

**SUPREME COURT  
COMMITTEE ON RULES OF CIVIL PROCEDURE  
MINUTES OF MEETING**

**April 29, 2011**

The Colorado Supreme Court Civil Rules Committee was called to order by Richard W. Laugesen at 1:40 p.m. in the Court of Appeals Conference Room, 8<sup>th</sup> Floor, Denver News Agency Building, 101 West Colfax Avenue, Denver.

The following members were present:

James Abrams	Cheryl Layne
David R. DeMuro	Richard W. Laugesen
John A. DeVita, II	Andy Rosen
Peter A. Goldstein	Howard I. Rosenberg
Carol Haller	Lee N. Sternal
Lisa Hamilton-Fieldman	Robert V. Trout
Charles Kall	Ben Vinci
Thomas K. Kane	John R. Webb

The following members were excused:

Michael H. Berger	Christopher B. Mueller
Janice B. Davidson	Justice Nancy Rice
Ann Frick	Ann Rotolo
Richard P. Holme	Frederick B. Skillern
David C. Little	Jane A. Tidball
David L. Michael	

**Approval of Minutes:**

Dick Holme requested a correction to the minutes via e-mail. He noted that in the first full paragraph on page 11 of the March 25, 2011 meeting minutes, it was Lisa Hamilton-Fieldman who recommended that his Colorado Lawyer article on Rule 45 be referenced in the committee comment to proposed new C.R.C.P. 45. The minutes were ordered corrected as requested. The minutes were then approved as corrected.

**Introduction and Welcome of New Member**

Chairman Laugesen introduced and welcomed new Civil Rules Committee Member Ben Vinci, and asked each of the Committee Members to introduce themselves.

## **Information Items:**

Chairman Richard Laugesen next called to the Committee's attention:

- The updated Civil Rules Committee Roster [pp 1-4 of the Agenda Packet];
- A Colorado Lawyer Article on C.R.C.P. 16.1 by Corvina Gerety, Research Analyst at the Institute for the Advancement of the American Legal System at the University of Denver, and Richard P. Holme, Esq. [pp 5-10 of the Agenda Packet];
- Supreme Court's Order Approving Changes to C.R.P.C. 1.15; 1.16A; 3.6; 3.8 and Comments to those Rules [pp 11-12 of the Agenda Packe]; and
- An e-mail by Peter Goldstein Reporting the CBA Litigation Section Council's Acceptance of the Proposed Public Access Rules [p 13 of the Agenda Packet].

## **C.R.C.P. 45 and 345—Subpoena/Subpoena Duces Tecum Reform**

Chairman Laugesen next directed the Committee's attention to Agenda Item No. 4 [pp 14-33 of the Agenda Packet] concerning the Committee's further consideration of the proposed subpoena form and proposed new C.R.C.P. 345. He asked Subcommittee Chair, Magistrate Hamilton-Fieldman, to provide background and an overview of the matters, as well as the Subcommittee's recommendations. Ms. Hamilton-Fieldman provided an updated overview reminding the Committee that proposed new C.R.C.P. 45 had been approved at the March 25, 2011 meeting and that the Subcommittee had been charged with developing a proposed subpoena form and revised subpoena rule for the county court.

A member asked why the difference between C.R.C.P. 45 and 345. Ms. Hamilton-Fieldman responded that there are procedures in the district court that do not take place in county court. As examples, the only depositions in county court are for perpetuation of testimony, and county court does not have case management procedures as exist in district court. She noted that those sorts of differences needed to be dealt with in the proposed rule. Mr. Laugesen joined in, noting that historically, C.R.C.P. 345 was similar to C.R.C.P. 45 to the extent possible, and both district and county courts used the same subpoena form.

Several members stated they were interested in the thoughts of new Committee Member Ben Vinci [who practices principally in the county courts and is a member of the County Court Reform Committee] and of recently retired Civil Rules Committee Member Andy Rosen, who was attending the meeting. The members stated they were interested in hearing [through Mr. Vinci] the thoughts of the County Court Reform Committee as well.

