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Local Rules of the Superior Court, Pima County

Rule 1 - General

CLERK SUPREME COURT

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**(1.8) Attorney Calendar Conflicts:**

**(A) Notice to Court.** Counsel and self-represented parties 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)~~334(b), Arizona Rules of Family Law Procedure, as applicable.

**(B) Motion to Adjust.** In resolving conflicts between divisions of the Arizona Superior Court in Pima County, counsel and self-represented parties must file a motion to adjust in all conflicting cases, with a notice of hearing to be filed only before the division with the lowest numbered case. The conflict will be resolved pursuant to the criteria set forth in subsection (c) below.

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

- (1) the nature of the cases as civil, 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.

Rule 8.1, Arizona Rules of Criminal Procedure, provides that the trial of criminal cases has priority over the trial of civil cases.

**(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(d)-(e), 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.

### Rule 3 - Family Law Cases

#### (3.1) General Administration:

**(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 refers 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 Presiding Judge of the Family Law Bench 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. The Presiding Judge of the Family Law Bench is also designated as the presiding judge of the Conciliation 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 will 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 will be assigned to a Family Law Bench judicial officer. The judicial officer will calendar all matters concerning that case. When a judicial officer’s assignment is changed, the case will be reassigned to a subsequent Family Law Bench judicial officer, unless the assigned division retains the case.

#### (3.2) General Rules Relating to Pleading and Practice:

**(A) 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 a Third Party or Modification of Legal Decision-Making, each party filing a Petition or Response 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 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.

**(B) Disclosure Statements.** Disclosures required by Rules 49 and 91(m) 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.

**(C) Filing of Documents.** 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 43.1(G), ARFLP.

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

**(A) Motion to Set and Certificate of Readiness.** ~~Unless the court has already set a trial, 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, consistent with Rule 77, ARFLP. A copy must be provided to the opposing party, the assigned division, and the Case Management Services department. ~~The Motion to Set and Certificate of Readiness must state the following:~~

~~(1) That a response to the subject petition has been filed;~~

~~(2) The time requested for trial;~~

~~(3) The date by which the case will be ready for trial;~~

~~(34) That pre-trial procedures have been completed or that both parties shall have had a reasonable opportunity to complete pre-trial procedures 310 days prior before to a trial scheduled 60 days after submission of the Motion to Set and Certificate of Readiness;~~

~~(54) 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;~~

~~(65) Whether the case is entitled to preference for trial because legal decision-making or parenting time is an issue;~~

~~(76) 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~~

~~(87) whether the parties have attended or are scheduled to attend mediation pursuant to Pima County Local Rule 3.10 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 must state any objections to the Motion to Set and Certificate of Readiness. The Court may rule on the Controverting Certificate without 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.

**(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 will schedule the case for trial or a scheduling conference pursuant to Rule 76.1, ARFLP, or Final Pretrial Conference at which time a trial date will be set and will promptly notify the parties. Cases will be set for trial or the Final Pretrial Conference a scheduling conference within 60 to 120 days after a Motion to Set and Certificate of Readiness is ruled upon, except in extraordinary circumstances. A case set for trial or Final Pretrial scheduling c-Conference is considered to be on the active calendar.

~~**(D) Exclusion of Legal Decision-Making Modification Trials.** The provisions of Pima County Local Rules 3.3(A) through (C) do not apply to trials regarding modification of legal decision-making. All requests for modification of legal decision-making will follow the requirements of A.R.S. § 25-411(L) and Rule 91(D), ARFLP.~~

### **(3.4) 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 must participate in a domestic settlement conference, governed by Rule 67.4, ARFLP, before the trial, unless otherwise ordered 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 before the date of the settlement conference.

The domestic settlement conference 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 will be confidential and not divulged to third parties admissible. Agreements as to facts and/or stipulations made during the settlement conference must be memorialized, consistent with Rule 69, ARFLP, must be made of record and will be binding on the parties. The settlement conference judicial officer will determine disputes regarding the accuracy of the record of the domestic settlement conference.

