

MEMORANDUM

To: Judge Jerry N. Jones, Colorado Court of Appeals and Justice Richard L. Gabriel, Colorado Supreme Court

From: Jose L. Vasquez

Date: July 25, 2025

Re: PAC proposal for changes to Rule 303

BACKGROUND

On June 27, 2025, the Pathways to Access (PAC) Committee presented to the Rules Committee (via a brief presentation by Justice Richard Gabriel) a proposal to the Supreme Court for changes to Rule 303 as it pertains to forcible entry and detainer (FED) cases. Because the PAC only presented the Committee with a summary of the changes it wished to see made rather than a proposed rule change, no action was taken at that meeting. Accordingly, as Chair of the Rules Committee, Magistrate Lisa Hamilton-Fieldman, Alana Percy (Clerk of Court of the Colorado Judicial Branch) and myself were appointed to work on drafting the proposed rule amendments. It was further requested that a memo be submitted containing the rationale for the PAC's proposal.

HISTORY/RATIONALE

In January 2025, PAC discussed the challenges to FED defendants filing answers in FED actions because most initiating documents do not include the case number when served. The lack of a case number on the summons and complaint results in defendants not being able to file an answer and is also a barrier to obtain information about their case. An example of this challenge is that if a defendant calls the court, they are asked for the case number. The clerk can only find their case using their name, if spelled correctly and if the clerk is willing to discuss a suppressed case with the caller. Additionally, many self-represented defendants won't know that they need a case number and may file the Answer without a case number, at which time it will be rejected, and the Defendant has to start over. Calling plaintiff's counsel to obtain the case number is not realistic. It is extremely difficult to get through to speak with a person at the large FED law firms. In most instances, attempts to contact the FED law firms results in having to leave a message via a "tiny URL". Even if the landlord is self-represented, there's no guarantee they will answer a tenant's call seeking the case number, especially if they are pursuing eviction. The expedited nature of FED cases makes each day that passes significant. Further, as set forth in the Rules Committee meeting by one member, the lack of a summons and complaint without a case number makes it possible for a plaintiff to serve the summons and complaint but not file the case, often resulting with the tenant moving out, or "self-evicting."

At the PAC's January 2025 meeting, several options to resolve these issues were considered, including requiring that the summons include language to call the plaintiff's attorney or the court for the case number and requiring that service be made a second time after a case number is assigned. These options were discussed but rejected as overly burdensome. The committee unanimously agreed on a proposal which would require that no FED summons could be served until the complaint was first filed with the Court, and received a case number, consistent with C.R.S. 13-40-110(1)(a), which states that an FED is commenced upon filing with the court a complaint. Because the statute eliminates the option that an FED action is commenced by *either* the filing of the complaint, *or* by the service of a summons and complaint the committee concluded that to comport with statute, C.R.C.P. 303 *must* be amended as it applies to FED actions. This unanimous proposal among committee members included both plaintiff's and defendant's attorneys.

PROPOSED SOLUTION

The PAC respectfully requests that the Civil Rules Committee review the attached proposed changes and/or additions to the rules. For the County Court Rules, the consensus was that the most effective manner to implement these changes is the addition of a new Rule 303.5, which would apply only to FED actions. Given that FED actions are also filed in the District Court, the corresponding Civil Rules would also need to be changed. Thus, the committee is proposing that a new Rule 3.5 be added to the Rules, which would only apply to FED actions. Rule 4(c)(2), which addresses summons issued in FED cases, would also have to be amended to include a provision that any summons must include a case number before it could be served.

Because C.R.S. 13-40-110(1)(a) requires that all FED actions only commence upon the filing of the complaint, changes incorporating the statute have been proposed to be added to Rules 303.5 and 3.5. The proposed rules and changes impose a responsibility upon the plaintiff to make sure that they include the case number in the summons before it can be served. The language in the proposed changes take into consideration that clerks may not have the administrative capacity to include the case number on all the summonses. The language being proposed makes it the responsibility of the plaintiff to ensure that any summons which it intends to serve on the Defendant contain the court case number, relieving the court clerks of this duty.

The proposed rule changes capture the intent of the PAC Committee, which was to change the practice of FED summonses and complaints not including a case number when a party is served with those papers. This proposed change would remove a barrier to court users and increase access to justice to self-represented litigants.