

AGENDA

COLORADO SUPREME COURT COMMITTEE ON RULES OF CIVIL PROCEDURE

Friday, November 20, 2015, 1:30p.m.
Ralph L. Carr Colorado Judicial Center
2 E.14th Ave., Denver CO 80203
Third Floor, Court of Appeals Full Court Conference Room

- I. Call to order
- II. Approval of September 25, 2015 minutes [Page 3 to 7]
- III. Announcements from the Chair
- IV. Business
 - A. Rule 103 & forms—(Ben Vinci) [Page 8 to 28]
 - B. Proposed changes to county court rules—(Thomas F. Romola) [Page 29 to 33]
 - C. Rule 121 §1-15 Subcommittee—(David DeMuro and Damon Davis) [Page 34 to 38]
 - D. Form 35.1—(Judge Webb and Judge Jones) [Page 39 to 40]
 - E. Rule 23 Class Action—(payment of unclaimed settlement funds to COLTAF)—(Dick Laugesen) [Page 41 to 48]
 - F. C.R.M. 6—(Judge Webb) [Page 49 to 50]
 - G. New Form for admission of business records under hearsay exception rule—(Damon Davis) [Page 51 to 52]
 - H. Rule 84—(Dick Holme) [Page 53 to 88]
 - I. County and Municipal appeals to district court—(Judge Berger)(discrepancies in civil, criminal, and appellate procedures and possible creation of joint committee)
 - J. C.A.R. 8(d) —(district court function in CAR 8(d); amendment and action appropriate for Civil Rules Committee) [Page 89 to 91]
- V. New Business
- VI. Adjourn—Next meeting is January 29, 2016 at 1:30pm

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Conference Call Information:

Dial (720) 625-5050 (local) or 1-888-604-0017 (toll free) and enter the access code, 28548445, followed by # key.

**Colorado Supreme Court Advisory Committee on the Rules of Civil Procedure
September 25, 2015 Minutes**

A quorum being present, the Colorado Supreme Court Advisory Committee on Rules of Civil Procedure was called to order by Judge Michael Berger at 1:30 p.m., in the Supreme Court Conference Room on the fourth floor of the Ralph L. Carr Colorado Judicial Center. Members present or excused from the meeting were:

Name	Present	Excused
Judge Michael Berger, Chair	X	
Chief Judge (Ret.) Janice Davidson	X	
Damon Davis	X	
David R. DeMuro	X	
Judge Ann Frick		X
Peter Goldstein	X	
Lisa Hamilton-Fieldman		X
Richard P. Holme	X	
Judge Jerry N. Jones	X	
Judge Thomas K. Kane	X	
Debra Knapp	X	
Richard Laugesen	X	
Cheryl Layne	X	
Judge Cathy Lemon	X	
David C. Little	X	
Chief Judge Alan Loeb	X	
Professor Christopher B. Mueller	X	
Gordon "Skip" Netzorg	X	
Brent Owen	X	
Judge Ann Rotolo		X
Stephanie Scoville	X	
Frederick B. Skillern	X	
Lee N. Sternal		X
Magistrate Marianne Tims	X	
Ben Vinci	X	
Judge John R. Webb	X	
J. Gregory Whitehair	X	
Judge Christopher Zenisek	X	
Non-voting Participants		
Justice Allison Eid, Liaison	X	
Jeannette Kornreich	X	

I. Attachments & Handouts

- A. September 25, 2015 agenda packet
- B. Rule 23 proposal

II. Announcements from the Chair

The June 26, 2015 minutes were approved as submitted.

Judge Berger informed the committee that two new member appointments were forthcoming: Judge Fred Gannett, district court judge in the 5th judicial district, and Judge Adam Espinosa, county court judge in 2nd judicial district.

Jeannette Kornreich, assistant legal counsel from the State Court Administrator's Office (SCAO) was introduced. She is taking over SCAO's representation on the committee.

Two guests were introduced: attorney David Tenner who is working with the Rule 53 subcommittee and Sean Slagle, the Appellate Self-Represented Litigant Coordinator, who is interested in the rule promulgation process.

There are a many people who have expressed interest in joining the committee, but the size of the committee won't be increased, so a new membership protocol will be used moving forward. Members with expiring terms will have to inform Judge Berger by November 30, 2015 that they wish to be reappointed to the committee. If Judge Berger does not receive notice stating that a member wishes to remain on the committee then the member's term will not be renewed. Also, if a member has not attended a majority of the meetings in a calendar year, the member's term will not be renewed, absent extenuating circumstances.

Judge Berger reported that he presented on the Improving Access to Justice Proposal at Judicial Conference. The presentation went well and he received positive feedback on the rule changes.

Finally, a new Colorado Supreme Court Probate Rules Committee had been formed. Judge Diana Terry of the Court of Appeals was named chair, and any changes to the probate rules will go through that committee.

III. Business

A. Rule 121 Subcommittee

Changes to Rule 121 § 1-12, § 1-15, and Rule 10 were discussed and voted on as follows:

Rule 121 § 1-15

In #1, section (a), "orders that certain or all non-dispositive motions be made orally" was added unanimously;

In #1, section (a), new page and word limits passed with one no vote;

In #1, section (a), at the end of the page and word limits, a new sentence was added requiring all briefs and motions be double spaced, except for footnotes and quotations, passed 17:6;

In #1, section (d), “A Motion shall not be included in a response or reply to the original motion.” passed with one no vote;

In section (d), the committee voted unanimously to strike the new sentence, “A motion shall be filed in a separate document.”;

The New Alternative language in #4, and the sentence “If possible, the court shall determine oral motions at the conclusion of the argument, but may take the motion under advisement or require briefing before ruling.” were both passed unanimously; and

The Committee Comment was amended unanimously.

Rule 121 § 1-12

In #1, “If the court directs that any discovery motion under Rule 26(c) be made orally, then movant’s written notice to the other parties that a hearing has been requested on the motion shall stay the discovery to which the motion is directed.” was added as the last sentence and passed unanimously;

A motion to strike the new last sentence in #3, “If the court requires that any discovery motion under rules 26(c) or 37 be made orally, then, prior to the hearing, the movant shall provide each party and the court with a copy of the portions of any written discovery at issue, unless the court orders otherwise.” passed 13:6;

In #5, “If the court requires that any discovery motion be made orally, then movant must make a reasonable effort to confer with opposing counsel before requesting a hearing from the court.” was added as the last sentence and passed 18: 2; and

A new comment was added unanimously.

Rule 10

In section (d)(2)(II), “, including footnotes” was added at the end of the sentence and passed 18:2;

In section (d)(3)(I) delete “Motions” and in section (d)(3)(II) add “Motions” passed 18:2; and

A motion to add “All pleadings, motions, briefs and other documents filed and served under these rules which are more than two page in length shall be double spaced.” in section (d)(3) failed.

B. Rule 120

The committee reviewed the final draft from the Editing subcommittee and discussed the use of “other than counsel” and “personal” in section (a). The Rule 120 subcommittee chair Fred Skillern pointed out that “other than counsel” and “personal” weren’t in the draft the committee passed at the last meeting. He added that the Rule 120 subcommittee had debated using “personal”, but because this is based on a business relationship, the subcommittee opted not to use “personal.” There was a motion to strike “direct” and insert “personal” into section (a) that was seconded, but failed. A new motion to keep “direct” in section (a) passed with one no vote.

C. Rule 16.1

Chief Judge (Ret.) Davidson reported that the subcommittee had met once and will have numerous future meetings to discuss Rule 16.1 and whether or not, with current resources, county court jurisdiction can be increased. Also, the Council of Chief Justices is publishing recommendations on simplified procedure in January, and the subcommittee is awaiting that report. The subcommittee will update the committee as necessary.

D. C.R.M. 6 – Judge Webb

Amendments to C.R.M 5 and 6 may be necessary to alert parties that their consent is required to have their case heard before a district court magistrate, rather than a district court judge, and that their consent can be implied from failure to object. A subcommittee will be formed to study the issue and submit a proposal to the committee.

E. Rule 53

The subcommittee presented a proposal based on the federal rule with a few Colorado specific amendments. Discussion centered on the difference in authority between the federal and state court systems, to include the role of the federal magistrate judges. The subcommittee will consider committee discussion and present a revised draft at a future meeting.

F. New Form for admission of business records under hearsay exception rule

Damon Davis initiated this proposal and thought a new form would be beneficial because it would streamline the presentation of evidence. The form would also include a sample instruction and disclosure certificate. A subcommittee will be formed to study the issue and submit a proposal to the committee.

G. C.R.M. 6 – Jeannette Kornreich

The proposed change to C.R.M. 6 would correct a citation to the Interstate Compact for Adult Offenders, and clarify that probable cause hearings are governed by the Compact. The change passed unanimously.

H. Rule 359(b) and §13-6-311(b)

Here, the rule and statute have two different time periods to file an appeal. The statute, §13-6-311(b), cites 14 days, and the rule, Rule 359(b), cites 21 days. The committee voted unanimously to update the rule to 14 days to mirror the statute.

I. Rule 122(c)(7)

The proposed change will be sent out for an email vote.

J. Rule 121 §1-14 citation update

The proposed change will be sent out for an email vote.

K. Rule 23 Class Action

Tabled to the November 20, 2015 meeting.

L. Rule 84

Tabled to the November 20, 2015 meeting.

IV. Future Meetings

November 20, 2015

January 29, 2016

The Committee adjourned at 4:11 p.m.

*Respectfully submitted,
Jenny A. Moore*

WRIT of GARNISHMENT FORMS, 26, 29, 31, 32 and 33 :

These forms were created originally in July 1989 and modified in 1991 when the time for the effective date of the writ of continuing garnishment was changed from three months to six months. On all of the forms, 26, 29, 31, 32 and 33, the requirement for notarization is to be removed since the words:

“I affirm that I am authorized to act for the judgment creditor and this is the correct statement as of _____” is adequate and will remain. The notarization of the writ of garnishment does not document the veracity any more than the statement of affirmation that is remaining. Also it is unlikely that an oath is administered at the time of the signing of the garnishment form.

Relating to the Writ of Continuing Garnishment:

1. The section relating to the date suit was commenced is to be removed. Also, 1. a. The effective garnishment period is 182 days. It is unlikely that there is any County Court judgment that has been revived four times being the equivalent of 24 years or that any District Court judgment has been revived beyond the initial expiration date of 20 years. Thus, there is no necessity for having those items on the writ of continuing garnishment.

2. On section 2., the item in parentheses: (_____% per annum) is removed. Some judgments had high interest rates, some had statutory interest rates and some that had either high interest rates are statutory interest rates are being pursued with “zero” interest. It is the responsibility of the judgment creditor to properly calculate the interest using the appropriate interest rate.

3. In section a., there is a striking of the words “less than seven nor” and replacing the “no” with the word “nor”. The purpose is to allow the garnishee to pay the nonexempt earnings earlier than seven days. This modification is also found in “b” of the writ. This correction is amended in section (k) Rule 103.

It appears that the reason the seven days was established was to allow the consumer to object to the computation within that seven-day period of time. Now that payroll is being done primarily by computer and the computation is done automatically with the funds in many cases being paid prior to the seven days this restriction should be eliminated. Many employers pay sooner than seven days and should not be required to withhold a garnishment payment check until seven days have passed from the date of payment of the wages.

4.. On page 3 of 4 the word “first” is struck and the word “each” is replaced before pay period. This correction is amended in section (h) Rule 103.

On all garnishment forms the notary section is redlined as well as the return of service section. There is no purpose to having a return of service form attached to any garnishment form since process servers create their own returns of service separate from the garnishment form.

Changes to rule 103 garnishment:

a. Under section (b), the words “ at least four (4)” is removed and the words “one (1) “are substituted. This change eliminates the need of producing additional pages of calculations of exemptions. My accounting staff says that 50% of the checks are coming with ADP’s form or their own form and that other employers are just photocopying that page and cutting the sections off and filling them in. Also eliminated in that section is the requirement to provide the objection to the calculation of exempt earnings form with the writ of garnishment.

b. The words “less than 7 nor” is eliminated to allow the garnishee to pay prior to seven days. Also, the section relating to 42 days following the date such writ was served is eliminated as the requirement to pay within 14 days of the payroll. would stay in effect.

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) Definitions.

- (1) “Continuing garnishment” means the exclusive procedure for withholding the earnings of a judgment debtor for successive pay periods for payment of a judgment debt other than a judgment for support as provided in subsection (c) of this rule.
- (2) “Earnings” shall be defined in section 13-54.5-101(2), C.R.S., as applicable.

(b) Form of Writ of Continuing Garnishment and Related Forms. A writ of continuing garnishment shall be in the form and content of Appendix to Chapters 1 to 17, Form 26, C.R.C.P. It shall also include ~~at least four (4)~~one (1) “Calculation of Amount of Exempt Earnings” forms, to be in the form and content of Appendix to Chapters 1 to 17, Form 27, C.R.C.P. Objection to the calculation of exempt earnings shall be in the form and content of Appendix to Chapters 1 to 17, Form 28, C.R.C.P.

(c) When Writ of Continuing Garnishment Issues. After entry of judgment when a writ of execution can issue, a writ of continuing garnishment against earnings shall be issued by the clerk of the court upon request. Under a writ of continuing garnishment, a judgment creditor may garnish earnings except to the extent such earnings are exempt under law. Issuance of a writ of execution shall not be required.

(d) Service of Writ of Continuing Garnishment. A judgment creditor shall serve two (2) copies of the writ of continuing garnishment, together with a blank copy of C.R.C.P. Form 28, “Objection to the Calculation of the Amount of Exempt Earnings” (Appendix to Chapters 1 to 17, Form 28, C.R.C.P.), upon the garnishee, one copy of which the garnishee shall deliver to the judgment debtor as provided in subsection (h) (1) of this rule. Service of the writ shall be in accordance with C.R.C.P. 4, and the person who serves the writ shall note the date and time of such service on the return service. In any civil action, a judgment creditor shall serve no more than one writ of continuing garnishment upon any one garnishee for the same judgment debtor during the Effective Garnishment Period. This restriction shall not preclude the issuance of a subsequent writ within the Effective Garnishment Period.

(e) Jurisdiction. Service of a writ of continuing garnishment upon the garnishee shall give the court jurisdiction over the garnishee and any earnings of the judgment debtor within the

control of the garnishee.

(f) Effective Garnishment Period.

- (1) A writ of continuing garnishment shall be a lien and continuing levy against the nonexempt earnings of the judgment debtor until such time as earnings are no longer due, the underlying judgment is vacated, modified or satisfied in full, the writ is dismissed, or ~~for 91 days (13 weeks) following service of the writ, if the judgment was entered prior to August 8, 2001, and~~ 182 days (26 weeks) following service of the writ, ~~if the judgment was entered on or after August 8, 2001,~~ except when such writ is suspended pursuant to subsection (j) of this rule.
- (2) When a writ of continuing garnishment is served upon a garnishee during the Effective Garnishment Period of a prior writ, it shall be effective for the Effective Garnishment Period following the Effective Garnishment Period of any prior writ.
- (3) If a writ of garnishment for support pursuant to C.R.S. 14-14-105 is served during the effective period of a writ of continuing garnishment, the Effective Garnishment Period shall be tolled and all priorities preserved until the termination of the writ of garnishment for support.

(g) Exemptions. A garnishee shall not be required to deduct, set up or plead any exemption for or on behalf of a judgment debtor excepting as set forth in the writ.

(h) Delivery of Copy to Judgment Debtor

- (1) The garnishee shall deliver a copy of the writ of continuing garnishment, together with the calculation of the amount of exempt earnings and the blank copy of C.R.C.P. Form 28, "Objection to the Calculation of the Amount of Exempt Earnings" (Appendix to Chapters 1 to 17, Form 28, C.R.C.P.), to the judgment debtor at the time the judgment debtor receives earnings for the first each pay period affected by such writ.
- (2) For all subsequent pay periods affected by the writ, the garnishee shall deliver a copy of the calculation of the amount of exempt earnings to the judgment debtor at the time the judgment debtor receives earnings for that pay period.

(i) Objection to Calculation of Amount of Exempt Earnings. A judgment debtor may object to the calculation of exempt earnings. A judgment debtor's objection to calculation of exempt earnings shall be in accordance with Section 6 of this rule.

(j) Suspension. A writ of continuing garnishment may be suspended for a specified period of time by the judgment creditor upon agreement with the judgment debtor, which agreement shall be in writing and filed by the judgment creditor with the clerk of the court in which judgment was entered and a copy shall be delivered by the judgment creditor to the

garnishee. No suspension shall extend the running of the Effective Garnishment Period nor affect priorities.

(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 the first 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, et seq., C.R.S., the garnishee may be directed to pay any nonexempt earnings and deliver a calculation of the amount of exempt earnings to the attorney or the licensed collection agency.
- (2) The garnishee shall pay any nonexempt earnings and deliver a calculation of the amount of exempt earnings to the clerk of the court which issued such writ no less than 7 nor more than 14 days following the time the judgment debtor receives earnings affected by such writ. However, if the answer and subsequent calculations are only mailed to an attorney or licensed collection agency under subsection (k)(1), the payment shall accompany the answer.
- (3) Any writ of continuing garnishment served upon the garnishee while any previous writ is still in effect shall be answered by the garnishee with a statement that the garnishee has been previously served with one or more writs of continuing garnishment and/or writs of garnishment for support and specify the date on which such previously served writs are expected to terminate.

(l) Disbursement of Garnished Earnings.

- (1) If no objection is filed by the judgment debtor within 7 days, the garnishee shall send the nonexempt earnings to the attorney, collection agency licensed pursuant to section 12-14-101, 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.
- (2) If a written objection to the calculation of exempt earnings is filed with the clerk of the court, the garnishee shall send the garnished nonexempt earnings to the clerk of the court. The garnished nonexempt earnings shall be placed in the registry of the court pending further order of the court.

(m) Request for accounting of garnished funds by judgment debtor. Upon reasonable written request by a judgment debtor, the judgment creditor shall provide an accounting in writing of all funds received to the date of the request, including the balance due at the date of the request.

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

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

1. Original or Revived Amount of Judgment Entered on _____ (date) for \$ _____
- a. Effective Garnishment Period is 182 Days.

91 days (Judgment entered prior to August 8, 2001)

182 days (Judgment entered on or after August 8, 2001)

DATE SUIT WAS COMMENCED:
(Mark Appropriate Box)

Prior to May 1, 1991

On or After May 1, 1991
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 _____ (date)

 Notary Public or Deputy Clerk

My Commission Expires: _____

Print Judgment Creditor's Name
 Address: _____

 By: _____
 Signature (Type Name, Title, Address and Phone)

WRIT OF CONTINUING GARNISHMENT

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:
 You are directed to serve **TWO COPIES** of this Writ of Continuing Garnishment upon _____, Garnishee, with proper return of service to be made to the Court.

