

## Appendix A

### Proposed amendments

Deletions are shown by strikethrough. Additions are shown by underline.

### Rules of Civil Procedure

#### **43. Taking Testimony**

(a) through (f) No change

#### **(g) Preserving Recording of Court Proceedings.**

(1) *Transcripts and Other Recordings.* The official verbatim recording of any court proceeding is an official record of the court. The original recording must be kept by the person ~~who recorded it, a court-designated custodian, or the clerk in a place~~ designated by the court. The recording must be retained according to the records retention and disposition schedules adopted by the Supreme Court, unless the court specifies a different retention period.

(2) *Transcription.* If a ~~court-certified~~ reporter's verbatim recording is to be transcribed, the ~~court-certified~~ reporter who made the recording must be given the first opportunity to make the transcription, unless that ~~court-certified~~ reporter no longer serves in that position or is unavailable for any other reason.

#### **75. Hearing Procedures**

(a) through (e) No change

**(f) Record of Proceedings.** The arbitrator is not required to make a record of the hearing. If any party wants a ~~court-certified~~ reporter to transcribe the hearing, the party must pay for and provide the reporter. The reporter's charges are not considered costs in the action.

(g) No change

## **Rules of Criminal Procedure**

### **5.1 Right to a Preliminary Hearing; Waiver; Continuance**

(a) through (c) No change

(d) Hearing Demand. A defendant who is in custody may demand that the court hold a preliminary hearing as soon as practicable. In that event, the magistrate must set a hearing date and must not delay its commencement more than necessary to secure the attendance of counsel, ~~a court reporter, and necessary witnesses,~~ and ensure the ability to capture a verbatim recording of the proceeding.

### **5.2 Summoning Witnesses; Record of Proceedings**

(a) No change

(b) **Record of Proceedings.** The magistrate must make a verbatim record of the preliminary hearing. Proceedings may be recorded by a certified ~~court~~-reporter or by electronic or other means authorized by the ~~superior court~~-presiding judge of the superior court or an individual designated by the presiding judge of the superior court. ~~But if a party requests that a certified court reporter record the proceedings, the court must record the proceedings in that manner, unless the court is located in an area where a certified court reporter is not reasonably available.~~

### **5.6 Transmittal and Transcription of the Record**

(a) No change

(b) **Transcript Preparation and Filing.** If a party makes a written request and avows that there is a material need for a transcript, the court must order a certified ~~court~~-reporter or an authorized transcriber of an electronic recording to prepare a transcript. The ~~court~~ certified reporter or transcriber must file the transcript in the superior court no later than 20 days after the order's filing.

### **5.7 Preservation of Recording**

The clerk must retain and preserve any electronic recording of a preliminary hearing in the same manner as required for the original notes of a certified ~~court~~ reporter under Rule 28.1(c).

## 12.4 Who May be Present During Grand Jury Sessions

**(a) General.** Only the following individuals may be present during grand jury sessions:

- (1) the witness under examination;
- (2) counsel for a witness if the witness is a person under investigation by the grand jury;
- (3) a law enforcement officer or detention officer accompanying an in-custody witness;
- (4) prosecutors authorized to present evidence to the grand jury;
- (5) a certified ~~court~~ reporter or person authorized by the court to ensure the verbatim record is captured; and
- (6) an interpreter, if any.

**(b)** No change

## 12.7 Record of Grand Jury Proceedings

**(a) ~~Court Reporter~~Recording Arrangements.** The presiding or impaneling judge must ~~assign a certified court reporter make arrangements to record capture all~~ grand jury proceedings, except its deliberations. Any arrangements must ensure that no images of grand jurors are taken or captured.

**(b) Foreperson.** The foreperson must keep a record of how many grand jurors voted for and against an indictment, but must not record how each grand juror voted. If the grand jury returns an indictment, the foreperson's record of the vote must be transcribed ~~by the court reporter~~ and filed with the court no later than 20 days after the return of the indictment, and may be made available only to the court, the State, and the defendant.

**(c) Filing the Transcript and Minutes.** The ~~court reporter's~~ record of grand jury proceedings must be transcribed and the transcript must be filed with the superior court clerk no later than 20 days after return of the indictment, and may be made available only to the court, the State, and the defendant.

### **15.3 Depositions**

(a) through (c) No change

#### **(d) Manner of Taking.**

(1) *Generally.* Unless this rule provides or the court orders otherwise, the parties must conduct depositions in the manner provided in Rules 28(a) and 30 of the Arizona Rules of Civil Procedure.

(2) *Deposition by Written Questions.* If the parties consent, the court may order that a deposition be taken on written questions in the manner provided in Rule 31 of the Arizona Rules of Civil Procedure.

(3) *Deponent Statement.* Before the deposition, a party who possesses a statement of a deponent must make it available to any other party who would be entitled to the statement at trial.

(4) *Recording.* A deposition may be recorded by someone other than a certified court-reporter. If someone other than a certified court-reporter records the deposition, the party taking the deposition must provide every other party with a copy of the recording no later than 14 days after the deposition, or no later than 10 days before trial, whichever is earlier.

(5) *Remote Means.* The parties may agree or the court may order that the parties conduct the deposition by telephone or other remote means.

(e) through (f) No change

### **28.1 Duties of Clerk**

(a) through (b) No change

(c) **Court-Certified Reporter Notes.** Court-Certified reporters' notes must be retained under retention and destruction schedules established by the Supreme Court.

### **31.2 Notice of Appeal or Notice of Cross-Appeal**

(a) No change

**(b) Automatic Appeal for a Defendant Sentenced to Death.** As provided in Rule 26.15, when a defendant has been sentenced to death, the superior court clerk must file a notice of appeal on the defendant's behalf after the oral pronouncement of sentence. That notice constitutes a notice of appeal by the defendant with respect to all judgments entered and sentences imposed in that case. No later than 10 days after the notice of appeal is filed, the clerk must notify all assigned ~~court~~-certified reporters or transcribers that they are required to transmit their portions of the certified transcript to the Supreme Court clerk.

(c) through (h) No change

### **31.8. The Record on Appeal**

(a) No change

#### **(b) Certified Transcripts.**

(1) *Generally.* The record on appeal includes certified transcripts as follows:

(A) if the defendant is sentenced to death, the record on appeal must include a certified transcript of all recorded proceedings, including grand jury proceedings; and

(B) in all other cases, the record on appeal must include a certified transcript of the following proceedings:

(i) any voluntariness hearing or hearing to suppress the use of evidence;

(ii) all trial proceedings, excluding the record of voir dire unless a party specifically designates it;

(iii) any aggravation or mitigation hearing;

(iv) proceedings for the entry of judgment and sentence; and

(v) any probation violation proceeding.

