

MEDIATING COUNTY COURT CIVIL CASES  
Presented for: Jefferson County Mediation Services  
Judge Tammy Greene  
May, 2015

- I. 1<sup>st</sup> Issue: Does judgment enter now or upon default?
- A. Judgment enters now (Stipulation to Judgment):
1. You can stop there and let Plaintiff move the Defendant out and/or collect according to rules of procedure, i.e., garnishment, levy, etc. (no payment plan);  
or
  2. Plaintiff can agree not to execute upon judgment so long as Defendant moves out and/or makes payments in accordance with the terms of the stipulation.  
NOTE RE MONEY: If payment made in full, Plaintiff should file a satisfaction of judgment.
- B. Judgment enters upon default (Stipulation to Non-judgment):
1. Parties can agree that, if Defendant fails to move and/or defaults on the payment plan, Plaintiff may apply to the court for entry of judgment for possession and/or for money judgment in the amount of the unpaid balance.  
NOTE RE MONEY: If payment made in full, Plaintiff should file a motion to dismiss.
- II. Caption
- A. Parties
1. Named Parties v. People Present
    - a. What if a party is a corporate entity?
    - b. Can a spouse represent his/her spouse?
    - c. What happens if one of multiple defendants doesn't appear?
    - d. Can agreeing parties enter into a stipulation if it doesn't encompass all parties? What is "joint and several liability"?
    - e. What about "other occupants"?
- III. Money Case
- A. What is the total amount to be paid?
1. Always \$15,000 or less, excluding attorney's fees and costs, in county court.
  2. Incentive: There can be an agreement by Plaintiff to accept less if payments are made according to a payment plan. (This works best if no judgment enters as part of the agreement.)
- B. Do parties agree to a payment plan? (If not, judgment should enter now.)
- C. Does judgment enter now or upon default in the payment plan? See I. above.
- D. When are payments due?
- E. How are payments to be made? (Cash, check, money order?)
- F. Payable to whom?
- G. Where are payments to be sent?

IV. FED/Eviction Case

A. Does judgment for possession enter?

1. Yes. Parties can agree: "Judgment for possession shall enter immediately. A Writ of Restitution may issue in 48 hours. There will be no move-out by the Sheriff before X date at Y time."
2. No.
  - a. Defendant remains: Parties can agree that Defendant will pay \$X by Y date(s) and remain in the property. If Defendant does not pay according to the plan, Plaintiff may obtain a money judgment, but, unless otherwise provided in the stipulation, Plaintiff may not obtain a judgment for possession of the property in this action, i.e, Plaintiff will need to start over.
  - b. Defendant vacates: Parties can agree that the Defendant will vacate the property by a certain date and time. If the Defendant fails to vacate by that time, the Plaintiff may come to the courthouse and file a motion for judgment for possession. Judgment for possession will enter, but the writ will not issue for 48 hours. So, Plaintiff may come to the courthouse 48 hours after entry of the judgment of possession with a proposed writ. The main clerk's office will issue the writ. The Plaintiff may then take the writ to the Civil Section of the Sheriff's Office and schedule the move-out.

B. What about money issues?

1. If the parties can agree to what is owed at the time of the mediation, they can come to an agreement as provided above re: money cases. If not, just get an agreement re: possession and the Court will set a trial re: the money issues.

C. What about the security deposit?

1. If the Defendant is in possession of the property on the date of the mediation, don't "add in" the security deposit. The Plaintiff will need to deal with the security deposit according to statute. In other words, the Plaintiff will need to get into the property, determine if there are damages to the property and apply any security deposit to the damages. If the security deposit exceeds the amount of the damages, the Plaintiff must apply the balance to the money judgment. If the security deposit is insufficient to cover the amount of the damages, the Plaintiff may file a motion for additional damages and the Court will set that motion for hearing.

D. Are there other, non-monetary issues to deal with?

1. The parties often want to stipulate re: what fixtures are staying, how the fish pond will be left, etc. Feel free to include these agreements, but they should be specific and compliance easily determined.

V. What happens if there is no agreement?

- A. If the mediation fails on the return date, the Defendant must go to the Clerk's Office, file an Answer and return to the courtroom to get a trial date (and a possession hearing date, if applicable). If the Defendant does not file an Answer, default judgment may enter.
- B. Money case – trial by judge or jury.
- C. FED – Case will be bifurcated.
  1. Possession hearing
    - a. Typically 1 week from the return date – no jury
  2. Trial re: money issues (rent, late fees, damages to property, application of security deposit, etc.) by judge or jury – set in the normal course

VI. Sample Agreements

A. Money Cases

Stipulation to Judgment

1. Judgment enters in the amount of \$1,000. Plaintiff will not execute on the judgment so long as payments are made as provided below:
2. Defendant will pay Plaintiff \$50 dollars on or before the 1st day of each month, beginning June 1, 2015.
3. Payments shall be made by check, payable to Bill Smith, and mailed to 111 So. 11<sup>th</sup> St., Golden, CO 80401.
4. If Plaintiff does not receive a payment by the 4<sup>th</sup> day of each month as provided above, Plaintiff may collect the unpaid balance by all legal means.
5. If the money judgment is paid in full, Plaintiff will file a satisfaction of judgment with the Court.

Stipulation to Non-judgment

1. Parties agree the Defendant owes the Plaintiff \$1,000. Defendant will make payments on that amount as provided below:
2. Defendant will pay Plaintiff \$50 dollars on or before the 1st day of each month, beginning June 1, 2015.
3. Payments shall be made by check, payable to Bill Smith, and mailed to 111 So. 11<sup>th</sup> St., Golden, CO 80401.
4. If Plaintiff does not receive a payment by the 4<sup>th</sup> day of each month as provided above, Plaintiff may apply to the Court for entry of judgment in the amount of the unpaid balance.
5. If the \$1000 is paid in full, Plaintiff will file a motion to dismiss this case with the Court.

