

# Pima County Local Rules

## Redline 2017

## Rule 1 - General

### The Court:

**(1.1) Rule 1-Organization of the Court:** The court ~~shall~~ will be divided into as many divisions as there are judges regularly assigned thereto and each division ~~shall~~ will bear a numerical designation. ~~In addition, the e~~Court commissioners and hearing officers shall will be assigned alphabetical division designations. Court commissioners and hearing officers may also be appointed as judges pro tempore as provided by law. In addition, full time judges pro tempore may be appointed as resources allow and shall be assigned alphabetical division designations. The Court will be divided into 5 benches: Civil, Criminal, Family Law, Juvenile, and Probate/Mental Health. The Presiding Judge of the Court will assign judicial officers to the various benches according to the needs of the Court. The Presiding Judge of the Court will also appoint a Presiding Bench Judge for each of the 5 benches.

**(1.2) General Applications:** The Rules in this Section will apply to all benches of the Court unless in conflict with a statute or a rule of procedure as adopted by the Arizona Supreme Court for that bench.

### Court Hearings and Calendar:

**(2.11.3) Motions:** Motions shall be heard on Monday of each week or as otherwise ordered. If Monday is an official holiday, then the next official court day will be designated for the hearing of motions that week. The division to which the case is assigned shall set all motions for hearing unless otherwise ordered by the Court.

**(1.42.2) Civil Default and Ex Parte Matters:** The court commissioners or hearing officers ~~shall~~ will hear civil default and ex parte matters unless otherwise ordered by the Court.

**(1.52.3) Short Causes, Pretrial Conferences and Special Hearings:** The division to which the case is assigned may set short causes, pretrial conferences and other matters needing a special time for hearing on Monday or at such time as may be appropriate in the discretion of the ~~judge~~ judicial officer. A short cause is any civil case stipulated to by all parties to take less than one hour to try to the Court.

**(1.62.4) Court Reporters, Court Reporters, Special Needs and Interpreters:**

(A) Absent an advance request, court reporters shall will be available only for regularly scheduled trials without an advance request or other matters as required by law. If a court reporter is needed for any other matter, including juvenile matters, it shall be the obligation and duty of counsel to so counsel or a self-represented party must notify the division to which the case is assigned by 12:00 noon of the preceding court day to have a court reporter present. No such matter will be continued for a lack of a court reporter unless such required notification has been given to the division to which the case is assigned and the Manager of the Court Reporters. Absent a timely request, the availability of a court reporter may be limited by the priorities stated in Rule 30, Rules of the Arizona Supreme Court.

(B) Requests for special needs accommodation for any participant in a court proceeding must be made in writing to the ADA Compliance Officer (Facilities Management) of the Court, with a copy to the assigned division, together with the medical documentation necessary to determine what reasonable accommodations might be necessary. Such request and documentation must be submitted at least 10 business days in advance of the proceeding for which the accommodation is requested unless otherwise ordered by the court for good cause shown.

(C) Requests for interpreting services must be filed with the Clerk of the Court with a copy to the assigned division and to the Director of Interpreter Services at least 10 business days in advance of the proceedings unless otherwise ordered by the court for good cause shown.

**(1.72-5) Changes Affecting Court Calendar:** The division to which the case is assigned must approve all matters, including stipulations that affect the Court Calendar. No such matter is effective until ordered or approved by the Court.

**(1.86-10) Attorney Calendar Conflicts**

**(aA) Notice to Court.** Counsel must call to the Court's attention any scheduling or calendar conflicts. Conflicts will be resolved in accordance with Rule 38.1(c), Arizona Rules of Civil Procedure, Rule 8.1, Arizona Rules of Criminal Procedure, or Rule 77 (C) (3), Arizona Rules of Family Law Procedure, as applicable. ~~Scheduling and calendar conflicts of counsel shall be called to the Court's attention, and resolved, in the manner specified in Rule 38.1(k), A.R.C.P.~~

**(bB) Motion to Adjust.** In resolving conflicts between divisions of the Pima County Superior Court, counsel shall file a motion to adjust in all conflicting cases with a notice of hearing ~~before the division with the lowest numbered case~~ to be filed only before the division with the lowest

numbered case. The conflict shall be resolved pursuant to the criteria set forth in subsection (c) below.

**(eC) Resolution of Conflicts.** Upon being advised of a scheduling conflict, the judges involved shall, ~~if necessary,~~ will confer, ~~if necessary,~~ in person or by telephone in an effort to resolve the conflict. While no division has priority in scheduling, the following factors ~~should~~ will be considered in resolving the conflict:

- (1) the nature of the cases as civil ~~or,~~ criminal, family, probate or juvenile and the presence of any speedy trial problems;
- (2) a case that involves out-of-town witnesses, parties or counsel;
- (3) the age of the cases;
- (4) the matter that was set first; and
- (5) any priority granted by rule or statute.;

~~(6) any other pertinent factors.~~ Rule 8.1, Arizona Rules of Criminal Procedure provides that the trial of criminal cases have priority over the trial of civil cases.

~~(1.96.11) Change of Judge.;~~ Counsel shall file any "Notice of Change of Judge" with the Clerk of the Court and serve copies on all parties, the Presiding Judge, the Court Administrator and Noticed Judge. Upon request for a change of judge, the case shall be transferred to the Court Administrator for reassignment. Counsel must file with the Clerk of the Court any "Notice of Change of Judge" when such change is as a matter of right and serve copies on all parties, the Presiding Judge, Case Management Services and the noticed judge. Upon request for a change of judge, the case will be transferred to Case Management Services or designee for reassignment. Counsel will file a Motion for Change of Judge for Cause with the Presiding Judge in accordance with the applicable rules of procedure. As used in this rule, Presiding Judge means Presiding Judge of the Juvenile Court for juvenile cases and for all other cases, Presiding Judge means Presiding Judge of the Superior Court.

**Rule 7-~~(1.10)~~ Filing Requirements for Orders, Writs, Papers, and Ex Parte Presentations**

**~~(7.1A)~~ Supporting Complaint or Petition.** No order or writ shall be signed by any judge or court commissioner before a supporting complaint and/or petition is first filed in the Office of the Clerk of Court.

~~(7.2B) Preparation, Submission, and Signing of Orders and Writs.~~ The party seeking any such orders or writs must prepare and submit the same for signature to the division to which the case is assigned. If the assigned judicial officer is unavailable, any judicial officer may sign the same. ~~All such orders and writs shall be prepared by the party seeking the same and be submitted for signature to the division to which the case is assigned. If the judge assigned is unavailable, any judge may sign the same.~~

~~(7.3) Papers to be Signed by Court Commissioner.~~ Orders, writs, judgments or other papers that may be signed by a court commissioner pursuant to Rule 96, Rules of the Arizona Supreme Court, shall be taken to the designated civil assignment commissioner for signature.

~~(7.4C) Filing Prerequisites.~~ All matters filed in any cause or submitted for signature of the Court, except evidence offered at a trial or hearing, shall clearly indicate thereon the name and address of the person, firm or attorney offering same. Printed firm or attorney designation on pleadings meets this requirement. The Clerk shall not accept for filing any document that fails to comply with this subsection.

~~(7.5D) Submit Proposed Orders Separately.~~ Proposed orders submitted for signature of the Court shall must be prepared as a separate document containing the case title and number at the top of each page thereof, and shall must not be included as an integral part of stipulations, motions or other pleadings. Failure to comply with this rule may result in a continuance of the requested hearing.

~~**Rule 3. Procedure: Civil Motions, Proposed Orders, Oral Argument, Notice of Hearing, Telephone Conferences, and Discovery**~~

~~(3.11.11) Copies to Trial Judge of Paper Documents:-~~ At the time of the filing of the original with the Clerk of the Superior Court, a copy of all motions or other papers necessary for a judicial ruling or decision shall be delivered to the judge of the division to which the case has been assigned or to the Court Administrator if the case has not been assigned. The original of all such motions and other papers shall show the delivery of a copy to the division to which the case has been assigned. Motions not in compliance with this subsection will not be considered to be submitted for decision. This provision does not apply to motions or other papers which have been e-filed through the Court's e-filing system. For any paper filing with the Clerk of the Court, at the time of the filing of the original with the Clerk of the Superior Court, a copy of all motions or other documents necessary for a judicial ruling or decision must be delivered to the judge of the division to which the case has been assigned or to Case Management Services if the case has not been assigned. The original and copies of all such motions and other

documents must show the delivery of a copy to the division to which the case has been assigned.

(1.12) E-Filing Through the Court's e-filing system: Motions or other documents for which a judicial ruling or decision is requested or required, or for which some judicial action is required must be properly designated in the Court's e-filing system and must be properly delivered electronically to the division from which a ruling is sought. The responsibility for proper delivery is upon the E-filing party.

**(1.13) Notification:**

(A) Notification. For any motion submitted and pending for forty-five (45) days, the filing party must notify the Court through e-filing indication that judicial action is required or give notice by mail, if appropriate, as to the pending status and must request a ruling.

(B) Copies. A copy of any motion that requests a judicial officer to rule without hearing must be provided to the assigned division and the other party. The Court will not consider any issues unless the assigned division receives a copy of the written request and any responsive pleadings.

**(1.14) Duplicated Copies and Exhibits:**

(A) Quality of Duplication. No pleading or motion will be accepted by the Clerk for filing unless it is clearly legible.

(B) Exhibits; Custody and Return. Every exhibit offered or admitted in evidence will be held in the Clerk's custody. The Court may order the return of an original exhibit provided an appropriate copy or a duplicate is substituted therefore.

**(1.15) Attachments to Pleadings and Memoranda:**

(A) Attachments in General. Any copy of a pleading, exhibit or minute entry that has been filed previously in a case must not be attached to the original of a subsequent pleading, motion or memorandum of points and authorities.

(B) Incorporation by Reference. If a party desires to call the Court's attention to anything contained in a previous pleading, motion or minute entry, the party shall do so by incorporation by reference, citing with particularity where the judicial officer may find the reference.

(C) Authorities Cited in Memoranda. Copies of authorities cited in memoranda must not be attached to the original, although links to citations may be provided in the body of E-filed memoranda.

(D) Attachments to Judicial Officer. Parties may attach copies of pleadings, motions, exhibits, minute entries or texts of authorities to a copy of a motion or memorandum of points and authorities delivered to the judicial officer of the division to which the case has been assigned. Any such attachments or authorities provided to the judge must also be provided to all other parties.

(E) Sanctions. For a violation of this rule, the Court may order the removal of the offending document and assess the offending party or counsel such costs and fees as may be necessary to cover clerk costs of filing, and any costs of preservation and storage.

(F) Dividers. No pleading, document or other submission will utilize blue pages as dividers for attachments

#### (1.16) Confidential and Sealed Documents :

(A) Confidential documents are maintained by the Clerk of the Court in the case file in a confidential envelope and are also maintained on the Court's Agave filing system as confidential. Only the parties to case are authorized to view these documents. Individuals must present proper identification to the Clerk or must have an Order from a judicial officer authorizing review of such documents before the documents will be released.

(B) Unless otherwise ordered by the Court, sealed documents are not maintained in the court file or on the Court's Agave filing system but rather are maintained in the Clerk of the Court's Exhibit Unit subject to retrieval and viewing only by order of the court.

(C) The Court may treat a motion to seal documents as a motion to file confidential documents.

(1.17) Discovery Motions: The Court will not consider or schedule any discovery or disclosure motion for hearing unless the movant attaches thereto a separate "good faith consultation certificate" certifying and demonstrating the movant has tried in good faith to resolve the issue by conferring with – or attempting to confer with – the party or person against whom the motion is directed. The consultation required by this rule must be in person or by telephone, and not merely by letter or email.

(1.18) Attorney of Record: No attorney may appear in any action or file anything in any action without first appearing as counsel of record. Counsel of record shall be responsible for matters in which they appear as set forth in Rule 5.3(a), Arizona Rules of Civil Procedure, Rule 9, Arizona

Rules of Family Law Procedure, Rules 11 and 39, Juvenile Court Procedures and Rule 6.3, Arizona Rules of Criminal Procedure, as applicable. Withdrawals and substitutions of counsel may only be made in strict adherence to the requirements and procedures set forth in the applicable procedural rules.

(1.19) Suspension of Rules: Upon application by a party or on the judicial officer's own motion, any judicial officer of this court may suspend any of these Local Rules for good cause.

## Rule 2 - Civil

### Motions, Proposed Orders, Oral Argument, Notice of Hearing, Telephone Conferences and Discovery

~~(3.22.1) Form.~~ All civil motions shall be in accordance with Rules 7.1(a), (b), (d) and (e), 56(c)(2) and 37(a)(2)(C), A.R.C.P. All pleadings after the original Complaint, and all motions or other papers shall specify, in the caption, the name of the judge to whom the case is assigned.

Motions or Other Papers Submitted for Decision: The Court will not rule on motions which are not in compliance with Rules 1.11, 1.12 and 1.13.

~~(3.32.2) Proposed Order: A proposed form of Order in accordance with Rule 5(j), A.R.C.P., shall accompany all civil motions, oppositions and stipulations (except Motions for Summary Judgment and Motions to Dismiss). In accordance with Rule 5.1 (d), ARCP, a proposed form of order must accompany all civil motions (except Motions for Summary Judgment), oppositions and stipulations. The original proposed order must be lodged with the assigned division at the time of the filing, but, in any event, not fewer than 2 court days before any scheduled hearing. For motions or other requests for a ruling without a hearing, the original proposed order must be lodged with the assigned division at the time of filing the motion, opposition or stipulation.~~

~~(3.42.3) Motion for Summary Judgment, Motion to Dismiss, Motion for Judgment on the Pleadings or other Dispositive Motions. All Motions for Summary Judgment, Motions to Dismiss, Motions for Judgment on the Pleadings and other dispositive motions shall must be filed not less than 90 days prior to before trial unless otherwise ordered by the Court. The Court orders a different date for filing such motions.~~

~~(3.5) Motion to Set and Certificate of Readiness. A party desiring to have a civil case set for trial shall certify as required by Rule 38.1(a)(3)(iii), A.R.C.P. In addition to the requirements of~~

Rule 38.1, all Motions to Set and Certificates of Readiness shall include an "Estimated Number of Days Needed for Trial."

~~(3.62.4) Motion for Expedited Hearing and Order". Requests for expedited or accelerated hearings shall be presented to the Court in a Motion for Expedited Hearing and Order. The Order shall provide blank spaces for the Court to set the date and time for the expedited hearing. A party requesting an expedited or accelerated hearing must present a Motion for Expedited Hearing and Order to the Court and certify that it has been delivered to all other parties. The Order must provide blank spaces for the Court to set the date and time for the expedited hearing.~~

~~(3.7) Length of Motions and Memoranda. Unless otherwise permitted by the Court, a motion including its supporting memorandum, and the response including its supporting memorandum, each shall not exceed 15 pages, exclusive of attachments and any required statement of facts. Unless otherwise permitted by the Court, a reply including its supporting memorandum shall not exceed 10 pages, exclusive of attachments.~~

~~(3.82.5) Oral Argument, Notice of Hearing, Submitted Motions;:~~

~~(a) Oral Argument. Any party desiring oral argument shall file with the motion or response a separate Notice of Hearing and upon receipt of the Notice of Hearing the Court will set the date and time for the hearing. The date of the hearing shall be such as to give each party sufficient time to comply with this Rule and Rules 7.1(a), (b), (d) and (e), 37(a)(2)(C), and 56(c)(2), A.R.C.P., and to allow the Court at least five (5) additional days prior to such hearing unless otherwise directed by the Court~~

~~(A) Oral Argument. Any party desiring oral argument must file with any motion or response a separate Notice of Hearing that must include the following:~~

- ~~(i) The motion to be heard;~~
- ~~(ii) The name of the judge to hear the motion;~~
- ~~(iii) The location of the hearing;~~
- ~~(iv) Blanks for the date and time for the hearing; and~~
- ~~(v) The signature of the attorney or party requesting the hearing.~~

Upon receipt of the Notice of Hearing, the Court will set the date and time for the hearing. In setting the hearing and unless otherwise ordered, the Court will give each party sufficient time

to comply with any applicable rules and give the Court at least five (5) additional days before the hearing. After a hearing is set, the movant who submitted the Notice of Hearing must serve the Notice of Hearing on the other parties as prescribed by Rule 5, ARCP.