(2) *Additions and Deletions.*

(A) By Appellant. No later than 30 days after filing a notice of appeal, the appellant may request from the certified ~~court~~-reporter or, if the record was made by electronic or other means, the court's designated transcript coordinator:

(i) a certified transcript of any proceeding not automatically included under (b)(1); and

(ii) to exclude from a certified transcript any portion of the proceedings the appellant deems unnecessary for a proper hearing of the appeal.

(B) By Appellee. No later than 30 days after the opening brief is filed, the appellee may request from the certified ~~court~~-reporter or, if the record was made by

electronic or other means, the court's designated transcript coordinator, a certified transcript of:

(i) any portion of a proceeding deleted by the appellant; and

(ii) a proceeding not automatically included under (b)(1).

(C) Untimely Request. For good cause shown, a party may request an addition to the record under (b)(2)(A) and (B).

(D) Notice to Other Parties. An appellant or appellee must serve any designation or request made under this rule on all other parties when the party submits the designation or request.

**(c) Authorized Transcriber: Time to Prepare, and Payment Arrangements for, Certified Transcripts.**

(1) *Generally.* Every transcript in the record on appeal must be prepared by an authorized transcriber. An “authorized transcriber” as used in this rule means a certified reporter or a transcriber under contract with an Arizona court. There may be multiple authorized transcribers for a single case.

(2) *Court-Certified Reporter.* If a certified reporter attended a proceeding in the superior court, a party must order a certified transcript of proceedings directly from that reporter.

(3) *Audio or Video Recording.* If the superior court created only an audio or audio-video recording of the proceeding, a party must order a certified transcript of the proceeding directly from an authorized transcriber. Unless the ordering party is an indigent defendant, the superior court will furnish the transcriber with a copy of the designated electronic recording upon receiving a notice from the transcriber that the transcriber has reached a satisfactory arrangement for payment. All parties to the appeal must cooperate with the transcriber by providing information that is necessary to facilitate transcription.

(4) *Time to Prepare.* The authorized transcriber must prepare the certified transcript promptly upon receiving a notice of appeal either:

(A) by the State; or

(B) by the defendant if the notice indicates that the defendant was represented by appointed counsel when found guilty or when sentenced.

(5) *Non-Indigent Defendant.* No later than 5 days after filing a notice of appeal or after the denial of a request during the appeal to proceed as indigent, a non-indigent defendant must make payment arrangements with the authorized transcriber for the certified transcript. The authorized transcriber then must promptly prepare the certified transcript. The authorized transcriber must notify the appellate court if the defendant fails to make satisfactory payment arrangements within the prescribed time.

(6) *Additions and Deletions.* The authorized transcriber must promptly add or delete any portions requested by the parties. Non-indigent defendants must pay for all portions of the record on appeal and certified transcripts that they have designated or requested.

(d) through (g) No change

## **Rules of the Supreme Court**

### **30. Verbatim Recording of Judicial Proceedings**

(a) No change

#### **(b) Use of Court Reporting Resources.**

1. Request for certified reporter. Any party to any action in superior court may request that any proceeding in that action be recorded by a certified court reporter. The court ~~shall~~ may grant the request if it is made at least three days prior to the proceeding to be recorded unless a different time frame has been established by local rule.

2. Making the record in the absence of a ~~timely request for a court-certified~~ reporter. ~~Except as provided in (3) below, i~~n the absence of a timely request for a certified court reporter, the record will be made in a manner within using an electronic recording system to record the sound discretion of the court proceeding as established by local rule.

3. ~~Proceedings requiring~~ If the court is using an electronic recording system to record the proceedings, a party has the right to provide a certified court reporter to also record the proceedings. The following proceedings shall be recorded by a party providing the certified court reporter must bear the cost. The official record, however, is the record designated by and not solely by electronic means, unless this requirement is waived by the parties and the court approves the waiver: as set forth in section (b)(4) of this rule.

a. ~~Grand jury proceedings;~~

b. ~~All proceedings in a first degree murder case, pursuant to A.R.S. § 13-1105, once the intention to seek the death penalty notice has been filed;~~

c. ~~Felony jury trials;~~

- d. ~~Initial determinations of sexually violent person status, pursuant to A.R.S. § 36-3706;~~  
e. ~~Proceedings on a request for authorization of abortion without parental consent, pursuant to A.R.S. § 36-2152.~~

4. Official record. When an ~~Arizona~~ court's certified court-reporter records a proceeding in a superior court that is simultaneously recorded by electronic recording equipment, the court's certified reporter's record shall be the official record. For a proceeding not recorded by a court's certified reporter, the official record is the transcript prepared by an authorized transcriber as defined in Rule 30(a)(2)(b) or (c). The transcript in any case certified by the court's certified reporter or other authorized transcriber as defined in Rule 30(a)(2)(a)-(c) shall be deemed prima facie a correct statement of the testimony taken and proceedings had. No transcripts of the proceedings of the court shall be considered as official except those made from the records certified by the court's certified reporter or other authorized transcriber as defined in Rule 30(a)(2)(b) or (c), unless otherwise ordered by the court.

#### [200620] COMMENT

**Rule 30(a).** This rule is not intended to prevent a party from retaining a transcriber, at the party's expense, to prepare an unofficial transcript of all or part of a proceeding. An unofficial transcript cannot be referenced or used in any court proceeding.

**Rule 30(b)(1).** Nothing in this rule precludes the court from granting a party's untimely request for a certified reporter.

**Rule 30(b)(2).** ~~In the absence of a timely request for a certified court reporter, t~~The court may approve use of a certified court reporter, audio or video recording to capture the record of court proceedings. In exercising its discretion under subsection (B), giving due deference to the parties' preference of how proceedings should be captured, the court may should consider the following factors when requiring the presence of the court's certified reporter or otherwise designating the official record: unique demands of the preservation of the official court record by a certified reporter in grand jury proceedings, felony jury trials, particularly first degree murder cases in which the State filed a death penalty notice, initial determinations of sexually violent person status, and proceedings on a request for authorization of abortion without parental consent. Moreover, the court should

consider the availability of a certified reporter; the probability that a transcript will be requested; the number of litigants; convenience of the parties and the court's schedule; sufficiency of another form of record to convey the substance of the matters discussed at the proceeding; whether testimonial evidence will be presented at the proceeding; presence of non-native English speakers as witnesses or parties; the likelihood that technical or otherwise difficult terminology will be used; the need for formal or informal proceedings; the need for a real-time transcript; the likelihood that daily transcripts will be required; and any other factor which in the interests of justice warrants a particular form of record, or as otherwise required to serve the interests of justice.

