

RULE CHANGE 2017(04)
COLORADO RULES OF CIVIL PROCEDURE

Rule 365. Injunctions, Restraining Orders and Orders for Emergency Protection

(a) **Civil Protection Orders.** No civil protection order, injunction, restraining order, or injunction under Title 13, Article 14, order to prevent domestic abuse or for emergency protection under sections 14-4-101 et seq., C.R.S., shall be issued by the court, except as provided therein, section (b) hereof or in accordance with sections 14-4-101 et seq., C.R.S.

(b) **Repealed.** Assault and Threats Against the Person—Restraining Order.

(1) Upon the filing of a complaint, duly verified, alleging that the defendant has attacked, beaten, molested, or threatened the life of the plaintiff, or threatened to do serious bodily harm to the plaintiff, the court, after hearing the evidence and being fully satisfied therein that sufficient cause exists, may issue a temporary restraining order and a citation directed to the defendants, commanding the defendant to appear before the court at a specific time and date, to show cause, if any, why the temporary restraining order should not be made permanent.

(2) A copy of the complaint together with a copy of the temporary restraining order and a copy of the citation shall be served upon the defendant in accordance with the rules for service of process as provided in Rule 304, and the citation shall inform the defendant that should the defendant fail to appear in court in accordance with the terms of the citation, the temporary restraining order shall be made permanent, and a bench warrant may issue for the arrest of the defendant.

(3) On the return date of the citation, or on the day to which the hearing has been continued by the court, the court shall examine the record and the evidence, and if upon such record and evidence the court shall be of the opinion that the defendant has attacked, beaten, molested, or threatened the life of the plaintiff or threatened to do serious bodily harm to the plaintiff, and that unless restrained and enjoined will continue to attack, beat, molest, or threaten the life of the plaintiff, or threaten to do serious bodily harm to the plaintiff, the court shall order the restraining order to be made permanent and the order shall inform the defendant that a violation of the restraining order will constitute contempt of court and subject the defendant to such punishment as may be provided by law. Upon the consent of all parties, the court may direct that the order be a mutual, permanent restraining order.

(c) **Restrictive Covenants on Residential Real Property.**

(1) Upon the filing of a ~~complaint~~, duly verified complaint alleging that the defendant has violated a restrictive covenant on residential real property, the court shall issue a summons, which shall include notice to the defendant that it will hear the plaintiff's request for a preliminary injunction on the appearance date. A temporary restraining order may be granted without written or oral notice to the adverse party or the party's attorney only if: (a) it clearly appears from specific facts shown by affidavit or by the verified complaint or by testimony that immediate and irreparable injury, loss, or damage will result to the plaintiff before the adverse

party or the party's attorney can be heard in opposition, and (b) the plaintiff or the plaintiff's attorney certifies to the court in writing or on the record the efforts, if any, which have been made to give notice and the reasons supporting a claim that notice should not be required. The restraining order shall be served upon the defendant, together with the summons and complaint, and shall be effective until the appearance date.

(2) – (3) [NO CHANGE]

Rule 365. Injunctions, Restraining Orders and Orders for Emergency Protection

(a) Civil Protection Orders. No civil protection order, restraining order, or injunction under Title 13, Article 14, shall be issued by the court, except as provided therein.

(b) Repealed.

(c) Restrictive Covenants on Residential Real Property.

(1) Upon the filing of a duly verified complaint alleging that the defendant has violated a restrictive covenant on residential real property, the court shall issue a summons, which shall include notice to the defendant that it will hear the plaintiff's request for a preliminary injunction on the appearance date. A temporary restraining order may be granted without written or oral notice to the adverse party or the party's attorney only if: (a) it clearly appears from specific facts shown by affidavit or by the verified complaint or by testimony that immediate and irreparable injury, loss, or damage will result to the plaintiff before the adverse party or the party's attorney can be heard in opposition, and (b) the plaintiff or the plaintiff's attorney certifies to the court in writing or on the record the efforts, if any, which have been made to give notice and the reasons supporting a claim that notice should not be required. The restraining order shall be served upon the defendant, together with the summons and complaint, and shall be effective until the appearance date.

(2) – (3) [NO CHANGE]

Amended and Adopted by the Court, En Banc, April 27, 2017, effective immediately.

By the Court:

Allison H. Eid
Justice, Colorado Supreme Court