~~(b) *Notice of Hearing.* The Notice of Hearing shall be in the form prescribed in (a) above. The Notice of Hearing shall notify all other parties of the motions to be heard, the name of the judge to hear the motions and the location of the hearing. The date and time for the hearing shall be left blank to be filled in by the Court. The Notice of Hearing shall contain the signature of the attorney or party requesting the hearing. After the information is provided by the Court the party or attorney requesting oral argument must serve the Notice of Hearing as required by the A.R.C.P.~~

~~(c) **Submitted Motions.** Unless a movant submits a Notice of Hearing as provided in subsection 2.5 (A) above, the Court will consider and decide the motion without oral argument, unless otherwise ordered by the Court. If neither party requests oral argument as provided in subsection (a), the motion will be considered and decided without oral argument, unless otherwise ordered by the Court.~~

~~(d) **Written Memoranda.** The fact that either party has requested oral argument upon the motion, or that the motion has been set down for oral argument by the Court, shall not in any way relieve the parties from the filing of written memoranda required by Rules 7.1(a), (b), (d) and (e), 56(c)(2) and 37(a)(2)(C), A.R.C.P. The fact that no hearing or oral argument has been set on a motion shall not in any way relieve the parties from filing written memoranda required by any applicable rule.~~

~~(e) **Time Limitations.** Oral argument shall are presumptively be limited to ten minutes for each per side. These limitations may be extended by the Court for hearing a particular motion, either at the Court's discretion or upon a party's prior written request by the party.~~

~~**(3.92.6) Electronic or Telephone Argument and Conferences.** The Court may, in its discretion, order or allow oral argument on any motion or other proceeding by telephone conference call or other electronic means, provided that all conversations of all parties are audible to each participant and the judge. All requests to appear telephonically for hearings must be in writing and shall be presented to the Court prior to no later than noon on the two business days preceding the day scheduled for before the scheduled hearing. The party requesting the hearing is responsible for timely notifying all other parties and for arranging any necessary conference~~

call. Upon request of any party, such oral argument may be recorded by court reporter or other lawful method under such conditions as the judge shall deem practicable. The party requesting the hearing shall set up the conference call. The Court may, in its discretion, permit appearance by any electronic means on any motion or other proceeding allowed by law, provided that proper technology is available to permit the appearance in a manner that permits all persons who need to participate to do so. All requests for appearances by any electronic means other than telephonic appearances for hearings must be presented in writing to the Court at least 20 days before the scheduled hearing.

**(3.102.7) Motions to Compel Discovery; Required Statement of Deficiencies.** All Motions to Compel shall comply with Rules 37(a)(2), A.R.C.P. When a motion for an order compelling discovery is brought pursuant to Rule 37(a)(2), the moving party shall set forth, separately from a memorandum of law, the following in separate, distinct, numbered paragraphs: In addition to the requirements of Rules 37(a) ARCP, a party moving to compel discovery must also set forth, separately from the memorandum of law in support of their Motion to Compel, the following in separate, distinct, numbered paragraphs:

- (1) the question propounded, the interrogatory submitted, the designation requested or the inspection requested;
- (2) the answer, designation or response received; and
- (3) the reason(s) why said answer, designation or the response is deficient.

The foregoing requirement shall does not apply where there has been a complete and total failure to respond to a discovery request or set of discovery requests the propounded discovery.

**(3.11) Size of Type.** All typewritten pleadings, motions and other original papers filed with the Clerk shall be in a type size no smaller than twelve (12) pitch (twelve letters per inch).

#### **Rule 4. Summary Jury Trials; Compulsory Arbitration**

##### **(4.12.8) Summary Jury Trial:**

**(aA) Definition.** A Summary Jury Trial shall be defined as a jury trial of no more than four jurors that will take no longer than one day in the selection of the jury, presentation of evidence, argument by counsel, and the commencement of jury deliberations. The jury verdict is final and binding. A Summary Jury Trial is a jury trial that will take no longer than one day in the selection of the jury, presentation of evidence, argument by counsel and the commencement of jury

deliberations. There will be no less than four and no more than six jurors. The jury verdict is final and binding.

~~(bB) Procedure for Summary Jury Trial. The parties shall submit a Stipulation and Order to the assigned trial judge no less than 20 days prior to the date set for trial, or as otherwise ordered by the Court. If the parties believe a summary jury trial is appropriate in their case, they must submit a Stipulation and Order to the assigned trial judge.~~

(C) Time to Request Summary Jury Trial. The parties must request a summary jury trial as soon as possible but no later than 2 business days before the date set for trial unless otherwise ordered.

~~(eD) Form of Stipulation. Unless otherwise agreed in writing and approved by the Court, the stipulation for short trial shall must be in the form found on the Pima County Compulsory arbitration Arbitration website at [www.sc.pima.gov](http://www.sc.pima.gov).~~

#### ~~(4.2) Compulsory Arbitration.~~

~~(a) Amount in Controversy. All civil cases filed with the Clerk of the Court in which the Court finds or the parties agree the amount in controversy does not exceed \$50,000.00, except those specifically excluded by Rules 72 through 77, A.R.C.P., shall be submitted to and decided by an Arbitrator or Arbitrators in accordance with the provisions of A.R.S. § 12-133 and Rules 72 through 77, A.R.C.P.~~

~~(b) Certificate of Compulsory Arbitration. A copy of the Certificate of Compulsory Arbitration, which is required to be filed with the complaint by Rule 72(e)(1), A.R.C.P., shall be simultaneously mailed or delivered by the Plaintiff or Plaintiff's counsel to the Pima County Superior Court Calendar Services.~~

~~(c) Certificate of Agreement. In any case in which the Defendant does not file a Controverting Certificate to the Plaintiff's Certificate of Compulsory Arbitration pursuant to Rule 72(e)(2), A.R.C.P., the Defendant shall file a Certification of Agreement to Plaintiff's certificate. The Controverting Certificate or Certification of Agreement shall be filed with the answer and served in the manner prescribed by Rule 5, A.R.C.P. Copies shall also be simultaneously mailed or delivered to the Pima County Superior Court Case Management Services. If a Controverting Certificate is filed, the Court shall decide whether the case is subject to Compulsory Arbitration. An Arbitrator shall be appointed in cases subject to Arbitration with a single Defendant, when the Defendant files an answer. An Arbitrator shall be appointed in cases subject to Arbitration with multiple Defendants 120 days after the case is initially filed. The case shall then proceed through Arbitration as provided by Rules 72 through 77, A.R.C.P.~~

~~(d) Alternative Dispute Resolution/Summary Jury Trial.~~ If the parties agree to conduct a summary jury trial pursuant to Rule 72(d)(2), A.R. C.P., instead of proceeding with Compulsory Arbitration, the parties shall submit a Stipulation and Order to the Court. This may be submitted with the answer in lieu of the Certification of Agreement.

~~(e) Setting of Arbitration Hearings/Inactive Calendar/Dismissal.~~

~~(i) In those cases subject to Compulsory Arbitration, the Arbitrator shall communicate with the parties to set a hearing as expeditiously as possible. The Arbitrator may, upon stipulation or motion of either party, extend the time to complete Arbitration beyond the 120 days required by Rule 74(b), A.R.C.P., subject to the limitations in (ii), below.~~

~~(ii) In the event that a hearing has not been conducted and final award filed within the nine months prescribed by Rule 38.1(d), A.R.C.P., the matter shall be placed on the Inactive Calendar. An Arbitrator can grant an extension of time to complete the arbitration beyond the initial 120-day limit, but cannot grant an extension of time to remain on the Inactive Calendar. Any motion or stipulation for an extension of time to remain on the Inactive Calendar must establish good cause and be submitted to the assigned trial judge. The motion or stipulation must set forth when a hearing has or will be conducted, and must contain an attached order. It also shall set forth the amount of time the party or parties seek to remain on the Inactive Calendar.~~

~~(iii) If not continued on the Inactive Calendar by the Court, the case shall be dismissed the later of 60 days after placement on the Inactive Calendar, or expiration of the time to reduce the award, if any, to judgment.~~

~~(f) Compensation of Arbitrator.~~ An Arbitrator assigned to serve in a Compulsory Arbitration matter subject to Rules 72 through 77, A.R.C.P., shall receive as compensation for services a fee of \$140 per day for each day, or part thereof, necessarily expended in the hearing for the case.

~~(g) Removal from Arbitration/Summary Jury Trial.~~ If the parties wish to remove the case from Compulsory Arbitration pursuant to Rule 72(d)(2), A.R.C.P., by conducting a summary jury trial, the parties shall submit a Stipulation and Order to the assigned trial judge. The Order shall contain language removing the matter from arbitration

**-(2.9) Compulsory Arbitration:**

**(A) Amount in Controversy.** All civil cases filed with the Clerk of the Court in which the Court finds or the parties agree the amount in controversy does not exceed \$1,000.00, except those specifically excluded by Rules 72 through 77, A.R.C.P., must be submitted to and decided by an

arbitrator or arbitrators in accordance with the provisions of A.R.S. § 12-133 and Rules 72 through 77, A.R.C.P.

(B) Certificate of Agreement or Controverting Certificate. In any case in which the Defendant does not file a Controverting Certificate pursuant to Rule 72(e)(2), ARCP, it will be deemed that the Defendant has agreed that the case is subject to compulsory arbitration.

(C) Appointment of Arbitrator. If applicable, an arbitrator will be appointed in cases with a single defendant, when the defendant files an answer. Otherwise, the Case Management Services Division will appoint an arbitrator no later than 120 days after the action is commenced. The case shall then proceed through Arbitration as provided by Rules 72 through 77, A.R.C.P.

(D) Alternative Dispute Resolution/Summary Jury Trial. As provided by Rule 72(d) ARCP, the Court will waive the arbitration requirement if the parties agree to participate in a summary jury trial. If the parties stipulate to a summary jury trial, they must submit a Stipulation and Order and the Order must contain language removing the matter from compulsory arbitration.

(E) Motion to Continue on the Dismissal Calendar. In the event that a notice of decision has not been filed within the 270 days since the action was commenced as prescribed by Rule 38.1(d), AR.CP, Case Management Services will place the matter on the Dismissal Calendar. Any motion or stipulation for an extension of time to remain on the Dismissal Calendar must establish good cause and be submitted to the assigned trial judge. The motion or stipulation must set forth when a hearing has, or will be, conducted, and the amount of time the party or parties seek to keep the case on the Dismissal Calendar.

(F) Compensation of Arbitrator. An arbitrator assigned to a compulsory arbitration matter is entitled to receive as compensation for services a fee of \$140 per day for each day, or part thereof, necessarily expended in the hearing of the case. "Hearing" is defined by Rule 76(f), ARCP.

#### **Rule 5- Pretrial Statements and Trials**

##### **(5-12.10) Pretrial Statements.**

~~(aA)~~ All trial settings and pretrial conferences shall be in accordance with Rules 38.1, 16, and 16.1, A.R.C.P. All trial settings and pretrial conferences shall be in accordance with applicable rules including, but not limited to Rules 16, 38.1 and 77, ARCP.

~~(bB)~~ If counsel have been unable to confer on such matters because of fault or claimed fault on the part of either counsel, such fact shall be brought to the attention of the Court ~~as provided by Rule 16(d), A.R.C.P., in writing~~ as soon as practicable following discovery of the claimed fault. The Court will consider imposing sanctions under Rule 16 A.R.C.P. on any party or counsel for any fault described in that Rule or in this Rule 2.14.

~~(cC)~~ A copy of the pretrial statement shall be delivered to the division to which the case is assigned at the time the original is filed with the Clerk. A copy of the Joint Pretrial Statement shall be delivered electronically, if electronically filed, or in paper form, if not electronically filed, to the division to which the case is assigned at the time the original is filed with the Clerk of the Court.

~~(5-22.11)~~ **Trial Setting.** Cases set for trial on a day certain must be tried when reached, and shall remain on the trial calendar to be tried in the order in which they are set or as otherwise ordered by the Court. The fact that a case has been set for trial on a particular day will not give it precedence over cases for a prior day. The case with the lowest case number generally has precedence over cases with higher case numbers. Nevertheless, should more than one trial be set to begin on the same day, the determination as to which trial shall take precedence is at the Court's discretion.

~~(aA)~~ It shall be the duty of the attorneys or parties appearing in person to be ready for trial when their cases are called.

~~(bB)~~ All jury trials shall be calendared to start at 9:00 a.m. on the first day of trial unless the trial judge ~~Court~~ sets a different time. The attorneys ~~shall~~ must appear in the chambers of the trial judge ~~on half hour~~ 30 minutes before the start of the trial on the first day unless otherwise ordered.

#### **~~Rule 6-~~Assignment of Cases**

~~(6.12.12)~~ **Filing of Face Sheet (Civil Cover Sheet):** When filing a civil action, the Plaintiff ~~shall~~ must furnish the Clerk, on a form provided by the Clerk, ~~the caption of the case including the correct name(s) and mailing address(es), if known, of all Plaintiffs, Defendants and their attorneys and such other information as the Court may require.~~ a Face Sheet or Civil Cover Sheet.

**(6.22.13) Docketing Format:** Each document separately filed in a particular case ~~shall~~must be sequentially numbered by the Clerk on the first page of the document, and shall be docketed by that number.

**(6.32.14) Case Assignment:** All cases filed with the Clerk of Superior Court ~~shall~~will be assigned a case number and ~~shall~~will be assigned forthwith by the Clerk or the ~~Court Administrator~~Case Management Services to a Civil Trial Division which will thereafter process the case to conclusion unless the case is otherwise assigned by the Presiding Judge, or by ~~the Court Administrator~~Case Management Services under ~~these Local Rules 6.4, 6.5, 6.6 or 6.11~~2.20, 2.21, 2.22 or 1.9. The assignment of cases may be done by automated means, but in any event, ~~shall~~must be accomplished in a random manner so as to be unpredictable and provide an equal distribution of cases among ~~judges in the Civil~~Civil Trial Divisions.

**(6.42.15) Refiling:** Cases refiled after dismissal may upon motion of any party be reassigned to the judge to whom, or the division to which, the case was previously assigned. The Presiding Judge or a designee ~~shall~~will hear motions for reassignment.

**(6.52.16) Resetting Cases for Trial.**

**(aA)** In the event of a mistrial or the granting of a new trial, the trial judge ~~shall~~will reset the case for trial.

**(bB)** In the event the Supreme Court or Court of Appeals remands a case for a new trial, the prevailing party ~~shall~~must furnish the trial judge with a copy of the mandate unless it appears of record that the judge has been furnished a copy of the mandate. Upon receipt of the mandate, the trial judge ~~shall~~will reset the case for trial. In the event the trial judge is no longer serving on the Court or is no longer assigned that case, counsel ~~shall~~must lodge the copy of the mandate with ~~the Court Administrator~~Case Management Services who shall reassign the case by the same random process set forth in Rule ~~6.32.18~~.

**(cC)** Cases remanded for a new trial by an appellate court ~~shall~~will be granted preference on the trial calendar.

**(6.62.17) Temporary Reassignment of Cases:** Consistent with Rule 63, A.R.C.P., ~~aA~~ case assigned to a particular judge may be temporarily reassigned to another judge if the judge to whom the case is assigned is unavailable, and an exigency exists ~~which~~that requires prompt action by the Court, or upon request of the assigned judge. The case will be reassigned by ~~the Court Administrator~~Case Management Services to another judge or to a visiting judge for the

limited purpose of hearing or determining the matter that is the subject of the exigency or request.

**(6.72.18) Post-Trial Motions.** All post-trial motions ~~shall~~ must specify in the caption the name of the judge who tried the case, and shall, where possible, be heard by that judge.

~~**(6.8) Case Consolidation.** Unless the Court shall otherwise order, when two (2) or more cases are consolidated, the Clerk shall regard the lowest case number as the controlling number of the consolidated cases and all further pleadings and papers shall be filed and docketed under that number only. Unless the Court shall otherwise specify, it will be presumed that the consolidation is for all purposes.~~

~~**(6.92.19) Transfer or Consolidation of Related Civil Cases; Assignment. Transfer of Related Civil Cases; Case Consolidation; Assignment:**~~

~~**(aA) Related cases.** Whenever two or more cases are pending before different judges and any party believes that such cases (1) arise from substantially the same transaction or event, (2) involve substantially the same parties or property, (3) involve the same patent, trademark, or copyright, (4) call for determination of substantially the same questions of law, or (5) for any other reason would entail substantial duplication of labor if heard by different judges, any party may file a motion to transfer the case or cases involved to a single judge. The motion shall be filed in each affected case and ~~shall~~ will be heard by the judge to whom the case with the lowest number is assigned. The Court may also transfer, with notice to the parties, related cases to a single judge on the Court's own initiative.~~

~~**(bB) Consolidation.** A motion to consolidate pursuant to Rule 42(a), A.R.C.P., shall contain the captions of all the cases sought to be consolidated, be filed in each case and be heard by the judge assigned the lowest case number. Unless the Court otherwise orders, when two (2) or more cases are consolidated, the Clerk will regard the lowest case number as the controlling number of the consolidated cases, and all further pleadings and papers must be filed and docketed under that number only. Unless the Court otherwise specifies, it will be presumed that the consolidation is for all purposes.~~

~~**(cC) Service.** Service of any motion filed under subsection (a) or (b) shall be made upon all parties and assigned judges ~~in such cases.~~~~

~~**(dD) Assignment.** In determining to which judge the case or cases will be assigned pursuant to subsection (a) or (b) above, the court may consider the following factors ~~may be considered:~~ (1)~~

whether substantive matters have been considered in a case; (2) which judge has the most familiarity with the issues involved in the cases; (3) whether a case is reasonably viewed as the lead or principal case; or (4) any other factor serving the interest of judicial economy.

~~(6.122.20) Dismissal for Failure to Prosecute/Dismissal Calendar:~~ The Clerk of the Court or ~~Court Administrator~~ Case Management Services shall place on the ~~Inactive~~ Dismissal Calendar every case in which a ~~Motion to Set and Certificate of Readiness~~ has not been filed within nine months after the commencement thereof, except that in domestic relations cases, by general order of the Presiding Judge, the time within which domestic relations cases shall be placed on the ~~Inactive~~ Calendar may be shortened to not less than 120 days. every case in which a Joint Report and Proposed Scheduling Order has not been filed within 270 days after commencement of the matter pursuant to Rule 16 A.R.C.P.; or, if Rule 16 does not apply, where either (a) a proper request for a trial has not been filed within 9 months after the commencement of the matter, or (b) a trial date has not been set.