Participation in a mandatory settlement conference fulfills the requirements of Rule 66, ARFLP, regarding alternative dispute resolution. The requirement of participation in a mandatory domestic settlement conference does not preclude mediation, arbitration, settlement conferences, or other dispute resolution processes pursuant to set forth in Rule 67, ARFLP, but the mandatory domestic settlement conference shall not be a proceeding subject to Rule 67, 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 before the mandatory domestic settlement conference described above, to facilitate early resolution of a case. Participation in an early domestic settlement conference will not

preclude ~~mediation, arbitration, settlement conferences, or other~~ dispute resolution processes ~~pursuant to set forth in~~ Rule 67, ARFLP. 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 pursuant to Rules ~~66, 67-67.4, and 67.1, and 67.28,~~ 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 Pima County Local Rule 3.10(D).~~

### **(3.5) Affidavits Required; Pleading and Practice:**

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

**(1) Forms of Financial Affidavits.** There are 2 local forms of financial affidavits as permissible alternatives to the Affidavit of Financial Information in Form 2, 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 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, 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.**

**(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 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 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 specific 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, as provided required by Rules 49(e) and/or 91(m), ARFLP.~~

**(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 as provided required by Rule 49(f) and /or 91(m), ARFLP. A spousal maintenance financial affidavit may be substituted for a form substantially in compliance with Rule 87, Form 2.:

- ~~(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 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 must specifically direct both parties to comply with this Rule 49 and/or 91, ARFLP, as appropriate. The Order to Appear 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 must be provided to the other party no later than 43 court days before 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.** In addition to the documents required by Rules 47-47.2, ARFLP, 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 requesting party must serve a the party must file the original petition and the required financial affidavit with the Clerk of the Court. A copy of the petition motion and required financial affidavit must be provided to the assigned division at the time of the request for issuance of the Order to Appear. A copy of each 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 3.5. The opposing party must file the required financial affidavit, a copy of which must be provided to the party's attorney, or, if self-represented, to the party within the time provided by this rule in a timely manner.

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

**(1) Petition for Modification of Spousal Maintenance.** AWhen a party files a petition for modification of a prior order for spousal maintenance, the requesting party must serve a blank copy of the required financial affidavit and a copy of Pima County Local Rule 3.5. must comply with Rules 91 and 91.1(Aa), (c) and (B), ARFLP. The applicant must file the original of the petition and the required spousal maintenance financial affidavit. A copy of the petition and the financial affidavit 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 must be served upon the opposing party, along with blank copies of the required financial affidavit and a copy of Pima County Local Rule 3.5. The opposing party must file the required financial affidavits, and provide a copy to the applicant's attorney, or if self-represented, the applicant, within the time provided by this rule in a timely manner.

**(2) Petition for Modification of Child Support.** When Aa party files a petition for modification of child support, the requesting party must serve a blank copy of the required financial affidavit and a copy of Pima County Local Rule 3.5. The opposing party must file the required financial affidavits, and provide a copy to the applicant's attorney, or if self-represented, the applicant, in a timely manner. must comply with Rules 91 and 91(Ab) and (B), ARFLP. The applicant 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 must be provided to the assigned division at the time of the request for issuance of the Order to Appear. A copy of each 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 must file the required financial affidavit, and provide a copy to the applicant's attorney, or if self-represented, 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 91.1(Bb)(2)(b), ARFLP. An agency authorized by law to request a modification of an existing Order on behalf of the State of Arizona 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 must submit a proposed form of Child Support Order, Income Withholding Order and a child support 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's Fees and Expenses.** ~~In an action for failure to pay to enforce an order to pay child support, spousal maintenance, or attorney fees and expenses, the opposing party must file with the Court the required financial affidavit and provide a copy to the applicant's attorney, or if self-represented, the applicant, within the time provided by Pima County Local Rule 3.5. The documents listed below 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 must also provide the applicant's attorney, or if self-represented, the applicant, copies of the following documents but must not file the documents with the Clerk of the Court:~~

- (1) That party's most recently filed federal and state income tax returns, with all schedules;
- (2) That party's 4 most recent consecutive wage statements from all employment;
- (3) 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.

The Order to Appear must specifically direct the respondent to comply with Pima County Local Rule 3.5. The Order to Appear 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 3.5.** If either party fails to comply with any part of Pima County Local Rule 3.5, upon the complying party's request or the Court's own motion and in the absence of good cause, the Court may enter orders that include the following:

- (1) Vacate or continue the hearing;

- (2) 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 a complying party his or her attorney fees and expenses incurred in preparing for and attending the hearing; or
- (4) 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) Hearings.** Matters set for hearing on motions will 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 Pima County Local Rules 3.5(C), (D), or (E) will be presumed to be evidentiary hearings.

