



Supreme Court

STATE OF ARIZONA

402 ARIZONA STATE COURTS BUILDING
1501 WEST WASHINGTON STREET
PHOENIX, ARIZONA 85007-3231
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RACHELLE M. RESNICK
CLERK OF THE COURT

KATHLEEN E. KEMPLEY
CHIEF DEPUTY CLERK

September 6, 2007

RE: RULE 10, RULES OF PROC - CIVIL TRAFFIC VIOLATION
Arizona Supreme Court No. R-06-0031

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on August 27, 2007, in regard to the above-referenced cause:

ORDERED: [Petition to Amend Rule 10, Rules of Procedure - Civil Traffic Violation Cases = ADOPTED as modified, effective January 1, 2008.

Rachelle M Resnick, Clerk

TO:

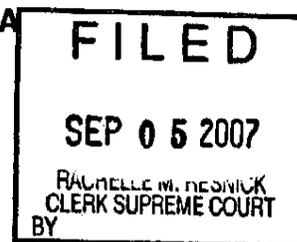
Hon Jose M Tafoya, Committee on Limited Jurisdiction Courts, Rules
Subcommittee

Final Rule Distribution List

cf

IN THE SUPREME COURT OF THE STATE OF ARIZONA

Supreme Court No. R-06-0031



ORDER AMENDING RULE 10, Rules of Procedure in Civil Traffic Violation Cases, AND
ADDING NEW FORMS 7 THROUGH 10, Rules of Procedure in Civil Traffic
Violation Cases

IT IS ORDERED that Rule 10, Rules of Procedure in Civil Traffic Violation Cases, be amended, and that new Forms 7 through 10, Rules of Procedure in Civil Traffic Violation Cases, be added, in accordance with the attachment hereto,* effective as of January 1, 2008.

DATED in the City of Phoenix, Arizona, at the Arizona Courts Building, this 5th day of September, 2007.

For the Court:

A handwritten signature in cursive script that reads "Ruth V. McGregor". The signature is written in black ink and is positioned above the printed name and title.

RUTH V. MCGREGOR
Chief Justice

* Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

Rules of Procedure in Civil Traffic Violation Cases

Rule 10. Entry of Plea; Appearance of Counsel; Hearing in Absentia

(a) The defendant may admit responsibility by appearing in person, or by submitting a form or a statement signed by the defendant admitting the allegations of the complaint. The defendant shall, at the same time, tender the civil sanction listed in the court's deposit schedule for the civil traffic violation(s).

(b) The defendant may deny responsibility by appearing in person or by notifying the court in writing. The defendant may, at the same time, tender the civil sanction listed in the court's deposit schedule for civil traffic violations to insure that no driver's license suspension will result from failure to appear. Upon receipt of said notice, the court shall set the matter for hearing and notify the defendant, citing officer, and any counsel of the date, time, and place for the hearing.

(c) At the time of denial of responsibility, or such other time as the court determines appropriate in the interest of justice, the defendant may file a written request for a hearing in absentia. The defendant shall show why attending a civil traffic hearing would cause a substantial hardship. A substantial hardship is more than mere inconvenience and must be based on extraordinary circumstances. Along with the request, the defendant may tender the civil sanction listed in the court's deposit schedule for the civil traffic violation(s) at issue in the hearing.

(d) If the court grants the request for a hearing in absentia, the court shall set the matter for hearing and notify the defendant, the citing officer, and any counsel in the case of the date, time, and place for the hearing.

(e) Prior to a scheduled hearing in absentia, the defendant shall file a statement or statements made under the penalty of perjury, along with any physical evidence the defendant requests the court to consider. The Court may also allow the State's witness, or witnesses, to testify through written statements or in person on the date, time, and place scheduled for the hearing in absentia. The State shall file any statement or statements, made under penalty of perjury, along with any physical evidence the State requests the court to consider, prior to the hearing.

(f) Failure to personally appear, or file a statement or statements prior to the hearing in absentia, shall result in default pursuant to Rules 21 and 22.

(g) If a hearing in absentia is held, the defendant waives the following rights: to personally appear to present evidence; to review evidence before the hearing (Rule 13 (b)); to compel production of any citing officer notes (Rule 13 (c)); to testimony under oath (Rule 16(a)); to cross examine the State's witnesses (Rule 16(c)); to present rebuttal evidence (Rule 19(d)); to present a closing argument (Rule 19(e)); and to immediate delivery of written notice of appeal following judgment and imposition of civil sanction (Rule 25(a)).

(h) If a hearing in absentia is held, the 14-day period for filing a notice of appeal pursuant to Rule 28 (a) is extended by 7 calendar days. The record of a hearing in absentia for purposes of Rule

29(b)(vii) shall also include the statements, as well as the recording or transcript, if any, of the hearing.

**RULES OF PROCEDURE
in CIVIL TRAFFIC VIOLATION CASES**

Form 8. Defendant's Declaration for a Civil Traffic Hearing in Absentia

{CAPTION}

STATE OF ARIZONA,)	DEFENDANT'S DECLARATION
Plaintiff,)	AND WAIVER OF RIGHTS
vs.)	FOR A HEARING IN ABSENTIA
)	
)	Case No.
)	
_____)	
Defendant.)	
_____)	

Declarant's name: _____

State the facts of the case in your own words. If you have any exhibits, explain their significance in the statement and attach. Please print clearly or attach a written statement.

Continued on ____ attached pages.

By having a hearing in absentia, I waive the following rights: to personally appear to present evidence; to review evidence before the hearing (Rule 13(b)); to compel production of any citing officer notes (Rule 13(c)); to testimony under oath (Rule 16(a)); to cross examine the State's witnesses (Rule 16(c)); to present rebuttal evidence Rule 19(d)); to present a closing argument Rule 19(e)); and to immediate delivery of written notice of appeal after the imposition of any civil sanction (Rule 25(a)). I acknowledge that if the Court does not receive this declaration by the hearing date, a default judgment may be entered against me, a civil sanction may be imposed, and my driving privileges may be suspended.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: _____

Declarant's signature

