Rule 11 Signing of Pleadings
RULES OF CIVIL PROCEDURE
CHAPTER 2 PLEADINGS AND MOTIONS

Rule 11. Signing of Pleadings

(a) Obligations of Parties and Attorneys. Every pleading of a party represented by an attorney shall be signed by at least one attorney of record in his individual name. The initial pleading shall state the current number of his registration issued to him by the Supreme Court. The attorney's address and that of the party shall also be stated. A party who is not represented by an attorney shall sign his pleadings and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading is not signed it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader. If the current registration number of the attorney is not included with his signature, the clerk of the court shall request from the attorney the registration number. If the attorney is unable to furnish the court with a registration number, that fact shall be reported to the clerk of the Supreme Court, but the clerk shall nevertheless accept the filing. If a pleading is signed in violation of this Rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, including a reasonable attorney's fee, provided, however, that failing to be registered shall be governed by Rule 227.

Reasonable expenses, including a reasonable attorney's fee, shall not be assessed if, after filing, a voluntary dismissal or withdrawal is filed as to any claim, action or defense, within a reasonable time after the attorney or party filing the pleading knew, or reasonably should have known, that he would not prevail on said claim, action, or defense.

(b) Limited Representation. An attorney may undertake to provide limited representation in accordance with Colo.RPC 1.2 to a pro se party involved in a court proceeding. Pleadings or papers filed by the pro se party that were prepared with the drafting assistance of the attorney shall include the attorney's name, address, telephone number and registration number. The attorney shall advise the pro se party that such pleading or other paper must contain this statement. In helping to draft the pleading or paper filed by the pro se party, the attorney certifies that, to the best of the attorney's knowledge, information and belief, this pleading or paper is (1) well-grounded in fact based upon a reasonable inquiry of the pro se party by the attorney, (2) is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and (3) is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. The attorney in providing such drafting assistance may rely on the pro se party's representation of facts, unless the attorney has reason to believe that such representations are false or materially insufficient, in which instance the attorney shall make an independent reasonable inquiry into the facts. Assistance by an attorney to a pro se party in filling out pre-printed and electronically published forms that are issued through the judicial branch for use in court are not subject to the certification and attorney name disclosure requirements of this Rule 11(b).

Limited representation of a pro se party under this Rule 11(b) shall not constitute an entry of appearance by the attorney for purposes of C.R.C.P. 121, section 1-1 or C.R.C.P. 5(b), and does not authorize or require the service of papers upon the attorney. Representation of the pro se party by the attorney at any proceeding before a judge, magistrate, or other judicial officer on behalf of the pro se party constitutes an entry of an appearance pursuant to C.R.C.P. 121, section 1-1. The attorney's violation of this Rule 11(b) may subject the attorney to the sanctions provided in C.R.C.P. 11(a).

Source: Entire rule amended and adopted June 17, 1999, effective July 1, 1999.

Cross references: For stating defenses and form of denials, particularly general denials, see C.R.C.P. 8(b); for requirement of verification or affidavit in depositions to perpetuate testimony, see C.R.C.P. 27(a)(1), in injunctions, see C.R.C.P. 65, in certiorari, see C.R.C.P. 106(a)(4), in civil contempt, see C.R.C.P. 107(c), in motion for service by mail or publication, see C.R.C.P. 4(g), and, in motion for an order authorizing sale under power or in response thereto, see C.R.C.P. 120.

ANNOTATION

Am. Jur.2d. See 61B Am. Jur.2d, Pleading, §§ 881-887.

C.J.S. See 35A C.J.S., Federal Civil Procedure, § 299; 71 C.J.S., Pleading, §§ 478-485.