Mr. Vinci stated that he had provided the County Court Reform Committee proposed new C.R.C.P. 45 and the most recent draft of proposed C.R.C.P. 345, but had not yet

heard back from them. He reported that Reform Committee Member Tom Romola had observed that the county courts typically do not deal with the features that are being added to proposed C.R.C.P. 345, and heard from several other county court practitioners who felt that existing C.R.C.P. 345 should not be changed. Mr. Vinci proposed that the County Court Reform Committee be given the opportunity to discuss the matter, after which he would report back. He stated that his present view is that the rule should not be amended--that because practice in county court is a simplified process, the rule should remain simple. He observed that in his experience, privileged documents are rarely an issue in county court, hence changing the present county court subpoena rule was not necessary.

Mr. Laugesen interjected that the Supreme Court is definitely interested in reforming C.R.C.P. 45, and that the Supreme Court's Criminal Rules Committee is also similarly working on its subpoena rule. Now is the time if there is to be any attempted improvement.

A member asked if C.R.C.P. 45 and C.R.C.P. 345 needed to be amended together. Mr. Laugesen responded that, except for being able to use the same subpoena form in both district and county courts, the proposals could probably be sent to the Supreme Court separately.

Ms. Hamilton-Fieldman reported that there are currently two versions of the subpoena form [both developed by Carol Haller's staff]. Ms. Haller described the differences in the two forms, and stated that the version that is approved, should be attached to the rule when it is submitted to the Supreme Court. She observed that, as in the past, it was desirable that one form be used in both district and county courts. If that was continued, the form could include a check box to identify the court, and the mandatory notice portion of the form be made to state in its heading that the notice is for [and to be used] only for the district court.

Mr. Vinci stated that he had another observation concerning C.R.C.P. 45(b)(3). He noted that a person subpoenaed under C.R.C.P. 69(e) does not have to tender the mileage and witness fee. He suggested that language be added to include that feature in the exceptions or language to the effect: "except when issued under C.R.C.P. 69." Another member suggested adding language identifying the judgment debtor. Another member proposed adding: "or when the subpoena is issued pursuant to C.R.C.P. 69(e) unless otherwise ordered by the court."

Ms. Haller responded that it may be better to find where this issue is already addressed in the rule--additional language may not be necessary.

A member suggested language to the effect: "unless otherwise excepted by statute, rule or court order" after attendance in the first sentence and deleting the last sentence. Motion was made and seconded to approve the following language changes in proposed C.R.C.P. 45(b)(3):

## “Rule 45 Subpoena

### (b) Service

\* \* \* \*

**(3) Tender of Payment for Mileage.** If the subpoena requires a person’s attendance, unless otherwise excepted by statute, rule, or court order, the payment for 1 day’s mileage allowed by law must be tendered to the subpoenaed person at the time of service of the subpoena or within a reasonable time after service of the subpoena, but in any event prior to the appearance date. ~~Payment for mileage need not be tendered when the subpoena issues on behalf of the state of Colorado or any of its officers or agencies.”~~

The Motion passed 11:0.

Mr. Rosen suggested a minor change to proposed C.R.C.P. 45(e)(1), to remove the word “his” for gender sensitivity reasons.

## “Rule 45 Subpoena

### (e) Subpoena for Deposition; Place of Examination

**(1) Residents of This State.** A resident of this state may be required by subpoena to attend an examination upon deposition only in the court wherein the witness resides or is employed or transacts his business in person, or at such other convenient place as is fixed by an order of the court.”

The suggestion was approved by consensus.

The Committee next turned to the issue of postponement of the C.R.C.P. 345 discussion to enable input from the County Court Reform Committee. A motion was made and seconded that further discussion of C.R.C.P. 345 be postponed until a report can be obtained from the County Court Reform Committee. The motion to postpone carried 12:0.

The Committee next turned its attention to the proposed subpoena form. Ms. Haller explained the rationale for the formatting and the differences between the two versions.

A member observed that the explanatory information following the form [on pp 24 and 25] seemed complex and confusing. He observed that a recipient may read the form and panic or not read the form at all. Mr. Laugesen pointed out that the rule [at 45(a)(1))vii)] requires that portions of the rule be appended to the form.

