SUPREME COURT OF ARIZONA

In the Matter of	)	Arizona Supreme Court
	)	No. R-12-0006
PETITION TO ADOPT JUSTICE COURT RULES OF CIVIL PROCEDURE	)	
	)	**FILED 08/30/2012**

ORDER
Justice Court Rules of Civil Procedure

A petition having been filed proposing to adopt the Justice Court Rules of Civil Procedure, and comments having been received, upon consideration,

IT IS ORDERED that the Justice Court Rules of Civil Procedure are hereby promulgated in accordance with the attachment hereto, effective January 1, 2013.

DATED this 30th day of August, 2012.

REBECCA WHITE BERCH
Chief Justice

TO:
Rule 28 Distribution
Mark E Meltzer
Gerald A Williams
Paul Julien
David Widmaier
C Steven McMurry

John A Furlong
Steven J Itkin
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James R Vaughan
Sarah L De La Rosa
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ATTACHMENT

Introduction to the Justice Court Rules of Civil Procedure

The Justice Court Rules of Civil Procedure ("JCRCP") promote a goal of the Supreme Court's Justice 2020 Strategic Agenda, to strengthen the administration of justice. The Justice 2020 Strategic Agenda noted that the legal system can be difficult for people who do not have an attorney, and that simplifying the rules for less complicated cases should make court proceedings more understandable for many people and increase their trust and confidence in the legal system.

These justice court rules are based on the Arizona Rules of Civil Procedure, which apply in the superior court. For ease of reference, any related superior court rules are shown in brackets at the end of a corresponding section of these rules, for example, **[ARCP 99]**. A table in the appendix also cross-references JCRCP provisions with related rules in the Arizona Rules of Civil Procedure. The wording of a justice court rule may be very different, or only slightly different, from a corresponding superior court rule. Differences in language between a justice court rule and a superior court rule are intended only to make the justice court rule simpler and easier to understand. Case law interpreting the superior court rule is authoritative unless a justice court rule expressly adds a requirement or provides a right not found in a superior court rule.

➢ **2013 Note by the Committee on Civil Rules of Procedure for Limited Jurisdiction Courts**

Justice court lawsuits usually conclude in one of three ways:

(1) Often after a complaint is filed and served, the defendant does not file an answer, and a default judgment is entered.

(2) At other times, the defendant files an answer to a complaint, but the parties settle at an early stage of the lawsuit, either by entry of a judgment or by dismissal of the lawsuit.

(3) In a smaller number of cases, after a defendant files an answer to the complaint, the parties ask the judge to decide the case by motion, or the lawsuit goes to trial, and the judge then enters a judgment.

The table below shows those three categories, and the rules that generally apply in each of these three situations. The table may assist parties in finding many of the rules that apply to their individual lawsuit. Usually, the longer a lawsuit proceeds, the more rules apply.

Category:	See Rules:
• A complaint is filed and served • there is no answer and • the lawsuit goes to a default judgment	101 – 103: General provisions 104: Naming the parties 107 – 109: Presenting claims and defenses; preparing court documents; signatures 110 – 113: Starting a lawsuit: the complaint, the summons, and service of the lawsuit 114 – 115: Deadline for filing a response to a complaint; how to calculate time 140: Entry of default judgment 147: Enforcement of a judgment
	The above rules *except Rule 140*, and rules:
• An answer to the complaint is filed • the lawsuit is settled by the parties at an early stage • by the entry of a judgment or by dismissal of the lawsuit	116 – 120: Responding to a lawsuit 121: Disclosure statements 130 – 131: Optional mediation conference and pretrial conference 139: Judgment 144: Dismissal of lawsuits
	The above rules, and rules:
• An answer to the complaint is filed • the parties do discovery and the lawsuit proceeds to motions or to trial • after which a judgment is entered	122 – 127: Provisions regarding discovery: depositions, interrogatories, requests for production of documents, requests for admissions, discovery violations 128 – 129: Motions 132 – 138: Trial

Justice Court Rules of Civil Procedure
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Appendix to the JCRCP:

1. **Forms**
   (1) Summons
   (2) Notice to the Defendant
   (3) Subpoena
2. **Words and phrases defined or explained in the JCRCP**
3. **Arizona Rules of Civil Procedure**
   (1) Rule 4.1 Service of process within Arizona
   (2) Rule 4.2 Service of process outside the State of Arizona
   (3) Rule 22 Interpleader
   (4) Rule 24 Intervention
   (5) Rule 64.1 Civil arrest warrant
4. **Table of Cross-References (JCRCP to ARCP)**

Part I: General provisions.

Rule 101: Application and interpretation.

a. ***Title of these rules.*** These rules are called the Justice Court Rules of Civil Procedure ("JCRCP"). **[ARCP 85]**

b. ***Application of these rules.*** These rules apply to civil lawsuits in justice courts in Arizona. These rules do not apply to evictions, civil traffic or civil boating proceedings, or to protective orders or injunctions against harassment in justice courts. Rule 113(i) concerning dismissal because of lack of service and Rule 140 regarding entry of default judgments apply in small claims cases. **[ARCP 1]**

c. ***Interpretation of these rules.*** Judges and parties should use and interpret these rules so that civil lawsuits are resolved speedily, inexpensively, and fairly. **[ARCP 1]**

d. ***Relationship of these rules to the Arizona Rules of Civil Procedure.*** These rules replace the Arizona Rules of Civil Procedure ("the superior court rules"). Differences in language between a justice court rule and a superior court rule are intended only to make the justice court rule simpler and easier to understand. Case law interpreting a superior court rule is authoritative unless a justice court rule expressly adds a requirement or provides a right not found in a superior court rule. For ease of reference, any related superior court rules are shown in brackets at the end of a corresponding subsection of these rules.

Rule 102: Responsibilities of a party.

a. ***Meaning of "party".*** Everyone who makes a claim in a lawsuit, or anyone against whom a claim is made, is a party in that lawsuit.

b. ***Every party in a lawsuit has these responsibilities:***

> *(1)* ***To provide the court with a current address and telephone number:*** A party must advise the court in writing of any change in the party's mailing address or telephone number until the lawsuit is over. **[ARCP 5.1(b)]**
>
> *(2)* ***To provide copies of filed documents:*** A party must provide a copy of every document the party files with the court to all the other parties in the lawsuit (see Rule 120). **[ARCP 5(a)]**
>
> *(3)* ***To provide a disclosure statement and to respond to discovery requests:*** A party must provide a disclosure statement to the other parties in the lawsuit (see Rule 121). A party must also respond to discovery requests made by another party (see Rules 122 through 127). **[ARCP 26.1, 26(a)]**
>
> *(4)* ***To appear in court:*** A party must attend all scheduled court proceedings, either personally or through the party's attorney (see Rules 130, 131, and 132).

(5) ***To give the court notice of a settlement:*** A party must notify the court if a lawsuit that is set for trial has settled before the trial date, and whether the settlement will take place by the entry of a judgment or by dismissal of the lawsuit. **[ARCP 5.1(c)]**

c. ***Parties representing themselves.*** Parties who represent themselves must read these rules and know the rules that apply to their lawsuit.

d. ***Appearance, withdrawal, and substitution of attorneys.*** An attorney in a civil lawsuit in justice court must enter an appearance. An attorney who later requests the judge's permission to withdraw as counsel must file a motion that states the reasons for the request to withdraw, and the motion must include the name, address, and telephone number of the client. A motion to withdraw must include the client's signed consent to the motion being granted; or it must include a statement that the attorney has advised the client of the dates and times of future proceedings and the status of any existing court orders. A notice of substitution of attorneys must contain the signatures of the former attorney and the substituting attorney. The signature of the substituting attorney affirms that the attorney is aware of existing court orders, pending proceedings, and the trial date, and that the attorney will appear on those dates and will be prepared for trial. **[ARCP 5.1]**

Rule 103: Conduct in court.

a. ***Conduct in court.*** Parties and witnesses who appear in court must conduct themselves in an orderly, courteous, and dignified manner. Arguments and remarks during a court hearing, other than questions to a witness, must generally be addressed to the court, not to the other parties or their attorneys. **[ARCP 80(a)]**

b. ***Exclusion of minors.*** The court may exclude children from the courtroom if their presence is not necessary as parties or witnesses. **[ARCP 80(b)]**

c. ***Agreements between parties.*** An agreement between parties or attorneys concerning their lawsuit that they make out of court is binding on them only if the agreement is in writing and is signed by the parties or their attorneys. If the parties make an agreement orally in court, it is binding only when it is documented in the court records. **[ARCP 80(d)]**

d. ***Lost or destroyed records.*** If the court's record of a lawsuit or any portion of a lawsuit has been lost or destroyed, a judge may allow a party to replace the missing record by submitting a duplicate record. The judge must give other parties a reasonable opportunity to object to the duplicate record. **[ARCP 80(h)]**

Part II: The parties to a lawsuit.

Rule 104: Naming the parties.

a. ***"Plaintiff" defined; multiple plaintiffs.*** A plaintiff is the party who makes a claim by filing a lawsuit. There can be more than one plaintiff in a lawsuit if each plaintiff's claims involve common issues and the same transaction(s) or event(s). Each plaintiff must be a real party in interest, that is, each plaintiff must be someone who claims to have been damaged or whose rights are in dispute. Each plaintiff must make the claim in his or her, or its, correct and proper

legal name. A mistake in naming the real party in interest must be corrected within a reasonable time, as determined by the judge, after the mistake has been brought to the attention of that plaintiff, and if the plaintiff does not then correct it, the judge may dismiss the claim.
[ARCP 20(a), 17(a)]

b. ***"Defendant" defined; multiple defendants.*** A defendant is the party who is sued in a lawsuit. More than one defendant may be sued in a single lawsuit if the claim (or claims) involves the same transaction(s) or event(s), and if the lawsuit will involve an issue that applies to all defendants. **[ARCP 20(a)]**

c. ***Naming a defendant by the proper name.*** All defendants, including partnerships, executors, administrators, guardians, trustees, a personal representative, a bailee, a city, town, or county, or a surety, assignor, endorser, minor (child), an incompetent person, or a person authorized by a statute to sue for the benefit of another person, must be identified properly and by the correct legal name. **[ARCP 17(a)–(d), (f)–(j)]**

d. ***"Necessary" and "indispensable" parties.*** A person who is not a party to the lawsuit may be *"*necessary*"* for a fair hearing of the lawsuit if the court cannot enter complete relief without the person, or if the person has an interest in the lawsuit that the court must resolve. Upon motion of any party, the necessary person will be made a party, served with the lawsuit, and required to participate in the lawsuit. If a necessary person cannot be made a party for any reason, then the court will determine if the absent party is "indispensable*"* and if so, whether the lawsuit should be dismissed. **[ARCP 19(a), (b)]**

e. ***Definition of a "person."*** A "person*"* under these rules includes a business or an organization as well as an individual.

Rule 105: Substitution of parties during a lawsuit.

Parties may be substituted in a lawsuit in the following situations:

a. ***When a party has died during a lawsuit***, and when the claim survives the party's death, upon a motion filed by any party or by the successor or representative of the deceased party, provided that the motion must be filed within ninety (90) days after a notice of the death has been filed with the court; and if no motion is made within that time, the deceased party may be dismissed from the lawsuit. **[ARCP 25(a)]**

b. ***When a defendant has died after a personal injury lawsuit has been filed,*** the death will not automatically end the lawsuit, but a personal representative, a successor, or a nominee may be substituted for the deceased defendant upon motion of any party or interested person.
[ARCP 25(b)]

c. ***When a party becomes incompetent during a lawsuit,*** by motion and as provided in Rule 105(a) by using the word "incompetency" rather than "death" and "incompetent" rather than "deceased." **[ARCP 25(c)]**

d. ***When there has been a transfer of interest during a lawsuit,*** the lawsuit may continue by or against the original party, but upon a party's motion the judge may order the person to whom the interest has been transferred to be substituted, or to be named in addition to the original party. **[ARCP 25(d)]**

e. ***When a public officer in an official capacity dies while the lawsuit is pending, or resigns, or ceases to hold office,*** the officer's successor is automatically substituted as a party, unless the judge upon motion orders otherwise. **[ARCP 25(e)]**

Rule 106: Intervention and interpleader.

a. ***Intervention.*** When a person has an interest in the subject matter of a lawsuit between other parties and that interest might be affected by a decision in the lawsuit, or a person has a claim or defense in common with a claim or defense in a lawsuit between other people, the person may be able to participate in the lawsuit as a plaintiff or as a defendant. Joining a lawsuit in this way is called "intervention." Procedures for intervention are provided in Rule 24 of the Arizona Rules of Civil Procedure, which is included in the appendix to these Rules. **[ARCP 24]**

b. ***Interpleader.*** When a person might be exposed to double or multiple liability because of claims made against that person, the person may file a lawsuit against those who have the claims, and the court will determine each party's rights and liabilities. For example, a person who has property in which two or more other persons claim ownership may file a lawsuit asking the court to determine ownership. This type of action is called an "interpleader." Procedures for interpleader are provided in Rule 22 of the Arizona Rules of Civil Procedure, which is included in the appendix to these Rules. **[ARCP 22]**

Part III: Presenting claims and defenses; preparing court documents; signatures.

