

MAGISTRATE RANDALL C. LOCOCO WELD COUNTY COURTS

Memo

To:

Civil "Money Case" Counsel

From:

Randall C. Lococo

Date:

October 22, 2018

NOTICE TO ATTORNEY'S- WELD COUNTY COURT CIVIL MONEY

Re:

RETURN PROCEDURES¹

THIS MEMO SUPERSEDES AND REPLACES ALL PRIOR MEMOS AND NOTICES

General / Magistrate / Initiating an Action / CCE

All "money" cases are heard initially in Division C of the Weld County Court (915 10th Street Greeley, CO 80631 2nd floor of the Centennial Building). A Magistrate presides in Division C. By submitting your PPJ² you are acknowledging you have the right to have the case heard by a County Court Judge and that you consent to the Magistrate. All summons return dates are held on Fridays. Unless otherwise permitted or directed by the Court summons return times are as follows:

- Plaintiff's attorney last name A-L (by the last name on the firm letterhead) 8:30am
- Plaintiff's attorney last name M-Z (by the last name on the firm letterhead) 1:30pm

Pursuant to Weld Administrative Order 13-06 Weld County is a mandatory e-file jurisdiction (Colorado Courts E-Filing / CCE). Complaints must conform with Rule 303(a) requiring a "statement of claim setting forth briefly the facts and circumstances giving rise to the action...". This includes disclosure of the original obligee; the defendant must be able to ascertain from the complaint the basis of the claim. All supporting documents and information must be on file prior to the summons return. Please use a specific document title when filing any document. (For example, "Motion to Amend Complaint", not "Motion"; "Order Authorizing Amendment of Complaint', not "Proposed Order"). Pursuant to CJD 05-01 documents containing confidential information may not be made available to the public until after being redacted. To facilitate compliance with this requirement parties are asked to refrain from including confidential information in pleadings (i.e. social security number, driver's license numbers, personal identifying information, financial

¹ These procedures do not apply to Civil Restraining Orders, FED's, Replevin, or Agister's Lien cases.

² "PPJ" is an Eclipse code sometimes referred to as "print-proposed-judgment-docket". These are the print outs provided at court.

account numbers, etc.) Such information should be filed separately in a "suppressed" document. When filing a case through CCE you must input your proposed judgment amounts. Also, one attorney must be designated as the primary attorney. And, the defendant's address information should be input as well.

Appearance and Summons Return Dates:

Weld County requires the appearance of all parties at summons return. Failure to appear at summons return may result in sanctions including dismissal of the case without prejudice or default. At summons return the Court provides a brief orientation and parties are expected to "informally pre-trial" and discuss the case.

One objective of the appearance docket is to bring cases to closure sooner. Accordingly, in the event of default, plaintiffs are expected to request judgment at summons return. ALL supporting documents (assignments, chains of title, contracts, promissory notes, evidence of debt, affidavits of indebtedness, affidavits in support of fees, etc.) must be on file prior to the summons return. Do not file a written motion for default judgment unless requested by the Court. Essentially, you must be ready to request judgment at summons return on the PPJ. File your cases accordingly.

Again, Weld County is a mandatory appearance jurisdiction. Generally, once service is accomplished, requests to continue summons return will not be favorably considered. A "notice of Continued Summons Return" will not be honored; do not file them. The Court will, however, favorably consider "joint" or "unopposed" requests to continue filed prior to the return date.

If, after discussion with the defendant, the defendant wishes to file an answer they must be directed to the first floor Court Information Center or clerk's windows to file the answer. The matter will be set for further proceedings that day. Do not tell the defendant to leave. You must wait until the defendant returns to the courtroom. After the answer is filed the matter will be set for a pre-trial conference or further proceedings on the record.

Please make every effort to locate your defendants. While not common, there have been occasions where a defendant is present, and waits, and the attorney turns in the PPJs and leaves. All defendants should check in with the bailiff and the bailiff should have a list of who has appeared. Please double check the list and compare it to your PPJs before submitting them. When you believe the defendant is present or should be present, it is not appropriate to ask "is anyone here for me?"; call the defendant by name before informing the Court they are not present.