~~All cases remaining on the Inactive Calendar for two months shall be dismissed without prejudice for lack of prosecution, and the Court shall make an appropriate order as to any bond or other security filed therein, unless prior to the expiration of such two month period:~~

~~(a) a proper Motion to Set and Certificate of Readiness is filed; or~~

~~(b) the Court, on motion for good cause shown, orders the case to be continued on the Inactive Calendar for a specified period of time without dismissal.~~

All civil cases remaining on the Dismissal Calendar for 60 days will be dismissed without prejudice for lack of prosecution pursuant to Rule 38.1(d) ARCP, and the Court will make an appropriate order as to any bond or other security filed therein, unless before the expiration of such 60 day period:

(A) A proper Joint Report and Proposed Scheduling Order has been filed; or, if Rule 16 does not apply, either (i) a proper request for a trial has been filed, or(ii) a trial date has been set; or

(B) The Court, on motion for good cause shown, orders the case to be continued on the Dismissal Calendar for a specified period of time without dismissal.

This rule shall not be construed as a limitation on the inherent power of the Court to dismiss a case for failure to prosecute in a reasonably diligent manner.

## Rule 83 - Family Law Cases

### **8.1(3.1) General Administration:**

~~(A) Family law cases are subject to the Arizona Rules of Family Law Procedure in addition to Pima County Local Rule 8. Pima County Local Rule 8 often makes reference to court approved forms. Those forms approved for use by the Superior Court in Pima County may be located on the Court's website [www.sc.pima.gov](http://www.sc.pima.gov), or may be located in the Self Service Center of the Law Library at the Superior Court, or at the Pima County Bar Association, and at the Arizona Supreme Court's website, [www.supreme.state.az](http://www.supreme.state.az).~~ **(A) Application of the Arizona Rules of Family Law Procedure.** Family law cases are subject to the Arizona Rules of Family Law Procedure ("ARFLP") in addition to this Pima County Local Rule 3. Pima County Local Rule 3 often makes reference to court approved forms. Those forms approved for use by the Superior Court in Pima County may be located on the Court's website <http://www.sc.pima.gov>, or may be located in the Self Service Center of the Law Library at the Superior Court, or at the Pima County Bar Association, and at the Arizona Supreme Court's website, <http://www.supreme.state.az>.

**(B) Assignment of Presiding Judge and Judges of the Family Law Bench.** ~~The Family Law Bench shall consist of one or more judicial officers assigned by the Presiding Judge. The Presiding Judge shall designate a Presiding Judge of the Family Law Bench and a sufficient number of judicial officers to properly carry out the responsibilities of the bench.~~

The Presiding Judge of the Family Law Bench ~~shall~~will, in addition to trial duties, exercise supervisory powers over the Family Law Bench and the Conciliation Court, through the Director of Conciliation Court, as required by statute, and by the Presiding Judge of the Superior Court.

**(C) Scope and Responsibilities of Family Law Bench.** All family law matters brought pursuant to A.R.S. Title 25 and the issuance of Orders of Protection shall be assigned to a judicial officer of the Family Law Bench, unless otherwise assigned by the Presiding Judge of the Family Law Bench, or the Presiding Judge of the Superior Court.

**(D) Family Law Calendar.** At the time a case is filed with the Clerk of the Court, it shall be assigned to a Family Law Bench judicial officer. The judicial officer ~~shall~~will calendar all matters concerning that case. At such time as a judicial officer's assignment is changed, the case ~~shall~~will be reassigned to a subsequent Family Law Bench judicial officer, unless the assigned division retains the case.

~~(E) Regulation of Family Law Bench. A Family Law Bench judicial officer may regulate the conduct of a case in any manner that is not inconsistent with applicable law and rules.~~

**(3.2) 8-2 General Rules Relating to Pleading and Practice:**

~~(A) Case Designation. The petitioner shall designate, in the caption of the original petition filed with the Court, the nature of the action or proceeding, such as Annulment; Dissolution; Legal Separation; Legal Decision-Making And Parenting Time; Legal Decision Making or Placement or Visitation by Nonparent; Grandparent or Great-grandparent Visitation; Dissolution of Covenant Marriage; Legal Separation in Covenant Marriage; Order of Protection; Paternity or Maternity; Establishment, Enforcement, Registration or Modification of Legal Decision-Making or Parenting Time; Establishment, Enforcement, Registration, or Modification of Support; or Notice of Filing Foreign Judgment.~~

**(BA) Affidavit Regarding Minor Children.** In every action for Annulment, Dissolution, Legal Separation, Legal Decision-Making and Parenting Time, Legal Decision Making or Placement or Visitation by Nonparent, or Modification of Legal Decision-Making, each party filing a Petition or Response ~~shall~~ must file an original and one copy of an Affidavit Regarding Minor Children on a form approved by the Court. The Clerk of the Court ~~shall~~ will deliver a copy of all Affidavits Regarding Minor Children to the Director of the Conciliation Court each business day. If there are no minor children, parties need not file an Affidavit Regarding Minor Children.

~~(C) Prior Orders. In all petitions for contempt, or for relief regarding a prior order of the Court, the petition shall set forth the prior order, or the pertinent portion of the prior order, and the date the order was entered. In the event the prior order is so voluminous as to make it impractical to include it in the petition verbatim and the order is contained in the official court file of the case, the order may be incorporated into the petition by reference.~~

**(DB) Disclosure Statements.** ~~Disclosure required by Rules 49 and 50, Arizona Rules of Family Law Procedure shall include a completed Inventory of Property and Financial Affidavit on a form approved by the Court, and signed by the parties. Disclosure shall be provided to the opposing party but shall not be filed with the Court, except as specifically required by the Arizona Rules of Family Law Procedure.~~ Disclosure required by Rules 49 and 50, ARFLP must be provided to the opposing attorney or party, if self-represented, but must not be filed with the Court, except as specifically required by the ARFLP. If division of assets or debts is at issue, a completed Inventory of Property on a form approved by the Court and signed by the parties must be timely exchanged.

~~(EC) Filing of Documents. All documents in family law cases shall be filed with the Clerk of the Court, unless otherwise directed in these Rules, and copies shall be provided to the opposing party, or if represented, to their attorney. The parties shall not file with the Clerk of the Court financial documents and other documents containing confidential information. A copy of any filed documents shall also be provided to the assigned division if so directed in these Rules. A copy of any motion that requests a judicial officer to rule without hearing shall be provided to the assigned division and the other party. No issue shall be deemed submitted for decision by the Court unless the assigned division receives a copy of the written request and any responsive pleadings.~~  
All documents in family law cases must be filed with the Clerk of the Court, unless otherwise directed in these Rules. Copies must be provided to the opposing party, or if represented, to their attorney. The parties must not file with the Clerk of the Court documents containing sensitive data as proscribed by Rule 43(G) of ARFLP.

~~(F) Request for Court Reporter. A party requiring an official court reporter for a division which utilizes digital recording as the primary record, must file a written request with the Clerk of the Court and deliver or fax a copy of the request to the assigned division and the managing court reporter's office twenty four hours prior to the court proceeding.~~

### **8.3(3.3) Setting Cases for Trial:**

**(A) Motion to Set and Certificate of Readiness.** To set a case for trial, a party must file a Motion to Set and Certificate of Readiness, on a form approved by the Court, ~~shall be filed~~. A copy ~~shall~~ must be provided to the opposing party, the assigned division, and the Case Management Services department. The Motion to Set and Certificate of Readiness ~~shall~~ must state the following:

- (1) that a response to the subject petition has been filed,
- (2) the time requested for trial,
- (3) that pre-trial procedures have been completed or that both parties shall have had a reasonable opportunity to complete pre-trial procedures 10 days prior to a trial scheduled 60 days after submission of the Motion to Set and Certificate of Readiness,
- (4) the names, addresses and telephone numbers of the individual parties or, if represented by counsel, their attorneys who will be responsible for conduct of the trial,
- (5) whether the case is entitled to preference for trial because legal decision-making or parenting time is an issue,

(6) whether the parties have attended or are scheduled to attend the Domestic Relations Education on Children's Issues course pursuant to A.R.S. § 25-352, or that the requirement has been waived, and

(7) whether the parties have attended or are scheduled to attend mediation pursuant to Pima County Local Rule ~~8-123.10~~, or that the requirement has been waived.

**(B) Controverting Certificates.** A party who opposes the scheduling of a trial requested in a Motion to Set and Certificate of Readiness may file a Controverting Certificate, with a copy to the opposing party, the assigned division, and the Case Management Services department, within 10 days after service of the Motion to Set and Certificate of Readiness. The Controverting Certificate ~~shall~~ must state any objections to the Motion to Set and Certificate of Readiness. The Court ~~shall~~ may rule on the Controverting Certificate without hearing hearing or it may schedule a Resolution Management Conference to address concerns raised in the Controverting Certificate and, thereafter, rule on the Motion to Set. An order setting the case for trial constitutes a ruling on the Controverting Certificate. ~~Setting the case for trial shall constitute ruling on the Controverting Certificate.~~

**(C) Trial Date.** When a Motion to Set and Certificate of Readiness has been filed and any Controverting Certificate has been ruled upon, the assigned division ~~shall~~ will schedule the case for trial or Final Pretrial Conference at which time a trial date will be set and ~~shall~~ will promptly notify the parties. Cases ~~shall~~ will be set for trial or the Final Pretrial Conference within 60 to 120 days after a Motion to Set and Certificate of Readiness is ruled upon ~~or the Final Pretrial Conference~~, ~~except in extraordinary circumstances.~~ A case set for trial or Final Pretrial Conference ~~shall be~~ is considered to be on the active calendar.

**(D) Exclusion of Legal Decision-Making Modification Trials.** The provisions of Pima County Local Rules ~~83.3~~(A) through (C) ~~shall do~~ do not apply to trials regarding modification of legal decision-making ~~scheduled pursuant to Rule 8.5(G).~~ All requests for modification of legal decision-making will follow the requirements of A.R.S. § 25-411(L) and Rule 91(D), ARFLP.

~~(E) Postponements. No postponement of a trial shall be granted except for good cause. A stipulation for postponement shall be regarded as a joint motion to postpone and shall state the reasons for the requested postponement. A copy of a motion or stipulation requesting postponement and a proposed form of order shall be delivered to the assigned division. The trial is not postponed until there has been an order of the Court.~~

**(3.4) 8.4 Settlement Conferences and Alternative Dispute Resolution:**

**(A) Mandatory Domestic Settlement Conference.** In all cases set for trial or Final Pretrial Conference, the parties and attorneys ~~shall~~must participate in a domestic settlement conference prior to the trial or the Final Pretrial Conference. The parties must personally appear at the settlement conference unless the assigned division waives the requirement of personal appearance. Personal appearance may not be made by telephone unless permission to appear by telephone is granted by the assigned division pursuant to a motion or stipulation submitted at least 30 days prior to the date of the settlement conference.

The domestic settlement conference ~~shall~~will be confidential. Subject to Rule 408, Arizona Rules of Evidence, all communications, both oral and written, made by a party in the settlement conference ~~shall~~will be confidential and not divulged to third parties. Agreements as to facts and/or stipulations made during the settlement conference ~~shall~~ must be made of record and ~~shall~~will be binding on the parties. The settlement conference judicial officer ~~shall~~will determine disputes regarding the accuracy of the record of the domestic settlement conference.

Participation in a mandatory settlement conference ~~shall~~fulfills the requirements of Rule 66, ~~Arizona Rules of Family Law Procedure~~ARFLP regarding alternative dispute resolution. The requirement of participation in a mandatory domestic settlement conference ~~shall~~ does not preclude mediation, arbitration, settlement conferences, or other dispute resolution processes pursuant to Rule 67, ~~Arizona Rules of Family Law Procedure~~ARFLP, but the mandatory domestic settlement conference shall not be a proceeding subject to Rule 67, ~~Arizona Rules of Family Law Procedure~~ARFLP.

**(B) Early Settlement Conference.** At any time after disclosure statements have been exchanged any party may request that the Court schedule a settlement conference ~~prior to~~before the mandatory domestic settlement conference described above, to facilitate early resolution of a case. Participation in an early domestic settlement conference ~~shall~~will not preclude mediation, arbitration, settlement conferences, or other dispute resolution processes pursuant to Rule 67, ~~Arizona Rules of Family Law Procedure~~ARFLP, ~~but the early domestic settlement conference shall not be a proceeding subject to Rule 67, Arizona Rules of Family Law Procedure.~~ Participating in an early settlement conference does not fulfill the requirement of participating in a mandatory domestic settlement conference. Participation in an early settlement conference will fulfill the requirements of Rule 66, ARFLP, regarding alternative dispute resolution.

**(C) Settlement in Alternate Dispute Resolution.** ~~Parties who agree to utilize an alternative dispute resolution method may stipulate that agreements made by them with the assistance of~~

~~an arbitrator, parenting coordinator, family law master, private mediator, open negotiator, or during a private settlement conference, or decisions made by an arbitrator, parenting coordinator, family law master, or open negotiator shall be binding upon the parties, subject to the approval of the Court. The parties shall agree on the method by which their agreements shall be memorialized. The parties may waive the right for their attorneys to file written objections to mediated agreements within 30 days of the agreement being approved by the parties. Parties who agree to utilize an alternative dispute resolution method pursuant to Rules 66 and 67, ARFLP may agree in writing that agreements made by them will be binding upon the parties, subject to the approval of the Court. The parties must agree on the method by which their binding agreements shall be memorialized, consistent with Rule 69, ARFLP. In the case of mediation of parenting time at Conciliation Court, the parties may waive in writing the right for their attorneys to file written objections to mediated agreements as referenced in Local Rule 3.10(D).~~

**(3.5) 8.5-Affidavits Required; Pleading and Practice;**

**(A) Financial Affidavits; Production of Documents.**

~~(1) Forms of Financial Affidavits. There shall be two forms of financial affidavits: a) a child support financial affidavit and, b) a spousal maintenance financial affidavit as permissible alternatives to the Affidavit of Financial Information in the Appendix to Rule 97, Arizona Rules of Family Law Procedure. Wherever the term financial affidavit is used in this rule, it shall refer to the relevant court approved financial affidavit. In any proceeding where the establishment or modification of child support or a request for an award of attorney fees and/or expenses is in issue, but not spousal maintenance, a child support financial affidavit shall be filed. In all other proceedings where the establishment or modification of spousal maintenance alone, or in combination with child support or a request for an award of attorney fees and/or expenses is in issue, a spousal maintenance financial affidavit shall be filed. No filing or appearance fee shall be charged for the filing of the opposing party's financial affidavit, unless otherwise provided by law. In all cases a party may choose to use the Affidavit of Financial Information in the Appendix to Rule 97, Arizona Rules of Family Law Procedure.~~ There are two (2) forms of financial affidavits as permissible alternatives to the Affidavit of Financial Information in the Appendix to Rule 97, ARFLP: (a) a child support financial affidavit and (b) a spousal maintenance affidavit. Wherever the term financial affidavit is used in this rule, it refers refer to the relevant court-approved financial affidavit. In any proceeding where the establishment or modification of child support is the sole financial issue, a child support financial affidavit must be filed. In all other proceedings where spousal maintenance or a request for an award of attorney's fees or expenses is at issue, a spousal maintenance financial affidavit must be filed. In all cases a party

may choose to use the Affidavit of Financial Information in the Appendix to Rule 97, ARFLP. No filing or appearance fee may be charged for the filing of the opposing party's financial affidavit, unless otherwise provided by law.

**(2) Duty to Document Change in Financial Circumstances in the Financial Affidavit.** In any proceeding for establishment or modification of child support or spousal maintenance, a ~~request~~ for an award of attorney fees and/or expenses, or a proceeding for failure to pay any of the foregoing, a party may not present testimony regarding any change in his or her financial circumstances between the date of the most recent financial affidavit and the date of the hearing or trial, unless an amended financial affidavit setting forth the changes has been filed or good cause is shown.

**(3) Documents to Be Provided to the Other Party.** ~~The documents listed below shall not be filed with the Clerk of the Court, or attached to any papers filed with the Clerk of the Court, but must be provided to the other party. In any proceeding for establishment or modification of child support, spousal maintenance or attorney's fees and expenses, within the time provided by this Rule, each party shall provide to the other party, copies of the following documents:~~

~~(a) that party's most recently filed federal and state income tax returns;~~

~~(b) that party's four most recent consecutive wage statements from all employment;~~

~~(c) that party's most recent W-2, 1099, and K-1 forms;~~

~~(d) for establishment or modification of child support proceedings, employer provided statement of cost of health and dental insurance coverage for the parties' minor children.~~

(a) When seeking establishment or modification of child support, a party must timely provide to the other party's attorney or to the party if self-represented, but not file with the Clerk of the Court the following documents:

i. A fully completed Affidavit of Financial Information on a form substantially in compliance with Rule 97, Form 2, or a child support financial affidavit;

ii. Proof of income of the party from all sources, specifically including complete tax returns, W-2 forms, 1099 forms, and K-1 forms, for the past two (2) completed calendar years; and year-to-date income information for the current calendar year, including, but not limited to, four most recent year-to-date pay stubs, salaries, wages, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits, worker's compensation benefits,

unemployment insurance benefits, disability insurance benefits, recurring gifts, prizes, and spousal maintenance;

iii. Proof of court-ordered child support and spousal maintenance actually paid by the party in any case other than the one in which disclosure is being provided;

iv. Proof of all medical, dental, and vision insurance premiums paid by the party for any child listed or referenced in the petition;

v. Proof of any child care expenses paid by the party for any child listed or referenced in the petition;

vi. Proof of any expenses paid by the party for private or special schools or other particular education needs of a child listed or referenced in the petition; and

vii. Proof of any expenses paid by the party for the special needs of a gifted or disabled child listed or referenced in the petition.