Rule 107: Definition of a "pleading;" interpretation of pleadings.

a. ***"Pleading" defined.*** A "pleading" is a document a party files with the court that states a claim or a defense or that responds to a claim or defense in a lawsuit. Claims, responses, and defenses must be stated in one of the following pleadings:

(1) A complaint;
(2) An answer to the complaint;
(3) A counterclaim;
(4) An answer to a counterclaim;
(5) A cross-claim;
(6) An answer to a cross-claim;
(7) A third-party complaint;
(8) An answer to a third-party complaint.

Additional information about these pleadings is contained in Rules 110, 111, 116, 117, 118, and 119. **[ARCP 7(a)]**

b. ***Simple and concise statements.*** Statements in pleadings must be simple and concise. **[ARCP 8(e)]**

c. ***Interpretation of pleadings.*** The court will interpret pleadings to do justice. **[ARCP 8(f)]**

Rule 108: Preparing a document for filing with the court.

a. ***Caption.*** A "caption" is a heading at the beginning of a document. The first page of every document that is filed with the court, including a pleading as defined in Rule 107(a), must include a caption that contains the name and address of the court where the document is being filed; the names of the parties; the mailing address of the party who is filing the document, and the party's e-mail address if the party has one; and the name of the document. Every document filed with the court after the complaint must also include the case number assigned by the court. See Rule 112(a) concerning the case number. The court may refuse to accept a document that does not meet the requirements of this paragraph. **[ARCP 10(a)]**

b. ***Format.*** A party must file a document with the court on paper, except that a party may file a document electronically if the court has electronic filing available. These rules apply to both electronic and paper filings. Electronic filings must be in a format allowed by the court. Paper filings must be on only one side of white 8.5 x 11 inch paper, with one-inch margins on the top, bottom, and sides of the page. Documents filed on paper must be typed, printed, or legibly handwritten. Documents filed on forms provided by the court do not need to meet these requirements. The court may issue documents such as notices or orders in either paper or electronic formats. **[ARCP 10(d)]**

c. ***Attachments to documents ("exhibits").*** Exhibits may be attached to a document that is filed with the court. An exhibit is considered a part of the document to which it is physically or electronically attached, and an exhibit does not require a separate caption. **[ARCP 10(c)]**

d. ***Sensitive data.*** A party is responsible for assuring that a document or exhibit that is filed with the court does not include a person's social security number or a financial account number, or if a number is necessary, that it includes only the last four digits of the number; and the court may impose penalties on a party for a violation and to ensure future compliance with this requirement. **[ARCP 5(f)]**

e. ***Filing documents.*** The original of every document must be filed with the court, but attachments to documents that are filed with the court may be copies. Documents are filed with the court when they are delivered to and accepted by the court. **[ARCP 5(h), 10(d)]**

Rule 109: Signatures on documents filed with the court.

a. ***Signature.*** Every document that is filed with the court, except for exhibits, must be dated and signed by the party's attorney or by the party if the party has no attorney. An electronic document may be signed with an electronic signature. When two or more parties jointly file a document, each of these parties must sign it. However, if the document is filed through an electronic medium where only one electronic signature is allowed, all parties who submit the

document are responsible for the document under Rule 109(b). Any document filed without being signed and dated may be stricken by the court. **[ARCP 11(a)]**

b. ***Documents filed not in good faith, etc.*** A signature of an attorney or a party on any document confirms that the person who is signing has read the document; that, to the person's best knowledge, the statements in the document are truthful; and that the document is filed in good faith, and not to harass another party or to delay the lawsuit. If the court finds that a document was filed in violation of this rule, the court may impose a penalty permitted under Rule 127(d) on the person who signed it. **[ARCP 11(a)]**

c. ***"Verification" of a pleading.*** A document that is filed with the court is verified if a person has signed it under oath. If A.R.S. § 22-216 or any other law requires that a pleading be verified, the pleading must contain the following verification above the signature and date lines:

> *"I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief."*

A verified pleading must be verified by the party who files it or by an individual on behalf of a party if the individual is acquainted with the facts. **[ARCP 9(i), 11(b)]**

d. ***Affidavits; declarations under penalty of perjury.*** An affidavit is a statement that is sworn to before an authorized official such as a notary. When a party or person is required by these rules or by law to submit an affidavit, the party or person, instead of swearing before an official, may provide a signed statement under oath, which is shown by adding the following words at the end of the statement:

> *"I declare under penalty of perjury that the foregoing is true and correct.*
> *Signed on the __ day of ____, 20__."*

The individual must place his or her signature directly below those words. **[ARCP 80(i)]**

Part IV: Starting a lawsuit: the complaint, the summons, and service of the lawsuit.

Rule 110: Starting a lawsuit; content of a complaint.

a. ***Starting ("commencing") a lawsuit.*** A lawsuit is started ("commenced") by filing a complaint with the court. **[ARCP 3]**

b. ***Contents of a complaint.*** A complaint must include:

> *(1)* The proper name of every plaintiff and of every defendant. If a defendant's name is unknown, a complaint may identify the defendant by a fictitious name, and the complaint may be amended when the defendant's true name becomes known. This paragraph also applies to defendants in a third-party complaint.

(2) In lawsuits to recover on an assigned debt, the identity of the original owner of the debt.

(3) A statement that the court has legal authority over the subject matter of the claim(s) and over the defendant(s) ("jurisdiction"); and a statement that the Justice Court precinct where the lawsuit is filed is the proper location ("venue").

(4) A short and clear statement of the factual basis of each claim. Each claim must show that the party has a right to relief from the court.

(5) A demand that the court award money or another type of remedy allowed by law. If the requested remedy is an amount of money, and the amount can be calculated with certainty, the complaint must state the amount. If the amount of money cannot be calculated with certainty, a specific amount does not need to be stated, but the complaint must generally describe the damages and it must state that the amount requested does not exceed the jurisdictional limit of the justice court. **[ARCP 8(a), (g), 10(f)]**

c. ***Contents of a counterclaim, cross-claim or third-party complaint.*** Claims that are made in a counterclaim, cross-claim or third-party complaint must include the same contents as a complaint, as described in Rule 110(b).

Rule 111: Lawsuits involving multiple parties or multiple claims.

a. ***Multiple claims.*** A plaintiff may state in a single complaint as many claims as the plaintiff has against a defendant, even if the claims are not related. Claims involving multiple transactions or occurrences must be stated separately so that each claim is clearly presented. Each claim must have its own basis for jurisdiction in the court in which it is brought, and any claim is subject to dismissal if there is no basis for jurisdiction. Alternative claims for recovery of the same damages should not be added together in determining whether the court has jurisdiction.
[ARCP 10(b), 18(a), 20(a)]

b. ***Separate trials concerning claims or parties.*** The court may make orders in the interest of justice, including severance of claims or for separate trials of claims, which will prevent a party from being embarrassed, delayed, prejudiced, or put to unreasonable expense, because the party has been named in a lawsuit. **[ARCP 20(b), 21]**

c. ***Judgment given on specific claims.*** If there are multiple plaintiffs, one plaintiff need not be interested in each of the claims made by the other plaintiffs; and if there are multiple defendants, each defendant need not be interested in defending against all of the claims that are made in the lawsuit. Judgment may be given for one or more of the plaintiffs according to their individual rights, and against one or more of the defendants according to their individual liabilities.
[ARCP 20(a)]

Rule 112: Case number and filing date; issuance of a summons by the court; content of a summons; notice to defendant; replacement summons.

a. ***Case number and filing date.*** The court will provide a case number for a complaint when it is filed, and it will stamp on the complaint the date that it is filed. **[ARCP 4(a)]**

b. ***Issuance of the summons***. A summons is a document issued by the court when a complaint is filed that requires a defendant to file a response to the complaint. A summons must be the same as the form that is available under Rule 148(b). The court will issue one summons for each defendant named in the complaint, including a defendant identified by a fictitious name under Rule 110(b), and will provide the summons to the plaintiff for service on each defendant. The plaintiff must arrange for service of a copy of the summons and complaint on each defendant as provided by Rule 113. **A CASE OR CLAIM AGAINST A DEFENDANT CANNOT PROCEED WITHOUT PROPER SERVICE.** **[ARCP 4(a), (c)]**

c. ***Content of the summons.*** The summons commands each defendant to file a written response to the complaint with the court within the time period stated in the summons. The summons must notify each defendant that, if a response to the complaint is not filed within the time period stated in the summons, the plaintiff may ask the court to enter a default judgment against the defendant, as provided in Rule 140. **[ARCP 4(b)]**

d. ***Notice to defendant.*** Before serving the summons and complaint, the plaintiff must attach to each summons a "notice to defendant" as shown in Rule 148(b). The court may not grant a default judgment against a defendant unless the affidavit of service or other proof of service establishes that the notice to defendant was served upon the defendant with the summons and complaint. This requirement does not apply to service by publication.

[See Rule 5(c)(5), Rules of Procedure for Eviction Actions]

e. ***Replacement summons.*** The court will issue a replacement summons if needed and upon request. **[ARCP 4(b)]**

Rule 113: Serving a summons and complaint.

a. ***Personal service on individuals in the State of Arizona.*** **A CASE OR CLAIM AGAINST A DEFENDANT CANNOT PROCEED WITHOUT PROPER SERVICE.** Except as stated in other sections of this rule, each defendant who is found in the State of Arizona must be personally served with the summons and complaint by a constable or by a certified private process server who is certified under Arizona law. "Personally served" means that the constable or private process server must deliver a copy of the summons and pleading to the individual defendant personally, or leave copies at the individual's residence with a person of suitable age and discretion who lives there, or deliver copies to an authorized agent of the defendant. Promptly after service upon a defendant, the constable or certified private process server must prepare an affidavit as proof that the defendant was served, and the proof of service must be filed with the court. An affidavit of attempted service should be filed with the court only as an exhibit to a motion.

[ARCP 4(d), (g), 4.1(b), (d)]

b. ***Service on a corporation, partnership, limited liability company, or association within the State of Arizona.*** Service of a summons and complaint within the State of Arizona upon a corporation, a partnership, a limited liability company, or an association must be made by personally serving an officer, a partner, or a managing or general agent, or by serving any other agent authorized by law to receive service on behalf of the organization. The constable or certified private process server must prepare an affidavit as proof that a corporation, a partnership, a limited liability company, or an association was served, and the proof of service must be filed with the court. **[ARCP 4.1(k), 4(d), (g)]**

c. ***Special situations for service of the summons and complaint on a defendant in the State of Arizona.*** Service of the summons and complaint within the State of Arizona on one of the following defendants, or using one of the following methods, must be made as provided in the following sections of Rule 4.1 of the Arizona Rules of Civil Procedure. The rules listed in sub-sections (1) through (9) below are included in the appendix to these Rules.

(1) Upon a minor (a child under the age of 18): see Rule 4.1(e);
(2) upon a minor with a guardian or conservator: see Rule 4.1(f);
(3) upon an incompetent individual: see Rule 4.1(g);
(4) upon the State of Arizona: see Rule 4.1(h);
(5) upon a county, municipal corporation, or other governmental subdivision: see Rule 4.1(i);
(6) upon other governmental entities: see Rule 4.1(j);
(7) upon a domestic corporation if an authorized officer or agent is not found within the State of Arizona: see Rule 4.1(l);
(8) by alternative or substituted service: see Rule 4.1(m);
(9) by service by publication: see Rule 4.1(n).

Proof of service upon any of the above defendants or using one of the above methods must be promptly prepared by the constable or certified private process server who completed service, and the proof of service must be filed with the court, except that proof of service by publication must be filed as provided by Rule 4.1(n). **[ARCP 4.1(e)–(j), (l)–(n), 4(d), (g)]**

d. ***Service on an individual outside the State of Arizona.***

(1) ***Personal service.*** An out-of-state individual may be personally served with a summons and complaint by someone who is authorized to serve process under the laws of the state where service is made on the individual. The meaning of "personally served" is set forth in Rule 113(a). The person who completed service must promptly prepare an affidavit as proof that a defendant was served, and the proof of service must be filed with the court.

(2) ***"Alternative" service by certified mail.*** Alternatively, and if the defendant lives outside the State of Arizona but inside the United States, service may be made by certified mail, with a return receipt showing restricted delivery to the defendant. The return receipt with defendant's signature must be filed with the court with the plaintiff's affidavit of service. The affidavit must state that the defendant being served is located out-of-state; that the summons and a copy of a specified pleading were mailed to the defendant; that the documents were in fact received by the defendant, as shown by the return receipt that is attached to the affidavit;

and the date of receipt of the documents by the defendant who was served. Service by certified mail is complete on the date that defendant signed the receipt, as shown on the return receipt, and if there is no date of defendant's signature on the return receipt, or if the date is not legible, then service is complete on the date the affidavit of service and the return receipt are filed with the court. **[ARCP 4.2(b), (c)]**

e. ***Special situations for service of the summons and complaint on a defendant outside the State of Arizona.*** Service of the summons and complaint outside the State of Arizona on one of the following defendants, or using one of the following methods, must be made as provided in the following sections of Rule 4.2 of the Arizona Rules of Civil Procedure. The rules listed in sub-sections (1) through (7) below are included in the appendix to these Rules.

(1) Under the Nonresident Motorist Act: see Rule 4.2(e);
(2) service by publication: see Rule 4.2(f);
(3) upon a corporation, partnership, or unincorporated association located outside Arizona but within the United States: see Rule 4.2(h);
(4) upon individuals in a foreign country: see Rule 4.2(i);
(5) upon a minor or incompetent individual in a foreign country: see Rule 4.2(j);
(6) upon a corporation or association in a foreign country: see Rule 4.2(k);
(7) upon a foreign state or political subdivision of a foreign state: see Rule 4.2(l).

