

MEMORANDUM

TO: The Civil Rules Committee

FROM: Judge Adam J. Espinosa on behalf of the FED Subcommittee of the Civil Rules Committee

SUBJECT: Recommendations Regarding Proposed Amendments to C.R.C.P. 304, Proposed C.R.C.P. 312.5 and 316.5, and Proposed New County Court Forms for Forcible Entry and Detainer Cases

DATE: September 17, 2021

Introduction

The Civil Rules FED Subcommittee (“Rules Subcommittee”) was established by the Civil Rules Committee to review and make recommendations regarding the recommendations made by the Access to Justice Commission’s FED Subcommittee (“ATJC Subcommittee”) regarding C.R.C.P. 304, C.R.C.P. 312.5, and C.R.C.P. 316.5 that were presented to the Civil Rules Committee on March 16, 2021. After the recommendations made by the ATJC Subcommittee, on June 25, 2021, the legislature passed HB 21-1121, effective upon signing, and SB 21-173, effective October 1, 2021. Each of these bills relates to and directly affects the work of both subcommittees.

On July 19, 2021, the ATJC Subcommittee provided the Rules Subcommittee with amended recommendations regarding C.R.C.P. 304, C.R.C.P. 312.5, and C.R.C.P. 316.5, a civil advisement sheet for tenants in FED cases, and a request for documents form consistent with SB 21-173. They also withdrew their proposed disclosure statement in light of their determination that mandatory disclosures in FED cases would be inconsistent with the request for document language in SB 21-173.

Over the next two months, the Rules Subcommittee met several times to review and make recommendations regarding the ATJC Subcommittee’s amended recommendations. These meetings included a direct presentation by the Chair of the ATJC

Subcommittee, Judge Lino Lipinsky, regarding that subcommittee's amended recommendations.

At the conclusion of our meetings, the Rules Subcommittee largely approved of and adopted the amended recommendations made by the ATJC Subcommittee with five primary amendments. I've included a tracked changes copy of each proposed rule change and document to this memo.

Proposed Rule Changes

(1) Proposed C.R.C.P. 304

All members of the Rules Subcommittee unanimously approved the ATJC Subcommittee's proposed changes to Rule 304 with no suggested edits or corrections. These changes are reflected in the creation and addition of section (b)(2) of Rule 304, which would apply to FED cases.

(2) Proposed C.R.C.P. 312.5

All members of the Rules Subcommittee approved of the ATJC Subcommittee's proposed creation of C.R.C.P. 312.5 that would apply to FED cases. New C.R.C.P. 312.5, is modeled on current C.R.C.P. 312 and it contains a deadline for answers in FED cases consistent with the FED statutes and current practice.

The Rules Subcommittee approved of the ATJC Subcommittee's proposed rule with one change to delete the phrase ". . . by statute or . . ." in proposed C.R.C.P. 312.5(a). The new proposed C.R.C.P. 312.5(a) would read, "The defendant shall file an answer including any counterclaim or cross-claim on or before, and shall appear in court at, the date and time as fixed in the summons, or such other date as fixed by the court." This was approved by the Rules Subcommittee in a split vote 3-2-1.

The Rules Subcommittee unanimously approved the ATJC Subcommittee's proposed C.R.C.P. 312.5(b).

(3) Proposed C.R.C.P. 316.5

All members of the Rules Subcommittee approved of the ATJC Subcommittee's proposed creation of C.R.C.P. 316.5 that would apply to FED cases. New C.R.C.P. 316.5 is modeled on current C.R.C.P. 316 and would govern pretrial procedures in FED cases.

The Rules Subcommittee approved the ATJC Subcommittee's proposed rule with one change to C.R.C.P. 316.5(a)(1) and one change to C.R.C.P. 316.5(c).

In C.R.C.P. 316.5(a)(1), the Rules Subcommittee approved the addition of the word "file" to the proposed rule, which would now read, "To make this request, a party must complete, file, and send Form ____ (Request for Documents in Eviction Cases) to the opposing party." This was narrowly approved by the Rules Subcommittee and required the Chair to cast the deciding vote.

The Rules Subcommittee unanimously approved the ATJC Subcommittee's proposed C.R.C.P. 316.5(b).

In C.R.C.P. 316.5(c), the Rules Subcommittee unanimously approved the reinstatement of the sentence that stated, "The request shall be made only during the pre-trial conference."

(4) Proposed advisement sheet for tenants in FED cases

The Rules Subcommittee unanimously approved the use of the ATJC Subcommittee's proposed advisement with graphics rather than the proposed form without graphics. The advisement sheet would provide defendants in FED cases with basic information about the legal process and resources. The Rules Subcommittee approved the below changes to the advisement sheet.

First, the Rules Subcommittee approved the addition of the language stating, ". . . (state your defense)" in section 1, paragraph 1, at the end of the first sentence. This would change the proposed language to, ". . . why you should not be evicted and/or do not owe

money (state your defense).” This was narrowly approved by the Rules Subcommittee and required the Chair to cast the deciding vote.

Next, the Rules Subcommittee unanimously approved including language stating, “While you are not required to do so, you may contact the landlord or the landlord’s attorney to discuss resolving your case.” A friendly amendment was approved to include a statement that, “you may also call a tenant attorney to discuss your case.” The language that passed stated, “While you are not required to do so, you may contact the landlord or the landlord’s attorney to discuss resolving your case and you may also contact a tenant attorney to discuss your case.”

Last, the Rules Subcommittee approved including the new language discussed above about contacting an attorney at the top of the advisement sheet after the sentence that states, “This sheet explains some of your rights.”

The Rules Subcommittee edits will require the form to be further formatted to fit on one page.

(5) Proposed Request for Documents form consistent with the document request procedure set forth in SB 21-173

The Rules Subcommittee approved the use of the ATJC Subcommittee’s proposed form Request for Documents in FED cases, which is consistent with the document request procedure set forth in SB 21-173. The Rules Subcommittee approved this form with two changes.

First, the Rules Subcommittee approved changing the word “related” to “relevant” in the second sentence of the proposed form to be consistent with C.R.S. 13-40-113(4)(b). This would change the language of the proposed form to, “. . . documents that party has that are relevant to this case.” This was narrowly approved by the Rules Subcommittee and required the Chair to cast the deciding vote.

Next, the Rules Subcommittee unanimously approved the addition of the word “the” in the first sentence just after the word “that” and before the word “party.” This would change the proposed language to state, “. . . documents that the party has”

(6) Proposed summons with edits by Sean Slagle

The Rules Subcommittee considered the proposed summons provided to the subcommittee in mid-August by Sean Slagle with SCAO. The subcommittee preliminarily approved the summons with changes as reflected below. However, the Rules Subcommittee received feedback on the summons and needs additional time to address the feedback received by the subcommittee. The changes the Rules Subcommittee agreed upon are below.

The Rules Subcommittee unanimously approved of changing the name in the caption of the summons to “Court Summons: Eviction/FED” as recommended by Slagle.

The Rules Subcommittee also approved the addition of a fourth bullet point in paragraph seven of the summons stating, “Whether you have a counterclaim or crossclaim against the landlord.”

The subcommittee voted 4-2 to remove the phrase “. . . or appearing in court at the date and the time in the summons . . .” in paragraph 6 of the summons. This would change the proposed language to state, “If you do not respond to the landlord’s complaint by filing a written answer with the Court on or before the date and time in this summons, the judge may enter a default judgment against you in favor of your landlord for possession.”

The Rules Subcommittee unanimously approved keeping the statutory language at the end of the summons and unanimously approved of Slagle’s other proposed edits to the summons.

* * * *

Rule 304. Service of Process.

(a) To What Applicable. This rule applies to all process except as otherwise provided by these rules.

(b) Initial Process. Initial process shall be as follows:

(1) Initial Process in cases other than forcible entry and detainer cases. Except in cases of service by publication under Rule 304 (f), the complaint and a blank copy of the answer form shall be served with the summons.

(2) Initial Process in forcible entry and detainer cases. Plaintiff shall serve the following on the defendant at least seven days before the return date: (1) summons [containing all language and information required by statute](#); (2) complaint; (3) blank copy of the answer form; (4) Form ___: Information for Eviction Cases; (5) ~~plaintiff's completed Form 9A: Mandatory Disclosure Statement in Eviction Cases;~~ (6) [a blank copy of Form 9A: Mandatory Disclosure Statement ___: Request for Documents](#) in Eviction Cases; and (7) ~~blank copies of Forms JDF 205 and 206 (fee waiver forms).~~ ~~Plaintiff shall certify in plaintiff's "return of service" that plaintiff served all required documents on defendant.~~

(c) By Whom Served. Process may be served within the United States or its Territories by any person whose age is eighteen years or older, not a party to the action. Process served in a foreign country shall be according to any internationally agreed means reasonably calculated to give notice, the law of the foreign country, or as directed by the foreign authority or the court if not otherwise prohibited by international agreement.

(d) Personal Service. Personal service shall be as follows:

(1) Upon a natural person whose age is eighteen years or older by delivering a copy thereof to the person, or by leaving a copy thereof at the person's usual place of abode, with any person whose age is eighteen years or older and who is a member of the person's family, or at the person's usual workplace, with the person's supervisor, secretary, administrative assistant, bookkeeper, human resources representative or managing agent; or by delivering a copy to a person authorized by appointment or by law to receive service of process.

(2) 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 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.

(3) Upon a person for whom a conservator has been appointed, by delivering a copy thereof to such conservator.

(4) Upon any form of corporation, partnership, association, cooperative, limited liability company, limited partnership association, trust, organization, or other form of entity that is recognized under the laws of this state or of any other jurisdiction, (including any such organization, association or entity serving as an agent for service of process for itself or for another entity) by delivering a copy thereof to the registered agent for service as set forth in the most recently filed document in the records of the secretary of state of this state or of any other jurisdiction, or that agent's secretary or assistant, or one of the following:

(A) An officer of any form of entity having officers, or that officer's secretary or assistant;

(B) A general partner of any form of partnership, or that general partner's secretary or assistant;

(C) A manager of a limited liability company or limited partnership association in which management is vested in managers rather than members, or that manager's secretary or assistant;

(D) A member of a limited liability company or limited partnership association in which management is vested in the members or in which management is vested in managers and there are no managers, or that member's secretary or assistant;

(E) A trustee of a trust, or that trustee's secretary or assistant;

(F) The functional equivalent of any person described in paragraphs (A) through (E) of this subsection (4), regardless of such person's title, under:

(I) the articles of incorporation, articles of organization, certificate of limited partnership, articles of association, statement of registration, or other documents of similar import duly filed or recorded by which the entity or any or all of its owners obtains status as an entity or the attribute of limited liability, or

(II) the law pursuant to which the entity is formed or which governs the operation of the entity;

(G) If no person listed in subsection (4) of this rule can be found in this state, upon any person serving as a shareholder, member, partner, or other person having an ownership or similar interest in, or any director, agent, or principal employee of such entity, who can be found in this state, or service as otherwise provided by law.

(5) Repealed.

(6) Upon a municipal corporation, by delivering a copy thereof to the mayor, the city manager, the clerk, or deputy clerk.

(7) Upon a county, by delivering a copy thereof to the county clerk, chief deputy, or county commissioner.

(8) Upon a school district, by delivering a copy thereof to the superintendent.

(9) Upon the state by delivering a copy thereof to the attorney general.

(10)

(A) Upon an officer, agent, or employee of the state, acting in an official capacity, by delivering a copy thereof to the officer, agent, or employee, and by delivering a copy to the attorney general.

(B) Upon a department or agency of the state, subject to suit, by delivering a copy thereof to the principal officer, chief clerk, or other executive employee thereof, and by delivering a copy to the attorney general.

(C) For purposes of service of an initial summons and complaint, the copies shall be delivered to both the party and the attorney general within the times as set forth in rule 312 (a). For all other purposes, the effective date of service shall be the latter date of delivery.