TO THE GARNISHEE: YOU ARE SUMMONED AS GARNISHEE IN THIS ACTION AND ORDERED:

- a. To answer the following questions under oath and file your answers with the Clerk of Court AND mail a completed copy with your answers to the Judgment Creditor or attorney ~~no less than 7~~ no more than 14 days following the time you pay the Judgment Debtor for the first time following service of this Writ, or 42 days following service of this Writ upon you, whichever is less. **YOUR FAILURE TO ANSWER THIS WRIT OF CONTINUING GARNISHMENT MAY RESULT IN THE ENTRY OF A DEFAULT AGAINST YOU.**

- b. To pay any nonexempt earnings to the party designated in "e" below no ~~less than 7 nor~~ more than 14 days following each time you pay the Judgment Debtor during the effective Garnishment Period of this Writ and attach a copy of the Calculation of the Amount of Exempt Earnings used (the Calculation under "Questions to be Answered by Garnishee" should be used for the first pay period, and one of the multiple Calculation forms included with this Writ should be used for all subsequent pay periods).
- c. To deliver a copy of this Writ, together with the Calculation of the Amount of Exempt Earnings and a blank Objection to Calculation of the Amount of Exempt Earnings form, the first time you pay the Judgment Debtor.
- d. To deliver to the Judgment Debtor a copy of each subsequent Calculation of the Amount of Exempt Earnings each time you pay the Judgment Debtor for earnings subject to this Writ.
- e. **MAKE CHECKS PAYABLE AND MAIL TO:** Judgment Creditor named above (only if the Judgment Creditor is a licensed collection agency pursuant to 12-14-101, et. seq., C.R.S.); Judgment Creditor's Attorney (if applicable); or to the Clerk of the County Court or District Court in _____ (city), Colorado (Must select if the Judgment Creditor is not represented by an attorney AND is not a licensed collection agency pursuant to 12-14-101, et. seq., C.R.S.)

Name: _____
 Address: _____

PLEASE PUT THE CASE NUMBER (shown above) ON THE FRONT OF THE CHECK.

CLERK OF THE COURT

By Deputy Clerk: _____

Date: _____

NOTICE TO GARNISHEE

- a. This Writ applies to all nonexempt earnings owed or owing during the Effective Garnishment Period shown on Line 1a on the front of this Writ or until you have paid to the party, designated in paragraph "e" on the front of this Writ, the amount shown on Line 5 on the front of this Writ, whichever occurs first. **However, if you have already been served with a Writ of Continuing Garnishment for Child Support, this new Writ is effective for the Effective Garnishment Period after any prior Writ terminates.**
- b. "Earnings" includes all forms of compensation for Personal Services. Also read "Notice to Judgment Debtor" below.
- c. In no case may you withhold any amount greater than the amount on Line 5 on the front of this Writ.

QUESTIONS TO BE ANSWERED BY GARNISHEE

Judgment Debtor's Name: _____ Case Number: _____

The following questions MUST be answered by you under oath:

- a. On the date and time this Writ of Continuing Garnishment was served upon you, did you owe or do you anticipate owing any of the following to the Judgment debtor within the Effective Garnishment Period shown on Line 1a on the front of this Writ? (Mark appropriate box(es)):
 1. WAGES/SALARY/COMMISSIONS/BONUS/OTHER COMPENSATION FOR PERSONAL SERVICES (Earnings)
 2. Health, Accident or Disability Insurance Funds or Payments
 3. Pension or Retirement Benefits (for suits commenced prior to 5/1/91 ONLY - check front of Writ for date)
 If you marked any box above, indicate how the Judgment debtor is paid: weekly bi-weekly semi-monthly monthly other The Judgment Debtor will be paid on the following dates during the Effective Garnishment Period shown on Line 1a (front of this Writ): _____
- b. Are you under one or more of the following writs of garnishment? (Mark appropriate box(es)):
 4. Writ of Continuing Garnishment (Expected Termination Date: _____)
 5. Writ of Garnishment for Support (Expected Termination Date: _____)

- c. If you marked Box 1 and you did NOT mark either Box 4 or 5, complete the Calculation below for the "First Pay Period" following receipt of this Writ. If you marked either Box 4 or 5, you must complete Calculations beginning with the first pay period following termination of the prior writ(s).
 - d. If you marked Box 2 or 3 and you did NOT mark either Box 4 or 5, complete the Calculation below for the "First Pay Period" following receipt of this Writ. If you marked either box 4 or 5, you must complete Calculations beginning with the first pay period following termination of the prior writ(s). However, there are a number of total exemptions, and you should seek legal advice about such exemptions. **If the earnings are totally exempt, please mark box 6 below:**
6. The earnings are totally exempt because: _____

CALCULATION OF THE AMOUNT OF EXEMPT EARNINGS (First Each Pay Period)

Gross Earnings for the First Pay Period from _____ thru _____ \$ _____

Less Deductions Required by Law (For Example, Withholding Taxes, FICA) - \$ _____

Disposable Earnings (Gross Earnings less Deductions) = \$ _____

Less Statutory Exemption (Use Exemption Chart Below) - \$ _____

Net Amount Subject to Garnishment = \$ _____

Less Wage/Income Assignment(s) During Pay Period (If Any) - \$ _____

Amount to be withheld and paid = \$ _____

EXEMPTION CHART ("Minimum Hourly Wage" means state or federal minimum wage, whichever is greater.)	PAY PERIOD	AMOUNT EXEMPT IS THE GREATER OF:
	Weekly	30 x Minimum Hourly Wage or 75% of Disposable Earnings
	Bi-weekly	60 x Minimum Hourly Wage or 75% of Disposable Earnings
	Semi-monthly	65 x Minimum Hourly Wage or 75% of Disposable Earnings
	Monthly	130 x Minimum Hourly Wage or 75% of Disposable Earnings

I certify that I am authorized to act for the Garnishee; that the above answers are true and correct; and that I have delivered a copy of this Writ, together with the Calculation of the Amount of Exempt Earnings and a blank Objection to Calculation of the Amount of Exempt Earnings form to the Judgment Debtor at the time earnings were paid for the "First Pay Period" (if earnings were paid).

Name of Garnishee (Print) _____
 Address _____
 Phone Number _____

Subscribed under affirmation or oath
before me on _____ (date)

Notary Public/Deputy Clerk
My Commission Expires: _____

 Name of Person Answering (Print)

 Signature of Person Answering

NOTICE TO JUDGMENT DEBTOR

- a. The Garnishee may only withhold nonexempt earnings from the amount due you, but in no event more than the amount on Line 5 on the front of this Writ, UNLESS YOUR EARNINGS ARE TOTALLY EXEMPT, in which case NO EARNINGS CAN BE WITHHELD. You may wish to contact a lawyer who can explain your rights.
- b. If you disagree with the amount withheld, you must talk with the Garnishee within 7 days after being paid.
- c. If you cannot settle the disagreement with the Garnishee, you may complete and file the attached Objection with the Clerk of the Court issuing this Writ within 14 days after being paid. YOU MUST USE THE FORM ATTACHED or a copy of it.
- d. You are entitled to a court hearing on your written objection.
- e. Your employer cannot fire you because your earnings have been garnished. If your employer discharges you in violation of your legal rights, you may, within 91 days, bring a civil action for the recovery of wages lost because you were fired and for an order requiring that you be reinstated. Damages will not exceed 6 weeks' wages and attorney fees.

RETURN OF SERVICE

Judgment Debtor's Name: _____ **Case Number:** _____

I certify that I am 18 years or older; that I am not a party to the action; and that I have served two copies of the Writ of Continuing Garnishment, together with a blank Objection to Calculation of the Amount of Exempt Earnings on _____ (name of party) 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 _____ Signature of Process Server _____

Fee \$ _____ Mileage \$ _____

Name (Print or type)

Subscribed under affirmation or oath before me in the County of _____, State of _____, this _____ day of _____, 20_____.

Note: Notarization is not required for service by a sheriff or deputy.

My Commission Expires: _____

Notary Public/Clerk

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

The Judgment creditor is (check one): a licensed collection agency pursuant to §12-14-101, et. seq., C.R.S.;

represented by an attorney; or not represented by an attorney and is not a licensed collection agency pursuant to §12-14-101, et. seq., C.R.S.

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 Owning	= \$	

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:

You are directed to serve a copy of this Writ of Garnishment upon _____, Garnishee, with proper return of service to be made to the Court.

TO THE GARNISHEE:

YOU ARE HEREBY SUMMONED AS GARNISHEE IN THIS ACTION AND ORDERED:

- a. To answer the following questions under oath and file your answers with the Clerk of the Court (AND to mail a completed copy with your answers to the Judgment Creditor or attorney when a stamped envelope is attached) within 14 days following service of this Writ upon you. **YOUR FAILURE TO ANSWER THIS WRIT WITH NOTICE MAY RESULT IN THE ENTRY OF A DEFAULT AGAINST YOU.**
- b. 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.

YOU ARE NOTIFIED:

- a. This Writ with Notice applies to all personal property (other than earnings) owed to or owned by the Judgment Debtor and in your possession or control as of the date and time this Writ was served upon you.

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 14 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 14 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 14 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 _____ Signature of Server
Fee \$ _____ Mileage \$ _____

Name (Print or type)

Subscribed and affirmed, or sworn to before me in the County of _____, State of _____, this _____ day of _____, 20_____.

My Commission Expires: _____
Notary Public/Clerk

Note: This Return of Service is not required if Garnishee is served by a sheriff or deputy.

WRIT OF GARNISHMENT FOR SUPPORT

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:

You are directed to serve A COPY of this Writ of Garnishment for Support upon _____ Garnishee, with proper return of service to be made to the Court.

TO THE GARNISHEE:

YOU ARE HEREBY SUMMONED AS GARNISHEE IN THIS ACTION AND ORDERED:

- a. To answer the following questions under oath and file your answers with the Clerk of the Court (AND to mail a completed copy with your answers to the Judgment Creditor or attorney when a stamped envelope is attached) no less than 7 nor more than 14 days following the time you pay the Judgment Debtor for the first time following service of this Writ or 42 days following service of this Writ upon you, whichever is less. YOUR FAILURE TO ANSWER THIS WRIT OF GARNISHMENT FOR SUPPORT MAY RESULT IN THE ENTRY OF A DEFAULT AGAINST YOU.
- b. To pay any nonexempt earnings to the payee as indicated in section d below no less than 7 nor more than 14 days following each time you pay the Judgment Debtor during the effective period of this Writ and attach a copy of the Calculation of the Amount of Exempt Earnings used (the Calculation under "Questions to be Answered by Garnishee" should be used for the first pay period, and one of the multiple Calculation forms included with this Writ should be used for all subsequent pay periods).
- c. The amount of the exemption is _____% of disposable earnings.
- d. Payments shall be mailed to the:

Family Support Registry
P. O. Box 2171
Denver, CO 80201-2171
Acct #: _____

Judgment Creditor

CLERK OF THE COURT

By Deputy Clerk: _____

DATE: _____

NOTICE TO GARNISHEE

- a. This Writ applies to all nonexempt earnings owed or owing until the Principal Balance/Total Amount Due and Owing (Line 5 on the front of this Writ) has been withheld or the garnishment is released by the court or in writing by the Judgment Creditor. If you are presently under a Writ of Continuing Garnishment or served with such Writ while this Writ of Garnishment for Support is in effect, this Writ takes priority over the other Writs, and this is the only one in force and effect.
- b. "EARNINGS" INCLUDES ALL FORMS OF COMPENSATION FOR PERSONAL SERVICES.
- c. The percentage of disposable earnings shown on Line c above is exempt from this Writ of Garnishment for Support.
- d. In no case may you withhold any amount greater than the amount on Line 5 on the front of this Writ.

QUESTIONS TO BE ANSWERED BY GARNISHEE

Judgment Debtor's Name: _____ **Case Number:** _____

The following questions MUST be answered by you under oath:

- a. On the date and time this Writ of Garnishment for Support was served upon you, did you owe or do you anticipate owing any of the following to the Judgment Debtor? (Mark appropriate box(es)).
 1. WAGES/SALARY/COMMISSIONS/BONUS/OTHER COMPENSATION FOR PERSONAL SERVICES (Earnings)
 2. Pension or Retirement Benefits or Health/Accident/Disability/Casualty Insurance Funds or Payments.
 3. Workers' Compensation Benefits or Payments (For child support in cases filed after 4/30/91 ONLY)
 4. Payments to an Independent Contractor for Labor or Services, Dividends, Severance Pay, Royalties, Monetary Gifts/Prizes, Interest, Trust Income, Annuities, Capital Gains, Rents, or Taxable Distributions from Certain Business Entities (For child support orders entered after 6/30/96 ONLY)
If you marked any box above, indicate how the Judgment Debtor is paid:
 WEEKLY BI-WEEKLY SEMI-MONTHLY MONTHLY OTHER
- b. If you marked Box 1, complete the Calculation below for the "First Pay Period" following receipt of this Writ.
- c. If you marked Box 2, 3 or 4, complete the Calculation below for the "First Pay Period" following receipt of this Writ; however, if the judgment includes maintenance (as indicated on the front of this Writ) the earnings may be totally exempt, and you should seek legal advice about such exemption. IF THE EARNINGS ARE TOTALLY EXEMPT, PLEASE MARK BOX 5 BELOW:
 5. THE EARNINGS ARE TOTALLY EXEMPT BECAUSE _____

CALCULATION OF THE AMOUNT OF EXEMPT EARNINGS (First Pay Period)

Gross Earnings for the First Pay Period from _____ through _____	\$ _____
Plus Tips Reported or Imputed by Federal Law (Child Support Orders after 6/30/96)	+ \$ _____
Less Deductions Required by Law (e.g., Withholding Taxes, FICA)	- \$ _____
Disposable Earnings (Gross Earnings Plus Tips (where applicable) Less Deductions)	= \$ _____
Less Statutory Exemption (Use percentage shown on Line c in the Wirt portion above)	- \$ _____
Net Amount Subject to Garnishment	= \$ _____
Less Wage/Income Assignment(s) During Pay Period (If Any)	- \$ _____
Amount to be withheld	= \$ _____

I affirm that I am authorized to act for the Garnishee and the above answers are true and correct.

	Name of Garnishee (Print) _____
Subscribed under oath before me on _____ (date)	Address: _____
	Phone Number: _____
_____ Notary Public	Name of Person Answering (Print) _____
My Commission Expires: _____	Signature of Person Answering _____

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 for Support on _____ (name of party) 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 _____ Signature of Process Server _____

Fee \$ _____ Mileage \$ _____

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

<input type="checkbox"/> County Court <input type="checkbox"/> District Court _____ County, Colorado Court Address: _____ <hr/> Plaintiff(s)/Petitioner(s): v. Defendant(s)/Respondent(s):	▲ COURT USE ONLY ▲
Judgment Creditor's Attorney or Judgment Creditor (Name and Address): Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____	Case Number: _____ Division _____ Courtroom _____
WRIT OF GARNISHMENT – JUDGMENT DEBTOR OTHER THAN NATURAL PERSON	

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 _____ (date)~~

Print Judgment Creditor's Name

Address: _____

~~_____
Notary Public or Deputy Clerk~~

~~_____
My Commission Expires: _____~~

By: _____
Signature (Type Name, Title, Address and Phone)

WRIT OF GARNISHMENT

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:

You are directed to serve a copy of this Writ of Garnishment upon _____, Garnishee, with proper return of service to be made to the Court.

TO THE GARNISHEE:

YOU ARE HEREBY SUMMONED AS GARNISHEE IN THIS ACTION AND ORDERED:

a. To answer the following questions under oath and file your answers with the Clerk of the Court (AND to mail a completed copy with your answer to the Judgment Creditor or attorney when a stamped envelope is attached) within 14 days following service of this Writ upon you. **YOUR FAILURE TO ANSWER THIS WRIT WITH NOTICE MAY RESULT IN THE ENTRY OF A DEFAULT AGAINST YOU.**

b. To hold pending court order any personal property owed to or owned by the Judgment Debtor and in your possession or control on the date and time this Writ was served upon you.

YOU ARE NOTIFIED:

a. This Writ of Garnishment applies to all personal property owed to or owned by the Judgment Debtor and in your possession or control as of the date and time this Writ was served upon you.

b. In no case may you withhold any personal property greater than the amount on Line 5 on the front of this Writ unless the personal property is incapable of being divided.

c. If you are ordered to pay funds to the Court, tender your check for the amount ordered **PAYABLE TO THE CLERK OF THE** _____, COURT AT _____, COLORADO.

CLERK OF THE COURT

By Deputy Clerk: _____
Date: _____

QUESTIONS TO BE ANSWERED BY GARNISHEE

Judgment Debtor's Name: _____ **Case Number:** _____

The following questions **MUST** be answered by you under oath:

- a. On the date and time this Writ was served upon you, did you possess or control any personal property of the Judgment Debtor or did you owe any rents, payments, obligations, debts or moneys to the Judgment Debtor?
 YES **NO**

- b. If **YES**, list all items of personal property and their location(s) and/or describe the nature and amount of the debt or obligation: (Attach additional pages if necessary): _____

- c. Do you claim any setoff against any property, debt or obligation listed above?
 YES **NO**

- d. If you answered **YES** to question c, describe the nature and amount of the setoff claimed:
(Attach additional pages if necessary): _____

I affirm that I am authorized to act for the Garnishee and the above answers are true and correct.

Subscribed under oath before me on _____(date)	Name of Garnishee (Print) _____ Address: _____ _____ Phone Number: _____ _____
_____ Notary Public	Name of Person Answering (Print) _____
My Commission Expires: _____	Signature of Person Answering _____

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 party) 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 _____ Signature of Process Server

Fee \$ _____ Mileage \$ _____

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

b. In no case may you withhold any personal property greater than the amount on Line 5 on the front of this Writ unless the personal property is incapable of being divided.

c. If you are ordered to pay funds to the Court, tender your check for the amount ordered **PAYABLE TO THE CLERK OF THE** _____ **COURT AT** _____, **CO** _____

CLERK OF THE COURT

By Deputy Clerk: _____

Date: _____

QUESTIONS TO BE ANSWERED BY GARNISHEE

Defendant in Attachment's Name: _____ **Case Number:** _____

The following questions **MUST** be answered by you under oath:

a. On the date and time this Writ was served upon you, did you possess or control any personal property of the Defendant in Attachment or did you owe any rents, payments, obligations, debts or moneys other than earnings to the Defendant in Attachment? **YES** **NO**

b. If **YES to question a**, list all items of personal property and their location(s) and/or describe the nature and amount of the debt or obligation: (Attach additional pages if necessary): _____

c. Do you claim any setoff against any property, debt or obligation listed above? **YES** **NO**

d. If you answered **YES** to question c, describe the nature and amount of the setoff claimed:
(Attach additional pages if necessary): _____

I affirm that I am authorized to act for the Garnishee and the above answers are true and correct.

Name of Garnishee (Print) _____

Subscribed under oath before me on _____ (date) Address: _____

Phone Number: _____

Notary Public Name of Person Answering (Print) _____

My Commission Expires: _____ Signature of Person Answering _____

RETURN OF SERVICE

Defendant in Attachment'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 party) 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 _____ Signature of Process Server _____

Fee \$ _____ Mileage \$ _____ 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

Proposed Change

RULE 304: SERVICE OF PROCESS

~~(d)(2) **Personal Service.** Upon a natural person whose age is at least thirteen years and less than eighteen years, by delivering a copy thereof to the person and another copy thereof to the person's father, mother, or guardian, or if there be none in the State, then by delivering a copy thereof to any person in whose care or control the person may be, or with whom the person resides, or in whose service the person is employed, and or upon a natural person under the age of thirteen years by delivering a copy to the person's father, mother, or guardian, or if there be none in the State, then by delivering a copy thereof to the person in whose care or control the person may be.~~

(d)(2) Upon a natural person who is under the age of eighteen years by delivering a copy thereof to the person's father, mother, or guardian, or if there be none in the State, then by delivering a copy thereof to any person over the age of eighteen years in whose care or control the person may be. Delivery to the proper adult shall be as provided in subsection (d)(1) above.