## **75. Jurisdiction; Definitions**

(a) No change

(b) **Definitions.** The following definitions shall apply in unauthorized practice of law proceedings.

1. All definitions in Rule 31(a)(2) shall apply.
2. “Bar counsel” means staff counsel employed by the state bar or volunteer counsel appointed to represent the state bar in discipline and other proceedings. “Chief bar counsel” means that person employed by the state bar to administer the discipline and disability system under the direction of the executive director.
3. “Charge” means any allegation of misconduct or incapacity of a lawyer or misconduct or incident of unauthorized practice of law brought to the attention of the state bar.
4. “Committee” means the Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona.
5. “Complainant” means a person who initiates a charge or later joins in a charge to the state bar against a non-lawyer regarding the unauthorized practice of law. The state bar or any bar counsel may be a complainant.
6. “Complaint” means a formal complaint prepared and filed in the superior court pursuant to these rules.
7. “Court” means Supreme Court of Arizona.
8. “Costs” means all sums taxable as such in a civil action.
9. “Expenses” means all obligations in money, other than costs, necessarily incurred by the state bar in the performance of their duties under these rules. Expenses shall include, but are not limited to, administrative expenses, necessary expenses of bar counsel or staff, charges of expert witnesses, charges of ~~court~~

certified reporters and authorized transcribers and all other direct, provable expenses.

10. “Order” means an order signed by the superior court or the supreme court in unauthorized practice of law matters.

11. “Record” means the complaint and other documents that commence formal unauthorized practice of law proceedings, and every later-filed document or exhibit.

12. “Respondent” is any person subject to the jurisdiction of the court against whom a charge is received for violation of these rules.

13. “State bar” means the State Bar of Arizona created by rule of this court.

14. “State bar file” means the original of every document, recording and transcript of testimony or exhibit created or received by the state bar in relation to an unauthorized practice of law proceeding, but shall not include work product of bar counsel and working files of state bar staff.

15. “Unauthorized practice of law counsel” means staff or bar counsel employed by the state bar appointed to represent the state bar in unauthorized practice of law proceedings.

16. “Unauthorized practice of law proceeding” means any action involving a respondent pursuant to the rules relating to the unauthorized practice of law.

## **78. Initial Proceedings**

(a) No change

**(b) Screening and Investigation.** Upon the commencement of an unauthorized practice of law proceeding against a respondent, the matter shall proceed as provided in this section.

1. *Screening.* Unauthorized practice of law counsel shall evaluate all information coming to his or her attention, in any form, by charge or otherwise alleging the respondent engaged in unauthorized practice of law. If the allegations, if true, would not constitute unauthorized practice of law under these rules, the matter shall be dismissed. If the information alleges facts which, if true, would constitute unauthorized practice of law, unauthorized practice of law counsel shall conduct an investigation.

2. *Investigation.* All investigations shall be conducted by unauthorized practice of law counsel, volunteer bar counsel, or staff investigators. Unauthorized practice of law counsel may request information through an investigative subpoena pursuant to Rule 78(b)(4). Following an investigation, unauthorized practice of law counsel may dismiss the matter; enter into a consent to cease and desist agreement with the

respondent pursuant to Rule 78(c); or file a complaint in superior court seeking injunctive relief, assessment of costs and expenses, and restitution. Unauthorized practice of law counsel shall not commence a superior court proceeding until the respondent is afforded an opportunity to respond in writing to the charge. Respondent shall have twenty days from notice of the request for information to respond.

3. *Failure of Respondent to Provide Information; Deposition.* When a respondent has failed to comply with any request for information made pursuant to these rules for more than thirty days, unauthorized practice of law counsel may notify respondent that failure to so comply within ten days may necessitate the taking of the deposition of the respondent pursuant to subpoena.

A. *Venue.* Any deposition conducted after the expiration of that ten day period and necessitated by the continued failure to cooperate by the respondent may be conducted at any place within the State of Arizona.

B. *Imposition of Costs.* When a respondent's failure to cooperate results in a deposition being conducted pursuant to the preceding subsection (b)(3)(A), the respondent shall be liable for the actual costs of conducting the deposition, including but not limited to service fees, certified ~~court~~–reporter fees, travel expenses and the cost of transcribing the deposition, regardless of the ultimate disposition of the unauthorized practice of law proceeding. Upon application of chief bar counsel to the committee, itemizing the costs and setting forth the reasons necessitating the deposition, and after giving the respondent ten days to respond, the committee shall, by order, assess such costs as appear appropriate against the respondent. An order assessing costs under this rule may be appealed to the superior court.

4. *Investigative Subpoenas.* During the course of an investigation and prior to the filing of a complaint, unauthorized practice of law counsel may obtain issuance of a subpoena to compel the attendance of witnesses, the production of pertinent books, papers and documents, and answers to written interrogatories, by filing a written request with the chief bar counsel or the chair or vice-chair of the committee. A copy of the request, which shall contain a statement of facts to support the requested subpoena, shall be provided to respondent or respondent's counsel, if represented. Upon receipt of a request for subpoena, a party may, within five days of service by first class mail, file a written objection with the committee. The committee may rule on the objection without oral argument.

5. *Dismissal by Unauthorized Practice of Law Counsel.* After conducting an investigation, unauthorized practice of law counsel may dismiss an unauthorized practice of law proceeding if there is no probable cause to determine that unauthorized practice of law occurred. Unauthorized practice of law counsel shall provide complainants with a right-to-sue letter upon dismissal of the charge.

(c) No change

## **125. Defining Minute Entry, Order, Ruling, and Notice; Party Responsibility**

**(a) Minute entry.** A minute entry is the memorialization, electronic or otherwise, either by form or narrative of events occurring during a court proceeding or of matters required to be performed by statute or rule. It is not intended to be a verbatim record of the court proceeding. A court proceeding includes those matters heard in chambers when one or more parties are present or represented by counsel. In addition to the date and starting and ending times of a proceeding and the identity of the certified court-reporter, alternative recording method and operator, or the absence thereof, a minute entry shall include all official acts occurring during the proceeding, which may consist of any or all of the following as applicable:

- (1) nature of the hearing;
- (2) appearances of counsel and parties;
- (3) identification and admission of exhibits;
- (4) administration of oaths and to whom administered;
- (5) names of witnesses who are called to testify;
- (6) parties' motions;
- (7) findings of fact and conclusions of law by the court as required by law or rule;
- (8) court rulings, orders, decisions and notices to the parties made in the course of the proceeding;
- (9) verdicts; and/or
- (10) any other matter directed by the court.