Proof of service upon any of the above defendants or using one of the above methods must be prepared by the person who completed service, and the proof of service must be filed with the court, except that proof of service under the Nonresident Motorist Act must be made as provided by Rule 4.2(e), and proof of service by publication must be filed as provided by Rule 4.2(f).
[ARCP 4.2(e)–(f), (h)–(l), 4(g)]

f. ***Amendment of summons or proof of service***. A summons or a proof of service may be amended if reasonable and as the judge may allow, and if the amendment does not cause substantial harm to the defendant who was served. **[ARCP 4(h)]**

g. ***Acceptance of service.*** Service may be made without the expense of a process server if the defendant agrees in writing to accept service. A defendant may sign an acceptance of service of a summons and complaint if a notary public witnesses the signature. The signed acceptance of service must then be returned to the plaintiff and filed with the court. The date of service is the date that the signed acceptance of service is filed with the court. **[ARCP 4(f)]**

h. ***Jurisdiction.*** A justice court may exercise personal jurisdiction over the parties who have been properly served to the full extent permitted by the constitutions and laws of the State of Arizona and of the United States. **[ARCP 4.2(a)]**

i. ***Dismissal because of lack of service; service on some but not all defendants.*** After at least twenty (20) days notice to plaintiff, the court may dismiss a complaint as to any defendant who has not been served with the summons and complaint within one hundred twenty (120) days after the filing date of the complaint. Before the dismissal date, if the plaintiff shows good reasons why a defendant has not been served, the court may extend the time for service. When some but not all of the defendants in a lawsuit have been timely served, the court may dismiss from the

lawsuit the defendants who have not been served, and allow the plaintiff to proceed against the defendants who have been served. **[ARCP 4(i), 5(b)]**

Part V: Responding to a lawsuit.

Rule 114: Deadline for filing a written response with the court after service of a complaint, or after service of a cross-claim, counterclaim, or third-party complaint; appearance.

a. ***Time to respond after service of a summons and complaint.*** Except as otherwise stated in these rules, a defendant who is served with a summons and complaint within the State of Arizona must file a written answer or response with the court within twenty (20) days after the date of service. A defendant who is served with a summons and complaint outside the State of Arizona must file a written answer or response with the court within thirty (30) days after the date of service. **[ARCP 12(a), 4.2(m)]**

b. ***Time to respond after service of a counterclaim or cross-claim.*** A party who is served with a counterclaim or a cross-claim must file a written answer or response with the court within twenty (20) days after service. **[ARCP 12(a)]**

c. Time to respond after service of a third-party complaint. A defendant who is served with a third-party complaint must file a written answer or response with the court within the time provided in Rule 114(a). **[ARCP 12(a), 14(a)]**

d. ***Failure to respond; default.*** A party who has been properly served with a complaint, a third-party complaint, a counterclaim, or a cross-claim and who fails to file a written answer or response within the time allowed may be defaulted as provided in Rule 140.

e. ***Appearance.*** A party's appearance occurs when the party or the party's attorney first files a pleading or other document in the case. After a party has made an appearance, all documents filed by any other party in the case must be served under Rule 120 on all parties that have appeared in the case.

Rule 115: How to calculate time.

a. ***Basic rules.***

(1) ***Day of the act or default.*** In calculating any period of time specified or allowed by these rules, by any local rules, by order of a court, or by any applicable statute, the day of the act or default from which the designated period of time begins to run is not included.

(2) ***If the time period is less than eleven (11) days.*** When the period of time specified or allowed is less than eleven (11) days before including any additional time allowed under section (b) of this rule, then intermediate Saturdays, Sundays and legal holidays are not included in the calculation of time. When the period of time is eleven (11) days or more, intermediate Saturdays, Sundays and legal holidays are included in the calculation.

(3) ***Last day.*** The last day of the period is included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday. **[ARCP 6(a)]**

b. ***Additional time for mailing or e-mailing.*** Except as provided in Rule 114(a), if a party is required to do something within a specified period of time after service of a document, and the document is served by first class postal mail, or by e-mail, then five (5) calendar days are added after the specified period would otherwise expire under Rule 115(a). The term "mail" used in this rule includes every type of professional delivery service except same day hand-delivery. This paragraph does not apply to the distribution of a notice of entry of judgment as provided by Rule 139(f). **[ARCP 6(e)]**

Rule 116: Filing a response to a complaint.

a. ***Defendant's response to a complaint or a third-party complaint.*** A response to a complaint or a response to a third-party complaint is made by filing one of the following four documents with the court:

(1) ***An answer.*** An answer must include short and clear statements that either admit or deny specific allegations in a complaint, or state that the defendant does not have enough knowledge to admit or deny them. An answer must also state a party's factual and legal defenses to the complaint. **[ARCP 8(b), (c)]**

(2) ***A motion to dismiss the complaint.*** A motion to dismiss on the following grounds may be made under this rule before an answer is filed:

(i) A motion to dismiss for lack of jurisdiction ("jurisdiction") is the authority of the court over the subject matter of the lawsuit and over a defendant);

(ii) A motion to dismiss for improper venue ("venue") is the location of the court in which the lawsuit was filed);

(iii) A motion to dismiss for improper service of the summons and complaint;

(iv) A motion to dismiss because the complaint does not state a valid claim, even if the facts alleged in the complaint are assumed to be true. **[ARCP 12(b)]**

(3) ***A motion for a more definite statement.*** This motion must allege that the complaint is unclear. A motion for a more definite statement must point out the defects that make the complaint unclear, and the types of details that should have been provided. **[ARCP 12(e)]**

(4) ***A motion to strike the complaint.*** This motion must allege that the complaint contains immaterial, impertinent, or scandalous allegations, and that it should be stricken partially or entirely. **[ARCP 12(f)]**

b. ***Proceedings after a motion is made under this rule.***

(1) If the court grants a motion to dismiss, and if no permission to amend the complaint is granted by the court, the court will enter judgment as provided in Rule 139.

(2) If the court grants a motion for a more definite statement or a motion to strike the complaint, the plaintiff has twenty (20) days after the motion is granted to file an amended complaint, and the defendant has twenty (20) days after service of the amended complaint to file a response to the amended pleading.

(3) If the court denies a motion under this rule, the defendant must file an answer to the complaint within twenty (20) days after the motion has been denied.

c. ***Waiver of defenses.*** Except for a lack of jurisdiction over the subject matter or discharge in bankruptcy, a defense that might have been presented by a motion under paragraphs (a)(2), (3), or (4) of this rule is waived if it is not made before an answer is filed. **[ARCP 12(h)]**

d. ***Misidentified defenses and counterclaims.*** If a party mischaracterizes a defense as a counterclaim, or if a party mischaracterizes a counterclaim as a defense, the court in the interest of justice may treat it as if it was properly named. **[ARCP 8(c)]**

Rule 117: Counterclaims and cross-claims.

a. ***Required counterclaim.*** A defendant must file a counterclaim for any claim that the defendant has against the plaintiff, if the defendant's claim arises out of same transaction, occurrence, or event that is described in the plaintiff's complaint. **[ARCP 13(a)]**

b. ***Permitted counterclaim.*** A defendant may file a counterclaim for any claim that the defendant has against the plaintiff but that does not arise out of the transaction, occurrence, or event that is described in the plaintiff's complaint. **[ARCP 13(b)]**

c. ***Filing a counterclaim with the answer; failure to file a counterclaim.*** A defendant must file a counterclaim at the time the defendant files an answer under Rule 116. If a defendant fails to file a counterclaim with an answer, the defendant may file a motion under Rule 119(a) requesting that the court allow the defendant to file an amended answer with a counterclaim. **[ARCP 13(f)]**

d. ***Cross-claim.*** In a case where there are two or more defendants, a defendant may state as a cross-claim any claim that the defendant has against another defendant arising out of the same transaction, occurrence, or event that is described in the plaintiff's complaint. The cross-claim must be stated at the time the defendant files an answer or other response to the complaint, unless the court allows an amendment under Rule 119(a). **[ARCP 13(g)]**

e. ***Filing a response to a counterclaim or a cross-claim.*** A party who is served with a counterclaim or a cross-claim must file a written response with the court pursuant to the provisions of Rule 116 and within the time provided in Rule 114(b). **[ARCP 12(a)]**

f. ***Counterclaim or cross-claim exceeding the jurisdiction of the justice court.*** If a claim filed pursuant to this rule exceeds the jurisdiction of the justice court, the lawsuit must be transferred as provided by law. **[ARCP 13(c). See also A.R.S. § 22-201(G)]**

Rule 118: Third-party complaint.

a. ***Reason for a third-party complaint.*** If a defendant contends that another person who is not named as a party in the lawsuit is fully or partly responsible for plaintiff's damages, the defendant may file a third-party complaint against that person. **[ARCP 14(a)]**

b. ***Service of a third-party complaint.*** The defendant who files a third-party complaint must request the clerk to issue a summons as provided in Rule 112. The defendant must serve the third-party defendant with the summons, the third-party complaint, and a copy of pleadings that were previously filed in the lawsuit, in the same manner as an initial summons and complaint, and as provided in Rule 113. The third-party defendant must file a response to the third-party complaint as provided in Rule 116 and within the time provided by Rule 114(c). **[ARCP 14(a)]**

Rule 119: Amended and supplemental pleadings.

a. ***Amendments to pleadings.*** A party may amend a pleading one time within twenty-one (21) days after service of a responsive pleading. If no response is required, a party may amend a pleading within twenty-one (21) days after the pleading was filed. If a motion is filed under Rule 116(a)(2)(iv), (a)(3) or (a)(4), a party may amend a pleading one time before the date on which a response to the motion is due. However, the filing of an amended pleading before the response to such a motion is due does not, by itself, relieve a party opposing the motion from filing a timely response to the motion. Thereafter, and upon a party's motion, the court may permit the filing of an amended pleading at any stage of the proceeding and on terms that are just. Leave to amend must be freely given when justice requires. **[ARCP 15(a)]**

b. ***Amendments to conform to the evidence.*** When a party raises issues at trial that were not stated in the pleadings, the court may rule that the pleadings are conformed to the evidence and decide the matter based on the facts presented at trial. If a party objects to the introduction of evidence at trial on the ground that the evidence is not relevant to the pleadings, and the objecting party would be prejudiced by going forward, the court may grant a continuance to enable the objecting party to conduct discovery concerning the evidence, or the court may decline to admit the evidence. **[ARCP 15(b)]**

c. ***Relation back of amendments.*** An amended pleading may relate back to the original filing date if the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence that is described in the original pleading. An amended pleading changing the party against whom a claim is made relates back if: the previous requirement is met; if the new party received notice of the action within the time required by law for bringing

the action and will not be prejudiced by the belated filing; and if the new party knew or should have known of a mistake concerning the identity of the proper party in the original pleading.

[ARCP 15(c)]

d. ***Supplemental pleadings.*** Upon motion, the court may permit a party to file a supplemental pleading that contains claims or defenses that have arisen since the date of the original pleading. If the court decides that the filing of a supplemental pleading is appropriate, it may also order the opposing party to file a response to the supplemental pleading, and set a time for the opposing party to file a response. **[ARCP 15(d)]**

Rule 120: Providing documents to other parties *("serving documents")* after the summons and complaint.

a. ***Application of this rule.*** There are two types of service under these rules. Service of a summons and complaint, or service of a summons and a third-party complaint, must be completed as required by Rule 113. The other type of service concerns documents filed with the court after service of the summons and complaint or a third-party complaint; this type of service requires that documents be provided to the other parties as stated in this Rule 120. **[ARCP 5(a)]**

b. ***General rule.*** A complete and exact copy of every document that is filed with the court must be provided to every other party in the lawsuit ("served") before or promptly after the document is filed, by one of the following methods:

(1) Hand-delivery to the other party;

(2) Hand-delivery to the other party's place of business and leaving the document with an individual in charge, or if no one is in charge, by leaving the document in a conspicuous place at the other party's business;

(3) If the other party has no place of business, hand-delivery to the other party's residence, by leaving the document with someone of suitable age and discretion who lives there;

(4) Mailing the document via first-class U.S. mail to the other party's last known address; or by using any type of professional delivery service that produces a written confirmation of delivery; or

(5) Delivering the document by any method, including electronically, if the party who is receiving the document consents in writing, electronically, or through a court's electronic filing system to that method of service, or if the court orders service by that method.

Copies of documents to parties in default, as defined in Rule 140, must be provided as required by Rule 140. **[ARCP 5(a), 5(c)(2)]**

c. ***Party represented by an attorney.*** If an attorney represents the other party, service under this rule must be made on the attorney unless the court orders service on the party. **[ARCP 5(c)(1)]**

d. ***Noting the method of service.*** On the last page of a document that is filed with the court, the party who is serving a document under sections (b) and (c) must state the date and method used to serve the other parties. For first class mailing, the date stated must be the date that it was deposited in the mail with first class postage. A statement of service may be in the following form:

> *"A copy has been or will be mailed/e-mailed/hand-delivered [select one]*
> *"on [insert date] to:*
>
> *"Name of opposing party or attorney*
> *"Address of opposing party or attorney"* **[ARCP 5(c)(3)]**

e. ***Service of a motion after entry of judgment.*** Service of a motion that requests that a judgment be modified, vacated, or enforced must be served on the other party as if serving a summons and complaint under Rule 113. **[ARCP 5(c)(4)]**

f. ***Documents that are not filed with the court.*** Copies of the following documents must be served on every party as required by this rule, but are not filed with the court unless the court requests:

> *(1)* Subpoenas;
>
> *(2)* Discovery requests and responses, including notices of depositions, interrogatories, requests for production, and requests for admissions, and responses to these requests;
>
> *(3)* Disclosure statements. **[ARCP 5(g)(2)]**

Part VI: Disclosure statements and discovery.

