

Rule Change #2004(11)

THE COLORADO RULES OF CIVIL PROCEDURE
CHAPTER 2

Amendments to:

- Rule 8. General Rules of Pleading
- Rule 10 Form and Quality of Pleadings, Motions and Other Documents
- Rule 16.1 Simplified Procedure for Civil Actions

Appendix to Chapters 1 to 17
New forms 1.2 (JDF 601) and 1.3 (JDF 602).

Amended and Adopted by the Court, En Banc, June 10, 2004,
Effective for District Court Civil Actions filed on or after
July 1, 2004.

BY THE COURT:

Gregory J. Hobbs, Jr.
Justice

**CHAPTER 2
PLEADINGS AND MOTIONS**

Rule 8. General Rules of Pleading

(a) Claims for Relief. A pleading which sets forth a claim for a relief whether an original claim, counterclaim, cross-claim, or a third-party claim, shall contain: (1) If the court is of limited jurisdiction, a short and plain statement of the grounds upon which the court's jurisdiction depends; (2) a short and plain statement of the claim showing that the pleader is entitled to relief; and (3) a demand for judgment for the relief to which the pleader claims to be entitled. No dollar amount shall be stated in the prayer or demand for relief. Relief in the alternative or of several different types may be demanded. ~~Each claiming party shall designate in its first pleading whether the case is subject to or exempt from Simplified Procedure under C.R.C.P. 16.1 by using the caption form required by C.R.C.P. 10(d)(2)(III).~~ Each pleading containing an initial claim for relief in a civil action, other than a domestic relations, probate, water, juvenile, or mental health action, shall be accompanied by a completed Civil Cover Sheet in the form and content of Appendix to Chapters 1 to 17, Form 1.2 (JDF 601), at the time of filing. Failure to file the cover sheet shall not be considered a jurisdictional defect in the pleading but may result in a clerk's show cause order requiring its filing.

(b) - (f) NO CHANGE.

CHAPTER 2
PLEADINGS AND MOTIONS

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

(a)-(d) (2) (II) NO CHANGE.

(d) (2) (III) Case Caption Information: All documents shall contain the following information arranged in the following order, as illustrated by paragraphs (e) and (f) of this rule, except that documents issued by the court under the signature of the clerk or judge should omit the attorney section as illustrated in paragraphs (e) (2) and (f) (2). Individual boxes should separate this case caption information; however, vertical lines are not mandatory.

On the left side:

Court name and mailing address.

Name of parties.

Name, Address, and telephone number of the attorney or pro se party filing the document.

Fax number and e-mail address are optional.

Attorney registration number.

Document title.

On the right side:

An area for "Court Use Only" that is at least 2 1/2 inches in width and 1 3/4 inches in length (located opposite the court and party information).

Case number, division number, and courtroom number (located opposite the attorney information above). ~~Below the division or courtroom number, in a pleading containing claims against another party, the claiming party shall include the following provision:~~

~~_____ This case is NOT subject to the simplified procedures for court actions under Rule 16.1 because:~~

~~_____ This is a class action, domestic relations, juvenile, mental health, probate, water law, forcible entry and detainer, Rule 106 and 120, or other similar expedited proceeding [see C.R.C.P. 16.1(b) (1)].~~

and/or

~~_____ Claims against any party exceed \$100,000 [see C.R.C.P. 16.1(b) (2) and (c)].~~

(3)-(4) NO CHANGE.

(e) Illustration of Preferred Case Caption Format:

(1) Preferred Caption for documents initiated by a party:

[Designation of Court From subsection (g) below]	
Plaintiff(s) : <i>[Substitute appropriate party designations & names]</i> v. Defendant(s) :	▲COURT USE ONLY <hr/> Case Number: Div: Ctrm: <hr/>
Attorney or Party Without Attorney Name: Address Phone Number: FAX Number: E-mail: Atty. Reg. #	{For a Complaint, Counterclaim or Third-Party Complaint caption, insert in the lower right portion of the caption the following:} This case is NOT subject to the simplified procedures for court actions under Rule 16.1 because: _____ This is a class action, domestic relations, juvenile, mental health, probate, water law, forcible entry and detainer, Rule 106 and 120, or other similar expedited proceeding [see C.R.C.P. 16.1(b)(1)] and/or _____ Claims against any party exceed \$100,000 [see C.R.C.P. 16.1(b)(2)] and

	(e)1
<i>NAME OF DOCUMENT</i>	

(e) (2) NO CHANGE .

