



17th Judicial District
IMPORTANT CONSIDERATIONS BEFORE FILING A
RESPONSE TO A RULE 120 ACTION

There are only two defenses to a Rule 120 action:

- 1) The money is not due, or
- 2) the action is barred under the Service Member Civil Relief Act

Timeline for filing a Response:

The Response must be filed with the court and served on the Petitioner at least five days prior to the date set for the Rule 120 hearing.

Response fee: \$158.00

If you attempt to file a Response less than five days prior to the hearing, the clerks are not permitted to accept your Response.

PLEASE READ THE ATTACHED PAGES FOR MORE SPECIFIC INFORMATION.

PLEASE NOTE: By law, the Court is not permitted to give you legal advice. This handout is intended to provide clarification and guidance to *pro se* litigants. If you require additional information, please contact an attorney.



17th Judicial District

Colorado Rule of Civil Procedure 120

(c) Response; Contents; Filing and Service. Any interested person who disputes, on grounds within the scope of the hearing provided for in section (d), the moving party's entitlement to an order authorizing sale may file and serve a response to the motion, **verified by the oath** of such person, setting forth the facts upon which he relies and attaching copies of all documents which support his position. **The response shall be filed and served not less than five days prior to the date set for the hearing**

(e) **Hearing Dispensed with if no Response Filed.** If **no response** has been **filed within the time permitted** by section (c), the court shall examine the motion and, if satisfied that venue is proper and the moving party is entitled to an order authorizing sale upon the facts stated therein, the **court shall dispense with the hearing and forthwith enter an order authorizing sale.**

If you are scheduled to appear in court today and you wish to file a Response today, please proceed upstairs to courtroom 507.

If you are here to file your Response five or more days prior to the date you are scheduled to appear in court, please first consider the following:

1. Please be aware that under Rule 120 the Court's review is very limited. The Court is limited to determining whether there is a reasonable probability of default and whether the Service Member Civil Relief Act bars this action.
2. The Court can **only** consider a **verified response**, in order to be verified, the response **must be "verified by oath" and notarized.**
3. Are you, or anyone else on the mortgage, currently in the military?
If yes, you may be protected under the Service Member's Civil Relief Act, and the Court should be notified in a Response.
4. Are you working on a Loan Modification?
If so, the modifications are generally between you and the bank/mortgage company, and the Court cannot intervene unless the modification is complete and has final approval.
5. Have you filed for bankruptcy?
If so, consult your bankruptcy attorney, as federal law may bar this proceeding from going forward.

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6. If you have filed a verified Response, and the filing fee has been paid or has been waived, you should plan to appear at the date and time set for your hearing in Courtroom 507 unless otherwise notified by the Court.

Resources

Adams County Housing Authority

- 7190 Colorado Blvd. 6th Floor
Commerce City, CO 80022
- 303-227-2075
303-227-2098 fax
- <http://www.adamscountyhousing.com/content/achahome.aspx>
Housingcounseling@achaco.com
- Counseling Services include Foreclosure Intervention - Mediation assistance, money management and budgeting, negotiating skills, refinancing assistance, and loss mitigation options for all types of mortgages including: FHA, VA, Conventional, and sub-prime. Loss mitigation efforts include: repayment plans, forbearance plans, loan modifications, short-sale options and deed in lieu of foreclosure.

Adams County Public Trustee

- 1000 Judicial Center Drive #200
Brighton, CO 80601
- 303-835-5700
303-835-5711 fax
- www.co.adams.co.us
- Intent to Cure

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