



Supreme Court

STATE OF ARIZONA

NOËL K. DESSAINT
CLERK OF THE COURT

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PHOENIX, ARIZONA 85007-3231

KATHLEEN E. KEMPLEY
CHIEF DEPUTY CLERK

TELEPHONE: (602) 542-9396

June 9, 2005

RE: LOCAL RULES OF PRACTICE, GRAHAM CO SUPERIOR CT
Arizona Supreme Court No. R-05-0004

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on June 1, 2005, in regard to the above-referenced cause:

ORDERED: Letter [Petition to Adopt Local Rules of Practice, Graham County Superior Court] = APPROVED.

Noel K Dessaint, Clerk

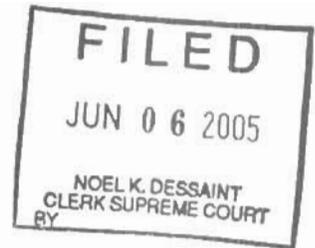
TO:

Hon R Douglas Holt, Graham County Superior Court

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IN THE SUPERIOR COURT
OF THE STATE OF ARIZONA,
GRAHAM COUNTY

R-05-0004



ORDER PROMULGATING NEW
LOCAL RULES OF PRACTICE,
GRAHAM COUNTY SUPERIOR COURT

A majority of the judges of the Graham County Superior Court (there is only one elected superior court judge) having approved, pursuant to Rule 83, Ariz. R. Civ. Proc., the proposed new Graham County local court rules,

IT IS ORDERED abrogating the current Local Rules of Practice for the Graham County Superior Court and promulgating new Local Rules of Practice as set forth in the attachment hereto, effective as of the date of signing.

DATED in the City of Safford, Arizona, this 18 day of May, 2005.

A handwritten signature in black ink, appearing to read "R. Douglas Holt". The signature is written over a horizontal line.

R. Douglas Holt, Presiding Judge
Graham County Superior Court

APPROVED this 9th day of June, 2005.

A handwritten signature in black ink, appearing to read "Ruth V. McGregor". The signature is written over a horizontal line.

Ruth V. McGregor, Vice Chief Justice
Arizona Supreme Court

**LOCAL RULES OF PRACTICE FOR THE
SUPERIOR COURTS**

GRAHAM COUNTY

PREAMBLE

The Superior Court of Graham County adopts the following local rules governing practice in this county. These rules supplement existing rules of court and are subject to the primacy of rules promulgated by the Arizona Supreme Court. These rules are to be interpreted so as to promote justice, fairness, and the timely disposition of actions. Individual judges may deviate from these rules to the extent that justice and due administration of cases require.

RULE 1 — ADMINISTRATION AND GENERAL PROCEDURE

Rule 1.1 — Hours of Court

A. The office of the clerk shall be open for business from 8:00 a.m. to 5:00 p.m. except Saturdays, Sundays and holidays.

B. Unless otherwise ordered, trials shall be conducted between 9:00 a.m. and noon and 1:30 p.m. and 5:00 p.m., Tuesday through Friday.

Rule 1.2 — Law and Motion Day

Every Monday shall be Criminal Law and Motion Day. When Monday is a holiday, the following Tuesday shall be Criminal Law and Motion Day.

Rule 1.3 — Court Administrator

The presiding judge may appoint a court administrator who shall have oversight responsibility of the non-judicial operations of the court and its ancillary departments that have not otherwise been provided for by statute or rules of court.

Rule 1.4 — Interpreters and Accommodation for Disabilities

A. It shall be the responsibility of a superior court judge or the court administrator to obtain qualified persons to serve as interpreters in proceedings and to furnish necessary accommodations to persons with disabilities in civil and criminal proceedings.

B. Counsel must make arrangements to provide their own interpreters in civil proceedings (except habeas corpus actions) when they desire to have the civil proceedings translated at counsel's table. The court will provide an interpreter for witnesses in civil and criminal proceedings, but a 30-day advance notice of need is required.

C. It shall be the responsibility of counsel or a party in need of an interpreter or a special accommodation to notify the court administrator of that need at least (30) business days in advance of the hearing or trial. Failure to provide timely notice of this need may result in the imposition of sanctions and/or postponement of the proceedings.