SUGGESTION: To eliminate the personal service of process to a minor child between the ages of 13 to 17 years old and accept that service of process to a parent or guardian, is sufficient, for such a minor.

REASONS: When a minor child between the ages of 13 to 17 years old is sued, service of process MUST be made directly to the minor child, personally, AND to the minor child's parent or guardian, pursuant to this rule. This process is redundant and creates an unnecessary duplicate expense. The purpose of service of process is to provide adequate notice that a lawsuit has commenced, and an opportunity to be heard. A minor child's parent/guardian is not only responsible for the minor child, but in the best position to understand the pleadings, and explain to the minor, that Notice and an opportunity to be heard, has been given. The current rule is also against public policy as, a parent/guardian will present the Notice and opportunity to be heard, in a gentler and less intimidating manner than a stranger, serving legal papers directly to the minor without explanation, then walking away, especially if service of process is made through a uniformed Sheriff Deputy, ~~in uniform.~~ Finally, the demands of the current rule present significant security issues, in requiring a minor child to come to the door and face a stranger, or to be approached by a stranger at school or in any other public place where the minor can be found, to effectuate proper service of process.

COMMITTEE VOTE: FOR
~~AGAINST~~ UNANIMOUS

Proposed Change

RULE 305.5: ELECTRONIC FILING AND SERVICE

(n) Repealed. - *When a case is commenced under C.R.C.P. 303 through an E-Filing, the filing party shall enter into the E-filing system the last known addresses of all parties.*

NOTE: This subsection (n) was previously included in 305.5, but deleted during the transition from Lexis/Nexus to JPOD. This proposal simply adds it back in.

REASONS: If the Plaintiff does not enter the Defendants or other party's last-known address when filing a case through ICCES or File & Serve Express, either the court clerk must enter the address when accepting the case or the judicial officer must type in the address when issuing an order. Currently, the pleading may not be rejected by the clerk if the Plaintiff chooses not to enter the defendant's last-known address. Ex parte orders have issued because defendants' addresses have not been entered into JPOD or File & Serve Express. This presents ethical issues and access to justice issues. Typing addresses into the computer system is not an efficient use of a judicial officer's time.

COMMITTEE VOTE: UNANIMOUS

PROPOSED RULE CHANGES

C.R.C.P. Rule 403,

SECTION 7. FAILURE OF GARNISHEE TO ANSWER (ALL FORMS OF GARNISHMENT)

(a) Default Entered by Clerk of Court.

(1) If a garnishee, having been served with any form of writ provided for by this rule, fails to answer or pay any nonexempt earnings as directed within the time required, the clerk of the court shall enter a default against such garnishee upon request.

(2) No default shall be entered in an attachment against the garnishee until the expiration of 35 days after service of a writ of garnishment upon the garnishee.

(b) Procedure After Default of Garnishee.

(1) After a default is entered, the judgment creditor, plaintiff in attachment or any intervenor in attachment, may proceed with a notice to set a hearing before the court to prove the liability of the garnishee to the judgment debtor or defendant in attachment and *thereby to establish the liability of the garnishee to the plaintiff under the writ of garnishment.*

(2) If a garnishee is under subpoena to appear before the court for a hearing to prove such liability and such subpoena shall have been issued and served in accordance with C.R.C.P. 345 and shall fail to appear *at that hearing*, the court shall thereupon enter such sanctions as are just, including, but not limited to, contempt of court, issuance of a bench warrant, *judgment in favor of the plaintiff for the amount due and owing as claimed in the writ of garnishment*, reasonable attorney fees and/or the cost and expense of the judgment creditor, plaintiff in attachment or intervenor in attachment. *The subpoena shall include on its face a conspicuous notice to the garnishee of the sanctions that may be imposed under this rule for failure to appear.*

(3) Upon hearing, if the court finds the garnishee liable to the judgment debtor or defendant in attachment or in possession or control of personal property, *including money or deposits in the name of the judgment debtor or defendant in attachment at the time of service of the writ or during such time subsequent to the service of the writ of garnishment and before the time of the hearing, as such liability is then determined in accordance with the writ of garnishment:*

(A) The Court shall enter judgment in favor of the judgment debtor, or as applicable the plaintiff, or defendant in attachment;

(B) *If the garnishee is in possession of ~~personal property other than~~ monies or deposits, the court shall order the garnishee to deliver the monies or deposits to the judgment creditor's attorney or, if no attorney, to the judgment creditor. If the garnishee is in possession of personal property other than monies or deposits, the court shall order the garnishee to deliver the personal property to the sheriff to be sold as upon execution in the same manner as section 4(f)(2) of this rule. In addition, the court may enter any order necessary to protect the interests of the parties. Provided, however, in the event that the garnishee no longer has possession or control over the personal property, the court may either enter a judgment for the value of such property at the time of the service of the writ and/or enter any order necessary to protect the interests of the parties, or both.*

(4) At any hearing the court shall make such orders as to reasonable attorney's fees, costs and expenses of the parties to such hearing, as are just.

Reasons for proposed changes: The purpose of a garnishee liability hearing is to establish the garnishee's liability to the judgment debtor. Garnishees frequently fail to appear despite service of subpoenas. Under the current rules, the garnishee's failure to appear and provide proper documentation, prevents the court from determining garnishee's liability to the judgment debtor, and thus defeats the purpose of the hearing. The proposed rule change gives the court flexibility to determine appropriate sanctions against non-appearing garnishees, and thus promotes judicial economy. The proposed rule change also requires that judgment creditors provide notice to the garnishee of the possible sanctions for failing to appear.

COMMITTEE VOTE: UNANIMOUS

Rule 121. Local Rules – Statewide Practice Standards

(a) – (c) [NO CHANGE]

Section 1-1 – 1-11 [NO CHANGE]

Section 1-12

MATTERS RELATED TO DISCOVERY

1. Unless otherwise ordered by the court, reasonable notice for the taking of depositions pursuant to C.R.C.P. 30(b)(1) shall not be less than 7 days. Before serving a notice to take a deposition, counsel seeking the deposition shall make a good faith effort to schedule it by agreement at a time reasonably convenient and economically efficient to the proposed deponent and counsel for all parties. Prior to scheduling or noticing any deposition, all counsel shall confer in a good faith effort to agree on a reasonable means of limiting the time and expense of that deposition. Pending resolution of any motion pursuant to C.R.C.P. 26(c), the filing of the motion shall stay the discovery at which the motion is directed. If the court directs that any discovery motion under Rule 26(c) be made orally, then movant’s written notice to the other parties that a hearing has been requested on the motion shall stay the discovery to which the motion is directed.

2. – 4. [NO CHANGE]

5. Unless otherwise ordered, the court will not entertain any motion under Rule 37(a), C.R.C.P., unless counsel for the moving party has conferred or made reasonable effort to confer with opposing counsel concerning the matter in dispute before the filing of the motion. Counsel for the moving party shall file a certificate of compliance with this rule at the time the motion under Rule 37(a), C.R.C.P., is filed. If the court requires that any discovery motion be made orally, then movant must make a reasonable effort to confer with opposing counsel before requesting a hearing from the court.

COMMITTEE COMMENTS

1994

[1] Provisions of the practice standard are patterned in part after the local rule now in effect in the United States District Court for the District of Colorado. This practice standard specifies the minimum time for the serving of a notice to take deposition. Before serving a notice, however, counsel are required to make a good faith effort to schedule the deposition by agreement at a time reasonably convenient and economically efficient to the deponent and all counsel. Counsel are also required to confer in a good faith effort to agree on a reasonable means of limiting the time and expense of any deposition. The provisions of this Practice Standard are also designed to lessen paper mass/filing space problems and resolve various general problems related to discovery.

2015

[2] This rule was amended to address situations arising in courts that require oral discovery motions.

Section 1-13 – 1-14 [NO CHANGE]

Section 1-15

DETERMINATION OF MOTIONS

1. Motions and Briefs; When Required; Time for Serving and Filing – Length.

(a) Except motions during trial or where the court orders that certain or all non-dispositive motions be made orally~~deems an oral motion to be appropriate~~, any motions involving a contested issue of law shall be supported by a recitation of legal authority incorporated into the motion, which shall not be filed with a separate brief. except for a motion pursuant to C.R.C.P. 56. Motions or briefs in excess of 10 pages in length, exclusive of tables and appendices, are discouraged. Except for electronic filings made pursuant to Section 1-26 of this Rule, the original and one copy of all motions and briefs shall be filed with the court, and a copy served as required by law. Unless the court orders otherwise, motions and responsive briefs not under C.R.C.P. 12(b)(1) or (2), or 56 are limited to 15 pages (but not more than 4,000 words), and reply briefs to 10 pages (but not more than 2,500 words), not including the case caption, signature block, certificate of service and attachments. Unless the court orders otherwise, motions and responsive briefs under C.R.C.P. 12(b)(1) or (2) or 56 are limited to 25 pages (but not more than 6,500 words), and reply briefs to 15 pages (but not more than 4,000 words), not including the case caption, signature block, certificate of serve and attachments. All motions and briefs shall be double-spaced, except for footnotes and quotes.

(b) – (c) [NO CHANGE]

(d) A motion shall not be included in a response or reply to the original motion.

2. [NO CHANGE]

3. Effect of Failure to File Legal Authority. If the moving party fails to incorporate legal authority into ~~the motion or fails to file a brief with~~ a C.R.C.P. 56 motion, the court may deem the motion abandoned and may enter an order denying the motion. Failure of a responding party to file a responsive brief may be considered a confession of the motion.

4. Motions to Be Determined on Briefs, When Oral Argument Is Allowed; Motions Requiring Immediate Attention. ~~If possible, m~~Motions shall be determined promptly if possible. The ~~upon the written motion and briefs submitted. However, the~~ court has discretion to ~~may order briefing or set a oral argument or an evidentiary hearing, or if the request for oral argument or an evidentiary hearing is requested in a~~ on the motion, ~~or any brief, oral argument~~

~~may be allowed by the court at its discretion.~~ If possible, the court shall determine oral motions at the conclusion of the argument, but may take the motion under advisement or require briefing before ruling. Any motion requiring immediate disposition shall be called to the attention of the courtroom clerk by the party filing such motion.

5. Notification of Court's Ruling; Setting of Argument or Hearing When Ordered.

Whenever the court enters an order denying or granting a motion without a hearing, all parties shall be forthwith notified by the court of such order. If the court desires or authorizes oral argument or an evidentiary hearing, all parties shall be so notified by the court. After notification, it shall be the responsibility of the moving party to have the motion set for oral argument or hearing. Unless the court orders otherwise, ~~A~~a notice to set oral argument or hearing shall be filed in accordance with Practice Standard § 1-6 within 7 days of notification that oral argument or hearing is required or authorized.

6. – 11. [NO CHANGE]

COMMITTEE COMMENTS

1994

[1] This Practice Standard was necessary because of lack of uniformity among the districts concerning how motions were to be made, set and determined. The Practice Standard recognizes that oral argument and hearings are not necessary in all cases, and encourages disposition of motions upon written submissions. The standard also sets forth the uniform requirements concerning filing of legal authority, filing of matters not already of record necessary to determination of motions, and the manner of setting an oral argument if argument is permitted. The practice standard is broad enough to include all motions, including venue motions. Some motions will not require extended legal analysis or affidavits. Obviously, if the basis for a motion is simple and routine, the citation of authorities can be correspondingly simple. Motions or briefs in excess of 10 pages are discouraged.

[2] This standard specifies contemporaneous recitation of legal authority either in the motion itself for all motions except those under C.R.C.P. Rule 56. Moving counsel should confer with opposing counsel before filing a motion to attempt to work out the difference prompting the motion. Every motion must, at the beginning, contain a certification that the movant, in good faith, has conferred with opposing counsel about the motion. If there has been no conference, the reason why must be stated. To assist the court, if the relief sought by the motion has been agreed to or will not be opposed, the court is to be so advised in the motion.

[3] Paragraph 4 of the standard contains an important feature. Any matter requiring immediate action should be called to the attention of the courtroom clerk by the party filing a motion for forthwith disposition. Calling the urgency of a matter to the attention of the court is a responsibility of the parties. The court should permit a forthwith determination.

2014

[4] Paragraph 11 of the standard neither limits a trial court's discretion to modify an interlocutory order, on motion or sua sponte, nor affects C.R.M. 5(a).

2015

[5] The sentence in the 1994 comment that “motions or briefs in excess of 10 pages are discouraged” has been superseded by the 2015 amendments to the rule on the length of motions and briefs. The sentence in the 1994 comment that “moving counsel should confer with opposing counsel before filing a motion to attempt to work out the difference prompting the motion” is corrected to change the word “should” to “shall” to be consistent with the wording of the rule.

Rule 10. Form and Quality of Pleadings, Motions and Other Documents

(a) – (c) [**NO CHANGE**]

(d)(1) [**NO CHANGE**]

(2)(I) [**NO CHANGE**]

(II) Font: No less than twelve (12) point font shall be used for all documents, including footnotes.

(III) [**NO CHANGE**]

(3) **Spacing:** The following spacing guidelines should be followed.

(I) **Single spacing for all:**

Affidavits
Complaints, Answers, and Petitions
Criminal Informations and Complaints
Interrogatories and Requests for Admissions
Motions
Notices
Pleading forms (all case types)
Probation reports
All other documents not listed in subsection (II) below

(II) **Double spacing for all:**

Briefs and Legal Memoranda
Depositions
Documents that are complex or technical in nature

Jury Instructions

Motions

Petitions for Rehearing

Petitions for Writ of Certiorari

Petitions pursuant to C.A.R. 21

Transcripts

(4) [NO CHANGE]

(e) – (i) [NO CHANGE]

COMMENT

2001

[1] This rule sets forth forms of case captions for all documents that are filed in Colorado courts, including both criminal and civil cases. The purpose of the form captions is to provide a uniform and consistent format that enables practitioners, clerks, administrators, and judges to locate identifying information more efficiently. Judges are encouraged in their orders to employ a caption similar to that found in paragraph (e)(2).

[2] The preferred case caption format for documents initiated by a party is found in paragraph (e)(1). The preferred caption for documents issued by the court under the signature of a clerk or judge is found in paragraph (e)(2). Because some parties may have difficulty formatting their documents to include vertical lines and boxes, alternate case caption formats are found in paragraphs (f)(1) and (f)(2). However, the box format is the preferred and recommended format.

[3] The boxes may be vertically elongated to accommodate additional party and attorney information if necessary. The “court use” and “case number” boxes, however, shall always be located in the upper right side of the caption.

[4] Forms approved by the State Court Administrator's Office (designated “JDF” or “SCAO”), forms set forth in the Colorado Court Rules, volume 12, C.R.S. (including those designated “CRCP” or “CPC” and those contained in the appendices of volume 12, C.R.S.), and forms generated by the state's judicial electronic system, “ICON,” shall conform to criteria established by the State Court Administrator's Office as approved by the Colorado Supreme Court. This includes pre-printed and computer-generated forms. JDF and SCAO forms and a flexible form of caption which allows the entry of additional party and attorney information are available and can be downloaded from the Colorado courts web page at <http://www.courts.state.co.us/scao/Forms.htm>.

J. Jones
Suggin
to Jue(s)
Suggin
10/27/15

**Mandatory Disclosure
FORM 35.1**

[Reference to 16.2(e)(2). These disclosure forms are not to be filed with the court, except as may be ordered pursuant to C.R.C.P. 16.2]

Mandatory Disclosures. (Complete and accurate copies may replace originals. "Child(ren)" refers to minor child(ren) of both parties.)

Each party shall provide:

(a) Sworn Financial Statement. A completed and signed Sworn Financial Statement using the Supreme Court approved form (Form 35.2).

(b) Income Tax Returns (Most Recent 3 Years). The personal and business federal income tax returns for the three years before filing of the petition or post-decree motion. The business returns shall be for any business in which a party has an interest entitling the party to a copy of such returns. Each return shall include all schedules and attachments, such as W-2s, 1099s, and K-1. If a return is not completed at the time of disclosure, include the documents necessary to prepare the return, such as W-2s, 1099s, and K-1s, copies of extension requests, and the estimated amount of tax payments. If a decree has been entered within the last three years, only those returns filed since entry of the decree need be provided.

(c) Personal Financial Statements (Last 3 Years). All personal financial statements, statements of assets or liabilities, and credit or loan applications prepared during the last three years. If a decree has been entered within the last three years, only those statements/applications prepared since entry of the decree need be provided.

(d) Business Financial Statements (Last 3 Years). For every business in which a party has access to financial statements, the last three fiscal years' financial statements, all year-to-date financial statements, and the same periodic financial statements for the prior two years. If a decree has been entered within the last three years, only those statements prepared since entry of the decree need be provided.

(e) Real Estate Documents. The title documents and all documents stating value of all real property in which a party has a personal or business interest. This section shall not apply to post-decree motions unless so ordered by the Court.

(f) Personal Debt. All documents creating debt, and the most recent debt statements showing the outstanding balance and payment terms. This section shall not apply to post-decree motions unless so ordered by the Court.

(g) Investments. The most recent account statements or other documents identifying each investment in which a party has any personal or business interest, and stating its current value.

(h) Employment Benefits. The most recent account statements or other documents identifying each employment benefit of a party, and stating the current value.

(i) Retirement Plans. The most recent documents identifying each retirement plan of which a party is a beneficiary, and stating the current value, and the Summary Plan Descriptions. This section shall not apply to post-decree motions unless so ordered by the Court.

(j) Bank/Financial Institution Accounts. The most recent account statements identifying each account of a party at banks and other financial institutions, and stating the current value.

(k) Income Documentation. For each income source of a party in the current and prior calendar year, including income from employment, investment, government programs, gifts, trust distributions, prizes, and income from every other source, pay stubs, a current income statement, and the final income statement for the prior year. Each self-employed party shall provide a sworn statement of gross income, business expenses necessary to produce income, and net income for the three months before filing of the petition or post-decree motion.

(l) Employment and Education-Related Child Care Documentation. Any documents that show a party's average monthly employment-related child care expense, including child care expense related to the party's education and job search. This section shall apply only if child support is an issue.

(m) Insurance Documentation. All life, health, and property insurance policies and current documents that show beneficiaries, coverage, cost (including the portion payable to provide health insurance for child(ren)), and payment schedule. The section shall not apply to post-decree motions unless either so ordered by the Court ~~except in those cases in which~~ or, if child support is an issue, in which case the policy and cost information regarding the child(ren) shall be provided.

(n) Extraordinary Child(ren)'s Expense Documentation. All documents that show average monthly expense for all recurring extraordinary child(ren)'s expenses. This section shall apply only if child support is an issue.

~~(o) The~~ Unless so ordered by the Court, these mandatory disclosures above sections shall not apply to post-decree motions if that raise only issues of decision-making and parenting time ~~are the only issues unless so ordered by the Court.~~

REPORT OF THE C.R.C.P. 23/COLTAF SUBCOMMITTEE

The C.R.C.P. 23/COLTAF Subcommittee was charged with studying and making recommendations concerning a possible addition to C.R.C.P. 23 (pertaining to class actions), to permit disbursement of class action residual funds (if any and not otherwise directed) to the Colorado Lawyer Trust Fund Account Foundation (COLTAF). The request for the added rule came from the Colorado Bar Association (see attached joint letter from the CBA President and Chair of the Colorado Access to Justice Commission). The letter and Resolution (enclosed with the letter), were accompanied by a draft of the proposed C.R.C.P. 23 rule change. That draft was placed into appropriate form for study, discussion and disposition by the C.R.C.P. 23/COLTAF Subcommittee.