(b) When seeking establishment or modification of spousal maintenance, and/or an award of attorney's fees and costs, or expenses, a party must timely provide to the other party's attorney, or, to the party if self-represented, but not file with the Clerk of the Court the following documents:

i. a fully completed Affidavit of Financial Information on a form substantially in compliance with Rule 97, Form 2, or a spousal maintenance financial affidavit; and

ii. proof of income of the party from all sources, specifically including complete tax returns, W-2 forms, 1099 forms, and K-1 forms, for the past two (2) completed calendar years; and year-to-date income information for the current calendar year, including, but not limited to, four most recent year-to-date pay stubs, salaries, wages, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits, worker's compensation benefits, unemployment insurance benefits, disability insurance benefits, recurring gifts, prizes, and spousal maintenance;

(c) The Order to Appear ~~shall~~ must specifically direct both parties to comply with this rule. The Order to Appear ~~shall~~ must not require the production of any additional documents, but this does not preclude the applicant from requesting additional documents through discovery procedures.

**(B) Time.** Whenever this rule requires a party to provide documents or the relevant financial affidavit, a copy ~~shall~~must be provided to the other party no later than 4 court days prior to the date set for hearing or 2 court days after service of the Order to Appear, whichever is later.

**(C) Order to Appear for Temporary Orders.** When a request for an Order to Appear is made for temporary spousal maintenance, child support, or a request for an award of attorney fees and/or expenses, the ~~applicant party shall~~must file the original petition and the required financial affidavit with the Clerk of the Court. A copy of the petition and required financial affidavit ~~shall~~must be provided to the assigned division at the time of the request for issuance of the Order to Appear. A copy of each ~~shall~~must also be served upon the opposing party, along with a blank copy of the required financial affidavit and a copy of Pima County Local Rule ~~83~~3.5. The opposing party ~~shall~~must file the required financial affidavit, a copy of which ~~shall~~must be provided to the ~~applicant's party's~~ attorney, or, if unrepresented, to the ~~applicant party~~ within the time provided by this rule.

**(D) Petition for Modification of Spousal Maintenance or Child Support.**

**(1) Petition for Modification of Spousal Maintenance.** A petition for modification of a prior order for spousal maintenance ~~shall set forth verbatim in the body of the petition the order sought to be modified, or shall comply with Pima County Local Rule 8.2(C)~~must comply with Rule 91(A) and (B) ARFLP. The applicant ~~shall~~must file the original of the petition and ~~two~~the required spousal maintenance financial affidavits. ~~The first financial affidavit shall demonstrate the current financial circumstances of the party seeking the modification. The second financial affidavit shall demonstrate the financial circumstances of the party seeking the modification as of the date of the order sought to be modified. If a financial affidavit reflecting a party's financial circumstances at that time was previously filed with the Court a copy shall be attached to the petition for modification.~~ A copy of the petition and the financial affidavits ~~shall~~must be provided to the assigned division at the time of the request for issuance of the Order to Appear. A copy of each financial affidavit shall be served upon the opposing party, along with blank copies of the required financial affidavits and a copy of Pima County Local Rule ~~83~~3.5. The opposing party ~~shall~~must file the required financial affidavits, and provide a copy to the applicant's attorney, or if unrepresented, the applicant, within the time provided by this rule.

**(2) Petition for Modification of Child Support.** A petition for modification of child support ~~shall set forth the amount of child support currently in effect or shall set forth verbatim in the body of the petition the order sought to be modified, or shall comply with Pima County Local Rule 8.2(e)~~must comply with Rule 91(A) and (B), ARFLP. The applicant ~~shall~~must file the petition to modify and a child support financial affidavit, which reflects the current circumstances of the party seeking a modification. A copy of the petition and the financial affidavit ~~shall~~must be provided to the assigned division at the time of the request for issuance of the Order to Appear. A copy of each ~~shall~~must be served upon the opposing party, along with a blank copy of the

required financial affidavit and a copy of Pima County Local Rule ~~§~~3.5. The opposing party ~~shall~~ must file the required financial affidavit, and provide a copy to the applicant's attorney, or if unrepresented, the applicant, within the time provided by this rule. This provision does not apply to modifications filed pursuant to the Simplified Procedure set forth in the Arizona Child Support Guidelines, and pursuant to Rule 91(B)(2)(b), ARFLP. An agency authorized by law to request a modification of an existing Order on behalf of the State of Arizona ~~shall~~ will not be required to strictly comply with the provisions of this local rule requiring a child support financial affidavit if the information is not reasonably available to the agency prior to filing the petition.

**(3) Stipulation to Modify Child Support.** Should the parties reach an agreement and submit a stipulation to the court to modify child support they ~~shall~~ must submit a proposed form of Child Support Order, ~~Order of Assignment~~ Income Withholding Order and a worksheet containing detailed information supporting compliance with or a deviation from the Child Support Guidelines.

**(E) Failure to Pay Child Support, Spousal Maintenance, or Attorney Fees and Expenses.** In an action for failure to pay child support, spousal maintenance, or attorney fees and expenses, the opposing party ~~shall~~ must file with the Court the required financial affidavit and provide a copy to the applicant's attorney, or if unrepresented, the applicant, within the time provided by Pima County Local Rule ~~§~~3.5. The documents listed below ~~shall~~ must not be filed with the Clerk of the Court or attached to any papers filed with the Clerk of the Court but must be provided to the other party. The opposing party ~~shall~~ must also provide the applicant's attorney, or if unrepresented, the applicant, copies of the following documents but must not file the documents with the Clerk of the Court:

**(1)** ~~that~~ That party's most recently filed federal and state income tax returns, with all schedules;

**(2)** ~~that~~ That party's four most recent consecutive wage statements from all employment;

**(3)** ~~that~~ That party's most recent W-2, 1099, and K-1 forms as applicable; and-

**(4)** Where the opposing party claims sums sought by the applicant have been paid, receipts or statements supporting the opposing party's claim.

~~These documents shall not be filed with the Clerk of the Court.~~

The Order to Appear ~~shall~~ must specifically direct the respondent to comply with Pima County Local Rule ~~§~~3.5. The Order to Appear ~~shall~~ must not require the production of any additional documents, but this does not preclude the applicant from requesting additional documents through discovery procedures.

**(F) Failure to Comply with Pima County Local Rule 83.5.** If either party fails to comply with any part of Pima County Local Rule 83.5, upon the complying party's request or the ~~court's~~Court's own motion and in the absence of good cause, the court may enter orders that include the following:

- (1) ~~vacate~~Vacate or continue the hearing;
- (2) ~~enter~~Enter an interim award of relief in favor of a complying party and against a non-complying party based on the complying party's financial affidavit;
- (3) ~~award~~Award a complying party his or her attorney fees and expenses incurred in preparing for and attending the hearing; or
- (4) ~~enter~~Enter other appropriate relief including any sanction permitted under Rule 71, ARFLP.

For purposes of making an interim award the court may, on its own motion, examine either party if it deems such examination necessary. The non-complying party may be precluded from introducing any evidence and/or conducting cross-examination for purposes of making an interim award.

~~*(G) Petitions to Modify Legal Decision-Making.*~~

- ~~(1) A party seeking and a party responding to a Petition for Modification of Legal Decision-Making shall file with the Clerk of the Court an Affidavit Regarding Minor Children required by A.R.S. § 25-1039.~~
- ~~(2) Five days after expiration of the time permitted for the filing of the response and/or the controverting affidavits, either party or attorney shall provide the approved form for a Request for Order Granting or Denying Legal Decision-Making Hearing, and a separate Order Granting or Denying Request for Legal Decision-Making Hearing to the Presiding Judge of the Family Law Bench.~~
- ~~(3) The Presiding Judge of the Family Law Bench shall rule on the Request for Order Granting or Denying Legal Decision-Making Hearing or refer the matter to the assigned division for a ruling.~~
- ~~(4) Copies of the Petition, Response, or Controverting Affidavits shall not be provided to the Presiding Judge of the Family Law Bench or the assigned division.~~

~~A trial for modification of a legal decision-making order or decree shall not be set unless there is compliance with A.R.S. § 25-411 and Rule 91(d), Arizona Rules of Family Law Procedure.~~

**(HG) Hearings.** Matters set for hearing on motions shall proceed by oral argument only, without testimony or other evidence, unless notice has been given that testimony or other evidence will be presented. Matters set before the court pursuant to local rules 3.5(C), (D), or (E) will be presumed to be evidentiary hearings.

### **8.6(3.6) Simultaneous Dependency and Legal Decision-Making And Parenting Time**

#### **Proceedings:**

~~(A) When a pending family law proceeding and a pending dependency proceeding concern the same parties, any party may file a motion to consolidate the proceedings. The Court may on its own motion consolidate the proceedings. The motion shall be filed in the juvenile division and a copy shall be provided to the assigned family law division. The assigned juvenile division shall rule on the motion to consolidate. Legal decision making and parenting time issues will be litigated in the juvenile division unless the juvenile division defers jurisdiction to the assigned family law division.~~

~~(B) If the assigned juvenile division determines that a change of legal decision making or parenting time may result in a dismissal of an adjudicated dependency case, the assigned juvenile division may refer the dependency matter to the assigned family law division for change of legal decision making and parenting time proceedings or retain the cases in the juvenile division.~~

~~(C) If the juvenile division denies a motion to consolidate and defers jurisdiction of an adjudicated dependency matter to the assigned family law division in a change of legal decision making or parenting time proceeding, a hearing may be set pursuant to A.R.S. § 25-411(L). The referral to the assigned family law division shall include an order that the assigned family law division has jurisdiction to resolve the legal decision making and parenting time matter. If the change of legal decision making and/or parenting time is granted, the assigned family law division may enter an order dismissing the dependency,~~

~~(D) The assigned juvenile division shall dismiss any action brought in the juvenile division that the court finds is more appropriate for the Family Law Bench. The assigned juvenile division shall refer the matter to the assigned family law division for further proceedings.~~

~~(E) During any dependency/guardianship proceeding in the juvenile division, the assigned juvenile division may suspend, modify, or terminate a child support order for current support if the parent entitled to receive the child support is no longer entitled to child support as a result in the change of legal decision making or parenting time with the child, and may make appropriate orders regarding any past due support or child support arrears, except in Title IV-D~~

~~cases. The assigned juvenile division shall direct that the wage assignment be quashed or modified~~

~~-(A) When a pending family law proceeding and a pending dependency, guardianship or private severance proceeding involve the same parties, any party may move to consolidate the proceedings by written or oral motion. The Family Court judge may consult with the Juvenile Court judge concerning consolidation, or the Juvenile Court judge may consolidate the proceedings on its own motion. Written motions for consolidation must be filed in the juvenile case and copied to the family law case. The assigned juvenile division will rule on any such motion to consolidate. A copy of the ruling must be filed in the Juvenile case and copied to the family law case file.~~

~~Legal decision-making, parenting time and child support issues, other than in Title IV-D cases, may be litigated in the juvenile division once the matters are consolidated in the Juvenile Court.~~

~~(B) Upon an adjudication of dependency, the Juvenile Court will consolidate any family law matter concerning the same parties with the juvenile matter to prevent conflicting orders in the family and juvenile cases and to allow the Juvenile Court, if appropriate, to determine legal decision-making and parenting-time issues necessary to protect a child. Title IV-D child support matters, however, are excluded from the provisions of this rule and will be addressed only by the assigned Title IV-D judicial officer. Any such orders must be made before the dismissal of the dependency matter and also before unconsolidating the juvenile matter from the family law case.~~

~~(C) During any dependency/guardianship proceeding in the juvenile division and following the consolidation of the family law matter, the assigned juvenile division may suspend, modify or terminate a child support order for current support if the parent entitled to receive the child support is no longer entitled to child support as a result of a change in the legal and/or physical custody of the child. The assigned juvenile division will direct that the income withholding order be quashed or modified. The juvenile judge may also affirm previous orders for past due support or child support arrears or make other appropriate orders. Title IV-D child support matters, however, are excluded and will be addressed only by the assigned Title IV-D judicial officer.~~

~~(D) The assigned juvenile division may unconsolidate the family law matter or certain proceedings thereof temporarily and return it to the assigned family law division to allow that division to conduct proceedings during a dependency or guardianship matter.~~

**8.7(3.7) Pre-Trial Statement:**

**(A) Preparation, Signing, and Filing of Pre-trial Statements.** In every family law case set for trial or Final Pretrial Conference, including any bifurcated portion of such trial, a pre-trial statement ~~shall~~must be filed. Counsel who will try the case and who are authorized to make binding stipulations on behalf of the parties, ~~or the parties themselves, if self-represented,~~ ~~shall~~must confer and prepare the pre-trial statement, signed by each party or counsel. ~~Unrepresented parties who will try the case shall confer and prepare a pre-trial statement signed by each party.~~ Pre-trial statements required by Rule 76(c), Arizona Rules of Family Law Procedure ~~shall~~must be filed no later than 30 days prior to the date set for trial ~~or the Final Pretrial Conference,~~ or on the date ordered in the family law trial notice. The original ~~shall~~must be filed with the Clerk of the Court and a copy ~~shall~~must be provided to the Case Management Services department and the assigned trial division, Failure to comply with Pima County Local Rule ~~83.7(A)~~ may result in the imposition of interim relief and/or sanctions as set forth in Pima County Local Rules ~~8 3.5(F) and 83.7,~~ or any other sanctions provided by Rule 76, ~~Arizona Rules of Family Law Procedure~~ARFLP.

**(B) Contents of Statements.** The pre-trial statement in family law cases ~~shall~~must comply with Rule 76(c), ~~Arizona Rules of Family Law Procedure~~ARFLP, and shall be in a form substantially similar to the court approved form.

**(C) Accompanying documents.** The parties, or if represented, their attorneys ~~shall~~must each file with the joint or separate pre-trial statement the following:

**(1)** In a pre-decree action for dissolution, legal separation or annulment, a detailed itemized Inventory of Property and Debt in a form substantially similar to the court approved form or Rule 97, ~~Arizona Rules of Family Law Procedure~~ARFLP; and

**(2)** In any matter set for trial, if child support, spousal maintenance or attorney fees have been identified as an issue that will be tried, the required financial affidavit pursuant to Pima County Local Rule ~~83.5,~~ ~~in a form substantially similar to the court approved form or Rule 97,~~ ~~Arizona Rules of Family Law Procedure;~~ and

**(3)** Copies of ~~pay stubs, tax returns and other~~all documents required by Pima County Local Rule ~~83.5(A)(3)~~ and the Arizona Rules of Family Law Procedure ~~shall~~must be exchanged with the opposing party but shall not be filed with the Court, and ~~shall~~must be brought to the trial or hearing for use as evidence; ~~and;~~

**(4)** If parenting time or legal decision-making are not resolved, a Proposed Legal Decision-Making or Parenting Time Plan.

**(D) Restrictions on Exhibits and Witnesses.** No exhibits or witnesses may be offered or presented during the trial other than those listed on the pre-trial statement, and timely exchanged, unless otherwise permitted by the court.

**(E) Sanctions.** If there has been a failure by either or both counsel, or the parties if not represented by counsel, to prepare the pre-trial statement, the court may impose any of the sanctions or penalties provided by the ~~Arizona Rules of Family Law Procedure~~ ARFLP or any statute or the Court's inherent authority of the court. At the request of a party the Court may continue the trial, enter an interim award for relief to the requesting party, and award the requesting party attorney fees and expenses incurred in preparing for and attending the domestic settlement conference or trial. For purposes of entering an interim award, the Court may, on its own motion, examine a party as may be necessary. A non-compliant party may be precluded from introducing evidence and from conducting cross-examination regarding the interim award.

~~**8.8 Sanctions.** Any party or attorney appearing at a trial or hearing in a family law case who has not complied with Pima County Local Rule 8 shall be subject to sanctions set forth in Rule 71, Arizona Rules of Family Law Procedure as if it were a violation of Rule 71, Arizona Rules of Family Law Procedure.~~

~~**8.9(3.8) Responding Party's Appearance Fee.:** A decree of dissolution of marriage or legal separation, or legal decision-making and parenting time order awarding joint legal decision-making, may not be entered unless the responding party's appearance fee has been paid. If the decree or order is to be entered by default and the responding party has appeared in the action only by payment of an appearance fee to allow an award of joint legal decision-making, notice to the responding party pursuant to Rule 44(b)(2), Arizona Rules of Family Law Procedure, shall not be required. A final order for joint legal decision-making, including a decree of dissolution of marriage or legal separation containing such order, may not be entered unless the responding party's appearance fee has been paid. If the decree or order is to be entered by default and the responding party has appeared in the action only by payment of an appearance fee to allow an award of joint legal decision-making, notice to the responding party pursuant to Rule 44(B)(2), ARFLP, is not required.~~

~~**8.10 Entry of Decree or Judgment by Default: Informing Defaulted Party.** A party obtaining a decree or judgment shall certify on the decree or judgment that a copy of the decree or judgment will be mailed within 24 hours to the last known address of a party in default or who~~

failed to appear at trial. Failure to comply with this rule shall not affect the validity of the decree or judgment entered or the time to appeal, or relieve a party from any obligations set forth in the decree or judgment.