Stipulations: Stipulations reached on the summons return date (or subsequent appearance date) are handled in as follows: Weld County does not accept original signed stipulations (with or without order language incorporated) on the day of the event. The Court does not require that the stipulations be adopted on the record. However, if either party wishes the stipulation be made an order "on the record", the court will accommodate the request as time permits. After the summons return date the original stipulation (with or without order language incorporated) must be e-filed by no later than 12:00 noon on the Tuesday following summons return (or Wednesday if Monday is a Holiday). If your stipulation has order language incorporated into the stipulation (a "tagged order"), you need not e-file a separate editable proposed order.³ The order

If your stipulation with "tagged order" is rejected for lack of a separate editable proposed order, please contact the Judicial Assistant. Notwithstanding Rules 121 §1-26(15)(c), 305.5 (q)(3), and CJD 11-01, this court's practice is to allow use of "tagged orders" so that plaintiff's counsel may use their own carbon/triplicate forms if they wish.

adopting the stipulation will be signed in the ordinary course. Once the order is signed/issued, the Court will e-serve the order back to counsel and any pro-se party whose address is already entered into the system. If the defendant's address is not entered into the CCE system already, the plaintiff shall provide a copy of the ordered stipulation to the defendant(s). Counsel are still free to e-file stipulations, along with a separate editable proposed order, before the summons return.

"On the record": Another objective of the appearance docket, and the use of the PPJs, is to expedite the process for requests and case management. The Court's preference is not to conduct every request "on the record". The PPJ constitutes the record in most cases. That said, the Court will accommodate any request to hear any matter on the record as time permits. This includes any counsel's need to make statements "on the record", a defendant's demand to be heard or "see the judge", or any matter which requires explanation or request beyond the PPJ.

Another objective of the appearance docket is active case management. Other than requests for continuances on the PPJ (see below), when both parties appear (or the court has jurisdiction over both parties) all future court dates will be set on the record. All parties should be prepared to discuss dates for pre-trial, disclosure deadlines, anticipated motions and appropriate deadlines, anticipated formal discovery, etc. Most continuances and pre-trial conferences will be set in Division C on a Friday. Trials and other matters assigned to a County Court division will be set according to the division schedule.

<u>Failure to appear will result in your case(s) or cause(s) being dismissed without prejudice for failure to prosecute without further notice.</u>

The PPJs: In most cases the PPJ will constitute the record. Accordingly, the information provided on the PPJ is a statement by counsel to the Court; statements must be accurate, complete and understandable. You will be provided your PPJ's when you check in with the Judicial Assistant. You are required to specifically indicate your request(s) on the PPJ. Your indications MUST be legible. Attached are examples for your review. You are encouraged to use stamps or stickers on the PPJs to help your efficiency and our ability to process the cases. Any un-clarity, illegibility, deficiency, or PPJ that does not address service and appearance may be rejected and a deficiency order may issue.

Signing the PPJ: The plaintiff must sign the PPJ in at least one place on each page of the PPJ packet. The appearing defendant should sign the PPJ. Plaintiff must request that the defendant sign the PPJ. As noted above, the PPJ is the record. One of the efficiencies of the mandatory appearance docket is that you do not have to call every case on the record. Without appearance in the courtroom, the PPJ is the only record that indicates the defendant appeared or didn't. We recognize that some defendants are reluctant to sign. If a defendant declines to sign, you may ask that the matter be called on the record or you may indicate on the PPJ that they were present and declined to sign. As noted above, if there is any matter which cannot be adequately addressed on the PPJ, you may always ask that the case be called "on the record".

If any defendant appears and confesses or agrees to judgment, the defendant is a) required to sign the PPJ, b) required to sign a stipulation, or c) appear in the courtroom on the record for entry of the judgment.

Alias & Pluries Summons: If a summons and complaint have been filed, but not properly served prior to the return date, the Court will automatically authorize one alias and one pluries summons. Prior to the summons return you may issue and file one alias summons and one pluries summons to re-set the summons return. If you request an automatic alias or pluries on your PPJ, the alias or pluries must be issued and filed no later than 28 days after the request. Any other authorized pluries or subsequent summons must be issued and filed no later than 28 days after the request is granted. Failure to issue and file an authorized alias, pluries, or

subsequent summons within the time allowed will result in the case being dismissed without prejudice and without further notice. If the defendant has not been served prior to the pluries summons return date, you must appear and state good cause as to why the case should not be dismissed without prejudice or why further summons should be authorized. The Court reserves the authority to deny any requests for "pluries2" or subsequent summons.