Nothing in this rule shall be read to require minute entries in any proceeding or to inhibit innovations or programs that would eliminate minute entries.

**(b) through (e)** No change

## **Arizona Rules of Civil Appellate Procedure**

### **10. Appeals in Expedited Election Matters**

**(a) through (e)** No change

**(f) Preparation of the Record on Appeal.**

(1) *Index.* The superior court clerk must prepare an index of the record and transmit the index and the superior court's record to the appellate court within 5 business days after the notice of appeal is filed.

(2) *Transcripts; Stipulated Record.*

(A) The appellant must promptly order and ask the ~~court~~-certified reporter or authorized transcriber to expedite the preparation of any transcripts necessary for determination of the appeal.

(B) No later than one business day after filing the notice of appeal in the superior court, the appellant must notify every other party of the portions of every transcript of court proceedings that the appellant intends to include in the record on appeal. If any other party considers a transcript of additional portions of the proceedings to be necessary, that party must notify the appellant and all other parties within one business day of the additional portions to be included in the record on appeal. If the appellant declines to order those additional portions, that other party may order them, or may instead request an appropriate order from the superior court judge who entered the judgment.

(C) The party that orders a transcript must make payment arrangements with the ~~court~~-certified reporter or authorized transcriber, and upon receipt of the transcript, must promptly file it with the appellate court and serve other parties with a copy.

(D) If necessary, a party may request the appellate court to order expedited preparation of the record.

(E) In lieu of transcripts, the parties may agree on a stipulated record and submit copies of the stipulated record to the appellate court.

(g) through (j) No change

## 11. The Record on Appeal

(a) No change

**(b) Transcripts of Oral Proceedings.** A transcript of an oral proceeding in the superior court must be prepared by a certified ~~court~~-reporter or by an authorized transcriber. A party that wants the record on appeal to include a transcript of an oral proceeding that was not previously filed as a part of the official record must order the transcript as follows:

(1) *Certified Transcript.* If a certified ~~court~~-reporter attended a proceeding in the superior court, a party must order a certified transcript of proceedings directly from that reporter.

(2) *Authorized Transcription.* If the superior court created only an audio or audio-video recording of the proceeding, a party must order a certified transcript of the proceeding directly from an authorized transcriber. The superior court must furnish the transcriber with a copy of the designated electronic recording upon receipt of a notice from the transcriber that the transcriber has reached a satisfactory arrangement for payment. All parties to the appeal must cooperate with the transcriber by providing information that is necessary to facilitate transcription.

**(c) Appellant's Duty to Order Transcripts and Other Parties' Transcript Designations.**

(1) *What to Order.*

(A) The appellant must order transcripts of superior court proceedings not already in the official record that the appellant deems necessary for proper consideration of the issues on appeal.

(B) If the appellant will contend on appeal that a judgment, finding or conclusion, is unsupported by the evidence or is contrary to the evidence, the appellant must include in the record transcripts of all proceedings containing evidence relevant to that judgment, finding or conclusion.

(C) A complete transcript of superior court proceedings does not need to include juror qualifications, jury impaneling, opening statements, or argument of counsel to the jury, unless appellant will raise an issue concerning one of those proceedings.

(2) *When to Order.* The appellant must order transcripts directly from a certified ~~court~~-reporter or an authorized transcriber within 10 days after filing the notice of appeal, or within 10 days after entry of an order disposing of the last timely remaining motion under Rule 9(e), whichever is later.

(3) *Notice of Transcript Order and Statement of Issues on Appeal.* Within 15 days after filing the notice of appeal, or within 15 days after entry of an order disposing of the last timely remaining motion under Rule 9(e), whichever is later, the appellant must file in the superior court and serve on the other parties the following:

(A) A notice of transcript order that either: (i) states that the appellant has ordered a complete transcript of superior court proceedings; (ii) identifies the particular proceedings for which the appellant has ordered transcripts; or (iii) states that the appellant has not ordered any transcripts; and

(B) If the appellant orders less than a complete transcript of superior court proceedings, a statement of the issues that the appellant intends to raise on appeal.

(4) *Designation of Additional Transcripts; Notice of Intention Not to Order; Response.*

(A) Designation of Additional Transcripts. If another party considers a transcript of a proceeding necessary for proper consideration of the issues on appeal, and if the appellant has not ordered the transcript, the other party must file in the superior court, and serve on the appellant and all other parties, a designation of the additional transcript as part of the record on appeal. This designation must be filed and served within 10 days after service of the appellant's notice and statement under Rule 11(c)(3).

(B) Notice of Intention Not to Order. If the appellant does not intend to order a transcript designated by another party, the appellant must file in the superior court and serve on the other parties a notice stating that intention. This notice must be filed and served within 5 days after the service of a designation under Rule 11(c)(4)(A). If the appellant does not timely file and serve such a notice of intention, the appellant must order the transcript designated by the other party.

(C) Response to a Notice of Intention Not to Order. If the appellant timely files and serves a notice of intention not to order under Rule 11(c)(4)(B), the party that designated the transcript must respond within 5 days by:

(i) Filing and serving a notice withdrawing the designation;

(ii) Ordering the designated transcript, making arrangements for payment under Rule 11(c)(5), and filing and serving a notice identifying the transcript that was ordered; or

(iii) Filing a motion in the superior court for an order that would require the appellant to order, and to pay for, the designated transcript. The superior court may enter such an order upon a finding that it is in the interests of justice.

(5) *Payment*. When ordering transcripts, a party must make satisfactory arrangements with the certified ~~court~~-reporter or authorized transcriber for timely paying the cost of the transcripts the party has ordered.

(6) *Cross-Appellant*. When used in this Rule 11(c), the term “appellant” includes a cross-appellant, and the term “notice of appeal” includes a notice of cross-appeal.

(d) through (h) No change

## **11.1. Transmitting the Record to the Appellate Court**

(a) through (c) No change

### **(d) Delivery and Filing of Transcripts.**

(1) *Delivery and Filing*. If the ordering party has made payment, within 30 days after the date of a party's order the ~~court~~-certified reporter or authorized transcriber must provide the ordering party with a certified electronic transcript, or with a

certified paper transcript if one was requested by the ordering party. Within 5 days after receipt of a certified transcript, the ordering party must file it with the appellate clerk.

(2) *Extension of Time.* If a reporter or transcriber cannot complete a transcript within 30 days after a party's order, the ordering party may request the appellate clerk to grant additional time for the reporter or transcriber to provide it. Under Rule 15(e)(1), the unavailability of a transcript may be a basis for an extension of time to file a brief.

