

RULE CHANGE 2016(01)

COLORADO RULES OF CIVIL PROCEDURE

**Chapters 2 and 17A
Rules 10 and 121 §§ 1-12 and 1-15
Effective for motions filed on or after April 1, 2016**

**Chapter 3
Rule 23
Effective for class action settlements approved by district courts on or after July 1, 2016**

**Chapters 13, 25, and the Appendix to Chapters 1 to 17A
Rules 103, 403, and Form 32
Effective March 1, 2016**

**Chapter 25
Rules 359
Effective April 1, 2016**

**Appendix to Chapters 1 to 17A
Form 35.1
Effective April 1, 2016**

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

(a) – (c) [NO CHANGE]

(d)(1) [NO CHANGE]

(2)(I) [NO CHANGE]

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

(III) [NO CHANGE]

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

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

Affidavits
Complaints, Answers, and Petitions
Criminal Informations and Complaints
Interrogatories and Requests for Admissions
Motions
Notices
Pleading forms (all case types)

Probation reports
All other documents not listed in subsection (II) below

(II) Double spacing for all:

Briefs and Legal Memoranda
Depositions
Documents that are complex or technical in nature
Jury Instructions
Motions
Petitions for Rehearing
Petitions for Writ of Certiorari
Petitions pursuant to C.A.R. 21
Transcripts

(4) [NO CHANGE]

(e) – (i) [NO CHANGE]

COMMENTS

2001

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

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

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

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

Rule 121. Local Rules – Statewide Practice Standards

(a) – (c) [NO CHANGE]

Section 1-1 – 1-11 [NO CHANGE]

Section 1-12

MATTERS RELATED TO DISCOVERY

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

2. – 4. [NO CHANGE]

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

~~COMMITTEE COMMENTS~~

1994

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

2015

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

Section 1-13 – 1-14 [NO CHANGE]

Section 1-15

DETERMINATION OF MOTIONS

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

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

(b) – (c) [NO CHANGE]

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

2. [NO CHANGE]

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

4. Motions to Be Determined on Briefs, When Oral Argument Is Allowed; Motions Requiring Immediate Attention. ~~If possible, m~~Motions shall be determined promptly if possible. The ~~upon the written motion and briefs submitted. However, the court has discretion to may order briefing or set a oral argument or an evidentiary hearing, or if the request for oral argument or an evidentiary hearing is requested in a on the motion, or any brief, oral argument may be allowed by the court at its discretion. If possible, the court shall determine oral motions at the conclusion of the argument, but may take the motion under advisement or require briefing before ruling.~~ Any motion requiring immediate disposition shall be called to the attention of the courtroom clerk by the party filing such motion.

5. Notification of Court's Ruling; Setting of Argument or Hearing When Ordered. Whenever the court enters an order denying or granting a motion without a hearing, all parties shall be forthwith notified by the court of such order. If the court desires or authorizes oral argument or an evidentiary hearing, all parties shall be so notified by the court. After notification, it shall be the responsibility of the moving party to have the motion set for oral argument or hearing. Unless the court orders otherwise, A a

notice to set oral argument or hearing shall be filed in accordance with Practice Standard § 1-6 within 7 days of notification that oral argument or hearing is required or authorized.

6. – 11. [NO CHANGE]

COMMITTEE COMMENTS

1994

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

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

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

2014

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

2015

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

Effective for motions filed on or after April 1, 2016

Rule 23. Class Actions

(a) – (f) [NO CHANGE]

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

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

Effective for class action settlements approved by district courts on or after July 1, 2016

Rule 103. Garnishment

Sections 1 through 3 [NO CHANGE]

SECTION 4

WRIT OF GARNISHMENT — JUDGMENT DEBTOR OTHER THAN NATURAL PERSON

(a) through (e) [NO CHANGE]

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

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

(2) If the answer to a writ of garnishment shows the garnishee to possess or control personal property of any description, owned by, or owed to, such judgment debtor, the court shall order the garnishee to deliver such property to the sheriff to be sold as upon execution and the court may enter any order necessary to protect the interests of the parties. Any proceeds received by the sheriff upon such sale shall be paid to the registry of the court to be applied to the judgment debt, but any surplus of property or proceeds shall be delivered to the judgment debtor.

(g) [NO CHANGE]

Sections 5 through 13 [NO CHANGE]

Rule 403. Garnishment

Sections 1 through 3 [NO CHANGE]

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

(a) through (e) [NO CHANGE]

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

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

(2) If the answer to a writ of garnishment shows the garnishee to possess or control personal property of any description, owned by, or owed to, such judgment debtor, the court shall order the garnishee to deliver such property to the sheriff to be sold as upon execution and the court may enter any order necessary to protect the interests of the parties. Any proceeds received by the sheriff upon such sale shall be paid to the registry of the court to be applied to the judgment debt, but any surplus of property or proceeds shall be delivered to the judgment debtor.