Rule 121: Disclosure statements.

a. ***Disclosure of information.*** Within forty (40) days after the defendant has filed an answer, or at a time set by the court, each party must provide to the other parties a written disclosure statement. Every party's disclosure statement must include the following information:

> *(1)* ***A list of trial witnesses.*** This list must include the names, addresses, and telephone numbers of the witnesses the party will call if the lawsuit goes to trial, and a brief description of what the party expects the witness will say. "Witness" is defined in Rule 137(a) as "a person, including a party, who provides sworn testimony during a lawsuit." If a witness is going to offer expert testimony, the list must include the expert's qualifications, and a summary of the opinions of the expert.
>
> *(2)* ***A list of other people with knowledge.*** This list must include the names, addresses, and telephone numbers of persons who will not be called as trial witnesses, but

who have information that may be favorable or unfavorable concerning the event or transaction that is the subject of the lawsuit.

(3) ***Copies of exhibits and information.***

(A) A party must provide copies of any documents or exhibits the party will use to support a claim or defense, including copies of electronically stored documents;

(B) In a contested case based upon the collection of a consumer debt (a debt entered into for personal, family, or household purposes), the plaintiff must disclose all available evidence related to the allegations contained in the complaint. These include:

(i) The agreement between the creditor and consumer, if available, upon which the complaint is based;

(ii) Any available billing statement to the consumer;

(iii) If the debt has been assigned, evidence that the plaintiff is the owner of the debt;

(iv) Information concerning the date of the last payment made by the consumer, if available;

(C) If the party intends to use at trial any document, object, or exhibit that cannot be easily copied, the party must make the item reasonably available for inspection by the other parties at the pretrial conference or as otherwise agreed to by the parties.

(4) ***Statements.*** A party must provide a copy of any written or recorded statements that are within the party's possession or control and that were given by any person. If a party is aware of such a statement that is not within the party's possession or control, the party must identify the name and address of the person who gave the statement and the custodian of the copy of the statement, if known.

(5) ***A list of other documents.*** This list must include all other relevant documents that are known to exist, whether these other documents are favorable or not and whether they exist in paper or electronic formats, and their location, if known. The list must include any insurance agreements that may satisfy all or part of a judgment that may be entered in the lawsuit. A party may provide copies of these documents rather than a list of documents.

The disclosure statement must be signed by the party who prepared it, and by the party's attorney if represented, and it must be provided to ("served on") the other parties as provided in Rule 120.

A party is not required to disclose information that is legally privileged or that has been prepared specifically for litigation, except as stated in Rule 122(f)(3) of these rules. However, the party withholding this information must provide a general description of the documents or matters not disclosed that is sufficient for another party to challenge the non-disclosure.

[ARCP 26.1(a), (b), (d), (f)]

b. ***Disclosure of new information.*** If a party discovers new or different witnesses, documents, or other information that will be used at trial, the party has a duty to promptly provide to the other parties: (1) a statement containing the additional information or witness information, or (2) copies of the new documents. The duty to make the disclosures required by this rule is a duty that continues until the lawsuit is over. **[ARCP 26.1(b)]**

c. ***Penalties for failure to disclose.*** Disclosures by a party must include enough information that a witness who is called or an exhibit that is presented at trial will not surprise the other parties. The court may penalize any party who fails to disclose or who fails to timely disclose witnesses, exhibits, or information, or who discloses inaccurate information. Penalties that the judge may impose are provided in Rule 127(d). **[ARCP 37(a), (c), (d)]**

Rule 122: General provisions regarding discovery.

a. ***Scope of discovery.*** Discovery is a process for obtaining information about a lawsuit. Parties may discover any non-privileged information that is relevant to the facts or issues involved in a lawsuit, whether the information relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, and including additional details concerning disclosures made under Rule 121.

A party may obtain discovery concerning the existence, description, nature, custody, condition and location of any records, documents, or other things, and the identity and location of persons having knowledge of any discoverable matter. A party may not object to a request for discovery on the grounds that the information sought will be not be admissible at trial if the requested information appears reasonably calculated to lead to the discovery of admissible evidence. **[ARCP 26(b)]**

b. ***Discovery methods.*** A party may request discovery from another party by one or more of the following methods: depositions upon oral examination (Rule 123); written interrogatories (Rule 124); requests for production of documents or things, or for permission to enter upon land or other property for inspection and other purposes (Rule 125); requests for admissions (Rule 126); and requests for physical and mental examinations (Rule 122(f)(6)). **[ARCP 26(a)]**

c. ***Timing of discovery.*** Methods of discovery may be used in any sequence unless otherwise ordered by the court. A party may file a motion requesting the court to enter an order concerning the sequence of discovery by explaining how it would be for the benefit or convenience of parties or witnesses, or why it would be in the interests of justice. Discovery must be completed thirty (30) days before the trial date, unless the court sets or the parties agree to a different date for completion of discovery. A party must serve interrogatories, requests for production, and requests for admissions, and must notice depositions, to allow discovery responses to be provided or a deposition to be concluded within this time. **[ARCP 26(d)]**

d. ***Protective orders and limitations on discovery.*** If a motion of a party or of a person from whom discovery is sought shows good reasons, the court may in the interests of justice enter an order to protect the party or the person from annoyance, embarrassment, oppression, or undue burden or expense in connection with a discovery request. The judge may order, among other things, that discovery not take place, or that it take place under certain terms or conditions; that

only certain methods of discovery be used; that inquiry not be made into certain matters; that certain persons not be present during discovery; that items of discovery be sealed, or not disclosed, or disclosed only in a certain way; or that information be exchanged simultaneously. A person who requests that information remain confidential has the burden of showing reasons why the judge should order confidentiality. **[ARCP 26(c)]**

e. ***Supplementation of discovery responses.*** A party is required to amend a prior discovery response if the party knows that the response was incorrect when it was provided, or if the party knows that the response, although correct when it was provided, is no longer true and a failure to amend the response is in substance a knowing concealment. **[ARCP 26(e)]**

f. ***Specific discovery issues.***

(1) ***Electronically stored information.*** Electronically stored information is discoverable. However, a party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or expense.

(2) ***Insurance agreements.*** A party may obtain discovery of any insurance agreement that may satisfy all or part of a judgment that may be entered in a lawsuit. However, the mere disclosure or discovery of an insurance agreement, or information concerning insurance, does not automatically make that insurance agreement, or information concerning insurance, admissible in evidence at trial. For purposes of this paragraph, an application for insurance is not treated as part of an insurance agreement.

(3) ***Materials prepared for litigation.*** A party may obtain his or her own statement made to another party or the other party's representative without showing a need for the statement. Otherwise, a party may not obtain discovery of materials prepared for litigation by another party or by the other party's representative, unless the party seeking discovery shows the court that the party has a substantial need for the materials to prepare the lawsuit, and that there is no other way to obtain the materials or their equivalent without substantial hardship.

(4) ***Experts.*** A party may use interrogatories, a deposition, or both to discover facts and opinions known by someone who has been identified by another party as an expert witness. The party seeking discovery from an expert must pay the expert a reasonable fee for the expert's time actually spent responding to interrogatories or a subpoena, or at deposition.

(5) ***Non-party at fault.*** A party alleging that a person or entity not currently or formerly named as a party was wholly or partially at fault in causing any personal injury or property damage for which damages are sought in the lawsuit pursuant to A.R.S. § 12-2506(B), must provide the identity, location, and facts supporting the claimed liability of the non-party within sixty (60) days from the filing of the answer. No allocation of liability to any non-party whose identity has not been disclosed as required by this paragraph will be permitted, except as the parties may agree or as the court may allow

upon motion showing good cause, reasonable diligence, and lack of unfair prejudice to the parties.

(6) ***Court-ordered medical examination of a party.*** When the mental or physical condition of a party, or of an individual under the legal control of a party, is at issue in a lawsuit, a party may file a motion requesting an order that the party or individual submit to a physical or mental examination by a licensed physician or a licensed psychologist. The motion must provide good reasons why a court-ordered examination is necessary. If the court orders an examination, the examination must be at a reasonable time and place. The order must provide that the person to be examined has a right to have a representative present during the examination, and has a right to make an audio record of the examination, unless the court specifically finds reasons that the presence of a representative or making of an audio recording may adversely affect the outcome of the examination. The examining physician or psychologist must provide a written report of the examination to the requesting party, and the requesting party must provide the report to the party or individual who was examined, within twenty (20) days of the date of the examination. **[ARCP 26(b), 35]**

g. ***Agreements among parties.*** The parties may agree to modify discovery procedures, including but not limited to how a deposition may be taken, the length or a deposition, or extending or shortening the time allowed for responding to interrogatories or other discovery requests. **[ARCP 29]**

Rule 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. ***When a deposition may be taken.*** A party may take a deposition of another party thirty (30) days after the party being deposed was served under Rule 113. A party may take a deposition of a witness sixty (60) days after an opposing party has appeared in the lawsuit pursuant to Rule 114(e). **[ARCP 30(a)]**

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 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 or 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 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 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 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. ***Use of depositions in court proceedings.*** Testimony given at a deposition may be used in court proceedings as far as the testimony is admissible under the rules of evidence (see Rule 137(a)) and as though the witness was present and testifying in court. The evidence may be used against any party who appeared at the deposition, or who had reasonable notice of the deposition, or who had an opportunity and similar motive to develop testimony as a party who was present. Substitution of a party under Rule 105 does not affect the right to use a deposition that was previously taken. A party may object to the admission of deposition testimony for any reason that would require the exclusion of evidence if the witness was present and testifying in court. If only part of a deposition is offered as evidence, the judge may require other portions to be introduced that in fairness should also be considered at the trial or hearing. The use of a deposition transcript may be supplemented with audio or video files that were recorded at the same time as the transcript. A deposition may be used in court proceedings even if the person who was deposed is available to testify in court; but this rule does not limit the right of a party to call the deposed individual to testify in the courtroom in person. **[ARCP 32(a)–(c)]**

Rule 124: Interrogatories to parties.

a. ***Definition; scope.*** "Interrogatories" are written questions that are sent by a party to another party, and which must be answered in writing and under oath by the party to whom the interrogatories are sent. Following each interrogatory there must be a space that is large enough for the party to whom it is sent to provide an answer or an objection. An interrogatory may inquire about any matter permitted under Rule 122(a). An interrogatory is not necessarily objectionable because it asks for an opinion, or because it presents a contention that relates to a fact or that involves the application of law to facts, but an answer to such an interrogatory need not be provided until discovery has been completed. Interrogatories may not be sent by a party to a witness. **[ARCP 33(a), (b), 33.1(d)]**

b. ***Notice of service of interrogatories.*** Interrogatories may be served with the summons and complaint, or at any time thereafter unless otherwise ordered by the court. Interrogatories must be provided to ("served on") (1) the party who is required to answer them, and (2) the other

parties to the lawsuit. The interrogatories must be served with a notice of service of interrogatories. The notice must state the specific calendar date when the answers are due based on these rules, or as ordered by the court. The notice must also include the following language:

> ***"****The Justice Court Rules of Civil Procedure allow a party to send up to forty (40) interrogatories to another party. An interrogatory is a written question that is sent by a party to another party that must be answered in writing and under oath by the party to whom the interrogatory is sent. If you do not answer an interrogatory because you object to the interrogatory, you must state a reason for your objection.*
>
> *"Provide your answers in the space directly below each question. If there is not enough space for your answer to a particular question, you may continue on a blank page by including the question above your answer. After you have completed your response to the interrogatories, you must sign on the last page to affirm that you have truthfully answered the questions and that you have a good faith basis for any objections that you may have made. You must provide your original answers to interrogatories to the party who sent them to you, and you must provide a copy to every other party in the lawsuit.*
>
> *"Your response to these interrogatories is due forty (40) days after they have been served on you, unless the interrogatories were served with the summons and complaint, in which case your response is due within sixty (60) days after the date of service, or unless otherwise ordered by the court. If you do not answer these interrogatories by the date provided in this notice, the party who served them may file a motion asking that the court order you to answer them. If the court enters that order, the court may also require you to pay expenses, including attorneys' fees incurred by the other party in obtaining the order. If you fail to comply with the order, the other party may ask the court to impose additional penalties against you, including: that you may not introduce evidence of some or all or your claims or defenses in this lawsuit; if you are a plaintiff, that your lawsuit be dismissed; or if you are a defendant, that judgment be entered against you by default."* **[ARCP 33(a), (b), 33.1(a), (e)]**

c. ***Uniform interrogatories.*** The court has standard interrogatories (also known as "uniform interrogatories") that are available for contract and personal injury cases. A party may request another party to answer one or more uniform interrogatories; each uniform interrogatory and its sub-parts counts as one interrogatory. Uniform interrogatories may be found on the website referred to in Rule 148(a). **[ARCP 33.1(f)]**

d. ***Use of interrogatories in court proceedings.*** An answer to an interrogatory may be used in court to the extent permitted under the rules of evidence; see Rule 137(a). **[ARCP 33(b)]**

Rule 125: Request for production of documents, electronically stored information, and things; request for entry upon land for inspection and other purposes.

a. ***Definition and scope.*** A party may provide to ("serve on") any other party a request to produce or to permit the party making the request to inspect or to copy designated documents or electronically stored information. The request may ask for the production or inspection of written documents, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations stored in any medium from which information can be obtained when provided

in a reasonably usable format. A request under this rule may also ask to inspect, test, or sample designated tangible things. Items may be requested under this rule that are within the scope of Rule 122(a) and that are in the possession or control of the party upon whom the request is served.

