

AZ JUDICIAL CONFERENCE

Family Law Rule Changes



Family Law Rule Changes (and a little Case Law)

Judicial Conference

Judge Nathan Wade, Pima County Superior Court
Judge Amanda Parker, Maricopa County Superior Court

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Rules 3 & 6- Change of Judge as a Matter of Right

Rule 3(k) Family Law Case. A "family law case" is a court case assigned a unique case number upon the filing of an initial pleading under [Rule 23](#), or two or more cases consolidated under a single case number. **The filing of a post-decree petition under [Rule 23](#), including a petition for civil contempt under [Rule 92](#), does not create a separate family law case.**

Rule 6 - changes the word "action" to "family law case" such that it now encompasses the entire case- pre- and post-decree. Does not allow parties to exercise Rule 6 at random times in a case anymore.

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RULE 6(g)

(g) Post-Decree Petitions. In proceedings on a post-decree petition, the right to a change of judge is renewed and no event connected with prior proceedings constitutes a waiver if:

(1) the judge assigned to preside over the post-decree proceeding has not previously ruled on a contested issue or held a hearing or conference **in the family law case**; and

(2) the party seeking a change of judge has not previously exercised the party's right to a change of judge **in the family law case**.

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Rule 45(b)(1) - Consent Decree, Judgment, or Order

Removes the requirement that Consent Decrees include a Spousal Maintenance Worksheet and instead requires that they have reviewed the Spousal Maintenance Guidelines, and that any award of spousal maintenance is appropriate and just.

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Rule 45(b)(1) - Consent Decree, Judgment, or Order

(b) Content of Consent Decree, Judgment, or Order. The consent decree, order, or judgment must meet these requirements:

(1) It must state the terms of the parties' agreement. For dissolution or legal separation decrees that include an award of spousal maintenance, the parties must ~~separately file a Spousal Maintenance Calculator Worksheet. If the stipulated amount or duration of spousal maintenance is outside the applicable guideline ranges, the decree must include the required findings from the guidelines, and state that the stipulated amount and duration will allow the receiving party to become self-sufficient.~~ acknowledge that they have reviewed the Spousal Maintenance Guidelines and that any award of spousal maintenance is appropriate and just.

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Rule 47 - Motions for Temporary Orders

(a) Motions for Pre-Decree Temporary Orders

(a) Motions for Pre-Decree Temporary Orders. A party seeking temporary orders for legal decision-making, parenting time, **placement, visitation**, child support, or spousal maintenance, or concerning property, debt, or attorney fees, must file a separate verified motion that states the motion's legal and jurisdictional basis and the specific relief requested.

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Rule 47 - Motions for Temporary Orders

(k) Enforceability of Temporary Orders

(3) Reinstatement. If a dismissed matter is reinstated, whether on a party's motion or the court's own motion, the court's order reinstating the case must specify whether the temporary orders in effect at the time the matter was dismissed are returned to full force and effect as of the date of the matter's reinstatement.

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Rule 47.2 - Motions for Post-Decree Temporary Legal Decision-Making, Parenting Time, Placement, Visitation, or Child Support Orders

(a) Generally. A party requesting temporary legal decision-making, parenting time, **placement, visitation**, or child support after entry of a decree must file a verified motion stating the legal and jurisdictional bases for the motion, and the specific relief requested.

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Rule 49 - Disclosure

Rule 49(a)(2) Scope.

This rule applies to all actions **other than those addressed by Rules 91 through 92**. A party must disclose information in the party's possession and control, as well as information that party can determine or acquire by reasonable inquiry and investigation.

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Rule 50 - Complex Case Designation

(d) Effect of Designation. After designating a case complex, the court must conduct **an initial** scheduling conference at which it may enter orders concerning the scope and timing of disclosure and discovery. The court also may extend the time for parties to complete discovery under Rule 51. **The court must address the appropriate length of trial at each scheduling conference** and must provide a **presumptive** minimum of 12 hours for trial. **However, the court retains discretion to adjust the length of the trial based on the complexity of the issues identified in the parties' scheduling conference statements.**

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Rule 77(d) Procedures for Trials and Evidentiary Hearings

(2) *Additional Procedures Applicable to Trials and Evidentiary Hearings with a Self-Represented Party.* In addition to the procedures of Rule 77(d)(1) and absent a request otherwise before testimony begins, **the court will conduct the direct examination of a self-represented party on the issues raised by the parties' pleadings, pretrial statements, and notices of issues.** The court must allow a self-represented party to, within that party's allotted trial time, (1) testify about relevant information not addressed by the court's direct examination; (2) conduct their own direct examination upon request; and (3) cross-examine any other parties and their witnesses.

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Best Practices for Implementation?

1. **Before Hearing:** Outline issues and statutory considerations for issue before the hearing- what questions will get you sufficient information to make a ruling.
 - Modification- change in circumstance/403 factors
 - Property - determine what is community property/questions on timelines/review PTS for discrepancies in monetary amounts, etc.
 - Spousal Maintenance/Child Support - have FA's ready to review with them and ask about
 - Any other outstanding questions you have after review of the case file and pleadings.

