

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-13-0044
RULE 67, RULES OF)
CIVIL PROCEDURE) **FILED 9/2/2014**
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**ORDER
AMENDING RULE 67, ARIZONA RULES OF CIVIL PROCEDURE**

A petition having been filed proposing to amend Rule 67, Arizona Rules of Civil Procedure, and comments having been received, upon consideration,

IT IS ORDERED that Rule 67, Arizona Rules of Civil Procedure, be amended in accordance with the attachment hereto, effective January 1, 2015.

DATED this 2nd day of September, 2014.

SCOTT BALES
Chief Justice

TO:

Rule 28 Distribution
Geoffrey M Trachtenberg
Justin Henry
Lynn Eric Goar
James D Smith
Joseph D'Aguanno
Cole D Sorenson
Scott I Palumbo
Gabriel D Fernandez
Amy Hernandez
Ryan Skiver
Elliot A Glicksman
B Lance Entrekin
Randall A Hinsch
Larry E Coben
H Christian Bode
Matthew L McClellan
Nicholas A Mocerri Jr
B Elliot Grysen
Michael Napier
Sam Saks
Joseph M Leal III
Bonnie Shore Dombrowski
John P Leader
Gene M Cullan
Karl S Pearson
Mick Levin
Terrence A Jackson
William S Chick
Kenneth K Graham
Brian T Allen
Steven L Reed
C Lincoln Combs
Scott B Seymann
Frank Verderame
Mark P Breyer
Craig J Simon
Sean W Doughty
Jimmy Borunda
Gil Negrete
Joey A Flynn
Mark I Harrison
Carl A Piccarreta
H Micheal Wright
Stanley G Feldman

Bruce M Hayman
Tod Lee Stewart
Herman C Zickerman Jr
Samuel Paul Moeller
Robert D Bohm
A J Mitchell
Robert N Edwards
Paul G Hofmann
J Tyrrell Taber
Jonathan Jamieson
John A Gravina
Michael J Bell
Donald R Alvarez
William C Bacon
Adam D Martinez
Nathan C Cooley
Michael D Rich
Stephen I Leshner
Brian T Leonard
Maria del Pilar Mendoza
Michelle D Johnson
Eric S Shapiro
David L Abney
Howard M Snyder
Gerardo Ivan Hannel
Krista M Carman
Theodore Julian Jr
Kent J Hammond
Kyle A Israel
Charles J Muchmore
William J Wolf
Christopher J Zachar
Douglas R Zanes
Daniel J Adelman
Marco B Mercaldo
Rudolfo A Resendez Jr
Tanveer A Shah
Douglas B Levy
Michael Edmund Larkin
Daniel I Ziskin
Amy Langerman
Nicholas E Vakula
Jonathan Negretti
James E Fucetola
Jay Ridge Hicks

Thomas Burnett
Michelle N Ogborne
Matthew P Millea
Adel Horan
Michael Fairbairn Cordova
David J Diamond
Bruce M Squire
Darren M Clausen
Eric Post
Tait D Elkie
David A Thomson
Daniel P J Miller
Ilya Elana Lerma
Jonathan V O'Steen
James B Penny
Bethany Torgersen
Jennifer Browning Fite
Adam Barlow
Richard A Dillenburg
Thomas M Ryan
John A Furlong
John D Shaw
Frank I Powers
Frederick Curtis Berry Jr
Thomas G Kelly III
Mark Kille
Dale W Robinson
Mark C Faull
Craig M Voightmann
Jay L Ciulla
Richard S Plattner

ATTACHMENT*

Rule 67. Deposit in Court; ~~Security for Costs~~

Rule 67(a). By leave of court

In an action in which any part of the relief sought is a judgment for a sum of money or the disposition of a sum of money or the disposition of any other thing capable of delivery, a party, upon notice to every other party, and by leave of court, may deposit with the court all or any part of such sum or thing.

Rule 67(b). By order of court

When it is admitted by the pleading or examination of a party that the party has in the party's possession, or under the party's control money or other things capable of delivery which are the subject of litigation, and held by the party as trustee for another party, or which belong or are due to another party, the court may order the money or things to be deposited in court or delivered to such party upon such conditions as may be just and subject to the further order of the court.

Rule 67(c). Custody; duties of clerk

When any money, debt, instrument of writing or other article is paid or deposited in court to abide the result of legal proceedings, the clerk shall seal the article in a package, and deposit it in a safe or bank, subject to the control of the court, and enter in the records of the action a statement showing each item of money or property received, and the disposition thereof. If the deposit is money the court may order the clerk to deposit it with the county treasurer, who shall receive and hold it subject to the order of the court.

~~Rule 67(d). Security for costs; when required; bond and conditions~~

~~At any time before trial of an issue of law or fact, on motion of the defendant, supported by affidavit showing that the plaintiff is not the owner of property within the state out of which the costs could be made by execution sale, the court shall~~

* Deletions from text are shown by ~~strikeouts~~.

~~order the plaintiff to give security for the costs of the action. The court shall fix the amount of the security, the time within which it shall be given and it shall be given upon condition that the plaintiff will pay all costs that may be adjudged against the plaintiff, and authorize judgment against the sureties, if a written undertaking. If the plaintiff fails so to do within the time fixed by the court, the court shall order the action dismissed without notice.~~

~~Rule 67(e). Inability to give security; proof; objection and examination~~

~~If the plaintiff, within five days after the order, makes strict proof of inability to give the security, the order to give security shall be vacated. The proof may be made by affidavit, but if objection thereto is made by the defendant, the plaintiff shall submit to the court at a time designated by the court, when the plaintiff shall be examined orally as to the inability to give such security.~~

~~Rule 67(f). Exemptions; exceptions~~

~~1. The following shall not be required to give security for costs:~~

~~(i) The state.~~

~~(ii) The county.~~

~~(iii) A board or commission of the state or county, or an officer of such board or commission acting in an official capacity.~~

~~(iv) An executor, administrator or guardian appointed under the laws of this state.~~

~~2. When the costs are secured by an attachment bond or other bond no further security shall be required.~~

~~3. An intervener, and a defendant seeking judgment against the plaintiff on a counterclaim, though the plaintiff has discontinued the plaintiff's action, shall be required to give security as is required of a plaintiff.~~