(11) Upon other political subdivisions of the State of Colorado, special districts, or quasi-municipal entities, by delivering a copy thereof to any officer or general manager, unless otherwise provided by law.

(12) Upon any of the entities or persons listed in subsections (4) through (11) of this section (d) by delivering a copy to any designee authorized to accept service of process for such entity or person, or by delivery to a person authorized by appointment or law to receive service of process for such entity or person. The delivery shall be made in any manner permitted by such appointment or law.

(e) Substitute Service. In the event that a party attempting service of process by personal service under section (d) is unable to accomplish service, and service by publication or mail is not otherwise permitted under section (f), the party may file a motion, supported by an affidavit of the person attempting service, for an order for substituted service. The motion shall state (1) the efforts made to obtain personal service and the reason that personal service could not be obtained, (2) the identity of the person to whom the party wishes to deliver the process, and (3) the address, or last known address of the workplace and residence, if known, of the party upon whom service is to be effected. If the court is satisfied that due diligence has been used to attempt personal service under section (d), that further attempts to obtain service under section (d) would be to no avail, and that the person to whom delivery of the process is appropriate under the circumstances and reasonably calculated to give actual notice to the party upon whom service is to be effective, it shall:

(1) Authorize delivery to be made to the person deemed appropriate for service, and

(2) Order the process to be mailed to the address(es) of the party to be served by substituted service, as set forth in the motion, on or before the date of delivery. Service shall be complete on the date of delivery to the person deemed appropriate for service.

(f) Other Service. Except as otherwise provided by law, service by mail or publication shall be allowed only in actions affecting specific property or status or other proceedings in rem. When service is by publication, the complaint need not be published with the summons. The party desiring service of

process by mail or publication under this section (f) shall file a motion verified by the oath of such party or of someone in the party's behalf for an order of service by mail or publication. It shall state the facts authorizing such service, and shall show the efforts, if any, that have been made to obtain personal service and shall give the address, or last known address, of each person to be served or shall state that this address and last known address are unknown. The court, if satisfied that due diligence has been used to obtain personal service or that efforts to obtain the same would have been to no avail, shall:

(1) Order the party to send by registered or certified mail a copy of the summons and a copy of the complaint, addressed to such person at such address, requesting a return receipt signed by addressee only. Such service shall be complete on the date of the filing of proof thereof, together with such return receipt attached thereto signed by such addressee, or

(2) Order publication of the summons in a newspaper published in the county in which the action is pending. Such publication shall be made once each week for five successive weeks. Within fifteen days after the order the party shall mail a copy of the summons and complaint to each person whose address or last known address has been stated in the motion and file proof thereof. Service shall be completed on the day of the last publication. If no newspaper is published in the county, the court shall designate one in some adjoining county.

(g) Manner of Proof. Proof of service shall be made as follows:

(1) If served personally, by a statement, certified by the sheriff, marshal or similar governmental official, or a sworn or unsworn declaration by any other person completing the service as to date, place, and manner of service.

(2) Repealed.

(3) If served by mail, a sworn or unsworn declaration showing the date of the mailing, with the return receipt attached, where applicable.

(4) If served by publication, by a sworn or unsworn declaration that includes the mailing of a copy of the summons, complaint and answer form where required.

(5) If served by waiver, by a sworn or unsworn declaration admitting or waiving service by the person or persons served, or by their attorney.

(6) If served by substituted service, by a sworn or unsworn declaration as to the date, place, and manner of service, and that the process was also mailed to the party to be served by substituted service, setting forth the address(es) where the process was mailed.

(h) Amendment. At any time in its discretion and upon such terms as it deems just, the court may allow any summons or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the summons issued.

(i) Waiver of Service of Summons. A defendant who waives service of a summons does not thereby waive any objection to the venue or to the jurisdiction of the court over the defendant.

(j) Refusal of Copy. If a person to be served refuses to accept a copy of the summons and complaint, service shall be sufficient if the person serving the documents knows or has reason to identify the person who refuses to be served, identifies the documents being served as a summons and complaint, offers to deliver a copy of the documents to the person who refuses to be served, and thereafter leaves a copy in a conspicuous place.

Rule 312.5. Defenses and Objections in Forcible Entry and Detainer Cases -- When and How.

Defenses and Objections in Forcible Entry and Detainer Cases -- by Pleading or Motion.

(a) Responsive Pleadings; When Presented. The defendant shall file an answer including any counterclaim or cross-claim on or before, and shall appear in court at, the date and time as fixed in the summons, or such other date as fixed ~~by statute or~~ by the court.

(b) Motions. ~~A party may make a motion raising defenses. If made by the defendant on or before the appearance date the motions shall be ruled upon before an answer is required to be filed. If the court rules upon such motions on the appearance date, the defendant may be required to file the answer immediately. The answer shall otherwise be filed within 14 days of the order or such other time as fixed by the court. The court may permit the plaintiff to amend the complaint or supply additional facts and may permit additional time within which the answer shall be filed.~~ [A defendant may file a motion setting forth defenses simultaneously with the defendant's answer. A party may file other motions within three days of the earlier of the date of any pretrial conference or the trial date.](#)

(c) Waiver of Defenses. A party waives all defenses and objections which are not raised either by motion or in his answer except that the defense of lack of jurisdiction of the subject matter may be made at any time.

(d) Motion for Judgment on the Pleadings. At any time after the last pleading is filed, but within such time as not to delay the trial, any party may move for judgment on the pleadings. A party shall not submit matters outside the pleadings in support of the motion.

Rule 316.5. Pretrial Procedure – Forcible Entry and Detainer Cases -- Disclosure Requests for Documents and Conference.

(a) ~~Disclosure Statement~~ Requests for Documents.

~~(1) The plaintiff shall serve pursuant to C.R.C.P. 305 a completed Form 9A with attachments and a blank Form 9A on the defendant together with the summons and complaint, or such other time as fixed by court order. The defendant shall serve pursuant to C.R.C.P. 305 a completed Form 9A with attachments on the plaintiff together with the answer no later than the date and time provided in C.R.C.P. 312.5(a), or such other time as fixed by court order. A party may not supplement the disclosure statement except for good cause.~~

(1) Either party may request all documents in the other party's possession relevant to the current action. To make this request, a party must complete, file, and send Form _____ (Request for Documents in Eviction Cases) to the opposing party.

~~(2) Any party failing to comply with a court order requiring such party to provide a completed Form 9A in good faith under this subsection (a) documentation relevant to the current action shall be subject to imposition of appropriate sanctions.~~

(b) Trial Scheduling and Pretrial Conferences. ~~If~~ Except as provided by statute, if the defendant files a timely ~~an~~ answer, the court shall schedule a trial no ~~earlier~~ sooner than ~~forty-eight hours~~ seven days, but not more than ten days, after the ~~return~~ answer is filed, unless (1) the defendant requests a waiver of this requirement in the defendant's answer or after filing the answer, (2) the court sets the trial date, and in accordance with C.R.S. § 13-40-114 beyond ten days if either party demonstrates good cause for an extension or if the court otherwise finds justification for the extension. Prior to trial, the court may in its discretion and upon reasonable notice order a pretrial conference. Conferences by telephone or videoconference are encouraged. Following a pretrial conference, the court may issue an order which may include limitations on the issues to be raised and the witnesses and exhibits to be allowed at trial, entry of judgment, or dismissal, if appropriate. Failure to appear at a pretrial conference may result in appropriate sanctions, including an award of attorney's fees and expenses incurred by the appearing party. Courts may encourage the parties to engage in mediation.

(c) Pretrial Discovery. Any party may request that discovery be permitted to assist in the preparation for trial. The request shall be made only during the pretrial conference. ~~The request shall be made only during the pretrial conference.~~ The discovery may include depositions, requests for admission, interrogatories, physical or mental examinations, or requests for production or inspection. If the court enters a discovery order, it shall set forth the extent and terms of the discovery as well as the time for compliance. If the court fails to specify any term, then the provisions of C.R.C.P. 30, 32, 33, 34, 35, and 36 shall be followed as to the missing term.

(d) Resolution of Disputes. All issues regarding discovery shall be resolved on or before the day of trial and shall not cause any undue delay in the proceedings. No party shall be entitled to seek protective orders following the conference. Unless otherwise ordered by the court, a dispute over compliance with the discovery order shall be resolved at the time of trial, and the court may impose appropriate sanctions, including attorney's fees and costs, against the non-complying party.

(e) Juror Notebooks. The court may order the use of juror notebooks. If notebooks are to be used, counsel for each party shall confer about items to be included in juror notebooks and at the pretrial conference or other date set by the court make a joint submission to the court of items to be included in the juror notebook.

West's Colorado Revised Statutes Annotated

Colorado Court Rules

Chapter 25. Rules of County Court Civil Procedure

C.R.C.P. Rule 304

Rule 304. Service of Process

Effective: April 17, 2020

[Currentness](#)

(a) To What Applicable. This rule applies to all process except as otherwise provided by these rules.

(b) Initial Process. Except in cases of service by publication under Rule 304(f), the complaint and a blank copy of the answer form shall be served with the summons.

(c) By Whom Served. Process may be served within the United States or its Territories by any person whose age is eighteen years or older, not a party to the action. Process served in a foreign country shall be according to any internationally agreed means reasonably calculated to give notice, the law of the foreign country, or as directed by the foreign authority or the court if not otherwise prohibited by international agreement.

(d) Personal Service. Personal service shall be as follows:

(1) Upon a natural person whose age is eighteen years or older by delivering a copy thereof to the person, or by leaving a copy thereof at the person's usual place of abode, with any person whose age is eighteen years or older and who is a member of the person's family, or at the person's usual workplace, with the person's supervisor, secretary, administrative assistant, bookkeeper, human resources representative or managing agent; or by delivering a copy to a person authorized by appointment or by law to receive service of process.

(2) 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 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.

(3) Upon a person for whom a conservator has been appointed, by delivering a copy thereof to such conservator.

(4) Upon any form of corporation, partnership, association, cooperative, limited liability company, limited partnership association, trust, organization, or other form of entity that is recognized under the laws of this state or of any other jurisdiction, (including any such organization, association or entity serving as an agent for service of process for itself or for another entity) by delivering a copy thereof to the registered agent for service as set forth in the most recently filed document in the records of the secretary of state of this state or of any other jurisdiction, or that agent's secretary or assistant, or one of the following:

(A) An officer of any form of entity having officers, or that officer's secretary or assistant;

(B) A general partner of any form of partnership, or that general partner's secretary or assistant;

(C) A manager of a limited liability company or limited partnership association in which management is vested in managers rather than members, or that manager's secretary or assistant;

(D) A member of a limited liability company or limited partnership association in which management is vested in the members or in which management is vested in managers and there are no managers, or that member's secretary or assistant;

(E) A trustee of a trust, or that trustee's secretary or assistant;

(F) The functional equivalent of any person described in paragraphs (A) through (E) of this subsection (4), regardless of such person's title, under:

(I) the articles of incorporation, articles of organization, certificate of limited partnership, articles of association, statement of registration, or other documents of similar import duly filed or recorded by which the entity or any or all of its owners obtains status as an entity or the attribute of limited liability, or

(II) the law pursuant to which the entity is formed or which governs the operation of the entity;

(G) If no person listed in subsection (4) of this rule can be found in this state, upon any person serving as a shareholder, member, partner, or other person having an ownership or similar interest in, or any director, agent, or principal employee of such entity, who can be found in this state, or service as otherwise provided by law.

(5) Repealed eff. March 23, 2006.

(6) Upon a municipal corporation, by delivering a copy thereof to the mayor, the city manager, the clerk, or deputy clerk.

(7) Upon a county, by delivering a copy thereof to the county clerk, chief deputy, or county commissioner.

(8) Upon a school district, by delivering a copy thereof to the superintendent.

(9) Upon the state by delivering a copy thereof to the attorney general.

(10)(A) Upon an officer, agent, or employee of the state, acting in an official capacity, by delivering a copy thereof to the officer, agent, or employee, and by delivering a copy to the attorney general.