The Subcommittee met September 23, 2015. All members were present (one member present by telephone). The members of the Subcommittee are:

Frederick J. Baumann, Esq. (Chair of the Colorado Access to Justice Commission);

Diana Poole (Executive Director Legal Aid/COLTAF Foundation);

Damon J. Davis, Esq. (Attorney in Grand Junction and now a member of the Civil Rules Committee); and

Richard W. Laugesen, Esq. (Subcommittee Chair).

Jenny Moore, Esq. (Rules Research Attorney) was also present.

After discussion, the Subcommittee agreed (with one member abstaining) to the following addition of a new Section (g) to C.R.C.P. 23 [see attached redline and clean copies of the proposal].

The Subcommittee stands ready to answer any questions the Committee may have concerning the Subcommittee's dealing with the proposal and its recommendations.

Respectfully submitted,

Richard W. Laugesen
C.R.C.P. 23/COLTAF Subcommittee Chair

December 16 2013

The Honorable Michael L. Bender
Chief Justice
Colorado Supreme Court
Ralph Carr Justice Center
2 East 14th Avenue
Denver, CO 80203

James C. Coyle, Esq.
Regulation Counsel
Office of Attorney Regulation
Ralph Carr Justice Center
1300 Broadway, 5th floor
Denver, CO 80203

Dear Chief Justice Bender and Mr. Coyle:

Pursuant to the Court's Order of May 17, 2012, approving two emergency distributions to Colorado Legal Services (CLS) from attorney regulation funds, the Colorado Access to Justice Commission (ATJ Commission) and the Colorado Bar Association (CBA) have developed a plan to address CLS's long-term funding needs. This Plan and a proposed Resolution were presented to the CBA Executive Council on September 26, 2013. Following an extended discussion and several amendments to the Resolution, the Executive Council approved the Resolution, with one member abstaining. The CBA Board of Governors considered the Plan and the amended Resolution at its November 9, 2013 meeting. There, as you know, the Resolution passed unanimously after surviving two motions to amend, one related to the proposed comparability amendments to Rule 1.15 of the Colorado Rules of Professional Conduct and one related to the scope of the proposed discussion with the Court regarding a possible filing fee for contempt actions.

In accordance with the Resolution, which is attached, the CBA and the ATJ Commission respectfully forward the following recommendations to the Court for its consideration:

1. The CBA and the ATJ Commission recommend that \$20 of the attorney registration fees for attorneys active over three years in practice and \$10 of the registration fees for inactive attorneys under age 65 be dedicated to support access to civil justice in Colorado. It is further recommended that those funds be delivered to CLS on an annual basis to be used by CLS to provide legal assistance to low-income Coloradans in civil matters consistent with its purpose and mission.
2. The CBA and the ATJ Commission recommend the amendment of Section (1)(a)(iv) of Rule 221 of the Colorado Rules of Civil Procedure (re "Out-of-State Attorney – Pro Hac Vice Admission") to require payment of a fee of \$450 (rather than the \$300 currently required). It is further recommended that the additional \$150 be dedicated to support access to civil justice in Colorado, and that those funds be delivered to CLS on an annual basis to be used by CLS to provide legal assistance to low-income Coloradans in civil matters consistent with its purpose and mission.

3. The CBA and the ATJ Commission recommend the amendment of Rule 23 of the Colorado Rules of Civil Procedure (re “Class Actions”) to require that at least 50% of class action “residual funds” be disbursed to the Colorado Lawyer Trust Account Foundation (COLTAF) to be used by COLTAF to support the civil legal aid delivery system consistent with its purpose and mission. An initial draft of an amendment to Rule 23 is attached. The CBA and ATJ Commission are available and most willing to work with the Court, and/or whomever the Court might direct, to finalize an acceptable amendment to the current Rule.
4. The CBA and the ATJ Commission recommend the approval and adoption of the proposed amendments to Rule 1.15 of the Colorado Rules of Professional Conduct that would accomplish “interest rate comparability” for the COLTAF program. The amendments were approved by the Supreme Court’s Standing Committee on the Rules of Professional Conduct on October 11, 2013, and as we understand it, were mailed to the Court on November 25th for its consideration.

We would like to thank the Court for its interest in long-term funding solutions for CLS and, toward that end and in advance, for its consideration of these recommendations. We will be pleased to respond to any questions or requests for clarification or more information, and/or to assist the Court in any way moving forward.

We would also like to thank the Court for the steps it has taken already, and those it continues to take, to improve access to civil justice in Colorado, including (but certainly not limited to) the emergency distributions to CLS. The people of Colorado are fortunate to have a Supreme Court that is available, active, responsive, flexible and creative in expanding access to and enhancing the quality of justice in our state.

Thank you for your attention to these important initiatives.

Respectfully,



W. Terry Ruckriegel, President
Colorado Bar Association



Frederick J. Baumann, Chair
Colorado Access to Justice Commission

Enclosures

RESOLUTION

Approved by the Colorado Bar Association Board of Governors 11/9/13

WHEREAS, the Colorado Bar Association Board of Governors recognizes the significant contributions to the goal of ensuring equal access to the courts in the State of Colorado made by Colorado Legal Services ("CLS") and its predecessors for many years in providing representation to Colorado's indigent citizens in a wide variety of civil matters;

WHEREAS, over the past five years, CLS has experienced significant decreases in funding that have greatly limited its ability to carry out its mission;

WHEREAS, the Colorado Bar Association Board of Governors determines that the continued funding, operation and support of CLS is necessary to protect Colorado's indigent population, further the interests of Colorado attorneys and Colorado Bar Association members in just and efficient courts, and ensure access to equal justice within the Colorado legal system; and

WHEREAS, Colorado Supreme Court recently raised the attorney registration fees, a portion of which, if permanently dedicated to funding CLS, will help alleviate the short- and long-term financial crisis at CLS;

WHEREAS, Colorado Supreme Court has the authority to dedicate a portion of *pro hac vice* fees to funding CLS, thereby helping to alleviate the short- and long-term financial crisis at CLS;

WHEREAS, Colorado Supreme Court has the authority to amend C.R.Civ.P. Rule 23 to require that at least 50% of class action residual funds be disbursed to COLTAF; thereby helping to fund CLS and helping to alleviate the short- and long-term financial crisis at CLS;

WHEREAS, Colorado Supreme Court has the authority to amend Rule 1.15 of the Colorado Rules of Professional Conduct to require attorneys to maintain their COLTAF accounts in financial institutions that pay interest rates on COLTAF accounts that are comparable to other similarly-sized accounts; thereby helping to fund CLS and helping to alleviate the short- and long-term financial crisis at CLS;

WHEREAS, an amendment to Colorado's Unclaimed Property Act requiring that lawyer trust account funds presumed abandoned and subject to custody as unclaimed property under the Act be delivered to COLTAF to support Colorado's civil legal aid delivery system; thereby helping to fund CLS and helping to alleviate the short- and long-term financial crisis at CLS;

WHEREAS, the addition of a small surcharge to the various statutory filing fees for various civil actions will provide the permanent funding necessary to alleviate the short- and long-term financial crisis at CLS;

NOW THEREFORE, the Colorado Bar Association Board of Governors resolves that the Colorado Bar Association President provide a written request on behalf of the Colorado Bar Association that the Colorado Supreme Court:

1. Direct that \$20 of the attorney registration fees for attorneys active over three years in practice be dedicated to support access to justice, the proceeds of which are to be delivered to CLS;
2. Direct that \$10 of the attorney registration fees for inactive attorneys under age 65 be dedicated to support access to justice, the proceeds of which are to be delivered to CLS;
3. Authorize a \$150 surcharge on *pro hac vice* fees, the proceeds of which are to be delivered to CLS;
4. Approve and adopt an amendment to Rule 23 of the Colorado Rules of Civil Procedure to require that at least 50% of class action "residual funds" be disbursed to COLTAF; and
5. Approve and adopt an amendment to Rule 1.15 of the Colorado Rules of Professional Conduct to require attorneys to maintain their COLTAF accounts in financial institutions that pay interest rates on COLTAF accounts that are comparable to other similarly-sized accounts.

BE IT FURTHER RESOLVED, that the Colorado Bar Association President instruct the legislative affairs director of the Colorado Bar Association to lobby the Colorado State Legislature for the enactment of an amendment to Colorado's Unclaimed Property Act requiring that lawyer trust account funds presumed abandoned and subject to custody as unclaimed property under the Act be delivered to COLTAF to support Colorado's civil legal aid delivery system.

BE IT FURTHER RESOLVED, that the Colorado Bar Association leadership shall open a dialogue with the Colorado State Judicial Branch concerning:

1. Enactment of legislation providing for the addition of a surcharge providing permanent funding to CLS as follows:
 - a. County Court civil case filings - \$10;
 - b. County Court answers - \$10;
 - c. District Court complaints
(excluding foreclosures and tax liens) - \$20;
 - d. District Court answers - \$15;
 - e. Domestic Relations case filings - \$20;
 - f. Probate case filings - \$20;
 - g. Court of Appeals – Appellant/Petitioner - \$3;
 - h. Supreme Court Petitions in Certiorari
and Original Proceedings - \$5.
2. The creation of a \$75 filing fee for post-decree motions for contempt in domestic relations cases, the proceeds of which are to be delivered to CLS.

Draft Amendment to Rule 23 of the Colorado Rules of Civil Procedure

Following current paragraph (f) (re “Appeals”), add a new paragraph (g) as follows:

(g) Disposition of Residual Funds

(1) “Residual Funds” are funds that remain after the payment of all approved class member claims, expenses, litigation costs, attorneys’ fees, and other court-approved disbursements to implement the relief granted. Nothing in this rule is intended to limit the parties to a class action from suggesting, or the trial court from approving, a settlement that does not create residual funds.

(2) Any order, judgment, or approved settlement in a class action certified under this rule that establishes a process for identifying and compensating members of the class shall provide for the disbursement of residual funds. In matters where the claims process has been exhausted and residual funds remain, not less than fifty percent (50%) of the residual funds shall be disbursed to the Colorado Lawyer Trust Account Foundation (COLTAF) to support activities and programs that promote access to the civil justice system for low income residents of Colorado. The court may disburse the balance of any residual funds beyond the minimum percentage to COLTAF or to any other entity for purposes that have a direct or indirect relationship to the objectives of the underlying litigation or otherwise promote the substantive or procedural interests of members of the certified class.

Rule 23. Class Actions

(a) through (f) * * * * NO CHANGE.

(g) Disposition of Residual Funds. (1) “Residual Funds” are funds that remain after the payment of all approved class member claims, expenses, litigation costs, attorneys’ fees, and other court-approved disbursements to implement the relief granted. Nothing in this rule is intended to limit the parties to a class action from suggesting, or the trial court from approving, a settlement that does not create residual funds.

(2) Any order, judgment, or approved settlement in a class action certified under this rule that establishes a process for identifying and compensating members of the class shall provide for the disbursement of residual funds, if any. In matters where the claims process has been exhausted and residual funds remain, not less than fifty percent (50%) of the residual funds shall be disbursed to the Colorado Lawyer Trust Account Foundation (COLTAF) to support activities and programs that promote access to the civil justice system for low income residents of Colorado. The court may disburse the balance of any residual funds beyond the minimum percentage to COLTAF or to any other entity for purposes that have a direct or indirect relationship to the objectives of the underlying litigation or otherwise promote the substantive or procedural interests of members of the certified class.

Rule 23. Class Actions

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(2) Any order, judgment, or approved settlement in a class action certified under this rule that establishes a process for identifying and compensating members of the class shall provide for the disbursement of residual funds, if any. In matters where the claims process has been exhausted and residual funds remain, not less than fifty percent (50%) of the residual funds shall be disbursed to the Colorado Lawyer Trust Account Foundation (COLTAF) to support activities and programs that promote access to the civil justice system for low income residents of Colorado. The court may disburse the balance of any residual funds beyond the minimum percentage to COLTAF or to any other entity for purposes that have a direct or indirect relationship to the objectives of the underlying litigation or otherwise promote the substantive or procedural interests of members of the certified class.

TO: Judge Berger

FROM: Judge Webb

DATE: September __, 2015

RE: Possible change to C.R.M. 6

Unpublished Court of Appeals opinions involving actions of district court magistrates where consent is required have left me concerned that parties may not know their consent is required, consent will be implied from failure to file a written objection under C.R.M. 3(f)(1)(A)(ii), or both. The right to be heard by a district court judge is important. This right should not, in my view, be lost through ignorance.

For these reasons, I propose a new subsection to C.R.M. 5, possibly between (f) and (g):

In any proceeding where a district court magistrate may perform a function for which consent is required under C.R.M. 6, the notice of referral, setting, or hearing of the proceeding shall inform the parties that:

(1) All parties must consent to the proceeding being conducted by the magistrate, and

(2) Any party who fails to file a written objection within 14 days of the notice will be deemed to have consented.

To implement this approach, a new subsection C.R.M.

6(f) should be added:

A district court magistrate shall not perform any function for which consent is required under any provision of this Rule unless the notice of the referral, setting, or hearing of the proceeding before the magistrate complied with [cross reference to new subsection in Rule 5].

J. Keith Killian*
Damon J. Davis
Christopher H. Richter*
Nicholas W. Mayle

KILLIAN, DAVIS, RICHTER & MAYLE, PC

Daniel R. Robinson –
Erin Burke ▲
Andrew Petroski ▼•
James P. Guthro
Matt Parmenter ■
Joseph H. Azbell |



◆ Also admitted in Navajo Nation ● Attorneys admitted in New Mexico
All Attorneys admitted in Colorado | Also admitted in Wyoming

▲ Also admitted in California ▼ Also admitted in North Dakota and Minnesota
■ Also admitted in Massachusetts ■ Also admitted in Indiana and Illinois

www.killianlaw.com

March 24, 2015

Colorado Civil Rules Commmittee
Colorado Rules of Evidence Committee
c/o Jenny Moore
jenny.moore@judicial.state.co.us

RE: Form to ease use of C.R.E. 803(6), 902(11), and 902(12), including
disclosure of intent to use said rules

Dear Committee Members:

I am writing to encourage you to consider collaborating to draft a form for use with C.R.E. 803(6), 902(11), and 902(12), including disclosure of the intent to use these rules for the admission of documents. These rules allow a party to admit business records under the hearsay exception if the records are accompanied by an affidavit of a records custodian certifying the records fall within the hearsay exception. The rules also require disclosure of the intent to admit the records through an affidavit. A form easing the use of these rules would benefit both the bar and pro se parties, who often have difficulty admitting records.

My thought is a form would consist of three parts. First, there would be instructions on completion and use of the form. Second, would be an affidavit with blanks for the company name, description of the documents, and the like, which if completed and notarized would comply with C.R.E. 902(11) and (12). Third, would be a form disclosure that would indicate the intent to submit the records by affidavit, to which the affidavits would be attached. The disclosure could be a standalone document, part of the trial management order, or both. The form would apply in both district and county court. My thought is that the form would not be the exclusive means of complying with C.R.E. 902(11) and (12), but simply a way of complying.

Such a form would be of benefit to the bar. In my experience, some attorneys are still unaware of C.R.E. 902(11) and (12), and even if aware are resistant to the rules' use. A form would help publicize the rule to the bar and streamline its use. A form would be especially useful to pro se parties. Many pro se parties face difficulty in getting records admitted. Having a form will ease the process for them. It will also allow them to receive help from the self-represented litigant coordinators.

I am writing to both committees because this does not seem to be strictly an evidentiary issue. The rule has a disclosure component, which implicates the civil rules. Additionally, an records custodian affidavit is the type of document that is often obtained during the disclosure and discovery period. Lastly, for pro se parties, they often do not think about evidence

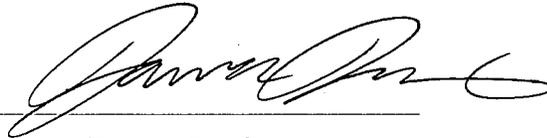
*Civil rules Committee
Rules of Evidence Committee
Re: Form for C.R.E. 902(11) and 902(12)
Monday, March 23, 2015
Page 2 of 2*

presentation until trial, if they think about it at all. Having a form within the civil rules, will hopefully prompt pro se parties to obtain the affidavit and disclose it in advance.

Thank you for taking the time to consider my letter. I am sure you have many other issues on your respective agendas. I hope you will consider the potential of the suggested form for use in Colorado.

Yours truly,

KILLIAN, DAVIS, Richter & Mayle, PC



Damon Davis

/DJD

cc: Hon. Michael Berger, Chair Civil Rules Committee: michael.berger@judicial.state.co.us
Hon. Gale Miller, Chair Rules of Evidence Committee: gale.miller@judicial.sate.co.us

June 16, 2015

Mike: At the last Civil Rules Committee meeting we briefly discussed my concept that a number of the Forms contained in the Appendix to Chapters 1-17A should be repealed, although not as much as was done by the Federal Civil Rules Committee. You asked that I submit a specific proposal. The following is my proposal. I have attached copies of the affected Forms for your and the Committee's information:

First, my thoughts on this were triggered by the complete repeal of Fed. R. Civ. P. 84 and its Forms. The federal advisory committee recommended abrogating Rule 84 after it had engaged in "significant efforts to gather information about how often the forms are used and whether they provide meaningful help to litigants."

When I looked over Colorado's Forms, a number of which were based on the federal Forms, it seemed to me that we had a number of forms which are rarely, if ever, used – although I could stand corrected if the judges on the Committee tell us that they regularly see pleadings that use the Colorado Forms. However, there are several unique Colorado Forms that do get regular usage. Thus, I do not propose abrogating our Rule 84, but rather I propose doing what has been done previously in some instances, which is to delete the language of the Form and replace it with the word "[REPEALED]". (See, e.g., Forms 20.2 and 21.)

I think my proposal is most easily considered in three parts: CAPP Rules and Forms; other Forms; and Form 20, Pattern Interrogatories.

1) CAPP – I recommend replacing the CAPP Rules and Forms with the word [REPEALED]. These are CAPP Rules with Appendices A, B and C, together with JDF Forms 600.5, 601, 603, 604, 634 and 635.

Given the Supreme Court's determination that CAPP will end as of June 30, 2015, I think this needs no further discussion.

2) Forms contained in the Appendix to Chapters 1-17A –

I have enclosed a list of all the forms indicating which ones I urge be repealed. I am *not* suggesting repeal of Forms 1, 1.1, 1.3, and 24-40. The Forms I suggest we repeal are:

1.2 – this is actually a CAPP impacted form (see first box under ¶ 2);

2-14 – these are all forms of complaints;

15 – Form of Rule 12 motions;

15A – certification of conferring;

16-17 – forms of answers;

18-19 – obscure motions;

21A-21B – Discovery forms;

22 – even more obscure allegation for complaint.

3) Form 20 – Pattern Interrogatories

More complex is the issue of Form 20, Pattern Interrogatories. Repealing this Form will also require repealing Rule 33(e).

Rule 33(e) provides as follows:

C.R.C.P. 33(e) – Pattern and Non-Pattern Interrogatories; Limitations. –
The pattern interrogatories set forth in the Appendix to Chapter 4, Form 20, are approved. Any pattern interrogatory and its subparts shall be counted as one interrogatory. Any subpart to a non-pattern interrogatory shall be considered as a separate interrogatory.

