

RULE CHANGE 2020(01)
COLORADO RULES OF CIVIL PROCEDURE

Rules 8, 16.2, 65.1, 103, 108, 121, § 1-23, 121, § 1-24, 403, 408, and 509

Rule 8. General Rules of Pleading

(a) – (b) [NO CHANGES]

(c) **Affirmative Defenses and Mitigating Circumstances.** In pleading to a preceding pleading, a party shall set forth affirmatively accord and satisfaction, arbitration and award, assumption of risk, contributory negligence, ~~discharge in bankruptcy~~, duress, estoppel, failure of consideration, fraud, illegality, injury by fellow servant, laches, license, payment, release, res judicata, statute of frauds, statute of limitations, waiver, and any other matter constituting an avoidance or affirmative defense. Any mitigating circumstances to reduce the amount of damage shall be affirmatively pleaded. When a party has mistakenly designated a defense as a counterclaim or a counterclaim as a defense, the court on terms, if justice so requires, shall treat the pleading as if there had been a proper designation.

(d) – (f) [NO CHANGES]

Rule 16.2. Court Facilitated Management of Domestic Relations Cases and General Provisions Governing Duty of Disclosure

(a) – (e)(9) [NO CHANGES]

(e)(10) As set forth in this section, it is the duty of parties to an action for decree of dissolution of marriage, legal separation, or invalidity of marriage, to provide full disclosure of all material assets and liabilities. If a disclosure contains a misstatement or omission materially affecting the division of assets or liabilities, any party may file and the court shall consider and rule on a motion seeking to reallocate assets and liabilities based on such a misstatement or omission, provided that the motion is filed within 5 years of the final decree or judgment. The court shall deny any such motion that is filed under this paragraph more than 5 years after the final decree or judgment. ~~If the disclosure contains misstatements or omissions, the court shall retain jurisdiction after the entry of a final decree or judgment for a period of 5 years to allocate material assets or liabilities, the omission or non-disclosure of which materially affects the division of assets and liabilities.~~ The provisions of C.R.C.P. 60 ~~shall~~ do not bar a motion by either party to allocate such assets or liabilities pursuant to this paragraph. This paragraph ~~shall~~ does not limit other remedies that may be available to a party by law.

(f) – (j) [NO CHANGES]

COMMITTEE COMMENT [NO CHANGE]

Rule 65.1. [Reserved] Security: Proceedings Against Sureties

~~Whenever these Rules require or permit the giving of security by a party, and security is given in the form of a bond or stipulation or other undertaking with one or more sureties, each surety submits himself to the jurisdiction of the court and irrevocably appoints the clerk of the court as his agent upon whom any papers affecting his liability on the bond or undertaking may be served. His liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies to the sureties if their addresses are known.~~

Rule 103. Garnishment

This rule sets forth the exclusive process for garnishment. There shall be five (5) types of writs: (1) Writ of Continuing Garnishment, (2) Writ of Garnishment with Notice of Exemption and Pending Levy, (3) Writ of Garnishment for Support, (4) Writ of Garnishment--Judgment Debtor Other Than Natural Person, and (5) Writ of Garnishment in Aid of Writ of Attachment.

SECTION 1. WRIT OF CONTINUING GARNISHMENT (ON EARNINGS OF A NATURAL PERSON)

(a) – (j) [NO CHANGES]

(k) Answer and Tender of Payment by Garnishee.

(1) The garnishee shall file the answer to the writ of continuing garnishment with the clerk of the court and send a copy to the judgment creditor no less than 7 nor more than 14 days following the time the judgment debtor receives earnings for each pay period affected by such writ, or 42 days following the date such writ was served pursuant to section (1)(d) of this rule, whichever is less. However, if the judgment creditor is represented by an attorney, or is a collection agency licensed pursuant to section ~~12-14-101~~5-16-101, et seq., C.R.S., the garnishee shall pay any nonexempt earnings and deliver a calculation of the amount of exempt earnings to the attorney or the licensed collection agency.

(k)(2) – (k)(3) [NO CHANGES]

(l) Disbursement of Garnished Earnings.

