

Landlord News

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HOPKINS TSCHETTER SULZER, P.C.

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A Full Service Law Firm

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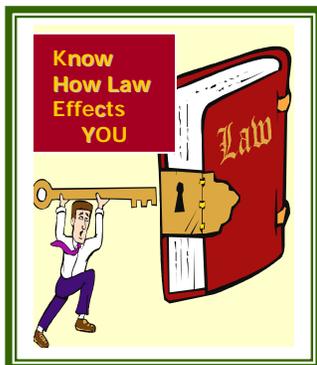
Phone (303) 766-8004 Fax Completed Eviction Forms To (303) 766-1181 or (303) 766-1819

COLORADO LEGISLATURE AMENDS EVICTION ACT

In its "infinite wisdom", the Colorado legislature amended three areas of the Eviction Act. One of the amendments will have an adverse effect on evictions, the second will have no effect, and the third could actually benefit the eviction process.

The first amendment, which has an adverse effect, concerns the counting of days for filing cases. Currently, the law allows eviction cases to be filed and served on the residents five days before the court date. The five days includes weekends and holidays. This allows us to file cases on Friday and be in court as soon as Wednesday.

The new law, which goes into effect on July 1st, changes the counting of days. We will no longer be allowed to count weekends and holidays in the five day period and now will have to count only business days. This means that the five day period now becomes a seven day period. For example, cases filed and served on a Friday cannot be in court until the following Friday.



What does this mean to our clients?

The Firm's filing deadlines will have to change in order to maintain the efficient and speedy handling of cases that we have always provided.

Currently, our filing deadlines are as follows

3 Day to Firm		County - Court Date
Monday	}	Denver, Adams Monday
Tuesday		
Wednesday		
Monday	}	Jefferson, Arapahoe Tuesday
Thursday		
Friday	}	Denver, Adams Wednesday Jefferson, Arapahoe Thursday Boulder Friday

The firm appears on any day of the week in Douglas County whenever client needs require. However, because of the change in the way that days are counted, we will no longer be able to keep the 3 Day Deadline. The new 3 Day Deadline for all 3 days expiring after July 1st will be as follows:

3 Day to Firm	County - Court Date
Monday	Denver, Adams Monday
Tuesday	Jefferson, Arapahoe Tuesday
Wednesday	Denver, Adams Wednesday
Thursday	Jefferson, Arapahoe Thursday
Friday	Boulder Friday

The firm will continue to appear on any day of the week in Douglas County whenever client needs require.

(continued on back)

EVICTIION ACT (continued from 1st page)

You can see the dilemma that the new law creates. We used to be able to file all counties on a Friday and be in court the following week. With the new law, if you do not send your 3 days over to us by the deadline, you will lose a substantial amount of time. For example, a property located in Denver County that misses the Wednesday filing deadline and sends the 3 days over on Thursday, will not have their cases filed until the following Monday, for a Monday court date, **resulting in a loss of five days.**

Please remember, that we ask that you fax all 3 days no later than 10:30 a.m. on the day the cases are to be filed. 3 days received after this deadline will not be processed until the next filing deadline.

As always, we strive to serve our clients and will go to court when YOU want us to go to court.

If you are unable to meet the last filing deadline for that week and cannot get the 3 days over to us until Friday, we will make every effort to get you into court by the next Friday. However, we ask that you provide input and feedback on the new filing deadlines so that we can make the transition to the new deadlines as painless as possible.

The second amendment to the Eviction Act concerns domestic violence and will have no effect on the current Act. **The amendment provides that a landlord is not allowed to make a lease provision that authorizes the landlord to evict the resident based on the resident's calls made to the police for assistance in response to domestic violence.** A landlord might attempt to evict the resident based on a substantial violation or compliance notice when domestic violence occurs. However, under the current law regarding substantial violations, being a victim of domestic abuse is an absolute defense against a substantial violation notice. This is the current law so the new amendment to the law is already covered and the amendment should have no effect on the status quo.

The third amendment to the Eviction Act could benefit landlords and managers in speeding up the eviction process. The new law, which will probably go into effect in the beginning of August, allows both on-duty and off-duty sheriff's deputies to execute writs of restitution. Currently, only on-duty deputies execute writs and because they are on duty, they only execute the writs Mondays through Fridays. **The BAD NEWS is that none of the metro counties currently have any changes planned to current procedures.** When and if they ever make changes off-duty deputies would be able to execute writs. This of course would speed up the eviction process because there will be more deputy manpower available and they would probably be able to execute writs on weekends. We will keep you informed if changes ever become a reality.

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WES COMES HOME

Wes Wollenweber has rejoined the firm. Hopkins Tschetter Sulzer now has five full time attorneys working for our client's interests. Wes first became an associate at Hopkins Tschetter in 1999. He left the firm for a brief period in late 2003 to pursue outside interests and is now back in the fold at Hopkins Tschetter Sulzer.

Wes is one of a unique group, he is a proud native Coloradoan who comes from ranching homesteaders on both sides of his family including his great grandfather who emigrated to Colorado from Germany and ranched a large acreage of land near what is now Broadway and Dry Creek in Littleton. A graduate of Arvada West High School, Wes received a degree in Communications from the University of Colorado at Boulder. He earned his law degree from the University of Detroit Mercy in Detroit, Michigan.



Wes has a passion for being a lawyer and considers it a vocation and a true calling, not just a job. He loves being an advocate for clients and thrives on the opportunity to give voice to those who need to go to court to tell their side of the story. A dedicated trial attorney, Wes has tried all kinds of cases from employment-wrongful termination cases to various landlord-tenant cases, as well as housing discrimination cases. Wes particularly enjoys the challenges in employment law from race discrimination claims to sexual harassment and even reverse discrimination claims and especially age discrimination cases and non-compete disputes.



**Notice Court Closure
Dates June/July 2004**

**Denver Courts Closed July 2
All Courts Closed July 5**

BOUNCING CHECKS WHAT TO DO???

What happens when you post a tenant with a three-day notice demanding payment or possession of the property, and the tenant pays the full amount with a rubber check? You deposit the check and it comes back Insufficient Funds. *Do you have to start over again with a new 3-day notice?*

The simple answer is, probably not. **There is no case law directly addressing the bad check and 3-day scenario described above, but there is case law regarding bad checks.**

By tendering a bad check the tenants have not actually given you anything. The Colorado Supreme Court addressed the issue of paying with a bad check back in 1916 in *Globe Express v. Taylor*, the court stated, "It is well established that a note, check, draft, or bill of exchange given in payment, in the absence of an agreement and intention of the parties, either express or implied, that the instrument will be accepted as absolute payment, is conditional only, and does not discharge the debt, obligation, or liability unless the instrument is paid, and the burden is upon the party alleging it to prove such agreement and intention."

In other words, the tenant's tender of the personal check is conditional payment, the condition being that you can exchange the check for the full amount of the rent. When the check bounces, it is as if the tenant never paid. In *Globe Express*, the transaction did not involve rent, but rather freight. Regardless, the court did not treat the payment of an obligation with a bad note as being satisfied.

Payment in full will satisfy a three-day demand made under C.R.S. §13-40-104. Providing a check that is not valid is not payment in full. The bottom line is if you post them and they give you a bad check you do not have to post them again. They are gone!

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We will always remember. We will always be proud. We will always be prepared, so we may always be free.

Ronald Reagan

WEB SITE DEBUTS

Effective May 1st the firm activated its web site. Although it is still in its early development stages, is still under construction and will undergo many additions, graphic looks and additional resources
IT IS UP, FUNCTIONAL AND AVAILABLE TO ALL OF OUR CLIENTS.

The site will provide you with access to:

Eviction Notices

Frequently Used Forms

Firm & Attorney Information

Policies & Procedures

Landlord/Tenant Topics Library

Current/Past HTS Newsletters

Calendar of Future Training

Current Industry News

Future design will incorporate survey features and an interactive "Ask a Lawyer Question Forum". We will welcome suggestions for things you would like to see on the Hopkins Tschetter Sulzer Web Site.

Log on to www.htspc.com and watch us grow!

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WORKSHOP SEMINARS PROVE POPULAR

The firm has been kept busy with request to present the training workshops it has developed.

The two subjects and three seminars that are currently being presented are:

The Eviction Process

Fair Housing Basics

Fair Housing In Depth

Senior Managing Partner Mark Tschetter teaches the Fair Housing and Partner Vic Sulzer presents the workshop on Evictions.

(Continued on Back)

FIRM WORKSHOPS (continued from page 3)

The workshops are scheduled for 2-3



hour intervals depending upon the size of the groups. The material covered is presented in a Powerpoint and lecture format with extensive interaction and questions/ answers between Mark/Vic and the participants.

All attendees receive a firm prepared class workbook that includes topic materials as well as other relevant landlord/ tenant informational resources.

Mark and Vic have presented numerous workshops at client facilities as well as on site at the firm's meeting room. **Current future workshop dates scheduled at Hopkins Tschetter Sulzer are:**

Fair Housing Basic

Wednesday July 14

9:00 a.m. – Noon

Fair Housing In Depth

Wednesday October 6

9:00 a.m. – Noon

Fair Housing Basic

Wednesday Jan 12, 2005

9:00 a.m. – Noon

If you would like to attend any of the above classes please contact Eve Lincoln at the firm (303) 699-3484 or eve.lincoln@htspc.com. If you would like us to schedule a workshop for you on the above topics or another area of interest please contact Eve to discuss your request.

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FIRM LUNCHEONS CONTINUE TO BE POPULAR

Firm lunches provide an excellent opportunity to ask questions and exchange information and insights with other property managers. Attendance at our monthly lunches continues to grow.

The firm's next two monthly lunches will be held June 18th and July 23rd. The June lunch will be held at CB Potts on 120th in Thornton and the July Lunch will be held at Piccolo's. We will continue to alternate the lunch sites between these two restaurants for the rest of the year.

LUNCHEONS (Continued)

For all of you who have not attended a lunch, all firm lunches are free. We buy you lunch!

Lunches provide a great opportunity to meet the staff, firm attorneys, and other clients in the property management industry. If you would like us to discuss a particular topic, please contact Mark or Vic at the office 303-699-3484.



To sign up and obtain directions, simply call the office and ask to be put on the lunch list. We arrive by 11:30 to chat, and lunch is ordered at noon.



FLAG DAY

JUNE 14TH

I am the Flag

Howard Schnauber

I am the flag of the United States of America
My name is Old Glory
I fly atop the world's tallest buildings.
I stand watch in America's halls of justice
I fly majestically over institutions of learning
I stand guard with power in the world
Look up ... and see me

I stand for peace, honor, truth and justice
I stand for freedom
I am confident
I am arrogant
I am proud

I have fought in every battle of every war for more than 200 years..... From Valley Forge to Vietnam
I was there

I have slipped the bonds of Earth and stood watch over the uncharted frontiers of space

From my vantage point on the moon
I have borne silent witness to all of America's finest hours
But my finest hours are yet to come

My name is 'Old Glory'!
Long may I wave
O'er the land of the free
and the home of the brave