**(3.6) Simultaneous Juvenile Proceedings and Legal Decision-Making, and 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, the parties must comply with Rule 5.1(a), ARFLP. 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 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.

### **(3.7) Pretrial Statement:**

**(A) Preparation, Signing, and Filing of Pretrial Statements.** In every family law case set for trial or ~~Final Pretrial~~ scheduling conference, including any bifurcated portion of such trial, a pretrial statement 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, must confer and prepare the pretrial statement, signed by each party or counsel. Pretrial statements required by Rule 76.1(~~f~~), ARFLP, must be filed no later than ~~30-20~~ days prior to ~~before~~ the date set for trial or Scheduling Conference ~~or the Final Pretrial Conference~~, or on the date ordered in the family law trial notice. The original must be filed with the Clerk of the Court and a copy must be provided to the Case Management Services department and the assigned trial division. Failure to comply with Pima County Local Rule 3.7(A) may result in the imposition of interim relief and/or sanctions as set forth in Pima County Local Rules 3.5(F) and 3.7, or any other sanctions provided by Rule 76.2, ARFLP.

**(B) Contents of Statements.** The pretrial statement in family law cases must comply with Rule 76.1(~~f~~), ARFLP, and shall be in a form substantially similar to the court-approved form.

**(C) Accompanying Documents.** The parties or, if represented, their counsel must each file with the joint or separate pretrial 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 Form 12, Rule 97, ARFLP;~~

~~(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 3.5; and~~

~~(3) Copies of all documents required by Pima County Local Rule 3.5(A)(3) and the ARFLP must be exchanged with the opposing party but shall not be filed with the Court, and must be brought to the trial or hearing for use as evidence; and~~

~~(43) If parenting time or legal decision-making are not resolved, a Proposed Legal Decision-Making or Parenting Time Plan if parenting time or legal decision-making are not resolved.~~

~~(3) Copies of all documents required by Pima County Local Rule 3.5(A)(3) and the ARFLP must be exchanged with the opposing party but shall not be filed with the Court, and must be brought to the trial or hearing for use as evidence.; and~~

**(D) Restrictions on Exhibits and Witnesses.** No exhibits or witnesses may be offered or presented during the trial other than those listed on the pretrial 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 pretrial statement, the Court may impose any of the sanctions or penalties allowed by the ARFLP, ~~or any statute,~~ or the Court's inherent authority. 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's 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.

**(3.8) Responding Party's Appearance Fee:** 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 44.2(Bb)(2), ARFLP, is not required.

**(3.9) Parent Education Course:**

**(A)** Both parties must attend the Domestic Relations Education on Children's Issues course as required by A.R.S. §25-352 and Rule 95(d), ARFLP.

**(B)** The original Notice of Program Completion—Parent Education Course must be filed with the Clerk of the Court by the Conciliation Court. Each party must promptly provide a copy of the Notice of Program Completion to the opposing party or attorney, unless otherwise ordered by the Court.

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

(D) Unless otherwise ordered by the Court, all parties must attend a parent education course before participating in mediation.

**(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 or other alternative dispute resolution (“ADR) process as set forth in Rule 68(c), ARFLP, and this rule. 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 may waive the requirement for mediation. This rule requiring mediation does not apply to actions to enforce legal decision-making or parenting time orders. In the event one or both of the parties do not reside 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 for good cause. The Conciliation Court will conduct mediation unless the parties stipulate to private mediation with a mediator agreed upon pursuant to the provisions of subsection H of this rule or stipulate to other alternative dispute resolution methods under-described in Rules 67.1 and 67.2, ARFLP.

**(B) Commencement of Mediation.**

**(1) By the Court:**

**(a) Temporary Orders.** Mediation is not required before filing a ~~petition-motion~~ 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 the parties’ stipulation-of-the-parties, the Court will enter an order that the parties attend mediation.

**(b) ~~Trial Date Requested~~Pre-Decree.** 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~~before trial.

**(c) Post-Decree.** The parties 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 and/or legal decision-making, unless otherwise ordered by the Court. If required by this Pima County Local Rule 3.10(A), a~~ Request for Mediation must be submitted to the Court when a post-decree petition to modify parenting time and/or legal decision-making is filed. Except in an emergency, the Court may not conduct a hearing on a post-decree petition to modify parenting time and/or legal decision-making 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 must be filed with the Clerk of the Court 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:

**(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.

**(ii)** An order establishing paternity has been entered, and there is no legal decision-making or parenting time order.