(1) If no objection is filed by the judgment debtor within 7 days after the judgment debtor received earnings for a pay period, the garnishee shall send the nonexempt earnings to the attorney, collection agency licensed pursuant to section ~~12-14-101~~5-16-101, et seq., C.R.S., or court designated on the writ of continuing garnishment (C.R.C.P. Form 26, page 1, paragraph e). The judgment creditor shall refund to the judgment debtor any disbursement in excess of the amount necessary to satisfy the judgment.

(l)(2) – (m) [NO CHANGES]

SECTION 2. WRIT OF GARNISHMENT (ON PERSONAL PROPERTY OTHER THAN EARNINGS OF A NATURAL PERSON) WITH NOTICE OF EXEMPTION AND PENDING LEVY

(a) – (f) [NO CHANGES]

(g) Court Order on Garnishment Answer.

(1) If an answer to a writ with notice shows the garnishee is indebted to the judgment debtor, the clerk shall enter judgment in favor of the judgment debtor and against the garnishee for the use of the judgment creditor in an amount not to exceed the total amount due and owing on the judgment and if the judgment creditor is pro se, request such indebtedness paid into the registry of the court. However, if the judgment creditor is represented by an attorney or is a collection

agency licensed pursuant to ~~12-14-101~~5-16-101, et seq., C.R.S., the garnishee shall pay the funds directly to the attorney or licensed collection agency.

(g)(2) – (i) [NO CHANGES]

SECTION 3 [NO CHANGES]

SECTION 4. WRIT OF GARNISHMENT--JUDGMENT DEBTOR OTHER THAN NATURAL PERSON

(a) – (e) [NO CHANGES]

(f) Court Order on Garnishment Answer. When the judgment debtor is other than a natural person:

(1) If the answer to a writ of garnishment shows the garnishee is indebted to such judgment debtor, the clerk shall enter judgment in favor of such judgment debtor and against the garnishee for the use of the judgment creditor for the amount of the indebtedness shown in such answer and if the judgment creditor is pro se, request such indebtedness be paid into the registry of the court. However, if the judgment creditor is represented by an attorney or is a collection agency licensed pursuant to section ~~12-14-101~~5-16-101, et seq., C.R.S., the garnishee shall pay the funds directly to the attorney or licensed collection agency. In no event shall any judgment against the garnishee be more than the total amount due and owing on the judgment.

(f)(2) – (g) [NO CHANGES]

SECTION 5 [NO CHANGES]

SECTION 6. JUDGMENT DEBTOR'S OBJECTION--WRITTEN CLAIM OF EXEMPTION—HEARING

(a) – (a)(3) [NO CHANGES]

(4) The judgment debtor shall, by certified mail, return receipt requested, immediately deliver a copy of such objection to the garnishee and the judgment creditor's attorney of record, or if none, to the judgment creditor. If the garnishee has been directed to transmit the nonexempt earnings to an attorney or a collection agency licensed pursuant to section ~~12-14-101~~5-16-101, et seq., C.R.S., then upon receipt of the objection, the garnishee shall transmit the nonexempt earnings to the clerk of the court.

(a)(5) – (e) [NO CHANGES]

SECTION 7 – END [NO CHANGES]

Rule 108. Affidavits

An affidavit may be sworn to either within or without this state before any officer authorized by law to take and certify the acknowledgment of deeds conveying lands. [When any rule of civil procedure requires an affidavit or other sworn declaration, an unsworn declaration under C.R.S. § 13-27-101 et seq. may be used in its place.](#)

Rule 121. Local Rules—Statewide Practice Standards

(a) – (c) [NO CHANGE]

Section 1 – 1 to 1 – 22 [NO CHANGE]

Section 1 – 23 BONDS IN CIVIL ACTIONS

1. – 7. [NO CHANGE]

8. Proceedings against Surety or other Security Provider. When these rules require or permit the giving of a bond or other type of security, the surety or other security provider submits to the jurisdiction of the court. The liability of the surety or other security provider may be enforced on motion without the necessity of an independent action. At the time any party seeks to enforce such liability, it shall provide notice of its motion or other form of request to all parties of record and the surety or other security provider in accordance with C.R.C.P. 5(b).

9. Definition. The term “bond” as used in this rule includes any type of security provided to stay enforcement of a money judgment or any other obligation including providing security under C.R.C.P. 65.