Law reviews. For article, "Pleadings, Rules 7 to 25", see 28 Dicta 368 (1951). For article, "Pleadings and Motions: Rules 7-16", see 23 Rocky Mt. L. Rev. 542 (1951). For article, "Standard Pleading Samples to Be Used in Quiet Title Litigation", see 30 Dicta 39 (1953). For article "Van Cise on Rule Eleven", see 31 Dicta 14 (1954). For note, "One Year Review of Colorado Law -- 1964", see 42 Den. L. Ctr. J. 140 (1965). For article, "Rule 11 as a Litigation Tool", see 12 Colo. Law. 1242 (1983). For article, "Lawyers' Liability for Attorney's Fees Awarded Against Clients", see 12 Colo. Law. 1638 (1983). For article, "The Expanding Liability of Colorado Lawyers for Sanctions and Malpractice Claims", see 22 Colo. Law. 1701 (1993). For article, "Recovery of Attorney Fees and Costs in Colorado", see 23 Colo. Law. 2041 (1994). For article, "Discrete Task Representation a/k/a Unbundled Legal Services", see 29 Colo. Law. 5 (January 2000).

Annotator's note. For cases construing verification of pleadings as required by § 67 of the former Code of Civil Procedure, which was supplanted by this rule in 1941, see Martin v. Hazzard Powder Co., 2 Colo. 596 (1875); Nichols v. Jones, 14 Colo. 61, 23 P. 89 (1890); Speer v. Craig, 16 Colo. 478, 27 P. 891 (1891); Tulloch v. Belleville Pump & Skein Works, 17 Colo. 579, 31 P. 229 (1892); Perras v. Denver & R. G. R. R., 5 Colo. App. 21, 36 P. 637 (1894); Hill Brick & Tile Co. v. Gibson, 43 Colo. 104, 95 P. 293 (1908); Rice v. Van Why, 49 Colo. 7, 111 P. 599 (1910); Johnson v. Johnson, 78 Colo. 187, 240 P. 944 (1925); Prince Hall Grand Lodge v. Hiram Grand Lodge, 86 Colo. 330, 282 P. 193 (1929). For cases construing § 66 of the former Code of Civil Procedure, which was supplanted in part by this rule in 1941, concerning sham answers, see Glenn v. Brush, 3 Colo. 26 (1876); Rhodes v. Hutchins, 10 Colo. 258, 15 P. 329 (1887); Patrick v. McManus, 14 Colo. 65, 23 P. 90 (1890); Johnson v. Tabor, 4 Colo. App. 183, 35 P. 199 (1893); Cochrane v. Parker, 5 Colo. App. 527, 39 P. 361 (1895); Sylvester v. Case Threshing Mach. Co., 21 Colo. App. 464, 122 P. 62 (1912); Eastenes v. Adams, 93 Colo. 258, 25 P.2d 741 (1933); Hertz Drive-Ur-Self Sys. v. Doak, 94 Colo. 200, 29 P.2d 625 (1934); Greagor v. Wilson, 103 Colo. 329, 86 P.2d 265 (1938).

The rule imposes the following independent duties on an attorney or litigant who signs a pleading: (1) Before a pleading is filed, there must be a reasonable inquiry into the facts and the law; (2) based on this investigation, the signer must reasonably believe that the pleading is well grounded in fact; (3) the legal theory asserted in the pleading must be based on existing legal principles or a good faith argument for the modification of existing law; and (4) the pleading must not be filed for the purpose of causing delay, harassment, or an increase in the cost of litigation. Maul v. Shaw, 843 P.2d 139 (Colo. App. 1992).

The standard established by this rule focuses on what should have been done before a pleading was filed, and trial court's award of attorney fees to person wrongfully sued, even though the case was dismissed, was not abuse of discretion where the plaintiffs were not prevented from conducting additional investigation to establish whether they were suing the correct party. Switzer v. Giron, 852 P.2d 1320 (Colo. App. 1993).

Inquiry under section (a) of this rule does not turn on the outcome of the case; instead, it turns on whether attorney met the reasonable inquiry and proper purpose threshold in preparing and signing the pleading. The rule's explicit application to the signing attorney or pro se party signing the pleading is clear and unambiguous. While pleadings may identify other attorneys who may have had some role in the case, the signature requirement is designed to hold only the signing attorney responsible for the required certification. If more than one attorney signs a pleading, each one who has signed the pleading is responsible for the certification. People v. Trupp, 51 P.3d 985 (Colo. 2002).

