

INSTRUCTIONS FOR FORCIBLE ENTRY AND DETAINER (FED)/EVICTION

These standard instructions are for informational purposes only and do not constitute legal advice about your case. If you choose to represent yourself, you are bound by the same rules and procedures as an attorney.

GENERAL INFORMATION

- ◆ The action must be filed by a “person in interest”, i.e. the property owner or other individual or entity identified as the landlord or lessor on the lease.
- ◆ The action must be filed in the County where the property is located.
- ◆ Before you file your action, you must have served the tenant a Demand for Compliance or Right to Possession Notice (JDF 101) **or** a Notice to Quit (JDF 97) and any required time period for the tenant to comply must have passed. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.
- ◆ The judgment amount is limited to \$15,000.00 (if personally served) in County Court.
- ◆ If you are the Defendant, do not disregard the Summons and Complaint. If you do, a judgment could be entered against you.
- ◆ If you are the Plaintiff, do not disregard a counterclaim. If you do, a judgment could be entered against you.
- ◆ For additional information, please review Colorado Revised Statute §13-40-101 et seq.
- ◆ If you have a disability and need a reasonable accommodation to access the courts, please contact your local ADA Coordinator. Contact information can be obtained from the following website:
http://www.courts.state.co.us/Administration/HR/ADA/Coordinator_List.cfm

COMMON TERMS

- ☒ Complaint: Document officially commencing the eviction process against a person who fails to comply with the lease agreement or pay rent when due.
- ☒ Plaintiff: The person(s) or company filing a Complaint.
- ☒ Defendant: The person(s) or company that the case is filed against.
- ☒ Service of Process: The official means by which the Defendant is notified that a lawsuit has been filed against him/her and provided a copy of the Summons and Complaint.
- ☒ Default: If the Defendant does not appear at the time of the hearing or file an answer, the Court may enter “default” or “failure to appear/answer” which entitles the Plaintiff to all relief asked for in the complaint.
- ☒ Return Date: The date that the Defendant must file his/her answer by and/or appear in Court, which is listed on the Summons.
- ☒ Writ of Restitution: A legal order signed by the Court authorizing the Sheriff to evict the Defendant. It is effective 48 hours after the judge grants a judgment of possession unless other terms are ordered.

If you do not understand this information, please contact an attorney.

FEES

The filing fee is \$97.00. If you are unable to pay, you must complete the Motion to File without Payment and Supporting Financial Affidavit (JDF 205) and submit it to the Court. Once you submit the completed JDF 205 form and a blank Order (JDF 206), the Court will decide if you need to pay the filing fee.

Other fees that a party to the case may encounter are as follows:

- Answer Fee \$ 92.00
- Answer and Counterclaim \$ 96.00
- Jury Demand Fee \$ 98.00
- Copies of Documents (Documents on file) \$.75 per page or \$1.50 if double-sided
- Copies of Documents (Documents not on file) \$.25 per page or \$.50 if double-sided
- Service Fees Varies (Not payable through or to the Court.)

FORMS

To access a form online go to www.courts.state.co.us and click on the “Self Help/Forms” tab, select “All Court Forms and Instructions” and then select “Evictions and Foreclosures”. The packet/forms are available in PDF or WORD by selecting “County Civil – Eviction (FED)”. You may complete a form online and print or you may print it and type or print legibly in black ink. **Read these instructions carefully to determine what forms you may need.**

- CRCCP Form 1A Summons in Forcible Entry and Unlawful Detainer
- CRCCP Form 3 Answer Under Simplified Civil Procedure
- JDF 97 Notice to Quit
- JDF 98 Affidavit of Service
- JDF 99 Complaint in Forcible Entry and Detainer
- JDF 101 Demand for Compliance or Right to Possession Notice
- JDF 102 Stipulation for Forcible Entry & Detainer (FED)/Eviction
- JDF 103 Writ of Restitution
- JDF 104 Motion for Entry of Judgment
- JDF 106 Order re: Stipulation
- JDF 107 Order for Entry of Judgment

STEPS TO FILING YOUR CASE

Step 1: You have already completed and posted the Demand for Compliance or Right to Possession Notice (JDF 101) or Notice to Quit (JDF 97) and the time for the tenant to comply has passed. **If this has not been completed, do not proceed to Step 2.**

Step 2: Complete Initial Forms.

