

# Colorado Rules of Civil Procedure

## Does a process server have to be licensed in Colorado?

No.

### Colorado Process Server Licensing Requirements

Process may be served inside or outside this state by the sheriff of the county where the service is made, or by a deputy, or by any other person over the age of eighteen years, not a party to the action.

### DID YOU KNOW?

If a person to be served refuses to accept a copy of the process, service shall be sufficient if the person serving the process knows or has reason to identify the person who refuses to be served, identifies the documents being served and offers to deliver a copy of the documents to the person who refuses to be served.

### Colorado Rules of Civil Procedure

Please note that lobbyists are active in the state of Colorado and laws concerning civil procedure and process serving can change. Therefore the information listed below may have been amended. For updated process serving legislation, please visit the [Colorado State Legislature](#) web site.

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#### Rule 4. Process.

##### **To What Applicable.**

This Rule applies to all process except as otherwise provided by these rules.

##### **Issuance of Summons by Attorney or Clerk.**

The summons may be signed and issued by the clerk, under the seal of the court, or it may be signed and issued by the attorney for the plaintiff. Separate additional or amended summons may issue against any defendant at any time. All other process shall be issued by the clerk, except as otherwise provided in these rules.

##### **Contents of Summons.**

The summons shall contain the name of the court, the county in which the action is brought, the names or designation of the parties, shall be directed to the defendant, shall state the time within which the defendant is required to appear and defend against the claims of the complaint, and shall notify him that in case of his failure to do so, judgment by default may be rendered against him. If the summons is served by publication, the summons shall briefly state the sum of money or other relief demanded.

The summons shall in the signature element thereof, contain the name, address, and registration number of the plaintiff's attorney, if any, and if not, the address of the plaintiff. Except in case of service by publication under Rule 4(g) or when otherwise ordered by the court, the complaint shall be served with the summons, and in all other cases service of a summons alone after the effective date of this amended rule shall not constitute service of process. In any case, where by special order personal service of summons is allowed without the complaint, a copy of the order shall be served with the summons.

##### **By Whom Served.**

Process may be served inside or outside this state by the sheriff of the county where the service is made, or by a deputy, or by any other person over the age of eighteen years, not a party to the action;

##### **Personal Service.**

Personal service shall be as follows:

- Upon a natural person over the age of eighteen years by delivering a copy or copies thereof to the person, or by leaving a copy or copies thereof at the person's usual place of abode, with any person over the age of eighteen years who is a member of the person's family, or at the person's usual place of business, with the person's secretary, bookkeeper, manager, or chief clerk; or by delivering a copy to an agent authorized by appointment or by law to receive service of process;
- Upon a natural person, between the ages of thirteen years and 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.
- Upon a person for whom a conservator has been appointed, by delivering a copy thereof to such conservator;
- Upon a partnership, or other unincorporated association, by delivering a copy thereof to one or more of the partners or associates, or a managing or general agent thereof;

- Upon a private corporation, by delivering a copy thereof to any officer, manager, general agent, or registered agent. If no such officer or agent can be found in the county in which the action is brought, such copy may be delivered to any stockholder, agent, member, or principal employee found in such county. If such service is upon a person other than an executive officer, the secretary, general agent, or registered agent, then the clerk shall mail a copy thereof to the corporation at its last known address, at least twenty days before default is entered;
- Upon a municipal corporation, by delivering a copy thereof to the mayor, city manager, clerk, or deputy clerk of such corporation;
- Upon a county, by delivering a copy thereof to the county clerk, chief deputy, county commissioner, or designee authorized to accept service of process;
- Upon a school district, by delivering a copy thereof to the superintendent or to any other employee authorized to accept service of process;
- Upon the state by delivering a copy thereof to the attorney general, or to any employee in his office designated by him to accept service of process;
- Upon an officer, agent, or employee of the state, acting in his official capacity, by delivering a copy thereof to the officer, agent, or employee, and by delivering a copy to the attorney general, or to any employee in his office designated by him to accept service of process.
- 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, or any employee in his office designated by him to accept service of process.
- For all purposes the date of service upon the officer, agent, employee, department, or agency shall control, except that failure to serve copies upon the attorney general within three days of service upon the officer, agent, employee, department, or agency shall extend the time within which the officer, agent, employee, department, or agency must file a responsive pleading for sixty days beyond the time otherwise provided by these Rules.

### **Reserved**

### **Other Service.**

Service by mail or publication shall be allowed only in actions affecting specific property or status or other proceedings in rem. The party desiring service of process by publication or mail 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 the address and last known address are unknown. The court shall hear the motion ex parte and, 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:

- Order the clerk to send by registered or certified mail a copy of the process addressed to such person at such address, requesting a return receipt signed by the addressee only. Such service shall be complete on the date of the filing of the clerk's proof thereof, together with such return receipt attached thereto signed by such addressee, or
- Order publication of the process in a newspaper published in the county in which the action is pending. Such publication shall be made for four weeks. Within fifteen days after the order the clerk shall mail a copy of the process to each person whose address or last known address has been stated in the motion. Service shall be complete on the day of the last publication. If no newspaper is published in the county, the court shall designate one in some adjoining county.

### **Manner of Proof.**

- If served in a state or territory of the United States by a sheriff or United States marshal, or a deputy, by such person's certificate with a statement as to date, place, and manner of service;
- If by any other person, by the person's affidavit thereof, with the same statement;
- If by mail, by the certificate of the clerk showing the date of the mailing, and the date the clerk received the return receipt;
- If by publication, by the affidavit of publication, together with the certificate of the clerk as to the mailing of copy of the process where required;
- By the written admission or waiver of service by the person or persons to be served, duly acknowledged.