COMMENTS [NO CHANGE]

Section 1 – 24 to 1 – 26 [NO CHANGE]

Rule 121. Local Rules—Statewide Practice Standards

(a) – (c) [NO CHANGE]

Section 1 – 1 to 1 – 23 [NO CHANGE]

Section 1 – 24 ~~Reserved~~ [Setting of Deadlines](#)
~~[Practice Standard on Setting of Deadlines being prepared.]~~

Section 1 – 25 to 1 – 26 [NO CHANGE]

Rule 403. Garnishment

This rule sets forth the exclusive process for garnishment. There shall be five (5) types of writs: (1) Writ of Continuing Garnishment, (2) Writ of Garnishment with Notice of Exemption and Pending Levy, (3) Writ of Garnishment for Support, (4) Writ of Garnishment--Judgment Debtor Other Than Natural Person, and (5) Writ of Garnishment in Aid of Writ of Attachment.

SECTION 1. WRIT OF CONTINUING GARNISHMENT (ON EARNINGS OF A NATURAL PERSON)

(a) – (j) [NO CHANGES]

(k) Answer and Tender of Payment by Garnishee.

(1) The garnishee shall file the answer to the writ of continuing garnishment with the clerk of the court and send a copy to the judgment creditor no less than 7 nor more than 14 days following the time the judgment debtor receives earnings for each pay period affected by such writ, or 42 days following the date such writ was served pursuant to section (1)(d) of this rule, whichever is less. However, if the judgment creditor is represented by an attorney, or is a collection agency licensed pursuant to section [5-16-101+2-14-101](#), et seq., C.R.S., the garnishee shall pay any nonexempt earnings and deliver a calculation of the amount of exempt earnings to the attorney or the licensed collection agency.

(k)(2) – (3) [NO CHANGES]

(l) Disbursement of Garnished Earnings.

(1) If no objection is filed by the judgment debtor within 7 days after the judgment debtor received earnings for a pay period, the garnishee shall send the nonexempt earnings to the attorney, collection agency licensed pursuant to section [5-16-101+2-14-101](#), et seq., C.R.S., or court designated on the writ of continuing garnishment (C.R.C.P. Form 26, page 1, paragraph e). The judgment creditor shall refund to the judgment debtor any disbursement in excess of the amount necessary to satisfy the judgment.

(l)(2) – (m) [NO CHANGES]

SECTION 2. WRIT OF GARNISHMENT (ON PERSONAL PROPERTY OTHER THAN EARNINGS OF A NATURAL PERSON) WITH NOTICE OF EXEMPTION AND PENDING LEVY

(a) – (f) [NO CHANGES]

(g) Court Order on Garnishment Answer.

(1) If an answer to a writ with notice shows the garnishee is indebted to the judgment debtor, the clerk shall enter judgment in favor of the judgment debtor and against the garnishee for the use of the judgment creditor in an amount not to exceed the total amount due and owing on the judgment and if the judgment creditor is pro se, request such indebtedness be paid to the registry of the court. However, if the judgment creditor is represented by an attorney or is a collection

agency licensed pursuant to [5-16-101](#)~~12-14-101~~, et seq., C.R.S., the garnishee shall pay the funds directly to the attorney or licensed collection agency.

(g)(2) – (i) [NO CHANGES]

SECTION 3 [NO CHANGES]

SECTION 4. WRIT OF GARNISHMENT--JUDGMENT DEBTOR OTHER THAN NATURAL PERSON

(a) – (e) [NO CHANGES]

(f) Court Order on Garnishment Answer. When the judgment debtor is other than a natural person:

(1) If the answer to a writ of garnishment shows the garnishee is indebted to such judgment debtor, the clerk shall enter judgment in favor of such judgment debtor and against the garnishee for the use of the judgment creditor for the amount of the indebtedness shown in such answer and if the judgment creditor is pro se, request such indebtedness paid into the registry of the court. However, if the judgment creditor is represented by an attorney or is a collection agency licensed pursuant to [5-16-101](#)~~12-14-101~~, et seq., C.R.S., the garnishee shall pay the funds directly to the attorney or licensed collection agency. In no event shall any judgment against the garnishee be more than the total amount due and owing on the judgment.