Continuances: An objective of the appearance docket is to bring cases to closure sooner. We expect that you will be prepared to request judgment on the first summons return date. You may request a continuance on the PPJ (a request for a continued summons return date). However, continuances will be granted **ONLY FOR GOOD CAUSE**. This includes stipulated or unopposed requests. Because we expect that you will be ready to ask for judgment on the summons return date, requests based on the need to obtain documents or affidavits will not, generally, be favorably considered. If you have requested documents reasonably in advance of the return and genuinely don't have them, you will be expected to state when you asked for them and how long you've been waiting. We also recognize that you may be in communication with the defendant, might be in the process of discussing or finalizing a stipulation, stipulations are signed and faxed as the last minute, or many other reasons why you are not ready to request a judgment. If there is a good cause reason for the request, state it on the PPJ as an officer of the court as simply and as clearly as possible. We will consider it. What we are not inclined to do is grant continuances without a reason. We will not grant many, if any, requests based solely on the need for documents. Failure to state good cause on the PPJ may result in denial of the request and requirement for immediate written motion for dispositive relief. When a case is continued, the plaintiff shall issue and serve a notice to the defendant of the next summons return date. Such notice should indicate that failure to appear may result in default. Failure to issue and serve a notice may prejudice the plaintiff; when the defendant does not appear at the next hearing and the plaintiff asks for default, judgment may not be granted.

Failure to submit your PPJs to the Judicial Assistant in Division C will result in your case(s) or cause(s) being dismissed without prejudice for failure to prosecute. Turn your PPJs into the Division C Judicial Assistant. (Do not turn them into the bailiff in Division A or to the Judicial Assistants on the first floor).

The PPJs will be directed to the Magistrate or a County Court Judge for review. The assigned judicial officer will review the case for default judgment or issuing appropriate orders. The judicial officer will review the file to confirm you are the proper plaintiff; proper venue; proper service (times and methods); the sufficiency of any and all assignments or transfers; the sufficiency of your proofs and calculations (e.g. documents evidencing debt, affidavits of indebtedness, verifications, bills, contracts, your math etc.); proof, if any, of a contractual interest rate or entitlement to other charges such as late fees or attorney's fees; and any required notices (e.g. notice to cure, notice of default). These documents and support must be e-filed prior to the appearance date. The Court reserves the authority, pursuant to Rule 1.5, to consider the reasonableness of any request for attorney's fees. Failure to e-file documents necessary for your claim, or failure to comply with these requirements, will result in a deficiency order being issued.

Contempt of Court:

Contempt hearings on citation will be heard at 9:30am and 2:30pm respectively. Unless otherwise permitted or directed by the Court hearings on citation times are as follows:

- Plaintiff's attorney last name A-L (by the first name on the firm letterhead) 9:30am
- Plaintiff's attorney last name M-Z (by the first name on the firm letterhead) 2:30pm

You will be provided a separate PPJ packet for any hearings on citation or appearances on bond. Plaintiffs are expected to meet with appearing defendants on contempt prior to the Court calling the matter. If you are satisfied with the interrogatory answers or otherwise wish to withdraw the request for contempt, the Court does not require hearings on citation be on the record. Simply indicate on the PPJ that you are satisfied and are withdrawing or discharging the contempt.

If the defendant was not served with the citation and you are requesting an alias citation you may indicate that on the PPJ. Generally, the Court will allow an alias motion within 365 days (allowing you time to locate the defendant). However, the Court reserves the authority to deny alias requests if it is apparent you cannot locate the defendant.

If the defendant appears (either on the citation or on bond) and you are asking for a continuance, you MUST set the continued hearing on citation on the record. The defendant must be advised of the next date and that failure to appear may result in a warrant for their arrest.