(B) Upon a department or agency of the state, subject to suit, by delivering a copy thereof to the principal officer, chief clerk, or other executive employee thereof, and by delivering a copy to the attorney general.

(C) For purposes of service of an initial summons and complaint, the copies shall be delivered to both the party and the attorney general within the times as set forth in rule 312(a). For all other purposes, the effective date of service shall be the latter date of delivery.

(11) Upon other political subdivisions of the State of Colorado, special districts, or quasi-municipal entities, by delivering a copy thereof to any officer or general manager, unless otherwise provided by law.

(12) Upon any of the entities or persons listed in subsections (4) through (11) of this section (d) by delivering a copy to any designee authorized to accept service of process for such entity or person, or by delivery to a person authorized by appointment or law to receive service of process for such entity or person. The delivery shall be made in any manner permitted by such appointment or law.

(e) Substitute Service. In the event that a party attempting service of process by personal service under section (d) is unable to accomplish service, and service by publication or mail is not otherwise permitted under section (f), the party may file a motion, supported by an affidavit of the person attempting service, for an order for substituted service. The motion shall state (1) the efforts made to obtain personal service and the reason that personal service could not be obtained, (2) the identity of the person to whom the party wishes to deliver the process, and (3) the address, or last known address of the workplace and residence, if known, of the party upon whom service is to be effected. If the court is satisfied that due diligence has been used to attempt personal service under section (d), that further attempts to obtain service under section (d) would be to no avail, and that the person to whom delivery of the process is appropriate under the circumstances and reasonably calculated to give actual

notice to the party upon whom service is to be effective, it shall:

(1) Authorize delivery to be made to the person deemed appropriate for service, and

(2) Order the process to be mailed to the address(es) of the party to be served by substituted service, as set forth in the motion, on or before the date of delivery.

Service shall be complete on the date of delivery to the person deemed appropriate for service.

(f) Other Service. Except as otherwise provided by law, service by mail or publication shall be allowed only in actions affecting specific property or status or other proceedings in rem. When service is by publication, the complaint need not be published with the summons. The party desiring service of process by mail or publication under this section (f) shall file a motion verified by the oath of such party or of someone in the party's behalf for an order of service by mail or publication. It shall state the facts authorizing such service, and shall show the efforts, if any, that have been made to obtain personal service and shall give the address, or last known address, of each person to be served or shall state that this address and last known address are unknown. The court, if satisfied that due diligence has been used to obtain personal service or that efforts to obtain the same would have been to no avail, shall:

(1) Order the party to send by registered or certified mail a copy of the summons and a copy of the complaint, addressed to such person at such address, requesting a return receipt signed by addressee only. Such service shall be complete on the date of the filing of proof thereof, together with such return receipt attached thereto signed by such addressee, or

(2) Order publication of the summons in a newspaper published in the county in which the action is pending. Such publication shall be made once each week for five successive weeks. Within fifteen days after the order the party shall mail a copy of the summons and complaint to each person whose address or last known address has been stated in the motion and file proof thereof. Service shall be completed on the day of the last publication. If no newspaper is published in the county, the court shall designate one in some adjoining county.

(g) Manner of Proof. Proof of service shall be made as follows:

(1) If served personally, by a statement, certified by the sheriff, marshal or similar governmental official, or a sworn or unsworn declaration by any other person completing the service as to date, place, and manner of service.

(2) Repealed eff. March 23, 2006.

(3) If served by mail, a sworn or unsworn declaration showing the date of the mailing, with the return receipt attached, where applicable.

(4) If served by publication, by a sworn or unsworn declaration that includes the mailing of a copy of the summons, complaint and answer form where required.

(5) If served by waiver, by a sworn or unsworn declaration admitting or waiving service by the person or persons served, or by their attorney.

(6) If served by substituted service, by a sworn or unsworn declaration as to the date, place, and manner of service, and that the process was also mailed to the party to be served by substituted service, setting forth the address(es) where the process was mailed.

(h) Amendment. At any time in its discretion and upon such terms as it deems just, the court may allow any summons or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the summons issued.

(i) Waiver of Service of Summons. A defendant who waives service of a summons does not thereby waive any objection to the venue or to the jurisdiction of the court over the defendant.

(j) Refusal of Copy. If a person to be served refuses to accept a copy of the summons and complaint, service shall be sufficient if the person serving the documents knows or has reason to identify the person who refuses to be served, identifies the documents being served as a summons and complaint, offers to deliver a copy of the documents to the person who refuses to be served, and thereafter leaves a copy in a conspicuous place.

Credits

Amended effective January 1, 1994; March 23, 2006; February 7, 2008; June 21, 2012; April 17, 2020.

Editors' Notes

COMMENT

2020

Rule 304(g) on the manner of proving service was amended following the adoption in 2018 of the Uniform Unsworn Declarations Act. [C.R.S. § 13-27-101 et seq.](#) This Act defines a “sworn declaration,” which includes an affidavit, and an “unsworn declaration,” which “means a declaration in a signed record that is not given under oath, but is given under penalty of perjury.” [§ 13-27-102 \(6\)](#) and [\(7\)](#). An unsworn declaration which complies with the Act is sufficient to prove service under Rule 304(g).

Rules Civ. Proc., County Court Rule 304, CO ST CTY CT RCP Rule 304
Current with amendments received through September 1, 2021.

End of Document

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West's Colorado Revised Statutes Annotated

Colorado Court Rules

Chapter 25. Rules of County Court Civil Procedure

C.R.C.P. Rule 312

Rule 312. Defenses and Objections--When and How Presented--By Pleading or
Motion--Motion for Judgment on Pleadings

Currentness

(a) Responsive Pleadings; When Presented. The defendant shall file an answer including any counterclaim or cross-claim on or before the appearance date as fixed in the summons. Except as otherwise provided in this rule, the appearance date shall not be more than 63 days from the date of the issuance of the summons and the summons must have been served at least 14 days before the appearance date. When circumstances require that the plaintiff proceed under Rule 304(e), the above limitation shall not apply and the appearance date shall not be less than 14 days after the completion of service by publication or mail.

(b) Motions. Motions raising defenses shall be made in accordance with Rule 307. If made by the defendant on or before the appearance date the motions shall be ruled upon before an answer is required to be filed. If the court rules upon such motions on the appearance date, the defendant may be required to file the answer immediately. The answer shall otherwise be filed within 14 days of the order. The court may permit the plaintiff to amend the complaint or supply additional facts and may permit additional time within which the answer shall be filed.

(c) Waiver of Defenses. A party waives all defenses and objections which are not raised either by motion or in his answer except that the defense of lack of jurisdiction of the subject matter may be made at any time.

(d) Motion for Judgment on the Pleadings. At any time after the last pleading is filed, but within such time as not to delay the trial, any party may move for judgment on the pleadings. A party shall not submit matters outside the pleadings in support of the motion.

Credits

Amended effective January 1, 1984; January 1, 1994; April 23, 1998; June 28, 2007; January 1, 2012.

Rules Civ. Proc., County Court Rule 312, CO ST CTY CT RCP Rule 312
Current with amendments received through September 1, 2021.

West's Colorado Revised Statutes Annotated

Colorado Court Rules

Chapter 25. Rules of County Court Civil Procedure

C.R.C.P. Rule 316

Rule 316. Pretrial Procedure--Disclosure and Conference

Currentness

(a) Disclosure Statement.

(1) At any time after the answer is filed but no later than 21 days before trial, a party may request from an opposing party a list of witnesses who may be called at trial, and copies of documents and pictures, and a description of physical evidence which may be used at trial. Such request shall be made by serving pursuant to C.R.C.P. 305 a blank disclosure statement, which shall be in the form and content of Appendix to Chapter 25, Form 9, on the opposing party and shall be accompanied by the requesting party's properly completed Form 9 and its attachments. The opposing party shall serve pursuant to C.R.C.P. 305 a completed Form 9 with attachments on the requesting party within 21 days after service but not less than 7 days before trial. The court may shorten or extend that time. A party may not supplement the disclosure statement except for good cause.

(2) The court may order the parties to exchange and file Form 9 disclosure statements at any time before trial.

(3) Any party failing to respond in good faith to a Form 9 request or court order under this subsection (a) shall be subject to imposition of appropriate sanctions at the time of trial.

(b) Pretrial Conferences. Prior to trial, the court may in its discretion and upon reasonable notice order a pretrial conference. Conferences by telephone are encouraged. Following a pretrial conference, the court may issue an order which may include limitations on the issues to be raised and the witnesses and exhibits to be allowed at trial, entry of judgment, or dismissal, if appropriate. Failure to appear at a pretrial conference may result in appropriate sanctions, including an award of attorney's fees and expenses incurred by the appearing party.

(c) Pretrial Discovery. If a pretrial conference is held, any party may request that discovery be permitted to assist in the preparation for trial. The request shall be made only during the conference. The discovery may include depositions, requests for admission, interrogatories, physical or mental examinations, or requests for production or inspection. If the court enters a discovery order, it shall set forth the extent and terms of the discovery as well as the time for compliance. If the court fails to specify any term, then the provisions of C.R.C.P. 30, 32, 33, 34, 35, and 36 shall be followed as to the missing term.

(d) Resolution of Disputes. All issues regarding discovery shall be resolved during the conference. No party shall be entitled to seek protective orders following the conference. Unless otherwise ordered by the court, a dispute over compliance with the discovery order shall be resolved at the time of trial, and the court may impose appropriate sanctions, including attorney's fees and costs, against the non-complying party.

(e) Juror Notebooks. The court may order the use of juror notebooks. If notebooks are to be used, counsel for each party shall confer about items to be included in juror notebooks and at the pretrial conference or other date set by the court make a joint submission to the court of items to be included in the juror notebook.

Credits

Adopted effective September 1, 1991. Amended effective January 1, 1999; June 28, 2007; January 1, 2012.

Editors' Notes

COMMENT

Subsection (a) provides for the disclosure of a list of witnesses and copies of exhibits through the use of a form Disclosure Statement in simple cases. This rule also sets forth the procedure for pretrial conferences. A simplified form of discovery has been developed for the exceptional case warranting the expense of discovery due to the increased jurisdictional limit of the county court and is available only when there is a pretrial conference. The procedure is designed to provide discovery which is tailored to the particular needs of the parties. In order to avoid disputes arising from discovery, all matters should be resolved by the court at the time of the conference.

Rules Civ. Proc., County Court Rule 316, CO ST CTY CT RCP Rule 316
Current with amendments received through September 1, 2021.

End of Document

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Information for Eviction Cases

A forcible entry and detainer case, also called an “FED” or “eviction” case, has been filed against you. This sheet explains some of your rights. [While you are not required to do so, you may contact the landlord or the landlord’s attorney to discuss resolving your case and you may also contact a tenant attorney to discuss your case.](#)

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1 What to do



If you disagree with the claim against you, you must:

1. Complete the blank Answer form.

Your completed Answer should say why you should not be evicted and/or do not owe the money [\(state your defense\)](#). You can also list claims you may have against the plaintiff/landlord. These are called “counterclaims.” If you have a counterclaim, you must list the facts that support your counterclaim.

2. File your completed Answer.



File your completed Answer with the court at or before the date given for your appearance in the Summons.

Provide a copy to the plaintiff/landlord or the plaintiff/landlord’s attorney.

3. Appear in Court at the date and time listed in your Summons or in any court order.

4. Pay the filing fee or, if you cannot afford the filing fee, complete and file fee waiver forms JDF 205 and 206. You can find the forms and instructions at: https://www.courts.state.co.us/Forms/Forms_List.cfm?Form_Type_ID=176

5. You may request all documents in the plaintiff/landlord’s possession related to this case.

- File with the court a completed copy of the Request for Documents in Eviction Cases form.
- You received this form with the Summons.

- Provide a copy of the completed Request to the plaintiff/landlord.

6. You must follow any court order requiring you to give the plaintiff/landlord documents that you have related to this case.