The caption area below needs to be completed on all forms filed. **Keep a copy of each form for your own records and make a copy to provide to the other party.**

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|---|--|
| County Court _____ County, Colorado Court Address: _____ Plaintiff(s): (print your name here) v. Defendant(s): (print name here) | ▲ COURT USE ONLY ▲ |
| Attorney or Party Without Attorney (Name and Address): (Print your name and address here if you are representing yourself.) Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____ | Case Number: _____ Division _____ Courtroom _____ |
| NAME OF FORM | |

- Complaint in Forcible Entry and Detainer (JDF 99).**
 - You are the Plaintiff and the person(s) you are evicting is/are the Defendant(s).
 - Fill in all the blanks and complete all necessary information on the Complaint form.
 - If you are filing against multiple Defendants in the same action, list all of the Defendants.

- Make sure you have the appropriate number of copies of all documents for the Court and the Defendant(s).
- You may file a copy of the lease or rental agreement with the Court if a written lease or rental agreement was made, check with the court where you are filing for specific filing requirements. Please mark as Exhibit "A" if available. The lease or rental agreement **must be served** to the Defendant(s) with the Complaint.
- File with the Court a copy of the Demand for Compliance or Right to Possession Notice or Notice to Quit. Please mark as Exhibit "B". A copy of this notice, **which has already been served to the Defendant(s)**, must be attached to the Complaint.

Summons in Forcible Entry and Unlawful Detainer (CRCCP Form 1A) and Answer under Simplified Civil Procedure (CRCCP Form 3).

- Complete the upper portion (caption only) on the Summons and Answer.
- The Court will provide you with a case number, division, and courtroom when you file your case. When you receive this information, enter it on both forms. In addition, enter the case number on the upper portion of the return of service, so that the Court can match this document to the appropriate case when filed back with the Court.
- The Clerk will complete the appropriate fields on the Summons (CRCCP 1A) with Court location, date, and time.
- You must provide additional copies to serve the Defendant(s).

Step 3: You are ready to file your case with the Court.

- Provide the Court with the completed forms and exhibit as described in Steps 1 - 2 above.
- Pay the filing fee.

Step 4: When the case is filed, the Clerk will set your case for a Court date.

This Court date is the date you will return to Court for a trial setting, agreement, or judgment may be entered.

- The Clerk will complete the appropriate fields on the Summons (CRCCP 1A) with the Court location, date, and time.
- The Court date will be set between 7 to 14 days from the date of issuance of the Summons.(§13-40-111(1))
- You must provide the necessary forms and attach the appropriate exhibits to serve the Defendant(s).

Step 5: You are ready to have the Defendant(s) served.

You are responsible for paying the service fees, if any. Personal service or service by posting and mail must be completed **at least 7 days** before the day for appearance specified in the Summons. Complete the following process based on the type of service selected:

If the person doing your service cannot serve the Defendant(s) personally, the papers should be posted on the door to the main entrance of the dwelling or other conspicuous place upon the premises. The Court will only award you possession and not money damages if you post and mail the Summons and Complaint. A monetary award may be granted only if there has been personal service of process on the Defendant(s).

Personal Service:

Select either the Sheriff's Department, a private process server, or someone you know who is 18 years or older and not a party to the action and who knows the rules of service to serve the Defendant. There is a service fee that is payable to the Sheriff's Department or Private Process Server. The fee for service is usually awarded as part of your court costs if the court rules in your favor.

- Provide the process server with the Affidavit of Service (JDF 98) for each Defendant and two sets of the Summons, Complaint, and Answer forms. In addition, attach all appropriate exhibits as described in Step 2.
- The process server will return the original Summons to you with the Affidavit of Service completed.
- Each Defendant must be served at least 7 days before the day for appearance specified in the Summons.

Service by Posting and Mailing:

- If personal service cannot be made upon the Defendant(s), the person completing service, i.e. process server or Sheriff's Department, must post the papers on the door to the main entrance or other conspicuous place upon the premises.
- No later than the day following the day you file the Complaint with the Court, you must mail a copy of the Summons, Complaint, and Answer to the Defendant(s) by postage prepaid, first class mail. (In addition, attach the appropriate exhibits.)
- After you have placed the forms in the mail, complete the certificate of mailing. The certificate of mailing is included on the Summons (CRCCP Form 1A). The purpose of completing the certificate of mailing is to provide proof that you did mail the Summons, Complaint and Answer to the Defendant(s) by postage prepaid, first class mail.