**(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.**

**(i)** The original Request for Mediation must be filed with the Clerk of the Court and copies of the Request must be provided to the Conciliation Court and the assigned judge.

**(ii)** A copy of the written Request for Mediation must be served on the other party pursuant to Rule 41 ~~or 42 (as appropriate)~~, ARFLP, and proof of service must be filed with the Clerk.

**(iii)** 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 must be provided to the other party and the assigned division. The Court may deem the failure to file a timely response as a consent to granting the request.

**(iv)** A party requesting mediation 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.

**(v)** 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.** ~~At any time,~~ the parties may agree to attend mediation through the Conciliation Court by completing and signing a 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 must attend all appointments scheduled by the Conciliation Court. Mediation conferences are governed by Rule 68(B)(4c), ARFLP. If a party fails to appear at a mediation conference, the mediator 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 must be signed by the parties and their attorneys. If neither party is represented by an attorney, the agreement will be forwarded to the Court for approval immediately. If any party is represented by an attorney, any agreement reached through mediation must be signed by the parties and submitted to the attorneys for review. In the case of mediation of legal decision-making and/or parenting time at Conciliation Court, the parties and the attorneys may waive in writing or on the record the right for their attorneys to file written objections to mediated agreements. An attorney must file a notice of objection within 30 days after the date of the signing of the agreement, but in no event less than 3 court days ~~prior to~~ before any hearing or trial set for legal decision-making and/or parenting time, and provide a copy of the notice of objection to the Conciliation Court. The notice of objection 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 will not return to mediation to resolve their dispute unless both parties and their attorneys stipulate to return to mediation. If no timely objection is filed, the Conciliation Court will submit the agreement to the Court for approval. Agreements reached through mediation are not binding ~~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 is nullified, and will not be admissible in evidence.

~~**(E) Confidentiality of Mediation Process.** Mediation proceedings must be held in private. All communications, verbal or written, by any person connected with the proceedings 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 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 3.10 shall not subsequently serve as legal decision-making or parenting time evaluator for the same parties.

**(HE) Private Mediation.** The parties may agree to mediate legal decision-making or parenting time disputes through a private mediator pursuant to Rule 67.3, ARFLP, selected and paid for by the parties as an alternative to mediation through the Conciliation Court only by complying with the following Rule 67.3(d), ARFLP, and providing a copy of the notice to the Conciliation Court. :

~~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 3.10.~~

All the provisions of Pima County Local Rule 3.10 apply to private mediation, and any references to the Conciliation Court are deemed to include private mediators.

### **(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 and Rule 68(b), ARFLP, 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 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 must state, in addition to the requirements of A.R.S. § 25-381.11, whether 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 Presiding Family Law Bench Judge, who is designated as the presiding judge of the Conciliation Court will transfer the case to the Conciliation Court.~~ the pending action is stayed pursuant to Rule 68(b)(4)(B), ARFLP, and the matter may be transferred to the Conciliation Court pursuant to A.R.S. § 25-381.19.

**(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 will direct the Conciliation Court to schedule a time and place for a conciliation hearing. The Conciliation Court must mail notice of the date and time of the hearing to each of the parties at least 5 days prior to the conciliation hearing. Hearings will be conducted 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 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 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, must be confidential and must not be disclosed without the consent of the party making such communication, except as otherwise required by law.~~

### **(3.12) Conciliation Court Services—Assessments and Evaluations:**

**(A) Referrals for Assessments and Evaluations.** The Court, on its own motion or on the parties' stipulation, may order that legal decision-making and/or parenting time issues be referred to the Conciliation Court to screen and determine if it is appropriate for an assessment or evaluation under Rule 68(d), ARFLP. 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(~~Cd~~), 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.

**(B) Reports to the Court.** At the completion of an assessment or evaluation, the Conciliation Court will submit a report with recommendations to the Court, with copies to the attorneys, or the parties if self-represented. The report must be filed with the Court and an order will be entered sealing the report, to be opened or viewed only by Court order. The Court 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 will submit a written report to the Court. The report must summarize the parents' participation, and 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.

**(3.13) Parenting Coordinator—Private Appointments and Conciliation Court Appointments:** The Court may appoint a parenting coordinator pursuant to Rule 74, ARFLP. The appointed parenting coordinator is not subject to subpoena and may not be called as a witness in the case, except as permitted by the Court.