**8.11(3.9) Parent Education Course:**

(A) Both parties shall attend the Domestic Relations Education on Children's Issues course as required by A.R.S. § 25-352.

(B) The original Notice of Program Completion--Parent Education Course shall ~~shall~~ must be filed with the Clerk of the Court ~~by the Conciliation Court~~. Each party shall ~~shall~~ must promptly provide a copy of the Notice of Program Completion to the opposing party or attorney.

(C) ~~A party who~~ if, with the Court's prior permission of, a party takes a parent education course outside of Pima County or the State of Arizona in order to comply with A.R.S. Section 25-351 et seq., shall ~~that party must~~ file the original documentation of completion with the Clerk of the Court and provide a copy to the opposing party ~~or attorney~~ or party if self-represented.

(D) Unless otherwise ordered by the Court all parties shall ~~shall~~ must attend a parent education course ~~prior to~~ before participation in mediation.

**8.12(3.10) Conciliation Court Services: Mediation of Legal Decision-Making and Parenting Time Disputes:**

(A) **Mediation Requirement.** All issues of legal decision-making and/or parenting time with minor children are subject to mediation as set forth in this rule ~~pursuant to A.R.S. § 25-381.23~~. A party may request a waiver of this provision by filing a written request with the Court, and after a hearing, upon a finding of good cause ~~the court~~ Court may waive the requirement for mediation. ~~The parties shall attend the Domestic Relations Education on Children's Issues course prescribed by A.R.S. § 25-351 prior to the initial participation in mediation unless otherwise ordered by the Court.~~ This rule requiring mediation does not apply to actions to enforce legal decision-making or parenting time orders, ~~and does not apply if~~ In the event one or both of the parties does not reside in Pima County, ~~unless both parties agree to participate in mediation in Pima County.~~ mediation is required (unless waived as above), and may be conducted telephonically, unless (a) the out of county party is willing to personally appear for mediation, or (b) as otherwise ordered by the court based upon good cause. The Conciliation Court ~~shall~~ will conduct mediation unless the parties stipulate to private mediation with a mediator agreed upon pursuant to the provisions of sub-section ~~(H)~~ of this rule.

**(B) Commencement of Mediation.**

**(1) By the Court.**

**(a) Temporary Orders.** Mediation is not required prior to filing a petition to establish temporary legal decision-making and/or parenting time unless the parties stipulate to attend, or the Court orders otherwise. Upon the entry of temporary orders, unless entered by a stipulation of the parties, the Court ~~shall~~ will enter an order that the parties attend mediation.

**(b) Trial Date Requested.** If a Motion to Set or a Controverting Certificate indicates that legal decision-making and/or parenting time is an issue and the parties have not previously attended mediation the Court shall enter an order that the parties attend mediation prior to trial.

**(c) Post-Decree.** The parties ~~shall~~ must attend mediation if the Court has entered an order granting a hearing on a request to modify legal decision-making or if there is a hearing scheduled to modify parenting time, unless otherwise ordered by the Court. If required by ~~Pima County~~ this Local Rule ~~8.12(A)~~ 3.10(A), a Request for Mediation ~~shall~~ must be submitted to the Court when a post-decree petition to modify parenting time is filed. Except in an emergency, the Court may not conduct a hearing on a post-decree petition to modify parenting time until the required mediation has been completed.

**(2) At the Request of a Party.**

**(a) When a Request for a Hearing Has Been Filed.** If a party files a pre-trial or post-trial request for hearing that raises an issue of legal decision-making and/or parenting time, a party, or a legal representative of a child, may file a written request for mediation at any time. The original request for mediation ~~shall~~ must be filed with the Clerk of the Court ~~and a copy with copies~~ provided to the Conciliation Court and the assigned judge.

**(b) When No Request for a Hearing Has Been Filed.** A party may request mediation at any time under any of the following circumstances, and by following the procedure described in paragraph (c) below:

~~1~~ i. The parties previously agreed in writing to use mediation, or there is an order requiring the parties to use mediation to resolve any legal decision-making or parenting time disputes prior to requesting a court hearing.

~~2~~ ii. An order establishing paternity has been entered and there is no legal decision-making or parenting time order.

~~3~~ iii. More than one year has passed since the entry of the last legal decision-making or parenting time order, and there has been a significant change in the circumstances of the parties or children, and there is no agreement for mediation.

**(c) Procedure.**

~~1i.~~ The original Request for Mediation ~~shall~~must be filed with the Clerk of the Court and a ~~copy~~copies of the Request ~~shall~~must be provided to the Conciliation Court and the assigned judge.

~~2ii.~~ A copy of the written Request for Mediation ~~shall~~must be served on the other party pursuant to Rule 41 or 42 (as appropriate), Arizona Rules of Family Law Procedure, ARFLP.

~~3iii.~~ The party served with the Request for Mediation may file a written response to the Request for Mediation within 20 days of the date of service. A copy of the written response ~~shall~~must be provided to the other party and the assigned division.

~~4iv.~~ A party requesting mediation ~~shall~~must provide to the assigned division 5 days after the expiration of the response period, a Request for Order Granting or Denying a Request for Mediation, and a separate form of Order Granting or Denying Request for Mediation.

~~5v.~~ The Court may grant or deny the Request for Mediation within its discretion. If the Request for Mediation is granted, the Court will order the parties to attend mediation at the Conciliation Court.

**(d) By Agreement of the Parties.** The parties may agree to attend mediation through the Conciliation Court by completing and signing a ~~Voluntary Agreement~~Stipulation to Mediate Legal Decision-Making and/or Parenting Time on a form approved by the Court. The Conciliation Court will set a time and date for mediation upon receipt of a properly completed stipulation.

**(C) Mediation Conference.** Each party ~~shall~~must attend all appointments scheduled by the Conciliation Court. ~~Attorneys for the parties may confer with the mediator prior to the initial mediation conference but shall be excluded from the mediation. At the mediator's discretion, the mediator may privately interview the child or children and all persons having any relation to the controversy, including either of the parties' attorneys.~~ Mediation conferences are governed by Rule 68(B)(4), ARFLP. If a party fails to appear at a mediation conference, the mediator ~~shall~~will report to the Court the failure to appear, and the Court may impose such sanctions as may be appropriate.

**(D) Mediation Agreement.** Any agreement reached through mediation ~~shall~~must be signed by the parties. If neither party is represented by an attorney, the agreement will be forwarded to the Court for approval. If ~~either~~any party is represented by an attorney, any agreement reached through mediation ~~shall~~must be signed by the parties and submitted to ~~their~~the attorneys for review. An attorney ~~shall~~must file a notice of objection within 30 days after the

date of the signing of the agreement but in no event less than three (3) court days prior to any hearing or trial set for legal decision-making or parenting time and provide a copy of the notice of objection to the Conciliation Court. The notice of objection ~~shall~~must state nothing more than a party objects to the agreement, without elaboration. At the same time the objecting party files a notice of objection, that party must submit to the opposing attorney, or to the party if self-represented, a statement setting forth the specific objections to the agreement and a proposal for resolution, as set forth in Rule 68(B)(6)(b) ARFLP. The statement and proposal for resolution must not be filed with the Court. If a notice of objection is filed, the parties ~~shall~~will not return to mediation to resolve their dispute unless both parties and their attorneys stipulate to return to mediation. If no objection is filed, the Conciliation Court ~~shall~~will submit the agreement to the Court for approval. Agreements reached through mediation may not be enforced until an Order has been entered by the Court approving the agreement. If the agreement is not approved, or if the Court modifies the agreement, and the parties do not accept the modification, then the agreement shall be nullified, and will not be admissible in evidence.

**(E) Confidentiality of Mediation Process.** Mediation proceedings ~~shall~~must be held in private. All communications, verbal or written, by any person connected with the proceedings ~~shall~~must not be disclosed in any Court proceeding even upon waiver by the parties. The only exception to this confidentiality provision is the reporting requirement of A.R.S. § 13-3620.

**(F) Conclusion of Mediation.** The mediator ~~shall~~must notify the Court in writing when an agreement has been reached or the mediator concludes that further mediation is not warranted. Upon the issuance of this notice, mediation is concluded.

**(G) Subsequent Legal Decision-Making or Parenting Time Evaluation.** The Conciliation Court mediator or private mediator who conducts mediation pursuant to Pima County Local Rule ~~8-123.10~~ shall not subsequently serve as legal decision-making or parenting time evaluator for the same parties.

**(H) Private Mediation.** The parties may agree to mediate legal decision-making or parenting time disputes through a private mediator selected and paid for by the parties as an alternative to mediation through the Conciliation Court only by complying with the following:

The agreement to proceed with private mediation must be in writing, signed by all parties, filed with the Court, and a copy provided to the Conciliation Court. The name, address and telephone number of the private mediator and the date of the first mediation session must be contained in the agreement. The parties must also acknowledge in the written agreement that the private mediator has received a copy of Pima County Local Rule ~~8-123.10~~.

All the provisions of Pima County Local Rule ~~8-123.10~~ apply to private mediation, and any references to the Conciliation Court ~~shall be~~ deemed to include private mediators.

**~~8-13~~(3.11) Conciliation Court Services: Petitions for Conciliation:**

**(A) Filing of Pleadings.** All petitions and other pleadings filed pursuant to A.R.S. § 25-381.09 ~~shall~~must be filed with the Clerk of the Court and served upon the opposing party. Conciliation proceedings shall be assigned file numbers with the letter "X" as a prefix. Conciliation petitions may also be submitted at the Conciliation Court. The Conciliation Court ~~shall~~will review all petitions for compliance with the statute before filing by the Clerk of the Court.

**(B) Statements of Pending Proceedings.** Petitions for Conciliation ~~shall~~must state, in addition to the requirements of A.R.S. § 25-381.11 whether ~~or not~~ there is a pending legal proceeding between the parties.

**(C) Minute Entry Concerning Pending Action.** If an action for annulment, dissolution of marriage, or legal separation is pending, upon the filing of a conciliation petition, the ~~Conciliation Court Judge~~the Presiding Family Law Bench Judge, who is designated as the presiding judge of the Conciliation Court ~~shall~~will transfer the case to the Conciliation Court.

**(D) Hearings; Notices, Mailings and Response.** After the filing of a conciliation petition, or after the transfer of a pending family law case by order of the court, as provided in A.R.S. § 25-381.19, a judicial officer ~~shall~~will direct the Conciliation Court to schedule a time and place for a conciliation hearing. The Conciliation Court ~~shall~~must mail notice of the date and time of the hearing to each of the parties, ~~and shall also provide a copy of the Conciliation Petition to the respondent,~~at least 5 days prior to the conciliation hearing. Hearings ~~shall~~will be conducted ~~before the Director of Conciliation or a conciliation court staff member~~by a professional staff member of the Conciliation Court unless otherwise ordered by a judicial officer. A conciliation hearing may be recessed to a later time or rescheduled before the ~~Conciliation Court Judge~~Presiding Judge of the Conciliation Court or assigned Superior Court Judicial Officer from the Family Law Bench. Unless the parties agree otherwise, the conciliation proceedings ~~shall~~must be terminated 60 days after the filing of the petition.

Failure to attend the conciliation hearing without good cause may be deemed a contempt of court.

**(E) Confidentiality.** All communications in the Conciliation court, both oral and written, ~~shall~~must be confidential and ~~shall~~must not be disclosed without the consent of the party making such communication, except as otherwise required by law.

**8.14(3.12) Conciliation Court Services: Assessments and Evaluations:**

~~(A) Referral by the Court.~~ Legal Decision-Making and/or parenting time issues may be referred to the Conciliation Court to screen and determine if it is appropriate for an assessment or evaluation. The Conciliation Court shall review and determine whether the matter is appropriate for an assessment or evaluation according to the criteria adopted by the Conciliation Court. If appropriate, an assessment or evaluation may be conducted, in accordance with Rule 68(C), Arizona Rules of Family Law Procedure. The parties shall appear at all conferences scheduled and shall furnish all information requested by the evaluator.

~~(B) Referral by Stipulation.~~ The parties may stipulate to an assessment or evaluation of legal decision-making and/or parenting time issues by the Conciliation Court. The Conciliation Court shall review a case to determine if it is appropriate for an assessment or evaluation according to criteria adopted by the Conciliation Court. The Conciliation Court may consider the finances of the parties and the issues involved in the matter in determining whether an evaluation or assessment will occur. The parties shall complete the Domestic Relations Education on Children's Issues course and mediation prior to an evaluation being commenced.

(A) Referrals for Assessments and Evaluations . The Court may order or the parties may stipulate that legal decision-making and/or parenting time issues may be referred to the Conciliation Court to screen and determine if it is appropriate for an assessment or evaluation. The Conciliation Court will review and determine whether the matter is appropriate for an assessment or evaluation according to the criteria adopted by the Conciliation Court. The Conciliation Court may consider the finances of the parties and the issues involved in the matter in determining whether an evaluation or assessment will occur. If appropriate, an assessment or evaluation may be conducted, in accordance with Rule 68(C), ARFLP. The parties must appear at all conferences scheduled and must furnish all information requested by the evaluator. The parties must complete the Domestic Relations Education on Children's Issues course and mediation before an evaluation being commenced unless otherwise ordered by the Court.

**(C) Reports to the Court.** At the completion of an assessment or evaluation, the Conciliation Court will submit a report with recommendations ~~will be submitted~~ to the Court, with copies to the attorneys, or the parties if ~~unrepresented~~ self-represented. The report ~~shall~~ must be filed with the Court and an order ~~shall~~ will be entered sealing the report, to be opened or viewed only by Court order. The Court ~~shall~~ will consider the report and recommendations in determining legal decision-making and/or parenting time.

Should the parties reach an agreement regarding legal decision-making and/or parenting time during the evaluation, the evaluator ~~shall~~will submit a written report to the Court. The report ~~shall~~must summarize the parents' participation, and ~~shall~~must include the agreement reached by the parents, the recommendations of the evaluator, if any, and a statement of the evaluator's opinion whether the agreement is in the best interests of the minor children.

~~(D) Depositions of Conciliation Court Evaluators. Prior to seeking the issuance of a subpoena for a deposition of a Conciliation Court evaluator the party proposing to take such deposition must first obtain the approval of the assigned division. Pursuant to Rule 68(C)(5), Arizona Rules of Family Law Procedure the assigned division shall set reasonable limits on the deposition. Evaluators from the Conciliation Court may appear in court proceedings only when served with a subpoena that is timely and properly served.~~

**~~8.15~~(3.13) Parenting Coordinator: Private Appointments and Conciliation Court**

**~~Appointments:~~** The court may appoint a parenting coordinator pursuant to Rule 74, ~~Arizona Rules of Family Law Procedure~~ARFLP. The appointed parenting coordinator ~~shall~~is not be subject to subpoena, ~~nor~~and may not be called as a witness in the case, except as permitted by the ~~court~~Court.

**Rule 9.1. General Administration Rule 4 - Probate matters**

**General Administration**

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**(4.1) Cases:**

Probate matters include those matters set forth in Rule 1 of the Arizona Rules of Probate Procedure, Adult Adoptions, and Title 36 mental health cases. Sections 3-301, et seq. of the Arizona Code of Judicial Administration are also applicable in probate matters. The Code of Judicial Administration is available at <https://www.azcourts.gov/AZ-Supreme-Court/Code-of-Judicial-Administration>.

~~(a)~~**(4.2) Presiding Probate Judge:** ~~The presiding judge of the superior court shall designate the presiding judge of the probate division, who shall be charged with all actions involving trust and probate matters, guardianships, conservatorships, fiduciary actions, adult adoptions, mental health hearings, and supervision of mental health cases. All such matters are active cases until an order is entered closing the file or the registrar issues a closing certificate. The presiding judge of the superior court shall designate probate court commissioners. The judicial divisions consisting of the probate judge(s) and probate court commissioners shall constitute the probate division of the superior court. The Presiding Judge of the Probate Division is charged with all cases specified in Rule 4.1. All such matters are active cases until an order is entered closing the file or the Probate Registrar issues a closing certificate.~~

~~(b)~~**(4.3) Administrative directives; Approval of forms; Informational guides**

~~(1A)~~**Administrative directives.** ~~The presiding probate judge~~Presiding Judge of the Probate Division may adopt administrative directives for the probate division not in conflict with rules or policies adopted by the ~~supreme court for the probate division, court administrator, and court clerk~~ Arizona Supreme Court, Court Administrator, and Clerk of court, which provide for the orderly processing of probate cases. A copy of the administrative directives shall be available to the public at the clerk's office of the Pima County Superior Court, and the Pima County Law Library ~~and at the Pima County Bar Association office.~~

~~(2B)~~**Forms; guides.** ~~The presiding probate judge shall require the use of forms approved by the supreme court, and by administrative directive may approve informational guides for use in connection with actions identified in Rule 9.1(a). A copy of the informational guides shall be available to the public at the clerk's office of the Pima County Superior Court, the Pima County Law Library and at the Pima County Bar Association. Forms approved by the Arizona Supreme Court and informational guides are available at <http://www.azcourts.gov>. Additional forms~~

from the Arizona Superior Court in Pima County website are available at <http://www.sc.pima.gov> under the Self-Service Forms tab for Probate/Guardianship.