If you are missing forms, you can find them at: https://www.courts.state.co.us/Forms/Forms_List.cfm?Form_Type_ID=28

Formatted: Justified

The following website has information about the procedures in the county in which your case was filed: <https://www.courts.state.co.us/Courts/District/Choose.cfm>

Note: If you do **not** file a timely Answer or appear in court, the court may issue a *default judgment* and/or money judgment against you. This means you will be evicted. The landlord is given possession of the property. You may also owe the landlord money.

The Court may also issue a Writ of Restitution against you. The Writ of Restitution allows a Sheriff to remove you and your belongings from your home.

2 Resources



You can find these and other helpful resources in the Summons form:

- Self Help Center
To locate your local self help center go here: https://www.courts.state.co.us/Self_Help/center.cfm
- Colorado Legal Services

- **Free** legal services to low income tenants facing evictions.

- **Call** (303) 837-1313 ext. 444 or visit <https://www.coloradolegalservices.org/>

County Court _____ County, Colorado Court Address: _____ <hr/> Plaintiff(s): _____ v. Defendant(s): _____	
Attorney or Party Without Attorney (Name and Address): _____ Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____	▲ COURT USE ONLY ▲ Case Number: _____ Division _____ Courtroom _____
REQUEST FOR DOCUMENTS IN EVICTION CASES	

I _____, am the Plaintiff Defendant in this case.

I ask that the court order the other party in this case to give me all documents that the party has that are ~~related~~ relevant to this case.

Dated: _____

 Printed name of Plaintiff/Petitioner Defendant/Respondent

 Signature of Plaintiff/Petitioner Defendant/Respondent

CERTIFICATE OF SERVICE

I certify that on _____ (date) a true and accurate copy of this *REQUEST FOR DOCUMENTS IN EVICTION CASES* was served on the other party by:

Hand Delivery E-filed Faxed to this number _____ or by placing it in the United States mail, postage pre-paid, and addressed to the following:

 Signature

FOR COURT USE ONLY BELOW THIS LINE:

ORDER

The Court orders that the party who was asked to provide documents in the above Request for Documents in Eviction Case must provide all documents related to this case to the party that made the request within the earlier of (a) two business days after this Order is received or (b) two days before the trial in this case is scheduled to begin.

Dated: _____

 Judge Magistrate



Information for Eviction Cases

A forcible entry and detainer case, also called an “FED” or “eviction” case, has been filed against you. This sheet explains some of your rights.

① What to do



If you disagree with the claim against you, you must:

1. Complete the blank Answer form.
Your completed Answer should say why you should not be evicted and/or do not owe the money. You can also list claims you may have against the plaintiff/landlord. These are called “counterclaims.” If you have a counterclaim, you must list the facts that support your counterclaim.

2. File your completed Answer.



File your completed Answer with the court at or before the date given for your appearance in the Summons.

Provide a copy to the plaintiff/landlord or the plaintiff/landlord’s attorney.

3. Appear in Court at the date and time listed in your Summons or in any court order.
4. Pay the filing fee *or*, if you cannot afford the filing fee, complete and file fee waiver forms JDF 205 and 206. You can find the forms and instructions at: https://www.courts.state.co.us/Forms/Forms_List.cfm?Form_Type_ID=176
5. You may request all documents in the plaintiff/landlord’s possession related to this case.

- File with the court a completed copy of the Request for Documents in Eviction Cases form.
- You received this form with the Summons.
- Provide a copy of the completed Request to the plaintiff/landlord.

6. You must follow any court order requiring you to give the plaintiff/landlord documents that you have related to this case.

If you are missing forms, you can find them at: https://www.courts.state.co.us/Forms/Forms_List.cfm?Form_Type_ID=28

The following website has information about the procedures in the county in which your case was filed: <https://www.courts.state.co.us/Courts/District/Choose.cfm>

Note: If you do **not** file a timely Answer or appear in court, the court may issue a *default judgment* and/or money judgment against you. This means you will be evicted. The landlord is given possession of the property. You may also owe the landlord money.

The Court may also issue a Writ of Restitution against you. The Writ of Restitution allows a Sheriff to remove you and your belongings from your home.

②

Resources



You can find these and other helpful resources in the Summons form:

- Self Help Center
To locate your local self help center go here: https://www.courts.state.co.us/Self_Help/center.cfm
- Colorado Legal Services
- **Free** legal services to low income tenants facing evictions.
- **Call** (303) 837-1313 ext. 444 or visit <https://www.coloradolegalservices.org/>

County Court _____ County, Colorado Court Address:	
Plaintiff(s): v. Defendant(s):	
Attorney or Party Without Attorney (Name and Address):	▲ COURT USE ONLY ▲
Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____	Case Number: Division _____ Courtroom _____
REQUEST FOR DOCUMENTS IN EVICTION CASES	

I _____, am the Plaintiff Defendant in this case.

I ask that the court order the other party in this case to give me all documents that party has that are related to this case.

Dated: _____

Printed name of Plaintiff/Petitioner Defendant/Respondent

Signature of Plaintiff/Petitioner Defendant/Respondent

CERTIFICATE OF SERVICE

I certify that on _____ (date) a true and accurate copy of this *REQUEST FOR DOCUMENTS IN EVICTION CASES* was served on the other party by:

Hand Delivery E-filed Faxed to this number _____ or by placing it in the United States mail, postage pre-paid, and addressed to the following:

Signature

FOR COURT USE ONLY BELOW THIS LINE:

ORDER

The Court orders that the party who was asked to provide documents in the above Request for Documents in Eviction Case must provide all documents related to this case to the party that made the request within the earlier of (a) two business days after this Order is received or (b) two days before the trial in this case is scheduled to begin.

Dated: _____

 Judge Magistrate

~~2.3.~~ If you do not agree with the complaint, then you must either:

- a. ~~Go to the Court, located at: _____, Colorado, at the above date and time~~ Attend the court date above and file an answer stating any legal reason you have why judgment should not be entered against you, **OR**
- b. File the answer with the Court before that date and time.

~~3.4.~~ When you file your answer, you must pay a filing fee to the Clerk of the Court.

~~4.5.~~ If you file an answer, you must personally serve or mail a copy to the Plaintiffs or the attorney who signed the complaint.

~~6.~~ If you do not respond to the landlord's complaint by filing a written answer file with the Court, ~~at on~~ or before the date and time for appearance specified in this summons or appearing in court at the date and time in this summons, the judge may enter a default judgment against you in favor of your landlord for possession. A default judgment for possession means that you will have to move out, and it may mean that you will have to pay money to the landlord.

~~7.~~ ~~In your answer to the court, you can state:~~

- Why you believe you have a right to remain in the property.
- Whether you admit or deny the landlord's factual allegations against you, and
- Whether you believe you were given proper notice of the landlord's reasons for terminating your tenancy before you got this summons, and.
- Whether you have a counterclaim or crossclaim against the landlord.

~~5. complaint setting forth the grounds upon which you base your claim for possession and denying or admitting all of the material allegations of the complaint, judgment by default may be taken against you for the possession of the property described in the complaint, for the rent, if any, due or to become due, for present and future damages and costs, and for any other relief to which the Plaintiff(s) is (are) entitled.~~

~~6.8.~~ If you are claiming that the landlord's failure to repair ~~a the~~ residential premises is a defense to the landlord's allegation of nonpayment of rent, the Court will require you to pay into the

registry of the Court, at the time of filing your answer, the rent due less any expenses you have incurred based upon the landlord's failure to repair the residential premises.

In addition to filing an answer, you are required to complete an Affidavit (JDF 109) to support the amount you will need to pay into the registry of the Court.

~~7.9.~~ If you want a jury trial, you must ask for one in the answer and pay a jury fee in addition to the filing fee.

~~8.10.~~ If you [cannot afford the filing fee or jury fee, file JDF 205 - Motion to Waive Fees and JDF 206 - Order for Fee Waiver](#) ~~want to file an answer or request a jury trial and you are indigent, you must appear at the above date and time, fill out a financial affidavit, and ask the Court to waive the fee.~~

~~9.11.~~ Any records associated with the action are suppressed and **not accessible to the public** until an order is entered granting the plaintiff possession of the premises.

~~10.12.~~ If the plaintiff is granted possession of the premises, the court **records may remain suppressed** if both parties agree to suppress the records.

Dated: _____ at _____, Colorado, this _____
_____ day of _____ 20 ____.

Signed: _____
Deputy Clerk of Court or Attorney for Plaintiffs (if applicable)

Address(es) of Plaintiffs: _____

Telephone Number(s) of Plaintiffs _____

This Summons is issued pursuant to C.R.S. § 13-40-111. A copy of the Complaint together with a blank answer form must be served with this Summons. This form should be used only for actions filed under Colorado's Forcible Entry and Detainer Act.

To the Clerk: If this Summons is issued by the Clerk of the Court, ~~the signature block for the clerk, deputy and~~ the seal of the Court should be provided by stamp, or typewriter, in the space to the right of the signature.

Warning: All fees are **non-refundable**. In some cases, request for a jury trial may be denied pursuant to law even though a jury fee has been paid.

- By checking this box, I am acknowledging I am filling in the blanks and not changing anything else on the form.
- By checking this box, I am acknowledging that I have made a change to the original content of this form.

Certificate of Mailing

I/we, ~~the undersigned Plaintiff(s) (or agent for Plaintiff(s))~~, certify that on (date) _____, the date on which the Summons, Complaint, and Answer were filed, I/we mailed a copy of the Summons/Alias Summons, a copy of the Complaint, and Answer form by postage prepaid, first class mail, to _____, the Defendants at the following address(es):

Signature of: Plaintiffs / Agent for Plaintiffs

Colorado Revised Statutes section 13-40-111, as amended.

13-40-111. Issuance and return of summons.

- (1) Upon filing the complaint as ~~provided~~ required in section 13-40-110, the clerk of the court or the attorney for the plaintiff shall issue a summons. The summons ~~shall~~ must command the Defendant to appear before the Court at a place named in ~~such the~~ summons and at a time and on a day ~~which shall be~~ not less than seven days ~~but not~~ more than fourteen days from the day of issuing the same to answer the complaint of Plaintiff. The summons ~~shall~~ must also contain a statement addressed to the Defendant stating: "If you do not respond to the landlord's complaint by filing a written answer with the court on or before the date and time in this summons or appearing in court at the date and time in this summons, the judge may enter a default judgment against you in favor of your landlord for possession. A default judgment for possession means that you will have to move out, and it may mean that you will have to pay money to the landlord. In your answer to the court, you can state why you believe you have a right to remain in the property, whether you admit or deny the landlord's factual allegations against you, and whether you believe you were given proper notice of the landlord's reasons for terminating your tenancy before you got this summons. When you file your answer, you must pay a filing fee to the clerk of the court. If you are claiming that the landlord's failure to repair a residential premises is a defense to the landlord's allegation of nonpayment of rent, the court will require you to pay into the registry of the court, at the time of filing your answer, the rent due less any expenses you have incurred based upon the landlord's failure to repair the residential premises."

~~"If you fail to file with the Court, at or before the time for appearance specified in the summons, an answer to the complaint setting forth the grounds upon which you base~~

Commented [LS3]:
Suggested title change, "Relevant Statutes"

Commented [LS4]:
Because this information is given word-for-word above (§§ 4, & 6-8), I highly recommend removing the text of the statute and just listing the section numbers. Or, get rid of this section altogether.

~~your claim or possession and denying or admitting all of the material allegations of the complaint, judgment by default may be taken against you for the possession of the property described in the complaint, for the rent, if any, due or to become due, for present and future damages and costs, and for any other relief to which the Plaintiff is entitled". If you are claiming that the landlord's failure to repair the residential premises is a defense to the landlord's allegation of nonpayment of rent, the Court will require you to pay into the registry of the Court, at the time of filing your answer, the rent due less any expenses you have incurred based upon the landlord's failure to repair the residential premises.~~

13-40-111.1. Service.