(f)(2) – (g) [NO CHANGES]

SECTION 5 [NO CHANGES]

SECTION 6. JUDGMENT DEBTOR'S OBJECTION--WRITTEN CLAIM OF EXEMPTION—HEARING

(a) – (a)(3) [NO CHANGES]

(4) The judgment debtor shall, by certified mail, return receipt requested, immediately deliver a copy of such objection to the garnishee and the judgment creditor's attorney of record, or if none, to the judgment creditor. If the garnishee has been directed to transmit the nonexempt earnings to an attorney or a collection agency licensed pursuant to section [5-16-101](#)~~12-14-101~~, et seq., C.R.S., then upon receipt of the objection, the garnishee shall transmit the nonexempt earnings to the clerk of the court.

(a)(5) – (e) [NO CHANGES]

SECTION 7 – END [NO CHANGES]

Rule 408. Affidavits

An affidavit may be sworn to either within or without this state before any officer authorized by law to take and certify the acknowledgment of deeds conveying lands. [When any rule of civil procedure requires an affidavit or other sworn declaration, an unsworn declaration under C.R.S. § 13-27-101 et seq. may be used in its place.](#)

Rule 509. Parties, Representation and Intervention

(a) [NO CHANGES]

(b) Representation.

(1) Partnerships and Associations. Notwithstanding the provisions of article ~~593~~ of title ~~12~~13, C.R.S., in the small claims court, an individual shall represent himself or herself; a partnership shall be represented by an active general partner or an authorized full-time employee; a union shall be represented by an authorized active union member or full-time employee; a for-profit corporation shall be represented by one of its full-time officers or full-time employees; an association shall be represented by one of its active members or by a full-time employee of the association; and any other kind of organization or entity shall be represented by one of its active members or full-time employees or, in the case of a nonprofit corporation, a duly elected nonattorney officer or an employee.

(b)(2) – (c) [NO CHANGES]

Rule 8. General Rules of Pleading

(a) – (b) [NO CHANGES]

(c) Affirmative Defenses and Mitigating Circumstances. In pleading to a preceding pleading, a party shall set forth affirmatively accord and satisfaction, arbitration and award, assumption of risk, contributory negligence, duress, estoppel, failure of consideration, fraud, illegality, injury by fellow servant, laches, license, payment, release, res judicata, statute of frauds, statute of limitations, waiver, and any other matter constituting an avoidance or affirmative defense. Any mitigating circumstances to reduce the amount of damage shall be affirmatively pleaded. When a party has mistakenly designated a defense as a counterclaim or a counterclaim as a defense, the court on terms, if justice so requires, shall treat the pleading as if there had been a proper designation.

(d) – (f) [NO CHANGES]

Rule 16.2. Court Facilitated Management of Domestic Relations Cases and General Provisions Governing Duty of Disclosure

(a) – (e)(9) [NO CHANGES]

(e)(10) As set forth in this section, it is the duty of parties to an action for decree of dissolution of marriage, legal separation, or invalidity of marriage, to provide full disclosure of all material assets and liabilities. If a disclosure contains a misstatement or omission materially affecting the division of assets or liabilities, any party may file and the court shall consider and rule on a motion seeking to reallocate assets and liabilities based on such a misstatement or omission, provided that the motion is filed within 5 years of the final decree or judgment. The court shall deny any such motion that is filed under this paragraph more than 5 years after the final decree or judgment. The provisions of C.R.C.P. 60 do not bar a motion by either party to allocate such assets or liabilities pursuant to this paragraph. This paragraph does not limit other remedies that may be available to a party by law.

(f) – (j) [NO CHANGES]

COMMITTEE COMMENT [NO CHANGE]

Rule 65.1. [Reserved]

Rule 103. Garnishment

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(k)(2) – (k)(3) [NO CHANGES]

(l) Disbursement of Garnished Earnings.

(1) If no objection is filed by the judgment debtor within 7 days after the judgment debtor received earnings for a pay period, the garnishee shall send the nonexempt earnings to the attorney, collection agency licensed pursuant to section 5-16-101, et seq., C.R.S., or court designated on the writ of continuing garnishment (C.R.C.P. Form 26, page 1, paragraph e). The judgment creditor shall refund to the judgment debtor any disbursement in excess of the amount necessary to satisfy the judgment.

(l)(2) – (m) [NO CHANGES]

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(a) – (f) [NO CHANGES]

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agency licensed pursuant to 5-16-101, et seq., C.R.S., the garnishee shall pay the funds directly to the attorney or licensed collection agency.