The Court reserves the authority to deny requests for warrants and/or set bond conditions and bail as it deems just and appropriate. Generally, if a warrant issues, bond will be set as "cash only posted by the obligor, to convert to a PR bond when obligor submits signed answers to the interrogatories." A fugitive information sheet must be on file before a warrant is entered; the Court will not issue a warrant unless it has the necessary information. Compliance with rule 407 is required for all contempt proceedings.

Any appearance on bond (PR or otherwise) must be heard on the record. Do not tell the defendant they can leave before appearing in the courtroom. The Court must address the bond by either releasing it or continuing it, and the defendant must be advised that failure to appear in the future may result in another warrant for his/her arrest. When a defendant is arrested, the Court does not control the date bond appearances are set. All warrants are returnable "any Friday at 2:00 p.m." If a bond return is set on an inconvenient date, the Court must still hold the hearing; the Court cannot change the date. However, the Court will favorably consider the plaintiff's motion to appear by phone for purposes of a bond return hearing.

Other Issues/Miscellaneous:

Requests for judgment must be specific: If you are asking the Court to enter a judgment, you must put the breakdown of the judgment components (principal, costs, attorney fees, interest). You must also state clearly who is/are the judgment debtor(s). (Requests for judgment with 2 or more defendants, without stating who, may result in judgment against a single defendant only). If you are requesting or agreeing to a post-judgment amendment, alteration, or modification, you must be specific as to which components (principal, costs, fees, interest, interest rate, and who) are being adjusted, by how much, and why. Failure to do so may result in your request being denied.

Bankruptcy and placing a case "in suspense": Although a common phrase in money cases, the Court does not have a procedure for, or status of, placing a case in "suspense". The Court can either A) dismiss a case without prejudice, or B) administratively close a case (CLAD) and allow the case to be re-opened upon a showing of good cause. We realize some plaintiffs prefer one option over the other. But, we don't know which one you prefer when you write "bankruptcy" or "BR" on the PPJ. If you want something done with a case in light of a bankruptcy, please state clearly which of the two options you want. Your failure to indicate which option will result in us dismissing the case without prejudice.

Original notes/contracts must be submitted: See, C.R.C.P Rule 121 §1-14 (1)(f) and §4-3-309 C.R.S. Original contracts/notes may be submitted at the clerk's office in advance, via mail in advance, or on the day of the summons return to the Judicial Assistant. If you submit contracts on the day of the summons return, only those contracts for cases set that day will be accepted along with the PPJs. Other contracts, for summons return dates past or future, will not be accepted with the PPJs; submit those at the clerk's office. While it may be convenient to turn contracts in all at once, the Division C Judicial Assistant is not able to properly process and code documents on cases not being heard that day. Failure to submit original contracts, or an affidavit of lost instrument and an undertaking, will result in denial of any request for judgment.

Post-jurisdiction or post-judgment dismissal: If a defendant has answered, appeared, or signed a stipulation, the court has jurisdiction over the defendant and a "notice of dismissal" is not appropriate under Rule 341(a)(1)(i). If a defendant has appeared, answered, or signed a stipulation, the appropriate method of dismissal is a motion pursuant to Rule 341(a)(2). If a judgment has entered, do not file a "Motion to Dismiss". Rather, you may file a "Motion to Vacate Judgment and Dismiss With/Without Prejudice."

Interpreters: If you or the defendant 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. Pursuant to CJD 06-03 a court-appointed interpreter will be scheduled to assist any case at no charge. Weld County has a full-time Spanish-language interpreter available. However, interpreters are assigned to over 17 different courtrooms on any given day. It is essential that the interpreter's time be used efficiently. The interpreter will be notified of any defendants who appear and request an interpreter. When the interpreter arrives, you are required to address your interpreter cases immediately. If the case requires an interpreter in any language, please notify the Court immediately, preferably before the hearing date.

<u>Please be Patient:</u> We appreciate your presence and realize that your schedule is impacted by our requirements. We make every effort to hear your cases and accept your PPJs in a timely fashion. At the same time, money cases are not the only cases on Friday dockets. Division C hears FEDs at 8:00am as well as other civil matters on Fridays. Please wait until we have completed the FED docket before approaching the Judicial Assistant on money cases. Your patience is greatly appreciated.