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Rule 77(d)(2)

2. During Hearing:

- Affirm anything in their statements relevant to findings
- Go through factors needed to rule on the issue (403, etc.)
- Ask about discrepancies with other parties' numbers (if applicable)
- End with Open Ended question: "Is there anything that I haven't asked you that you think is important for the Court to know in making a ruling?"

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Things to Remember

1. Other party (or the self-represented litigant) may object to direct questioning (and how to still get what you need)
2. Other party still cross-examines the self-represented litigant
3. The self-represented litigant still cross-examines witnesses and conducts direct examination of their own witnesses

ADVANTAGE: Streamlines hearings and ensures that there is sufficient testimony for the court to make statutory findings.

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Best Practices

How do you implement the new Rule?
Ideas/Suggestions welcome!

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Rule 91 - Modification or Enforcement of Judgment

(i) Initial Review of Petitions.

(1) *Setting a Conference or Hearing or Rejecting a Petition.*

. . . If the court issues the Order to Appear, it must set **an initial conference**, resolution management conference, or evidentiary hearing, as appropriate. No evidence may be taken at **an initial conference or** resolution management conference except under emergency circumstances.

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Rule 91 - Modification or Enforcement of Judgment

(i) Initial Review of Petitions.

(4) *Scope of Initial Conference.* At an initial conference, the court may inquire as to whether service has been effectuated, and in the court's discretion, schedule a resolution management conference or evidentiary hearing, order the parties to meet and confer, or order dismissal under Rule 91(k), if appropriate. The court may make any additional orders that the court finds appropriate to ensure a timely resolution of the petition.

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Rule 91 - Modification or Enforcement of Judgment

(j) *Manner and Timing of Service.* The applicant must serve the petition, and every order, warrant, and affidavit in support of the petition, on all other parties in the manner required under Rules 40(f)(1) or 41, as applicable. The applicant must make good faith efforts to complete service promptly and within 10 days after the receipt of the issued order to appear **but must complete service in no event later than 5 days before an initial conference** and if no initial conference is scheduled, no later than 20 days before the hearing for a petition under Rule 91.5, and in no event later than 40 days before the hearing for a petition under Rules 91.1 through 91.4 or 91.6 through 91.7.

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Rule 91 - Modification or Enforcement of Judgment

Rule 91(m):

(m) Disclosure. In any proceeding under Rule 91 or Rules 91.1 through 91.7, each party must ~~comply with Rule 49~~ disclose information in the party's possession and control, as well as information that the party can determine or acquire by reasonable inquiry and investigation.

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Rule 91(m)(1), (7) *Timing of Initial and Final Supplemental Disclosure*

Petition Type	Initial Disclosure Deadline	Final Supplemental Disclosure Deadline
Rules 91.1–91.4, 91.6 & 91.7 (Hearing set within 60 days of service)	Earlier of: <ul style="list-style-type: none"> • 30 days after service of petition, or • 5 days before evidentiary hearing 	No later than 5 days before evidentiary hearing
Rules 91.1–91.4, 91.6 & 91.7 (No hearing set within 60 days of service)	30 days after service of petition	No later than 30 days before evidentiary hearing
Rule 91.5 –Petition to Enforce PT or LDM	Earlier of: <ul style="list-style-type: none"> • 15 days after service of petition, or • 5 days before evidentiary hearing 	No later than 5 days before evidentiary hearing

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Rule 91(m)(2) - Specific Disclosure Obligations for all Rule 91 - 91.7 Petitions

Petition Type	Disclosure Obligations
All Petitions Under Rule 91 through 91.7	Disclosure of Exhibits: Evidence, documents, or electronically stored information (ESI) the party plans to use at hearing, including impeachment materials.
	Disclosure of Witnesses: Names, addresses, telephone numbers, and a summary of the expected testimony of each witness the party expects to call, along with statement describing expected testimony
	Disclosure of Expert Witnesses: Name, address, and telephone number of each expert witness; subject matter of testimony; substance of facts and opinions; summary of grounds for opinions; qualifications; and name/address of custodian of expert reports.
	Disclosure of Electronically Stored Information (ESI)

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Rule 91(m)(2) - Specific Disclosure Obligations for all Rule 91 - 91.7 Petitions (cont'd)

Petition Type	Disclosure Obligations
All Petitions Under Rule 91 through 91.7	<p>Proof of a Party's Income from All Sources When Required By Rules 91.1 - 91.7:</p> <ul style="list-style-type: none"> • Complete tax returns, W-2 forms, 1099 forms, K-1 forms for past 3 completed calendar years and year-end information for most recent calendar year if taxes not due yet • Information for current calendar year for all income (YTD pay stubs, bonuses, pensions, trust income, social security benefits, recurring gifts, spousal maintenance, etc) • Proof of court-ordered child support and spousal maintenance actually being paid • Proof of expenses paid for child(ren)'s insurance, child care, extraordinary expenses, etc.
	If Attorney's Fees Requested: AFI and proof of party's income from all sources