~~(c) Probate calendar specialist.~~ The court administrator shall assign to the probate division a probate calendar specialist and such other personnel as may be required. The probate calendar specialist shall maintain a calendar of all probate matters to be heard by each judicial division and shall perform other duties as the presiding probate judge shall direct.

~~(d4.4) Caption of pleadings~~Pleadings; Consolidation:

~~(1A) Caption of pleadings.~~ In addition to the requirements of Rule 5, Arizona Rules of Probate Procedure, Thethe caption of the pleading shall must contain the date of birth of the decedent, minor, protected person, or incapacitated person.

~~(2B) Consolidation.~~ When there are two or more petitions relating to the estate of the same decedent or the guardianship or conservatorship of the same ward, all the petitions shall must, except for good cause shown, be consolidated in the file bearing the lowest file number.

~~(e4.5) Fiduciary information~~Information; change~~Change of address~~Address:

~~(1A) Fiduciary information~~Information. All petitions and applications requesting appointment of a fiduciary must contain the street address and mailing address of the person to be appointed. The petition or application shall be accompanied by a Verified Statement and an information sheet containing the fiduciary's name, certificate number if applicable, date of birth, social security number, identifying information, street address, mailing address, current employer and employer's address, and the relationship to the decedent, minor protected person, or incapacitated person. The information sheet shall not be placed in the court file. Form for Notice of Change of Address can be found at the Arizona Superior Court in Pima County website at <http://www.sc.pima.gov/> under the Self-Service Forms tab for Probate/Guardianship.

~~(2B) Change of address~~Address. During the term of the appointment, every fiduciary shall immediately notify the court in writing of a change of mailing address. The change of address notice may be delivered personally to the probate division of the clerk of the court or sent by first class mail, postage prepaid, to the following address: Clerk of the Superior Court, Probate Division, Pima County Court, 110 W. Congress, Tucson, Arizona 85701. A separate notice shall be filed for each case in which the fiduciary holds appointment. The fiduciary shall, absent good

~~cause, pay all costs of the court or the estate, which result from the failure to notify the court. An attorney representing a fiduciary shall inform the client in writing of this requirement. Each Statement of Registrar and each court order appointing a fiduciary shall contain a provision notifying the fiduciary of this continuing duty. During the term of the appointment, every fiduciary must immediately notify the court in writing of a change of mailing address. An attorney representing a fiduciary must inform the client of this requirement. The Notice of Change of Address notice must be either:~~

- ~~(1) Delivered personally to the Probate Division of the Clerk of the Superior Court; or~~
- ~~(2) Sent by first class mail, postage prepaid, to the following address: Clerk of the Superior Court, Probate Division, Pima County Court, 110 W. Congress, Tucson, Arizona 85701.~~

~~A separate notice shall be filed for each case in which the fiduciary holds appointment.~~

~~(C) Sanctions for Failure to Notify of Change of Address. Failure to notify the Court of the fiduciary's change of address may result in sanctions which may include any of the following:~~

- ~~(1) An order requiring payment of all costs to the Court or the estate which result from the failure to notify the Court;~~
- ~~(2) Removal of a fiduciary; or~~
- ~~(3) Issuance of an arrest warrant for the fiduciary if the fiduciary cannot be readily located.~~

~~(f) Duties of fiduciary~~

~~(1) Submission of general order. Each petitioner and applicant for appointment of a guardian, conservator, or personal representative shall file with the petition or application a copy of the court's general order to the fiduciary which the proposed fiduciary has signed to certify that the fiduciary has received and read the general order.~~

~~(2) Signing of general order. Letters of appointment may not be issued to a guardian, conservator, or personal representative until any required bonds are filed and a judicial officer has signed both the order or statement of appointment and the copy of the general order which has been signed by the fiduciary.~~

~~(g4.6) Assignment of cases. All matters arising under Title 14 of the Arizona Revised Statutes shall be assigned to the presiding probate judge, except the following:~~

- ~~(1) Uncontested matters heard by a court commissioner pursuant Rule 96(a)(5) Rules of the Supreme Court;~~

~~(2) Any matter separately assigned by the presiding probate judge and heard by a court commissioner acting as judge pro tempore;~~

~~(3) Any matter referred by the presiding probate judge for reassignment. All probate matters will be assigned by the Clerk of the Superior Court, Probate Division, to the Probate Court Commissioners, except the following which are to be assigned to the Probate Presiding Judge:~~

~~(A) Emergency or temporary petitions relating to adults;~~

~~(B) Contested matters unless otherwise ordered by the Presiding Probate Judge;~~

~~(C) Request for injunctive relief; and~~

~~(D) Any matter referred by the Probate Commissioners or the Presiding Probate Judge for reassignment.~~

~~(4.7) Uncontested matters and Matters Becoming Contested: Uncontested probate matters shall be heard each court day at 9:00 a.m., except a different time may be set upon good cause. Upon the matter becoming contested, as defined in 9.5(a), the court commissioner shall assign the matter to the presiding probate judge for all further proceedings.~~

~~Unless a different time is set by the court, uncontested probate matters will be heard Mondays, Tuesdays, Wednesday, and Thursdays at 9:00 a.m., 9:30 a.m., 10:00 a.m., and 10:30a.m. Order to Show Cause hearings will be heard at 11:00 a.m. Upon the matter becoming contested, as defined in Rule 4.8 the Court Commissioner will assign the matter to the Presiding Probate Judge for all further proceedings.~~

#### (4.8) Contested Matters

In addition to those matters in Rule 27, Arizona Rules of Probate Procedure, a contested probate matter includes any of the following:

(A) A request for injunction;

(B) An Order to Show Cause arising under Title 14, Arizona Revised Statutes;

(C) A civil complaint filed in a probate proceeding.

#### (4.9) Reference and Assignment of Contested Matters:

All contested matters referred to in Local Rule 4.8 will be assigned for trial before the Presiding Probate Judge. In the Presiding Probate Judge's discretion, such matters may be reassigned to a probate commissioner or judge pro tempore.

(4.10) Form, Content and Captions:

All pleadings and motions in contested probate matters, including but not limited to petitions, objections, oppositions, complaints and answers, must conform to the Arizona Rules of Probate Procedure and the Arizona Rules of Civil Procedure. In a contested probate matter, a separate caption showing the parties to the dispute must be set forth beneath the original caption and must be filed under the assigned probate case number.

(i) Hearings

~~(1) Types.~~ Matters requiring hearings may be set and noticed for appearance in open court or on a non-appearance calendar.

~~(2) Non-appearance calendar.~~ Each probate court commissioner and probate judge shall maintain a nonappearance calendar for uncontested matters which do not require personal appearance of the parties or counsel. Any uncontested matter except the appointment of a guardian or conservator may be heard on the nonappearance calendar unless the court notifies the filing party that an appearance is required. A proposed form of order, judgment, or decree shall be submitted with the pleading.

~~(3) Setting dates.~~ Each probate commissioner and judge shall set the date and time for hearings on matters assigned to their division. Except for emergencies, requests for injunctive relief, or as otherwise provided for under the Arizona Rules of Civil Procedure, the hearing date shall not be less than twenty-one days from the filing date of the applicable pleading absent good cause.

~~(4) Accelerations.~~ A motion to accelerate a hearing shall state good cause, identify the time constraint, and be accompanied by an order to shorten time. The motion to accelerate shall be accompanied by a copy of the substantive petition. No hearing shall be accelerated to a date earlier than that required by statute or rule.

~~(5) Emergencies and request for injunctive relief.~~ Emergency matters consist of matters requiring the temporary protection of property pursuant to A.R.S. § 14-5602, the temporary suspension or appointment of a conservator pursuant to A.R.S. § 14-5401.01, or the temporary suspension or appointment of a guardian pursuant to A.R.S. § 14-5310. All emergency hearings and hearings on requests for injunctive relief shall be set on the calendar of the presiding probate judge unless otherwise directed by the presiding probate judge.

~~(6) Continuances.~~ Requests for continuances may be made by 1) filing a motion to continue, in which event the requesting party shall also file a proposed form of order and notice of hearing, and shall give notice and shall file proof of such notice to all interested persons entitled to

~~notice by statute, rule, or court order; 2) filing a written stipulation of all parties and persons requesting notice, accompanied by a form of order and identifying the party who shall mail notice to all interested persons entitled to notice by statute, rule, or court order and file proof of notice; or 3) oral request at the hearing. Requests for continuances shall be filed with the Clerk of Court and a copy shall be delivered to the calendar services division of court administration and the assigned division prior to the trial or hearing. Continuances may also be granted at the discretion of the court for good cause.~~

~~(7) Form and Proof of Notice~~

~~(i) Form. All notices shall include the title of the pleading filed, the type of hearing set, the date, time, and place of the hearing. Each notice of hearing shall include the following warning to interested persons:~~

~~**YOU ARE RESPONSIBLE FOR PROTECTING YOUR INTERESTS.**~~

~~This matter may not be independently investigated or verified by the court. If you object to any part of the petition, you must file a written objection with the court describing the legal basis for your objection. Failure to file a written objection may jeopardize your interests. Without your written objection, you should expect that the requested relief will be granted. If you question any other action of the fiduciary, file an appropriate written petition or motion with the court.~~

~~This is a legal matter. If you have questions, seek legal advice from an attorney. You have the right to represent yourself. If you represent yourself you must correctly follow court procedures.~~

~~(ii) Proof of Notice. The party who is required to give notice shall file a proof of notice and a copy of the notice given at least seven days prior to the hearing or provide copies thereof to the judicial officer with evidence that the originals have been filed with the clerk of court. The proof of notice shall state the time and manner of notice. The proof of notice shall identify any noticed person who is known by the party to be a minor or a person under disability and, as to such person, state whether notice was given to the guardian, conservator, or court appointed attorney of the person.~~

~~(8) Waivers of notice. Matters in which notice has been waived may be presented for approval to the presiding probate judge or a probate court commissioner who shall set the matter for hearing without the requirement of notice. Such matters shall be set and considered as time permits. If a matter is time sensitive, the petition or motion shall identify the time constraint. If all required waivers of notice, stipulations, and consents are filed with the petition or motion,~~

the court may grant the requested relief without further delay. In such cases, the party seeking relief shall, within 14 days of the order, mail or deliver a copy of the order to all interested persons and file proof of notice thereof.

~~(j) Compensation of attorneys and fiduciaries.~~ In all matters filed in court related to compensation of fiduciaries and attorneys, the party requesting compensation or approval of compensation shall file a verified, detailed statement of the services rendered and the time involved. If a motion for attorneys' fees is contested, opposing parties may respond to the motion, and a hearing may be granted in the discretion of the court. In addition, the court may refer issues relating to the value of services to a Special Master under Rule 53.

~~(k) Court reporters, special needs, and interpreters.~~ Written requests for court reporters, special needs accommodations, or interpreters shall be filed with the clerk and a copy directed to the division hearing the matter at least 48 hours in advance of the hearing. Any party needing interpreter services is responsible for providing and paying for such services. The court may impose the cost of court interpreter services on non-indigent parties. A party may seek leave of the court at an uncontested hearing to use the court interpreter services, family, or friends.

~~(l) Annual reports, noncompliance, fines.~~ When an annual report of a guardian or annual accounting by a conservator is not timely filed, the court may continue the matter once for compliance on the nonappearance calendar. Any further continuance must be on written motion for good cause shown. If the required documents are not timely filed before the time of the continued hearing, a judge or commissioner of the probate division may make such order as permitted by law, including taxation of costs, or attorneys' fees then or subsequently incurred; or the imposition upon the guardian, conservator, personal representative or counsel of further sanctions or penalties provided by statute, rule or authority of the court, including contempt of court

~~(m) Court orders, noncompliance, fines.~~ For failure of a guardian, conservator or personal representative to comply with an order of the court for filing an inventory, posting a bond, filing proof of a restricted account, filing proof of expenditures, filing proof of settlement and disbursement and other orders for compliance, at the time of the first hearing set on the nonappearance calendar, a judge or commissioner of the probate division may make such order as permitted by law, including taxation of costs, or attorneys' fees then or subsequently incurred; or the imposition upon the guardian, conservator, personal representative or counsel of further sanctions or penalties provided by statute, rule or authority of the court, including contempt of court. A sanction may not be imposed if a motion to extend the deadline for compliance is filed prior to the expiration of the deadline and good cause is shown.

~~(n) Consents and waivers, notary required.~~ Each consent or waiver filed shall be notarized before a notary public or before a deputy clerk upon showing of proper identification, or subscribed as provided in Rule 80(i) of the Rules of Civil Procedure.

~~(o) Motion for telephone or video appearance.~~ Any party or counsel desiring to appear other than in person shall file a written motion consistent with Rule 9.1(i) stating good cause with notice to all interested persons. No case or hearing shall be given preference for hearing by reason of an order permitting an appearance other than in person. The party requesting a telephonic or video appearance shall make necessary arrangements and pay for any associated costs.

**(4.11) Hearings and Oral Argument:**

**(A) Notice of Hearing; Oral Argument; Evidentiary Hearing; M Book or Submitted Motions.**

The requirements for a Notice of Hearing are set forth in Rule 9, Arizona Rules of Probate Procedure. The following requirements are in addition to those set forth in Rule 9:

- (1) If oral argument or an evidentiary hearing is desired, the parties are required to follow the dictates of Pima County Local Rule 2.9 entitled "Oral Argument, Notice of Hearing, Submitted Motions";
- (2) If the party submitting the Notice of Hearing is requesting oral argument and/or an evidentiary hearing, the Notice of Hearing must so state;
- (3) Any Notice of Hearing for an appearance hearing must provide the Court with an estimated amount of time necessary for the hearing. Otherwise, the Court will set the hearing for as few as five (5) minutes; and
- (4) Failure to submit a Notice of Hearing to the assigned Division at the time of filing a Petition or moving paper or any document in opposition thereto or failure to request oral argument and/or an evidentiary hearing within the Notice of Hearing will result in the matter being placed on the Court's "M Book" Calendar and will be decided by the court had as proscribed in (b) below without oral argument/evidentiary hearing unless the Court orders otherwise.

**(B) M Book Calendar; Submitted Motions.** Matters placed on the Court's M Book Calendar will be decided on the papers submitted unless otherwise ordered by the Court.

**(C) Non-appearance Calendar.**

(1) Each Probate Court Commissioner and Probate Judge will maintain a non-appearance calendar. Any uncontested matter except the appointment of a guardian or conservator may be heard on the non-appearance calendar unless the Court notifies the filing party that an appearance is required.

(2) A proposed form of order or judgment must be submitted with the documents relating to the non-appearance hearing.

(3) Non-appearance hearings are set for 8:55 a.m. on the appointed date unless otherwise ordered by the Court.

(D) Setting Dates. Each Probate Court Commissioner and Probate Judge will set the date and time for hearings on matters assigned to their Division. Except for emergencies, requests for injunctive relief, or as otherwise provided for under the Arizona Rules of Civil Procedure, the hearing date shall not be fewer than twenty-one (21) days from the filing date of the applicable pleading absent good cause.

(E) Continuances. Requests for continuances may be made as follows:

(1) Filing a motion to continue, a proposed order, notice of hearing, and proof of notice to all interested persons entitled to notice by statute, rule, or court order;

(2) Filing a written stipulation of all necessary parties and persons requesting notice, and a proposed order; or

(3) Making an oral request at the hearing.

(F) Form and Proof of Notice

(1) Proof of Notice of any document or item filed with or provided to the court is required.

(2) If the form of Proof of Notice is set forth by statute or court rule, that form must be followed. The rules applicable to captions and other matters of form of pleadings apply to all proofs of notice provided by this rule.

(3) If the form of proof of notice is not set forth by statute or court rule then proof of notice must be made by one of the following methods and must be signed by the person effectuating service:

(a) By filing a separate document in the matter entitled "Proof of Notice" which contains a description of the documents or things filed and served, the time and manner of service, and the name and service address of every noticed person; or

(b) By certification of service/notice as set forth in Rule 5 of the Arizona Rules of Civil Procedure which includes the time and manner of service, and the name and address of every noticed person.

The proof of notice or certification must identify any noticed person who is known by the party to be a minor or a person under disability and, as to such person, state whether notice was given to the guardian, conservator, or court appointed attorney of the person.

(G) Waivers of Notice. In addition to the requirements of Rule 14, Arizona Rules of Probate Procedure, matters in which notice has been waived may be presented for approval to the Presiding Probate Judge or a Probate Court Commissioner who will set the matter for hearing without the requirement of notice. Such matters will be set and considered as time permits. If a matter is time sensitive, the petition or motion must identify the time constraint. If all required waivers of notice, stipulations, and consents are filed with the petition or motion, the Court may grant the requested relief without further delay. In such cases, the party seeking relief must mail or deliver a copy of the order to all interested persons upon receipt and file proof of notice thereof, within a reasonable time not to exceed fourteen (14) days.

(H) Compensation of Attorneys and Fiduciaries. In all matters filed in court related to compensation of fiduciaries, attorneys, and court-appointed investigators, the party requesting compensation or approval of compensation must file a verified, detailed statement of the services rendered and the time involved as required by statute, rule and applicable case law. This Rule does not apply to claims against Pima County for a Pay Order; such claims must adhere to Pima County's billing requirements.

