

Appendix B

Proposed Revisions to ARCAP 9

Proposed changes are shown with ~~strikethrough~~ and underline.

Rule 9. Appeal and Cross-Appeal--When Taken

(a) through (d) [No change]

(e) Effect of Post-Judgment Motion on Notice of Appeal; Amended Notice of Appeal.

(1) If a party timely and properly files with the superior court clerk any of the following motions, the time to file a notice of appeal or cross-appeal for all parties begins to run from the entry by the superior court clerk of a signed written order disposing of the last such remaining motion:

(A) For judgment under Rule 50(b) of the Arizona Rules of Civil Procedure;

(B) To amend or make additional factual findings under Rule 52(b) of the Arizona Rules of Civil Procedure or Rule ~~83(A)~~ 82(b) of the Arizona Rules of Family Law Procedure, whether or not granting the motion would alter the judgment;

(C) To alter or amend the judgment under Rule 59(d) of the Arizona Rules of Civil Procedure or Rule ~~83(A)~~ 83(a) of the Arizona Rules of Family Law Procedure;

(D) For new trial under Rule 59(a) of the Arizona Rules of Civil Procedure ~~or Rule 83(A) of the Arizona Rules of Family Law Procedure~~; or

(E) For relief under Rule 60 of the Arizona Rules of Civil Procedure ~~or Rule 85 of the Arizona Rules of Family Law Procedure~~, if the motion is filed not later than 15 days after entry of the judgment; or for relief under Rule 85 of the Arizona Rules of Family Law Procedure, if the motion is filed not later than 25 days after entry of the judgment.

(2) If a party files a notice of appeal before the timely filing of one of the motions identified in Rule 9(e)(1) or if a notice of appeal is filed during the pendency of such a motion, the appellant must notify the appellate court of the pending motion or motions when the appellate court assigns a case number under Rule 12(a). Upon the appellate court's receipt of such notice, the appeal will be suspended until the last such motion is decided. The appellant also must notify the appellate court when all such motions have been decided, and the appeal will be reinstated as of the entry of the order disposing of the last remaining motion.

(3) A party intending to appeal one or more of the orders disposing of one or more of the motions listed in Rule 9(e)(1) must file a notice of appeal, a notice of cross-appeal, or an amended notice of appeal under Rule 8 within the time prescribed by Rule 9. The time is measured from entry of the order disposing of the last such remaining motion.

(f) Reopening the Time to File an Appeal for Lack of Notice of Entry of Judgment.

The superior court may on motion reopen the time for filing a notice of appeal for a period of 14 days after entry of its order granting a motion to reopen, but only if all of the following conditions are satisfied:

(1) The court finds that the moving party did not receive notice under Rule 58(c) of the Arizona Rules of Civil Procedure, or Rule ~~81(D)~~ 78(h) of the Arizona Rules of Family Law Procedure, of entry of the judgment or order that the party seeks to appeal within 21 days after entry;

(2) The motion is filed within 30 days after the expiration of the time for appeal, or within 7 days of receipt of the notice of entry of the judgment or order, whichever is earlier; and

(3) The court finds that no party would be prejudiced.

Proposed changes: Clean version.

Rule 9. Appeal and Cross-Appeal--When Taken

(a) through (d) [No change]

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(1) If a party timely and properly files with the superior court clerk any of the following motions, the time to file a notice of appeal or cross-appeal for all parties begins to run from the entry by the superior court clerk of a signed written order disposing of the last such remaining motion:

(A) For judgment under Rule 50(b) of the Arizona Rules of Civil Procedure;

(B) To amend or make additional factual findings under Rule 52(b) of the Arizona Rules of Civil Procedure or Rule 82(b) of the Arizona Rules of Family Law Procedure, whether or not granting the motion would alter the judgment;

(C) To alter or amend the judgment under Rule 59(d) of the Arizona Rules of Civil Procedure or Rule 83(a) of the Arizona Rules of Family Law Procedure;

(D) For new trial under Rule 59(a) of the Arizona Rules of Civil Procedure; or

(E) For relief under Rule 60 of the Arizona Rules of Civil, if the motion is filed not later than 15 days after entry of the judgment; or for relief under Rule 85 of the Arizona Rules of Family Law Procedure, if the motion is filed not later than 25 days after entry of the judgment.

(2) If a party files a notice of appeal before the timely filing of one of the motions identified in Rule 9(e)(1) or if a notice of appeal is filed during the pendency of such a motion, the appellant must notify the appellate court of the pending motion or motions when the appellate court assigns a case number under Rule 12(a). Upon the appellate court's receipt of such notice, the appeal will be suspended until the last such motion is decided. The appellant also must notify the appellate court when all such motions have been decided, and the appeal will be reinstated as of the entry of the order disposing of the last remaining motion.

(3) A party intending to appeal one or more of the orders disposing of one or more of the motions listed in Rule 9(e)(1) must file a notice of appeal, a notice of cross-

appeal, or an amended notice of appeal under Rule 8 within the time prescribed by Rule 9. The time is measured from entry of the order disposing of the last such remaining motion.

(f) Reopening the Time to File an Appeal for Lack of Notice of Entry of Judgment.

The superior court may on motion reopen the time for filing a notice of appeal for a period of 14 days after entry of its order granting a motion to reopen, but only if all of the following conditions are satisfied:

- (1) The court finds that the moving party did not receive notice under Rule 58(c) of the Arizona Rules of Civil Procedure, or Rule 78(h) of the Arizona Rules of Family Law Procedure, of entry of the judgment or order that the party seeks to appeal within 21 days after entry;
- (2) The motion is filed within 30 days after the expiration of the time for appeal, or within 7 days of receipt of the notice of entry of the judgment or order, whichever is earlier; and
- (3) The court finds that no party would be prejudiced.