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Rule 91(m)(2) - Additional Petition-Specific Disclosure Obligations

Petition Type	Additional Disclosure Obligations
Rule 91.1 – Modify Spousal Maintenance	<ul style="list-style-type: none"> • Affidavit of Financial Information (AFI) • Proposed Spousal Maintenance Calculator worksheet • Proof of income from all sources • Relevant statutory-factor documents
Rule 91.1 – Modify Child Support	<ul style="list-style-type: none"> • Affidavit of Financial Information (AFI) • Proof of income from all sources
Rule 91.2 - Petition to Enforce Spousal Maintenance or Child Support	<ul style="list-style-type: none"> • Relevant documents and information supporting the claim • Proof of payments from all sources supporting the claim or defense

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Rule 91(m)(2) - Additional Petition-Specific Disclosure Obligations (cont'd)

Petition Type	Additional Disclosure Obligations
Rule 91.3 – Petition to Modify LDM or PT	<ul style="list-style-type: none"> • Current/prior protective orders and petitions involving party or any member of party's household since the last judgment entered
Rule 91.4 – Post-Judgment Relocation or to Prevent Relocation	<ul style="list-style-type: none"> • For each parent and child: name and address of each treatment provider and period of treatment for mental health issues, substance abuse, anger management, or domestic violence occurring since last judgment
Rule 91.5 – Petition to Enforce LDM or PT	<ul style="list-style-type: none"> • Criminal charge or conviction documentation for any party or member of party's household occurring since last judgment • Department of Child Safety investigation/proceeding documentation for party or member of party's household occurring since last judgment • Relevant statutory-factor documents

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Rule 91(m)(2) - Additional Petition-Specific Disclosure Obligations (cont'd)

Petition Type	Additional Disclosure Obligations
Rule 91.6 – Other orders that affect parenting orders	Unless otherwise specifically ordered, no disclosures required
Rule 91.7 –Other Post-Judgment Petitions	Unless otherwise specifically ordered, no disclosures required

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Rule 92 - Civil Contempt and Sanctions for Non-Compliance with a Court Order

(c) **Order to Appear.** The order to appear must specify the date, time, and place of the **an initial conference** or evidentiary hearing, and must contain the following notice using substantially the following language: Failure to appear at the hearing may result in the court issuing a child support or civil warrant for your arrest. If you are arrested, you may be held in jail for up to 24 hours before you see a judge.

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Celaya v. Quinteros, 583 P.3d 425 (App. 2025).

Holdings:

1. A modification action requires a two-step analysis beginning with whether there are changed circumstances and then determining what is in the child's best interests.
1. When two fit parents disagree on a decision for the child, they may present the issue to the court without fear that their inability to agree will jeopardize their future decision-making authority.

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Gilbert v. Sherman, 586 P.3d 687 (App. 2026).

Holdings:

1. When an amendment to a protective order is made at a contested hearing, ARPOP 38(d)(2) requires the superior court to explain the options available to a defendant, including his opportunity to waive them—the rule does not mandate that the court require the defendant to ask for a recess or take a continuance, and it must proceed if he waives those rights.
1. Issue preclusion does not prevent the superior court from considering previous orders of protection when issuing subsequent protective orders.

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Holland v. Holland, 573 P.3d 1128 (App. 2025).

Holding:

To find that placing a child with a legal parent would be “significantly detrimental” to the child under A.R.S. § 25-409(A)(2), the court must find that the parent’s continued **unsupervised** care or exercise of legal decision-making authority over the child would harm the child.

¶21 “Thus, ‘significantly detrimental’ means that the child will be harmed by *the parent’s continued care or exercise of legal decision-making authority* over the child.

¶36 “More fundamentally, if the court determines that giving the legal parent legal decision-making authority would be significantly detrimental to the best interests of the child, **then the parent cannot be awarded visitation.**”

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Holland v. Holland, 573 P.3d 1128 (App. 2025).

Holding:

When the court analyzes the A.R.S. § 25-403(A) best-interests factors, the court does not determine whether they favor the parent or a third party but rather whether they rebut the presumption that the parent should exercise legal decision-making authority—in other words, **the court’s inquiry is solely concerned with the parent.**

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***Rhodes-Hamby v. Askew, 1 CA-SA 26-0064,
2026 WL 973775 (Ariz. App. 2026) (mem.).***

¶15 . . . Mother previously committed acts of domestic violence against Father, triggering the rebuttable presumption that awarding legal decision-making to Mother is against the child's best interests. A.R.S. § 25-403.03(D). Even though testimony elicited at the evidentiary hearing preceding the court's temporary order might have been sufficient to rebut this presumption . . . the court must make **specific findings** on the record that there is sufficient evidence to rebut the presumption. It did not do so. And [i]n making its specific findings in this regard, the court must consider the factors listed in [A.R.S.] § 25-403.03(E). **The court's temporary order likewise did not consider the factors listed in A.R.S. § 25-403.03(E) or specifically find there was sufficient evidence to rebut the presumption. In these ways, the court's temporary order did not comply with A.R.S. § 25-403.03.**