~~(p4.12) Motions to Withdraw as Counsel: In addition to all applicable rules regarding withdrawal of counsel from active cases, counsel for a conservator or a personal representative shall include with the motion to withdraw a status report in conformity with Rule 9.3(b)(2). In addition to all applicable rules regarding withdrawal of counsel from active cases, counsel for a guardian shall include with the motion to withdraw a current report of guardian in conformity with Rule 9.2(e). This requirement shall be waived only by a written stipulation of all interested persons as defined in A.R.S. § 14-1201(26) or a court order after notice and hearing. Counsel must also provide a verified, itemized statement of all services for which payment has been~~

made or is expected. Such statement shall conform with the requirements of Rule 9.1(j) hereof, shall indicate all sums paid, and state whether a claim for unpaid fees or expenses is being made to any successor fiduciary. Any attorney who does not make a claim for unpaid fees and expenses prior to withdrawal is deemed to have waived any further claims.

In addition to Rule 5.3, Arizona Rules of Civil Procedure and Rule 10 (D) (2), Arizona Rules of Probate Procedure regarding withdrawal of counsel, no attorney will be permitted to withdraw as attorney of record after an action has been set for trial, an evidentiary hearing or oral argument, unless either of the following is satisfied:

- (A) There is endorsed upon the application therefore either the signature of a substituting attorney stating that such attorney is advised of the date of the hearing or trial and will be prepared for same or the signature of the client stating that the client is advised of the date of the hearing or trial and has made suitable arrangements to be prepared for same; or
- (B) The Court is satisfied for good cause shown that the attorney should be permitted to withdraw.

### **Rule 9.2. Guardianships and Conservatorships**

~~(a) Guardianships and conservatorships, disclosure affidavit.~~ A completed disclosure affidavit as required by Arizona Revised Statutes § 14-5106 shall be filed with all petitions for appointment of a temporary or permanent guardian or conservator.

~~(b) Guardian of minor, fingerprints.~~ Where the proposed guardian of a minor is required to be fingerprinted pursuant to Arizona Revised Statutes § 14-5206, the proposed guardian shall be fingerprinted within five days of filing the petition for appointment of guardian of a minor. Information about the fees and the procedure for fingerprinting may be obtained by contacting the clerk of the court.

~~(c) Court appointed attorneys, medical examiners, and investigators.~~ In any proceeding in which a court appointed attorney, medical examiner, or investigator is requested, the petitioner shall submit a form of order with the name and address for the attorney and investigator left blank for completion by the court. The petitioner shall include in the form of order the name and address of the medical examiner. The presiding probate judge shall maintain a rotating list of court appointed attorneys and court appointed investigators for Title 14 and Title 36 matters. For good cause shown, the court may appoint an attorney or investigator other than those listed.

~~(d) Temporary appointment of guardian or conservator.~~ When petitioning for an emergency appointment of temporary guardians or conservators, the petitioner shall submit conformed copies of the petition and all required pleadings to the presiding probate judge, or in the absence of the presiding probate judge, to the probate assignment commissioner.

~~(e) Annual report of guardian.~~ Guardians appointed for adult incapacitated persons pursuant to Title 14 shall file each year on the anniversary of the appointment or as otherwise ordered by the court, a report providing information required by A.R.S. § 14-5315 as set forth in a form approved by the supreme court. The annual report will be set for review each year on the nonappearance calendar.

~~(f) Conservatorship inventories and accounts~~

~~(1) Inventories.~~ All inventories filed pursuant to Chapter 5 of Title 14, Arizona Revised Statutes, shall be in accordance with forms approved by the supreme court.

~~(2) Accounts~~

~~(i) Forms.~~ All accounts filed pursuant to Chapter 5 of Title 14, Arizona Revised Statutes, shall be in accordance with forms approved by the supreme court.

~~(ii) Accompanying documents.~~ All accounts filed pursuant to Chapter 5 of Title 14, Arizona Revised Statutes, must be accompanied by:

~~(A) A current court Account Information Sheet approved by the presiding probate judge;~~

~~(B) A copy of the statement for each account listed in the account which includes the ending date of the accounting period;~~

~~(C) A proposed form of order. The order shall include provisions allowing the court to set i) the date for the next annual review hearing to be set by the court; ii) the date for the next annual accounting period year end; and iii) the increase or decrease of the fiduciary bond, if appropriate.~~

~~(g) Appointment or reappointment of attorney.~~ When an account is filed pursuant to Chapter 5 of Title 14, Arizona Revised Statutes and the rights of the protected person may be compromised because the protected person is unrepresented, the court may appoint an attorney to represent the protected person.

~~(h) Appointment of attorney for approval of settlement for minor. If the rights of an unrepresented minor may be compromised because the minor is unrepresented, the court may appoint an attorney to represent the minor.~~

(4.13) Guardian of minor, fingerprints:

Where the proposed guardian of a minor is required to be fingerprinted pursuant to Arizona Revised Statutes § 14-5206, the proposed guardian must be fingerprinted promptly after filing the petition for appointment of guardian of a minor. Information about the fees and the procedure for fingerprinting may be obtained by contacting the Clerk of the Superior Court. Rule 21, Arizona Rules of Probate Procedure, contains further requirements.

(4.14) Court Order Appointing Attorney, Medical Examiner, and Investigator:

In addition to the requirements of Rule 19 of the Arizona Rules of Probate Procedure, in any proceeding in which a court appointed attorney, medical examiner, or investigator is requested:

(A) The petitioner must submit a form of order with the name and address for the attorney and investigator left blank for completion by the Court or Probate Registrar.

(B) The petitioner must include in the form of order the name and address of the medical examiner.

(C) The party seeking the order of appointment must;

(1) immediately inform the court appointed attorney, medical examiner and investigator of their appointment; and

(2) also mail or deliver a copy of the order of appointment to the court appointed attorneys, medical examiner and investigator within two (2) days after the order is signed.

(D) The Presiding Probate Judge will maintain a rotating list of court appointed attorneys and court appointed investigators for Title 14 and Title 36 matters. For good cause shown, the court may appoint an attorney or investigator other than those on the rotating list.

(4.15) Temporary appointment of guardian or conservator:

When petitioning for an emergency appointment of temporary guardian of an adult or conservator of a minor or adult, the petitioner must submit conformed copies of the petition and all required pleadings to the Presiding Probate Judge, or in the absence of the Presiding Probate Judge, to the Probate Registrar, unless otherwise ordered or directed.

**(4.16) Appointment of Attorney:**

If the rights of an unrepresented minor may be compromised because the minor is unrepresented, the court may appoint an attorney to represent the minor.

**(4.17) Settlement Conferences:**

(A) Settlement conferences are not mandatory in probate matters and are governed by Rule 29, Arizona Rules of Probate Procedure.

(B) The Probate Presiding Judge will compile a list of attorneys qualified and willing to serve as judges pro tempore for purposes of presiding over and facilitating settlement conferences.

(C) Any attorney included on the list of judges pro tempore for the probate settlement conferences may, upon the attorney's request, be deleted from the court's list of persons subject to appointment as arbitrators pursuant to Rule 73, Arizona Rules of Civil Procedure.

**Rule 9.3. Decedents' Estates**

**~~(a) Estate inventories and accounts~~**

~~(1) Inventories. All inventories filed pursuant to Chapter 3 of Title 14, Arizona Revised Statutes, shall be in accordance with forms approved by the supreme court.~~

~~(2) Accounts. All accounts filed pursuant to Chapter 3 of Title 14, Arizona Revised Statutes, shall be in accordance with forms approved by the supreme court.~~

**~~(b) Review of pending decedent estates; status report~~**

~~(1) Completion; verification. At the time a personal representative or special administrator is appointed, the court shall order the fiduciary to file a status report between sixty and thirty days before the second anniversary of the appointment and set a review hearing on the non-appearance calendar to review any status report filed by the fiduciary or the fiduciary's counsel.~~

~~(2) Status report. The status report shall include 1) reasons why the estate has not been closed; 2) tasks remaining to be completed; 3) distributions to beneficiaries; 4) inventory of assets remaining; 5) status of insurance and taxes on assets, if applicable; 6) name and address of unpaid creditors including amounts owed; and 7) estimated time for completion of the estate administration. The personal representative shall mail a copy of the status report to all~~

~~interested persons no later than 30 days prior to the review hearing and shall file proof of notice with the court.~~

~~(3) *Early completion.* The procedure described in Rule 9.3(b)(2) shall be followed on each subsequent anniversary of the appointment until the estate is closed. If the estate is closed prior to any status date, the status and compliance hearing dates shall be vacated. If for any reason the dates are not vacated at the time of closing the estate, the court may automatically vacate the status and compliance dates by minute entry without further notice.~~

~~(4) *Non-compliance.* For failure of the fiduciary or the fiduciary's counsel to comply with this rule, a judge or commissioner of the probate division may make such order as permitted by law, including taxation of costs, or attorneys' fees then or subsequently incurred; or the imposition upon either counsel or the fiduciary of further sanction or penalty provided by statute, rule or authority of the court, including contempt of court.~~

~~(5) *Case processing report.* The presiding probate judge shall each year cause a review and report to be made on all inactive probate cases. The presiding probate judge shall take appropriate action in those cases exhibiting undue delay.~~

**(4.18) Review of Pending Decedents' Estates; Status Report:**

**(A) Completion; Verification.** At the time a personal representative or special administrator is appointed, the court will order the fiduciary to file a status report between sixty (60) and thirty (30) days before the second anniversary of the appointment and set a review hearing on the non-appearance calendar to review any status report filed by the fiduciary or the fiduciary's counsel.

**(B) Status Report.** The status report must include the following:

- (1) Reasons why the estate has not been closed;
- (2) Tasks remaining to be completed;
- (3) Distributions to beneficiaries;
- (4) Inventory of assets remaining;
- (5) Status of insurance and taxes on assets, if applicable;
- (6) Name and address of unpaid creditors including amounts owed; and
- (7) Estimated time for completion of the estate administration.

The personal representative must mail a copy of the status report to all interested persons no later than thirty (30) days before the review hearing and must file proof of notice with the court.

(C) Early completion. The procedure described in Rule 4.19 must be followed on each subsequent anniversary of the appointment until the estate is closed unless otherwise ordered by the court. If the estate is closed before any status date, the status and compliance hearing dates shall be vacated.

(D) Noncompliance. For failure of the fiduciary or the fiduciary's counsel to comply with this rule, a judge or commissioner of the probate division may make such order as permitted by law, including, but not limited to, the following: (1) removal of the fiduciary (2) taxation of costs and/or attorneys' fees then or subsequently incurred; or (3) imposition upon either counsel or the fiduciary of further sanction or penalty provided by statute, rule or authority of the court, including contempt of court.

#### **Rule 9.4-Adult Mental Health**

~~(a) Mental health hearing calendar. Hearings pursuant to Chapter 5, of Title 36, Arizona Revised Statutes, entitled "Mental Health Services," shall be conducted at such times and places as may be designated by the presiding judge of the probate division.~~

#### **(b) Hearings**

~~(1) Length of hearing. Hearings on petitions for court ordered treatment shall not exceed one (1) hour unless otherwise ordered by the court on its own motion or for good cause upon a party's request. Any request by a party for an extended length of hearing shall be filed not later than two (2) days prior to the hearing.~~

~~(2) Hearings open to Public. Hearings on petitions for court ordered treatment shall be open to the public, unless otherwise ordered by the judicial officer presiding over the hearing, and shall conclude by 5:00 p.m., except as otherwise ordered.~~

~~(3) Stipulations to continue or expedite hearing. Any stipulation of the parties to continue a hearing on a petition for court ordered treatment, or any request to expedite the hearing, shall be filed not later than noon on the day prior to the hearing.~~

~~(4) Motions. Any motion hearings related to mental health cases shall be scheduled at the earliest available hearing date. If the hearing on the motion cannot be set by the court within two (2) business days after filing of the motion, the court may conduct a telephonic hearing~~

~~with counsel to expedite scheduling the hearing on the motion or, alternatively, to hear the arguments on the motion telephonically. Unless otherwise ordered by the court, no motion hearing shall exceed (30) thirty minutes.~~

~~(5) Changes affecting court calendar. All matters, including stipulations, which affect the court calendar must be approved by the division to which the case is assigned and shall be submitted not later than noon on the day prior to the hearing, unless the court approves otherwise.~~

~~(6) Written testimony. By stipulation of the parties, witness testimony at hearings may be presented by written testimony in lieu of oral testimony.~~

~~(7) Telephonic testimony. The judicial officer assigned to the hearing, for good cause, may allow telephonic testimony of a witness at a hearing on a petition for court ordered treatment. Any such request by either party shall be promptly presented to the judicial officer presiding over the hearing and opposing counsel.~~

~~(c) Disclosure of witnesses and exhibits. Each party shall comply with the following disclosure requirements:~~

~~(1) Each party shall promptly exchange a list of all witnesses, including their names and telephone numbers.~~

~~(2) Each party shall promptly exchange a list of all exhibits.~~

~~(3) Such disclosure shall be made not later than two (2) days prior to the time of the hearing.~~

~~(4) Each party shall promptly supplement the witness and exhibit list whenever a new witness or exhibit is discovered.~~

~~(d) Confidentiality of files. Pursuant to A.R.S. § 36-509, the clerk of the superior court or court staff shall allow access to mental health files only as follows:~~

~~(1) To disclose only the following information:~~

~~(i) The fact that a mental health file exists for any named individual.~~

~~(ii) The number of that file.~~

~~(iii) Any scheduled hearing date.~~

~~(iv) The time and place of the hearing, and the name of the judicial officer assigned to preside at that hearing.~~

~~(2) The court docket shall list the docket number only and that shall remain public.~~

~~(3) Access to the contents of a mental health file shall not be allowed except in compliance with A.R.S. § 36-509.~~

~~(4) If the clerk or court staff is uncertain whether a person requesting information or access is entitled to the same under A.R.S. 36-509, the person shall be referred to the presiding judge of the probate division.~~

~~(e) **Transfer to the state hospital.** If the Department of Health Services does not admit a person court ordered to the Arizona State Hospital within twenty (20) days after the entry of the court order for transfer, the county attorney's office shall file written notice thereof with the court with a copy to the judicial officer who presided over the hearing. The judicial officer may set a hearing to determine the status of the patient's admission to the Arizona State Hospital and whether alternatives to admission to the Arizona State Hospital exist at that time. The court may designate the hearing as either evidentiary or non-evidentiary.~~

**(4.19) Mental health hearing calendar:**

Hearings pursuant to Chapter 5, of Title 36, Arizona Revised Statutes, entitled "Mental Health Services," will be conducted at such times and places as may be designated by the Presiding Judge of the Probate Division. Such hearings will be conducted by Probate Court Commissioners unless otherwise directed by the Presiding Probate Court Judge.

**(4.20) Hearings:**

(A) **Length of hearing.** Hearings on petitions for court ordered treatment or continued court ordered treatment will not exceed one (1) hour unless otherwise ordered by the court on its own motion or for good cause upon a party's request. Any request by a party for an extended hearing must be submitted not later than two (2) days before the hearing.

(B) **Hearings open to public.** Hearings on petitions for court ordered treatment will be open to the public, unless otherwise ordered by the judicial officer presiding over the hearing, and must conclude by 5:00 p.m., except as otherwise ordered.

(C) **Stipulations to continue or expedite hearing.** Any stipulation of the parties to continue a hearing on a petition for court ordered treatment, or any request to expedite the hearing, must be filed not later than noon on the day before the hearing.

(D) Motions. Any motion hearings related to mental health cases must be scheduled at the earliest available hearing date. If the hearing on the motion cannot be set by the court within two (2) business days after filing of the motion, the court may conduct a telephonic hearing with counsel to expedite scheduling the hearing on the motion or, alternatively, to hear the arguments on the motion telephonically. Unless otherwise ordered by the court, no motion hearing may exceed (30) thirty minutes.

(E) Changes affecting court calendar. All matters, including stipulations, which affect the court calendar must be approved by the division to which the case is assigned and must be submitted not later than noon on the day before the hearing, unless the Court approves otherwise.

(F) Written testimony. By stipulation of the parties, witness testimony at hearings may be presented by written testimony in lieu of oral testimony.

(G) Telephonic testimony. The judicial officer assigned to the hearing, for good cause, may allow telephonic testimony of a witness at a hearing on a petition for court ordered treatment. Any such request by either party must be promptly presented to the judicial officer presiding over the hearing and opposing counsel.

#### (4.21) Disclosure of witnesses and exhibits

Each party must comply with the following disclosure requirements:

(A) Each party must promptly exchange a list of all witnesses, including their names and telephone numbers;

(B) Each party must promptly exchange a list of all exhibits;

(C) Such disclosure must be made not later than two (2) days prior to the time of the hearing;

and

(D) Each party shall promptly supplement the witness and exhibit list whenever a new witness or exhibit is discovered.

#### (4.22) Confidentiality of files

(A) Pursuant to A.R.S. §36-509, the Clerk of the Superior Court or court staff must limit access to mental health files and must disclose only the following information:

(1) That a mental health file exists for any named individual;

(2) The number of that file;

(3) Any scheduled hearing date; and

(4) The time and place of the hearing and the name of the judicial officer assigned to preside at that hearing.

(B) The court docket shall list the docket number only, which must remain public.

(C) Access to the contents of a mental health file must not be allowed except in compliance with A.R.S. § 36-509.

(D) If the clerk or court staff is uncertain whether a person requesting information or access is entitled to the same under A.R.S. §36-509, the person must be referred to the Presiding Judge of the Probate Division.