- (1)** Such summons may be served by personal service as in any civil action. A copy of the complaint must be served with the summons.
- (2)** If personal service cannot be had upon the Defendant by a person qualified under the Colorado Rules of Civil Procedure to serve process, after having made diligent effort to make such personal service, such person may make service by posting a copy of the summons and the complaint in some conspicuous place upon the premises. In addition thereto, the Plaintiff shall mail, no later than the next day following the day on which he/she files the complaint, a copy of the summons, or, in the event that an alias summons is issued, a copy of the alias summons, and a copy of the complaint to the Defendant at the premises by postage prepaid, first class mail.
- (3)** Personal service or service by posting shall be made at least seven days before the day for appearance specified in such summons, and the time and manner of such service shall be endorsed upon such summons by the person making service thereof.

County Court _____ County, Colorado Court Address:	▲ COURT USE ONLY ▲
Plaintiff(s): v. Defendant(s): <input type="checkbox"/> Any and all other occupants:	
Attorney or Party Without Attorney (Name and Address):	Case Number:
Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____	Division _____ Courtroom _____
SUMMONS IN FORCIBLE ENTRY AND UNLAWFUL DETAINER	

To the above-named Defendant(s), take notice that:

1. On _____, 20____, at _____ o'clock__M. in the _____ County Court, _____, Colorado, the Court may be asked to enter judgment against you as set forth in the complaint.
2. A copy of the complaint against you and an answer form that you must use if you file an answer are attached.
3. If you do not agree with the complaint, then you must either:
 - a. Go to the Court, located at: _____, Colorado, at the above date and time and file an answer stating any legal reason you have why judgment should not be entered against you, **OR**
 - b. File the answer with the Court before that date and time.
4. When you file your answer, you must pay a filing fee to the Clerk of the Court.
5. If you file an answer, you must personally serve or mail a copy to the Plaintiff(s) or the attorney who signed the complaint.
6. If you do not file with the Court, at or before the time for appearance specified in this summons, an answer to the complaint setting forth the grounds upon which you base your claim for possession and denying or admitting all of the material allegations of the complaint, judgment by default may be taken against you for the possession of the property described in the complaint, for the rent, if any, due or to become due, for present and future damages and costs, and for any other relief to which the Plaintiff(s) is (are) entitled.
7. If you are claiming that the landlord's failure to repair the residential premises is a defense to the landlord's allegation of nonpayment of rent, the Court will require you to pay into the registry of the Court, at the time of filing your answer, the rent due less any expenses you have incurred based upon the landlord's failure to repair the residential premises. In addition to filing an answer, you are required to complete an Affidavit (JDF 109) to support the amount you will need to pay into the registry of the Court.
8. If you want a jury trial, you must ask for one in the answer and pay a jury fee in addition to the filing fee.
9. If you want to file an answer or request a jury trial and you are indigent, you must appear at the above date and time, fill out a financial affidavit, and ask the Court to waive the fee.
10. **Any records associated with the action are suppressed and not accessible to the public until an order is entered granting the plaintiff possession of the premises.**
11. **If the plaintiff is granted possession of the premises, the court records may remain suppressed if both parties agree to suppress the records.**

Dated at _____, Colorado, this _____ day of _____ 20 ____.

Clerk of the Court

By: _____
Deputy Clerk

Attorney for Plaintiff(s) (if applicable)

Address(es) of Plaintiff(s)

Telephone Number(s) of Plaintiff(s)

This Summons is issued pursuant to §13-40-111, C.R.S. A copy of the Complaint together with a blank answer form must be served with this Summons. This form should be used only for actions filed under Colorado's Forcible Entry and Detainer Act.

To the clerk: If this Summons is issued by the Clerk of the Court, the signature block for the clerk, deputy and the seal of the Court should be provided by stamp, or typewriter, in the space to the left of the attorney's name.

WARNING: ALL FEES ARE NON-REFUNDABLE. IN SOME CASES, A REQUEST FOR A JURY TRIAL MAY BE DENIED PURSUANT TO LAW EVEN THOUGH A JURY FEE HAS BEEN PAID.

By checking this box, I am acknowledging I am filling in the blanks and not changing anything else on the form.

By checking this box, I am acknowledging that I have made a change to the original content of this form.

CERTIFICATE OF MAILING

I/we, the undersigned Plaintiff(s) (or agent for Plaintiff(s)), certify that on _____ (date), the date on which the Summons, Complaint, and Answer were filed, I/we mailed a copy of the Summons/Alias Summons, a copy of the Complaint, and Answer form by postage prepaid, first class mail, to

_____, the Defendant(s) at the following address(es):

_____.

Plaintiff/(s)Agent for Plaintiff(s)

Section 13-40-111 Colorado Revised Statutes, as amended.

13-40-111. Issuance and return of summons.

(1) Upon filing the complaint as provided in §13-40-110, C.R.S., the clerk of the court or the attorney for the plaintiff shall issue a summons. The summons shall command the Defendant to appear before the Court at a place named in such summons and at a time and on a day which shall be not less than seven days nor more than fourteen days from the day of issuing the same to answer the complaint of Plaintiff. The summons shall also contain a statement addressed to the Defendant stating: "If you fail to file with the Court, at or before the time for appearance specified in the summons, an answer to the complaint setting forth the grounds upon which you base your claim or possession and denying or admitting all of the material allegations of the complaint, judgment by default may be taken against you for the possession of the property described in the complaint, for the rent, if any, due or to become due, for present and future damages and costs, and for any other relief to which the Plaintiff is entitled". If you are claiming that the landlord's failure to repair the residential premises is a defense to the landlord's allegation of nonpayment of rent, the Court will require you to pay into the registry of the Court, at the time of filing your answer, the rent due less any expenses you have incurred based upon the landlord's failure to repair the residential premises.

13-40-112. Service.

(1) Such summons may be served by personal service as in any civil action. A copy of the complaint must be served with the summons.

(2) If personal service cannot be had upon the Defendant by a person qualified under the Colorado Rules of Civil Procedure to serve process, after having made diligent effort to make such personal service, such person may make service by posting a copy of the summons and the complaint in some conspicuous place upon the premises. In addition thereto, the Plaintiff shall mail, no later than the next day following the day on which he/she files the

complaint, a copy of the summons, or, in the event that an alias summons is issued, a copy of the alias summons, and a copy of the complaint to the Defendant at the premises by postage prepaid, first class mail.

(3) Personal service or service by posting shall be made at least seven days before the day for appearance specified in such summons, and the time and manner of such service shall be endorsed upon such summons by the person making service thereof.

An Act

HOUSE BILL 21-1121

BY REPRESENTATIVE(S) Jackson and Jodeh, Caraveo, Weissman, Sirota, Bacon, Benavidez, Bennett, Bird, Cutter, Duran, Esgar, Exum, Gonzales-Gutierrez, Gray, Herod, Hooton, Kennedy, Lontine, Michaelson Jenet, Valdez A., Woodrow, Garnett;
also SENATOR(S) Gonzales, Story, Buckner, Danielson, Fenberg, Jaquez Lewis, Moreno, Pettersen, Winter.

CONCERNING PROTECTIONS FOR RESIDENTIAL TENANTS RELATED TO
ACTIONS BY LANDLORDS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 13-40-111, **amend** (1) as follows:

13-40-111. Issuance and return of summons. (1) Upon filing the complaint as ~~provided~~ **REQUIRED** in section 13-40-110, the clerk of the court or the attorney for the plaintiff shall issue a summons. The summons ~~shall~~ **MUST** command the defendant to appear before the court at a place named in ~~such~~ **THE** summons and at a time and on a day ~~which shall be~~ not less than seven days ~~nor~~ **BUT NOT** more than fourteen days from the day of issuing the same to answer the complaint of plaintiff. The summons ~~shall~~

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

MUST also contain a statement addressed to the defendant stating: ~~"If you fail to file with the court, at or before the time for appearance specified in the summons, an answer to the complaint setting forth the grounds upon which you base your claim for possession and denying or admitting all of the material allegations of the complaint, judgment by default may be taken against you for the possession of the property described in the complaint, for the rent, if any, due or to become due, for present and future damages and costs, and for any other relief to which the plaintiff is entitled. If you are claiming that the landlord's failure to repair the residential premises is a defense to the landlord's allegation of nonpayment of rent, the court will require you to pay into the registry of the court, at the time of filing your answer, the rent due less any expenses you have incurred based upon the landlord's failure to repair the residential premises."~~ "IF YOU DO NOT RESPOND TO THE LANDLORD'S COMPLAINT BY FILING A WRITTEN ANSWER WITH THE COURT ON OR BEFORE THE DATE AND TIME IN THIS SUMMONS OR APPEARING IN COURT AT THE DATE AND TIME IN THIS SUMMONS, THE JUDGE MAY ENTER A DEFAULT JUDGMENT AGAINST YOU IN FAVOR OF YOUR LANDLORD FOR POSSESSION. A DEFAULT JUDGMENT FOR POSSESSION MEANS THAT YOU WILL HAVE TO MOVE OUT, AND IT MAY MEAN THAT YOU WILL HAVE TO PAY MONEY TO THE LANDLORD. IN YOUR ANSWER TO THE COURT, YOU CAN STATE WHY YOU BELIEVE YOU HAVE A RIGHT TO REMAIN IN THE PROPERTY, WHETHER YOU ADMIT OR DENY THE LANDLORD'S FACTUAL ALLEGATIONS AGAINST YOU, AND WHETHER YOU BELIEVE YOU WERE GIVEN PROPER NOTICE OF THE LANDLORD'S REASONS FOR TERMINATING YOUR TENANCY BEFORE YOU GOT THIS SUMMONS. WHEN YOU FILE YOUR ANSWER, YOU MUST PAY A FILING FEE TO THE CLERK OF THE COURT. IF YOU ARE CLAIMING THAT THE LANDLORD'S FAILURE TO REPAIR A RESIDENTIAL PREMISES IS A DEFENSE TO THE LANDLORD'S ALLEGATION OF NONPAYMENT OF RENT, THE COURT WILL REQUIRE YOU TO PAY INTO THE REGISTRY OF THE COURT, AT THE TIME OF FILING YOUR ANSWER, THE RENT DUE LESS ANY EXPENSES YOU HAVE INCURRED BASED UPON THE LANDLORD'S FAILURE TO REPAIR THE RESIDENTIAL PREMISES."

SECTION 2. In Colorado Revised Statutes, 13-40-122, **amend** (1) as follows:

13-40-122. Writ of restitution after judgment. (1) ~~No~~ A COURT SHALL NOT ISSUE A writ of restitution ~~shall issue~~ upon any judgment entered in any action ~~under the provisions of this article out of any court~~ PURSUANT TO THIS ARTICLE 40 until ~~after the expiration of forty-eight hours from~~

AFTER the time of the entry of ~~such~~ THE judgment. ~~and such writs~~ A WRIT OF RESTITUTION shall be executed by the officer having the same only in the daytime and between sunrise and sunset AND THE OFFICER SHALL NOT EXECUTE A WRIT OF RESTITUTION CONCERNING A RESIDENTIAL TENANCY UNTIL AT LEAST TEN DAYS AFTER ENTRY OF THE JUDGMENT. Any writ of restitution governed by this section may be executed by the county sheriff's office in which the property is located by a sheriff, undersheriff, or deputy sheriff, as described in section 16-2.5-103 (1) or (2), ~~C.R.S.~~, while off duty or on duty at rates charged by the employing sheriff's office in accordance with section 30-1-104 (1)(gg). ~~C.R.S.~~

SECTION 3. In Colorado Revised Statutes, 38-12-204, **add** (3) as follows:

38-12-204. Nonpayment of rent - notice required for rent increase. (3) A LANDLORD SHALL NOT INCREASE RENT MORE THAN ONE TIME IN ANY TWELVE-MONTH PERIOD OF CONSECUTIVE OCCUPANCY BY THE TENANT, REGARDLESS OF:

(a) WHETHER THERE IS A WRITTEN RENTAL AGREEMENT FOR THE TENANCY;

(b) THE LENGTH OF THE TENANCY; AND

(c) WHETHER THE TENANT'S RENTAL AGREEMENT IS FOR A FIXED TENANCY, A MONTH-TO-MONTH TENANCY, OR AN INDEFINITE TERM.