**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 person of the defendant.

**Amendment.**

At any time in its discretion and upon such terms as it deems just, the court may allow any process 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 process is issued.

**Refusal of Copy.**

If a person to be served refuses to accept a copy of the process, service shall be sufficient if the person serving the process knows or has reason to identify the person who refuses to be served, identifies the documents being served and offers to deliver a copy of the documents to the person who refuses to be served.

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Rule 5. Service and Filing of Pleadings and Other Papers

**Service: When Required.**

Except as otherwise provided in these rules, every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard *ex parte*, and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar paper shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in Rule 4.

**Service: How Made.**

Whenever under these rules service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless personal service upon the party is ordered by the court. A resident attorney, on whom pleadings and other papers may be served, shall be associated as attorney of record with any foreign attorney practicing in any courts of this state. Service upon the attorney or upon a party shall be made by delivering a copy to the attorney or by mailing it to him at his address as given in the pleadings or by sending it via facsimile machine transmission to a facsimile number if one is designated in the pleadings, or if no pleading has been filed, or no address is given therein, then at his last known address or, if no address is known, by leaving it with the clerk of the court. Delivery of a copy within this Rule means: Handing it to the attorney or to the party; or leaving it at his office with the attorney's clerk or other person in charge thereof; or, if there is no one in

charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at the person's dwelling house or usual place of abode with some member of the family over the age of eighteen years then residing therein. Service by mail is complete upon mailing.

**Service: Numerous Defendants.**

In any action in which there are unusually large numbers of defendants, the court, upon motion or of its own initiative, may order that service of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any cross claim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

**Filing and Serving.**

Interrogatories, answers thereto, requests for admission, responses thereto, requests for production, responses thereto, and depositions shall not be filed until they are used in court proceedings. In all cases where these rules do not expressly require the filing and service of a paper, subsequent to the original complaint, and the filing of a paper alone is provided for, a copy of such paper so filed shall be served upon the adverse party contemporaneously with the filing of such paper, and where the service alone of any paper is required it shall be filed either before service or within a reasonable time thereafter. All papers after the complaint which are required to be served upon a party shall contain a certificate of service.

**Filing with Court Defined.**

The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with the judge, in which event the judge shall note thereon the filing date and forthwith transmit them to the office of the clerk. The clerk shall not refuse to accept any paper presented for filing solely because it is not presented in proper form as required by these rules or any local rules or practices.

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Rule 45. Subpoena

**For Attendance of Witnesses; Form; Issue.**

Subpoenas may be issued under Rule 45 only to compel attendance of witnesses, with or without documentary evidence, at a deposition, hearing or trial. Every subpoena shall state the name of the court, and the title of the action, and shall command each person to whom it is directed to attend and give testimony at a time and place therein specified.

**For Production of Documentary Evidence.**

A subpoena may also command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein; but the court, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may:

- Quash or modify the subpoena if it is unreasonable and oppressive; or
- condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

**Service.**

Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and by tendering to such person the fees for one day's attendance and the mileage allowed by law. Service is also valid if the person named in the subpoena has signed a written admission or waiver of personal service. When the subpoena is issued on behalf of the state of Colorado, or an officer or agency thereof, fees and mileage need not be tendered. Proof of service shall be made as in Rule 4(h). Unless otherwise ordered by the court for good cause shown, such subpoena shall be served no later than forty-eight hours before the time for appearance set out in said subpoena. The party issuing or causing the issuance of the subpoena pursuant to this rule, except in post-judgment proceedings, shall serve a copy of the subpoena (including a complete list of documents and things requested to be provided pursuant to the subpoena) upon all parties of record, including pro se parties, in the manner prescribed by C.R.C.P. 5 (b). Service on the other parties shall be made promptly after the service of the subpoena upon the person named therein. Original subpoenas and returns of service of such subpoenas need not be filed with the court.

### **Subpoena for Taking Depositions; Place of Examination.**

- A Deposition subpoena, upon notice to all parties to the action, may require the production of documentary evidence which is within the scope of discovery permitted by Rule 26. Any party, the person to whom a deposition subpoena is directed, or any other person claiming an interest in the documents affected, may move for a protective order under Rule 26, in addition to any other remedy available under Rule 45. The person to whom the subpoena is directed may, within ten days after the service thereof or on or before the time specified in the subpoena for compliance if such time is less than ten days after service, serve upon the attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials. If objection is made, the party serving the subpoena is not entitled to inspect and copy the materials except pursuant to an order of the court from which the subpoena was issued.
- A resident of this state may be required by subpoena to attend an examination upon deposition only in the county wherein he resides or is employed or transacts his business in person, or at such other convenient place as is fixed by an order of court. A nonresident of this state may be required by subpoena to attend only within forty miles from the place of service or in the county wherein he resides or is employed or transacts his business in person or at such other convenient place as is fixed by an order of court.

### **Subpoena for Deposition, Hearing or Trial.**

Subpoenas for attendance at a deposition, hearing or trial shall be issued either by the clerk of the court in which the case is docketed, or by one of counsel whose appearance has been entered in the particular case in which the subpoena is sought. A subpoena requiring the attendance of a witness at a deposition, hearing or trial may be served any place within the state.

### **Subpoena in Aid of Execution or Proceedings Subsequent to Judgment.**

Every subpoena or subpoena to produce issued in accordance with post-judgment proceedings of C.R.C.P. 69 shall comply with the provisions for service, attendance, production of documentary evidence and depositions required by this Rule 45. Written interrogatories pursuant to C.R.C.P. 69 shall be personally served on the judgment debtor in accordance with the requirements of, and in the manner provided for service of a subpoena under this Rule 45.

You should contact an Colorado Process Server if you have specific questions about Process Serving in Colorado.