Rule 1.5 -- Court Attire and Demeanor

A. Counsel shall present themselves before the court attired in a manner befitting their profession and respect for the court. Unless circumstances do not allow, male counsel shall wear shirts with collars and ties.

B. Courtroom conduct and attire for general population:

1. Do not enter courtroom dressed inappropriately. Dress modestly. No shorts, tank tops, tube or halter-tops, undershirts, logo style t-shirts, spaghetti strap dresses or tops, unkempt t-shirts or beach sandals.
2. While court is in session refrain from visiting in the courtroom and loud visiting in the hallway.
3. Children under age 12 are not allowed.
4. Remove hat and sunglasses while in courtroom.
5. No food, chewing gum or drinks, other than water, are allowed in the courtroom.

Rule 1.6 -- Weapons

Weapons are prohibited in all court facilities except when carried by law enforcement and probation officers on official business in that capacity or when specifically authorized by the presiding judge. Persons within a court facility are subject to examination to determine that they are not in possession of weapons.

Rule 1.7 — Filing Requirements

Upon filing a civil action, the plaintiff or petitioning party shall file a completed face sheet on a form approved by the presiding judge and provided by the clerk of the court.

Rule 1.8 — Style of Pleadings and Other Filed Papers

Beginning on the first line, single-spaced, to the left of the center of the first page of each document submitted for filing with the clerk, the following information shall appear:

1. Counsel's name, address, telephone number, State Bar number, and the party represented. If the party is proceeding pro se, the State Bar information and the party identification

may be omitted.

2. The title of the court shall begin on or below line six. The space to the right of the center from line one to line six shall be reserved for use by the clerk of the court.

3. Below the title of the court, the caption of the case shall be inserted to the left of the center; the case number, a description of the pleading or other filed paper, and the assigned judge (if known) shall be inserted to the right of the caption.

Rule 1.9 — Form of Proposed Orders

Orders prepared for a superior court judge or commissioner to consider shall be prepared as a separate document containing the heading data required by Rule 1.8 of these local rules of practice and shall not be included as an integral part of stipulations, motions or other pleadings.

Rule 1.10 — Filing by Facsimile

Facsimile (FAX) pleadings and other filed papers shall not be submitted as originals except upon express written or verbal consent of the assigned judge. Notwithstanding permission to submit a facsimile, such a pleading or paper shall serve as a temporary pleading or paper only. Counsel are required to file an original document (without modification) within five (5) days of transmission of the facsimile. The original document shall then be substituted for the facsimile in the court file and the clerk shall note on the docket that the substitution was made.

Rule 1.11 — Attachments to Pleadings or Other Filed Papers and Memoranda

No copy of a pleading or other filed paper, exhibit, or minute entry which has been filed in a case shall be attached to the original of a subsequent pleading, paper, motion, or memorandum of points and authorities; neither shall copies of cited authorities be attached to the pleading or paper. If parties desire to call the court's attention to anything contained in a previous pleading, paper, exhibit, or minute entry, they shall do so by incorporation by reference (with specific information of the applicable paper's description and filing date) or by a verbatim statement with quotation marks. Parties may attach portions of prior pleadings or authorities in copies to the assigned judge.

Rule 1.12 --Temporary Reassignment of Cases

A case assigned to a particular judge may be temporarily assigned to another judge if the assigned judge is unavailable. A case so assigned shall not operate as a permanent reassignment unless specifically so ordered.

Rule 1.13 — Motions, Objections, Briefs, Memoranda and Argument

A. Filing, Copies and Service. Whenever a matter is submitted to the court for consideration upon motions, objections, briefs, memoranda or any other matter requiring judicial action or attention, a duplicate of the motion, objection, brief or memoranda shall be lodged directly with the assigned judge.

B. Oral Argument. All pleadings and other filed papers shall be deemed submitted for consideration and ruling by the court without oral argument unless the pleadings contain a request for oral argument. A request for oral argument shall be placed beneath the title of the document as: "Oral Argument Requested." In addition, the requesting party shall submit a form of notice wherein the court may insert the appropriate date and time for oral argument to be conducted. The court may determine that oral arguments are unnecessary for any matter, notwithstanding a request therefor.