A party may also request that they be allowed to enter upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation on the land or property, provided that the request is within the scope of Rule 122(a).

Documents or things made available or produced under this rule may be used in court to the extent permitted under the rules of evidence; see Rule 137(a). **[ARCP 34(a), (b)]**

b. ***Notice of request.*** A request under this rule may be served with the summons and complaint, or at any time thereafter unless otherwise ordered by the court. A request under this rule must include a notice that provides the specific calendar date that the response is due based on these rules, or as ordered by the court. The notice must be provided to ("served on") (1) the party who is required to respond, and (2) the other parties to the lawsuit. A notice of a request made under this rule must contain the following language:

> *"The Justice Court Rules of Civil Procedure allow a party to request from another party up to ten (10) documents or items, or up to ten (10) categories of documents or items. If you do not produce a document or a category of documents or items because you object to a specific request, you must state a reason for your objection. A party may also request to enter on to designated land or other property to inspect it, or to take measurements, photographs, or samples.*
>
> *"A party who produces documents must provide them as they are kept in the usual course of business, or they must organize and label them in response to the requests. Electronic documents or electronic records must be produced in the format that has been requested or in the format that the electronic documents or records are usually kept.*
>
> *"You must provide your original response to requests under this rule to the party who sent them to you, and you must provide a copy to every other party in the lawsuit. Your response to requests made under this rule is due forty (40) days after the requests have been served on you, unless the requests were served with the summons and complaint, in which case your response is due within sixty (60) days after the date of service, or unless otherwise ordered by the court. If you do not comply with the requests that have been made in this notice, the party who served them may file a motion asking that the court order you to comply. If the court enters that order, the court may also require you to pay expenses, including reasonable attorneys' fees, incurred by the other party in obtaining the order. If you fail to comply with the order, the other party may ask the court to impose additional penalties against you, including: that you may not introduce evidence of some or all or your claims or defenses in this lawsuit; if you are a plaintiff, that your lawsuit be dismissed; or if you are a defendant, that judgment be entered against you by default."* **[ARCP 34(a), (b)]**

Rule 126: Request for admissions.

a. ***Definition; time; scope.*** A party may provide to ("serve on") any other party written requests to admit the truth of specific facts in the lawsuit. Requests under this rule may be served with the summons and complaint, or at any time thereafter unless otherwise ordered by the court. A request for admissions may concern any matter permitted under Rule 122(a). A request for admissions is not necessarily objectionable because it asks for an opinion, or because it presents a contention that relates to a fact, or that involves the application of law to facts, but a response to such a request need not be provided until discovery has been completed. **[ARCP 36(a)]**

b. ***Notice of requests.*** Following each request there must be a space that is large enough for the party to whom it is sent to state whether the request is admitted or denied, or to provide an objection. Requests for admissions must include a notice that provides the specific calendar date that the responses are due based on these rules. The notice must be provided to ("served on") (1) the party who is required to respond, and (2) the other parties to the lawsuit. The notice must also include the following language:

> *"The Justice Court Rules of Civil Procedure allow a party to send up to twenty-five (25) requests for admissions to another party. Each request must contain only one fact or one contention to admit or deny. A request may inquire about whether a document is genuine or accurate. You must admit or deny each of these requests, unless you object to a request, in which case you must state a reason for your objection. You may not object on the basis that you do not have knowledge or information concerning the request unless you have first made a reasonable inquiry to obtain knowledge or information.*
>
> *"You must provide your original response to requests under this rule to the party who sent them to you, and you must provide a copy to every other party in the lawsuit. Responses to requests for admissions are due forty (40) days from the date they are served, unless the requests were served with the summons and complaint, in which case your response is due within sixty (60) days after the date of service, or as ordered by the court.*
>
> *"If you do not respond to these requests for admissions by the date provided in this notice, your failure to respond may be considered as an admission of the requests."*
>
> **[ARCP 36(a)–(c)]**

c. ***Effect of admission; second notice.*** If a party has not responded to requests for admissions by the date specified in a notice under section (b) of this rule, then the party making the requests must serve a second notice on the party to whom the requests were made in substantially the following form:

> *"[Case Caption][Notice]*
>
> *"To: _____:*
>
> *"**Do not ignore this notice.***

"You were served with requests for admissions on _____ [insert date.] The rules of procedure required you to respond to these requests no later than _____ [insert date.] You have failed to respond to some or all of the requests.

"The rules will still allow you to respond to the requests for admissions by _____ [insert date that is fifteen (15) days after the date of this notice]. Each request that you do not respond to by that date will be admitted and taken as true in this lawsuit.

"Date and signature: _____

"[Notation of service under Rule 120(e)]"

Any matter admitted under this rule is conclusively established in the pending lawsuit unless the court permits an admission to be withdrawn or amended. The court may permit an admission to be withdrawn or amended only when it serves the interests of justice and when it furthers a decision of the lawsuit on its merits. **[ARCP 36(c)]**

d. ***Penalty for groundless denial.*** If a party fails to admit the genuineness of a document or the truthfulness of a matter as provided in a request under this rule, and the requesting party thereafter proves at a hearing or at trial that a document is genuine or that a matter is true, the court may consider whether there was any reasonable basis for the denial, and if there is none, the court may impose a penalty under Rule 127(d) against the party who denied the request. **[ARCP 37(e)]**

Rule 127: Discovery violations.

a. ***General rule.*** A party may file a motion with the court requesting a court order that requires another party or a person to disclose information or to provide discovery responses in the following situations:

(1) If a party fails to disclose information that is required under Rule 121; to appear at a deposition under Rule 123; to answer a question at a deposition, or to designate a knowledgeable representative under Rule 123(c); to answer an interrogatory under Rule 124; to respond to a request for production or to permit entry upon property under Rule 125; or to appear for a medical examination under Rule 122(f)(6).

(2) If a person who is not a party fails to obey a subpoena that requires the non-party to appear as a witness at a deposition under Rule 123, or to answer a question at a deposition, or to designate a knowledgeable representative under Rule 123(c).

A failure to disclose, appear, answer, designate, or respond includes evasive or incomplete disclosures, appearances, answers, designations, or responses.

If a party or person fails to comply with an order that requires disclosure of information or providing discovery responses, upon motion the court may impose against that party or person a penalty specified in Rule 127(d). The court may also assess an appropriate penalty against any party or attorney who has engaged in unreasonable, groundless, abusive or obstructionist conduct

during a deposition, as provided in Rule 123(d); or against a party or attorney who has denied requests for admissions without a reasonable basis, as provided by Rule 126(d).
[ARCP 37(a), (b)]

b. ***Discovery motion filed by an attorney.*** An attorney who files a motion under this rule against a party must certify in the motion that he or she has been unable to satisfactorily resolve the matter after a good faith attempt to personally consult with the opposing party.
[ARCP 26(g), 37(a)]

c. ***Failure to provide electronically stored information.*** Absent exceptional circumstances, a court may not impose sanctions under this rule on a party or a person for failing to provide electronically stored information that has been lost as a result of the routine, good-faith operation of an electronic information system. **[ARCP 37(g)]**

d. ***Penalties.*** The penalties that a court may impose include ordering that certain witnesses or exhibits may not be used at trial; that a particular fact is deemed established; that a pleading or a claim or defense in a pleading be stricken; or that the party be assessed the reasonable attorneys' fees, costs, and expenses of a party who was harmed by inaccurate, untimely, or lack of disclosure or discovery. The court may also impose any other reasonable civil penalty, including a monetary penalty, which is appropriate under the circumstances. **[ARCP 37(a), (b)]**

Part VII: Motions.

Rule 128: Motions.

a. ***Defined.*** A motion is a request made by a party (the "moving party") that the judge take certain action or enter a particular order. **[ARCP 7.1(a)]**

b. ***Application of this rule.*** This rule applies to motions made under these rules, including but not limited to: motions under Rule 116 (a motion in response to a complaint), Rule 119 (a motion to amend or to supplement a pleading), Rule 127 (a motion concerning a discovery violation), Rule 128(g) (a motion for judgment on the pleadings), Rule 138 (a motion for new trial), and Rule 141 (a motion for relief from a judgment or an order). This rule also applies to motions that may not be provided for in these rules. This rule does not apply to motions that are made in open court during a conference, hearing, or trial, or to motions brought under Rule 129 (a motion for summary judgment).

c. ***Form of a motion; service; required notice.*** A motion must be in writing and must comply with the format required by Rule 108. The original motion must be filed with the court and served on all other parties as provided in Rule 120. The moving party must include the following notice at the beginning of the motion:

> *"You have a right to file a written response to this motion within ten (10) days from the date this motion was served. Your response must be filed with the court, and copies of your response must be served on the other parties as provided by Rule 120 of the Justice Court Rules of Civil Procedure. The court may treat your failure to respond to a motion as your consent that the motion be granted."* **[ARCP 7.1(a)]**

d. ***Content of a motion.*** A motion must state the specific action that the moving party is requesting the court to take, or the specific order that the moving party is requesting the court to enter. A motion must include the facts and reasons that support the request. A motion that is made pursuant to one of these rules must identify that rule. A motion must identify any statute, case, or other rules or legal authority that supports the request made by the moving party. **[ARCP 7.1(a)]**

e. ***Proceedings on a motion.*** Any party opposing a motion has ten (10) days after the motion is served to file a response to the motion with the court. The time to respond to a motion remains in effect even if the court has set a pretrial conference. The court may treat a party's failure to respond to a motion as the party's consent that the motion be granted. Within five (5) days after a response is filed, the moving party may file with the court a reply to the response, but a reply is not required. A response and a reply, if any, must be provided to ("served on") the other parties as required by Rule 120. **[ARCP 7.1(a)]**

f. ***Hearing on a motion.*** The court may rule on motions brought under this rule with or without a hearing. The court will provide the parties with at least five (5) days notice if a hearing is set on a motion. The court may treat a moving party's failure to attend a hearing on a motion as consent by that party that the motion be denied; and it may treat a responding party's failure to attend a hearing as consent that the motion be granted. **[ARCP 7.1(b)–(d)]**

g. ***Motion for judgment on the pleadings.*** After the pleadings have been filed, any party may file a motion for judgment on the pleadings. The motion will be granted if, for purposes of the motion only, all of the allegations in the opposing party's pleadings are considered to be true, and the party who filed the motion would be entitled to judgment on the pleadings in their favor as a matter of law. If matters outside the pleadings are presented to the court, the court will treat the motion as a motion for summary judgment under Rule 129. **[ARCP 12(c)]**

Rule 129: Motion for summary judgment.

a. ***Parties who may file a motion for summary judgment.*** Any party who has filed a claim, counterclaim, cross-claim, or third-party complaint, or any party against whom such a claim has been made, may file a motion requesting the court to enter judgment in the party's favor without a trial. **[ARCP 56(a), (b)]**

b. ***Time for filing a summary judgment motion, response, and reply.*** A party may file a motion for summary judgment no sooner than the date that the answer is filed or is due, and no later than ninety (90) days before the date set for trial. A party's response to the motion must be filed within thirty (30) days after the motion has been served. The moving party may file a reply to the response within fifteen (15) days after the response is served, but a reply is not required. **[ARCP 56(c)]**

c. ***Content of a summary judgment motion or a response; required notice.*** A summary judgment motion must include:

(1) A statement of facts, with each of the facts stated separately in numbered paragraphs or numbered sentences. A statement of facts must be supported by affidavits, exhibits, or other material that establishes each fact by admissible evidence.

(2) A memorandum of law that summarizes the issues, provides legal authority in support of the motion, and describes why the judge should grant the motion.

A party who files a motion for summary judgment must include the following notice at the beginning of the motion:

"This motion asks the judge to rule against you without holding a trial. You have a right to file a written response to this motion. Your response must be filed within thirty (30) days from the date this motion was served. Your response to the motion must include:

"(1) A statement of facts, with each of the facts stated separately in numbered paragraphs or numbered sentences. A statement of facts must be supported by affidavits, exhibits, or other material that establishes each fact by admissible evidence. It is not enough for you to simply deny facts. You must present evidence that shows a genuine dispute of the facts.

"(2) A memorandum of law that summarizes the issues, provides legal authority in support of your position, and describes why the judge should deny the motion."

Notwithstanding Rule 128(e), the failure to file a response by a party who does not have the burden of proof on a claim or defense is not a sufficient basis for granting a summary judgment motion. **[ARCP 56(c), (e)]**

d. ***Summary judgment proceedings.*** The judge may rule on a motion for summary judgment with or without a hearing. The court will set a time for hearing if a party makes a timely request for a hearing; however, the court does not need to set a hearing if the judge determines that the motion should be denied, or if the motion is uncontested. The court may also set a hearing even if no party requests one. The judge may grant a summary judgment motion if the record before the court shows that there is no genuine issue as to a material fact, and that the moving party is entitled to judgment as a matter of law. The judge may grant the motion completely or partially. If the motion is partially granted, the judge will advise the parties of the issues that remain undecided, and it will set those issues for trial. The judge may grant a summary judgment motion on the issue of liability only if there is a genuine issue regarding the amount of damages. **[ARCP 56(c), (d)]**

e. ***Affidavits.*** Affidavits must meet the requirements of Rule 109(d). Affidavits in support of or opposing a summary judgment motion must be based on personal knowledge and must contain only facts that would be admissible as evidence at trial under the Arizona Rules of Evidence. If a party opposing a summary judgment motion cannot obtain affidavits or exhibits within the time allowed for filing a response to the motion, the opposing party may ask the court for more time to respond by stating the reasons why additional time is required. The judge may impose a penalty on a party who submits an affidavit in bad faith, or who files an affidavit only to delay the lawsuit. **[ARCP 56(e)–(g)]**

Part VIII: Mediation conference and pretrial conference.