(3) *Service on Other Parties.* Within 5 days after receipt of a certified transcript from the reporter or transcriber, the ordering party must serve a copy of the transcript on all other parties. An ordering party that receives an electronic transcript must serve the transcript in either electronic or paper format, as requested by the other parties.

(4) *Additional Transcripts.* A party may file a motion with the appellate court at any time before the appeal is at issue under Rule 15(b) to include additional transcripts of superior court proceedings in the record on appeal.

## **Rules of Procedure for Direct Appeals from Decisions of the Corporation Commission to the Arizona Court of Appeals**

### **7. Record on Direct Appeal of Commission Decisions or Orders**

(a) through (e) No change

**(f) Transcript Defined; Several Appeals; Inability to Provide Timely Transcript.** “Transcript” for purposes of this rule shall refer to a ~~reporter's transcript prepared by a certified reporter or authorized transcriber~~. When more than one direct appeal is taken from the same Commission decision, a single transcript shall be prepared. If a transcript cannot be obtained within the time limitations provided in this rule for transmission of the Commission record, application for relief may be made by the Commission to the Court of Appeals.

(g) No change

## **Rules of Procedure for Direct Appeals from Decisions of the Governing Bodies of Public Power Entities**

## **7. Record on Direct Appeal of Decisions or Orders**

(a) through (e) No change

**(f) Transcript Defined; Several Appeals; Inability to Provide Timely Transcript.** “Transcript” for purposes of this rule shall refer to a ~~reporter's transcript prepared by a certified reporter or authorized transcriber~~. When more than one direct appeal is taken from the same Governing Body decision, a single transcript shall be prepared. If a transcript cannot be obtained within the time limitations provided in this rule for transmission of the record, application for relief may be made by the Governing Body to the Court of Appeals.

(g) No change

## **Arizona Rules of Family Law Procedure**

### **8. Telephonic Appearances and Testimony**

(a) No change

**(b) Appearance of a Party at a Non-Evidentiary Proceeding.** The court may allow a party to appear telephonically at a non-evidentiary proceeding if each person will be audible to every other person participating in the proceeding, including the judge, and, if applicable, to the ~~court~~ certified reporter or an electronic recording system.

(c) through (f) No change

### **12. Court Interviews of Children**

(a) through (b) No change

**(c) Record of the Interview.**

(1) *Generally.* Unless the parties stipulate otherwise on the record or in writing, the court must record the interview, either by having a ~~court-certified~~ certified reporter transcribe it or by recording it ~~through another retrievable and perceivable by electronic medium means~~. However, any interview conducted by a judicial officer must be recorded.

(2) *Sealing*. For good cause and after considering the child's best interests, the court may seal from the public all or part of the record of the interview.

(3) *Availability to the Parties*. The parties may stipulate that the court not provide them with a record of the interview. If a party makes a request for recording, the court must make the record available to the parties not later than 14 days before the hearing at which the court will consider the interview, unless the court finds good cause for a different deadline.

(d) No change

## **18. Preserving a Recording of a Court Proceeding**

(a) No change

(b) **Transcription**. If a ~~court-certified~~ reporter's verbatim recording will be transcribed, the ~~court-certified~~ reporter who made the recording must be given the first opportunity to make the transcription, unless that ~~court-certified~~ reporter no longer serves in that position or is unavailable for any other reason.

## **57. Depositions by Oral Examination**

(a) No change

(b) **Notice of a Deposition; Method of Recording; Deposition by Remote Means; Deposition of an Entity; Other Formal Requirements**.

(1) *Notice Generally*. Unless all parties agree or the court orders otherwise, a party who wants to depose a person must serve written notice to every other party at least 10 days before the date of the deposition. The notice must state the date, time, and place of the deposition and, if known, the deponent's name and address. If the deponent's name is unknown, the notice must provide a general description sufficient to identify the person or the particular class or group to which the person belongs.

(2) *Producing Materials*. If a subpoena for documents, electronically stored information, or tangible things has been or will be served on the deponent, the materials designated for production in the subpoena must be listed in the deposition notice or in an attachment to the notice. A deposition notice to a deponent who is a party to the action may be accompanied by a separate request under Rule 62 to produce documents, electronically stored information, or tangible things at the deposition. The procedures under Rule 62 apply to any such request.

(3) *Method of Recording.*

(A) Permitted Methods. Unless all parties agree or the court orders otherwise, testimony under oath or affirmation must be recorded by a certified reporter and in addition may be recorded by audio or audiovisual means.

(B) Notice of Method of Recording. With at least two days' written notice to the deponent and other parties, any party may designate another method for recording the testimony in addition to a certified reporter. Unless the parties agree or the court orders otherwise, that party bears the expense of the additional recording.

(C) Transcription. Any party may request that the testimony be transcribed. If the testimony is transcribed, the party who originally noticed the deposition is responsible for the cost of the original transcript. Any other party may, at its expense, arrange to receive a certified copy of the transcript.

(4) *By Remote Means.* The parties may agree, or the court may order that a deposition be taken by telephone or other remote means. The deposition takes place where the deponent answers the questions, but an Arizona certified ~~court~~ reporter may record the testimony in Arizona. If the deponent is not in the officer's physical presence, the officer may nonetheless place the deponent under oath or affirmation with the same force and effect as if the deponent was in the officer's physical presence.

(5) *Notice or Subpoena Directed to an Entity.* In a deposition notice or subpoena, a party may name as the deponent a public or private corporation, a limited liability company, a partnership, an association, a governmental agency, or other entity, and must then describe with reasonable particularity the matters for examination. The named entity must then designate one or more officers, directors, managing agents, or other persons who consent to testify on its behalf. If the entity designates more than one person to testify, it must set out the matters on which each designated person will testify. Each designated person must testify about information known or reasonably available to the entity. This subpart does not preclude a deposition by any other procedure allowed by these rules.

**(c) Examination and Cross-Examination; Record of the Examination; Objections; Conferences Between Deponent and Counsel.**

(1) *Examination and Cross-Examination.* The examination and cross-examination of a deponent must proceed as they would at trial under the Arizona Rules of Evidence including Rule 615. Parties may not make evidentiary objections, including relevance objections. Any party not present within 30 minutes after the time specified in the notice of deposition waives any objection that the deposition was taken without the party's presence. After putting the deponent under oath or affirmation, the certified ~~court~~-reporter personally--or a person acting in the

presence and under the direction of the officer--must record the testimony by the method(s) designated under Rule 57(b)(3).

