

Rule Change 2003(20)

COLORADO RULES OF CIVIL PROCEDURE

CHAPTER 13

SEIZURE OF PERSON OR PROPERTY

Rule 104. Replevin

(a)-(b) [NO CHANGE].

(c) Show Cause Order; Hearing within Ten Days. The court shall without delay, examine the complaint and affidavit, and if it is satisfied that they meet the requirements of section (b), it shall issue an order directed to the defendant to show cause why the property should not be taken from the defendant and delivered to the plaintiff. Such order shall fix the date and time for the hearing thereof. The hearing date shall be not more than ten days from the date of the issuance of the order and the order must have been served at least five days prior to the hearing date. The plaintiff may request a hearing date beyond ten days, which request shall constitute a waiver of the right to a hearing not more than ten days from the date of issuance of the order. Such order shall inform the defendant that he may file affidavits on his behalf with the court and may appear and present testimony in his behalf at the time of such hearing, or that he may, at or prior to such hearing, file with the court a written undertaking to stay the delivery of the property, in accordance with the provisions of section (j) of this rule, and that, if he fails to appear at the hearing on the order to show cause or to file an undertaking, plaintiff may apply to the court for an order requiring the sheriff to take immediate possession of the property described in the complaint and deliver same to the plaintiff. The summons and complaint, if not previously served, and the order shall be served on the defendant and the order shall fix the manner in which service shall be made, which shall be by service in accordance with the provisions of Rule 4, C.R.C.P., or in such manner as the court may determine to be reasonably calculated to afford notice thereof to the defendant under the circumstances appearing from the complaint and affidavit.

(d)-(p) [NO CHANGE].

Amended and adopted by the Court, En Banc, December 4, 2003, effective January 1, 2004.

BY THE COURT:

Nancy E. Rice
Justice, Colorado Supreme Court