Rule 130: Mediation conference.

a. ***Purpose and definitions.*** Each precinct individually or in cooperation with the presiding judge or justice of the peace for the county may establish a program through which a neutral, trained individual (a "mediator"), with the authorization of the court, can confer with the parties to assist them in attempting to reach a voluntary settlement of their lawsuit. This process is called "mediation." The provisions of this rule apply to those justice courts that have established such a program. **[ARCP 16(g)]**

b. ***Notice of a mediation conference***. Within a reasonable time after a response to a complaint has been filed, the court or the mediator will give the parties written notice of a date, time, and place for a mediation conference. The date and time of the mediation conference may be rescheduled by the court or by the mediator for a good reason.

c. ***Appearance at the mediation conference; providing documents.*** Every party must participate in the mediation conference in good faith. A party may appear and participate in person, or a party may participate by telephone with the prior approval of the court. Each party at a mediation conference must have lawful authority to settle the lawsuit, or must have a representative available who has the lawful authority to settle the lawsuit. At or before the conference, a party must provide to an opposing party any documents that are relevant to settling the lawsuit.

d. ***Settlement agreement.*** The parties and the mediator will discuss a settlement of the lawsuit at the conference. Statements made by a party at the conference, or a party's conduct, including offers of payment or willingness to accept an offer, are inadmissible to establish a claim or defense unless otherwise allowed by law. If a settlement is reached, the mediator will put the terms of the settlement in writing, and will have the parties sign the agreement as an enforceable contract. If a party has appeared by telephone, the mediator will mail the agreement to the party for signature, and the party must promptly sign and return the agreement to the mediator; or with the consent of a party, a mediator may sign the agreement on behalf of that party.

e. ***Notice to the court.*** The mediator will notify the court whether the mediation conference resulted in a settlement agreement. If an agreement was reached, the court will vacate any pending court dates. If an agreement was not reached, the mediator will advise the court, and the court will set the lawsuit for a pretrial conference or a trial. If a settlement was not reached because a party failed to participate in good faith, the mediator will inform the court of the manner in which the party failed to show good faith; and the court may order an appropriate penalty provided under Rule 127(d) against that party. Not appearing at a mediation conference without a good reason is a failure to participate in good faith.

f. ***Court action after settlement at a mediation conference.*** If the court was notified by the mediator that a lawsuit was settled, the court may dismiss the lawsuit, with notice to the parties, thirty (30) days after the date of the mediation conference. If during that thirty (30) day period a

party notifies the court that the terms of the settlement agreement have not been fulfilled, the court may set the lawsuit for a pretrial conference or a trial.

Rule 131: Pretrial conference; settlement conference.

a. ***Scheduling a pretrial conference; required appearance; penalties.*** The court may set a pretrial conference at any time after the parties have had an adequate opportunity to exchange disclosure statements.

The parties must attend a pretrial conference in person, unless the court for a good reason allows a party to appear by telephone. The court may impose a penalty provided under Rule 127(d) against a party for a failure to appear at the pretrial conference or for other violations of this rule.

The court may rule on a pending motion before the pretrial conference, and the court will vacate the pretrial conference if the result of the court's ruling on the motion is either a judgment or a dismissal. Otherwise, a pending motion will not vacate a pretrial conference. **[ARCP 16(a), (f)]**

b. ***Purpose of a pretrial conference.*** At a pretrial conference, the parties and the court may discuss (1) the status of the lawsuit, including whether the parties served disclosure statements; (2) whether there is any further possibility of settlement; (3) whether the parties are engaging or intend to engage in the use of discovery under Rules 123 through 126; and (4) a date for trial. If discovery is complete or nearly complete, the parties should be prepared to advise the court if they intend to file any motions; the number of witnesses they will call at trial; and how much time they will need for presenting their case at trial. In addition to setting a lawsuit for trial, the court may enter orders at the pretrial conference that will promote an efficient resolution of the lawsuit, including matters concerning electronically stored information and limitations on discovery. **[ARCP 16(b)]**

c. ***Settlement conference with the trial judge.*** A judge who will hear the lawsuit may conduct a settlement conference, but if appropriate, the judge must advise the parties that during a settlement conference, the judge may meet with the parties separately, or the judge may receive information from a party that would not be admissible at a subsequent trial. If the parties then agree, the judge may proceed to conduct the settlement conference. **[ARCP 16.1]**

d. ***Good faith settlement hearing.*** In a case where it is alleged that two or more parties are joint tortfeasors, a judge upon motion of a party must determine whether a settlement was entered into in good faith. The motion must advise the judge of the terms of the settlement, and set forth the reasons why the settlement is or is not entered into in good faith. A party may respond to the motion within the time provided by Rule 128. The judge may conduct an evidentiary hearing on the motion. **[ARCP 16.2]**

Part IX: Trial.

Rule 132: Pre-trial matters.

a. ***Preparation of a pretrial statement.*** When the court sets a trial date, or at any time thereafter, the court may order that the parties jointly or individually prepare and file a pretrial statement by a specified date before the trial. The pretrial statement must include a summary of

facts that are not in dispute; a statement of the factual and legal issues to be determined at trial; a list of each party's witnesses; if deposition testimony is going to be presented, a list of deposition page and line reference numbers that will be offered at trial; a list of each party's exhibits, and the basis of any party's objection to an exhibit. The court may impose any penalty permitted under Rule 127(d) for a violation of these requirements. **[ARCP 16(d)]**

b. ***Motion to postpone a trial date.*** After a trial date has been scheduled, the court may grant a motion to postpone the trial only if there are good reasons, or if the parties agree to a postponement. The mere filing of a motion or an agreement to postpone a trial does not vacate the trial date. The failure of a plaintiff to appear at the time set for trial may result in dismissal of the lawsuit, and the failure of a defendant to appear at the time set for trial may result in a judgment for the plaintiff. **[ARCP 38.1(i)]**

c. ***Pretrial motions regarding the admissibility of evidence.*** No later than forty (40) days before trial, the parties must discuss the admissibility of evidence. If the parties cannot agree on the admissibility of particular evidence at a trial, a party may file a written motion at least thirty (30) days before trial regarding admission or exclusion of that evidence. A party may file a response to a pretrial motion regarding evidence within ten (10) days after the motion has been served, but the moving party may not file a reply. The judge will rule on pretrial motions concerning evidence that are submitted in accordance with this rule before the start of the trial, unless the judge determines the issue of admissibility is better considered at trial. The failure to file a motion in compliance with this rule is not a waiver of the right to object to evidence at trial. **[ARCP 7.2]**

Rule 133: Getting a trial date; trial by jury or to a judge; change of precinct or judge; disability of a judge during trial; verdict or decision.

a. ***Setting a lawsuit for trial.*** The court may set a date for trial once an answer has been filed, or a party may request the court to set a trial date after the parties have had an adequate opportunity to serve disclosure statements. Unless the parties agree or the court has good reasons, a trial may not be set to begin less than one hundred twenty (120) days after an answer was filed. **[ARCP 38.1]**

b. ***Trial by jury or to a judge.*** A party may demand a trial by jury of any issue for which a right to a jury trial exists. The trial of the issues so demanded will be by a jury, unless all of the parties agree to a trial by a judge without a jury; or unless the court finds that there is not a right to a trial by jury as to some or all of the issues. A demand for a jury trial must be made before the start of trial. If a demand for trial by jury has not been timely made, the trial will be before the judge without a jury; but even if no party has demanded a jury, the court may order a trial by jury of any or all of the issues. **[ARCP 39(a), (j); see A.R.S. § 22-220]**

c. ***Change of precinct ("change of venue").*** Even though a plaintiff does not file a lawsuit in the correct precinct, the judge in that precinct may still hear the lawsuit unless the defendant, within the time allowed for filing an answer, files a request to transfer the venue of the lawsuit to the correct precinct. The request must include an affidavit by the defendant or by the defendant's attorney stating the precinct where defendant resides or does business, and any other reasons that the lawsuit is not in the correct precinct. The judge may grant the request and

transfer the lawsuit to the correct precinct for further proceedings unless the plaintiff disputes the request within the time allowed by Rule 128(e), in which case the judge may hold a hearing on the request. Alternatively, if all parties in a lawsuit agree to change the venue as provided by Arizona Revised Statutes § 22-204(B), they may file a written agreement in the precinct where the lawsuit is pending specifying the precinct to which venue will be changed. If a party believes that the party will not have a fair and impartial trial in the precinct where the lawsuit was filed, then the party must proceed as provided in Arizona Revised Statutes § 22-204(A). **[see A.R.S. §§ 12-404, 22-204]**

d. ***Change of judge.*** For purposes of this section, a lawsuit has only two sides. A party or a side, if there is more than one plaintiff or one defendant in a lawsuit, may request a change of judge as a matter of right. The party or side must file a notice of change of judge as a matter of right in the precinct where the lawsuit is pending and provide a copy of the notice to the other parties as required by Rule 120. The notice must state that the party or side has not previously requested a change of judge in this lawsuit, that the party or side has not waived the party's right to a change of judge, and that the notice is timely. A notice is not timely if it is filed less than sixty (60) days before the trial date, or if it is filed more than ten (10) days after the court provided the parties with notice of the assignment of a new judge for trial. A party waives a right to a change of judge if the judge has conducted a conference in the lawsuit, if the judge has ruled on any contested motion or issue, or if the trial has started. When a proper and timely notice of change of judge as a matter of right is filed, the court must transfer the lawsuit to a new judge within the county for further proceedings. If a party believes that the party will not have a fair and impartial trial before a justice of the peace, then the party must proceed as provided in Arizona Revised Statutes § 22-204(A). **[ARCP 42(f); see A.R.S. § 22-204]**

e. ***Disability of a judge.*** If a judge who starts a trial or a hearing becomes unable to proceed, the trial or hearing may continue with another judge who has certified that he or she is familiar with the record of proceedings, and that the matter may be completed without prejudice to the parties. At the request of a party or at the successor judge's initiative, a witness whose testimony is material and disputed and who is available to testify without undue burden may be recalled. **[ARCP 63]**

f. ***Verdict or decision.*** Judgment will be entered on the jury's verdict or the decision of the judge sitting without a jury as provided by law. **[see A.R.S. § 22-241]**

Rule 134: Trials.

a. ***Trial procedures.*** The court may impose reasonable time limits for a trial or for any portion of a trial. The order of proceedings in a trial by jury, so far as applicable, also governs a trial to a judge without a jury. A jury will be summoned, and a trial to a jury will proceed, as provided by Title 22, Chapter 2 of the Arizona Revised Statutes, and as provided by this rule. The order of trial is as follows:

> *(1)* Potential jurors are summoned to the court and are given an oath to truthfully answer questions about their qualifications to serve as trial jurors. The judge, and the parties as the judge may allow, then ask questions to prospective jurors concerning their qualifications and fitness to serve as jurors. Potential jurors may be challenged for cause

during the course of questioning. Upon request, the judge may allow the parties to make brief opening statements to the prospective jurors before the questioning process. After the questioning process, each side may exercise four peremptory challenges, or some other reasonable number of peremptory challenges as the court directs, of potential jurors. The jurors then selected to hear the case are sworn, and the judge gives the jury preliminary instructions concerning the jury's duties, its conduct, the order of proceeding, and elementary legal principles that govern the trial. The judge will instruct the jurors that each of them may take handwritten notes during the trial, which the jurors can take to the jury room, and the court will provide jurors with note-taking materials.

(2) The plaintiff or plaintiff's counsel may make an opening statement. Opening statements of every party must be brief and must be limited to facts that the party expects the evidence will establish.

(3) The defendant or defendant's counsel may make an opening statement, or may defer making an opening statement until the close of plaintiff's evidence.

(4) Other parties, if any, may make opening statements in the order directed by the judge.

(5) The plaintiff will introduce evidence.

(6) The defendant will introduce evidence.

(7) Other parties, if any, may introduce evidence in the order directed by the judge.

(8) The plaintiff may then introduce evidence in rebuttal.

(9) Before a time set by the judge, a party may request that the judge give certain instructions to the jury. The judge will determine the final instructions after consultation with the parties, and the judge will then give the jury its concluding instructions of law. The instructions will be available in writing for the jury during its deliberations.

(10) Each party, in the order set forth above, may provide a summation to the jury. The party having the burden of proof on the case as a whole is entitled to provide a rebuttal.

(11) The jury will retire with trial exhibits and the jurors' notes to a private and convenient place for its deliberations in the charge of a proper officer of the court, who will not allow any communication to be made to them, except to ask if they have agreed upon a verdict, or as ordered by the judge. If the jury wishes to communicate with the judge, it shall make the desire known to the officer orally or in writing, who will then inform the court.

(12) A verdict reached by a jury will be announced in open court in the presence of the jurors and the parties, and noted in the court's records, and the jurors may then be discharged. Judgment will be given on the verdict.

