NOTICE TO ATTORNEYS

DIV. CVL (civil returns) Memo

*Effective October 31, 2017 through December 31, 2018*

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1. **ASSIGNMENT AND COURTROOM.** County Court civil returns, including attorney-filed FEDs (evictions) and all money cases, are currently handled by Division CVL and conducted in courtroom W170. A Magistrate presides in Division CVL. When submitting your Civil Return Docket sheet[[1]](#footnote-1) to the Magistrate you will be asked orally on the record if you consent to a Magistrate and waive your right to proceed before a County Court Judge pursuant to the Colorado Rules for Magistrates. If a party does not consent to a Magistrate, the case will be transferred to the assigned County Court Judge.
2. **CIVIL RETURN SCHEDULE.** Civil Summons for attorney-filed **FED (eviction)** matters may issue returnable on any Tuesday or Thursday (excluding court holidays and closures noted below in section 13) at 8:30 a.m. in Division CVL, Courtroom W170.

Civil Summons for **money cases**, including replevin and money damages following possession in FEDs case, may issue returnable on any Tuesday or Thursday (excluding court holidays and closures noted below in section 13) at 10:30 a.m. and 1:30 p.m. in Division CVL, Courtroom W170.

Any changes to this schedule will be provided in an updated Notice and posted on the District’s website.

If a case is set with an incorrect summons return date and/or time, the Court will vacate the return date. Plaintiff shall file either an Alias Summons or a Notice to Continue the return date within 14 days from the incorrect return date. Failure to file an Alias Summons or Notice to Continue within 14 days from the incorrect return date will result in the case being dismissed without prejudice.

El Paso County Court is a mandatory appearance jurisdiction for civil returns. Attorneys are required to appear no matter how many cases they have on the docket. The exception to this rule is foreclosure cases pursuant to C.R.S. § 13-40-111(3). Failure to appear at the civil return date will result in the case being dismissed without prejudice.

Defendants are not required to sign the docket to notate their appearance.Attendance is taken on the record by the Magistrate. At the civil return date, the Court provides a brief orientation and parties are expected to informally meet in an attempt to reach a resolution of the case. Plaintiff’s attorneys may meet with defendants either in the courtroom, utilizing counsel tables, or in the hallway/conferences rooms located outside of the courtroom. If attorneys choose to meet with defendants in the courtroom, they must keep their voices down as the Court will be hearing other cases on the record at that time. Counsel shall not sit or meet with defendants in the jury box unless the Court has provided permission to do so.

## If the Magistrate is on the record, please refrain from approaching the bench or interrupting the division clerk. If you need to speak with the division clerk, please wait until the court is off the record.

1. **MAGISTRATE CONSENT.** In the interest of judicial efficiency, if the parties consent to a magistrate and waive their right to proceed before a judge pursuant to the Colorado Rules for Magistrates, attorneys are encouraged to include such language in their filings and/or stipulation forms.
2. **STIPULATIONS.** Attorneys shall present written stipulations to the Magistrate in open court with any Defendants who have appeared at the return date and who are signing the stipulation. If a stipulation is approved by the Magistrate, it will be scanned and uploaded into the electronic record by the division clerk. If a stipulation is approved in open court, attorneys shall not electronically file the stipulation, motion or proposed order afterwards.

Any stipulations filed electronically by a party prior to or after the return date must be accompanied by a proposed order adopting the same in an editable format. Annotations on the docket do not suffice as a stipulation.

1. **OTHER REQUESTS.** Attorneys or other parties may request the Magistrate call a case on the record. If time permits, the Magistrate will hear requests to continue, dismissals, defaults, or other matters on the record.

## DIVISION CLERK. Division CVL Clerk is Latisha Jackson, who may be reached at 719-452-5471 or by e-mail at latisha.jackson@judicial.state.co.us. Please do not contact the division clerk for clarification of a Court Order. 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.

## CONTINUANCES. Civil return dates will be continued only twice. A Notice of Continued Return Date must be filed with the Court and mailed to the defendant(s) at least 14 days prior to the continued return date. The Notice must advise the defendant(s) of the new date/time and advise that if the defendant(s) do not file an answer prior to or at the appearance date that the Court may enter default judgment against them for the relief requested in the complaint. Plaintiff shall provide a certificate of service with the Notice as required by Rule 305. Requests for more than two continuances are disfavored and will be granted only for good cause and upon written motion.

## ALIAS/PLURIES SUMMONS. If a summons and complaint have been filed, but not properly served prior to the return date, the Court will authorize an alias summons no more than two times. If the defendant(s) have not been served prior to the rescheduled return date on the second alias summons, attorneys must file a written motion setting forth good cause as to why the case should not be dismissed without prejudice or why further summons should be authorized.

## SETTINGS. Attorneys shall be prepared to set cases for hearing/trial at the civil return appearance.

## If an Answer has been filed in an FED (eviction) case, the attorney shall set the case for hearing with the Div. CVL clerk at the civil return appearance. Notice shall be provided by the clerk to any pro se Defendants who are present at the return date. If the parties consent to a magistrate, the case will be scheduled in Div. S. If a party does not consent to a magistrate or a party has requested a jury trial, the case shall be assigned to a County Court Judge’s division and the attorney(s) shall be responsible for contacting the assigned division directly to obtain a hearing date.

## If an Answer has been filed in a money or replevin case, the attorney shall set the case for pre-trial conference with the Div. CVL clerk at the civil return appearance. Pre-trial conferences are set into County Court Judge’s divisions. The Plaintiff’s attorney(s) shall be responsible for providing notice of the pre-trial conference to the other parties.

## If a case is not set prior to or during the civil return appearance, it shall be the attorney’s responsibility to contact the division directly to obtain a hearing date. The clerk for Div. CVL will not contact attorneys to inform them when an Answer has been filed or to remind them to set a case for hearing. The failure to set a case for hearing within 30 days from the Answer being filed may result in the case being dismissed without prejudice.

## E-FILED MOTIONS. Motions for default judgment in money cases are required to be electronically filed. The Court does not rule on motions for default judgment for money damages on the docket sheet/PPJ. In FED (eviction) cases, if the Plaintiff’s attorney is requesting a monetary judgment by default, such request must be electronically filed and shall include any relevant supporting documentation (i.e., copy of lease, affidavit of personal service, etc.).

## BANKRUPTCY. Although “placing a case in suspense” is a common phrase used by attorneys, the Court does not have a procedure for, or status of, placing a case in “suspense” during bankruptcy proceedings. The Court can either dismiss a case without prejudice, or administratively close a case and allow the case to be reopened upon a showing of good cause. Attorneys must be clear on the docket sheet/PPJ or in a written motion how they wish to proceed.

## COURTROOM DECORUM. The Court reminds attorneys that, although previously there was no judicial officer present in the courtroom, there is one now and attorneys are expected to conduct themselves professionally. This includes appropriate attire. Cell phones must be silenced or turned off. If counsel wants the Court to hear a matter on the record, counsel shall make such requests from the podium and request permission to approach the bench. Counsel shall refrain from interrupting the Court or the division clerk while the Court is on the record.

## HOLIDAYS AND CLOSURES. To find out if the courthouse is closed or on a delayed start due to weather or other circumstances, please call 719-452-5000.

## Division CVL will not be in session for civil returns on the following dates in 2018:

## February 20, 2018April 19, 2018September 25, 2018November 20, 2018November 22, 2018December 25, 2018December 27, 2018

1. Also referred to as a “PPJ” (print-proposed-judgment-docket). These are print outs that the Division Clerk will provide you. [↑](#footnote-ref-1)