(f) - (h) NO CHANGE .

Rule 16.1. Simplified Procedure for Civil Actions.

(a) - (b) (2) NO CHANGE

(b) (3) Each pleading containing an initial claim for relief in a civil action, other than a domestic relations, probate, water, juvenile, or mental health action, shall be accompanied by a completed Civil Cover Sheet in the form and content of Appendix to Chapters 1 to 17, Form 1.2 (JDF 601), at the time of filing. Failure to file the cover sheet shall not be considered a jurisdictional defect in the pleading but may result in a clerk's show cause order requiring its filing.

(c) NO CHANGE

(d) Election for Exclusion from This Rule. This Rule shall apply unless, no later than 35 days after the case is at issue as defined in C.R.C.P. 16(b) (1), any party files a written notice, statement in a pleading or otherwise, signed by the party and its counsel, if any, stating that the party elects to be excluded from the application of Simplified Procedure, set forth in this rule 16.1. The use of a "Notice to Elect Exclusion From C.R.C.P. 16.1 Simplified Procedure" in the form and content of Appendix to Chapters 1 to 17, Form 1.3 (JDF 602), shall comply with this section. In the event ~~such a statement notice~~ is filed, C.R.C.P. 16 shall govern the action.

(e) - (1) NO CHANGE

Form 1.2 (JDF 601)

District Court _____ County, Colorado Court Address:	▲ COURT USE ONLY ▲
Plaintiff(s): v. Defendant(s):	
Attorney or Party Without Attorney (Name and Address):	Case Number:
Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____	Division _____ Courtroom _____
DISTRICT COURT CIVIL (CV) CASE COVER SHEET FOR INITIAL PLEADING OF COMPLAINT, COUNTERCLAIM, CROSS-CLAIM OR THIRD PARTY COMPLAINT	

- This cover sheet shall be filed with the initial pleading of a complaint, counterclaim, cross-claim or third party complaint in every district court civil (CV) case. It shall not be filed in Domestic Relations (DR), Probate (PR), Water (CW), Juvenile (JA, JR, JD, JV), or Mental Health (MH) cases.
- Check the boxes applicable to this case.
 - Simplified Procedure under C.R.C.P. 16.1 **applies** to this case because this party does not seek a monetary judgment in excess of \$100,000.00 against another party, including any attorney fees, penalties or punitive damages but excluding interest and costs and because this case is not a class action or forcible entry and detainer, Rule 106, Rule 120, or other expedited proceeding.
 - Simplified Procedure under C.R.C.P. 16.1, **does not apply** to this case because (check one box below identifying why 16.1 does not apply):
 - This is a class action or forcible entry and detainer, Rule 106, Rule 120, or other similar expedited proceeding, **or**
 - This party is seeking a monetary judgment for more than \$100,000.00 against another party, including any attorney fees, penalties or punitive damages, but excluding interest and costs (see C.R.C.P. 16.1(c)), **or**
 - Another party has previously stated in its cover sheet that C.R.C.P. 16.1 does not apply to this case.
- This party makes a **Jury Demand** at this time and pays the requisite fee. See C.R.C.P. 38. (Checking this box is optional.)

Date: _____

Signature of Party or Attorney for Party

NOTICE

- ✓ This cover sheet must be filed in all District Court Civil (CV) Cases. Failure to file this cover sheet is not a jurisdictional defect in the pleading but may result in a clerk's show cause order requiring its filing.
- ✓ This cover sheet must be served on all other parties along with the initial pleading of a complaint, counterclaim, cross-claim, or third party complaint.
- ✓ This cover sheet shall not be considered a pleading for purposes of C.R.C.P. 11.