(2) *Objections.* A certified ~~court~~ reporter must note on the record any objection made during the deposition--whether to evidence, to a party's, deponent's, or counsel's conduct, to the officer's qualifications, to the manner of taking the deposition, or to any other aspect of the deposition. An objection must be stated concisely, in a nonargumentative manner, and without suggesting an answer to the deponent. Unless requested by the person who asked the question, an objecting person must not specify the defect in the form of a question or answer. Counsel may instruct a deponent not to answer--or a deponent may refuse to answer--only when necessary to preserve a privilege, to enforce a limit ordered by the court, or to present a motion under Rule 57(d)(3). Otherwise, the deponent must answer, and the testimony is taken subject to any objection.

(3) *Conferences Between Deponent and Counsel.* The deponent and his or her counsel may not engage in continuous and unwarranted conferences off the record during the deposition. Unless necessary to preserve a privilege, the deponent and his or her counsel may not confer off the record while a question is pending.

(d) through (g) No change

## **69. Binding Agreements**

(a) **Validity.** An agreement between the parties is valid and binding on the parties if:

- (1) the agreement is in writing and signed by the parties personally or by counsel on a party's behalf;
- (2) the agreement's terms are stated on the record before a judge, commissioner, judge pro tempore, or ~~court~~-certified reporter; or
- (3) the agreement's terms are stated in an audio recording made before a mediator or a settlement conference officer appointed by the court.

(b) through (c) No change

## **73. Family Law Conference Officer**

(a) through (b) No change

(c) **Procedures.**

(1) *Conducting a Conference.* The conference officer should conduct the proceedings in an informal manner but must give the parties an opportunity to present their positions. The conference officer may record the proceedings by ~~audiotape~~ electronic means or by a ~~court-certified~~ reporter. A party represented by an attorney has the right to have the attorney present at the conference.

(2) *Agreements.* If the parties agree on issues raised during the conference, the conference officer may prepare a stipulation, consent decree, consent judgment, written agreement, or order for signature by the parties or their attorneys. If the parties are unable to agree on all issues, the conference officer may assist the parties in preparing a partial agreement and any documents necessary to effectuate that agreement. The conference officer must forward these documents to the assigned judge for approval and signature.

(3) *Exceptions.* A conference officer may not conduct a hearing required by statute, including a denial of parenting time, license suspension, UCCJEA, or establishment or modification of legal decision-making.

(d) No change

## **Arizona Rules of Protective Order Procedure**

### **18. Record of Hearings**

A judicial officer must cause all contested protective order hearings and, where practicable, all *ex parte* hearings to be recorded electronically or by a ~~court-certified~~ reporter. An appeal from a contested hearing that was not electronically recorded or otherwise reported results automatically in a new hearing in the original trial court.

## **Arizona Rules of Probate Procedure**

### **12. Telephonic and Video Attendance and Testimony**

(a) No change

**(b) When Permitted.** Parties and their attorneys are expected to appear in open court for court proceedings unless the court, in its discretion, permits telephonic attendance under this rule. The court may allow a person to telephonically attend, or testify at, a proceeding if both of the following are true:

(1) the person can be heard by every other person participating in the proceeding, including the judicial officer and, if applicable, the ~~court~~-certified reporter or an electronic recording system; and

(2) no party will be unfairly prejudiced by the telephonic attendance or testimony.

(c) through (h) No change

## **22. Settlement Conference**

(a) through (d) No change

(e) **Record.** Settlement discussions are not recorded by a ~~court~~-certified reporter or an electronic recording system. If the parties reach a settlement, the terms of the settlement must either be placed on the record and entered in the minutes or be included in a writing signed by the parties.

(f) through (g) No change

## **Rules of Procedure for the Juvenile Court**

### **1. Applicability; Definitions; Required Format of Stipulations, Motions and Orders**

(A) through (B) No change

(C) For the purposes of these rules, an “authorized transcriber” is a certified ~~court~~ reporter or a transcriber under contract with an Arizona court.

(D) No change

### **81. Consent to Adopt**

(A) No change

(B) **Procedure.** At the hearing, the person seeking to give consent is responsible for the following:

1. Providing the court with proof of identification which shall include a photograph of the person so that the court can verify the identity of the person before taking a consent to adopt;
2. Making arrangements for the presence of a certified ~~court~~-reporter at the hearing if one is required to effectuate an out-of-state adoption; and
3. Providing the court with copies of the consents for signature if required, which shall include an additional copy for the court. All copies for signature shall be accompanied by self-addressed, stamped envelopes if the person consenting will request that the court mail the consents to the state where the adoption will occur.

(C) through (D) No change

#### **104. Time Within Which an Appeal May be Taken and Notice Thereof; Preparation of Certified Transcript and Record on Appeal**

(A) through (B) No change

(C)(1) Within two business days following the filing of a notice of appeal, the clerk of the superior court shall serve copies of the notice of appeal on all parties or their counsel; on each certified ~~court~~-reporter who reported any juvenile court proceeding that is part of the certified transcript as defined by subsection D.2. of this rule or the court's designated transcript coordinator, if the record was made by electronic or other means, and on the clerk of the court of appeals. The clerk of the superior court shall include with the copy of the notice of appeal served on the clerk of the court of appeals a copy of the order from which the appeal is taken and the names of the persons who were sent a copy of the notice of appeal.

(2) No later than 10 calendar days after the clerk of the superior court has served copies of the notice of appeal pursuant to subsection (C)(1) of this rule, any party to the proceeding from which the appeal arises or any fiduciary who appeared in the proceeding on behalf of a party thereto may file with the clerk of the superior court and serve on all persons on whom service was made under subsection (C)(1) of this rule a notice stating that the party or fiduciary does not intend to participate actively in the appeal and instead adopts and agrees in advance to be bound by the appellate positions, filings, representations, actions, and omissions of another party or parties, who shall be specifically identified. A notice under this subsection may not be used or relied upon as a substitute for a notice of appeal, notice of cross-appeal, petition for review, or cross-petition for review. By filing a notice under this subsection, a party or fiduciary does not waive the right to continue to receive service of orders, notices, or other documents issued by the juvenile court or the

appellate court, or motions, briefs, notices, or other documents filed by any other party in connection with the appeal. Filing a notice under this subsection does not relieve a party or fiduciary of the obligation to serve upon the remaining parties, or other persons or entities entitled by law or court rule to receive them, any motions, briefs, notices, or other documents filed by the party or fiduciary in the juvenile court or the appellate court in connection with the appeal.