Section (a) requires a signature and holds the signing attorney responsible for the certificate. Certification by signature requirement vindicates rule's purpose: To deter the filing of frivolous actions and pleadings. It personalizes the responsibility of the person who has undertaken to certify the pleading. Here, only the attorney who signed complaint and amended complaint at issue is answerable to the motion for sanctions. Presiding disciplinary judge erred by ordering attorney whose name appeared in the signature block on both pleadings, but who did not sign either of the pleadings, to respond to motion for sanctions. People v. Trupp, 51 P.3d 985 (Colo. 2002).

Abuse of discretion for presiding disciplinary judge to hold that assistant attorney regulation counsel violated rule when she advanced claim that attorney had violated C.R.P.C. 8.4(c). No evidence that assistant

attorney regulation counsel failed to investigate either the facts or the law and she did not misrepresent them in the complaint. People v. Trupp, 92 P.3d 923 (Colo. 2004).

Compliance with this rule should be had in all pleadings. Lewis v. Buckskin Joe's, Inc., 156 Colo. 46, 396 P.2d 933 (1964).

Even though C.R.P.C. 1.2(c) allows unbundling of legal services, an attorney remains obligated to comply with section (b) of this rule. In re Merriam, 250 Bankr. 724 (Bankr. D. Colo. 2000).

This rule is applicable to motions and other papers pursuant to C.R.C.P. 7(b)(2), and sanctions may be imposed for violation. An attorney or litigant who signs a motion or other paper has the same obligation as the signer of a pleading to ensure that the document is factually and legally justified. Jensen v. Matthews-Price, 845 P.2d 542 (Colo. App. 1992).

Sanctions are improper where allegations set forth in response brief were based on statements made during witness' deposition. Jensen v. Matthews-Price, 845 P.2d 542 (Colo. App. 1992).

Trial court abused its discretion when, as a sanction for filing a disclosure certificate signed by plaintiff's former attorney's paralegal rather than the plaintiff herself, the court limited the witnesses the plaintiff could call to the defendant and herself. Defendants did not suffer any prejudice as a result of the improper signing of the certificate since the filing served its purpose of timely informing them of the evidence plaintiff intended to present at trial. Keith v. Valdez, 934 P.2d 897 (Colo. App. 1997).

This rule contemplates an answer that speaks the truth. Lewis v. Buckskin Joe's, Inc., 156 Colo. 46, 396 P.2d 933 (1964).

Where none of the specific denials has any foundation in fact, a general denial should not be filed. Lewis v. Buckskin Joe's, Inc., 156 Colo. 46, 396 P.2d 933 (1964).

This rule grants authority for subjecting an attorney to appropriate disciplinary action. Nelson v. District Court, 136 Colo. 467, 320 P.2d 959 (1957).

Court may impose appropriate sanctions for violation of rule, including reasonable expenses incurred because of the filing of the pleadings. Schmidt Const. Co. v. Becker-Johnson Corp., 817 P.2d 625 (Colo. App. 1991).

Assessment of costs should await final judgment and become a part thereof, thus subject to review. Nelson v. District Court, 136 Colo. 467, 320 P.2d 959 (1957).

To warrant the trial court's exercise of discretion in ordering sanctions against a client under the rule, the trial court must find and the record must confirm some nexus between the proscribed conduct and a specific undertaking by or knowledge of the client that the rule is being violated. Maul v. Shaw, 843 P.2d 139 (Colo. App. 1992); Domenico v. Southwestern Props. Venture, 914 P.2d 390 (Colo. App. 1995).