B. FED Cases – See Division H FED stipulation form attached.

County Court, Jefferson County, Colorado 100 Jefferson County Parkway Golden, CO 80401		<b>COURT USE ONLY</b>
Plaintiff(s) Phone Number: _____ v. Defendant(s) Phone Number: _____		
Attorney (Name and Address): Phone Number: FAX Number:	E-mail: Atty. Reg. #:	Case Number:  Division H      Courtroom 1-C
<b>STIPULATION AND ORDER FOR FORCIBLE ENTRY AND DETAINER (FED) / EVICTION</b>		

The Plaintiff(s) and Defendant(s) agree to the following AS TO POSSESSION OF THE PROPERTY LOCATED AT: \_\_\_\_\_, Jefferson County, Colorado.

**AGREEMENT AS TO POSSESSION (INITIAL ONLY ONE):**

\_\_\_\_\_ Judgment for Possession shall enter immediately. A Writ of Restitution may issue in 48 hours. There will be no move-out by the Sheriff before \_\_\_\_\_.m. on \_\_\_\_\_, 20\_\_.

\_\_\_\_\_ Defendant shall vacate the property by \_\_\_\_\_.m. on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_. If Defendant fails to VACATE the property as agreed, Plaintiff may obtain a judgment for possession from the Court by filing a written motion stating that Defendant has failed to vacate the premises as agreed. The judgment for possession will be entered without hearing or further notice to Defendant.

If Defendant fails to make any PAYMENT required below which comes due before the above date, Plaintiff may file a motion requesting an earlier entry of a judgment for possession, a copy of which shall be mailed to Defendant.

\_\_\_\_\_ Defendant may REMAIN in possession of the property until the expiration of the lease. If Defendant fails to make any rent payment and/or payment required below which comes due within 90 days of the date of this Stipulation, Plaintiff may file a motion requesting the entry of a judgment for possession, a copy of which shall be mailed to Defendant. Plaintiff will have no right to possession in this case after 90 days.

**AGREEMENT AS TO MONEY (INITIAL ONLY ONE):**

\_\_\_\_\_ Money judgment in the amount of \$ \_\_\_\_\_ shall enter immediately and Plaintiff may collect on the judgment by any legal means.

\_\_\_\_\_ Money judgment in the amount of \$ \_\_\_\_\_ shall enter immediately. Plaintiff will not pursue collection efforts as long as regular payments are made on a timely basis. Defendant(s) shall pay Plaintiff \$ \_\_\_\_\_ on the \_\_\_\_\_ day of each month beginning in the month of \_\_\_\_\_, 20\_\_ until such time as debt is paid in full. Payments shall be timely made if placed in the regular mail and mailed to the following address: \_\_\_\_\_.

Upon payment in full, Plaintiff shall file a Satisfaction of Judgment within 14 days.

\_\_\_\_\_ Defendant acknowledges debt to Plaintiff in the total amount of \$ \_\_\_\_\_. Defendant(s) shall pay Plaintiff \$ \_\_\_\_\_ on \_\_\_\_\_ as one lump sum OR make payments of \$ \_\_\_\_\_ on the \_\_\_\_\_ day of each month beginning in the month of \_\_\_\_\_, 20\_\_ until such time as debt is paid in full. Payments shall be timely made if placed in the regular mail and mailed to the following address:

\_\_\_\_\_ If payment is timely made, no monetary judgment will be entered. If Defendant fails to make any payment by the due date, Plaintiff may file a motion requesting the entry of a money judgment in the above total amount less payments made, a copy of which shall be mailed or hand-delivered to Defendant. The judgment requested by Plaintiff will be entered by the Court 14 days after the motion is filed unless Defendant files a written response disputing the motion within that time. If Defendant pays in accordance with the above payment schedule, Plaintiff shall file a Motion to Dismiss within 14 days.

AGREEMENT REGARDING SECURITY DEPOSIT: Any security deposit held by Plaintiff shall be dealt with in accordance with Colorado law.

AGREEMENT REGARDING DAMAGES DETERMINED IN THE FUTURE: If, once the Plaintiff obtains possession of the property, the Plaintiff determines there are damages to the property which are not covered by a security deposit, the Plaintiff may file a Motion for Additional Damages within 90 days from the date of this agreement. The Plaintiff must mail a copy of that motion to the Defendant at the address provided by the Defendant below. A hearing will be set regarding that motion.

ADDITIONAL AGREEMENT(S):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DEFENDANT'S ADDRESS: IT IS THE OBLIGATION OF THE DEFENDANT TO PROVIDE HIS/HER CURRENT ADDRESS TO THE COURT AND THE PLAINTIFF. The Defendant provides the following mailing address for future correspondence by the Plaintiff and by the Court:

\_\_\_\_\_

Dated this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Plaintiff or Plaintiff's Attorney  
PRINT NAME AND SIGN

\_\_\_\_\_  
Defendant or Defendant's Attorney  
PRINT NAME AND SIGN

\_\_\_\_\_  
Plaintiff or Plaintiff's Attorney  
PRINT NAME AND SIGN

\_\_\_\_\_  
Defendant or Defendant's Attorney  
PRINT NAME AND SIGN

THE ABOVE AGREEMENT IS APPROVED AND MADE AN ORDER OF THE COURT THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
JUDGE OR MAGISTRATE