Should you have any questions or concerns, please contact the Division C Judicial Assistant, Melina Meier at 970-475-2470 or melinda.meier@judicial.state.co.us

NO MONEY DOCKET DAYS IN 2018/2019:

Division C will not be in session for "money docket" or contempts on the following dates in 2018 and 2019:

REMAINING DATES IN 2018	2019
NOVEMBER 23, 2018	MARCH 29, 2019
DECEMBER 21, 2018	MAY 24, 2019
DECEMBER 28, 2018	JULY 5, 2019
,	AUGUST 30, 2019
	NOVEMBER 29, 2019
	DECEMBER 27, 2019

<u>Examples of writings/markings on PPJ's:</u> These are only examples and not intended to be an exclusive list, nor a definition of any fixed requirements; writings must simply be complete, address service and appearance, be clear, be legible, and be understandable. <u>If you are not requesting a judgment you must strike out the judgment amounts.</u> (Failure to do so results in confusion and could possibly result in a judgment you did not request).

MONEY CASES:

- SVS E-FILED D1 FTA; DEFAULT REQUESTED IN THE FOLLOWING AMOUNTS....
- SVS E-FILED D1 ONLY, NOT D2; D1 FTA, REQUEST DEFAULT IN THE FOLLOWING AMOUNTS, REQUEST ALAIS ON D2
- SVS E-FILED, D1 APPEARED AND CONFESSED JUDGMENT; JUDGMENT REQUESTED IN THE FOLLOWING AMOUNTS....
- SVS E-FILED ON D1&D2; D1 APPEARED AND CONFESSED JUDGMENT; D2 FTA, JUDGMENT REQUSTED IN THE FOLLING AMOUNTS J&S.....ALSO REQUEST JUDGMENT SOLELY ON D2 FOR....
- SVS E-FILED; D APPEARED; STIP SIGNED; REQUEST TO ADOPT STIP
- SVS E-FILED ON D1; REQUEST DISMISS W/O PREJ PENDING CLEARANCE OF PAYMENT
- SVS E-FILED; D APPEARED; PTF REQ CONTINUANCE UNTIL _____ FOR FURTHER ACCOUNT INVESTIGATION
- NO SVS; REQ ALIAS

CONTEMPT CASES:

- SVS E-FILED, VACATE/WD CONTEMPT, RELEASE BOND TO D1
- SVS E-FILED, VACATE WD CONTEMPT, PTF REQUEST RELEASE CASH BOND TO PTF AND APPLY TO JDG
- SVS E-FILED, D1 FTA, REQUEST BENCH WARRANT
- NO SVS; REQUEST ALAIS

MORE EXAMPLES ATTACHED

RETURN ON SUMMONS – DEFAULT EXAMPLES



Combined Court, Weld County Friday November 18, 2011

BRIGGS, JOHN - Division A	Includes Review Docket Events
2011 C -008976 PO 00 9:15 AM 1.00 H vs.	Return Date on Summons [Sugarture]
Return of Service: Filed Confession Stipulation:	Dismissed with /without Prejudice: Judgment for Possession: Continue to:
Principal: 3,537,25 Costs: 419.86 103.85 Attorney Fees: .00 Interest: 564.85	Against: Rock Against
2011 C -008977 00 9:15 AM 1.00 H	Return Date on Summons
Return of Service: NSNC Default Judgment: Stipulation:	P-b Raust Alia Sor Roth Dismissed with /without Prejudice: Judgment for Possession: Continue to:
Principal: 2,784.32 Costs: 108.85 Attorney Fees: 00 Interest: 341.69	In Favor of: PROT GOLPA Against: Land, Black Interest Rate: 81.
2011 C -008993 PROFESSIONABLE CO. 00 9:15 AM 1.00 H vs.	MP Return Date on Summons
O2D4B2 Return of Service: Filed Default Judgment: Stipulation:	A 80% Reg Def J. Dismissed with /without Prejudice: Judgment for Possession: Continue to:
Principal: 3,608.80 Costs: 13.45 103.85 Attorney Fees: .00 Interest: 602.68	In Favor of: Parabolional Finance DMPA Against: Parabolional Finance DMPA Against: Parabolional Finance DMPA