Trial court's discretion. Whether attorney fees are awarded under this rule is within the trial court's discretion and will not be disturbed unless the discretion is abused. Findings of the trial court that the plaintiff bank's claims of fraud were not groundless or frivolous were supported by the record, and the trial court did not abuse its discretion in denying the motion for sanctions. First Interstate Bank v. Berenbaum, 872 P.2d 1297 (Colo. App. 1993).

A state court cannot impose sanctions under this rule for the conduct of an attorney during a federal court proceeding even if the proceeding is part of a single litigation that also includes state law claims heard by the state court, because the decision to impose such sanctions is necessarily a matter within the jurisdiction of the court in which the conduct occurred. Boulder County Bd. of County Comm'rs v. Kraft Bldg. Contractors, 122 P.3d 1019 (Colo. App. 2005).

Award of attorney fees against plaintiff's attorney appropriate use of trial court's discretion given attorney's allegations as to the personal conduct of individuals who had not been joined in the action, insistence on

relitigating issues when the court had made it clear that those issues were moot, reckless allegations of wrongdoing by individuals and attorneys without a showing of competent investigation or facts to support the allegations, and a request for fines or imprisonment without any showing to support such a request. Carder, Inc. v. Cash, 97 P.3d 174 (Colo. App. 2003).

Trial court was not obligated to assess attorney fees as a sanction for a violation of this rule when the attorney presented a rational argument, based on documentary evidence and established principles of contract interpretation, in support of his position. E-470 Pub. Hwy. Auth. v. Jagow, 30 P.3d 798 (Colo. App. 2001), aff'd on other grounds, 49 P.3d 1151 (Colo. 2002).

Sanctions are for the benefit of a party and not a nonparty. Roberts-Henry v. Richter, 802 P.2d 1159 (Colo. App. 1990).

Victim of a frivolous lawsuit has a duty to mitigate attorney fees incurred in defending the lawsuit by taking reasonable measures to extricate himself or herself from the frivolous lawsuit at the earliest possible time. Consequently, trial court should not have awarded attorney fees incurred in pursuing defendant's counterclaims after plaintiff dismissed its original complaint against defendants. Boulder County Bd. of County Comm'rs v. Kraft Bldg. Contractors, 122 P.3d 1019 (Colo. App. 2005).

This rule imposes sanctions upon those who violate its provisions, it does not preclude relief under C.R.C.P. 60(b)(1). Domenico v. Southwest Props. Venture, 914 P.2d 390 (Colo. App. 1995).

The failure to sign a complaint is not jurisdictional, but is subject to correction upon being called to the attention of the court. Harris v. Mun. Court, 123 Colo. 539, 234 P.2d 1055 (1951).

Failure of attorney representing county department of social services to sign verified dependency petition held to be harmless. People in Interest of A.M., 786 P.2d 476 (Colo. App. 1989).

County attorney not immune from award of fees under this rule when filing petition for temporary guardianship under § 26-3.1-104. Stepanek v. Delta County, 940 P.2d 364 (Colo. 1997).

Omission of party's address does not warrant dismissal. The original failure to comply with this rule by omitting the address of the party does not warrant dismissal of an action. Glickman v. Mesigh, 200 Colo. 320, 615 P.2d 23 (1980).

An independent claim based upon an alleged violation of this rule may not be asserted in a proceeding separate from the underlying cause of action. Henry v. Kemp, 829 P.2d 505 (Colo. App. 1992).

Defendant in legal malpractice action entitled to hearing on his or her claim for sanctions under this rule and § 13-17-102. When a party requests a hearing regarding the award of attorney fees and costs under § 13-17-102, the trial court must conduct an evidentiary hearing. Because the trial court denied the motion without conducting a hearing on defendant's motion for sanctions, remand is required for a hearing. Brown v. Silvern, 141 P.3d 871 (Colo. App. 2005).

Applied in People v. Breazeale, 190 Colo. 17, 544 P.2d 970 (1975); Caldwell v. District Court, 644 P.2d 26 (Colo. 1982); Pietrafeso v. D.P.I., Inc., 757 P.2d 1113 (Colo. App. 1988).