(g)(2) – (i) [NO CHANGES]

SECTION 3 [NO CHANGES]

SECTION 4. WRIT OF GARNISHMENT--JUDGMENT DEBTOR OTHER THAN NATURAL PERSON

(a) – (e) [NO CHANGES]

(f) Court Order on Garnishment Answer. When the judgment debtor is other than a natural person:

(1) If the answer to a writ of garnishment shows the garnishee is indebted to such judgment debtor, the clerk shall enter judgment in favor of such judgment debtor and against the garnishee for the use of the judgment creditor for the amount of the indebtedness shown in such answer and if the judgment creditor is pro se, request such indebtedness be paid into the registry of the court. However, if the judgment creditor is represented by an attorney or is a collection agency licensed pursuant to section 5-16-101, et seq., C.R.S., the garnishee shall pay the funds directly to the attorney or licensed collection agency. In no event shall any judgment against the garnishee be more than the total amount due and owing on the judgment.

(f)(2) – (g) [NO CHANGES]

SECTION 5 [NO CHANGES]

SECTION 6. JUDGMENT DEBTOR'S OBJECTION--WRITTEN CLAIM OF EXEMPTION—HEARING

(a) – (a)(3) [NO CHANGES]

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(a)(5) – (e) [NO CHANGES]

SECTION 7 – END [NO CHANGES]

Rule 108. Affidavits

An affidavit may be sworn to either within or without this state before any officer authorized by law to take and certify the acknowledgment of deeds conveying lands. When any rule of civil procedure requires an affidavit or other sworn declaration, an unsworn declaration under C.R.S. § 13-27-101 et seq. may be used in its place.

Rule 121. Local Rules—Statewide Practice Standards

(a) – (c) [NO CHANGE]

Section 1 – 1 to 1 – 22 [NO CHANGE]

Section 1 – 23 BONDS IN CIVIL ACTIONS

1. – 7. [NO CHANGE]

8. Proceedings against Surety or other Security Provider. When these rules require or permit the giving of a bond or other type of security, the surety or other security provider submits to the jurisdiction of the court. The liability of the surety or other security provider may be enforced on motion without the necessity of an independent action. At the time any party seeks to enforce such liability, it shall provide notice of its motion or other form of request to all parties of record and the surety or other security provider in accordance with C.R.C.P. 5(b).

9. Definition. The term “bond” as used in this rule includes any type of security provided to stay enforcement of a money judgment or any other obligation including providing security under C.R.C.P. 65.

COMMENTS [NO CHANGE]

Section 1 – 24 to 1 – 26 [NO CHANGE]

Rule 121. Local Rules—Statewide Practice Standards

(a) – (c) [NO CHANGE]

Section 1 – 1 to 1 – 23 [NO CHANGE]

Section 1 – 24 Reserved

Section 1 – 25 to 1 – 26 [NO CHANGE]

Rule 403. Garnishment

This rule sets forth the exclusive process for garnishment. There shall be five (5) types of writs: (1) Writ of Continuing Garnishment, (2) Writ of Garnishment with Notice of Exemption and Pending Levy, (3) Writ of Garnishment for Support, (4) Writ of Garnishment--Judgment Debtor Other Than Natural Person, and (5) Writ of Garnishment in Aid of Writ of Attachment.

SECTION 1. WRIT OF CONTINUING GARNISHMENT (ON EARNINGS OF A NATURAL PERSON)

(a) – (j) [NO CHANGES]

(k) Answer and Tender of Payment by Garnishee.

(1) The garnishee shall file the answer to the writ of continuing garnishment with the clerk of the court and send a copy to the judgment creditor no less than 7 nor more than 14 days following the time the judgment debtor receives earnings for each pay period affected by such writ, or 42 days following the date such writ was served pursuant to section (1)(d) of this rule, whichever is less. However, if the judgment creditor is represented by an attorney, or is a collection agency licensed pursuant to section 5-16-101, et seq., C.R.S., the garnishee shall pay any nonexempt earnings and deliver a calculation of the amount of exempt earnings to the attorney or the licensed collection agency.

(k)(2) – (3) [NO CHANGES]

(l) Disbursement of Garnished Earnings.

