

ADVISEMENT FOR EVICTION CASES-PLEASE READ CAREFULLY

YOU WILL NOT APPEAR IN COURT IN PERSON

TO ALL DEFENDANTS/TENANTS:

You have been served with paperwork because your landlord wants to evict you. This document describes your options. You will have to choose one of the options. The paperwork you received provides you with a date to appear in Court. **YOU WILL NOT APPEAR IN COURT IN PERSON EVEN THOUGH THE SUMMONS YOU WERE SERVED WITH SAYS TO APPEAR.** Instead, you will choose one of the options below. The date to appear on your paperwork is the date by which you must exercise one of the options.

Option # 1 REACH AN AGREEMENT:

The first option is that you can contact the landlord or the landlord's attorney to try to reach an agreement. The Contact information for the landlord or their attorney is listed on the upper left-hand side of the first page of the Summons and Complaint you were served with (they are the "Plaintiff"). Please be aware that the landlord/landlord's attorney is not required to reach an agreement with you and the Court cannot require the landlord or their attorney to reach an agreement with you. If an agreement is reached, it will be put in writing and become a court order. It will be your responsibility to make sure you understand any agreement reached. If the reason your landlord is trying to evict you is because you owe them rent, then the purpose of an agreement is usually to give you more time before you are evicted than you would have had without the agreement. Sometimes parties reach a payment agreement so you can remain in the property. If you did not pay rent on purpose because you feel the landlord did not do something they were supposed to do, the agreement may resolve those issues. **Whatever the reason for the eviction action, if you and the landlord or their attorney choose to reach an agreement, the agreement must be signed by you and filed by the landlord or their attorney with the Court on or before the date listed on the Summons you were served with. If it is not, then the Court will assume you have selected the option below to do nothing.**

Option # 2 FILE AN ANSWER:

The second option is you may file an Answer to the Complaint that was filed against you. If you feel that the landlord's efforts to evict you are not supported by the facts or the law and you dispute that you should be evicted, filing an Answer is an appropriate step. When you file an Answer, you are asking for a trial and for the facts and the evidence to be heard by a judicial officer. If you wish to file an Answer, you must file the Answer on or before the date listed on the Summons you were served with. If you do not file an Answer by that date, you will have no further opportunity to do so. There is a fee to file an Answer. If you cannot afford the fee, the Clerk's Office can waive the fee if you qualify. **Please read all of this document before you decide if you wish to file an Answer.**

To file an Answer: Complete the form Answer you were served with. You may: 1) e-mail it to the Fourth Judicial District Clerk of Courts at: 4thClerkofCourt@judicial.state.co.us; 2) deposit it in the drop box located at the courthouse by the front entry of the building; or 3) mail it to the Clerk of Court to 270 S. Tejon St., Colorado Springs, CO 80903. Upon receiving the Answer, the Clerk's office will call you to obtain a credit card payment for the filing fee. If the Clerk's office unable to reach you someone will contact you to pay the filing fee over the phone. You may also pay the filing fee online at:

www.courts.state.co.us/Courts/County/Collections or mail the filing fee in the form of a check or money order payable to the Clerk of Court to 270 S. Tejon St., Colorado Springs, CO 80903. If you cannot afford the filing fee, you may qualify for a waiver or a payment plan. The paperwork for waiving the fee or a payment plan is attached. You will have to submit the paperwork and supporting documentation for the fee waiver and you will be notified by mail if you qualify or are denied. If denied, you will receive documentation requesting payment of the filing fee. Regardless of the disposition of the fee, **once your Answer is filed the Court will contact you to schedule your trial.** TRIALS WILL BE CONDUCTED REMOTELY VIA WEBEX, WHICH YOU MAY ACCESS WITH A COMPUTER, CELL PHONE OR ORDINARY TELEPHONE.

PLEASE BE CERTAIN TO INCLUDE A TELEPHONE NUMBER AND E-MAIL ADDRESS (IF YOU HAVE ONE) ON YOUR ANSWER

It is your job to be prepared for trial. All documents you intend to use as evidence should be filed in advance of your trial via one of the methods described above.

Option # 3 DO NOTHING:

Your third option is to do nothing. Should you choose that option, the landlord/landlord's attorney may request that the judicial officer issue an order evicting you (this is called a Judgment for Possession). The actual eviction (when the Sheriff arrives to remove you if you do not leave on your own) may occur as soon as 48 hours after the judicial officer's order (30 days for mobile home cases for which the tenant pays lot rent/are owner occupied). The order for the Sheriff to remove you is called a Writ of Restitution and is the second part of the eviction process.

NOTE THAT ONCE A JUDGMENT FOR POSSESSION (WHICH IS AN EVICTION) IS ENTERED BY THE COURT, YOU WILL HAVE AN EVICTION ON YOUR COURT RECORD, WHICH BECOMES A PUBLIC RECORD.