(13) If it appears after a reasonable time that it is unlikely that the jury will reach a verdict, the jury may be discharged, and the matter may be tried again.
[ARCP 16(h), 38, 39, 47, 48, 49, 51]

b. ***Motion for judgment as a matter of law.*** Motions for judgment as a matter of law during a jury trial must be made before the jury retires for deliberations. The motion contends that there is no legally sufficient evidence for a reasonable jury to find for a party on a contested issue.
[ARCP 50]

Rule 135: Findings in a trial without a jury.

a. ***General rule.*** In a trial without a jury, the judge, if requested before trial, must make specific findings concerning the facts and conclusions of law based upon those findings. Findings of fact will not be set aside on appeal unless they are clearly erroneous, and due regard will be given to the opportunity of the trial judge to determine the credibility of a witness. Findings of fact and conclusions of law may be stated orally by the judge and recorded in open court following the close of the evidence, or may be set forth in an order or memorandum that is filed by the judge. A request for findings is not required for purposes of appeal. **[ARCP 52(a)]**

b. ***Agreed statement of facts.*** The parties to a lawsuit may submit any contested issue to a judge upon an agreed statement of facts that has been signed by the parties and filed with the court. The judge will render conclusions of law based on the agreed statement of facts.
[ARCP 52(d)]

Rule 136: Consolidated and separate trials.

a. ***Consolidation.*** When lawsuits involving a common question of law or fact are pending before the court, the court may order a joint hearing or trial of any or all of the matters at issue in the lawsuits, or it may order all the lawsuits consolidated, and it may make appropriate orders concerning proceedings to avoid unnecessary costs or delay. **[ARCP 42(a)]**

b. ***Separate trials.*** In furtherance of convenience or to avoid prejudice, or when separate trials will further judicial economy, the court may order a separate trial of any claim, cross-claim, counterclaim, or third-party claim, or of any separate issue or of any number of claims, cross-claims, counterclaims, third-party claims, or issues, always preserving inviolate the right of trial by jury. **[ARCP 42(b)]**

Rule 137: Evidence, witnesses, subpoenas, and interpreters.

a. ***Evidence and witnesses.*** The Arizona Rules of Evidence will determine the admissibility of a witness's testimony and the admissibility of other evidence. A witness is a person, including a party, who provides sworn testimony during a lawsuit. A witness may be sworn with a solemn affirmation rather than an oath. The testimony of a witness at trial must be presented in person or by deposition, unless the parties agree otherwise or as the judge allows for a good reason.
[ARCP 43(a), (b), (f)]

b. ***Subpoena ("requiring a witness to appear").*** A party may obtain a subpoena from the court where the lawsuit is pending that requires a witness to appear and to testify at a trial or at a deposition, or to produce documents at a designated time and place. A subpoena must be the same as the form that is available under Rule 148(b). Procedures concerning subpoenas, including objections to a subpoena, are specified in that form and those procedures are included in this rule by reference. A subpoena must be served on the person named in the subpoena. A party may request the court to issue a blank subpoena, and the party must complete the subpoena before serving it. The subpoena may be served by anyone who is not a party and who is at least eighteen years old. The person who serves a subpoena that requires a person to appear at a trial or at a deposition must also give to the person who is served a fee for one day's attendance at the trial or deposition, and for mileage expense as allowed by law. A person served with a subpoena that requires the person to produce documents does not need to appear and testify if the documents identified in the subpoena are provided to the requesting party on or before the date specified in the subpoena. **[ARCP 45]**

c. ***Interpreters.*** Interpreters are available under the particular court's language access plan, and as provided by law. **[ARCP 43(c)]**

Rule 138: New trial; amendment of judgment.

a. ***Grounds and procedure.*** A party may file a motion asking the judge to vacate a verdict, decision, or judgment, and to grant a new trial for any of the following reasons and if the reason has materially affected a party's rights:

(1) There has been an irregularity in the proceedings of the court, of the jury, or of the prevailing party, or there has been an order or an abuse of discretion, which has deprived the party of a fair trial.

(2) There has been misconduct of the jury or of the prevailing party.

(3) An accident or a surprise occurred that a reasonable person could not have foreseen.

(4) Newly discovered and material evidence exists that a reasonable person could not have discovered before trial.

(5) The jury has awarded excessive or inadequate damages.

(6) There has been an error in the admission or rejection of evidence, or in the jury instructions, or there have been other errors of law during trial or during the lawsuit.

(7) The jury's verdict was the result of passion or prejudice.

(8) The jury's verdict, or the court's decision, findings of fact, or judgment is not justified by the evidence or is contrary to the law.

A new trial may be granted as to all issues or only as to issues specified by the judge. A motion for a new trial may be granted on the judge's initiative, or on a ground not specified by a party, within the time provided in section (b) of this rule. **[ARCP 59(a)–(c), (f)–(i), (m)]**

b. ***Time for filing.*** A motion for new trial must be filed within fifteen (15) days after entry of judgment. A motion for new trial after service by publication and default must be filed within one (1) year after the entry of judgment. **[ARCP 59(d), (j)]**

c. ***Motion to alter or to amend a judgment.*** A party may file a motion to alter or to amend a judgment if there has been a change in applicable law, or to correct a clear legal error or to prevent a manifest injustice. A motion to alter or to amend a judgment must be filed within fifteen (15) days after entry of judgment. **[ARCP 59(l)]**

Part X: Judgment.

Rule 139: Judgment.

a. ***Definition and requirements.*** A "judgment" is a final written order of the court that decides all of the claims in the lawsuit, and that can be appealed. A judgment must be signed by the judge, and filed and entered by the court. **[ARCP 54(a), 58(a)]**

b. ***Judgments involving multiple claims or multiple parties.*** An order that decides some but not all of the claims, or that concludes the lawsuit as to some but not all of the parties, is not a judgment that can be appealed, unless the order states that there is no just reason for delay and it specifically directs entry of the judgment. **[ARCP 54(b)]**

c. ***Judgment prepared by a party.*** A judgment may be prepared by the court or it may be prepared by a party and submitted to the court for signature. A copy of a proposed judgment prepared by a party must be served on the other parties as provided by Rule 120. A party who prepares a judgment and submits it to the court must also provide the court with stamped envelopes addressed to each party who has appeared in the lawsuit. The court will not approve or sign a judgment prepared by a party until the expiration of five (5) days after the proposed judgment has been served upon the opposing parties. An opposing party may file a written objection to the proposed judgment within that time. The requirements of this paragraph do not apply to parties in default under Rule 140.

If a party who prepares a judgment also claims court costs under section (d), or attorneys' fees under section (e), those claims must be submitted to the court at the same time as the judgment that the party prepared. **[ARCP 58(a), (d)]**

d. ***Court costs.*** The prevailing party may request that the party's costs of the lawsuit, to the extent allowed by law, be included in the amount of the judgment. The party claiming costs must submit a statement of costs, which has been verified under Rule 109(c), to the court and to the other parties not later than twenty (20) days after the court has made a decision that entitles a party to a judgment. The party against whom costs are claimed may file an objection to those costs within five (5) days after receipt, and the court will then rule upon the objections and enter the approved amount, if any, in the judgment. **[ARCP 54(f)]**

e. ***Attorneys' fees.*** If a party has made a claim for attorneys' fees in a pleading, the party may request that attorneys' fees be included in the amount of the judgment. The party must file a motion with the court stating the legal basis of the claim for fees, with an affidavit and supporting exhibits, including any contract that provides for attorneys' fees. If a contract is longer than three (3) pages, then at a minimum the first page, the relevant provision for fees, and the signature page, if any, must be attached to the affidavit. The motion must be filed no later than twenty (20) days after the court has made a decision that entitles the party to judgment. The opposing party may file a response to the motion within the time allowed by Rule 128(e). The court may set a hearing on the motion, but the court may not enter judgment until the issue of attorneys' fees has been resolved. **[ARCP 54(g), 58(g)]**

f. ***Notice of entry of judgment.*** The court will provide every party who is not in default with a copy of the judgment entered by the court. A failure of the court to provide this copy does not affect the time to appeal or authorize the court to relieve a party's failure to appeal within the time allowed. **[ARCP 58(e)]**

g. ***Voluntary reduction.*** A party in whose favor a verdict or a judgment has been rendered may voluntarily reduce the amount by filing an amended judgment for the judge to sign. **[ARCP 58(b)]**

h. ***Entry of judgment after death of a party.*** Judgment may be entered after the death of a party upon a verdict or decision on an issue of fact that was rendered during the party's life. **[ARCP 54(e)]**

Rule 140: Entry of default judgment.

a. ***When a default judgment may be entered.*** A default judgment may be entered against a party who was served with a complaint, counterclaim, cross-claim, or third-party complaint, and who failed to file an answer or otherwise respond within the time allowed by these rules. **[ARCP 55(a), (d)]**

b. ***Application for entry of default.*** A party seeking a default judgment must first file an application that the court enter a default against the party who failed to answer. The application must inform the party against whom default is sought of the party's failure to file an answer or otherwise respond within the time allowed by these rules. The application must further inform the party against whom default is sought, with either bold or enlarged font, that unless an answer or response is filed within ten (10) days from the filing of the application, the default will become effective and the entry of a default judgment will be requested. A default is entered against the party who has failed to respond when the application for entry of default is filed with the court. **[ARCP 55(a)]**

c. ***Serving the application.*** The party who files an application for entry of default with the court must serve a copy of the application on the party claimed to be in default, as follows:

(1) If the address of the party claimed to be in default is known, the application must be mailed to that address.

(2) If the current address of the party claimed to be in default is unknown, the application must be mailed to the party's last known address.

(3) If the party claimed to be in default has no known address, or the party has been served by alternative service or by publication, the party requesting the entry of default must state this in the application.

(4) If the party who files the application knows that the party claimed to be in default is represented by an attorney concerning this lawsuit, the application must also be mailed to that attorney, whether or not the attorney has formally appeared in the lawsuit.

A party filing an application for entry of default must also serve the application on the other parties in the lawsuit as provided by Rule 120. **[ARCP 55(a)]**

d. ***Answer or response.*** If the party claimed to be in default files with the court a written answer or other response within ten (10) days after the application was filed pursuant to section (b) of this rule, the default does not become effective, and the court may not enter a default judgment against that party. The ten (10) day period begins the day after the application is filed with the court; the ten (10) day period does not include Saturdays, Sundays, or holidays, and no additional time is added for service by mail. **[ARCP 55(a)]**

e. ***Request for entry of a default judgment without a hearing.*** After the ten (10) day period described above, the party who filed the application for entry of default may file a request for entry of a default judgment without a hearing. A party may request the entry of a default judgment without a hearing if the party's claim is for a specific amount, or if the claim is for an amount that can be determined by a mathematical calculation. The party requesting the entry of a default judgment without a hearing must attach to the request for entry of a default judgment without a hearing a supporting affidavit concerning the claimed amount, along with attachments that prove the amount of the claim.

A request for entry of a default judgment without a hearing may include a request for an award of reasonable attorneys' fees if: (i) the complaint requested attorneys' fees; (ii) an award of attorneys' fees is allowed by law and the legal basis is specified in the request; (iii) the request includes a separate affidavit with supporting exhibits concerning the amount of the fees; and (iv) if the fee request is based on a written contract, the contract is submitted with the request. A request for the entry of a default judgment without a hearing may also include a request for an award of court costs by attaching to the request a verified statement of costs. Any requests for attorneys' fees or costs must be filed at the same time as the request for entry of a default judgment.

A request for entry of a default judgment, with all of the attachments to the request, must be served upon the party claimed to be in default as provided in section (c) of this rule. A party

filing a request for entry of a default judgment must also serve the request and attachments on the other parties in the lawsuit as provided by Rule 120.

Even though the requirements of this paragraph may be met, the court may decline a request for entry of a default judgment and may instead set the matter for a default hearing. The court will not enter a default judgment against a minor child or an incompetent person, or against a party who was served by publication, without a hearing. **[ARCP 55(b)(1)]**

f. ***Default judgment hearing.*** If the party who filed an application for entry of default has a claim that is not for a specific amount, or if the amount of the claim cannot be determined by a mathematical calculation, then ten (10) days after the application for entry of default was filed, the party may file a request that the court set a default hearing to determine the terms of the judgment. The court may also set a matter for a default hearing on its own initiative following proper notice to the parties.

The party requesting the hearing must serve the party against whom judgment will be entered, if that party has a known address, and the party's attorney, if any, with a written notice of the hearing at least three (3) days before the default hearing date. The party against whom judgment will be entered or that party's attorney may participate if that party or that party's attorney appears at the default hearing. A notice of hearing must also be served on other parties in the lawsuit as provided by Rule 120.

The court may receive evidence at a default hearing, and the court must provide a jury trial when the law requires one. The court may enter a default judgment against a minor child or an incompetent person only if that child or person was represented at the hearing by a guardian or by legal counsel.