(1) If no objection is filed by the judgment debtor within 7 days after the judgment debtor received earnings for a pay period, the garnishee shall send the nonexempt earnings to the attorney, collection agency licensed pursuant to section 5-16-101, et seq., C.R.S., or court designated on the writ of continuing garnishment (C.R.C.P. Form 26, page 1, paragraph e). The judgment creditor shall refund to the judgment debtor any disbursement in excess of the amount necessary to satisfy the judgment.

(l)(2) – (m) [NO CHANGES]

SECTION 2. WRIT OF GARNISHMENT (ON PERSONAL PROPERTY OTHER THAN EARNINGS OF A NATURAL PERSON) WITH NOTICE OF EXEMPTION AND PENDING LEVY

(a) – (f) [NO CHANGES]

(g) Court Order on Garnishment Answer.

(1) If an answer to a writ with notice shows the garnishee is indebted to the judgment debtor, the clerk shall enter judgment in favor of the judgment debtor and against the garnishee for the use of the judgment creditor in an amount not to exceed the total amount due and owing on the judgment and if the judgment creditor is pro se, request such indebtedness be paid to the registry of the court. However, if the judgment creditor is represented by an attorney or is a collection

agency licensed pursuant to 5-16-101, et seq., C.R.S., the garnishee shall pay the funds directly to the attorney or licensed collection agency.

(g)(2) – (i) [NO CHANGES]

SECTION 3 [NO CHANGES]

SECTION 4. WRIT OF GARNISHMENT--JUDGMENT DEBTOR OTHER THAN NATURAL PERSON

(a) – (e) [NO CHANGES]

(f) Court Order on Garnishment Answer. When the judgment debtor is other than a natural person:

(1) If the answer to a writ of garnishment shows the garnishee is indebted to such judgment debtor, the clerk shall enter judgment in favor of such judgment debtor and against the garnishee for the use of the judgment creditor for the amount of the indebtedness shown in such answer and if the judgment creditor is pro se, request such indebtedness paid into the registry of the court. However, if the judgment creditor is represented by an attorney or is a collection agency licensed pursuant to 5-16-101, et seq., C.R.S., the garnishee shall pay the funds directly to the attorney or licensed collection agency. In no event shall any judgment against the garnishee be more than the total amount due and owing on the judgment.

(f)(2) – (g) [NO CHANGES]

SECTION 5 [NO CHANGES]

SECTION 6. JUDGMENT DEBTOR'S OBJECTION--WRITTEN CLAIM OF EXEMPTION—HEARING

(a) – (a)(3) [NO CHANGES]

(4) The judgment debtor shall, by certified mail, return receipt requested, immediately deliver a copy of such objection to the garnishee and the judgment creditor's attorney of record, or if none, to the judgment creditor. If the garnishee has been directed to transmit the nonexempt earnings to an attorney or a collection agency licensed pursuant to section 5-16-101, et seq., C.R.S., then upon receipt of the objection, the garnishee shall transmit the nonexempt earnings to the clerk of the court.

(a)(5) – (e) [NO CHANGES]

SECTION 7 – END [NO CHANGES]

Rule 408. Affidavits

An affidavit may be sworn to either within or without this state before any officer authorized by law to take and certify the acknowledgment of deeds conveying lands. When any rule of civil procedure requires an affidavit or other sworn declaration, an unsworn declaration under C.R.S. § 13-27-101 et seq. may be used in its place.

Rule 509. Parties, Representation and Intervention

(a) [NO CHANGES]

(b) Representation.

(1) Partnerships and Associations. Notwithstanding the provisions of article 93 of title 13, C.R.S., in the small claims court, an individual shall represent himself or herself; a partnership shall be represented by an active general partner or an authorized full-time employee; a union shall be represented by an authorized active union member or full-time employee; a for-profit corporation shall be represented by one of its full-time officers or full-time employees; an association shall be represented by one of its active members or by a full-time employee of the association; and any other kind of organization or entity shall be represented by one of its active members or full-time employees or, in the case of a nonprofit corporation, a duly elected nonattorney officer or an employee.

(b)(2) – (c) [NO CHANGES]

Amended and Adopted by the Court, En Banc, March 5, 2020, effective immediately.

By the Court:

**Richard L. Gabriel
Justice, Colorado Supreme Court**