Form 1.3 (JDF 602)

District Court _____ County, Colorado Court Address: _____	▲ COURT USE ONLY ▲
Plaintiff(s): _____ v. Defendant(s): _____	
Attorney or Party Without Attorney (Name and Address): _____	Case Number: _____
Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____	Division _____ Courtroom _____
NOTICE TO ELECT EXCLUSION FROM C.R.C.P. 16.1 SIMPLIFIED PROCEDURE	

Simplified Procedure under C.R.C.P. 16.1 is intended to be a less expensive and faster method of handling civil cases and applies where amount sought against each party is \$100,000.00 or less, see C.R.C.P. 16.1(c). The Rule requires early and full disclosure of the information that each party has about the dispute and addresses what evidence will be introduced at trial.

The party and attorney, if applicable, signing this Notice hereby elect to exclude this case from the Simplified Procedure under C.R.C.P. 16.1. This election is being filed with the Court no later than the time provided by C.R.C.P. 16.1(d).

IT IS UNDERSTOOD THAT ONCE THIS NOTICE OF EXCLUSION IS FILED WITH THE COURT, THE PROCEDURES OF C.R.C.P. 16, CASE MANAGEMENT AND TRIAL MANAGEMENT WILL APPLY TO THIS CASE.

This Notice must be signed by the party and, if represented, by the attorney.

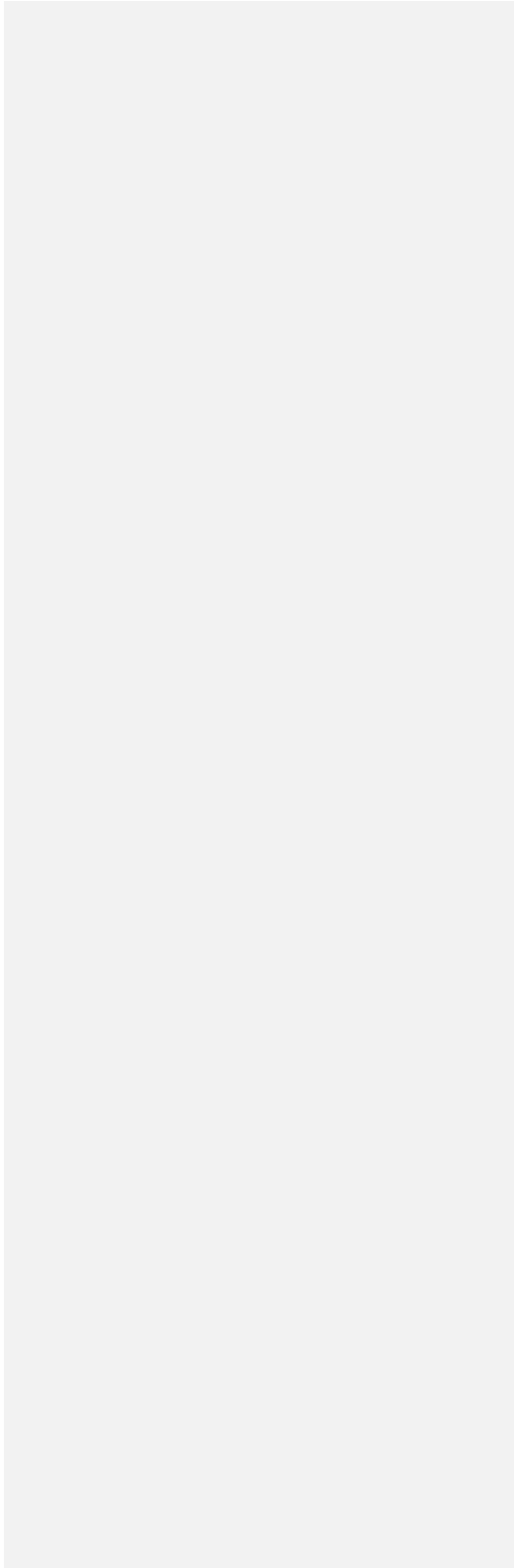
Date: _____
Signature of Party

Date: _____
Signature of Attorney for Party

CERTIFICATE OF SERVICE

I certify that on _____ (date) this **NOTICE TO ELECT EXCLUSION FROM C.R.C.P. 16.1 SIMPLIFIED PROCEDURE** was filed with the Court; and true and accurate copies of the Notice were served on all other parties by: _____ (method of service) and if by mail, postage pre-paid, and addressed to the following:

Signature of Party or Attorney for Party



The following is the complete rule C.R.C.P. 16.1, clean version, taking into account Rule Change 2003(19) adopted November 6, 2003, the corrective order to Rule Change 2003(19) adopted January 6, 2004, and the amendments to C.R.C.P. 16.1 adopted June 10, 2004 as part of Rule Change 2004(11). C.R.C.P. 16.1 becomes effective July 1, 2004 for all District Court Civil Actions filed on or after July 1, 2004.

**CHAPTER 2
PLEADINGS AND MOTIONS**

Rule 16.1. Simplified Procedure for Civil Actions.

(a) Purpose and Summary of Simplified Procedure.

(1) Purpose of Simplified Procedure. The purpose of this rule is to provide maximum access to the district courts in civil actions; to enhance the provision of just, speedy, and inexpensive determination of civil actions; to provide the earliest practical trials; and to limit discovery and its attendant expense.

(2) Summary of Simplified Procedure. Under this Rule, Simplified Procedure generally applies to all civil actions, whether for monetary damages or any other form of relief unless expressly excluded by this Rule or the pleadings, or unless a party timely and properly elects to be excluded from its provisions. This Rule normally limits the maximum allowable monetary judgment to \$100,000 against any one party. This Rule requires early, full disclosure of persons, documents, damages, insurance and experts, and early, detailed disclosure of witnesses' testimony, whose direct trial testimony is then generally limited to that which has been disclosed. Normally, no depositions, interrogatories, document requests or requests for admission are allowed, although examination under C.R.C.P. 34(a)(2) and 35 is permitted.

(b) Actions Subject to Simplified Procedure. This Rule applies to all civil actions other than:

- (1)** civil actions that are class actions, domestic relations, juvenile, mental health, probate, water law, forcible entry and detainer, C.R.C.P. 106 and 120, or other similar expedited proceedings, unless otherwise stipulated by the parties; or
- (2)** civil actions in which any party seeks a monetary judgment from any other party of more than \$100,000, exclusive of interest and costs.
- (3)** Each pleading containing an initial claim for relief in a civil action, other than a domestic relations,

probate, water, juvenile, or mental health action, shall be accompanied by a completed Civil Cover Sheet in the form and content of Appendix to Chapters 1 to 17, Form 1.2 (JDF 601), at the time of filing.

Failure to file the cover sheet shall not be considered a jurisdictional defect in the pleading but may result in a clerk's show cause order requiring its filing.

(c) Limitations on Damages. In cases subject to this Rule, a claimant's right to a monetary judgment against any one party shall be limited to a maximum of \$100,000, including any attorney fees, penalties or punitive damages, but excluding interest and costs. The \$100,000 limitation shall not restrict an award of non-monetary relief. The jury shall not be informed of the \$100,000 limitation. If the jury returns a verdict for damages in excess of \$100,000, the trial court shall reduce the verdict to \$100,000.

(d) Election for Exclusion from This Rule. This Rule shall apply unless, no later than 35 days after the case is at issue as defined in C.R.C.P. 16(b)(1), any party files a written notice, signed by the party and its counsel, if any, stating that the party elects to be excluded from the application of Simplified Procedure, set forth in this rule 16.1. The use of a "Notice to Elect Exclusion From C.R.C.P. 16.1 Simplified Procedure" in the form and content of Appendix to Chapters 1 to 17, Form 1.3 (JDF 602), shall comply with this section. In the event a notice is filed C.R.C.P. 16 shall govern the action.

(e) Election for Inclusion Under This Rule. In actions excluded by subsection (b)(2) of this Rule, within 45 days after the case is at issue, as defined in C.R.C.P. 16(b)(1), the parties may file a stipulation to be governed by this Rule. In such event, they will not be bound by the \$100,000 limitation on judgments contained in section (c) of this Rule.