(g) [NO CHANGE]

Sections 5 through 13 [NO CHANGE]

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

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

1. Original Amount of Judgment Entered _____ (date)	\$	
2. Plus any Interest Due on Judgment (_____ % per annum)	+ \$	
3. Taxable Costs (including estimated cost of service of this Writ)	+ \$	
4. Less any Amount Paid	- \$	
5. Principal Balance/Total Amount Due and Owning	= \$	

I affirm that I am authorized to act for the Judgment Creditor and this is a correct statement as of _____ (date).
 Subscribed under oath before me on _____ (date)

Print Judgment Creditor's Name _____

Address: _____

Notary Public or Deputy Clerk _____

My Commission Expires: _____

By: _____

Signature (Type Name, Title, Address and Phone)

WRIT OF GARNISHMENT

THE PEOPLE OF THE STATE OF COLORADO to the Sheriff of any Colorado County, or to any person 18 years or older and who is not a party to this action:

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

TO THE GARNISHEE:

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

- a. To answer the following questions under oath and file your answers with the Clerk of the Court (AND to mail a completed copy with your answer to the Judgment Creditor or attorney when a stamped envelope is attached) within 14 days following service of this Writ upon you. **YOUR FAILURE TO ANSWER THIS WRIT WITH NOTICE MAY RESULT IN THE ENTRY OF A DEFAULT AGAINST YOU.**
- b. To hold pending court order any personal property owed to or owned by the Judgment Debtor and in your possession or control on the date and time this Writ was served upon you.

YOU ARE NOTIFIED:

- a. This Writ of Garnishment applies to all personal property owed to or owned by the Judgment Debtor and in your possession or control as of the date and time this Writ was served upon you.
- b. In no case may you withhold any personal property greater than the amount on Line 5 on the front of this Writ unless the personal property is incapable of being divided.
- c. ~~If you are ordered to pay funds to the Court, tender your check for the amount ordered PAYABLE TO THE CLERK OF THE _____, COURT AT _____, COLORADO.~~

After you file your answers to the following questions, and after receiving a separate notice or order from the court, MAKE CHECKS PAYABLE AND MAIL TO: the Judgment Creditor named above (May select only if the Judgment Creditor is a licensed collection agency pursuant to 12-14-101, et. seq., C.R.S.); the Judgment Creditor's Attorney (if applicable); or to the Clerk of the County Court or District Court in _____ (city), Colorado (Must select if the Judgment Creditor is not represented by an attorney AND is not a licensed collection agency pursuant to 12-14-101, et. seq., C.R.S.) at the address below:

Name: _____

Address: _____

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

CLERK OF THE COURT

By Deputy Clerk: _____

Date: _____

QUESTIONS TO BE ANSWERED BY GARNISHEE

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

The following questions MUST be answered by you under oath:

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

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

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

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

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

Name of Garnishee (Print) _____

Subscribed under oath before me on _____ (date)

Address: _____

Phone Number: _____

Notary Public

Name of Person Answering (Print) _____

My Commission Expires: _____

Signature of Person Answering _____

RETURN OF SERVICE

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

I declare under oath that I am 18 years or older and not a party to the action and have served a copy of this Writ of Garnishment on _____ (name of party) in _____ (County) _____ (State) on _____ (date) _____ (time) at the following location:

By (Check one):

- By handing it to a person identified to me as _____ (name of garnishee).
- By leaving it with _____ (Type or write name legibly), who is designated to receive service because of a legal relationship with _____ (name of garnishee) as provided for in C.R.C.P. 4(e).
- I attempted to serve _____ (name of garnishee) on _____ occasions but have not been able to locate him/her/it. Return to the Judgment Creditor is made on _____ (date).
- I attempted to leave it with _____ (name of person) who refused service.

- Private process server
- Sheriff, _____ County
Fee \$ _____ Mileage \$ _____

Signature of Process Server

Name (Print or type)

Subscribed and affirmed, or sworn to before me in the County of _____, State of _____, this _____ day of _____, 20 _____. **Note: Not required for service by a sheriff or deputy.**

My Commission Expires: _____

Notary Public/Clerk

Effective March 1, 2016

Rule 359. New Trials; Amendment of Judgments

(a) [NO CHANGE]

(b) Time for Motion. A motion for new trial (which must be in writing) may be made within 14 days of entry of judgment and if so made the time for appeal shall be extended until ~~14~~²¹ days after disposition of the motion. Only matters raised in said motion shall be considered on appeal.

(c) – (g) [NO CHANGE]

Effective April 1, 2016

Mandatory Disclosure
FORM 35.1 -~~Reference to 16.2(e)(2)~~

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

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

Each party shall provide:

(a) Sworn Financial Statement. ~~Each party shall provide a~~ A completed and signed Sworn Financial Statement ~~and (if applicable) Supplemental Schedule (JDF 1111 and/or JDF 1111SS) in using~~ the Supreme Court approved forms (Form 35.2).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Effective April 1, 2016

Amended and Adopted by the Court, En Banc, January 29, 2016, effective as stated.

By the Court:

Allison H. Eid
Justice, Colorado Supreme Court