SECTION 4. In Colorado Revised Statutes, **amend** 38-12-701 as follows:

38-12-701. Notice of rent increase. (1) Notwithstanding any other ~~provision of~~ law, in a NONRESIDENTIAL tenancy of one month or longer but less than six months ~~where~~ IN WHICH there is no written agreement between the landlord and tenant, a landlord may increase the rent only upon at least twenty-one days' notice to the tenant.

(2) (a) NOTWITHSTANDING ANY OTHER LAW, IN A RESIDENTIAL TENANCY IN WHICH THERE IS NO WRITTEN AGREEMENT BETWEEN THE LANDLORD AND TENANT, A LANDLORD MAY INCREASE THE RENT ONLY UPON AT LEAST SIXTY DAYS' WRITTEN NOTICE TO THE TENANT.

(b) A LANDLORD MAY NOT TERMINATE A RESIDENTIAL TENANCY IN WHICH THERE IS NO WRITTEN AGREEMENT BY SERVING A TENANT WITH A NOTICE TO QUIT PURSUANT TO SECTION 13-40-107 WITH THE PRIMARY PURPOSE OF INCREASING A TENANT'S RENT IN A MANNER INCONSISTENT WITH THIS SECTION.

SECTION 5. In Colorado Revised Statutes, **add** 38-12-702 as follows:

38-12-702. Limit on frequency of residential rent increases.

(1) IN RESIDENTIAL TENANCIES, A LANDLORD SHALL NOT INCREASE RENT MORE THAN ONE TIME IN ANY TWELVE-MONTH PERIOD OF CONSECUTIVE OCCUPANCY BY THE TENANT, REGARDLESS OF:

(a) WHETHER THERE IS A WRITTEN RENTAL AGREEMENT FOR THE TENANCY;

(b) THE LENGTH OF THE TENANCY; AND

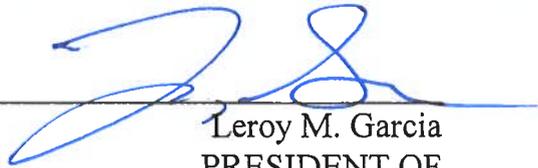
(c) WHETHER THE TENANT'S RENTAL AGREEMENT IS FOR A FIXED TENANCY, A MONTH-TO-MONTH TENANCY, OR AN INDEFINITE TERM.

SECTION 6. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.



Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Leroy M. Garcia
PRESIDENT OF
THE SENATE

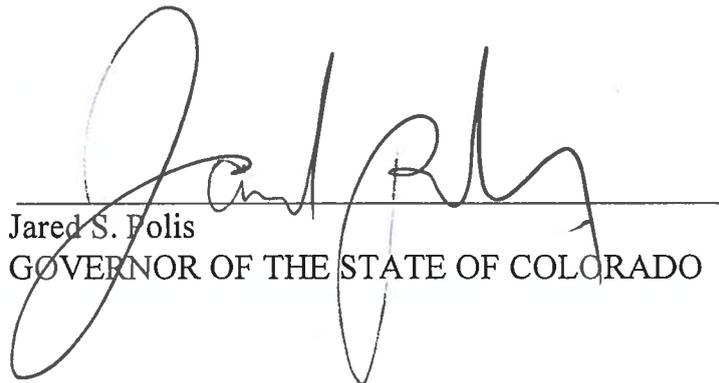


Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES



Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED June 25, 2021 at 4:30pm
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

An Act

SENATE BILL 21-173

BY SENATOR(S) Gonzales and Moreno, Fenberg, Kolker, Pettersen, Story, Winter, Buckner, Danielson, Jaquez Lewis, Lee, Rodriguez; also REPRESENTATIVE(S) Caraveo and Gonzales-Gutierrez, Duran, Jackson, Lontine, Michaelson Jenet, Roberts, Sirota, Woodrow, Benavidez, Bennett, Bird, Boesenecker, Cutter, Exum, Herod, Hooton, Kennedy, McCluskie, Ricks, Weissman.

CONCERNING RIGHTS RELATED TO RESIDENTIAL RENTAL AGREEMENTS, AND,
IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 13-40-111, **amend** (1); and **add** (5) and (6) as follows:

13-40-111. Issuance and return of summons. (1) Upon filing the complaint as ~~provided~~ **REQUIRED** in section 13-40-110, the clerk of the court or the attorney for the plaintiff shall issue a summons. The summons ~~shall~~ **MUST** command the defendant to appear before the court at a place named in ~~such~~ **THE** summons and at a time and on a day ~~which shall be~~ not less than seven days ~~nor~~ **BUT NOT** more than fourteen days from the day of issuing the same to answer the complaint of plaintiff. A COURT SHALL NOT

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

ENTER A DEFAULT JUDGMENT FOR POSSESSION BEFORE THE CLOSE OF BUSINESS ON THE DATE UPON WHICH AN APPEARANCE IS DUE. The summons ~~shall~~ MUST also contain a statement addressed to the defendant stating: "If you fail to file with the court, at or before the time for appearance specified in the summons, an answer to the complaint setting forth the grounds upon which you base your claim for possession and denying or admitting all of the material allegations of the complaint, judgment by default may be taken against you for the possession of the property described in the complaint, for the rent, if any, due or to become due, for present and future damages and costs, and for any other relief to which the plaintiff is entitled. If you are claiming that the landlord's failure to repair the residential premises is a defense to the landlord's allegation of nonpayment of rent, the court will require you to pay into the registry of the court, at the time of filing your answer, the rent due less any expenses you have incurred based upon the landlord's failure to repair the residential premises; UNLESS THE COURT DETERMINES THAT YOU QUALIFY TO HAVE THIS REQUIREMENT WAIVED DUE TO YOUR INCOME.

(5) A SUMMONS ISSUED PURSUANT TO THIS SECTION MUST ALSO CONTAIN A LIST OF AVAILABLE RESOURCES WITH A WEBSITE LINK AND PHONE NUMBER FOR RESIDENTIAL TENANTS TO OBTAIN CIVIL LEGAL AID AND RENTAL ASSISTANCE. THE DEPARTMENT OF LOCAL AFFAIRS SHALL MAKE AVAILABLE AND KEEP CURRENT THE LIST OF RESOURCES AVAILABLE. LOCAL GOVERNMENT ENTITIES MAY ALSO PROVIDE OR SUPPLEMENT THE LIST OF RESOURCES AND PROVIDE SUCH RESOURCES TO THE DEPARTMENT OF LOCAL AFFAIRS FOR PUBLICATION ON ITS WEBSITE.

(6) A SUMMONS ISSUED PURSUANT TO THIS SECTION MUST ALSO CONTAIN:

(a) A COPY OF A BLANK ANSWER FORM REQUIRED PURSUANT TO SECTION 13-40-113; AND

(b) A FORM THAT ALLOWS EITHER PARTY TO REQUEST ALL DOCUMENTS IN THE LANDLORD'S AND TENANT'S POSSESSION RELEVANT TO THE CURRENT ACTION.

SECTION 2. In Colorado Revised Statutes, amend 13-40-113 as follows:

13-40-113. Answer of defendant - additional and amended pleadings. (1) The defendant shall file with the court, at or before the time DAY specified for ~~his~~ THE DEFENDANT'S appearance in the summons, an answer in writing. ~~setting~~ THE DEFENDANT'S ANSWER MUST SET forth the grounds on which ~~he~~ THE DEFENDANT bases ~~his~~ THE DEFENDANT'S claim for possession, ~~and~~ admitting or denying all of the material allegations of the complaint, and presenting every defense which then exists and upon which ~~he~~ THE DEFENDANT intends to rely, either by including the same in ~~his~~ THE DEFENDANT'S answer or by ~~filing simultaneously therewith~~ SIMULTANEOUSLY FILING motions setting forth every such defense.

(2) The court for good cause may permit the filing of additional and amended pleadings ~~where such~~ IF IT will not result in A delay prejudicial to the defendant.

(3) A DEFENDANT DOES NOT WAIVE ANY DEFENSE RELATED TO PROPER NOTICE BY FILING AN ANSWER PURSUANT TO THIS SECTION. A DEFENDANT CAN RAISE A DEFENSE RELATED TO PROPER NOTICE IN THE DEFENDANT'S ANSWER OR BY FILING A MOTION PREHEARING. A DEFENDANT CANNOT RAISE THIS DEFENSE FOR THE FIRST TIME AT THE HEARING IF THE DEFENDANT FAILED TO RAISE IT IN THE DEFENDANT'S ANSWER OR IN A PREHEARING MOTION.

(4) AFTER AN ANSWER IS PROVIDED TO THE COURT PURSUANT TO THIS SECTION:

(a) THE COURT SHALL SET A DATE FOR TRIAL NO SOONER THAN SEVEN, BUT NOT MORE THAN TEN, DAYS AFTER THE ANSWER IS FILED, UNLESS THE DEFENDANT REQUESTS A WAIVER OF THIS REQUIREMENT IN THE DEFENDANT'S ANSWER OR AFTER FILING AN ANSWER; EXCEPT THAT A COURT MAY EXTEND BEYOND TEN DAYS IF EITHER PARTY DEMONSTRATES GOOD CAUSE FOR AN EXTENSION OR IF THE COURT OTHERWISE FINDS JUSTIFICATION FOR THE EXTENSION. THE REQUIREMENT SET FORTH IN THIS SUBSECTION (4)(a) DOES NOT APPLY TO A FORCIBLE ENTRY AND DETAINER PETITION THAT ALLEGES A SUBSTANTIAL VIOLATION, AS DEFINED IN SECTION 13-40-107.5 (3), OR TERMINATES A TENANCY PURSUANT TO SECTION 38-12-203 (1)(f).

(b) IN THE TIME AFTER AN ANSWER IS FILED AND BEFORE A TRIAL OCCURS, THE COURT SHALL ORDER THAT THE LANDLORD OR TENANT PROVIDE ANY DOCUMENTATION RELEVANT TO THE CURRENT ACTION THAT

EITHER PARTY REQUESTS PURSUANT TO SECTION 13-40-111 (6)(b).

SECTION 3. In Colorado Revised Statutes, 13-40-115, **amend** (2); and **add** (4) and (5) as follows:

13-40-115. Judgment - writ of restitution - cure period. (2) Upon ~~such~~ A trial or further hearing ~~under this article~~ PURSUANT TO THIS ARTICLE 40 after personal service ~~is had~~ HAS BEEN MADE upon the defendant in accordance with section 13-40-112 (1), if the court or jury has not already tried the issue of unlawful detainer, it may do so. ~~and, if it~~ IF THE COURT finds that the defendant has committed an unlawful detainer, the court shall enter judgment for the plaintiff to have restitution of the premises and shall issue a writ of restitution. In addition to ~~such~~ THE judgment for restitution, the court or jury shall further find the amount of rent, if any, due to the plaintiff from the defendant at the time of trial; the amount of damages, if any, sustained by the plaintiff to the time of the trial on account of the unlawful detention of the property by the defendant; and damages sustained by the plaintiff to the time of trial on account of injuries to the property. ~~and judgment~~ THE COURT shall enter JUDGMENT for such amounts, together with ANY reasonable ~~attorney's~~ ATTORNEY fees and costs ~~upon which judgment execution shall issue~~ as in other civil actions. ~~Nothing in~~ This section shall ~~be construed to~~ DOES NOT permit the entry of judgment in excess of the COURT'S jurisdictional limit. ~~of the court.~~

(4) A LANDLORD WHO PROVIDES A TENANT WITH PROPER NOTICE OF NONPAYMENT SHALL ACCEPT PAYMENT OF THE TENANT'S FULL PAYMENT OF ALL AMOUNTS DUE ACCORDING TO THE NOTICE, AS WELL AS ANY RENT THAT REMAINS DUE UNDER THE RENTAL AGREEMENT, AT ANY TIME UNTIL A JUDGE ISSUES A JUDGMENT FOR POSSESSION PURSUANT TO SUBSECTION (1) OR (2) OF THIS SECTION. A TENANT MAY PAY THIS AMOUNT TO EITHER THE LANDLORD OR TO THE COURT. ONCE A COURT HAS CONFIRMATION THAT THE FULL AMOUNT HAS BEEN TIMELY PAID, THE COURT SHALL:

(a) VACATE ANY JUDGMENTS THAT HAVE BEEN ISSUED; AND

(b) DISMISS THE ACTION WITH PREJUDICE.