(f) Case Management Orders. In actions subject to Simplified Procedure pursuant to this Rule, the presumptive case management order requirements of C.R.C.P. 16(b)(1), (2), (3), (5) and (6) shall apply.

(g) Trial Setting. No later than 40 days after the case is at issue, the responsible attorney shall set the case for trial pursuant to C.R.C.P. 121, section 1-6, unless otherwise ordered by the court.

(h) Certificate of Compliance. No later than 45 days after the case is at issue, the responsible attorney shall also file a Certificate of Compliance stating that the parties have complied with all the requirements of sections (f) and (g) of this Rule or, if they have not complied with each requirement, shall identify the requirements which have not been fulfilled and set forth any reasons for the failure to comply.

(i) Expedited Trials. Trial settings, motions and trials in actions subject to Simplified Procedure under this Rule should be given early trial settings, hearings on motions and trials.

(j) Case Management Conference. If any party believes that it would be helpful to conduct a case management conference, a notice to set case management conference shall be filed stating the reasons why such a conference is requested. If any party is unrepresented or if the court determines that such a conference should be held, the court shall set a case management conference. The conference may be conducted by telephone.

(k) Simplified Procedure. Simplified Procedure means that the action shall not be subject to C.R.C.P. 16, 26-33, 34(a) (1), 34(c) and 36, unless otherwise specifically provided in this Rule, and shall be subject to the following requirements:

(1) Required Disclosures.

(A) Disclosures in All Cases. Each party shall make disclosures pursuant to C.R.C.P. 26(a) (1), 26(a) (4), 26(a) (6), 26(b) (5), 26(c), 26(e) and 26(g), no later than 30 days after the case is at issue as defined in C.R.C.P. 16(b) (1). In addition to the requirements of C.R.C.P. 26(g), the disclosing party shall sign all disclosures under oath.

(B) Additional Disclosures in Certain Actions. Even if not otherwise required under subsection (A), matters to be disclosed pursuant to this Rule shall also include, but are not limited to, the following:

(i) Personal Injury Actions. In actions claiming damages for personal or emotional injuries, the claimant shall disclose the names and addresses of all doctors, hospitals, clinics, pharmacies and other health care providers utilized by the claimant within five years prior to the date of injury, and shall produce all records from those providers or written waivers allowing the opposing party to obtain those records subject to appropriate protective provisions authorized by C.R.C.P. 26(c). The claimant shall also produce transcripts or tapes of recorded statements, documents, photographs, and video and other recorded images that address the facts of the case or the injuries sustained. The defending party shall

disclose transcripts or tapes of recorded statements, any insurance company claims memos or documents, photographs, and video and other recorded images that address the facts of the case, the injuries sustained, or affirmative defenses. A party need not produce those specific records for which the party, after consultation pursuant to C.R.C.P. 26(c), timely moves for a protective order from the court;

(ii) Employment Actions. In actions seeking damages for loss of employment, the claimant shall disclose the names and addresses of all persons by whom the claimant has been employed for the ten years prior to the date of disclosure and shall produce all documents which reflect or reference claimant's efforts to find employment since the claimant's departure from the defending party, and written waivers allowing the opposing party to obtain the claimant's personnel files and payment histories from each employer, except with respect to those records for which the claimant, after consultation pursuant to C.R.C.P. 26(c), timely moves for a protective order from the court. The defending party shall produce the claimant's personnel file and applicable personnel policies and employee handbooks;

(iii) Requested Disclosures. Before or after the initial disclosures, any party may make a written designation of specific information and documentation that party believes should be disclosed pursuant to C.R.C.P. 26(a)(1). The other party shall provide a response and any agreed upon disclosures within 20 days of the request or at the time of initial disclosures, whichever is later. If any party believes the responses or disclosures are inadequate, it may seek relief pursuant to C.R.C.P. 37.

(C) Document Disclosure. Documents and other evidentiary materials disclosed pursuant to C.R.C.P. 26(a)(1) and 16.1(k)(1)(B) shall be made immediately available for inspection and copying to the extent not privileged or protected from disclosure.

