RULE 24. Intervention

(a) **Intervention of Right.** Upon timely application anyone shall be permitted to intervene in an action:

(1) When a statute confers an unconditional right to intervene; or

(2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

(b) **Permissive Intervention.** Upon timely application anyone may be permitted to intervene in an action:

(1) When a statute confers a conditional right to intervene; or

(2) when an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirement, or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

(c) **Procedure.** A person desiring to intervene shall serve a motion to intervene upon the parties as provided in Rule 5. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought.

Case Note:

Annotation

I. General Consideration.

Law reviews. For article, "Notes on Proposed Amendments to Colorado Rules of Civil Procedure", see 27 Dicta 165 (1950). For article, "Amendments to the Colorado Rules of Civil Procedure", see 28 Dicta 242 (1951). For article, "Pleadings, Rules 7 to 25 ", see 28 Dicta 368 (1951). For article, "One Year Review of Civil Procedure and Appeals", see 37 Dicta 21 (1960). For note, "One Year Review of Civil Procedure", see 41 Den. L. Ctr. J., 67 (1964).

This rule is a duplicate of the same numbered federal rule. Roosevelt v. Beau Monde Co., 152 Colo. 567, 384 P.2d 96 (1963).

It must be liberally construed to avoid a multiplicity of suits, so that all related controversies should as far as possible be settled in one action. Senne v. Conley, 110 Colo. 270, 133 P.2d 381 (1943); Tekai Corp. v. Transamerica Title Ins. Co., 39 Colo. App. 528, 571 P.2d 321 (1977).

The rules of intervention are to be liberally construed so that all related controversies may be settled in one action. City of Delta v. Thompson, 37 Colo. App. 205, 548 P.2d 1292 (1975); Great Neck Plaza, L.P. v. Le Peep Restaurants, LLC, 37 P.3d 485 (Colo. App. 2001).

The legal concept of intervention is based upon the natural right of a litigant to protect himself from the consequences of an action against one in whose cause he has an interest, or by the result of which he may be bound. Grijalva v. Elkins, 132 Colo. 315, 287 P.2d 970 (1955); Mauro v. State Farm Mut. Auto. Ins. Co., 2013 COA 117, __ P.3d __.

An existing or pending suit is prerequisite to intervention. Saunders v. Bankston, 31 Colo. App. 551, 506 P.2d 1253 (1972).

Where a party is permitted intervention, it is immaterial whether the intervention is allowed under section (a) or (b) of this rule. Groendyke Transp., Inc. v. District Court, 140 Colo. 190, 343 P.2d 535 (1959).

This distinction is important only where a motion to intervene is denied, in which case it becomes important to determine whether a party seeking intervention is in fact a necessary party. Groendyke Transp., Inc. v. District Court, 140 Colo. 190, 343 P.2d 535 (1959).

If he is not a necessary party, his only recourse upon suing out his appeal is to assert that the trial court abused its discretion in denying permissive intervention. Groendyke Transp., Inc. v. District Court, 140 Colo. 190, 343 P.2d 535 (1959).

An order for intervention does no more than add a new party plaintiff. Groendyke Transp., Inc. v. District Court, 140 Colo. 190, 343 P.2d 535 (1959).

An order for intervention is not final, and no appeal from it lies. Groendyke Transp., Inc. v. District Court, 140 Colo. 190, 343 P.2d 535 (1959).

Intervenor, however, cannot be substituted for defendant. While an intervenor may join either plaintiff or defendant in the principal action, or may oppose both, he cannot, without the consent of plaintiff, be substituted

in the place or stead of defendant. North Poudre Irrigation Co. v. Hinderlider, 112 Colo. 467, 150 P.2d 304 (1944).

Intervenor is bound by forfeiture judgment where indemnity agreement. Under a contract by which intervenors agreed to indemnify a surety company against loss, they unquestionably would be bound by a judgment of forfeiture. Allison v. People, 132 Colo. 156, 286 P.2d 1102 (1955).

Where intervention is permitted by the trial court, its ruling will not be disturbed absent an abuse of discretion. Tekai Corp. v. Transamerica Title Ins. Co., 39 Colo. App. 528, 571 P.2d 321 (1977).

No abuse of discretion when motion for intervention denied because it was filed four days before trial. Supporting factual affidavit was not submitted and plaintiff had little opportunity to investigate the allegations. Andrikopoulos v. Minnelusa Co., 911 P.2d 663 (Colo. App. 1995), aff'd on other grounds, 929 P.2d 1321 (Colo. 1996).

The determination of the timeliness of a motion to intervene is a matter that rests within the sound discretion of the trial court, which must weigh the lapse of time in light of all the circumstances of the case, including whether the applicant was in a position to seek intervention at an earlier stage in the case. Law Offices of Quiat v. Ellithorpe, 917 P.2d 300 (Colo. App. 1995).

Generally, intervention by a new party is not permitted at the appellate stage of litigation. Cerveny v. City of Wheat Ridge, 888 P.2d 339 (Colo. App. 1994).

The adequacy of an applicant's representation may bar the right to intervene. Benham v. Manufacturers & Wholesalers Indem. Exch., 685 P.2d 249 (Colo. App. 1984).

The intervention standards of this rule have no application to a criminal case, and, therefore, department of corrections may not intervene in such a case. People v. Ham, 734 P.2d 623 (Colo. 1987).

This rule had no application in a proceeding under the children's code, as the code itself expressly contemplates the active participation of interested parties. People in Interest of M.D.C.M., 34 Colo. App. 91, 522 P.2d 1234 (1974).

Rule as basis for jurisdiction. See Bd. of County Comm'rs v. Anderson, 34 Colo. App. 37, 525 P.2d 478 (1974), aff'd, 188 Colo. 337, 534 P.2d 1201 (1975); In re Crabtree, 37 Colo. App. 149, 546 P.2d 505 (1975).

Applied in Smith v. County of El Paso, 42 Colo. App. 316, 593 P.2d 979 (1979); O'Hara Group Denver, Ltd. v. Marcor Hous. Sys., 197 Colo. 530, 595 P.2d 679 (1979); Sec. State Bank v. Weingardt, 42 Colo. App. 219, 597 P.2d 1045 (1979); Ramos v. Lamm, 639 F.2d 559 (10th Cir. 1980); In re East Nat'l Bank, 517 F. Supp. 1061 (D. Colo. 1981); Thorne v. Bd. of County Comm'rs, 638 P.2d 69 (Colo. 1981); Margolis v. District Court, 638 P.2d 297 (Colo. 1981); People of Dept. of Soc. Serv. In Interest of A.E.V., 782 P.2d 858 (Colo. App. 1989).

II. Intervention of Right.

Law reviews. For article, "One Year Review of Civil Procedure and Appeals", see 40 Den. L. Ctr. J. 66 (1963). For article, "Civil Procedure", which discusses recent a Tenth Circuit decision dealing with intervention of right, see 65 Den. U. L. Rev. 434 (1988).

An order denying intervention is appealable if intervention is a matter of right. Grijalva v. Elkins, 132 Colo. 315, 287 P.2d 970 (1955).

Standard of review. A de novo standard of review should apply when reviewing a trial court's denial of a motion to intervene as a matter of right under the substantive requirements of section (a)(2) because such requirements concern questions of law. Feigin v. Alexa Group, Ltd., 19 P.3d 23 (Colo. 2001).

Standard of review is de novo when considering whether the applicant has an interest related to the subject of the litigation, whether that interest may be impaired or impeded if intervention is not allowed, and whether the present parties adequately represent that interest. Feigin v. Sec. Am., Inc., 992 P.2d 675 (Colo. App. 1999), rev'd on other grounds, 19 P.3d 23 (Colo. 2001); Mauro v. State Farm Mut. Auto. Ins. Co., 2013 COA 117, __ P.3d __.

It is the duty of courts to respect the integrity of the issues raised by the pleadings between the original parties and to prevent the injection of new issues by intervention. Crawford v. McLaughlin, 172 Colo. 366, 473 P.2d 725 (1970).

Intervention under subsection (a)(2) of this rule must be predicated upon both of the factors referred to therein, i.e., that the intervenor's interest is or may be inadequately represented and that he would or might be bound by a judgment in the action. Denver Chapter of Colo. Motel Ass'n v. City & County of Denver, 150 Colo. 524, 374 P.2d 494 (1962).

An applicant for intervention of right under section (a)(2) must show both that the representation of his interest by existing parties is or might be

inadequate and that the applicant is or might be bound by the judgment in action. Howlett v. Greenberg, 34 Colo. App. 356, 530 P.2d 1285 (1974); Int'l Broth. of Elec. v. Denver Metro., 880 P.2d 160 (Colo. App. 1994).

All three elements of the rule-a property interest, an impairment of the ability to protect it, and inadequate representation-must be present before a right to intervene arises. In re Estate of Scott, 40 Colo. App. 343, 577 P.2d 311 (1978); Diamond Lumber, Inc. v. H.C.M.C., Ltd., 746 P.2d 76 (Colo. App. 1987); United Airlines, Inc. v. Schwesinger, 805 P.2d 1209 (Colo. App. 1991); Higley v. Kidder, Peabody & Co., 920 P.2d 884 (Colo. App. 1996); Feigin v. Sec. Am., Inc., 992 P.2d 675 (Colo. App. 1999), rev'd on other grounds, 19 P.3d 23 (Colo. 2001).

Neither element, standing alone, is sufficient. Denver Chapter of Colo. Motel Ass'n v. City & County of Denver, 150 Colo. 524, 374 P.2d 494 (1962); Howlett v. Greenberg, 34 Colo. App. 356, 530 P.2d 1285 (1974).

If either factor is missing, there is no absolute right of intervention. Denver Chapter of Colo. Motel Ass'n v. City & County of Denver, 150 Colo. 524, 374 P.2d 494 (1962); Howlett v. Greenberg, 34 Colo. App. 356, 530 P.2d 1285 (1974).

A party permitted to intervene pursuant to subsection (a)(2) of this rule is not necessarily indispensable pursuant to C.R.C.P. 19. Section (a)(2) provides for intervention when the applicant claims an interest relating to the property or transaction that is the subject of the action and he or she is so situated that the disposition of the action may as a practical matter impair or impede his or her ability to protect that interest. Although language of this rule and C.R.C.P. 19 are similar, rule 19 involves a two-step analysis: (1) Whether the party is necessary within the meaning of C.R.C.P. 19(a); and (2) whether the party is indispensable based on the factors of C.R.C.P. 19(b). Hicks v. Joondeph, 232 P.3d 248 (Colo. App. 2009).

Because a grandparent may institute a new proceeding for visitation under §19-1-117, regardless of prior child custody orders, disposition of a paternity action does not necessarily impair or impede his or her ability to protect the interest in visitation. Thus, both factors of section (a)(2) of this rule are not met and the court was justified in denying intervention. In re K.L.O-V., 151 P.3d 637 (Colo. App. 2006).

The interest in the litigation that an intervenor must show is an interest in the subject matter of the litigation. Hulst v. Dower, 121 Colo. 150, 213 P.2d 834 (1949).

It is not sufficient for him to show that he has an independent right of action against the defendant based on grounds like those asserted by the plaintiff. Hulst v. Dower, 121 Colo. 150, 213 P.2d 834 (1949).

Flexible standard applies when determining a party's interest. A formalistic approach should not be used. The interest factor, unlike the practical harm and inadequate representation factors, should be viewed as a prerequisite rather than as a determinative criterion for intervention. Feigin v. Alexa Group, Ltd., 19 P.3d 23 (Colo. 2001).

"Interest" element looks merely to what interest is claimed by the intervenor, not whether he or she will ultimately be successful. Higley v. Kidder, Peabody & Co., 920 P.2d 884 (Colo. App. 1996).

Where intervenor differed with class representatives on definition of "loss" that would qualify intervenor to share in proposed settlement, all three elements of this rule were present and intervention should have been granted. Higley v. Kidder, Peabody & Co., 920 P.2d 884 (Colo. App. 1996).

The timeliness of the intervention is a threshold question that must be answered before the adequacy of the elements is addressed. Diamond Lumber, Inc. v. H.C.M.C., Ltd., 746 P.2d 76 (Colo. App. 1987); Law Offices of Quiat v. Ellithorpe, 917 P.2d 300 (Colo. App. 1995).

Timeliness of an attempted intervention is to be gathered from all the circumstances in the case. The point of progress in the lawsuit is only one factor to be considered and is not, in itself, determinative. Diamond Lumber, Inc. v. H.C.M.C., Ltd., 746 P.2d 76 (Colo. App. 1987).

Abuse of discretion occurred when trial court denied city's motion to intervene pursuant to section (a)(1) where the totality of the circumstances indicated that city was not notified of the court's ruling because it was no longer a party to the underlying suit nor included on the certificates of service, there was no basis on which to request intervention until the court issued its ruling, and the city's request was ancillary to the underlying case. Lattany v. Garcia, 140 P.3d 348 (Colo. App. 2006).

Lack of an attached pleading is not fatal where the person seeking intervention does not assert a "claim or defense" in the usual sense, and the basis of the person's contentions appears in the motion itself. Feigin v. Sec. Am., Inc., 992 P.2d 675 (Colo. App. 1999), rev'd on other grounds, 19 P.3d 23 (Colo. 2001).

Cost of pursuing a separate action is not "impairment" of a party's interest within meaning of this rule. Feigin v. Alexa Group, Ltd., 19 P.3d 23 (Colo. 2001).

Where investors possessed a private right of action that was not affected by res judicata, collateral estoppel, or stare decisis, their interests would be neither impaired nor impeded for purposes of section (a)(2) of this rule if they were denied intervention in an enforcement action by the securities commissioner. Feigin v. Alexa Group, Ltd., 19 P.3d 23 (Colo. 2001).

Where the party seeking intervention could not opt out of a judgment prohibiting the named applicant "or any other person" from claiming wastewater returns as replacement credit, and could not bring an independent challenge to the water court's interpretation of a stipulation, the party should have been granted the right to intervene. Cherokee Metro. Dist. v. Meridian Serv. Metro. Dist., 266 P.3d 401 (2011).

Even though the applicant might be bound by the judgment, he cannot intervene as of right if he is in fact adequately represented by the existing parties to the action. Denver Chapter of Colo. Motel Ass'n v. City & County of Denver, 150 Colo. 524, 374 P.2d 494 (1962); Roosevelt v. Beau Monde Co., 152 Colo. 567, 384 P.2d 96 (1963); In re Application for Underground Water Rights, 2013 CO 53, 304 P.3d 1167.

The most important inquiry in determining the adequacy of representation does not involve an analysis of the courtroom strategy of the representative but rather is concerned with how the interest of the absentee compares with the interest of the representative. In re Estate of Scott, 40 Colo. App. 343, 577 P.2d 311 (1978).

The presumption that representation is adequate because of an identity of interests can be overcome by evidence of bad faith, collusion, or negligence on the part of the representative. In re Estate of Scott, 40 Colo. App. 343, 577 P.2d 311 (1978).

A showing that the representative stands alone in his opinions about how the litigation should be conducted may be evidence of a divergence of interests between the representative and those he represents and may therefore be evidence of inadequacy. In re Estate of Scott, 40 Colo. App. 343, 577 P.2d 311 (1978).

Failure of the personal representative to appeal a ruling sustaining a claim against the estate did not constitute inadequate representation. In re Estate of Scott, 40 Colo. App. 343, 577 P.2d 311 (1978).

Inadequacy of representation is shown if there is proof of collusion between the representative and an opposing party, if the representative has or represents some interest adverse to that of the petitioner, or if he fails because of nonfeasance in his duty of representation. Denver Chapter of Colo. Motel Ass'n v. City & County of Denver, 150 Colo. 524, 374 P.2d 494 (1962).

Taxpayers are not qualified to intervene in matters of public interest that are prosecuted or defended for a governmental subdivision by its proper officials. Denver Chapter of Colo. Motel Ass'n v. City & County of Denver, 150 Colo. 524, 374 P.2d 494 (1962).

Although a taxpayer may bring an action in the first instance against a municipality and its officers in some situations, such as where the corporate officers fail or refuse to prosecute or defend an action, this is different, however, from a situation where litigation is already in progress, being prosecuted or defended, or both, by the proper corporate officers. Denver Chapter of Colo. Motel Ass'n v. City & County of Denver, 150 Colo. 524, 374 P.2d 494 (1962).

In the absence of such factors as fraud, collusion, bad faith, and the like, a taxpayer cannot intervene as a matter of absolute right. Denver Chapter of Colo. Motel Ass'n v. City & County of Denver, 150 Colo. 524, 374 P.2d 494 (1962).

Taxpayers and ratepayers do not have an absolute right to intervene. Taxpayers and ratepayers have not fared very well in their efforts to secure an absolute right of intervention, inasmuch as representation by the governmental authorities is considered adequate in the absence of gross negligence or bad faith on their part. Denver Chapter of Colo. Motel Ass'n v. City & County of Denver, 150 Colo. 524, 374 P.2d 494 (1962).

Defrauded investors' interests were adequately represented by securities commissioner, who is the official designated to enforce laws to protect investors from fraud. Feigin v. Alexa Group, Ltd., 19 P.3d 23 (Colo. 2001).

Taxpayer has standing to raise legitimacy of governmental access to bank records. Once the court allows intervention in a §39-21-112 proceeding, it follows that a taxpayer with an expectation of privacy in his bank records has standing to raise the legitimacy of governmental access to the records in a motion to quash the subpoena for the records. Charnes v. DiGiacomo, 200 Colo. 94, 612 P.2d 1117 (1980).

Where it does not appear that intervenors are parties to an alleged contract between plaintiff and defendants upon which right of recovery in the action

proper is premised, nor does it appear the defendants are apprised of the existence of an alleged contract between plaintiff and intervenors, which is the basis of intervenors' claim against plaintiff, an application for leave to intervene is properly denied. Hulst v. Dower, 121 Colo. 150, 213 P.2d 834 (1949).

Where a stockholder of a corporation, acting promptly after the entry of a default judgment against the latter, moves to intervene individually and on behalf of other stockholders similarly situated, presents to the trial court a petition to have the judgment set aside, asks for leave to file an answer, and requests that the case be decided on the merits-it appearing from the petition that he was not a party to the original proceeding, would be prejudiced by the judgment if it were permitted to stand, and that he had good defense to the action-the petition should be granted, since a denial thereof constitutes prejudicial, reversible error. Brown v. Deerksen, 163 Colo. 194, 429 P.2d 302 (1967).

Rezoning dispute permits intervention. Intervention as a matter of right is permitted in a rezoning dispute. Dillon Cos. v. City of Boulder, 183 Colo. 117, 515 P.2d 627 (1973).

Insurer has a right to intervene in action between its insured and an uninsured motorist if insurer can show that its interests are or might be inadequately represented. Briggs v. Am. Family Mut. Ins. Co., 833 P.2d 859 (Colo. App. 1992).

When an insurer can show that representation of its interest is or might be inadequate in an action between the insured and an uninsured motorist, it has the right to intervene in an action between the two and to have full adjudication of all issues at a single trial. Briggs v. Am. Family Mut. Ins. Co., 833 P.2d 859 (Colo. App. 1992).

Intervention should have been granted where insurance company sought to challenge the terms of a protective order regarding discovery that would have affected its recordkeeping, business practices, and compliance with state and federal insurance regulations. The fact that the insurer's attorney represented individual defendants on the underlying liability issues did not mean that the insurer's interests with regard to the protective order would be adequately represented. Mauro v. State Farm Mut. Auto. Ins. Co., 2013 COA 117, ___ P.3d ___.

Section 19-1-117 does not confer an unconditional right to intervene in a paternity action under section (a)(1) or as of right under section (a)(2). Because the statute requires a grandparent to rebut the presumption that the parent's decision regarding visitation is in the child's best interest, it

does not give rise to an absolute right to visitation. Because the statute does not vest a grandparent with an absolute right to visitation and issues concerning grandparent visitation are not inherent in a paternity action, there is no absolute or unconditional right for a grandparent to intervene in a paternity action. In re K.L.O-V., 151 P.3d 637 (Colo. App. 2006).

Grandparents may intervene as a matter of right under section (a) in a dependency and neglect proceeding at any time after adjudication. Denial of grandparents' motion was a final appealable order. People ex rel. O.C., 2012 COA 161, 312 P.3d 226, aff'd, 2013 CO 56, 308 P.3d 1218.

Applied in Susman v. Exchange Nat'l Bank, 117 Colo. 12, 183 P.2d 571 (1947); Shotkin v. Atchison, T. & S. F. R. R., 124 Colo. 141, 235 P.2d 990 (1951), cert. denied, 343 U.S. 906, 72 S. Ct. 638, 96 L. Ed. 1325 (1952).

III. Permissive Intervention.

Where intervention is permissive only, the application is addressed to the discretion of the court. Grijalva v. Elkins, 132 Colo. 315, 287 P.2d 970 (1955); Feigin v. Alexa Group, Ltd., 19 P.3d 23 (Colo. 2001).

Permissive intervention is a matter of right within discretion of court. It is a matter which rests within the discretion of the trial court as to whether a petition for intervention should be granted where there is no showing upon which the intervention of petitioners should be granted as a matter of right. Denver Chapter of Colo. Motel Ass'n v. City & County of Denver, 150 Colo. 524, 374 P.2d 494 (1962).

Order denying intervention is not of that final character which furnishes a basis for appeal. Grijalva v. Elkins, 132 Colo. 315, 287 P.2d 970 (1955).

Order not final unless applicant has no other means of protecting his rights. An order refusing intervention is not a final and appealable order unless the applicant has no other adequate means of protecting his rights. Grijalva v. Elkins, 132 Colo. 315, 287 P.2d 970 (1955).

Denial of intervention appealable if court abuses its discretion. If intervention is permissive only, denial thereof is not appealable unless a trial court abuses its discretion. Grijalva v. Elkins, 132 Colo. 315, 287 P.2d 970 (1955).

It can seldom, if ever, be shown that a trial court has abused its discretion in denying a permissive right to intervene. Grijalva v. Elkins, 132 Colo. 315, 287 P.2d 970 (1955).

Where permission to intervene is granted by a trial court, such a ruling may be reviewed only after entry of final judgment in the action and then only for possible abuse of judicial discretion. Groendyke Transp., Inc. v. District Court, 140 Colo. 190, 343 P.2d 535 (1959).

Intervention is frequently denied even though common questions of law or fact are presented, if in addition collateral or extrinsic issues would be brought in by an intervenor. Grijalva v. Elkins, 132 Colo. 315, 287 P.2d 970 (1955).

Allowance of intervention is not error although the rights of the parties might have been worked out without the presence of the intervenor, where such participation did no harm and made a more comprehensive decree possible. North Poudre Irrigation Co. v. Hinderlider, 112 Colo. 467, 150 P.2d 304 (1944).

Trial court did not abuse its discretion in allowing child's stepfather to intervene in an action for child support payment, because there were common questions involved in the dispute and the stepfather had been assigned the right to collect past-due child support. In re Paul, 978 P.2d 136 (Colo. App. 1998).

Trial court did not abuse its discretion when it granted intervention. The intervening party to the case was the only party that had an interest in seeking the release of documents at issue in the case and the other party clearly indicated on the record that its interest was not aligned with the intervening party's interest. CF&I Steel, L.P. v. Air Pollution Control Div., 77 P.3d 933 (Colo. App. 2003).

Court did not abuse its discretion when it denied permissive intervention by grandparent for visitation. If, however, intervention would be in the child's best interest or would further judicial economy, intervention into a paternity action by a grandparent may be allowed at the court's discretion. In re K.L.O-V., 151 P.3d 637 (Colo. App. 2006).

This rule plainly dispenses with any requirement that an intervenor shall have a direct personal or pecuniary interest in the subject of the litigation. North Poudre Irrigation Co. v. Hinderlider, 112 Colo. 467, 150 P.2d 304 (1944).

Adjoining property owners in a suit to vacate a zoning order have such a vital interest in the result of that suit that they should be granted permission to intervene as a matter of course unless compelling reasons against such intervention are shown. Roosevelt v. Beau Monde Co., 152 Colo. 567, 384 P.2d 96 (1963).

Intervention under this rule proper for suspended attorney's former wife who was assignee of right to fees under divorce decree and sought to intervene as "real party in interest" in dispute over three-way division of contingent fee. Rutenbeck v. Grossenbach, 867 P.2d 36 (Colo. App. 1993).

Intervention by attorney general. The attorney general's argument on the appropriateness of his permissive intervention under section (b)(2) of this rule failed to recognize the statutory language directing his appearance for the state of Colorado only "when required to do so by the governor or the general assembly". Gillies v. Schmidt, 38 Colo. App. 233, 556 P.2d 82 (1976).

Intervention by department of social services in paternity action. Where the interest of the department of social services in a support obligation owed to a dependent child is contingent on the outcome of a paternity action under § 19-6-110 (now §19-4-110), it was improper to allow it to intervene as a party to the action. However, such action was harmless since the department could have enforced its interest derived from the paternity proceeding in a separate proceeding following entry of the order determining paternity. J.E.S. v. F.F., 762 P.2d 703 (Colo. App. 1988).

This rule does not permit intervention in a criminal case for civil relief absent exceptional circumstances. No exceptional circumstances existed to allow a sheriff to intervene in a first degree murder case to seek financial relief for housing the defendant. People v. Hood, 867 P.2d 203 (Colo. App. 1993).

Applied in Susman v. Exchange Nat'l Bank, 117 Colo. 12, 183 P.2d 571 (1947); Clung v. Griffith, 127 Colo. 315, 255 P.2d 973 (1953).

IV. Procedure.

This rule requires that a motion to intervene shall be filed and that it shall be accompanied by a pleading. Capitol Indus. Bank v. Strain, 166 Colo. 55, 442 P.2d 187 (1968).

Intervening party's failure to file a pleading with his motion does not compel reversal in light of the fact that defendant did not make a timely objection. In re Paul, 978 P.2d 136 (Colo. App. 1998).

One who does not file petition is a mere interloper. A party, complete stranger to an action, who without leave of court files a motion to restrain an action and who does not file a petition to intervene in the action pursuant to this rule is a mere interloper who acquires no rights by such unauthorized action, unless objections thereto are waived. Hercules Equip. Co. v. Smith, 138 Colo. 458, 335 P.2d 255 (1959).

This rule specifies that the motion shall set forth the grounds for intervention while the pleading shall state the claim of the intervenor, each being distinct from the other. A motion is not a pleading, although the two have similar formal parts and even though certain defenses may be raised by motion. Capitol Indus. Bank v. Strain, 166 Colo. 55, 442 P.2d 187 (1968).

Motions for intervention filed after judgment or after a decision is rendered on appeal are viewed with disfavor, and the moving party has a heavy burden to show facts or circumstances which justify intervention at that late date. Spickard v. Civil Serv. Comm'n, 33 Colo. App. 426, 523 P.2d 149 (1974).

Courts view motions for intervention after judgment or after a decision is rendered on appeal with a jaundiced eye because it is assumed that intervention at this point will either prejudice the rights of the existing parties to the litigation, or substantially interfere with the orderly processes of the court. Spickard v. Civil Serv. Comm'n, 33 Colo. App. 426, 523 P.2d 149 (1974).

Abuse of discretion is the appropriate standard for review of a trial court's conclusion as to whether a would-be intervenor has satisfied the procedural requirements of section (c). Weston v. T&T, LLC, 271 P.3d 552 (Colo. App. 2011).

A trial court does not err in permitting intervention after judgment has been entered where the intervenors file their motion to intervene before judgment is entered. Am. Nat'l Bank v. First Nat'l Bank, 28 Colo. App. 486, 476 P.2d 304 (1970).

The fact that a default judgment is entered before the court's determination of the intervenors' motion does not cause the court to lose jurisdiction in the case. Am. Nat'l Bank v. First Nat'l Bank, 28 Colo. App. 486, 476 P.2d 304 (1970).

Although creditor did not strictly comply with this rule, creditor's complaint stated the grounds and facts upon which creditor sought intervention, together with creditor's claims. Weston v. T&T, LLC, 271 P.3d 552 (Colo. App. 2011).

Because defendant was given a full opportunity to respond to the allegations of creditor's complaint in intervention, any failure by creditor to comply precisely with this rule was not to the detriment of defendant's substantial rights. Weston v. T&T, LLC, 271 P.3d 552 (Colo. App. 2011).

Creditor's complaint in intervention sufficient even though complaint did not cite to the Colorado Uniform Fraudulent Transfer Act (CUFTA) or expressly allege a CUFTA claim. Because defendant's opening statement at trial demonstrated that defendant was aware of the substance of creditor's claim, defendant suffered no prejudice as a result of creditor's pleading. Weston v. T&T, LLC, 271 P.3d 552 (Colo. App. 2011).

Cross Reference Note:

For service and filing of pleadings and other papers, see C.R.C.P. 5.