Combined Court, Weld County Friday November 18, 2011

BRIGGS, JOHN - Division A

Includes Review Docket Events

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2011 C -009738 RETURN 00 9:15 AM 1.00 H HER ONLY AT GOET	Date on Summons
Return of Service: Enlo Default Judgment: Stipulation: Principal: Costs: 9.666.91 In Favor of: Person Against:	on: I for thustehallow white.
BRIGGS, JOHN - Division A Includes Review	w Docket Events
2011 C -009601 Return 00 9:15 AM 1.00 H vs.	Date on Summons
Return of Service: Exico Default Judgment: Stipulation: Principal: Costs: Against: KPVP2 Dismissed with /without Judgment for Possessi Continue to: Principal: Against: KPVP2	cos pa
Attorney Fees: X00 Interest: 56.48 Interest Rate:	81.
2011 C -009736 00 9:15 AM 1.00 H vs.	ate on Summons
Return of Service: Filed Dismissed with Without Judgment for Possessic Continue to: Principal: 6167724.812.88 In Favor of: Against: Costs: 140.71 Against: Attorney Fees:	prejudice All 3

Return Date on Summons 2011 C -009430 1.00 H 00 9:15 AM vs. STATE OF THE PARTY OF Dismissed with /without Prejudice:____ Return of Service: Exito Judgment for Possession: Default Judgment: CAMI De evised days Continue to: 2/16/2011 Stipulation: In Favor of: 856.49 Principal: Against: 3 Costs: Attorney Fees: Interest Rate: Interest:

PAGE 3 08

CONTEMPT EXAMPLES



Combined Court, Weld County Friday November 04, 2011

NICHOLS, DANA - Division C

Includes Review Docket Events

OCCOOD PTF UU 1:30 PM 1.00 H Vs. DEF	Hearing on Citation
Return of Service: E-Felect Default Judgment Stipulat' Defendant failed to appear Stipulat' Defendant failed to appear request warrant to issue, r	Dismissed with /without Prejudice: Judgment for Possession: Continue to: In Favor of: Against: Interest Rate:
OC 1:30 PM 1.00 H	Hearing on Citation
Return of Service: Default Judgment: Stipulation: Principal: Costs: .00 Attorney Fees: .00 Interest: .00	Dismissed with /without Prejudice: Judgment for Possession: Continue to: In Favor of: Against: Interest Rate:
00 1:30 PM 1.00 H vs.	Hearing on Citation
Return of Service: Default Judgment: Stipulation: Principal: Costs: Attorney Fees: Interest: Return of Service: .00 .00 .00 .00	Dismissed with /without Prejudice: Judgment for Possession: Continue to: In Favor of: Against: Interest Rate:



Combined Court, Weld County Friday November 04, 2011

BRIGGS, JOHN - Division C

Includes Review Docket Events

1:40 PM 00 C 0000 PT	F	ADD ON	Appearance on Bond
Return of Service Default Judgment Stipulation: Principal: Costs: Attorney Fees: Interest:	a: _ Vacor Lord	Judgment Continue In Favor Against:	with /without Prejudice: for Possession: to: of:
C. PTF 00 1:30 PM 1.00 E	•	BOND	Appearance on Bond
Return of Service Default Judgment: Stipulation:		Judgment i	with /without Prejudice: for Possession: to:
Principal: _ Costs: _ Attorney Fees: _ Interest: _	.00 .00 .00	Against: _	Rate:

Weld County Court 915 10th Street (Centennial Building) Greeley, CO 80631 970-475-2400



FUGITIVE INFORMATION SHEET

Weld County Court <u>CIVIL</u> Case Number:	Items marked with red asterisk (*) are mandatory fields.
Last Name:	
First Name:	
Middle Name or Initial:	
Suffix (if applicable [Jr., Sr., II, etc.]):	
*Current or Last Known Address:	
City:	
State: *ZipCode: Te	lephone ()
D.O.B.:/_/ *Race: *Sex	*Height:* *Weight:* (Pounds)
Hair Color: *Eye Color:	Facial Hair:
Nationality: Scars / Tattoo's:	