My major problems with this Form are (1) that it was prepared for use under the existing culture, of parties getting everything they *want*, and is inappropriate under the new culture of robust disclosure and then parties getting what else they *need*; (2) authorizing “cut and paste” interrogatories enables lawyers to ask questions without thinking about either the questions or the necessity of the subparts; (3) it encourages overbroad discovery; (4) it ignores the reality that interrogatories are a notoriously ineffective way to get meaningful material factual discovery; (5) answering overly broad interrogatories is time consuming and quite expensive; (6) at the very least, these kinds of questions are likely to raise numerous objections and disputes that may have to be resolved by the trial court; and (7) perhaps most problematic is how one is supposed to count these interrogatories to determine whether the propounded interrogatories are within or exceed the limits on interrogatories set out in Rule 26(b)(2)(B).

Without belaboring these concerns, take the following example:

18 year old son is driving Dad, Mom and his 13 year-old sister home from a dinner party; runs a stop sign and injures plaintiff. Dad and Mom in backseat and sister in front passenger seat suffer cuts and bruises. Son had nothing to drink and used no drugs or prescriptions in prior 24 hours. Dad had three whiskies, and uses Viagra as needed; Mom had a class of wine, takes Lipitor and uses a prescription estrogen replacement; sister had nothing to drink but is taking drugs to treat her schizophrenia.

Plaintiff propounds Pattern Interrogatory 2.13.

2.13 Within 24 hours before the INCIDENT , did you or any person involved in the INCIDENT use or take any of the following substances: alcoholic beverage, marijuana, or other drug or medication of any kind (prescription or not)?

If so, for each person state:

- (a) the name, ADDRESS , and telephone number;
- (b) the nature or description of each substance
- (c) the quantity of each substance used or taken;
- (d) the date and time of day when each substance was used or taken;

- (e) the ADDRESS where each substance was used or taken;
- (f) the name, ADDRESS , and telephone number of each person who was present when each substance was used or taken;
- (g) the name, ADDRESS , and telephone number of any HEALTH CARE PROVIDER that prescribed or furnished the substance and the condition for which it was prescribed or furnished.

At our last meeting we touched on the single most egregious Pattern Interrogatory – No. 15.1. In any kind of a reasonably complex business dispute with a relatively detailed complaint, of the kind we like to encourage, this request that defending parties state “all” facts, identify all knowledgeable persons, and identify all documents supporting the denial of any allegation including the identity of those possessing the documents, can and will never be fully answered.

The counting issue arises due to the unresolved issue (as far as I know) of whether Interrogatory 2.0 is one interrogatory with 2.1-2.13 as subparts (along with their own 36 individual sub-subparts), and thus all counted as part of one interrogatory? Or is each of Interrogatories 2.1-2.13 separate interrogatories to be counted separately if their boxes are checked? I have seen lawyers take both of those positions, and have heard of judges going both ways.

Dick

CIVIL ACCESS PILOT PROJECT

may thereafter accept a document in paper form and the court shall scan the document and upload it to the E-Service Provider. After notice to an attorney that all future documents are to be E-Filed, the court may charge a fee of \$50 per document for the service of scanning and uploading a document filed in paper form. Where E-Filing and E-Service are mandatory, the Chief Judge or appropriate judicial officer may exclude pro se parties from mandatory E-Filing requirements.

14. Relief in the Event of Technical Difficulties:

(a) Upon satisfactory proof that E-Filing or E-Service of a document was not completed because of: (1) an error in the transmission of the document to the E-System Provider which was unknown to the sending party; (2) a failure of the E-System Provider to process the E-Filing when received, or (3) other technical problems experienced by the filer or E-System Provider, the court may enter an order permitting the document to be filed nunc pro tunc to the date it was first attempted to be sent electronically.

(b) Upon satisfactory proof that an E-Served document was not received by or unavailable to a party served, the court may enter an order extending the time for responding to that document.

15. Form of Electronic Documents

(a) **Electronic Document Format, Size and Density.** Electronic document format, size, and density shall be as specified by Chief Justice Directive # 11-01.

(b) **Multiple Documents:** Multiple documents (including proposed orders) may be filed in a single electronic filing transaction. Each document (including proposed orders) in that filing must bear a separate document title.

(c) **Proposed Orders:** Proposed orders shall be E-Filed in editable format. Proposed orders that are E-Filed in a non-editable format shall be rejected by the Court Clerk's office and must be resubmitted.

Committee Comment

The Court authorized service provider for the program is the Integrated Colorado Courts E-Filing System (www.jbits.courts.state.co.us/icces/). "Editable Format" is one which is subject to modification by the court using standard means such as Word or WordPerfect format.

C.R.C.P. 77 provides that courts are always open for business. This Practice Standard is intended to comport with that rule.

Rule 121(a) and (b) amended and renumbered as (b) and (c) and new (a) adopted eff. as to cases filed on and after April 1, 1988. Secs. 1-8, 1-9, 1-11, 1-16, 1-22 adopted eff. July 1, 1983; Secs. 1-15, 1-18 amended eff. July 1, 1983; Sec. 1-6 amended eff. Aug. 1, 1983; Sec. 1-19 adopted eff. Aug. 1, 1983; Sec. 1-21 adopted eff. Jan. 1, 1984; Sec. 1-20 adopted eff. April 1, 1984; Sec. 1-23 adopted eff. Sept. 1, 1984; Secs. 1-17, 1-18 amended eff. as to cases filed on and after April 1, 1988; Sec. 1-3 amended eff. Sept. 1, 1990; Secs. 1-15, 1-20 amended eff. Sept. 6, 1990; Sec. 1-25 adopted eff. Sept. 6, 1990; Secs. 1-15, 1-20, 1-22 amended eff. Oct. 1, 1992; Sec. 1-20 amended eff. July 1, 1994; Secs. 1-11, 1-12, 1-15, 1-19 amended April 14, 1994; eff. Jan. 1, 1995, for all cases on or after that date; Sec. 1-1 Comment amended eff. July 1, 1999; Sec. 1-26 adopted eff. March 7, 2000; Sec. 1-26 amended eff. April 17, 2003; Sec. 1-17 amended Sept. 30, 2004, eff. for Domestic Relations Cases as defined in 16.2(a) filed on or after Jan. 1, 2005, and for post-decree motions filed on or after Jan. 1, 2005; Secs. 1-1, 1-2, 1-13, 1-14, 1-15, 1-16, 1-20, 1-21, 1-23, 1-26 amended and adopted Oct. 20, 2005, eff. Jan. 1, 2006. Sec. 1-15 amended eff. June 28, 2007. Sec. 1-15 corrected eff. Nov. 5, 2007. Sec. 1-15 amended eff. Oct. 12, 2009. Sec. 1-1 amended eff. Jan. 7, 2010. Sec. 1-1 amended eff. Oct. 20, 2011. Secs. 1-1, 1-10, 1-12, 1-15, 1-16, 1-22, 1-23, 1-26 amended eff. Jan. 1, 2012. Sec. 1-15 amended eff. Feb. 29, 2012. Sec. 1-26 amended eff. June 21, 2012; Sec. 1-26 amended eff. May 9, 2013; Sec. 1-15 amended eff. June 7, 2013; Secs. 1-15, 1-26 amended eff. Dec. 31, 2013; Sec. 1-15 amended eff. Sept. 18, 2014.

CIVIL ACCESS PILOT PROJECT

PILOT PROJECT RULE

1. SCOPE.
2. PLEADINGS—FORM AND CONTENT.
3. PLEADINGS AND INITIAL DISCLOSURES.
4. MOTION TO DISMISS.
5. SINGLE JUDGE.
6. PRESERVATION OF RELEVANT DOCUMENTS AND THINGS.
7. CASE MANAGEMENT CONFERENCES.
8. ONGOING ACTIVE CASE MANAGEMENT.
9. DISCOVERY.
10. EXPERT DISCOVERY.
11. COSTS AND SANCTIONS.

App.

- A. ACTIONS IN THE COLORADO CIVIL ACCESS PILOT PROJECT.
- B. FORM FOR INITIAL CASE MANAGEMENT CONFERENCE JOINT REPORT OF THE PARTIES.
- C. FORM FOR DISCLOSURE OF EXPERT WITNESS(ES).

Form

- JDF 600.5. SUMMONS COLORADO CIVIL ACCESS PILOT PROJECT FOR BUSINESS ACTIONS.
- JDF 601. DISTRICT COURT CIVIL (CV) CASE COVER SHEET FOR INITIAL PLEADING

CIVIL ACCESS PILOT PROJECT

Form
JDF 603. OF COMPLAINT, COUNTERCLAIM, CROSS-CLAIM OR THIRD PARTY COMPLAINT.
INSTRUCTIONS TO COMPLETE DISTRICT CIVIL (CV) CASE COVER SHEET JDF 601 FOR INITIAL PLEADING OF COMPLAINT, COUNTERCLAIM, CROSS-CLAIM, OR THIRD PARTY COMPLAINT.

Form
JDF 604. NOTICE AND ORDER TO FILE JDF 601 DISTRICT COURT CIVIL CASE COVER SHEET.
JDF 634. COLORADO CIVIL ACCESS PILOT PROJECT INITIAL CASE MANAGEMENT CONFERENCE JOINT REPORT OF THE PARTIES (CJD 11-02, APPENDIX B).
JDF 635. COLORADO CIVIL ACCESS PILOT PROJECT FOR DISCLOSURE OF EXPERT WITNESS[ES].

Editorial Note

The Civil Access Pilot Project was scheduled to be a two year pilot and applied to all applicable cases filed in the pilot district up to December 31, 2013 or until further order of the court. The Supreme Court extended the effective date of these rules until December 31, 2014, or until further order of the court, by order dated June 26, 2013; and until June 30, 2015, or until further order of the court, by order dated July 11, 2014. The Court adopted these rules effective January 1, 2012 for use in the First (Jefferson and Gilpin Counties), Second (Seventeenth (Adams County), and Eighteenth (Arapahoe County) Judicial Districts. These rules apply to the cases described in Amended Appendix A.

PILOT PROJECT RULE 1. SCOPE

1.1. These Rules ("PPR") govern all pretrial process in all actions filed after January 1, 2012 that are part of the pilot project. They will be applied only to business actions as defined in Appendix A. Inclusion in the pilot project will be determined based on the contents of the complaint at the commencement of the action.

1.2. The PPR are not meant to be a complete set of rules. The Colorado Rules of Civil Procedure ("CRCP") will govern except to the extent that there is an inconsistency, in which case the PPR will take precedence.

1.3. At all times, the court and the parties shall address the action in ways designed to assure that the process and the costs are proportionate to the needs of the case. The proportionality factors include, for example and without limitation: amount in controversy, and complexity and importance of the issues at stake in the litigation. This proportionality rule is fully applicable to all discovery, including the discovery of electronically stored information. This proportionality rule shall shape the process of the case in

order to achieve a just, timely, efficient and cost effective determination of all actions:

1.4. Continuances and extensions are strongly disfavored. Absent extraordinary circumstances, motions for continuances or extensions will be denied by the court upon receipt and without waiting for a response. Stipulated motions by the parties to continue or extend are not binding on the court and parties should assume the motion will be denied.

Adopted eff. Jan. 1, 2012.

PILOT PROJECT RULE 2. PLEADINGS— FORM AND CONTENT

2.1. The intent of PPR 2 is to utilize the pleadings to identify and narrow the disputed issues at the earliest stages of litigation and thereby focus the discovery.

2.2. The party that bears the burden of proof with respect to any claim or affirmative defense should plead all material facts that are known to that party that support that claim or affirmative defense and each remedy sought, including any known monetary damages.

2.3. Any statement of fact that is not denied with specificity in any responsive pleading is deemed admitted. General denials of any statement of fact are not permitted and a denial that is based on the lack of knowledge or information shall be so pleaded.

Adopted eff. Jan. 1, 2012.

PILOT PROJECT RULE 3. PLEADINGS AND INITIAL DIS- CLOSURES

3.1. No later than 21 days after service of a pleading making a claim for relief, the pleading party shall file with the court a statement listing all persons with information related to the claims and a brief description of the information each such individual is believed to possess, whether the information is supportive or harmful. The statement shall also include a certification that the party has available for inspection and

APPENDIX TO CHAPTERS 1 to 17A. FORMS

Table of Forms

Form	Form	Form
1. DISTRICT COURT CIVIL SUMMONS.	21.	REQUESTS FOR ADMISSION UNDER RULE 36 [REPEALED].
1.1. SUMMONS BY PUBLICATION.	21A.	MOTION FOR PRODUCTION OF DOCUMENTS, ETC., UNDER RULE 34.
1.2. DISTRICT COURT CIVIL (CV) CASE COVER SHEET FOR INITIAL PLEADING OF COMPLAINT, COUNTERCLAIM, CROSS-CLAIM OR THIRD PARTY COMPLAINT.	21B.	REQUEST FOR ADMISSION UNDER RULE 36.
1.3. NOTICE TO ELECT EXCLUSION FROM C.R.C.P. 16.1 SIMPLIFIED PROCEDURE.	21.2.	PATTERN REQUESTS FOR PRODUCTION OF DOCUMENTS (DOMESTIC RELATIONS) [REPEALED].
2. ALLEGATION OF JURISDICTION (for cases in the County Court).	22.	ALLEGATION OF REASON FOR OMITTING PARTY.
3. COMPLAINT ON A PROMISSORY NOTE.	23.	AFFIDAVIT, WRIT OF GARNISHMENT AND INTERROGATORIES (RULE 103) [REPEALED].
4. COMPLAINT ON AN ACCOUNT.	24.	WRIT OF ASSISTANCE—PETITION FOR.
5. COMPLAINT FOR GOODS SOLD AND DELIVERED.	25.	REQUEST FOR PRODUCTION OF DOCUMENTS, ETC., UNDER RULE 34 [DELETED].
6. COMPLAINT FOR MONEY LENT.	26.	WRIT OF CONTINUING GARNISHMENT.
7. COMPLAINT FOR MONEY PAID BY MISTAKE.	27.	CALCULATION OF THE AMOUNT OF EXEMPT EARNINGS.
8. COMPLAINT FOR MONEY HAD AND RECEIVED.	28.	OBJECTION TO CALCULATION OF THE AMOUNT OF EXEMPT EARNINGS.
9. COMPLAINT FOR NEGLIGENCE.	29.	WRIT OF GARNISHMENT WITH NOTICE OF EXEMPTION AND PENDING LEVY.
10. COMPLAINT FOR NEGLIGENCE WHERE PLAINTIFF IS UNABLE TO DETERMINE DEFINITELY WHETHER THE PERSON RESPONSIBLE IS C. D. OR E. F. OR WHETHER BOTH ARE RESPONSIBLE AND WHERE HIS EVIDENCE MAY JUSTIFY A FINDING OF WILFULNESS OR OF RECKLESSNESS OR OF NEGLIGENCE.	30.	CLAIM OF EXEMPTION TO WRIT OF GARNISHMENT WITH NOTICE.
11. COMPLAINT FOR CONVERSION.	31.	WRIT OF GARNISHMENT FOR SUPPORT.
12. COMPLAINT FOR SPECIFIC PERFORMANCE OF CONTRACT TO CONVEY LAND.	32.	WRIT OF GARNISHMENT—JUDGMENT DEBT OR OTHER THAN NATURAL PERSON.
13. COMPLAINT ON CLAIM FOR DEBT AND TO SET ASIDE FRAUDULENT CONVEYANCE UNDER RULE 18(b).	33.	WRIT OF GARNISHMENT IN AID OF WRIT OF ATTACHMENT.
14. COMPLAINT FOR INTERPLEADER AND DECLARATORY RELIEF.	34.	NOTICE OF LEVY.
15. MOTION TO DISMISS, PRESENTING DEFENSES OF FAILURE TO STATE A CLAIM, AND OF LACK OF SERVICE OF PROCESS.	35.1.	MANDATORY DISCLOSURE.
16. ANSWER PRESENTING DEFENSES UNDER RULE 12(b).	35.2.	SWORN FINANCIAL STATEMENT.
17. ANSWER TO COMPLAINT SET FORTH IN FORM 8, WITH COUNTERCLAIM FOR INTERPLEADER.	35.3.	SUPPORTING SCHEDULES (SWORN FINANCIAL STATEMENT).
18. MOTION TO BRING IN THIRD-PARTY DEFENDANT.	35.4.	PATTERN INTERROGATORIES (DOMESTIC RELATIONS).
19. MOTION TO INTERVENE AS A DEFENDANT UNDER RULE 24.	35.5.	PATTERN REQUESTS FOR PRODUCTION OF DOCUMENTS (DOMESTIC RELATIONS).
20. PATTERN INTERROGATORIES UNDER RULE 33.	36.	NOTICE OF WITHDRAWAL AS ATTORNEY OF RECORD.
20.2. PATTERN INTERROGATORIES (DOMESTIC RELATIONS) [REPEALED].	37.	DISTRICT COURT SUBPOENA TO ATTEND OR ATTEND AND PRODUCE OR PRODUCE.
	38.	NOTICE TO SUBPOENA RECIPIENTS.
	39.	COUNTY COURT SUBPOENA TO ATTEND OR ATTEND AND PRODUCE.
	40.	COMPLAINT FOR REVIEW OF ADMINISTRATIVE ACTION OF THE COLORADO DEPARTMENT OF CORRECTIONS PURSUANT TO C.R.C.P. 106.5.

Introductory Statement.

1. The following forms are intended for illustration only. They are limited in number. No attempt is made to furnish a manual of forms.

2. Except w below. Each c used. See the : use a form of c should omit the pending, where and in the capti first party on b and 10(a).

3. When the in Form 2 below

4. Each for represented by plaintiff's addre

5. An adder computer-gene

6. Forms of

Repeat

FORM 1.2. DISTRICT COURT CIVIL (CV) CASE COVER SHEET FOR INITIAL PLEADING OF COMPLAINT, COUNTERCLAIM, CROSS-CLAIM OR THIRD PARTY COMPLAINT

District Court _____ County, Colorado		
Court Address:		
Plaintiff(s):		▲ COURT USE ONLY ▲
v. Defendant(s):		
Attorney or Party Without Attorney (Name and Address):		Case Number:
Phone Number:	E-mail:	Division: Courtroom
FAX Number:	Atty. Reg. #:	
DISTRICT COURT CIVIL (CV) CASE COVER SHEET FOR INITIAL PLEADING OF COMPLAINT, COUNTERCLAIM, CROSS-CLAIM OR THIRD PARTY COMPLAINT.		

1. This cover sheet shall be filed with each pleading containing an initial claim for relief in every district court civil (CV) case, and shall be served on all parties along with the pleading. It shall not be filed in Domestic Relations (DR), Probate (PR), Water (CW), Juvenile (JA, JR; JD; JV), or Mental Health (MH) cases. Failure to file this cover sheet is not a jurisdictional defect in the pleading but may result in a clerk's show cause order requiring its filing.

2. Check one of the following:

- This case is governed by Chief Justice Directive ("CJD") 11-02 and the "Colorado Civil Access Pilot Project Rules Applicable to Business Actions in District Court" because:
- The case is filed within the period of January 1, 2012 through June 30, 2015; AND
 - The case is filed in a Pilot Project participating jurisdiction (Adams County, Arapahoe County, Denver County, Gilpin County, or Jefferson County); AND
 - The case is a "Business Action" as defined in CJD 11-02, Amended Appendix A for inclusion in the Pilot Project.
- This case is not governed by the Colorado Civil Access Pilot Project Rules.