(5) THE RIGHTS PROVIDED IN SUBSECTION (4) OF THIS SECTION MAY NOT BE WAIVED BY ANY WRITTEN AGREEMENT.

SECTION 4. In Colorado Revised Statutes, 13-40-117, **amend** (3) as follows:

13-40-117. Appeals. (3) If the appellee believes that ~~he~~ THE APPELLEE may suffer serious economic harm during the pendency of the appeal, ~~he~~ THE APPELLEE may petition the court taking the appeal to ~~order that an~~ REQUIRE THE APPELLANT TO HAVE AN additional undertaking ~~be required of the appellant~~ to cover the anticipated harm. The court shall order such undertaking only after a hearing and upon a finding that the appellee has shown a substantial likelihood of suffering such economic harm during the pendency of the appeal and that ~~he~~ THE APPELLEE will not BE adequately ~~be~~ protected under the appeals bond and the other requirements for appeal pursuant to sections 13-40-118, 13-40-120 and 13-40-123.

SECTION 5. In Colorado Revised Statutes, 13-54-102, **amend** (1)(r) as follows:

13-54-102. Property exempt - definitions - repeal. (1) The following property is exempt from levy and sale under writ of attachment or writ of execution:

(r) For purposes of garnishment proceedings pursuant to ~~the provisions of~~ article 54.5 of this ~~title~~ TITLE 13, any amount held by a third party as a security deposit, as defined in ~~section 38-12-102 (2), C.R.S.~~ SECTION 38-12-102 (6), or any amount held by a third party as a utility deposit to secure payment for utility goods or services used or consumed by the debtor or ~~his~~ THE DEBTOR'S dependents;

SECTION 6. In Colorado Revised Statutes, **amend** 38-12-101 as follows:

38-12-101. Legislative declaration. ~~The provisions of~~ This part 1 shall be liberally construed to implement the intent of the general assembly to ~~insure~~ ENSURE the proper administration of security deposits AND LATE FEES and protect the interests of tenants, MOBILE HOME OWNERS, and landlords.

SECTION 7. In Colorado Revised Statutes, **amend** 38-12-102 as follows:

38-12-102. Definitions. As used in this part 1, unless the context otherwise requires:

(1) "HOME OWNER" HAS THE MEANING SET FORTH IN SECTION 38-12-201.5 (2).

(2) "LANDLORD" MEANS A LANDLORD, AS DEFINED IN SECTION 38-12-502 (5), OR THE MANAGEMENT OR LANDLORD OF A MOBILE HOME PARK, AS DEFINED IN SECTION 38-12-201.5 (3).

(3) "LATE FEE" MEANS A MONETARY SUM THAT A LANDLORD CHARGES A TENANT OR HOME OWNER AS A RESULT OF THE TENANT'S OR HOME OWNER'S FAILURE TO TIMELY PAY RENT AND THAT IS DETERMINED PURSUANT TO A RENTAL AGREEMENT BETWEEN THE LANDLORD AND THE TENANT OR HOME OWNER.

~~(1)~~ (4) "Normal wear and tear" means ~~that~~ deterioration ~~which~~ THAT occurs, based upon the use for which ~~the~~ A rental unit OR MOBILE HOME SPACE, AS DEFINED IN SECTION 38-12-201.5 (7), is intended, without negligence, carelessness, accident, or abuse of the premises or equipment or chattels by the tenant OR HOME OWNER or members of ~~his~~ THE TENANT'S OR HOME OWNER'S household, or their invitees or guests.

(5) "RENT SUBSIDY PROVIDER" MEANS A PUBLIC OR PRIVATE ENTITY, INCLUDING A PUBLIC HOUSING AUTHORITY, THAT PROVIDES ONGOING FINANCIAL ASSISTANCE TO A LANDLORD FOR THE PURPOSE OF SUBSIDIZING RENT.

~~(2)~~ (6) "Security deposit" means any advance or deposit of money, regardless of its denomination, the primary function of which is to secure the performance of a rental agreement for A residential premises or any part ~~thereof~~ OF A RESIDENTIAL PREMISES.

(7) "TENANT" HAS THE MEANING SET FORTH IN SECTION 38-12-502 (9).

SECTION 8. In Colorado Revised Statutes, **add** 38-12-105 as follows:

38-12-105. Late fees charged to tenants and mobile home owners

- maximum late fee amounts - prohibited acts - penalties - period to cure violations - remedies - unfair or deceptive trade practice. (1) A LANDLORD SHALL NOT TAKE ANY OF THE FOLLOWING ACTIONS OR DIRECT ANY AGENT TO TAKE ANY OF THE FOLLOWING ACTIONS ON THE LANDLORD'S BEHALF:

(a) CHARGE A TENANT OR HOME OWNER A LATE FEE UNLESS A RENT PAYMENT IS LATE BY AT LEAST SEVEN CALENDAR DAYS;

(b) CHARGE A TENANT OR HOME OWNER A LATE FEE IN AN AMOUNT THAT EXCEEDS THE GREATER OF:

(I) FIFTY DOLLARS; OR

(II) FIVE PERCENT OF THE AMOUNT OF THE PAST DUE RENT PAYMENT;

(c) REQUIRE A TENANT OR HOME OWNER TO PAY A LATE FEE UNLESS THE LATE FEE IS DISCLOSED IN THE RENTAL AGREEMENT;

(d) REMOVE OR EXCLUDE A TENANT FROM A DWELLING OR INITIATE A COURT PROCESS FOR THE REMOVAL OR EXCLUSION OF A TENANT FROM A DWELLING BECAUSE THE TENANT FAILS TO PAY ONE OR MORE LATE FEES TO THE LANDLORD;

(e) TERMINATE A TENANCY OR OTHER ESTATE AT WILL OR A LEASE IN A MOBILE HOME PARK BECAUSE A TENANT OR HOME OWNER FAILS TO PAY ONE OR MORE LATE FEES TO THE LANDLORD;

(f) IMPOSE A LATE FEE ON A TENANT OR HOME OWNER FOR THE LATE PAYMENT OR NONPAYMENT OF ANY PORTION OF THE RENT THAT A RENT SUBSIDY PROVIDER, RATHER THAN THE TENANT OR HOME OWNER, IS RESPONSIBLE FOR PAYING;

(g) IMPOSE A LATE FEE MORE THAN ONCE FOR EACH LATE PAYMENT, EXCEPT THAT A LANDLORD MAY IMPOSE A LATE FEE MORE THAN ONCE FOR A LATE PAYMENT IF THE TOTAL AMOUNT OF SUCH LATE FEES DOES NOT EXCEED THE AMOUNT DESCRIBED IN SUBSECTION (1)(b) OF THIS SECTION;

(h) REQUIRE A TENANT OR HOME OWNER TO PAY ANY AMOUNT OF INTEREST ON A LATE FEE;

(i) RECOUP ANY AMOUNT OF A LATE FEE FROM A RENT PAYMENT MADE TO THE LANDLORD BY A TENANT OR HOME OWNER; OR

(j) CHARGE A TENANT OR HOME OWNER A LATE FEE UNLESS THE LANDLORD PROVIDED THE TENANT OR HOME OWNER WRITTEN NOTICE OF THE LATE FEE WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE DATE UPON WHICH THE RENT PAYMENT WAS DUE.

(2) A PROVISION OF A LEASE OF A LANDLORD OR PERSON ACTING ON BEHALF OF A LANDLORD THAT DOES NOT COMPLY WITH THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION IS VOID AND UNENFORCEABLE. A TENANT WHO IS AGGRIEVED BY AN ACTION TAKEN BY A LANDLORD OR PERSON ACTING ON BEHALF OF THE LANDLORD IN VIOLATION OF SUBSECTION (1) OF THIS SECTION MAY BRING AN ACTION FOR INJUNCTIVE RELIEF PURSUANT TO SUBSECTION (5) OF THIS SECTION.

(3) A LANDLORD WHO VIOLATES SUBSECTION (1) OF THIS SECTION SHALL PAY TO AN AGGRIEVED TENANT OR HOME OWNER A PENALTY IN THE AMOUNT OF FIFTY DOLLARS FOR EACH VIOLATION.

(4) EXCEPT AS DESCRIBED IN SUBSECTION (3) OF THIS SECTION, AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE CONTRARY, A LANDLORD WHO VIOLATES SUBSECTION (1) OF THIS SECTION HAS SEVEN DAYS TO CURE THE VIOLATION, WHICH SEVEN DAYS BEGINS WHEN THE LANDLORD RECEIVES WRITTEN OR ELECTRONIC NOTICE OF THE VIOLATION.

(5) IF A LANDLORD VIOLATES SUBSECTION (1) OF THIS SECTION AND FAILS TO TIMELY CURE THE VIOLATION AS DESCRIBED IN SUBSECTION (4) OF THIS SECTION, A TENANT OR HOME OWNER MAY BRING A CIVIL ACTION TO SEEK ONE OR MORE OF THE FOLLOWING REMEDIES:

(a) COMPENSATORY DAMAGES FOR INJURY OR LOSS SUFFERED;

(b) A PENALTY OF AT LEAST ONE HUNDRED FIFTY DOLLARS BUT NOT MORE THAN ONE THOUSAND DOLLARS FOR EACH VIOLATION, PAYABLE TO THE TENANT OR HOME OWNER;

(c) COSTS, INCLUDING REASONABLE ATTORNEY FEES TO THE PREVAILING PARTY; AND

(d) OTHER EQUITABLE RELIEF THE COURT FINDS APPROPRIATE.

(6) A TENANT OR HOME OWNER MAY RAISE AN ALLEGED VIOLATION OF THIS SECTION AS AN AFFIRMATIVE DEFENSE IN A FORCIBLE ENTRY AND DETAINER PROCEEDING.

(7) A LATE FEE IS DISTINCT FROM RENT, AND A RENTAL AGREEMENT MAY NOT CLASSIFY A LATE FEE AS RENT FOR THE PURPOSES OF SECTION 13-40-104 (1)(d).

SECTION 9. In Colorado Revised Statutes, 38-12-201.5, **amend** the introductory portion, (1)(d), and (1)(e); and **add** (1)(f) and (2.5) as follows:

38-12-201.5. Definitions. As used in this part 2 and in part 11 of this ~~title 38~~ ARTICLE 12, unless the context otherwise requires:

(1) "Entry fee" means any fee paid to or received from an owner of a mobile home park or an agent thereof except for:

(d) Utilities; ~~and~~

(e) Incidental reasonable charges for services actually performed by the mobile home park owner or the ~~home~~ MOBILEHOME PARK owner's agent and agreed to in writing by the home owner; AND

(f) LATE FEES.

(2.5) "LATE FEE" HAS THE MEANING SET FORTH IN SECTION 38-12-102 (3).

SECTION 10. In Colorado Revised Statutes, 38-12-213, **amend** (1) introductory portion, (1)(c), (1)(e), and (1)(f) as follows:

38-12-213. Rental agreement - disclosure of terms in writing.