Mr. Holme, via e-mail, recommended adding language at the beginning of the explanatory portion noting that it comes from Colorado Rule of Civil Procedure 45. He also recommended adding the “Colorado Rule citation to the two subsections of the

explanation. Mr. Holme's e-mail stated that he thought that a lay person served with a subpoena should know that the protections and responsibilities are established by court rules. Another member recommended the language "required by C.R.C.P. 45(a)(1)(vii)" after the title. A member also suggested a specific citation for the section on quashing. Ms. Haller stated that she agreed with those suggestions.

Another member suggested adding the following language at the top of p 20 at the end of the first sentence: "if you are subpoenaed in district court."

A motion was made to accept the proposed form on pp 19 and 20, with the proposed amendments, together with the notice portion set forth on pp 24 and 25 of the Agenda Packet and its proposed amendments.

During discussion on the motion, a member recommended that the word "mandatory" be removed from the footer of the form [pp 19 and 20] and notice [pp 24 and 25].

Another member suggested that the boxes in the area where the parties are listed should be formatted to shrink and grow as necessary.

A member suggested that language be added to the produce section indicating that separate sheets may be attached as necessary to include all information.

Another member suggested rethinking the boxes and the check boxes in the affidavit of service.

A member suggested removing the "attend and produce" check box on the face of the form, stating that if both boxes are checked, the last one, including both options is not necessary. Ms. Hamilton-Fieldman disagreed, stating that a number of interest groups involved in the reform wanted a clear option for producing without formal appearance--the rule references this and needs to be in the subpoena form.

A member asked about adding a sentence for submitting records only--that perhaps there could be such a reference in a cover sheet.

Another member interjected that there should also be direction on how and to whom to send records, i.e., to the requesting lawyer. Another member observed that a letter is usually sent with the subpoena, indicating that if the documents are provided, the subpoena will be cancelled.

A member suggested possibly including information in the attend part of the subpoena as to where to produce the records. Another member stated it would be better to have an area on the form for produce-only situations.

Another member questioned how to hold-off production of documents to give opposing counsel the opportunity to object or raise a valid issue--that there did not appear to be a cooling-off period in the rule. He acknowledged that the difficulty is mitigated somewhat by the fact that there is a provision for withholding when the document is privileged, but some custodians simply hand over or send their records when they receive the subpoena.

A member pointed out that there is a section in the proposed rule on objections--attorneys and parties have the opportunity to object, however, there could still be instances where the custodian doesn't object and simply hands over the documents. Mr. Goldstein suggested language on the subpoena form: "Do not comply before [blank] days from the time the subpoena was served on you."

A member asked about the federal rule on this issue. Mr. Laugesen responded, stating that much of the revised rule came from the federal rule, which had no provision.

Judge Webb observed that the proposed form does not indicate that documents should be produced immediately. He suggested adding language: "Produce at that time and place unless otherwise agreed by all attorneys." Mr. Goldstein joined in the suggestion, but adding: "only at that time or place unless instructed by order of court." Ms. Hamilton-Fieldman added: "produce at that time and place unless you are otherwise instructed by the issuing party."

Mr. Goldstein observed that, even with such language, opposing counsel still has no chance to find out what's happening. Ms. Hamilton-Fieldman asked if attorneys would really take that kind of ethical leap. Mr. Sternal responded that it, unfortunately, does happen, and involved attorneys typically deny knowledge indicating that it had been a staff problem. Mr. DeMuro added that it may be a case where a non-party just provides the records because they do not wish to otherwise deal with the issue.

Several other members suggested language that would impose a delay between the date of service and date of production, to which at least one member stated disagreement.

Mr. DeMuro provided further identification of the problem, stating that the difficulty arises when the party's records are released before his attorney is able to review them and contain privileged matters that were not anticipated. Mr. Goldstein responded that protection could be ensured by not allowing subpoenaed material to be turned over until opposing counsel is able to see the records and, if necessary, file an objection,.

Another member observed that when rules are created, it is assumed that they will be used properly--that they cannot factor in every conceivable impropriety.

Ms. Haller observed that the rule stresses a 14-day timeline that could perhaps be worked into the produce-only option.

Ms. Hamilton-Fieldman agreed, adding her observation that the proposed form does not contain a produce-only option and that such an option needs to be provided along with a designation of a time and place for such production.

Ms. Haller stated she would modify the form based on the Committee's discussion and provide the form to Mr. Laugesen. Jim Abrams suggested looking at the Utah rule. Mr. Vinci observed that the blanks and boxes on the return and waiver of service also needed further work. Ms. Haller responded she would attend to that concern as well.

Chairman Laugesen declared further efforts at approval of the subpoena form tabled and referred to Carol Haller and her forms staff for further development consistent with the Committee's discussions. He, however, asked that the Committee vote on those changes to the form that had been agreed upon, including:

- Strike the "appear" and "produce" check boxes on the second page of the form;
- Strike the word "mandatory" from the footer in the notice portion of the form;
- Remove the word "now" under the produce portion of the form; and
- Remove the bold text above the party information portion of the form.

The motion to approve the above partial changes to the proposed form were approved 13:0. Ms. Haller will make the approved changes to the form, as well as develop the further features discussed by the Committee.

Mr. Laugesen asked if there were other suggestions on the subpoena form before moving on to the next agenda item.

A member stated that the term "witness" in the affidavit of service seemed odd, because the recipient of the subpoena may not always be a witness. Another member suggested substituting "to the person named in the subpoena." Mr. Vinci, agreeing that the term "witness" was a problem, observed that subpoenas are often issued to businesses. Mr. Goldstein suggested the word "recipient" instead of "witness." Judge Webb suggested putting the word "witness" in parenthesis and defining it as broader than its usual meaning.

Bob Trout observed that it can be upsetting to a person receiving a subpoena--his office has a statement on a subpoena form that works well and he would provide his form to Ms. Haller.

Ms. Haller stated that she would attempt to come up with a suitable term.

### **C.R.C.P. 103/403, Section 2(a) and Form 29—Writ of Garnishment With Notice of Exemption and Pending Levy—Is There an Inconsistency Between the Language of the Rule and the Form**

Chairman Laugesen next directed the Committee's attention to Agenda Item No. 5 [pp 34-41 of the Agenda Packet]. He reported that David Michael had provided a letter that included additional language that the Committee previously approved and the Supreme Court had adopted for C.R.C.P. 103 and 403. Although the rule was changed, this additional language had not been added to the Writ of Garnishment With Notice of Exemption and Pending Levy form.

A motion was made and seconded to adopt Mr. Michael's proposed additional language to Form 29 [set forth on p 35 of the Agenda Packet].

The language to be added to the form is as follows:

“To hold pending Court Order the personal property of any kind (other than earnings of a natural person) in your possession or control, including the debts, credits, choses in action or money owed to the Judgment Debtor whether they are due at the time of the service of the writ or are to become due thereafter.”

Said language should be added under “To The Garnishee” subpart b [see the attached modified form].

The motion was approved unanimously, 12:0.

### **C.R.C.P. 4—Personal Service in Actions Brought By Colorado Department of Corrections Inmates—Proposed New Rule to Facilitate Court Clerk Handling of Inmate Actions**

Chairman Laugesen next directed the Committee’s attention to Agenda Item No. 6 [pp 42-46 of the Agenda Packet]. Mr. Laugesen asked Carol Haller to provide information on the issue.

Ms. Haller reported the requested change came from the court clerk of Kit Carson County. It was precipitated by numerous non-Rule 106 actions by inmates, requiring the court to copy and mail documents and later charge the involved inmates’ accounts. She reported that such matters involve considerable work, and that it often takes a considerable time to receive full reimbursement of costs from inmates.

Ms. Haller stated that while she sympathizes with the involved court staff, she does not agree with the proposed change. C.R.C.P. 106.5 actions in which such procedure is presently permitted, are limited and distinct. The proposed change would broaden service requirements to anything inmates might want to address via a civil lawsuit, and create more problems than the proposed change of procedure would solve.

Mr. DeMuro [who has handled a number of proceedings involving inmates in that district] advised that the current rule [C.R.C.P. 106.5] has greatly helped the situation in Rule 106-types of cases, but it is geared to that limited situation. He stated that he had due process concerns with the requested broadening and indicated that a change may lead to additional lawsuits because of the limited means of service proposed. Judge Kane joined in the observation, stating that he too sees a fair number of these cases, and that he also does not agree with the proposed broadening.

A motion was made and seconded to keep the present procedures unchanged. The motion was approved unanimously, 11:0. Chairman Laugesen asked Ms. Haller to contact the clerk and explain the Committee’s determination of the matter and reasoning for its action.



## **C.R.C.P. 122(b)(3)—Proposed Change to the Appointed Judge Rule to Correct/Update its Reference to the Code of Judicial Conduct**

Chairman Laugesen next directed the Committee’s attention to Agenda Item No. 7 [pp 47-49 of the Agenda Packet]. Mr. Laugesen noted that the Code of Judicial Conduct was previously amended, but the corresponding reference to it in C.R.C.P. 122 had not been made. Revision of C.R.C.P. 122(b)(3) is necessary to properly reference the new Code. The language noting the change was proposed to read as follows:

### **“Rule 122. Case Specific Appointment of Appointed Judges Pursuant to C.R.S. § 13-3-111**

(a) and (b) \* \* \* \* [No Change]

(c) Motion for Appointment

(1) and (2) \* \* \* \* [No Change]

(3) The Appointed Judge's agreement to be bound by ~~Canon 9~~ Section II of the Colorado Code of Judicial Conduct, Applicability of Code to Senior and Retired Judges, and the Appointed Judge's agreement that the Chief Justice may ask the Office of Attorney Regulation Counsel and the Colorado Commission on Judicial Discipline for any record of his or her imposed discipline, or pending disciplinary proceeding, if any;”

The change was approved unanimously, 11:0.

## **C.R.C.P. 516—Proposed Amendment of the Small Claims Rule to Clarify Language Pertaining to Recovery of Costs**

Chairman Laugesen next directed the Committee’s attention to Agenda Item No. 8 [pp 50-51 of the Agenda Packet]. Mr. Laugesen reported that the proposed language in C.R.C.P. 516(a) had been approved by the Committee at a previous meeting. The precise language was to be drafted by Carol Haller and submitted to the Committee for its approval. The change was needed to have the language track the statute and clarify that the award of costs was mandatory.

Lee Sternal inquired as to the necessity of the change. Mr. Laugesen explained that some courts had interpreted the existing rule as making the award of costs to the prevailing party discretionary. That interpretation was inconsistent with the statute. Mr. Sternal suggested adding language to allow consideration of the economic situation of the parties. Mr. Laugesen responded, stating that such language would not be consistent with the statute, and that the substance of the proposed change had already been decided by the Committee.

A motion was made and seconded to accept Ms. Haller's drafted language [on p 50 of the Agenda Packet]. The language of the proposed change would be as follows:

**"Rule 516. Costs**

The prevailing party in the action in small claims court ~~is entitled~~ shall have judgment to recover ~~to~~ costs of the action and also the costs to enforce the judgment as provided by law."

The motion passed 11:1.

**C.R.T.I. 6(a)--Proposed Change in the Infraction Plea Rule to Enable Courts to Offer Pleas by Mail or Otherwise at Any Point After a Citation is issued**

Chairman Laugesen next directed the Committee's attention to Agenda Item No. 9 [p 52 of the Agenda Packet] concerning C.R.T.I. 6(a) [the Infraction Plea Rule] to enable courts to offer pleas by mail or otherwise at any point after the citation is issued. Mr. Laugesen asked Ms. Haller to provide the background of the matter and her recommendation for the requested change.

Ms. Haller explained the issue, indicating that in the past defendants were able to pay citations up to within 2 days of the appearance date. Presently, payment is accepted only on certain dates before the court date. If the citation is paid 20 days before the court date, an appearance is not required. However, if the citation is not paid within the 20-day period, the citation is sent to the court, and a hearing is scheduled. When that happens, payment is not accepted before the hearing. The change is requested because it is desirable to allow the payment at any time after a citation is issued. The courts feel they cannot do that without a change of the rule [C.R.T.I. 6(a)].

A member asked if defendants would be able to pay by credit card or check if the change is made. Another member responded, stating defendants have been and would continue to be able to use both payment methods, and nowadays often pay online.

A motion was made and seconded to add the following language to C.R.T.I. 6(a) as follows:

**"Rule 6: Payment Before Appearance**

(a) The clerk of court shall accept payment of a penalty assessment notice by a defendant without an appearance before the referee, if payment is made ~~within the period beginning two business days before the date of first hearing set out in the penalty assessment notice and ending at the time scheduled for the appearance before the time scheduled for the first appearance.~~

(b) and (c) [No Change]"

The Motion carried 12:0.

The meeting was adjourned at 4:10 p.m. The next regular meeting is scheduled for **Thursday, May 26, 2011** at 1:26 p.m., in the State Judicial Fifth Floor Conference Room 101 West Colfax Avenue, Denver, Colorado.

Respectfully submitted,

April Bernard

<input type="checkbox"/> County Court <input type="checkbox"/> District Court _____ County, Colorado Court Address: _____  <i>Plaintiff(s)/Petitioner(s):</i> v. Defendant(s)/Respondent(s):	▲ <b>COURT USE ONLY</b> ▲
Judgment Creditor's Attorney or Judgment Creditor (Name and Address):  Phone Number: _____                      E-mail: _____ FAX Number: _____                         Atty. Reg. #: _____	Case Number:  Division                      Courtroom
<b>WRIT OF GARNISHMENT WITH NOTICE OF EXEMPTION AND PENDING LEVY</b>	

Judgment Debtor's name, last known address, other identifying information:

\_\_\_\_\_

- |   |  |    |
|---|--|----|
| 1. Original Amount of Judgment Entered _____ (date)                 |  | \$ |
| 2. Plus any Interest Due on Judgment ( _____ % per annum)           |  | +  |
| \$ _____  |  |    |
| 3. Taxable Costs (including estimated cost of service of this Writ) |  | +  |
| \$ _____  |  |    |
| 4. Less any Amount Paid   |  | -  |
| \$ _____  |  |    |
| 5. Principal Balance/Total Amount Due and Owing                     |  | =  |
| \$ _____  |  |    |

I affirm that I am authorized to act for the Judgment Creditor and this is a correct statement as of \_\_\_\_\_ (date).

Subscribed under oath before me on \_\_\_\_\_

\_\_\_\_\_

Print Judgment Creditor's Name  
Address:

Notary Public or Deputy Clerk

My Commission Expires: \_\_\_\_\_

By:

\_\_\_\_\_

Signature (Type Name, Title, Address and

Phone No.)

**WRIT OF GARNISHMENT WITH NOTICE OF EXEMPTION AND PENDING LEVY**

THE PEOPLE OF THE STATE OF COLORADO to the Sheriff of any Colorado County, or to any person 18 years or older and who is not a party to this action:



## NOTICE TO JUDGMENT DEBTOR OF EXEMPTION AND PENDING LEVY

This Writ with Notice is a Court order which may cause your property or money to be held and taken to pay a judgment entered against you. You have legal rights which may prevent all or part of your money or property from being taken. That part of the money or property which may not be taken is called "exempt property". A partial list of "exempt property" is shown below, along with the law which may make all or part of your money or property exempt. The purpose of this notice is to tell you about these rights.

### PARTIAL LIST OF EXEMPT PROPERTY

1. All or part of your property listed in Sections 13-54-101 and 102, C.R.S., including clothing, jewelry, books, burial sites, household goods, food and fuel, farm animals, seed, tools, equipment and implements, military allowances, stock-in-trade and certain items used in your occupation, bicycles, motor vehicles (greater for disabled persons), life insurance, income tax refunds, including a refund attributed to an earned income tax credit or child tax credit, money received because of loss of property or for personal injury, equipment that you need because of your health, or money received because you were a victim of a crime.
2. All or part of your earnings under Section 13-54-104, C.R.S.
3. Worker's compensation benefits under Section 8-42-124, C.R.S.
4. Unemployment compensation benefits under Section 8-80-103, C.R.S.
5. Group life insurance benefits under Section 10-7-205, C.R.S.
6. Health insurance benefits under Section 10-16-212, C.R.S.
7. Fraternal society benefits under Section 10-14-403, C.R.S.
8. Family allowances under Section 15-11-404, C.R.S.
9. Teachers' retirement fund benefits under Section 22-64-120, C.R.S.
10. Public employees' retirement benefits (PERA) under Sections 24-51-212 and 24-54-111, C.R.S.
11. Social security benefits (OASDI, SSI) under 42 U.S.C. §407.
12. Railroad employee retirement benefits under 45 U.S.C. §231m.
13. Public assistance benefits (OAP, AFDC, TANF, AND, AB, LEAP) under Section 26-2-131, C.R.S.
14. Police Officer's and Firefighter's pension fund payments under Sections 31-30-1117 & 31-30.5-208 and 31-31-203, C.R.S.
15. Utility and security deposits under Section 13-54-102(1)(r), C.R.S.
16. Proceeds of the sale of homestead property under Section 38-41-207, C.R.S.
17. Veteran's Administration benefits under 38 U.S.C. §5301.
18. Civil service retirement benefits under 5 U.S.C. §8346.
19. Mobile homes and trailers under Section 38-41-201.6, C.R.S.
20. Certain retirement and pension funds and benefits under Section 13-54-102(1)(s), C.R.S.
21. A Court-ordered child support or maintenance obligation or payment under Section 13-54-102(1)(u), C.R.S.
22. Public or private disability benefits under Section 13-54-102(1)(v), C.R.S.