Information Regarding Filing an Answer:

- 1) Filing an Answer means you wish to go to trial.
- 2) **Eviction trials are "quick set" as required by law.** This means that your trial will generally be scheduled within five days or as soon as the Court schedule allows, and no continuances are allowed unless the landlord agrees.
- 3) Colorado law does not allow continuances to give you time to find an attorney. You are not entitled to a court appointed attorney.
- 4) Colorado law does not excuse late rent payments or partially unpaid rent due to job loss, illness, Covid or stolen rent money.
- 5) **The judicial officer has no authority to give you more time to move out. Requesting more time to move or pay rent on your answer is not a defense and may result in an eviction order being entered against you. The Court cannot grant you more time because you cannot find another place to live.**
- 6) If you did not pay rent because you are claiming that the Landlord's failure to repair the premises is a defense to nonpayment of rent, pursuant to Colorado Revised Statute 13-40-111, the Court will require you to pay into the Registry of the Court, AT THE TIME OF FILING YOUR ANSWER, the past due rent less any expenses you have incurred based upon the Landlord's failure to repair. The amount to be paid into the Registry at the time you file your Answer should be the amount listed in the Notice to Quit/Demand for Possession you received before the case was filed less

actual expenses you incurred due to your Landlord's failure to repair. If you cannot pay the amount stated in the Notice to Quit/Demand for Possession at the time of filing your Answer, the judicial officer who presides at your trial will not be able to consider the landlord's failure to repair as a defense to eviction.

- 7) If you wish to go trial to contest the eviction on the basis that you were improperly served, please note that pursuant to Tyler v. McKenzie, 43 Colo. 233, 95 P. 943 (1908), the act of you filing an Answer may cure defective service.
- 8) Fees paid to file an Answer are not refundable. If you request a jury when you file an Answer, note that you are not entitled to a jury on the issue of possession. You will only get a jury trial as to damages, which is usually a claim for past due rent and/or property damage.

The Court has no authority to waive or make exceptions to any law. The Court cannot extend periods of time prescribed by statute. The Court is required to follow the law as written. **The above information has been provided as a courtesy to assist you in deciding whether or not to file an Answer. This information is not intended to be legal advice and does not include every possible defense to eviction.**

TO OBTAIN LEGAL ASSISTANCE:

Low income tenants may qualify for free legal assistance through Colorado Legal Services. To apply for free legal assistance, please call (719) 471-0380, apply online at coloradolegalservices.org, visit the office at 617 South Nevada Avenue, Colorado Springs, CO 80903 or visit the Colorado Legal Services courthouse office located in Room W-163. You may also contact United Way by calling 211 for access to community resources. For rental assistance, please visit the Colorado Department of Local Affairs website at cdola.colorado.gov.

COVID EVICTION RULES

Due to the Covid-19 pandemic, there is currently an order issued by the Centers for Disease Control which may protect you from being removed from the property through June 30, 2021 (the order does NOT prevent the Court from entering an eviction order, or Judgment for Possession). The CDC Order only protects you if you are being evicted for non-payment of rent. The CDC order does not protect you from being evicted for other reasons, such as termination of the tenancy or rule violations.

In order to qualify for the protection of the CDC Order, every adult tenant at the property MUST complete and submit to the landlord a CDC Declaration, which you may find at govinfo.gov. When you sign the Declaration, you are doing so under penalty of perjury and are stating that:

- 1) You are using best efforts to obtain **government** assistance for rent or housing;
- 2) You expect to earn less than \$99,000 (single filer) or \$198,000 (joint filer) in 2020 OR you received a stimulus check;
- 3) You are unable to make the full rent payment due to substantial loss of income, loss of compensable work hours, a lay-off or extraordinary out of pocket medical expenses;
- 4) You are using best efforts to make timely partial rent payments that are as close to the full payment as your circumstances permit; and
- 5) If evicted, you would likely be rendered homeless or end up in a shared living environment.

If the Plaintiff landlord challenges the truth of the Declaration, you will be notified of a hearing date and time during which you may be questioned about your personal circumstances as they relate to the Declaration.

***IF THE DECLARATION DOES NOT APPLY TO YOUR CIRCUMSTANCES, THE CDC ORDER WILL NOT PROTECT YOU FROM BEING EVICTED. ***

IF YOU CANNOT READ OR SPEAK ENGLISH, PLEASE CONTACT THE COURT AT [D04 Courts DivCVL@judicial.state.co.us](mailto:D04_Courts_DivCVL@judicial.state.co.us) OR call (719) 452-5000.

SI NO PUEDE LEER O HABLAR INGLES POR FAVOR PONERSE EN CONTACTO CON EL CORTE EN [D04 Courts DivCVL@judicial.state.co.us](mailto:D04_Courts_DivCVL@judicial.state.co.us) O LLAMAR (719) 452-5000.

만약 당신이만약 당신이영어를 사용하다문의하시기 바랍니다법원법원 [D04 Courts DivCVL@judicial.state.co.us](mailto:D04_Courts_DivCVL@judicial.state.co.us) 또는 전화 (719) 452-5000.

rú guǒ nín bù néng yuè dú huò shuō huà qǐng shuō yīng yǔ qǐng tōng guò yǐ xià fāng shì yǔ fǎ yuàn lián xì [D04 Courts DivCVL@judicial.state.co.us](mailto:D04_Courts_DivCVL@judicial.state.co.us) huò zhì diàn (719) 452-5000.

Enclosures: MIFP (Answer fee waiver application)

This document was written by the Court.

**Magistrate Paprzycki
Fourth Judicial District**