(2) Disclosure of Expert Witnesses. The provisions of C.R.C.P. 26(a)(2)(A) and (B), 26(a)(4), 26(a)(6), 26(c), 26(e) and 26(g) shall apply to disclosure for expert witnesses. Written disclosures of experts shall be served by parties asserting claims 90 days before trial; by parties defending against claims 60 days before trial; and parties asserting claims shall serve written disclosures for any rebuttal experts 35 days before trial.

(3) Disclosure of Non-expert Trial Testimony. Each party shall serve written disclosure statements identifying the name, address, telephone number, and a detailed statement of the expected testimony for each witness the party intends to call at

trial whose deposition has not been taken, and for whom expert reports pursuant to subparagraph (k) (2) of this Rule have not been provided. For adverse party or hostile witnesses, written disclosure of the expected subject matters of the witness's testimony, rather than a detailed statement of the expected testimony, shall be sufficient. Written disclosure shall be served by parties asserting claims 90 days before trial; by parties defending against claims 60 days before trial; and parties asserting claims shall serve written disclosures for any rebuttal witnesses 35 days before trial.

(4) Depositions of Witnesses in Lieu of Trial Testimony.

A party who intends to offer the testimony of an expert or other witness may, pursuant to C.R.C.P. 30(b) (1)-(4), take the deposition of that witness for the purpose of preserving the witness' testimony for use at trial. Such a deposition shall be taken at least 5 days before trial. In that event, any party may offer admissible portions of the witness' deposition, including any cross-examination during the deposition, without a showing of the witness' unavailability. Any witness who has been so deposed may not be offered as a witness to present live testimony at trial by the party taking the deposition.

(5) Depositions for Obtaining Documents. Depositions also may be taken for the sole purpose of obtaining and authenticating documents from a non-party.

(6) Trial Exhibits. All exhibits to be used at trial which are in the possession, custody or control of the parties shall be identified and exchanged by the parties at least 30 days before trial. Authenticity of all identified and exchanged exhibits shall be deemed admitted unless objected to in writing within 10 days after receipt of the exhibits. Documents in the possession, custody and control of third persons that have not been obtained by the identifying party pursuant to document deposition or otherwise, to the extent possible shall be identified 30 days before trial and objections to the authenticity of those documents may be made at any time prior to their admission into evidence.

(7) Limitations on Witnesses and Exhibits at Trial. In addition to the sanctions under C.R.C.P. 37(c), witnesses and expert witnesses whose depositions have not been taken shall be limited to testifying on direct examination about matters disclosed in reasonable detail in the written disclosures, provided, however, that adverse parties and hostile witnesses shall be limited to testifying on direct examination to the subject matters disclosed pursuant to subparagraph (k) (3) of this Rule. However, a party may call witnesses for whom written disclosures were not previously made for the purpose of

authenticating exhibits if the opposing party made a timely objection to the authenticity of such exhibits.

(8) Juror Notebooks and Jury Instructions. Counsel for each party shall confer about items to be included in juror notebooks as set forth in C.R.C.P. 47(t). At the beginning of trial or at such other date set by the court, the parties shall make a joint submission to the court of items to be included in the juror notebook. Jury instructions and verdict forms shall be prepared pursuant to C.R.C.P. 16(g).

(9) Voluntary Discovery. In addition to the disclosures required by this Rule, voluntary discovery may be conducted as agreed to by all the parties. However, the scheduling of such voluntary discovery may not serve as the basis for a continuance of the trial, and the costs of such discovery shall not be deemed to be actual costs recoverable at the conclusion of the action. Disputes relating to such agreed discovery may not be the subject of motions to the court. If a voluntary deposition is taken, such deposition shall not preclude the calling of the deponent as a witness at trial.

(1) Changed Circumstances. In a case governed by this Rule, any time prior to trial, upon a specific showing of substantially changed circumstances sufficient to render the application of Simplified Procedure under this Rule unfair and a showing of good cause for the timing of the motion to terminate, the court shall terminate application of this Rule and enter such orders as are appropriate under the circumstances.