NOTE: Cases subject to the Colorado Civil Access Pilot Project must be governed by the Rules in CJD 11-02 (available at http://www.courts.state.co.us/Courts/Supreme_Court/Directives/Index.cfm). The presiding judge will review Item 2 for accuracy. The designation on this initial Cover Sheet will control unless the Court orders otherwise.

3. If this case is not governed by the Colorado Civil Access Pilot Project Rules as indicated in Item 2, check the following:

- This case is governed by C.R.C.P. 16.1 because:
- The case is not a class action, domestic relations case, juvenile case, mental health case, probate case, water law case, forcible entry and detainer, C.R.C.P. 106, C.R.C.P. 120, or other similar expedited proceeding; AND

APPENDIX OF FORMS

Form 1.2

A monetary judgment over \$100,000 is not sought by any party against any other single party. This amount includes attorney fees, penalties, and punitive damages; it excludes interest and costs, as well as the value of any equitable relief sought.

This case is not governed by C.R.C.P. 16.1 because (check ALL boxes that apply):

The case is a class action, domestic relations case, juvenile case, mental health case, probate case, water law case, forcible entry and detainer, C.R.C.P. 106, C.R.C.P. 120, or other similar expedited proceeding.

A monetary judgment over \$100,000 is sought by any party against any other single party. This amount includes attorney fees, penalties, and punitive damages; it excludes interest and costs, as well as the value of any equitable relief sought.

NOTE: In any case to which C.R.C.P. 16.1 does not apply, the parties may elect to use the simplified procedure by separately filing a Stipulation to be governed by the rule within 49 days of the at-issue date. See C.R.C.P. 16.1(e). In any case to which C.R.C.P. 16.1 applies, the parties may opt out of the rule by separately filing a Notice to Elect Exclusion (JDF 602) within 35 days of the at-issue date. See C.R.C.P. 16.1(d).

A Stipulation or Notice with respect to C.R.C.P. 16.1 has been separately filed with the Court, indicating:

C.R.C.P. 16.1 applies to this case.

C.R.C.P. 16.1 does not apply to this case.

4. This party makes a Jury Demand at this time and pays the requisite fee. See C.R.C.P. 38. (Checking this box is optional.)

Date: _____

Signature of Party or Attorney for Party

FORM 2. ALLEGATION OF JURISDICTION (for cases in the County Court)

1. That the amount (or value of the property) involved herein does not exceed _____ dollars.

FORM 3. COMPLAINT ON A PROMISSORY NOTE

1. Defendant on or about (date), executed and delivered to plaintiff a promissory note (in the following words and figures: (here set out the note verbatim)); (a copy of which is hereto annexed as Exhibit A); (whereby defendant promised to pay to plaintiff or order on (date), the sum of _____ dollars with interest thereon at the rate of _____ percent per annum).

2. Defendant owes to plaintiff the amount of said note and interest.

Wherefore plaintiff demands judgment against defendant for the amount of the note, interest, and costs.

Signed: _____ Attorney for Plaintiff.

Address of Plaintiff: _____

Amended eff. Jan. 1, 1988; July 10, 2000.

NOTES

1. The pleader may use the material in one of the three sets of brackets. His choice will depend upon whether he desires to plead the document verbatim, or by exhibit, or according to its legal effect.

2. Under the rules free joinder of claims is permitted. See Rules 8(e) and 18. Consequently the claims set forth in each and all of the following forms may be joined with this complaint or with each other. Ordinarily each claim should be stated in a separate division of the complaint, and the divisions should be designated as counts successively numbered. In particular the rules permit alternative and inconsistent pleading. See Form 10.

3. On complaint and answer, address of parties must be furnished. See Rule 11, C.R.C.P. and C.A.R. 3(d).

FORM 4. COMPLAINT ON AN ACCOUNT

Defendant owes plaintiff _____ dollars according to the account hereto annexed as Exhibit A.

Wherefore (etc. as in Form 3).

FORM 5. COMPLAINT FOR GOODS SOLD AND DELIVERED

Defendant owes plaintiff _____ dollars for goods sold and delivered by plaintiff to defendant between (date) and (date).

Wherefore (etc. as in Form 3).

Amended eff. July 10, 2000.

NOTE

This form may be used either where the action is for an agreed price or where it is for the reasonable value of the goods.

FORM 6. COMPLAINT FOR MONEY LENT

Defendant owes plaintiff _____ dollars for money lent by plaintiff to defendant on (date).

Wherefore (etc. as in Form 3).

Amended eff. July 10, 2000.

FORM 7. COMPLAINT FOR MONEY PAID BY MISTAKE

Defendant owes plaintiff _____ dollars for money paid by plaintiff to defendant by mistake on (date), under the following circumstances: (here state the circumstances with particularity—see Rule 9(b)).

Wherefore (etc. as in Form 3).

Amended eff. July 10, 2000.

Repeal

FORM 8. COMPLAINT FOR MONEY HAD AND RECEIVED

Defendant owes plaintiff _____ dollars for money had and received from one G. H. on (date), to be paid by defendant to plaintiff.

Wherefore (etc. as in Form 3).

Amended eff. July 10, 2000.

FORM 9. COMPLAINT FOR NEGLIGENCE

Repeat

1. On (date), in a public highway called Broadway Street in Denver, Colorado, defendant negligently drove a motor vehicle against plaintiff who was then crossing said highway.

2. As a result plaintiff was thrown down and had his leg broken and was otherwise injured, was prevented from transacting his business, suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization in the sum of _____ dollars.

Wherefore plaintiff demands judgment against defendant in the amount established by the evidence, interest and costs.

Amended eff. Jan. 1, 1988; July 10, 2000.

NOTE

Since contributory negligence is an affirmative defense, the complaint need contain no allegation of due care of plaintiff.

Repeal

FORM 10. COMPLAINT FOR NEGLIGENCE WHERE PLAINTIFF IS UNABLE TO DETERMINE DEFINITELY WHETHER THE PERSON RESPONSIBLE IS C. D. OR E. F. OR WHETHER BOTH ARE RESPONSIBLE AND WHERE HIS EVIDENCE MAY JUSTIFY A FINDING OF WILFULNESS OR OF RECKLESSNESS OR OF NEGLIGENCE

County Court District Court
County, Colorado

Court Address:

A.B.,
Plaintiff:
v.
C.D. and E.F.,
Defendant:

▲ COURT USE ONLY ▲

Attorney or Party Without Attorney (Name and Address):

Case Number:

Phone Number:
FAX Number:

E-mail:
Atty. Reg. #:

Division: Courtroom:

COMPLAINT

1. On (date), in a public highway called Broadway Street, in Denver, Colorado, defendant C. D. or defendant E. F., or both defendants C. D. and E. F. willfully or recklessly or negligently drove or caused to be driven a motor vehicle against plaintiff who was then crossing said highway.

2. As a result plaintiff was thrown down and had his leg broken and was otherwise injured, was prevented from transacting his business, suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization in the sum of _____ dollars.

Wherefore plaintiff demands judgment against C. D. or against E. F. or against both in the amount established by the evidence, interest and costs.

Amended eff. Jan. 1, 1988; July 1, 2000; July 10, 2000.

Publishers Note: Please see introductory statement preceding Form 1.

FORM 11. COMPLAINT FOR CONVERSION

1. On or about (date), defendant converted to his own use ten bonds of the _____ Company (here insert brief identification as by number and issue) of the value of _____ dollars, the property of plaintiff.

Wherefore plaintiff demands judgment against defendant in the amount established by the evidence, interest, and costs:

Amended eff. Jan. 1, 1988; July 10, 2000.

Repeal

FORM 12. COMPLAINT FOR SPECIFIC PERFORMANCE OF CONTRACT TO CONVEY LAND

1. On or about (date), plaintiff and defendant entered into an agreement in writing a copy of which is hereto annexed as Exhibit A.

2. In accordance with the provisions of said agreement plaintiff tendered to defendant the purchase price and requested a conveyance of the land, but defendant refused to accept the tender and refused to make the conveyance.

3. Plaintiff now offers to pay the purchase price.

Wherefore plaintiff demands: (1) That defendant be required specifically to perform said agreement; (2) damages as established by the evidence; and (3) that if specific performance is not granted plaintiff have judgment against defendant for the value of the property, interest and costs.

Amended eff. Jan. 1, 1988; July 10, 2000.

NOTE

Here, as in Form 3, plaintiff may set forth the contract verbatim in the complaint or plead it, as indicated, by exhibit, or plead it according to its legal effect.

FORM 13. COMPLAINT ON CLAIM FOR DEBT AND TO SET ASIDE FRAUDULENT CONVEYANCE UNDER RULE 18(b)

County Court District Court
County, Colorado

Court Address:

A.B.,
Plaintiff:
v.
C.D. and E.F.,
Defendants:

Repeal

▲ COURT USE ONLY ▲

Attorney or Party Without Attorney (Name and Address):

Case Number:

Phone Number:
FAX Number:

E-mail:
Atty. Reg. #:

Division:

Courtroom:

COMPLAINT

1. Defendant C. D. on or about _____ executed and delivered to plaintiff a promissory note (in the following words and figures: [here set out the note verbatim]); (a copy of which is hereto annexed as Exhibit A); (whereby defendant C. D. promised to pay to plaintiff or order on _____ the sum of _____ dollars with interest thereon at the rate of _____ percent per annum).

2. Defendant C. D. owes to plaintiff the amount of said note and interest.

3. Defendant C. D. on or about _____ conveyed all his property, real and personal (or specify and describe) to defendant E. F. for the purpose of defrauding plaintiff and hindering and delaying the collection of the indebtedness evidenced by the note above referred to.

Wherefore plaintiff demands: (1) That plaintiff have judgment against defendant C. D. for the amount established by the evidence; (2) that the conveyance to defendant E. F. be declared void and the judgment herein be declared a lien on said property; and (3) that plaintiff have judgment against the defendants for interest and costs.

Amended eff. Jan. 1, 1988; July 1, 2000.

Publishers Note: Please see introductory statement preceding Form 1.

FORM 14. COMPLAINT FOR INTERPLEADER AND DECLARATORY RELIEF

1. On or about (date), plaintiff issued to G. H. a policy of life insurance whereby plaintiff promised to pay to K. L. as beneficiary the sum of _____ dollars upon the death of G. H. The policy required the payment by G. H. of a stipulated premium on (date), and annually thereafter as a condition precedent to its continuance in force.

2. No part of the premium due (date), was ever paid and the policy ceased to have any force or effect on (date).

3. Thereafter, on (date), G. H. and K. L. died as the result of a collision between a locomotive and the automobile in which G. H. and K. L. were riding.

4. Defendant C. D. is the duly appointed and acting executor of the will of G. H.; defendant E. F. is the duly appointed and acting executor of the will of K. L.; defendant X. Y. claims to have been duly designated as beneficiary of said policy in place of K. L.

5. Each of defendants, C. D., E. F., and X. Y. is claiming that the above-mentioned policy was in full force and effect at the time of the death of G. H.; each of them is claimed to be the only person entitled to receive payment of the amount of the policy and has made demand for payment thereof.

6. By reason of these conflicting claims of the defendants, plaintiff is in great doubt as to which defendant is entitled to be paid the amount of the policy, if it was in force at the death of G. H.

Wherefore plaintiff demands that the court adjudge:

1. That none of the defendants is entitled to recover from plaintiff the amount of said policy or any part thereof.

2. That each of the defendants be restrained from instituting any action against plaintiff for the recovery of the amount of said policy or any part thereof.

3. That, if the court shall determine that said policy was in force at the death of G. H., the defendants be required to interplead and settle between themselves their rights to the money due under said policy, and that plaintiff be discharged from all liability in the premises except to the person whom the court shall adjudge entitled to the amount of said policy.

4. That plaintiff recover its costs.

Amended eff. July 10, 2000.

FORM 15. MOTION TO DISMISS, PRESENTING DEFENSES OF FAILURE TO STATE A CLAIM, AND OF LACK OF SERVICE OF PROCESS

The defendant moves the court as follows:

Repeal

1. To dismiss the action because the complaint fails to state a claim against defendant upon which relief can be granted.

2. To dismiss the action or in lieu thereof to quash the return of service of summons on the ground: (here state reasons, such as, (a) that the defendant is a corporation organized under the laws of Delaware and was not and is not subject to service of process within the State of Colorado; (b) that the defendant has not been properly served with process in this action, all of which more clearly appears in the affidavits of M. N. and X. Y. hereto annexed as Exhibit A and Exhibit B respectively; (c) etc.).

3. To dismiss the action on the ground: (here state the same.)

Signed: _____
Attorney for Defendant

Notice of Motion

To: _____
Attorney for Plaintiff.

Please take notice that on the _____ day of _____, 20____, the undersigned will apply to the court to set the attached motion for hearing (or to hear the attached motion forthwith).

Signed: _____
Attorney for Defendant

Received a copy of the within notice and motion at the City and County of Denver, Colorado, this _____ day of _____, 20____, at the hour of ____M.

Attorney for Plaintiff

Amended eff. July 10, 2000.

FORM 15A. CERTIFICATION OF CONFERRING [as required by
C.R.C.P. 121 § 1-15 ¶ 8]

Repeal

* C.R.C.P. 121 § 1-15 ¶ 8 Certification: Plaintiff's counsel has conferred in good faith with Defendant's counsel about this Motion. Defendant's counsel [opposes] [does not oppose] the relief requested in this motion.

Adopted eff. July 10, 2000.

FORM 16. ANSWER PRESENTING DEFENSES UNDER RULE 12(b)

Repeal

First Defense

The complaint fails to state a claim against defendant upon which relief can be granted.

Second Defense

If defendant is indebted to plaintiffs for the goods mentioned in the complaint, he is indebted to them jointly with G. H. G. H. is alive; is a citizen and resident of this state, is subject to the jurisdiction of this court, as to both service of process and venue; can be made a party, but has not been made one.

Third Defense

Defendant admits the allegation contained in paragraphs 1 and 4 of the complaint; alleges that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the complaint; and denies each and every other allegation contained in the complaint.

Fourth Defense

The right of action set forth in the complaint did not accrue within six years next before the commencement of this action.

Counterclaim

(Here set forth any claim as a counterclaim in the manner in which a claim is pleaded in a complaint.)

Cross Claim Against Defendant M. N.

(Here set forth the claim constituting a cross claim against defendant M. N. in the manner in which a claim is pleaded in a complaint.)

Signed: _____

Attorney for Defendant

Defendant's Address: _____

FORM 17. ANSWER TO COMPLAINT SET FORTH IN FORM 8,
WITH COUNTERCLAIM FOR INTERPLEADER

Defense

Defendant denies the allegations stated to the extent set forth in the counterclaim herein.

Counterclaim for Interpleader

Repeal

1. Defendant received the sum of _____ dollars as a deposit from E. F.
2. Plaintiff has demanded the payment of such deposit to him by virtue of an assignment of it which he claims to have received from E. F.
3. E. F. has notified the defendant that he claims such deposit, that the purported assignment is not valid, and that he holds the defendant responsible for the deposit.

Wherefore defendant demands:

1. That the court order E. F. to be made a party defendant to respond to the complaint and to this counterclaim.
2. That the court order the plaintiff and E. F. to interplead their respective claims.
3. That the court adjudge whether the plaintiff or E. F. is entitled to the sum of money.
4. That the court discharge defendant from all liability in the premises except to the person it shall adjudge entitled to the sum of money.
5. That the court award to the defendant its costs and attorney's fees.

FORM 18. MOTION TO BRING IN THIRD-PARTY DEFENDANT

Repeal

Defendant moves for leave to make E. F. a party to this action and that there be served upon him summons and third-party complaint as set forth in Exhibit A hereto attached.

Signed: _____
Attorney for Defendant C. D.

Notice of Motion

(Contents the same as in Form 15. No notice is necessary if the motion is made before the moving defendant has served his answer.)

County Court District Court
_____ County, Colorado

Court Address: _____

A.B.,
Plaintiff:

v.
C.D.,
Defendant and
Third-party Plaintiff:

v.
E.F.,
Third-party Defendant:

▲ COURT USE ONLY ▲

Attorney or Party Without Attorney (Name and Address): _____

Case Number: _____

Phone Number: _____
FAX Number: _____

E-mail: _____
Atty. Reg. #: _____

Division: _____ Courtroom: _____

SUMMONS

THE PEOPLE OF THE STATE OF COLORADO:

TO the above-named third-party defendant, GREETINGS:

You are hereby summoned and required to file with the clerk an answer to the third-party complaint, a copy of which is herewith served upon you, within 20 days after service of this summons upon you. If you fail so to do, judgment by default will be taken against you for the relief demanded in the third-party complaint.

If service upon you is made outside the State of Colorado, you are required to file your answer to said third-party complaint within 30 days after service of this summons upon you.*

There is also served upon you herewith a copy of the complaint of the plaintiff which you may answer.

Dated _____, 20__

Clerk of the _____ Court

Attorney for Third-party Plaintiff

* If body execution is sought the summons must state the claim set-out in said third-party complaint is "founded upon tort."

THIRD PARTY COMPLAINT

County Court District Court
_____ County, Colorado

Court Address: _____

A.B.,
Plaintiff:

v.
C.D.,

Defendant and
Third-party Plaintiff:

v.
E.F.,
Third-party Defendant:

▲ COURT USE ONLY ▲

Attorney or Party Without Attorney (Name and Address):

Case Number:

Phone Number:
FAX Number:

E-mail:
Atty. Reg. #:

Division:

Courtroom:

THIRD-PARTY COMPLAINT

1. Plaintiff A. B. has filed against defendant C. D. a complaint, a copy of which is hereto attached as Exhibit C.

2. (Here state the grounds upon which C. D. is entitled to recover from E. F., all or part of what A. B. may recover from C. D. The statement should be framed as in an original complaint.)

Wherefore C. D. demands judgment against third-party defendant E. F. for all sums that may be adjudged against defendant C. D. in favor of plaintiff A. B.

Signed: _____

Attorney for C. D.,
Third-party Plaintiff

Address of Third-party Plaintiff:

Amended eff. July 1, 2000.

Publishers Note: Please see introductory statement preceding Form 1.

FORM 19. MOTION TO INTERVENE AS A DEFENDANT UNDER RULE 24

Appeal

County Court District Court
County, Colorado

Court Address: _____

A.B.,
Plaintiff:

v.
C.D.,
Defendant:

v.
E.F.,
Applicant for intervention

▲ COURT USE ONLY ▲

Attorney or Party Without Attorney (Name and Address): _____ Case Number: _____

Phone Number: _____ E-mail: _____
FAX Number: _____ Atty. Reg. #: _____ Division: _____ Courtroom: _____

MOTION TO INTERVENE AS A DEFENDANT

E. F. moves for leave to intervene as a defendant in this action, in order to assert the defenses set forth in his proposed answer, of which a copy is hereto attached, on the grounds (here state them) and as such has a defense to plaintiff's claim presenting (both questions of law and of fact) which are common to the main action.

Signed: _____
Attorney for E. F.,
Applicant for Intervention

Notice of Motion
(Contents the same as in Form 15.)