**(D)** No change

**(E)** No later than five days after filing the notice of appeal the appellant may file with the clerk of the superior court and serve a pleading entitled “designation of record” (1) requesting that the clerk of the superior court add to the record on appeal specifically identified subpoenas or praecipes, or specifically identified studies, reports or medical or psychological evaluations, or compilations of such studies, reports or evaluations, prepared as required by statute, court rule or order for the use of the juvenile court in the proceedings resulting directly or indirectly in the order from which the appeal is taken and not otherwise part of the record; (2) requesting that the clerk of the superior court delete from the record specifically identified items otherwise automatically included in the record on appeal; and (3) requesting that one or more certified ~~court~~ reporters or the court's designated transcript coordinator, if the record was made by electronic or other means, add to the transcript any proceeding or part thereof not automatically included, and to exclude from the transcript any portion thereof otherwise automatically included. The appellant shall serve the designation of record on all parties, on each ~~court~~ certified reporter who reported a designated portion of the proceedings, and on the court's designated transcript coordinator, if the record was made by electronic or other means.

**(F)(1)** No later than 12 days after the filing of the notice of appeal any appellee may file with the clerk of the superior court and serve a pleading entitled “supplemental designation of record” (1) requesting that the clerk of the superior court add to the record on appeal specifically identified subpoenas or praecipes, or specifically identified studies, reports or medical or psychological evaluations, or compilations of such studies, reports or evaluations, prepared as required by statute, court rule, or order for the use of the juvenile court in the proceedings resulting directly or indirectly in the order from which the appeal is taken and not otherwise part of the record, or any specifically identified items deleted by appellant's designation of record; and (2) requesting that one or more ~~court~~ certified reporters or authorized transcribers add to the transcript any proceeding or part thereof deleted by appellant's designation of record or not automatically part

of the transcript as defined in Rule 104(D)(2). The supplemental designation of record shall be served on all parties and on each affected ~~court~~-certified reporter and authorized transcriber.

(2) If any dispute arises about whether the record discloses what actually occurred in the juvenile court, it shall be submitted to and resolved by the juvenile court. If anything material to any party to the appeal is omitted from or misstated in the record, the parties by stipulation, the juvenile court, either before or after the record is transmitted to the appellate court, or the appellate court on motion or on its own initiative, may direct that the omission or misstatement be corrected, and if necessary that a supplemental record be certified and transmitted. All other questions concerning the form and content of the record shall be presented to the appellate court.

(G) No change

(H) The ~~court~~-certified reporter or reporters or authorized transcribers shall prepare the original certified transcript and one copy for each party to the appeal who has not filed a notice pursuant to subsection C.2. of this rule promptly upon receiving a notice of appeal filed by a governmental entity or a notice of appeal stating that the appellant was proceeding with appointed counsel in the juvenile court when the final order that is the subject of the appeal was filed.

(I) No later than five days after the filing of the notice of appeal or five days after the denial of a request to proceed with appointed counsel, an appellant who is not proceeding with appointed counsel shall make arrangements with the certified ~~court~~-reporter or authorized transcriber to pay for the transcript. The certified ~~court~~ reporter or authorized transcriber shall immediately notify the appellate court in writing if an appellant fails to make satisfactory arrangements within the prescribed time. When satisfactory payment arrangements are made, the certified ~~court~~-reporter or authorized transcriber shall promptly prepare the certified original transcript and one copy for each party to the appeal who has not filed a notice pursuant to subsection C.2. of this rule.

(J) No change

## **105. Docketing of Appeal; Transmission and Filing of Record on Appeal; Filings in Juvenile Court after Commencement of Appeal**

(A) No change

(B) The ~~court-certified~~ reporter or reporters or authorized transcriber shall file the completed certified transcript with the clerk of the court of appeals, marked with the number assigned to the appeal by the court of appeals, no later than

- (1) 30 days after the filing of a notice of appeal by a governmental agency or of a notice of appeal stating that appellant proceeded with appointed counsel in the juvenile court when the final order that is the subject of the appeal was filed, or
- (2) 30 days after service of an order of the presiding judge of the juvenile court appointing counsel to represent the appellant on appeal, or
- (3) 30 days after the appellant makes satisfactory arrangements to pay for the certified transcript, whichever event first occurs. At the time of filing the certified transcript, the ~~court-certified~~ reporter or reporters or authorized transcriber shall serve one copy of the certified transcript on each appellant and each appellee who has not filed a notice pursuant to 104(C)(2). The ~~court-certified~~ reporter or reporters or authorized transcriber shall contemporaneously file notice of service of the certified transcript with the appellate court, reflecting when, upon whom, and by what means service was made. Service of certified transcript copies shall be made in the manner prescribed by any applicable local rule or administrative order, or otherwise in accordance with the prevailing custom in the juvenile court from which the appeal originates.

(C) If the certified transcript is not timely filed with the clerk of the court of appeals, the noncomplying ~~court-certified~~ reporter or reporters or authorized transcriber shall be subject to such orders or sanctions as the court of appeals deems appropriate in its discretion.

(D) through (G) No change

## **106. Briefing, Consideration and Disposition in the Court of Appeals**

(A) through (D) No change

(E) The appellate court, upon motion of the appellee, or upon its own initiative after notice to all parties, may dismiss an appeal for any legal cause including want of prosecution, unless an affected party makes a showing of good cause why the appeal should not be dismissed. The clerk of the court of appeals shall give prompt notice of dismissal of an appeal to the parties, the clerk of the superior court, and if the certified transcript has not yet been filed, to the appropriate ~~court-certified~~ reporter or reporters or the court's designated transcript coordinator.

(F) through (H) No change

## **Superior Court Rules of Appellate Procedure—Civil**

### **1. Scope of Rules; Definitions**

(a) No change

(b) All appeals from the limited jurisdiction courts shall be on the record. The record may be made by a certified ~~court~~-reporter or other electronic means approved by the Supreme Court. A trial de novo shall not be granted when a party who had opportunity to request that a verbatim record of the limited jurisdiction court proceedings be made, failed to do so.

(c) through (g) No change

(h) For the purposes of these rules, an “authorized transcriber” is a certified ~~court~~-reporter or a transcriber under contract with an Arizona court.

## **Superior Court Rules of Appellate Procedure—Criminal**

### **1. Scope; Definitions**

(a) through (e) No change

(f) For the purposes of these rules, an “authorized transcriber” is a certified ~~court~~-reporter or a transcriber under contract with an Arizona court.

### **2. Record of Proceedings**

(a) A record in the trial court shall be made by a certified ~~court~~-reporter or other electronic means approved by the Supreme Court.