Step 6: Service is complete.

File the original Summons and Affidavit(s) of Service with the Clerk on or before the date you are to appear in Court.

FIRST APPEARANCE

It is important that you are on time or early for your Return Date and that you have all of your information with you. Please turn off your cell phone and respect all parties in the courtroom. You may be asked to speak to the other party on the Return Date to determine if the claim can be settled to avoid going to trial.

If the Plaintiff(s) and Defendant(s) appear on the Return Date, one of the following situations can occur:

1. The Defendant(s) can agree to vacate the premises or the parties can agree to certain conditions that enable the Defendant(s) to remain in the property.. An agreement can be made to the amount of money owed and a payment plan can be put in place. The agreement, called a "stipulation," must be put in writing on the court form titled "Stipulation in Forcible Entry and Detainer" (JDF 102). The stipulation must be filed with, and approved by, the court. **A Stipulation form (JDF 102)** may be purchased from the clerk's office or you may bring one with you to Court. The Plaintiff(s) does not have to agree to the filing of the Stipulation if they want the Defendant(s) off the property.
 - The Stipulation (JDF 102) must be signed in the presence of a court clerk or notary public.
 - If a stipulation is reached, an Order re: Stipulation (JDF 106) must be filed with the Court with the Stipulation. Complete the caption only on the form. The Court will complete the remaining sections on the form and give you a signed copy.
2. With approval of the court, the Plaintiff(s) can continue the return date, if the Plaintiff(s) feel that further discussion with the Defendant(s) is/are required or, if the Defendant(s) is/are given another opportunity to fulfill a pre-arranged agreement.
3. The Defendant(s) file an Answer. A Possession Hearing and/or a Court Trial regarding money issues will be set.

If the Defendant(s) do not appear or do not timely file an Answer and Steps 1 - 6 have been completed properly.

The Court may award possession and/or, if personal service was obtained, monetary judgment to the Plaintiff(s).

DEFENDANT FILES AN ANSWER OR ANSWER AND COUNTERCLAIM

Unless the Court has approved a written stipulation of the parties, the Defendant must file an answer, in writing, with the appropriate filing fee, on or before the Return Date set in the Summons. The purpose of the answer is for the Defendant(s) to respond to the allegations in the Complaint. The Defendant may also file a counterclaim with the answer. If the Defendant requests a jury trial, an additional fee will be required for the jury fee. See the Fees section above for more information. The Court will determine if the issue of possession is to be determined by a jury in the event of a jury demand. The Defendant may apply to the Court for a waiver of the filing fees due to indigency by filing a Motion to File without Payment and Supporting Financial Affidavit (JDF 205).

If, in the answer, the Defendant asserts a defense to the Plaintiff's request for possession of the property, the case will be set for a possession hearing. The possession hearing may address only the issue of possession and reserve other matters including any counterclaim for a later trial or all matters may be tried together.

JUDGMENT INFORMATION

The Court cannot collect your monetary judgment for you, but can give you information regarding the necessary collection forms. Check with the local clerk's office to determine whether the following forms are required by the Court where you are filing. Then, complete the appropriate forms based on the judgment awarded.

Possession Judgment:

- Complete the Motion for Entry of Judgment (JDF 104).
- Complete the caption and include the property address (2nd check box) on the Order for Entry of Judgment (JDF 107).
- The Court will review the Motion and upon approval will complete the Order (JDF 107) and give you a signed copy.
- If the Defendant(s) have not vacated the property within 48 hours from the date of judgment, complete the caption only on the Writ of Restitution (JDF 103) and provide to the Court for issuance.**
 - Once the Writ is issued, it is the obligation of the Plaintiff(s) to contact the Sheriff's Office for the execution of the Writ.

Monetary Judgment:

- If you obtained personal service on the Defendant(s), the Motion for Entry of Judgment (JDF 104) may request a money judgment. The Motion also asks for court costs and the process fee for service of the Summons. Interest and attorney fees are not normally awarded on evictions filed without an attorney.
- Complete the caption only on the Order for Entry of Judgment with Issuance of Interrogatories (JDF 107). The Court will complete the remaining sections on the form.

Additional collection information entitled "Instructions for Collecting a Judgment and Completing a Writ of Garnishment" (JDF 82) is available on the state judicial website, www.courts.state.co.us. Select the "Self Help/Forms" tab, then select "All Court Forms and Instructions", then select "Garnishments and Judgments".