INTERVENER'S ANSWER

County Court District Court
County, Colorado

Court Address: _____

A.B.,
Plaintiff:

v.
C.D.,
Defendant:

v.
E.F.,
Intervener:

▲ COURT USE ONLY ▲

Attorney or Party Without Attorney (Name and Address): _____ Case Number: _____

Phone Number: _____ E-mail: _____
FAX Number: _____ Atty. Reg. #: _____ Division: _____ Courtroom: _____

INTERVENER'S ANSWER

First Defense

Intervener admits the allegations stated in paragraphs _____ and _____ of the complaint; denies the allegations in paragraphs _____ and _____.

Second Defense

(Set forth any defenses.)

Signed: _____

Attorney for E. F.,
Intervener

Amended eff. July 1, 2000.

Publishers Note: Please see introductory statement preceding Form 1.

FORM 20. PATTERN INTERROGATORIES UNDER RULE 33

County Court District Court
 _____ County, Colorado

Court Address: _____

Plaintiff(s): _____

v.
 Defendant(s): _____

▲ COURT USE ONLY ▲

Attorney or Party Without Attorney (Name and Address): _____

Case Number: _____

Phone Number: _____
 FAX Number: _____

E-mail: _____
 Atty. Reg. #: _____

Division: _____
 Courtroom: _____

PATTERN INTERROGATORIES UNDER RULE 33

The following Pattern Interrogatories are propounded to:

_____ pursuant to C.R.C.P. 16(a)(1)(IV), 26, and 33(e).

Section 1. Instructions to All Parties

X (a) These are general instructions. For time limitations, requirements for service on other parties, and other details, see C.R.C.P. 16(b)(1)(IV), 26, 33, 121 § 1-12, and the cases construing those Rules.

(b) These interrogatories do not change existing law relating to interrogatories nor do they affect an answering party's right to assert any privilege or objection.

Section 2. Instructions to the Asking Party

(a) These interrogatories are designed for optional use in district courts only.

(b) Check the box next to each interrogatory that you want the answering party to answer. Use care in choosing those interrogatories that are applicable to the case.

(c) The interrogatories in section 16.0, Defendant's Contentions—Personal Injury, should not be used until the defendant has had a reasonable opportunity to conduct an investigation or discovery of plaintiff's injuries and damages.

X (d) Subject to the limitations in C.R.C.P. 16(b)(1)(IV) and 33, additional interrogatories may be attached.

Section 3. Instructions to the Answering Party

(a) An answer or other appropriate response must be given to each interrogatory checked by the asking party.

(b) As a general rule, within 35 days after you are served with these interrogatories, you must serve your responses on the asking party and serve copies of your responses on all other parties to the action who have appeared. See C.R.C.P. 33 for details.

(c) Each answer must be as complete and straightforward as the information reasonably available to you permits. If an interrogatory cannot be answered completely, answer it to the extent possible.

(d) If you do not have enough personal knowledge to fully answer an interrogatory, say so, but make a reasonable and good faith effort to get the information by asking other persons or organizations, unless the information is equally available to the asking party.

(e) Whenever an interrogatory may be answered by referring to a document, the document may be attached as an exhibit to the response and referred to in the

response. If the document has more than one page, refer to the page and section where the answer to the interrogatory can be found.

(f) Whenever an address and telephone number for the same person are requested in more than one interrogatory, you are required to furnish them in answering only the first interrogatory asking for that information.

(g) Your answers to these interrogatories must be verified, dated, and signed. You may wish to use the following form at the end of your answers: "I declare under penalty of perjury under the laws of the State of Colorado that the foregoing answers are true and correct."

(DATE) _____ (SIGNATURE) _____

Section 4. Definitions

Words in **BOLDFACE CAPITALS** in these interrogatories are defined as follows:

(a) **INCIDENT** includes the circumstances and events surrounding the alleged accident, injury, or other occurrence or breach of contract giving rise to this action or proceeding.

(b) **YOU OR ANYONE ACTING ON YOUR BEHALF** includes you, your agents, your employees, your insurance companies, their agents, their employees, your attorneys, your accountants, your investigators, and anyone else acting on your behalf.

(c) **PERSON** includes a natural person, firm, association, organization, partnership, business, trust, corporation, or public entity.

(d) **DOCUMENT** means a writing, as defined in CRE 1001 and includes the original or a copy of handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing and form of communicating or representation, including letters, words, pictures, sounds, or symbols, or combinations of them.

(e) **HEALTH CARE PROVIDER** includes any **PERSON** or entity referred to as a "Health Care Professional" or "Health Care Institution" in C.R.S. § 13-64-202(3) and (4).

(f) **ADDRESS** means the street address, including the city, state, and zip code.

Section 5. Interrogatories

The following interrogatories have been approved by the Colorado Supreme Court under C.R.C.P. 16(b)(1)(IV), 26, and 33(e):

CONTENTS

- 1.0 Identity of Persons Answering These Interrogatories
- 2.0 General Background Information—Individual
- 3.0 General Background Information—Business Entity
- 4.0 Insurance
- 5.0 *(Reserved)*
- 6.0 Physical, Mental, or Emotional Injuries
- 7.0 Property Damage
- 8.0 Loss of Income or Earning Capacity
- 9.0 Other Damages
- 10.0 Medical History
- 11.0 Other Claims and Previous Claims
- 12.0 Investigation—General
- 13.0 Investigation—Surveillance
- 14.0 Statutory or Regulatory Violations
- 15.0 Affirmative Defenses

- 16.0 Defendant's Contentions—Personal Injury
- 17.0 Responses to Request for Admissions
- 18.0 (Reserved)
- 19.0 (Reserved)
- 20.0 How the Incident Occurred—Motor Vehicle
- 25.0 (Reserved)
- 30.0 (Reserved)
- 40.0 (Reserved)
- 50.0 Contract
- 60.0 (Reserved)

1.0 Identity of Persons Answering These Interrogatories

- 1.1 State the name, ADDRESS, telephone number, and relationship to you of each PERSON who prepared or assisted in the preparation of the responses to these interrogatories. (Do not identify anyone who simply typed or reproduced the responses.)

2.0 General Background Information—Individual

- 2.1 State:
 - (a) your name;
 - (b) every name you have used in the past;
 - (c) the dates you used each name.
- 2.2 State the date and place of your birth.
- 2.3 At the time of the INCIDENT, did you have a driver's license?
 - If so, state:
 - (a) the state or other issuing entity;
 - (b) the license number and type;
 - (c) the date of issuance;
 - (d) all restrictions.
- 2.4 At the time of the INCIDENT, did you have any other permit or license for the operation of a motor vehicle?
 - If so, state:
 - (a) the state or other issuing entity;
 - (b) the license number and type;
 - (c) the date of issuance;
 - (d) all restrictions.
- 2.5 State:
 - (a) your present residence ADDRESS;
 - (b) your residence ADDRESSES for the last five years;
 - (c) the dates you lived at each ADDRESS.
- 2.6 State:
 - (a) the name, ADDRESS, and telephone number of your present employer or place of self-employment;
 - (b) the name, ADDRESS, dates of employment, job title, and nature of work for each employer or self-employment you have had from five years before the INCIDENT until today.
- 2.7 State:
 - (a) the name and ADDRESS of each school or other academic or vocational institution you have attended beginning with high school;
 - (b) the dates you attended;
 - (c) the highest grade level you have completed;
 - (d) the degrees received.
- 2.8 Have you ever been convicted of a felony?
 - If so, for each conviction state:
 - (a) the city and state where you were convicted;
 - (b) the date of conviction;
 - (c) the offense;
 - (d) the court and case number.
- 2.9 Can you speak English with ease?
 - If not, what language and dialect do you normally use?
- 2.10 Can you read and write English with ease?
 - If not, what language and dialect do you normally use?
- 2.11 At the time of the INCIDENT, were you acting as an agent or employee for any PERSON?
 - If so, state:

- (a) the name, ADDRESS, and telephone number of that PERSON;
 (b) a description of your duties.
- 2.12 At the time of the INCIDENT, did you or any other person have any physical, emotional, or mental disability or condition that may have contributed to the occurrence of the INCIDENT?
 If so, for each person state:
 (a) the name, ADDRESS, and telephone number;
 (b) the nature of the disability or condition;
 (c) the manner in which the disability or condition contributed to the occurrence of the INCIDENT.
- 2.13 Within 24 hours before the INCIDENT, did you or any person involved in the INCIDENT use or take any of the following substances: alcoholic beverage, marijuana, or other drug or medication of any kind (prescription or not)?
 If so, for each person state:
 (a) the name, ADDRESS, and telephone number;
 (b) the nature or description of each substance;
 (c) the quantity of each substance used or taken;
 (d) the date and time of day when each substance was used or taken;
 (e) the ADDRESS where each substance was used or taken;
 (f) the name, ADDRESS, and telephone number of each person who was present when each substance was used or taken;
 (g) the name, ADDRESS, and telephone number of any HEALTH CARE PROVIDER that prescribed or furnished the substance and the condition for which it was prescribed or furnished.
- 3.0 General Background Information—Business Entity**
- 3.1 Are you a corporation?
 If so, state:
 (a) the name stated in the current articles of incorporation;
 (b) all other names used by the corporation during the past ten years and the dates each was used;
 (c) the date and place of incorporation;
 (d) the ADDRESS of the corporation's principal place of business;
 (e) whether you are qualified to do business in Colorado.
- 3.2 Are you a partnership?
 If so, state:
 (a) the current partnership name;
 (b) all other names used by the partnership during the past ten years and the dates each was used;
 (c) whether you are a limited partnership and, if so, under the laws of what jurisdiction;
 (d) the name and ADDRESS of each general partner;
 (e) the ADDRESS of the partnership's principal place of business.
- 3.3 Are you a joint venture?
 If so, state:
 (a) the current joint venture name;
 (b) all other names used by the joint venture during the past ten years and the dates each was used;
 (c) the name and ADDRESS of each joint venturer;
 (d) the ADDRESS of the joint venturer's principal place of business.
- 3.4 Are you an unincorporated association?
 If so, state:
 (a) the current unincorporated association's name;
 (b) all other names used by the unincorporated association during the past ten years and the dates each was used;
 (c) the ADDRESS of the association's principal place of business.
- 3.5 Have you done business under a fictitious name during the past ten years?
 If so, for each fictitious name state:
 (a) the name;
 (b) the dates the name was used;
 (c) the state and county of each fictitious name filing;
 (d) the ADDRESS of your principal place of business.
- 3.6 Within the past five years, has any public entity registered or licensed your businesses?
 If so, for each license or registration:
 (a) identify the license or registration;
 (b) state the name of the public entity;

APPENDIX OF FORMS

Form 20

26(a)(1)(iv) 4.0 4.1

(c) state the dates of issuance and expiration:

Insurance

At the time of the INCIDENT, was there in effect any policy of insurance through which you were or might be insured in any manner (for example, primary, pro rata, or excess liability coverage or medical expense coverage) for the damages, claims, or actions that have arisen out of the INCIDENT?

If so, for each policy state:

- (a) the kind of coverage;
- (b) the name and ADDRESS of the insurance company;
- (c) the name, ADDRESS, and telephone number of each named insured;
- (d) the policy number;
- (e) the limits of coverage for each type of coverage contained in the policy;
- (f) whether any reservation of rights or controversy or coverage dispute exists between you and the insurance company;
- (g) the name, ADDRESS, and telephone number of the custodian of the policy.

4.2 Are you self-insured under any statute for the damages, claims, or actions that have arisen out of the INCIDENT?

If so, specify the statute.

5.0 (Reserved)

6.0 Physical, Mental, or Emotional Injuries

6.1 Do you attribute any physical, mental, or emotional injuries to the INCIDENT?

If your answer is "no," do not answer interrogatories 6.2 through 6.7.

6.2 Identify each injury you attribute to the INCIDENT and the area of your body affected.

6.3 Do you still have any complaints that you attribute to the INCIDENT?

If so, for each complaint state:

- (a) a description;
- (b) whether the complaint is subsiding, remaining the same, or becoming worse;
- (c) the frequency and duration.

6.4 Did you receive any consultation or examination (except from expert witnesses covered by C.R.C.P. 35 or treatment from a HEALTH CARE PROVIDER for any injury you attribute to the INCIDENT?

If so, for each HEALTH CARE PROVIDER state:

- (a) the name, ADDRESS, and telephone number;
- (b) the type of consultation, examination, or treatment provided;
- (c) the dates you received consultation, examination, or treatment;
- (d) the charges to date.

6.5 Have you taken any medication, prescribed or not, as a result of injuries that you attribute to the INCIDENT?

If so, for each medication state:

- (a) the name;
- (b) the PERSON who prescribed or furnished it;
- (c) the date prescribed or furnished;
- (d) the dates you began and stopped taking it;
- (e) the cost to date.

6.6 Are there any other medical services not previously listed (for example, ambulance, nursing, prosthetics)?

If so, for each service state:

- (a) the nature;
- (b) the date;
- (c) the cost;
- (d) the name, ADDRESS, and telephone number of each provider.

6.7 Has any HEALTH CARE PROVIDER advised that you may require future or additional treatment for any injuries that you attribute to the INCIDENT?

If so, for each injury state:

- (a) the name and ADDRESS of each HEALTH CARE PROVIDER;
- (b) the complaints for which the treatment was advised;
- (c) the nature, duration, and estimated cost of the treatment.

7.0 Property Damage

7.1 Do you attribute any loss of or damage to a vehicle or other property to the INCIDENT?

If so, for each item of property:

- (a) describe the property;
- (b) describe the nature and location of the damage to the property;
- (c) state the amount of damage you are claiming for each item of property and how the amount was calculated;

RULES OF CIVIL PROCEDURE—CH. 1 to 17A APP.

- (d) if the property was sold, state the name, ADDRESS, and telephone number of the seller, the date of sale, and the sale price.
- 7.2 Has a written estimate or evaluation been made for any item of property referred to in your answer to interrogatory 7.1?
If so, for each estimate or evaluation state:
- (a) the name, ADDRESS, and telephone number of the PERSON who prepared it and the date prepared;
- (b) the name, ADDRESS, and telephone number of each PERSON who has a copy;
- (c) the amount of damage stated.
- 7.3 Has any item of property referred to in your answer to interrogatory 7.1 been repaired?
If so, for each item state:
- (a) the date repaired;
- (b) a description of the repair;
- (c) the repair cost;
- (d) the name, ADDRESS, and telephone number of the PERSON who repaired it;
- (e) the name, ADDRESS, and telephone number of the PERSON who paid for the repair.
- 8.0 Loss of Income or Earning Capacity**
- 8.1 Do you attribute any loss of income or earning capacity to the INCIDENT? If your answer is "no," do not answer interrogatories 8.2 through 8.8.
- 8.2 State:
- (a) the nature of your work;
- (b) your job title at the time of the INCIDENT;
- (c) the date your employment began.
- 8.3 State the last date before the INCIDENT that you worked for compensation.
- 8.4 State your monthly income at the time of the INCIDENT and how the amount was calculated.
- 8.5 State the date you returned to work at each place of employment following the INCIDENT.
- 8.6 State the dates you did not work and for which you lost income.
- 8.7 State the total income you have lost to date as a result of the INCIDENT and how the amount was calculated.
- 8.8 Will you lose income in the future as a result of the INCIDENT?
If so, state:
- (a) the facts upon which you base this contention;
- (b) an estimate of the amount;
- (c) an estimate of how long you will be unable to work;
- (d) how the claim for future income is calculated.
- 9.0 Other Damages**
- 9.1 Are there any other damages that you attribute to the INCIDENT?
If so, for each item of damage state:
- (a) the nature;
- (b) the date it occurred;
- (c) the amount;
- (d) the name, ADDRESS, and telephone number of each PERSON to whom an obligation was incurred.
- 9.2 Do any DOCUMENTS support the existence or amount of any item of damages claimed in interrogatory 9.1?
If so, state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT.
- 10.0 Medical History**
- 10.1 At any time before the INCIDENT, did you have complaints or injuries that involved the same part of your body claimed to have been injured in the INCIDENT?
If so, for each state:
- (a) a description;
- (b) the dates it began and ended;
- (c) the name, ADDRESS, and telephone number of each HEALTH CARE PROVIDER whom you consulted or who examined or treated you.
- 10.2 List all physical, mental, and emotional disabilities you had immediately before the INCIDENT. (You may omit mental or emotional disabilities unless you attribute any mental or emotional injury to the INCIDENT.)
- 10.3 At any time after the INCIDENT, did you sustain injuries of the kind for which you are now claiming damages?
If so, for each incident state:
- (a) the date and the place it occurred;

- (b) the name, ADDRESS, and telephone number of any other PERSON involved;
- (c) the nature of any injuries you sustained;
- (d) the name, ADDRESS, and telephone number of each HEALTH CARE PROVIDER that you consulted or who examined or treated you;
- (e) the nature of the treatment and its duration.
- 11.0 Other Claims and Previous Claims**
- 11.1 Except for this action, in the last ten years have you filed an action or made a written claim or demand for compensation for personal injuries?
If so, for each action, claim, or demand state:
- (a) the date, time, and place and location of the INCIDENT (closest street ADDRESS or intersection);
- (b) the name, ADDRESS, and telephone number of each PERSON against whom the claim was made or action filed;
- (c) the court, names of the parties, and case number of any action filed;
- (d) the name, ADDRESS, and telephone number of any attorney representing you;
- (e) whether the claim or action has been resolved or is pending.
- 11.2 In the last ten years have you made a written claim or demand for workers' compensation benefits?
If so, for each claim or demand state:
- (a) the date, time, and place of the INCIDENT giving rise to the claim;
- (b) the name, ADDRESS, and telephone number of your employer at the time of the injury;
- (c) the name, ADDRESS, and telephone number of the workers' compensation insurer and the claim number;
- (d) the period of time during which you received workers' compensation benefits;
- (e) a description of the injury;
- (f) the name, ADDRESS, and telephone number of any HEALTH CARE PROVIDER that provided services;
- (g) the case number of the workers' compensation claim.
- 12.0 Investigation—General**
- 12.1 State the name, ADDRESS, and telephone number of each individual:
- (a) who witnessed the INCIDENT or the events occurring immediately before or after the INCIDENT;
- (b) who made any statement at the scene of the INCIDENT;
- (c) who heard any statements made about the INCIDENT by any individual at the scene;
- (d) who YOU OR ANYONE ACTING ON YOUR BEHALF claims to have knowledge of the INCIDENT (except for expert witnesses covered by C.R.C.P. 26(a)(2) and (b)(4)).
- 12.2 Have YOU OR ANYONE ACTING ON YOUR BEHALF interviewed any individual concerning the INCIDENT?
If so, for each individual state:
- (a) the name, ADDRESS, and telephone number of the individual interviewed;
- (b) the date of the interview;
- (c) the name, ADDRESS, and telephone number of the PERSON who conducted the interview.
- 12.3 Have YOU OR ANYONE ACTING ON YOUR BEHALF obtained a written or recorded statement from any individual concerning the INCIDENT?
If so, for each statement state:
- (a) the name, ADDRESS, and telephone number of the individual from whom the statement was obtained;
- (b) the name, ADDRESS, and telephone number of the individual who obtained the statement;
- (c) the date the statement was obtained;
- (d) the name, ADDRESS, and telephone number of each PERSON who has the original statement or a copy.
- 12.4 Do YOU OR ANYONE ACTING ON YOUR BEHALF know of any photographs, films, or videotapes depicting any place, object, or individual concerning the INCIDENT or plaintiff's injuries?
If so, state:
- (a) the number of photographs or feet of film or videotape;
- (b) the places, objects, or persons photographed, filmed, or videotaped;
- (c) the date the photographs, films, or videotapes were taken;
- (d) the name, ADDRESS, and telephone number of the individual taking the photographs, films, or videotapes;