C. Telephonic Argument. Oral argument by telephone conference call may be had on any motion upon prior written consent of the court. Unless otherwise specified by the court, counsel who requests the telephonic argument shall initiate the call, at that party's expense, on the date and time scheduled for oral; argument through a "conference call" operator. Evidentiary hearings shall not be conducted by telephonic means unless expressly permitted by the court in writing. In-house conferencing systems are not permitted.

D. Non-appearance Calendar. Motions filed without requests for oral argument and which do not require an evidentiary hearing will be placed on the court's non-appearance calendar for submission to the court after the time for response and reply have passed. Upon review of the motion and any responsive pleadings, the court may conclude that oral argument or an evidentiary hearing is required and may order said hearing.

E. Accelerated Rulings. Motions that seek determinations by the court prior to the expiration of the time for response and reply shall clearly identify that fact and indicate whether the opposing party objects to the requested relief. If the court determines that the matter should be considered in an accelerated fashion, the party requesting relief is responsible for any costs associated with the notice, including arranging for and paying the costs of telephonic conferencing.

Rule 1.14 — Exhibits

A. Entry into File. Exhibits attached to a pleading or other filed paper shall be so mounted, folded and affixed that after the pleading or paper is fastened into the court files, the exhibits can be clearly, freely and easily read and examined without having to be removed from the file or loosened from their fasteners.

B. Control by Clerk. Exhibits marked for identification or introduced as evidence shall be under the control of the clerk and shall be secured in a manner prescribed by the clerk during a hearing or trial, unless otherwise ordered by the court.

C. Audio, Video and Other Sound Reproductions. When a party intends to offer an audiotape, videotape or other exhibit that reproduces sound as evidence of the substance of the words spoken, a transcription of that portion intended to be played for the trier of fact shall be made and concurrently offered in evidence as the court's exhibit. The proponent of the exhibit shall cause that portion to be transcribed and shall present it to opposing counsel for comparison against the audio exhibit sufficiently in advance of trial or hearing so that the court can determine any issues of accuracy of transcription or the quality of tape for evidentiary value.

Rule 1.15 — Priority cases

All cases entitled to preference for trial by reason of statute, rule or court order shall be set for trial at the earliest practicable date. All cases entitled to preference for trial by reason of statute, rule or court order shall carry in the caption the following, or similar notation: "Priority Case" (citing the rule, order or statute).

Rule 1.16 — Postponements (Continuance Policy)

A. In all matters other than criminal cases, counsel requesting a postponement of a trial or evidentiary hearing shall do so in writing and certify in the request that: (1) the client has been advised of the request and whether the client agrees with or objects to the postponement; and (2) that opposing counsel has been notified of the request and whether opposing counsel objects.

B. In all criminal cases, counsel requesting a postponement shall do so in writing and certify that the request is not in violation of Rule 8 of the Arizona Rules of Criminal Procedure.

Rule 1.17 — Attorney Scheduling Conflicts

When a lawyer has the personal responsibility of trying more than one case on the same day (whether because of the same beginning date or overlap of trial days), the lawyer shall promptly notify the court and opposing counsel in writing and shall arrange for a conference with the court and counsel to attempt to resolve the conflict. Delay in notifying the court and counsel of a trial conflict may result in sanctions, including assessment of costs, attorney's fees and jury fees occasioned by the untimely notice.

Rule 1.18 — Subpoenaed Witnesses

A. Whenever a witness is served a subpoena for a trial or hearing, the party on whose behalf the witness is subpoenaed may not release the witness from appearing at the trial or hearing without prior notice to the opposing party, who may object to the release of the witness. If a party objects to the release of a subpoenaed witness, the court may assess the costs of service and witness fees to the objecting party.