(b) through (d) No change

## **Rule of Procedure for Judicial Review of Administrative Decisions**

### **5. Record on Appeal**

(a) through (c) No change

**(d) Preparation and Certification of Transcript.** The transcript of the administrative hearing, or designated portions thereof, must be included in the record on appeal if requested by appellant in the notice of appeal or in writing filed by any other party within 10 days after that party is served with a notice of appeal.

1. A party requesting a transcript not already contained in the administrative record of a hearing stenographically reported by a ~~court~~-certified reporter must make satisfactory arrangements with the reporter for payment of the cost of the transcript. That party must file the original transcript with the superior court within 30 days of the request.

2. A party requesting a transcript not already contained in the administrative record of a hearing created by recording must obtain a copy of the tape recording from the agency that conducted the hearing and cause a written transcript to be prepared at the requesting party's expense. The requesting party must file the transcript with the clerk of the superior court within 30 days of the request.

(e) No change

## **Justice Court Rules of Civil Procedure**

### **123. Depositions**

**(a) Definition; before whom a deposition may be taken.** A deposition is an opportunity to question another party or a witness while the other party or witness is under oath. A deposition is taken out of court before an officer authorized to administer oaths, without a judge present. A court clerk or a certified ~~court~~-reporter in Arizona may administer oaths. An out-of-state deposition may be taken before an officer who is authorized to administer an oath by the law or by a court of that state. A deposition may be taken in a foreign country before an officer authorized to administer an oath by the law of the place where the examination is held.

Questions and answers at a deposition are recorded by a certified ~~court~~-reporter, or by another method that is agreed to by the parties. A deposition may not be recorded by a party, by a person who is a relative, a friend, or an employee of a

party, by an attorney for a party or an employee or relative of an attorney for a party, or by a person who is financially interested in the lawsuit. [ARCP 28(a)-(c)]

(b) No change

**(c) Notice of deposition; deposition of a representative of a public or private entity.** At least ten (10) days before the date of the deposition, a notice of deposition must be provided to (“served on”) (1) the person who will be deposed and (2) the other parties to the lawsuit. The notice of deposition must state the name of the person who will be deposed; the location of the deposition; the date and starting time of the deposition; and the name of the person who will record the deposition and the method of recording. When a party deposes another party, a notice of deposition must also include the following language:

*“The Justice Court Rules of Civil Procedure allow a party to take the deposition of another party. A deposition is an opportunity to ask questions to another person while the person who is deposed is under oath. A deposition takes place out of court and a judge is not present. A deposition is recorded by a ~~court~~ certified reporter or by another method agreed to by the parties. A deposition may not take longer than four (4) hours, unless agreed to by the parties or unless ordered by the court.*

*“If you fail to appear for your deposition, the party who sent this notice may file a motion asking that the court order you to appear. If the court orders you to appear for your deposition, the court may also order that you pay the expenses, including attorneys' fees, incurred by the other party as a result of your failure to appear. If you fail to appear for your deposition after the court has ordered you to appear, the court may impose additional penalties against you, including an order that you may not introduce evidence of some or all of your claims or defenses in this lawsuit; if you are a plaintiff, that your lawsuit be dismissed; or if you are a defendant, that your answer be stricken and that judgment be entered against you.”*

A notice of deposition may be served on a public or private entity, such as a governmental body or agency, a corporation, or a partnership, whether or not the entity is a party to the lawsuit, and the notice may describe with reasonable specificity the topics that will be asked about during the deposition. The entity must then designate one or more of its officers, directors, or employees who have knowledge of the specified topics and who will appear at the deposition and testify concerning those subjects. [ARCP 30(b), (d)]

**d. Procedure.** The attendance of a witness who is not a party at a deposition may be required by serving the witness with a subpoena, as provided in Rule 137(b). A party may be required to produce documents at a deposition pursuant to Rule 125. The party requesting the deposition must pay the cost of recording, unless the court orders or the parties agree otherwise.

The deposition must start within thirty (30) minutes of the time provided in the notice, and any party not present within thirty (30) minutes of the time provided in the notice of deposition waives any objection to the deposition starting without the party's presence. The officer specified in section (a) of this rule must administer the oath to the person who is deposed before the start of testimony. If a deposition is recorded by means other than a certified ~~court~~-reporter, the person operating the recording equipment must be sworn to fully and fairly record the proceeding. The person or persons recording the deposition will note the starting and ending times of the deposition, and the times of any breaks during the deposition.

Any objections at a deposition, including objections to a specific question, will also be recorded, and evidence is taken subject to the objections. Objections to the form of a question, or to the responsiveness of an answer, must be concise, and must not suggest answers to the person being deposed. Continuous or unwarranted off-the-record conferences with the person being deposed, following questions and before answers, are not permitted, and this conduct is subject to penalties under Rule 127(d).

The ~~court~~-certified reporter or other person recording the deposition must identify and maintain any exhibits used at the deposition, although copies of original exhibits may be substituted by agreement of the parties. Before concluding the deposition, the ~~court~~-certified reporter or other recorder must ask the witness if the witness would like an opportunity to review the transcript or recording to affirm its accuracy, or if the witness waives that right. A witness who asks to review the transcript or recording will have thirty (30) days after notification that the transcript or recording is available to review and to submit a statement concerning any inaccuracy of the transcript or recording, and a statement submitted by the witness to the ~~court~~-certified reporter or other recorder within that time must be included with the transcript or recording of the deposition.

Upon motion, the court may impose an appropriate penalty under Rule 127(d) against any party, attorney, or witness who engages in unreasonable, groundless, abusive or obstructionist conduct at a deposition, or against a party or attorney who

takes a deposition in bad faith, or to annoy or embarrass the person being deposed.  
[ARCP 30(b)-(d), 32(d)]

(e) No change

## **Rules of Procedure for Eviction Actions**

### **11. Initial Appearance and Trial Procedures**

**(a) In General.** All proceedings in eviction actions shall be recorded, either through a recording device or by a ~~court~~-certified reporter. On the date and at the time set for the initial appearance, and after announcing the name of the plaintiff and the defendant, the court shall:

(1) Call the case, identify the parties and any attorneys or representatives present and ascertain that they are properly authorized to represent the parties to the action. As provided by Arizona Supreme Court Rule 31, no property manager or other agent shall be allowed to represent a party unless he or she is the property owner, a sub lessor entitled to possession, or an attorney licensed to practice law and in good standing in Arizona.

(2) State or summarize the material allegations contained in the complaint.

(3) Ask the defendant whether the defendant contests the allegations contained in the complaint.

(b) through (e) No change