- (e) the name, ADDRESS, and telephone number of each PERSON who has the original or a copy.
- 12.5 Do YOU OR ANYONE ACTING ON YOUR BEHALF know of any diagram, reproduction, or model of any place or thing (except for items developed by expert witnesses covered by C.R.C.P. 26(a)(2) and (b)(4)) concerning the INCIDENT? If so, for each item state:
- the type (i.e., diagram, reproduction, or model);
 - the subject matter;
 - the name, ADDRESS, and telephone number of each PERSON who has it.
- 12.6 Was a report made by any PERSON concerning the INCIDENT? If so, state:
- the name, title, identification number, and employer of the PERSON who made the report;
 - the date and type of report made;
 - the name, ADDRESS, and telephone number of the PERSON for whom the report was made.
- 12.7 Have YOU OR ANYONE ACTING ON YOUR BEHALF inspected the scene of the INCIDENT? If so, for each inspection state:
- the name, ADDRESS, and telephone number of the individual making the inspection (except for expert witnesses covered by C.R.C.P. 26(a)(2) and (b)(4));
 - the date of the inspection.
- 13.0 Investigation—Surveillance
- 13.1 Have YOU OR ANYONE ACTING ON YOUR BEHALF conducted surveillance of any individual involved in the INCIDENT or any party to this action? If so, for each surveillance state:
- the name, ADDRESS, and telephone number of the individual or party;
 - the time, date, and place of the surveillance;
 - the name, ADDRESS, and telephone number of the individual who conducted the surveillance.
- 13.2 Has a written report been prepared on the surveillance? If so, for each written report state:
- the time;
 - the date;
 - the name, ADDRESS, and telephone number of the individual who prepared the report;
 - the name, ADDRESS, and telephone number of each PERSON who has the original or a copy.
- 14.0 Statutory or Regulatory Violations
- 14.1 Do YOU OR ANYONE ACTING ON YOUR BEHALF contend that any PERSON involved in the INCIDENT violated any statute, ordinance, or regulation and that the violation was a legal (proximate) cause of the INCIDENT? If so, identify each PERSON and the statute, ordinance, or regulation.
- 14.2 Was any PERSON cited or charged with a violation of any statute, ordinance, or regulation as a result of this INCIDENT? If so, for each PERSON state:
- the name, ADDRESS, and telephone number of the PERSON;
 - the statute, ordinance, or regulation allegedly violated;
 - whether the PERSON entered a plea in response to the citation or charge and, if so, the plea entered;
 - the name and ADDRESS of the court or administrative agency, names of the parties, and case number.
- 15.0 Affirmative Defenses
- 15.1 Identify each denial of a material allegation and each affirmative defense in your pleadings and for each:
- state all facts upon which you base the denial or affirmative defense;
 - state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of those facts;
 - identify all DOCUMENTS and other tangible things which support your denial or affirmative defense, and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT.
- 16.0 Defendant's Contentions—Personal Injury
[See Instructions Section 2(c)]
- 16.1 Do you contend that any PERSON, other than you or plaintiff, contributed to the occurrence of the INCIDENT or the injuries or damages claimed by plaintiff? If so, for each PERSON:

- (a) state the name, ADDRESS, and telephone number of the PERSON;
- (b) state all facts upon which you base your contention;
- (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts;
- (d) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- 16.2 Do you contend that plaintiff was not injured in the INCIDENT?
If so:
- (a) state all facts upon which you base your contention;
- (b) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts;
- (c) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- 16.3 Do you contend that the injuries or the extent of the injuries claimed by plaintiff as disclosed in discovery proceedings thus far in this case were not caused by the INCIDENT?
If so, for each injury:
- (a) identify it;
- (b) state all facts upon which you base your contention;
- (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts;
- (d) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- 16.4 Do you contend that any of the services furnished by any HEALTH CARE PROVIDER claimed by plaintiff in discovery proceedings thus far in this case were not due to the INCIDENT?
If so:
- (a) identify each service;
- (b) state all facts upon which you base your contention;
- (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts;
- (d) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- 16.5 Do you contend that any of the costs of services furnished by any HEALTH CARE PROVIDER claimed as damages by plaintiff in discovery proceedings thus far in this case were unreasonable?
If so:
- (a) identify each cost;
- (b) state all facts upon which you base your contention;
- (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts;
- (d) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- 16.6 Do you contend that any part of the loss of earnings or income claimed by plaintiff in discovery proceedings thus far in this case was unreasonable or was not caused by the INCIDENT?
If so:
- (a) identify each part of the loss;
- (b) state all facts upon which you base your contention;
- (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts;
- (d) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- 16.7 Do you contend that any of the property damage claimed by plaintiff in discovery proceedings thus far in this case was not caused by the INCIDENT?
If so:
- (a) identify each item of property damage;
- (b) state all facts upon which you base your contention;
- (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts;

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- (d) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- 16.8 Do you contend that any of the costs of repairing the property damage claimed by plaintiff in discovery proceedings thus far in this case were unreasonable?
If so:
- (a) identify each cost item;
- (b) state all facts upon which you base your contention;
- (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of the facts;
- (d) identify all DOCUMENTS and other tangible things that support your contention and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- 16.9 Do YOU OR ANYONE ACTING ON YOUR BEHALF have any DOCUMENT (for example, insurance bureau index reports) concerning claims for personal injuries made before or after the INCIDENT by a plaintiff in this case?
If so, for each plaintiff state:
- (a) the source of each DOCUMENT;
- (b) the date each claim arose;
- (c) the nature of each claim;
- (d) the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT.
- 16.10 Do YOU OR ANYONE ACTING ON YOUR BEHALF have any DOCUMENT concerning the past or present physical, mental, or emotional condition of any plaintiff in this case from a HEALTH CARE PROVIDER not previously identified (except for expert witnesses covered by C.R.C.P. 26(a)(2) and (b)(4))?
If so, for each plaintiff state:
- (a) the name, ADDRESS, and telephone number of each HEALTH CARE PROVIDER;
- (b) a description of each DOCUMENT;
- (c) the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT.
- 17.0 Responses to Request for Admissions
- 17.1 Is your response to each request for admission served with these interrogatories an unqualified admission?
If not, for each response that is not an unqualified admission:
- (a) state the number of the request;
- (b) state all facts upon which you base your response;
- (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have knowledge of those facts;
- (d) identify all DOCUMENTS and other tangible things that support your response and state the name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.
- 18.0 (Reserved)
- 19.0 (Reserved)
- 20.0 How the Incident Occurred—Motor Vehicle
- 20.1 State the date, time, and place (closest street address, intersection, or highway) of the INCIDENT.
- 20.2 For each vehicle involved in the INCIDENT, state:
- (a) the year, make, model, and license number;
- (b) the name, ADDRESS, and telephone number of the driver;
- (c) the name, ADDRESS, and telephone number of each occupant other than the driver;
- (d) the name, ADDRESS, and telephone number of each registered owner;
- (e) the name, ADDRESS, and telephone number of each lessee;
- (f) the name, ADDRESS, and telephone number of each owner other than the registered owner or lien holder;
- (g) the name of each owner who gave permission or consent to the driver to operate the vehicle.
- 20.3 State the ADDRESS and location where your trip began, and the ADDRESS and location of your destination.
- 20.4 Describe the route that you followed from the beginning of your trip to the location of the INCIDENT, and state the location of each stop, other than routine traffic stops, during the trip leading up to the INCIDENT.

- 20.5 State the name of the street or roadway, the lane of travel, and the direction of travel of each vehicle involved in the **INCIDENT** for the 500 feet of travel before the **INCIDENT**.
- 20.6 Did the **INCIDENT** occur at an intersection?
If so, describe all traffic control devices, signals, or signs at the intersection.
- 20.7 Was there a traffic signal facing you at the time of the **INCIDENT**?
If so, state:
 - (a) your location when you first saw it;
 - (b) the color;
 - (c) the number of seconds it had been that color;
 - (d) whether the color changed between the time you first saw it and the **INCIDENT**.
- 20.8 State how the **INCIDENT** occurred, giving the speed, direction, and location of each vehicle involved:
 - (a) just before the **INCIDENT**;
 - (b) at the time of the **INCIDENT**;
 - (c) just after the **INCIDENT**.
- 20.9 Do you have information that a malfunction or defect in a vehicle caused the **INCIDENT**?
If so:
 - (a) identify the vehicle;
 - (b) identify each malfunction or defect;
 - (c) state the name, **ADDRESS**, and telephone number of each **PERSON** who is a witness to or has information about each malfunction or defect;
 - (d) state the name, **ADDRESS**, and telephone number of each **PERSON** who has custody of each defective part.
- 20.10 Do you have information that any malfunction or defect in a vehicle contributed to the injuries sustained in the **INCIDENT**?
If so:
 - (a) identify the vehicle;
 - (b) identify each malfunction or defect;
 - (c) state the name, **ADDRESS**, and telephone number of each **PERSON** who is a witness to or has information about each malfunction or defect;
 - (d) state the name, **ADDRESS**, and telephone number of each **PERSON** who has custody of each defective part.
- 20.11 State the name, **ADDRESS**, and telephone number of each owner and each **PERSON** who has had possession since the **INCIDENT** of each vehicle involved in the **INCIDENT**.
- 25.0 (Reserved)
- 30.0 (Reserved)
- 40.0 (Reserved)
- 50.0 Contract
- 50.1 For each agreement alleged in the pleadings:
 - (a) identify all **DOCUMENTS** that are part of the agreement and for each state the name, **ADDRESS**, and telephone number of each **PERSON** who has the **DOCUMENT**;
 - (b) state each part of the agreement not in writing, the name, **ADDRESS**, and telephone number of each **PERSON** agreeing to that provision, and the date that part of the agreement was made;
 - (c) identify all **DOCUMENTS** that evidence each part of the agreement not in writing and for each state the name, **ADDRESS**, and telephone number of each **PERSON** who has the **DOCUMENT**;
 - (d) identify all **DOCUMENTS** that are part of each modification to the agreement, and for each state the name, **ADDRESS**, and telephone number of each **PERSON** who has the **DOCUMENT**;
 - (e) state each modification not in writing, the date, and the name, **ADDRESS**, and telephone number of each **PERSON** agreeing to the modification, and the date the modification was made;
 - (f) identify all **DOCUMENTS** that evidence each modification of the agreement not in writing and for each state the name, **ADDRESS**, and telephone number of each **PERSON** who has the **DOCUMENT**.
- 50.2 Was there a breach of any agreement alleged in the pleadings?
If so, for each breach describe and give the date of every act or omission that you claim is the breach of the agreement.
- 50.3 Was performance of any agreement alleged in the pleadings excused?
If so, identify each agreement excused and state why performance was excused.

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- 50.4. Was any agreement alleged in the pleadings terminated by mutual agreement, release, accord and satisfaction, or novation?
If so, identify each agreement terminated and state why it was terminated including dates.
- 50.5. Is any agreement alleged in the pleadings unenforceable?
If so, identify each unenforceable agreement and state why it is unenforceable.
- 50.6. Is any agreement alleged in the pleadings ambiguous?
If so, identify each ambiguous agreement and state why it is ambiguous.

60.0 (Reserved)

Repealed and Adopted eff. Jan. 1, 1995. Amended eff. Nov. 9, 1995; July 1, 2000; Feb. 21, 2013.

Former Form 20, Motion for Production of Documents, etc., Under Rule 34, was repealed, effective January 1, 1995. See, now, Form 21A.

Publishers Note: Please see introductory statement preceding Form 1.

APPENDIX OF FORMS

Form 21.2
Repealed

FORM 20.2. PATTERN INTERROGATORIES (DOMESTIC RELATIONS) [REPEALED]

Repealed eff. Jan. 1, 2005

[Publisher's Note: See, now, Form 35.3 et seq.]

FORM 21. REQUESTS FOR ADMISSION UNDER RULE 36 [REPEALED]

Repealed eff. Jan. 1, 1995.

See, now, Form 21B.

FORM 21A. MOTION FOR PRODUCTION OF DOCUMENTS, ETC., UNDER RULE 34

Plaintiff A.B. requests pursuant to C.R.C.P. 34 that defendant C.D.:

1. Produce and permit plaintiff to inspect and to copy each of the following document:

(Here list the documents individually or by category and describe each of them.)

(Here state the time, place, and manner of making the inspection and performance of any related acts.)

2. Produce and permit plaintiff to inspect and to copy, test, or sample each of the following objects:

(Here list the objects either individually or by category and describe each of them.)

(Here state the time, place, and manner of making the inspection and performance of any related acts.)

3. Permit plaintiff to enter (here describe property to be entered) and to inspect and to photograph, test or sample (here describe the portion of the real property and the objects to be inspected.)

Defendant C.D. has the possession, custody, or control of each of the foregoing documents and objects and of the above-mentioned real estate. Each of them constitutes or contains evidence relevant and material to a matter involved in this action, as is more fully shown in Exhibit A hereto attached.

Signed: _____

Attorney for Plaintiff

Adopted eff. Jan. 1, 1995. Amended eff. July 12, 1995; July 10, 2000.

FORM 21B. REQUEST FOR ADMISSION UNDER RULE 36

Plaintiff A.B. requests pursuant to C.R.C.P. 36 that defendant C.D. admit:

1. That each of the following documents, exhibited with this request, is genuine.

(Here list the documents and describe each document.)

2. That each of the following statements is true.

(Here list the statements.)

Signed: _____

Attorney for Plaintiff.

Adopted eff. Jan. 1, 1995. Amended eff. July 10, 2000.

FORM 21.2. PATTERN REQUESTS FOR PRODUCTION OF DOCUMENTS (DOMESTIC RELATIONS) [REPEALED]

Repealed eff. Jan. 1, 2005

[Publisher's Note: See, now, Form 21.2 et seq.]

See, now, Form 35.2 et seq.

Repeal

Repeal

FORM 22. ALLEGATION OF REASON FOR OMITTING PARTY

Repeal

When it is necessary, under Rule 19(c), for the pleader to set forth in his pleading the names of persons who ought to be made parties, but who are not so made, there should be an allegation such as the one set out below:

John Doe named in this complaint is not made a party to this action (because he is not subject to the jurisdiction of this court) or (for reasons stated).

FORM 23. AFFIDAVIT, WRIT OF GARNISHMENT AND INTERROGATORIES (RULE 103) [REPEALED]

Repealed eff. Jan. 1, 1985.

See, now, C.R.C.P. Form 29.

C.A.R. Rule 8

RULE 8. STAY OR INJUNCTION PENDING APPEAL

Comment [CJB1]: Most of the proposed changes are consistent with Fed. R. App. P., and make the rule more readable and user-friendly.

(a) Motions for Stay.

(1) Initial Motion in District Court Stay Must Ordinarily be Sought in the First Instance in Trial Court; Motion for Stay in Appellate Court. Application for A party must ordinarily move first in the district court for the following relief:

(A) a stay of the judgment or order of a trial district court pending appeal, ~~or for~~;

(B) approval of a supersedeas bond; ~~or for~~

(C) an order suspending, modifying, restoring, or granting an injunction while an appeal is pending ~~during the pendency of an appeal~~, ~~must ordinarily be made in the first instance in the trial court.~~

(2) Motion in the Court of Appeals; Conditions on Relief. A motion for ~~such~~ relief under Rule 8(a)(1) may be made to the appellate court or to a justice or judge ~~or justice~~ thereof; ~~but the~~

Comment [CJB2]: To be consistent with Rule 8.1 and court structure.

(A) Any such motion ~~must~~ shall show that:

(i) ~~show that moving first application to in~~ the trial district court ~~for the relief sought is not~~ would be impracticable, or

(ii) ~~that~~ the trial district court has denied an application, or has failed to afford the relief ~~which the applicant~~ requested, with and state the reasons given by the trial district court for its action.

(B) The motion ~~shall~~ must also include:

(i) ~~show~~ the reasons for granting the relief requested and the facts relied ~~upon~~;

(ii) ~~and if the facts are subject to dispute the motion shall be supported by originals or copies of~~ affidavits or other sworn statements ~~or copies thereof~~ if the facts are in dispute; and

~~(iii) With the motion shall be filed such~~relevant parts of the record ~~as are relevant~~.

~~(C) The moving party must give R~~reasonable notice of the motion ~~shall be given~~ to all parties.

~~(D) The~~A motion under this Rule 8(a)(2) shall~~must~~ be filed with the clerk and normally will be considered by a ~~panel or~~ division of the court, but in exceptional cases where such procedure would be impracticable ~~due to the requirements of time~~, the ~~application~~motion may be made to and considered by a single justice or judge ~~or justice of the court~~.

~~(E) Except as provided in Rule 8(c), the court may condition relief on a party's filing a bond or other appropriate security in the district court.~~

~~(b) Stay May be Conditioned Upon Giving of Bond; Proceedings Against Sureties. Relief available in the appellate court under this Rule may be conditioned upon the filing of a bond or other appropriate security in the trial court. If a party gives 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 ~~trial~~district court and irrevocably appoints the ~~district court~~ clerk ~~of the trial court~~ as the surety's ~~his~~ agent ~~upon whom any documents~~papers affecting the surety's ~~his~~ liability on the bond or undertaking may be served. ~~His~~On motion, the surety's liability may be enforced ~~on motion~~ in the ~~district~~trial court without the necessity of an independent action. The motion and ~~such any~~ notice ~~of the motion as that~~ the ~~trial~~district court prescribes ~~s~~ may be served on the ~~district court~~ clerk ~~of the trial court~~, who ~~must~~shall forthwith promptly ~~mail a copy~~ies to ~~each the~~ surety~~ies~~ whose~~if their~~ addresses ~~is~~are known.

Comment [CJB3]: e-mail?

~~(c) When Bond Not Required.~~ The appellate court may, in its discretion, dispense with or limit the amount of bond when the appellant is an executor, administrator, conservator, or guardian of an estate and has given sufficient bond as such. The court may not require the following to furnish bond:

~~(1) T~~the state;

~~(2) the county commissioners of the various counties;~~

~~(3) cities;~~

~~(4) towns;~~ ~~and~~

~~(5) school districts;~~ ~~and~~

~~(6) all charitable, educational, and reformatory institutions under the patronage or control~~

of the state; and

(7) all public officials when suing or defending in their official capacities for the benefit of the public ~~shall not be required to furnish bond.~~

(d) Bond; Release of Lien or of Notice of Lis Pendens. If a money judgment for the payment of money has been made a lien upon real estate, the lien will be released when a bond is given ~~such lien shall be released thereby~~. The clerk of the court that granted a wherein stay has been granted shall will issue a certificate that the judgment has been stayed. ~~and such~~ The certificate may be recorded with the recorder of the county in which ~~the such~~ real estate is located situated. ~~The Such~~ certificate may also be served upon any officer holding an execution. Upon such service, and thereupon all proceedings under such execution must shall be discontinued, and ~~the such~~ officer must shall return the same into the issuing court from which it was issued together with the copy of the certificate served upon the officer him, and The shall set forth in his return must indicate what ~~the officer he~~ has done under the execution.

Comment [CJB4]: This appears to be a district court function, not an appellate court function. But it should not be deleted from Rule 8 if it is not covered by a civil rule, but we have not found one -- It is not covered in CRCP 62 or 105(f), or in § 13-52-102 (property subject to execution) or § 38-35-110 (lis pendens statute). The current court of appeals staff attorneys have not seen this issue come up.