be scheduled through the court

SECTION 12: Document E-Filing Standards– (This section does not replace the C.R.C.C.P.)

- Format of documents and case caption: See Rule 121, Section 1-20 and Section 1-26.
- Rule 305 requires that “every pleading subsequent to the original complaint... every written notice...shall be served upon each of the parties.” And, a certificate of service must be included on the Motion. See Rule 305(d).

Title Motions and Pleadings with Specificity:

- Example, “Motion to Amend Complaint” is proper, versus a generic title of Motion. Likewise, title a proposed order with the same specificity.
- Example, label order as “Order Authorizing Amendment of Complaint”, not Just Proposed Order.

Confidential Information: Follow Chief Justice Directive 05-01,

- Documents containing confidential information may not be available to the public until after being redacted. To facilitate compliance with this requirement, filing parties shall not include confidential information on pleadings. For example, social security numbers, driver’s license numbers, personal identification numbers (e.g. passport, student i.d., state i.d., etc.) and financial account numbers should not be included in any pleading or motion.

- The filer may identify an exhibit which contains confidential information separately and suppress the document so that only the parties may view it. Fugitive information sheets should always be suppressed.

Forms:

- Use correct and updated forms. In particular, do not use outdated forms or language

which provides the incorrect #number of days for response.

- For example, responses to interrogatories shall be filed within fourteen (14) days of service, not ten (10) days.

Exhibits:

- Label Exhibits with detail
- Example Exhibit 1 – “Lease,” Exhibit 2 – “Demand/Notice to Quit.”

SECTION 13: Contents of Pleadings (Summons, Complaint, Citations)

- Complaints: Complaint must comply with C.R.C.C.P. 303(a) and shall include: A “statement of claim setting forth briefly the facts and circumstances giving rise to the action. . .” This includes the disclosure of the original creditor.
- The Defendant must be able to ascertain from the complaint the basis of the Plaintiff’s claims and the specific amount of alleged debt. If multiple creditor claims are included in the Complaint filed by a common Assignee/Collection Agency, each creditor by name and the alleged debt for each claim must be clearly outlined in the Complaint.
- The Court will not attempt to decipher these claims when considering a motion for default judgment and neither should a Defendant.
- Clearly state the amount of the debt allegedly owed.
- Evidence of debt shall be included as an Exhibit and identified in the Complaint. Stating that proof of debt is attached is insufficient.
- Enter the proposed judgment breakdown into ICCES when you open the case. Enter the Respondent/Defendant’s address into ICCES when you open the case AND update addresses as necessary.
- In summons cases, if an interpreter is needed, please refer to section 3 of this outline

Section 14: Notice to Attorneys and Law Firm Staff

- You may contact the court if an emergency arises, such as bad weather, or medical emergencies, when attorneys are unable to be in court as scheduled and will be late or cannot appear at all.

- In bad weather situations, the court may be able to make reasonable accommodations such as authorizing appearances through WebEx. This applies to all counsel, local or out of town.
- Current Division Clerk for Division 304 can be reached at 719-404-8882 or through email at alina.cappellucci@judicial.state.co.us