(1) The MANAGEMENT SHALL ADEQUATELY DISCLOSE THE terms and conditions of a tenancy ~~must be adequately disclosed~~ in writing in a rental agreement ~~by the management~~ to any prospective home owner ~~prior to~~ BEFORE the rental or occupancy of a mobile home space or lot. ~~Said~~ THE disclosures ~~shall~~ MUST include:

(c) The day when unpaid rent ~~shall be~~ IS considered in default FOR THE PURPOSE OF ESTABLISHING A LATE FEE, WHICH DAY MAY NOT BE LESS THAN TEN CALENDAR DAYS AFTER THE DAY RENT IS DUE AND PAYABLE;

(e) The name and mailing address where a manager's decision can be appealed; AND

(f) All charges to the home owner other than rent, INCLUDING LATE FEES.

SECTION 11. In Colorado Revised Statutes, **amend** 38-12-220 as follows:

38-12-220. Private civil right of action. ~~Any~~ A home owner who ~~owns a home~~ in a mobile home park where the landlord has violated any provision of this ~~article shall have~~ ARTICLE 12 HAS a private civil right of action against the landlord. In any such action, EXCEPT AS DESCRIBED IN SECTION 38-12-105 (4), the home owner ~~shall be~~ IS entitled to actual economic damages and reasonable attorney fees and costs if the home owner is successful in the action.

SECTION 12. In Colorado Revised Statutes, 38-12-507, **amend** (1)(c) and (1)(d); and **add** (1)(d.5) as follows:

38-12-507. Breach of warranty of habitability - tenant's remedies. (1) If there is a breach of the warranty of habitability as set forth in section 38-12-503 (2):

(c) (I) In an action for possession OR COLLECTION based upon nonpayment of rent, in which the tenant asserts a defense to possession based upon the landlord's alleged breach of the warranty of habitability, upon the filing of the tenant's answer the court shall order the tenant to pay into the registry of the court all or part of the rent accrued after due consideration of expenses already incurred by the tenant based upon the landlord's breach of the warranty of habitability. THE TENANT MAY ASSERT, AS AN AFFIRMATIVE DEFENSE, AN ALLEGED BREACH OF THE WARRANTY OF HABITABILITY, PROVIDED THAT THE LANDLORD OR ANY AGENT ACTING ON BEHALF OF THE LANDLORD HAS PREVIOUSLY RECEIVED WRITTEN OR ELECTRONIC NOTICE OF AN ALLEGED BREACH OF THE WARRANTY OF HABITABILITY. IF A COUNTY OR DISTRICT COURT IS SATISFIED THAT THE

DEFENDANT IS UNABLE TO DEPOSIT THE AMOUNT OF RENT SPECIFIED BECAUSE THE DEFENDANT IS FOUND TO BE INDIGENT PURSUANT TO SUBSECTION (1)(c)(II) OF THIS SECTION, THE DEFENDANT SHALL NOT BE REQUIRED TO DEPOSIT ANY AMOUNTS TO RAISE WARRANTY OF HABITABILITY CLAIMS AS AN AFFIRMATIVE DEFENSE AND THE CLAIM WILL BE PERFECTED.

(II) A DEFENDANT IS INDIGENT FOR THE PURPOSES OF THIS SECTION IF THE DEFENDANT HAS A NET INCOME THAT IS:

(A) FIVE TIMES OR LESS THE ANNUAL RENTAL OF THE DEFENDANT'S PREMISES, AFTER ALLOWING ALL EXEMPTIONS AVAILABLE TO FAMILIES OCCUPYING DWELLINGS IN LOW-RENT HOUSING AUTHORIZED UNDER THE ACT OF THE CONGRESS OF THE UNITED STATES KNOWN AS THE "UNITED STATES HOUSING ACT OF 1937", AS AMENDED. FOR THE PURPOSE OF MAKING AN INDIGENT DETERMINATION IN COMPUTING THE ANNUAL RENTAL, THERE MUST BE INCLUDED IN THE CALCULATION THE AVERAGE ANNUAL COST TO THE DEFENDANT, AS DETERMINED BY THE COURT, OF HEAT, WATER, ELECTRICITY, GAS, AND OTHER NECESSARY SERVICES OR FACILITIES, WHETHER OR NOT THE CHARGE FOR SUCH SERVICES AND FACILITIES IS IN FACT INCLUDED IN THE RENTAL; OR

(B) LESS THAN TWO HUNDRED FIFTY PERCENT OF THE FEDERAL POVERTY LINE; EXCEPT THAT, FOR PURPOSES OF CALCULATION, A DEFENDANT'S ASSETS MUST NOT BE TAKEN INTO ACCOUNT.

(d) Whether asserted as a claim, or counterclaim, OR AN AFFIRMATIVE DEFENSE, a tenant may recover damages directly arising from a breach of the warranty of habitability, which may include, but are not limited to, any reduction in the fair rental value of the dwelling unit, in any court of competent jurisdiction.

(d.5) THE COURT SHALL DETERMINE THE REDUCTION OF THE PREMISE'S RENTAL VALUE IN ITS UNINHABITABLE STATE TO THE DATE OF TRIAL AND SHALL DENY POSSESSION TO THE LANDLORD AND DEEM THE TENANT TO BE THE PREVAILING PARTY, CONDITIONED UPON THE PAYMENT OF THE RENT THAT HAS ACCRUED TO THE DATE OF THE TRIAL, AS ADJUSTED PURSUANT TO THE REDUCTION IN THE RENTAL VALUE CAUSED BY THE BREACH OF THE WARRANTY OF HABITABILITY. THE TENANT SHALL MAKE THIS PAYMENT TO EITHER THE COURT OR THE LANDLORD WITHIN FOURTEEN DAYS FROM THE DATE OF THE COURT'S JUDGMENT. THE COURT MAY ORDER

THE LANDLORD TO MAKE REPAIRS AND CORRECT THE CONDITIONS THAT CONSTITUTE A BREACH OF THE LANDLORD'S OBLIGATIONS, SHALL ORDER THAT THE MONTHLY RENT BE LIMITED TO THE PREMISE'S REASONABLE RENTAL VALUE, AS DETERMINED PURSUANT TO THIS SECTION, UNTIL REPAIRS ARE COMPLETED, AND SHALL AWARD THE TENANT COSTS AND ATTORNEY FEES IF PROVIDED BY AND PURSUANT TO ANY STATUTE OR THE CONTRACT OF THE PARTIES. IF THE COURT ORDERS REPAIRS OR CORRECTIONS, OR BOTH, PURSUANT TO THIS SECTION, THE COURT'S JURISDICTION CONTINUES OVER THE MATTER FOR THE PURPOSE OF ENSURING COMPLIANCE. THE COURT SHALL AWARD POSSESSION OF THE PREMISES TO THE LANDLORD IF THE TENANT FAILS TO PAY ALL REDUCED RENT OBLIGATIONS ACCRUED TO THE DATE OF TRIAL WITHIN THE PERIOD PRESCRIBED BY THE COURT PURSUANT TO THIS SUBSECTION (1)(d.5).

SECTION 13. In Colorado Revised Statutes, **amend** 38-12-510 as follows:

38-12-510. Unlawful removal or exclusion. (1) It ~~shall be~~ IS unlawful for a landlord to remove or exclude a tenant from a dwelling unit without resorting to court process, unless the removal or exclusion is consistent with ~~the provisions of~~ article 18.5 of title 25 ~~C.R.S.~~, and the rules promulgated by the state board of health for the cleanup of an illegal drug laboratory; ~~or~~ is with the mutual consent of the landlord and tenant; or unless the dwelling unit has been abandoned by the tenant, as evidenced by the return of keys, the substantial removal of the tenant's personal property, notice by the tenant, or the extended absence of the tenant while rent remains unpaid, any of which would cause a reasonable person to believe the tenant had permanently surrendered possession of the dwelling unit. ~~Such~~ Unlawful removal or exclusion includes the willful termination of utilities or the willful removal of doors, windows, or locks to the premises other than as required for repair or maintenance. If the landlord willfully and unlawfully removes the tenant from the premises or willfully and unlawfully causes the termination of heat, running water, hot water, electric, gas, or other essential services, the tenant may seek any remedy available under the law, including this part 5.

(2) A TENANT AFFECTED BY ANY VIOLATION OF THIS SECTION MAY BRING A CIVIL ACTION TO RESTRAIN FURTHER VIOLATIONS AND TO RECOVER DAMAGES, COSTS, AND REASONABLE ATTORNEY FEES. IN THE CASE OF A VIOLATION, THE TENANT MUST BE AWARDED STATUTORY DAMAGES EQUAL

TO THE TENANT'S ACTUAL DAMAGES AND THE HIGHER AMOUNT OF EITHER THREE TIMES THE MONTHLY RENT OR FIVE THOUSAND DOLLARS, AS WELL AS ANY OTHER DAMAGES, ATTORNEY FEES, AND COSTS THAT MAY BE OWED.

(3) A COURT MAY ALSO ORDER THAT POSSESSION BE RESTORED TO A TENANT WHO WAS AFFECTED BY A VIOLATION OF THIS SECTION.

SECTION 14. In Colorado Revised Statutes, 38-12-801, **add** (3) as follows:

38-12-801. Written rental agreement - prohibited clauses - copy - tenant. (3) A WRITTEN RENTAL AGREEMENT MUST NOT INCLUDE:

(a) AN UNREASONABLE LIQUIDATED DAMAGES CLAUSE THAT ASSIGNS A COST TO A PARTY STEMMING FROM AN EVICTION NOTICE OR AN EVICTION ACTION FROM A VIOLATION OF THE RENTAL AGREEMENT; OR

(b) A ONE-WAY, FEE-SHIFTING CLAUSE THAT AWARDS ATTORNEY FEES AND COURT COSTS ONLY TO ONE PARTY. ANY FEE-SHIFTING CLAUSE CONTAINED IN A RENTAL AGREEMENT MUST AWARD ATTORNEY FEES TO THE PREVAILING PARTY IN A COURT DISPUTE CONCERNING THE RENTAL AGREEMENT, RESIDENTIAL PREMISES, OR DWELLING UNIT.

(c) ANY CLAUSE IN VIOLATION OF SUBSECTION (3)(a) OR (3)(b) OF THIS SECTION IS NULL AND VOID AND UNENFORCEABLE.

SECTION 15. In Colorado Revised Statutes, 24-34-501, **amend** (2) as follows:

24-34-501. Definitions. As used in this part 5, unless the context otherwise requires:

(2) "Housing" means any building, structure, vacant land, or part thereof offered for sale, lease, rent, or transfer of ownership. ~~except that "housing" does not include any room offered for rent or lease in a single-family dwelling maintained and occupied in part by the owner or lessee of said dwelling as his household.~~

SECTION 16. Appropriation. For the 2021-22 state fiscal year, \$15,756 is appropriated to the judicial department. This appropriation is

from the general fund and is based on an assumption that the department will require an additional 0.2 FTE. To implement this act, the department may use this appropriation for trial court programs.

SECTION 17. Act subject to petition - effective date. This act takes effect October 1, 2021; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be

held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.



Leroy M. Garcia
PRESIDENT OF
THE SENATE



Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

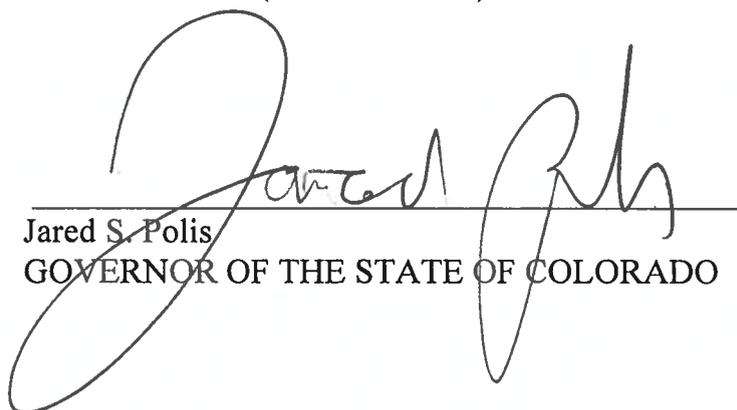


Cindi L. Markwell
SECRETARY OF
THE SENATE



Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED June 25, 2021 at 4:45pm
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO