

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-13-0039
PETITION TO AMEND RULES 133)
AND 134, JUSTICE COURT RULES OF)
CIVIL PROCEDURE)
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_____)

FILED 08/28/2013

ORDER

AMENDING RULES 133 and 134, JUSTICE COURT RULES OF CIVIL PROCEDURE,
ON AN EMERGENCY BASIS

A petition having been filed proposing to amend Rules 133 and 134, Justice Court Rules of Civil Procedure, on an emergency basis, upon consideration,

IT IS ORDERED granting the request for emergency adoption.

IT IS FURTHER ORDERED that Rules 133 and 134, Justice Court Rules of Civil Procedure, be amended on an emergency basis in accordance with the attachment hereto, effective as of this date.

IT IS FURTHER ORDERED that this matter shall be opened for comment in accordance with Rule 28(G)(2), Rules of the Supreme Court, until October 25, 2013.

DATED this _____ day of August, 2013.

REBECCA WHITE BERCH
Chief Justice

TO:
Rule 28 Distribution
Mark E Meltzer
David K Byers, Administrative Director, Administrative Office of the Courts

ATTACHMENT*

JUSTICE COURT RULES OF CIVIL PROCEDURE

Rule 133.

a. Setting a lawsuit for trial. [No change]

b. Trial by jury or to a judge. A party may demand a trial by jury of any issue for which a right to a jury trial exists. The trial of the issues so demanded will be by a jury, unless all of the parties agree to a trial by a judge without a jury; or unless the court finds that there is not a right to a trial by jury as to some or all of the issues. A party must demand for a jury trial must be made at least ten (10) days before the start of trial. If a demand for trial by jury has not been timely made, the trial will be before the judge without a jury; but even if no party has demanded a jury, the court may order a trial by jury of any or all of the issues. **[ARCP 39(a), (j); see A.R.S. § 22-220]**

c. Change of precinct (“change of venue”). Even though a plaintiff does not file a lawsuit in the correct precinct, the judge in that precinct may still hear the lawsuit unless the defendant, within ~~the time allowed for~~ ten days of filing an answer, files a request to transfer the venue of the lawsuit to the correct precinct. The request must include an affidavit by the defendant or by the defendant's attorney stating the precinct where defendant resides or does business, and any other reasons that the lawsuit is not in the correct precinct. The judge may grant the request and transfer the lawsuit to the correct precinct for further proceedings unless the plaintiff disputes the request within the time allowed by Rule 128(e), in which case the judge may hold a hearing on the request. Alternatively, if all parties in a lawsuit agree to change the venue as provided by Arizona Revised Statutes ~~§ 22-204(B)~~ § 22-204(D), they may file a written agreement in the precinct where the lawsuit is pending specifying the precinct to which venue will be changed. If a party believes that the party will not have a fair and impartial trial in the precinct where the lawsuit was filed, that a change of venue would benefit the convenience of witnesses and promote the ends of justice, or that there is other good and sufficient cause for a change of venue, then the party must proceed as provided in

(*additions to text shown by underscoring; deletions by strikeouts)

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Arizona Revised Statutes § 22-204(A). A party loses the opportunity to change venue if the judge in the precinct where the lawsuit was filed has heard an issue in the case on its merits. [see A.R.S. §§ 12-404, 22-204]

d. through f. [No change]

Rule 134. Trials

a. Trial procedures. The court may impose reasonable time limits for a trial or for any portion of a trial. The order of proceedings in a trial by jury, so far as applicable, also governs a trial to a judge without a jury. A jury will be summoned, and a trial to a jury will proceed, as provided by Title 22, Chapter 2 of the Arizona Revised Statutes, and as provided by this rule. Unless the parties agree otherwise, the number of individuals selected as trial jurors, and the number of jurors needed to render a verdict, shall be as provided by Title 21, Chapter 1, of the Arizona Revised Statutes, or as otherwise provided by law. The order of trial is as follows:

(1) Potential jurors are summoned to the court and are given an oath to truthfully answer questions about their qualifications to serve as trial jurors. The judge, and the parties as the judge may allow, then ask questions to prospective jurors concerning their qualifications and fitness to serve as jurors. Potential jurors may be challenged for cause during the course of questioning. Upon request, the judge may allow the parties to make brief opening statements to the prospective jurors before the questioning process. After the questioning process, each side may exercise ~~three~~ two peremptory challenges, or some other reasonable number of peremptory challenges as the court directs, of potential jurors. The jurors then selected to hear the case are sworn, and the judge gives the jury preliminary instructions concerning the jury's duties, its conduct, the order of proceeding, and elementary legal principles that govern the trial. The judge will instruct the jurors that each of them may take handwritten notes during the trial,

which the jurors can take to the jury room, and the court will provide jurors with note-taking materials.

(2) through (13) [No change]

b. Motion for judgment as a matter of law. [No change]