B. Counsel who subpoena witnesses to testify shall confer with opposing counsel and

with the court in order to avoid unnecessary waiting on the part of such witnesses pending their call to the witness stand. Where appropriate, witnesses shall be excused and directed to return to court at a later time. Witnesses who are under subpoena, who live or work in the county, may arrange to appear at specific times. Counsel who issue subpoenas must be sensitive to the needs of witnesses, such as schoolteachers, who are not paid for their time.

C. Witnesses subpoenaed to appear for matters that are postponed shall remain under subpoena and subject to sanctions for disobedience of the subpoena; however, counsel who requested the subpoena shall be responsible for providing the witness with written information of any new or rescheduled hearing date sufficiently in advance to allow the witness to arrange for appearance.

Rule 1.19 — Appeals from Limited Jurisdiction Courts

A. When an appeal is taken in a civil, criminal or traffic case, if the record in the limited jurisdiction court is recorded, trials of less than one (1) hour will be deemed submitted on the recording, without transcription, unless ordered transcribed by this court. For trials in excess of one (1) hour, or when ordered by this court, transcription shall be arranged by the appellant and completed by the trial court. In the event a non-indigent appellant in a criminal action fails to make satisfactory arrangements with the trial court for transcription of the record, the appeal may be summarily dismissed by this court and remanded to the trial court.

B. When an appeal is taken in a civil, criminal or traffic case from a limited jurisdiction court to this court, the trial court shall identify whether it is a justice or municipal court, shall prepare a certified index itemizing the documents and events comprising the record on appeal and shall indicate whether or not a record of the proceedings exists and whether the record was by audio, video or court reporter. The record on appeal shall also identify whether a bond has been posted and the amount of the bond. Any bond shall be transmitted to the clerk of the court with the record on appeal.

Rule 1.20 — Suspension of Rules

These rules may be suspended when it appears to the court that justice would be served thereby.

RULE 2 — CIVIL CASES

Rule 2.1 — Arbitration

A. All civil cases in which the court finds or the parties agree that the amount in controversy does not exceed \$30,000, exclusive of costs and attorneys' fees, shall be subject to arbitration pursuant to A.R.S. §12-133.

B. Arbitrators appointed by the court shall be paid an amount not to exceed the maximum compensation established by §12-133(G). Payment of compensation shall not be made until all issues before the arbitrator have been decided by the arbitrator.

C. The presiding judge or the court administrator shall appoint the arbitrator from a rotation list of all practicing counsel in the county.

Rule 2.2 — Settlement Conferences

A. Whether a confidential settlement memorandum should be prepared and submitted is the prerogative of the settlement judge.

B. Statements and other communications divulged at the settlement conference may not be used by any party at any hearing or at the trial of the action, except as is necessary to enforce or interpret the agreement of the parties.

C. The trial judge may serve as settlement judge only with waiver by all parties.

Rule 2.3 — Motions for Summary Judgment

Motions for summary judgment shall be filed not later than ninety (90) days prior to trial, except upon leave of the court for good cause shown. The court may order a different pretrial motion deadline at the court's discretion.

RULE 3 — DOMESTIC RELATION CASES

Rule 3.1 — Conciliation Court and Mediation Services

A. Establishment. A conciliation court is hereby established as provided in A.R.S. § 25-381.01.

B. Actions Subject to Consideration. When it appears from a pleading or other paper filed with the court that child custody or visitation is an issue in a paternity, dissolution, legal separation, or annulment action, the case may be transferred to the conciliation court.

C. Mandatory Attendance. Unless excused by the court for good cause shown, when the jurisdiction of the conciliation court is invoked the parties shall attend at least one hearing or conference as set by the conciliation court judge and may be ordered to attend other hearings or conferences.

D. Pending Motions and Hearings. Whenever a petition invoking the jurisdiction of the conciliation court is filed, pending hearings or orders to show cause shall not be vacated, but

shall be assigned to the conciliation court director for review.

E. Procedure. Whenever a petition invoking the jurisdiction of the conciliation court is filed, the clerk shall enter an order in the case file recording the fact and date of the filing of the petition.

F. Mediation. In actions concerning custody of or access to a child (including actions for dissolution, separation, annulment, paternity, private dependency, or guardianship), the case may be assigned by the conciliation court for mediation of those issues.