(E) Transfer to the state hospital. If the Department of Health Services does not admit a person court ordered to the Arizona State Hospital within twenty (20) days after the entry of the court order for transfer, the county attorney's office must file written notice thereof with the court with a copy to the judicial officer who presided over the hearing. The judicial officer may set a hearing to determine the status of the patient's admission to the Arizona State Hospital and whether alternatives to admission to the Arizona State Hospital exist at that time. The court may designate the hearing as either evidentiary or non-evidentiary.

#### **Rule 9.5. Contested Probate Matters**

~~(a) Contested matter. A contested probate matter arises upon the filing with the court of any of the following:~~

~~An objection to an informal probate or appointment proceeding;~~

~~An objection to a formal testacy or appointment proceeding;~~

~~An opposition to a petition;~~

~~An application for injunction;~~

~~An order to show cause arising under Title 14, Arizona Revised Statutes;~~

~~A complaint in a probate proceeding.~~

~~If a complaint in a probate proceeding involves a certified fiduciary, the judicial officer shall notify the Fiduciary Program in compliance with Rule 1.2.2 of the Administrative Code.~~

~~(b) Reference and assignment of contested matters.~~ All contested matters referred to in Rule 9.1(a) shall be preferred for trial and shall be assigned for trial before the presiding probate judge in conformity with Rule 9.1(g).

~~(c) Form, content and captions, service.~~ All objections, oppositions, and complaints, and all further pleadings in contested probate matters shall conform to Rule 10 of the Arizona Rules of Civil Procedure. In a contested probate matter, a separate caption showing the parties to the dispute shall be set forth beneath the original caption and shall be filed under the assigned probate case number. Service of an objection or opposition shall be given as provided in A.R.S. § 14-1401 (General Notice Provisions); A.R.S. § 14-5309 (Guardianship Notice); A.R.S. § 14-5405 (Conservatorship Notice); A.R.S. § 14-3403 (Formal Probate Notice). Service of a complaint and subsequent pleadings shall be given as provided in Rules 4 and 5 of the Arizona Rules of Civil Procedure.

~~(d) Objections and oppositions~~

~~(1) Filing.~~ Except for good cause shown, all objections and oppositions to matters set for a non-appearance or an appearance hearing shall be made either by filing a written objection or opposition with the probate clerk (and at the same time providing a copy to the judge or commissioner then scheduled to hear the matter) at least three days prior to the hearing date with appropriate notice to all interested parties, or by appearing in person or through an attorney at the time and place set forth in the notice of hearing.

~~(2) Pleading practice.~~ For purposes of contested matters, written objections and oppositions shall be treated as an answer and any further pleadings and the time limits for filing such additional pleadings and motions shall be in accordance with Rules 6 through 16.2 of the Arizona Rules of Civil Procedure.

~~(e) Assignment of contested cases; status and scheduling conference.~~ When a probate matter becomes contested, the case shall be assigned to the presiding probate judge and a status and scheduling conference shall be set. At the status and scheduling conference the court shall set such dates and deadlines for the further course of the case, including disclosures under Rule 26.1, Arizona Rules of Civil Procedure, as the court deems appropriate.

~~(f) Mandatory settlement conferences.~~

~~(1) Application.~~ This rule applies to all contested matters scheduled for a trial or hearing of one day in length or longer.

~~(2) Scheduling. At the status and scheduling conference, the court will schedule a mandatory settlement conference pursuant to Rule 16(g) of the Arizona Rules of Civil Procedure at least two weeks prior to the trial or hearing date.~~

~~(3) Pretrial statement information: court's discretion to vacate. The pretrial statement shall include any allegation of good cause for not proceeding with the settlement conference. The settlement conference may be vacated at the court's discretion.~~

~~(4) Settlement conference judges pro tempore: Arbitration credit. The judge or judges assigned to the court's probate division shall compile a list of attorneys qualified and willing to serve as judges pro tempore for purposes of presiding over and facilitating the mandatory settlement conferences. The judge(s) assigned to the probate division will direct and implement, through the probate calendar specialist and other personnel assigned to the probate division, procedures for appointment of judges pro tempore from the approved list and for providing notice to parties of such appointment. Any attorney included on such list of judges pro tempore may, upon the attorney's request, be deleted from the court's list of persons subject to appointment as arbitrators pursuant to Rule 73, Arizona Rules of Civil Procedure. Judges pro tempore, for purposes of any court ordered settlement conference, shall be paid in the same manner as the Superior Court in Pima County pays those individuals appointed to serve as arbitrators.~~

**~~Rule 10. Minute Entries~~**

~~The original or copy of every minute entry shall be filed by the clerk in the individual case file, and a copy mailed, or delivered, to each counsel or party not represented by counsel.~~

**~~Rule 11. Assessment of Jury Fees~~**

~~In the event a case scheduled for jury trial is settled and the court administrator is not notified in sufficient time to excuse the jury from attendance, all jury fees incurred for the entire panel called may be assessed by the court against one or more of the parties in such proportions as the court deems equitable. In all jury cases the judgment submitted shall provide for jury fees as required by A.R.S. Section 12-332(B).~~

**~~Rule 12. Duplicated Copies and Exhibits~~**

~~**(12.1) Quality of Duplication.** No matter shall be accepted by the clerk for filing which has been prepared by any sort of duplicating process unless it is entirely and clearly legible and not subject to fading or darkening.~~

~~**(12.2) Exhibits; Custody and Return.** Every exhibit offered or admitted in evidence shall be held in the custody of the Clerk. The Court may order the return of an original exhibit provided an appropriate copy or a duplicate is substituted therefor.~~

**~~Rule 13. Attachments to Pleadings and Memoranda~~**

~~**(13.1) Attachments In General.** No copy of a pleading, exhibit or minute entry which has been filed in a case shall be attached to the original of a subsequent pleading, motion or memorandum of points and authorities.~~

~~**(13.2) Incorporation by Reference.** If a party desires to call the court's attention to anything contained in a previous pleading, motion or minute entry, they shall do so by incorporation by reference.~~

~~**(13.3) Authorities Cited in Memoranda.** Copies of authorities cited in memoranda shall not be attached to the original.~~

~~**(13.4) Attachments to Judge.** Parties may attach copies of pleadings, motions, exhibits, minute entries or texts of authorities to a copy of a motion or memorandum of points and authorities delivered to the judge of the division to which the case has been assigned. Any such attachments or authorities provided to the judge shall also be provided to all other parties.~~

~~(13.5) Sanctions.~~ For a violation of this rule, the Court may order the removal of the offending document and assess the offending party or counsel such costs and fees as may be necessary to cover clerk costs of filing, and any costs of preservation and storage.

~~(13.6) Dividers.~~ No pleading, document or other submission shall utilize blue pages as dividers for attachments.

#### **Rule 14. Unavailability of Court Commissioner**

~~Whenever any judge shall determine that the court commissioners are unavailable, for any reason, to hear any matter which, under Rule 96(a), Rules of the Supreme Court, should be heard by a court commissioner, such judge may proceed to hear such matter. The fact that any judge shall proceed to hear any such matter shall be a finding by such judge that the court commissioners are unavailable.~~

#### **Rule 15. Attorney of Record; Withdrawal and Substitution of Counsel**

~~No attorney shall appear in any action or file anything in any action without first appearing as counsel of record and the responsibilities of counsel of record shall be as set forth in Rule 5.1(a), Arizona Rules of Civil Procedure. Withdrawals and substitutions of counsel may only be made in strict adherence to the requirements and procedures set forth in Rule 5.1(a), Arizona Rules of Civil Procedure.~~

#### **Rule 16. Ajo Cases**

~~A judge of this court shall hold court in Ajo on the last Friday of each month, except when said Friday is a court holiday; in such event the court shall be held on the preceding court day. The judges shall rotate the Ajo assignment among themselves.~~

~~Court may be held in Ajo at any other time in the discretion of any judge.~~

#### **Rule 17. Juvenile and Adoption Proceedings and Habeas Corpus Proceedings Relating to Custody**

~~All juvenile and adoption matters shall be set for hearing by the juvenile court administrator. All habeas corpus proceedings relating to custody of minors shall be heard by the judge of the juvenile court.~~

#### **Rule 18. Suspension of Rules**

~~Upon application, any judge of this court may suspend any of these Local Rules for good cause shown.~~

**Rule 19. [Reserved]**

#### **Rule 20. Early Disclosure**

~~Immediately following the arraignment in Superior Court, the prosecutor shall make available to the defendant any disclosure material and information within his possession or control at that time as set forth in Rule 15.1 a. and b., Rules of Criminal Procedure. Additional disclosure material and information shall be made available in compliance with Rule 15.~~

#### **Rule 21. Appointed Counsel; Compensation**

~~When a defendant is entitled to appointed counsel pursuant to Criminal Rule 6.1(b), the court will appoint the Public Defender. If it is determined that the Public Defender cannot be appointed, the court will appoint the Legal Defender. If neither the Public Defender nor the Legal Defender can be appointed, the court will appoint private counsel under contract with the county to provide indigent defense legal services. The rate of compensation for court appointed private counsel and related professional support services shall be established by the court pursuant to A.R.S. § 13-4013(A), and administered by the county through its indigent defense contract. The court will not review claims for compensation by appointed private counsel or claims for related expenses except as provided in the county contract.~~

~~Rules 22, 23. Abrogated effective Nov. 16, 1992, by order dated Dec. 2, 1992~~

#### **Rule 24. Suspension of Rules**

~~Upon application, any judge of this Court may suspend any of these Local Rules for good cause shown~~

#### **Rule 25. Pretrial Release of Persons Charged with Misdemeanors**

~~(25.1) Authority to Grant Release and Establish Conditions. The Presiding Judge of the Court and the Chief Magistrate of the City of Tucson may appoint one or more staff members of the Pretrial Release Program of the Court to authorize the release of, and establish the conditions of release for, persons charged with misdemeanors who meet criteria for release established by the Presiding Judge.~~

~~(25.2) Promise to Appear. If release is authorized, the person charged with a misdemeanor shall, prior to release, sign a promise to appear specifying the date, time and place of his appearance.~~

~~(25.3) Failure to Appear. If such person fails to keep the promise to appear, a warrant may issue for his arrest.~~

~~(25.4) Effective Date.~~ This rule shall take effect and be in force on March 15, 1979.

#### **Rule 26. Preliminary Hearings**

~~(26.1) Record of Hearing.~~ In the discretion of the Presiding Judge of the Superior Court, the record of a preliminary hearing in justice or police courts may be made by videotape, audiotape, or court reporter. Within 3 days after holding the defendant to answer before the Superior Court, the magistrate shall transmit any recording of the preliminary hearing, together with all papers and records in the case, and a prescribed transmittal form, to the Clerk of the Superior Court.

~~(26.2) Transcript of Hearing.~~ After transmittal to the Clerk, any recording of the preliminary hearing or notes of the court reporter shall not be transcribed unless good cause is shown therefor, a motion is filed pursuant to Rule 5.5, Rules of Criminal Procedure, a certificate made in good faith is filed not less than 20 days prior to trial stating that the case will not be disposed of by a non-trial disposition, or an appeal is filed pursuant to Rule 31, Rules of Criminal Procedure. However, a party may at any time request a copy of any recording of the preliminary hearing, for which the Clerk may require payment at a cost not exceeding the actual cost of reproduction.

~~(26.3) Preservation of Recording.~~ The clerk shall retain and preserve any recording in the same manner as required for the Original Notes of a Court Reporter pursuant to Rule 28.1(c), Rules of Criminal Procedure.

#### **Rule 27. Criminal Procedure**

All criminal arraignments shall be heard by the assignment section at 1:30 p.m. on Monday, Wednesday, Thursday and Friday of each week. When one of those days is an official work holiday, criminal arraignments shall be heard the next official arraignment day.

#### **Rule 28. Setting of Trial: Status Conference, Pleas and Continuances**

At arraignment, the court shall fix a date and time at least four weeks later for the defendant and counsel to appear at a pretrial conference for the setting of a trial date pursuant to Rule 8.2, Rules of Criminal Procedure, a status conference 30 days prior to trial, and such other orders necessary to facilitate completion of discovery and the orderly progress of the case to disposition. After the status conference hearing, the court will not accept negotiated pleas, except upon written motion based upon a showing of good and sufficient cause. At the request of either party or sua sponte, the court may, in its sole discretion, participate in settlement negotiations by directing counsel having the authority to settle to participate in a good faith

~~discussion with the court regarding a non-trial resolution which conforms to the interests of justice. No motion to continue the trial shall be granted except upon written motion and showing of extraordinary circumstances. There shall be no stipulated trial continuances.~~

#### **Rule 29. Discovery Motions**

~~No discovery or disclosure motions will be considered or scheduled unless a separate statement of moving counsel is attached thereto certifying that, after personal consultation and good faith efforts to do so, counsel have been unable to satisfactorily resolve the matter.~~

### Rule 5 - CRIMINAL

#### **(5.1) Appointed Counsel; Compensation:**

When a defendant is entitled to appointed counsel pursuant to Rule 6.1(b), Arizona Rules of Criminal Procedure, the Court will appoint the Public Defender. If it is determined that the Public Defender cannot be appointed, the Court will appoint the Legal Defender. If neither the Public Defender nor the Legal Defender can be appointed, the court will appoint the Legal Advocate or any other available public defense agency. If no public defense agency can be appointed, the Court will appoint private counsel under contract with the county to provide indigent defense legal services. The rate of compensation for court-appointed private counsel and related professional support services will be established by the Court pursuant to A.R.S. § 13-4013(A), and administered by the county through its indigent defense contract. The Court will not review claims for compensation by appointed private counsel or claims for related expenses except as provided in the county contract.

#### **(5.2) Pretrial Release of Persons Charged with Misdemeanors:**

(A) Authority to Grant Release and Establish Conditions. The Presiding Judge of the Court and the Chief Magistrate of the City of Tucson may appoint one or more staff members of the Pretrial Release Program of the Court to authorize the release of, and establish the conditions of release for, persons charged with misdemeanors who meet criteria for release established by the Presiding Judge.

(B) Promise to Appear. If release is authorized, the person charged with a misdemeanor will, before release, sign a promise to appear specifying the date, time and place of his appearance.

(C) Failure to Appear. If such person fails to keep the promise to appear, a warrant may issue for such person's arrest.

Rule 5.3: CRIMINAL ARRAIGNMENTS: All criminal arraignments shall be heard by the Hearing Officer at a time designated by the Presiding Judge on every Court business day.

**(5.4) Setting of Trial: Status Conference, Pleas and Continuances:**

At arraignment, the Court will fix a date and time at least four weeks later for the defendant and counsel to appear at a case management conference for the purpose of taking a change of plea or setting of a trial date pursuant to Rule 8.2, Arizona Rules of Criminal Procedure. The Court will also set a status conference 30 days before trial, and such other orders necessary to facilitate completion of discovery and the orderly progress of the case to disposition. All requests for continuance of a trial shall be governed by Rule 8.5, Arizona Rules of Criminal Procedure.

**Rule 6 - Juvenile**

**(6.1) Juvenile and Adoption Proceedings and Habeas Corpus Proceedings related to Custody:**

All juvenile and adoption matters will be set for hearing by the Juvenile Court. All habeas corpus proceedings relating to custody of minors will be heard by a judge or judge pro tem of the Juvenile Court.

**(6.2) Simultaneous Juvenile Proceedings and Legal Decision-Making, Parenting Time and Child Support Proceedings:**

(A) When a pending family law proceeding and a pending dependency, guardianship or private severance proceeding involve the same parties, any party may move to consolidate the proceedings in the Juvenile Court by written or oral motion. The Juvenile Court judge may consult with the Family Court judge concerning consolidation, or the Juvenile Court judge may consolidate the proceedings on its own motion. Written motions for consolidation shall be filed in the juvenile case and copied to the family law case. The assigned juvenile division shall rule on any such motion to consolidate. Legal decision-making, parenting time and child support issues, other than in Title IV-D cases, may be litigated in the juvenile division once the matters are consolidated in the Juvenile Court.

(B) Upon an adjudication of dependency, the Juvenile Court shall consolidate any family law matter concerning the same parties with the juvenile matter to prevent conflicting orders in the family and juvenile cases and to allow the Juvenile Court, if appropriate, to determine legal decision-making and parenting time issues necessary to protect a child. Title IV-D child support matters, however, are excluded from the provisions of this rule and should be addressed only

by the assigned Title IV-D judicial officer. Any such orders must be made prior to the dismissal of the dependency matter and prior to unconsolidating the juvenile matter from the family law matter.

(C) To protect the confidentiality of the Juvenile Court matter, a separate minute entry will be filed in the family law matter showing whether the Court ordered the family law matter consolidated with the juvenile court matter. The minute entry from the juvenile matter will likewise reflect whether the Court ordered a family law matter consolidated with the juvenile court matter.

(D) During any dependency/guardianship proceeding in the Juvenile Court and following the consolidation of the family law matter, the assigned juvenile division may suspend, modify or terminate a child support order for current support if the parent entitled to receive the child support is no longer entitled to child support as a result of a change in the legal and/or physical custody of the child. The assigned juvenile division will direct that the wage assignment be quashed or modified. The assigned juvenile division may also affirm previous orders for past due support or child support arrears or make other appropriate orders. Title IV-D child support matters, however, are excluded and will be addressed only by the assigned Title IV-D judicial officer.

(E) The assigned juvenile division may temporarily unconsolidate the family law matter or certain proceedings thereof and return it to the assigned family law division to allow that division to conduct proceedings during a dependency or guardianship matter.