If the money or property which is being withheld from you includes any "exempt property", you must file within 10 days of receiving this notice a written Claim of Exemption with the Clerk of the Court describing what money or property you think is "exempt property" and the reason that it is exempt. YOU MUST USE THE APPROVED FORM attached to this Writ or a copy of it. When you file the claim, you must immediately deliver, by certified mail, return receipt requested, a copy of your claim to the Garnishee (person/place that was garnished) and to the Judgment Creditor's attorney, or if none, to the Judgment Creditor at the address shown on this Writ with Notice. Notwithstanding your right to claim the property as "exempt," no exemption other than the exemptions set forth in Section 13-54-104(3), C.R.S., may be claimed for a Writ which is the result of a judgment taken for arrearages for child support or for child support debt.

Once you have properly filed your claim, the court will schedule a hearing within 10 days. The Clerk of the Court will notify you and the Judgment Creditor or attorney of the date and time of the hearing, by telephone, by mail or in person.

When you come to your hearing, you should be ready to explain why you believe your money or property is "exempt property". If you do not appear at the scheduled time, your money or property may be taken by the Court to pay the judgment entered against you.

REMEMBER THAT THIS IS ONLY A PARTIAL LIST OF "EXEMPT PROPERTY"; you may wish to consult with a lawyer who can advise you of your rights. If you cannot afford one, there are listings of legal assistance and legal aid offices in the yellow pages of the telephone book.

You must act quickly to protect your rights. Remember, you only have 10 days after receiving this notice to file your claim of exemption with the Clerk of the Court.

**RETURN OF SERVICE**

**Judgment Debtor's Name:** \_\_\_\_\_ **Case Number:** \_\_\_\_\_

I declare under oath that I am 18 years or older and not a party to the action and have served a copy of this Writ of Garnishment on \_\_\_\_\_ (name of garnishee) in \_\_\_\_\_ (County) \_\_\_\_\_ (State) on \_\_\_\_\_ (date) \_\_\_\_\_ (time) at the following location:

**By (Check one):**

- By handing it to a person identified to me as \_\_\_\_\_ (name of garnishee).
- By leaving it with \_\_\_\_\_ (Type or write name legibly), who is designated to receive service because of a legal relationship with \_\_\_\_\_ (name of garnishee) as provided for in C.R.C.P. 4(e).
- I attempted to serve \_\_\_\_\_ (name of garnishee) on \_\_\_\_\_ occasions but have not been able to locate him/her/it. Return to the Judgment Creditor is made on \_\_\_\_\_ (date).
- I attempted to leave it with \_\_\_\_\_ (name of person) who refused service.
- Private process server
- Sheriff, \_\_\_\_\_ County  
Fee \$ \_\_\_\_\_ Mileage \$ \_\_\_\_\_

Signature of Process Server  
Name (Print or type)

Subscribed and affirmed, or sworn to before me in the County of \_\_\_\_\_, State of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_. **Note: Not required for service by a sheriff or deputy.**

My Commission Expires: \_\_\_\_\_  
\_\_\_\_\_  
Notary Public/Clerk