G. Agreements. Agreements reached between the parties as a result of counseling or mediation shall be in writing and approved by the parties; no such agreement is binding until approved by the court by separate order or minute entry.

Rule 3.2 — Injunctions, Restraining Orders, Orders to Show Cause, or Orders of Protection

A. No injunction, restraining order, writ or order of protection shall be signed by any judge before the petition or complaint praying for such is regularly filed in the office of the clerk or pursuant to Rule 5(h), Arizona Rules of Civil Procedure.

B. In the event that any *ex parte* matter or default proceeding has been presented to any judicial officer and the requested relief is denied for any reason, such matter shall not be presented to any other judge or judicial officer without making a full disclosure of the prior presentation.

C. Any motion seeking an order to show cause in which a party claims that there has been a violation of a prior court order shall set forth the applicable language of the order verbatim and in quotation marks.

D. Whenever an order to show cause is sought for child support, the moving party shall file and serve the order a child support worksheet. Before the day of the hearing, the responding party shall submit to the court and the moving party his or her own child support worksheet.

E. Hearings on orders to show cause shall be scheduled and served so that the responding party is provided at least five (5) judicial days notice of the hearing, unless the court specifically determines that an earlier hearing is necessary. The fact that an order to show cause hearing is scheduled in less than five (5) judicial days does not necessarily constitute the finding of necessity for acceleration required therein.

F. Any domestic relations matter not set for trial within 120 days of filing shall be placed on the inactive calendar pursuant to Arizona Rule of Civil Procedure 38.1(d).

G. Orders to show cause will not be granted where a party is seeking modification of custody of children. Any party seeking to modify custody of minor children shall file a petition to modify custody summons and shall serve the petition and a summons upon the opposing party pursuant to the rules of civil procedure.

H. Prior to the court's setting any matter for trial, the court may set the matter for a mandatory settlement conference before a judge other than the trial judge. The parties shall file pretrial statements with the court at least 3 judicial days prior to the settlement conference.

RULE 4 – TRIALS

Rule 4.1 — Exhibits and Discovery Material

Any documents and items that are to be used as exhibits at trial are to be submitted to the clerk of the court prior to trial together with a list describing the documents or items. The exhibits shall be submitted sufficiently in advance of trial or hearing to permit them to be marked for identification without unreasonable interference with court proceedings. Copies of all documentary exhibits are to be made available to the court and opposing counsel prior to their introduction into evidence. If a party intends to introduce an exhibit that is not a paper exhibit of the size 8 ½ inches by 11 inches, counsel shall produce a photograph or copy of the exhibit in paper form of the size 8 ½ inches by 11 inches that can be made a part of the court file.

Rule 4.2 — Discovery Material

Unless otherwise directed by the court, depositions, interrogatories, and answers thereto shall not be filed with the clerk. A single page entitled "Notice of Service" of the foregoing papers on opposing counsel or party shall be filed with the clerk for insertion in the case file.

When discovery materials are read into evidence, counsel proffering the discovery material shall submit to the court the original or a photocopy of the portion read, which shall be marked and admitted in evidence as the court's record for appellate review.

Rule 4.3 — Civil Jury Fees

If a jury is impaneled for a trial, but the case is settled or for any other reason the panel is not used for that trial, an assessment of jury fees may be made for each juror and alternate juror impaneled for each day on which the jury was present for trial at the discretion of the trial judge.

Rule 4.4 — Motions

All other pretrial motions including motions in limine shall be filed no later than 30 days before trial and will be set for hearing as soon as practical prior to trial. Motions in limine

should meet the test of *State v. Superior Court*, 108 Ariz. 396, 397, 499 P.2d 152, 153 (1972): “the primary purpose of a motion in limine is to avoid disclosing to the jury prejudicial matter which may compel a mistrial.”

Rule 5 -- Bankruptcy

When a bankruptcy case is filed in a civil matter a case should be placed on active calender for a duration of no longer than two years. If nothing has been filed after two years, then the case is placed on inactive status and dismissed 60 days thereafter. If during the two years a notice of discharge is filed and a judgment entered, then the case is closed.