A default judgment entered at a hearing may include an award of attorneys' fees and costs when established in the manner provided in section (e) of this rule. Any request for attorneys' fees or costs must be filed at the same time as the request for a default hearing. **[ARCP 55(b)(2)]**

g. ***Form of default judgment.*** A default judgment may be prepared by the court or it may be prepared by a party and submitted to the court for signature. A party may submit a proposed default judgment at the time a request for entry of a default judgment without a hearing is filed, or at the time of a default hearing. A party who prepares and submits a proposed default judgment must also provide the court with stamped envelopes addressed to each party who has appeared in the lawsuit and to the party or parties in default, in order for the court to mail copies of the default judgment after it is signed by the judge. **[ARCP 58(a), (d)]**

h. ***Default judgment against the State.*** A default judgment will be entered against the State or an officer or agency of the State only if the party requesting the default judgment proves the party's claim by satisfactory evidence. **[ARCP 55(e)]**

i. ***Default judgment after service by publication.*** A default judgment may be entered against a party who was served by publication only if a verbatim record of the default proceeding is made and maintained by the court. **[ARCP 55(f)]**

j. ***Setting aside a default or a default judgment.*** If the party claimed to be in default files a written answer after the ten (10) day period described in section (d), but before the filing of a request for entry of a default judgment without a hearing or a request for default judgment hearing, the court for a good reason provided by the answering party, or the court on its own initiative, may set aside the default and allow the lawsuit to proceed as if the answer was timely, subject to an opportunity of the plaintiff to object. If the default is not set aside as provided in this section, judgment may only be entered after a default judgment hearing. A default judgment that has been entered may be set aside by a motion as provided in Rule 141(c). **[ARCP 55(c)]**

Rule 141: Correcting or setting aside a judgment or an order.

a. ***Correction of a clerical mistake.*** The court at any time may correct a clerical mistake in a judgment, in an order, or in another part of the court's record that occurred as a result of an oversight or omission of the court, and it may do so on its own motion or on motion of a party, and after such notice, if any, that the court requires. **[ARCP 60(a)]**

b. ***Misstatement or miscalculation.*** When a judgment misstates the name of a party, or when a sum of money has been miscalculated or misstated, and in the court's record there is a verdict or other document that shows the correct name or the correct calculation, then the court may correct the judgment after notice to the parties. If the correction affects the amount of a judgment, a party may collect only the corrected amount. **[ARCP 60(b)]**

c. ***Reasons for relief from a judgment or order.*** A party may file a motion asking the court for relief from a final judgment, order, or proceeding based on one or more of the following:

(1) Mistake, inadvertence, surprise, or excusable neglect;

(2) Newly discovered evidence that with the exercise of due diligence could not have been discovered in time to file a motion for a new trial;

(3) Fraud, misrepresentation, or other misconduct of an opposing party;

(4) The judgment is void;

(5) The judgment has been satisfied, released, or discharged; or a prior judgment upon which it is based has been reversed or vacated; or it is no longer equitable that the judgment should have prospective application;

(6) Any other reason that justifies relief from the judgment.

A motion under Rule 141(c) must be filed within a reasonable time, and for reasons (1), (2), and (3), within six (6) months after the judgment or order was entered or after the proceeding occurred. The filing of a motion under this section does not affect the finality of a judgment, nor does it suspend the operation of a judgment. This rule does not limit the power of the court to relieve a party from a judgment, order, or proceeding if a fraud was committed upon the court; and this rule does not limit the power of the court to grant relief to a defendant served by publication, as provided by Rule 140(j). **[ARCP 60(c)]**

Rule 142: Stay of proceedings to enforce a judgment.

a. ***Pending motion under Rule 138 or Rule 141.*** The court may stay proceedings for enforcing a judgment while a motion under Rule 138 or Rule 141 is pending. The court may impose conditions as may be proper for the security of the affected parties. **[ARCP 62(b)]**

b. ***Conveyances, instruments, or perishable property.*** A judgment directing the execution of a conveyance or instrument, or directing the sale of perishable property, may be stayed by the court with conditions for deposits or security as may be proper. **[ARCP 62(f)]**

c. ***Judgment against the State or a political subdivision.*** Money judgments against the State or any political subdivision are automatically stayed when an appeal is filed. **[ARCP 62(g)]**

d. ***Judgments entered under Rule 139(b).*** A judgment entered by the court pursuant to Rule 139(b) may be stayed until the entry of subsequent judgments or upon conditions as may be appropriate to protect the rights of the parties. **[ARCP 62(i)]**

Rule 143: Harmless error.

Harmless error. An error by the trial court is not a good reason for setting aside a verdict, order, or judgment, or for granting a new trial, unless the error has affected a substantial right of a party, or the error has resulted in a substantial injustice. **[ARCP 61]**

Part XI: Dismissal of lawsuits.

Rule 144: Dismissal of lawsuits.

a. ***Application of this rule.*** This rule applies to a complaint, a counterclaim, a cross-claim, and a third-party complaint. **[ARCP 41(a), (c)]**

b. ***Voluntary dismissal before a response has been filed.*** A complaint or a third-party complaint may be dismissed by a notice that is filed by the plaintiff or by the third-party plaintiff at any time before a response has been filed under Rule 116. A counterclaim or a cross-claim may be dismissed before a response has been filed under Rule 117(e) by a notice filed by the claimant. **[ARCP 41(a)]**

c. ***Voluntary dismissal by agreement of the parties.*** A lawsuit may be dismissed upon the filing of a written agreement to dismiss that has been signed by all of the parties who have appeared in the lawsuit. A particular claim or claims in a lawsuit may be dismissed upon the filing of a written agreement to dismiss that has been signed by the parties to that claim or claims. **[ARCP 41(a)]**

d. ***Dismissal in other circumstances.*** Except as provided in sections (b), (c), and (e), a lawsuit or claim shall be dismissed only upon motion and by court order, and only on terms and conditions that the court determines are fair and proper. Dismissal of a complaint will not result in dismissal of a counterclaim unless agreed to by the parties. **[ARCP 41(a)–(b)]**

e. ***Dismissal for failure to conclude a lawsuit within ten months.*** If a final judgment has not been entered within ten (10) months from the date a lawsuit is filed, or if a party has not filed a written motion to extend the time for entry of judgment to a particular date, the court will mail a notice to the plaintiff and to any defendant who has appeared in the lawsuit informing them that unless this requirement is met within two (2) months from the date of mailing, the court will dismiss the lawsuit for failure to have judgment timely entered. If the requirement has not been met within two (2) months from the mailing of the court's notice, the court may dismiss the lawsuit without further notice to the parties. **[ARCP 38.1(d), 41(b)]**

f. ***Dismissal without prejudice.*** A dismissal without prejudice means that a claim may be re-filed if all other legal requirements, including statutes of limitation, have been met. A dismissal under Rule 113(i) or under sections (b), (c), or (e) of this rule is "without prejudice" unless the notice, agreement, or order to dismiss states that the dismissal is "with prejudice," in which event the lawsuit or claim may not be re-filed. **[ARCP 41(a)]**

Part XII: Special proceedings.

Rule 145: Civil arrest warrant.

a. ***Definition.*** A "civil arrest warrant" is an order issued in a non-criminal lawsuit, which is directed to any peace officer in the state, including a constable, to arrest the person named in the warrant and to bring that person before the court. **[ARCP 64.1(a)]**

b. ***When a warrant may be issued.*** On motion of a party or on its own motion, the court may issue a civil arrest warrant if it finds that the person for whom the warrant is sought:

> *(1)* Has been ordered by the court to appear in person at a specific time and location, and after receiving actual notice of the order that includes a warning that failure to appear may result in the issuance of a civil arrest warrant, has failed to appear as ordered; or
>
> *(2)* Has been personally served with a subpoena to appear in person at a specific time and location that includes a warning that failure to appear may result in the issuance of a civil arrest warrant, and has failed to appear as the subpoena commanded. **[ARCP 64.1(b)]**

c. ***Procedures.*** The content of a civil arrest warrant, the time and manner of execution of a warrant, the duty of the court after execution of a warrant, and procedures for forfeiture of bond, are as provided in Rule 64.1(c), (d), (e), and (f) of the Arizona Rules of Civil Procedure, which are included in the appendix to the JCRCP. **[ARCP 64.1(c)–(f)]**

Rule 146: Deposits with the court; proceedings against sureties.

a. ***Voluntary deposit of money or thing.*** In a lawsuit where some or the entire claim is for the disposition of money, or the disposition of something that is capable of being delivered, a party, after giving notice to the other parties and after obtaining the permission of the court, may deposit the money or thing with the court. Money or things deposited with the court under paragraph (a) or (b) of this rule must be kept in a marked and sealed envelope in the court's safe, in a bank, or as directed by the court, and must be subject to the control of the court.**[ARCP 67(a)]**

b. ***Deposit or delivery of money or thing by court order.*** If a party has in its possession money or something that is capable of being delivered, and the money or thing is the subject of the lawsuit and is held by the party as trustee for another party or that belongs or is due to another party, the court may order that the money or thing be deposited with the court, or otherwise delivered to a party, on conditions that are just and subject to further order of the court. **[ARCP 67(b)]**

c. ***Proceedings against sureties.*** A surety who gives security in the form of a bond or similar undertaking submits to the jurisdiction of the court where it is filed. The surety's liability may be enforced on motion without the necessity of an independent action. **[ARCP 65.1]**

Rule 147: Enforcement of a judgment or order.

a. ***Writs of execution or garnishment.*** The process to enforce a judgment for the payment of money will be a writ of execution or a writ of garnishment, unless the court directs otherwise. The procedures for these writs will be as provided by law. **[ARCP 69]**

b. ***Supplemental proceedings to enforce a judgment ("judgment debtor exams").*** To enforce the judgment or a writ upon the judgment, the judgment creditor or a successor in interest when a successor has been shown to the satisfaction of the court, may obtain discovery from any person, including the judgment debtor, concerning the debtor's income, expenses, and assets, as provided by law. **[ARCP 69]**

c. ***Enforcement of an order concerning non-parties.*** Orders in favor of a person not a party to a lawsuit, or requiring obedience by a person not a party to a lawsuit, may be enforced by the same manner as orders concerning a party. **[ARCP 71]**

d. ***Service of an order to show cause.*** An order to show cause must be served by the party requesting the order in the manner required by Rule 113, unless it will be served on a party who has already appeared in the lawsuit, in which case the party requesting the order must serve it as required by Rule 120. **[ARCP 6(d)]**

Part XIII: Forms.

Rule 148: Forms.

a. ***Forms.*** Parties may use forms for civil cases in justice court that are maintained and made available on the website of the Administrative Office of the Courts, at www.azcourts.gov. The Administrative Director of the Administrative Office of the Courts is authorized to modify these forms and the forms listed in Rule 148(b) in response to changes in state laws or procedures, to make other necessary administrative amendments or technical corrections, or to add or delete forms as may be appropriate. **[ARCP 84]**

b. ***Forms included in the appendix to these rules.***

(1) Summons, as provided by Rule 112(b);

(2) Notice to defendant, as provided by Rule 112(d);

(3) Subpoena, as provided by Rule 137(b).

PLAINTIFF(S) ATTORNEY INFORMATION:

_____
_____
_____
_____
Name/Address/Phone

Identification of justice court precinct, address, and telephone number

_____
_____
_____
_____
Plaintiff(s) Name/Address/Phone

V.

_____
_____
_____
_____
Defendant(s) Name/Address/Phone

CASE NUMBER_____

SUMMONS

CIVIL

THE STATE OF ARIZONA TO THE ABOVE NAMED DEFENDANT(S):

1. You are summoned to respond to this complaint by filing an answer with this court and paying the court's required fee. If you cannot afford to pay the required fee, you may request the court to waive or to defer the fee.

2. If you were served with this summons in the State of Arizona, the court must receive your answer to the complaint within twenty (20) calendar days from the date you were served. If you were served outside the State of Arizona, the court must receive your answer to the complaint within thirty (30) days from the date of service. If the last day is a Saturday, Sunday, or holiday, you will have until the next working day to file your answer. When calculating time, do not count the day you were served with the summons.

3. This court is located at (physical address) :_____

4. Your answer must be in writing. (a) You may obtain an answer form from the court listed above, or on the Self-Service Center of the Arizona Judicial Branch website at http://www.azcourts.gov/ under the *"Public Services"* tab. (b) You may visit http://www.azturbocourt.gov/ to fill in your answer form electronically; this requires payment of an additional fee. (c) You may also prepare your answer on a plain sheet of paper, but your answer must include the case number, the court location, and the names of the parties.

5. You must provide a copy of your answer to the plaintiff(s) or to the plaintiff's attorney.

IF YOU FAIL TO FILE A WRITTEN ANSWER WITH THE COURT WITHIN THE TIME INDICATED ABOVE, A DEFAULT JUDGMENT MAY BE ENTERED AGAINST YOU, AS REQUESTED IN THE PLAINTIFF(S) COMPLAINT.

Date: _____ _____

Judge's Signature {COURT SEAL}

REQUEST FOR REASONABLE ACCOMMODATION FOR PERSONS WITH DISABILITIES MUST BE MADE TO THE COURT AS SOON AS POSSIBLE BEFORE A COURT PROCEEDING.

Notice to the Defendant: A lawsuit has been filed against you in justice court!
You have rights and responsibilities in this lawsuit. Read this notice carefully.

1. In a justice court lawsuit, individuals have a right to represent themselves, or they may hire an attorney to represent them. A family member or a friend may not represent someone in justice court unless the family member or friend is an attorney. A corporation has a right to be represented by an officer of the corporation, and a limited liability company ("LLC") may be represented by a managing member. A corporation or an LLC may also be represented by an attorney.

If you represent yourself, you have the responsibility to properly complete your court papers and to file them when they are due. The clerks and staff at the court are not allowed to give you legal advice. If you would like legal advice, you may ask the court for the name and phone number of a local lawyer referral service, the local bar association, or a legal aid organization.

2. You have a responsibility to follow the Justice Court Rules of Civil Procedure *(*"JCRCP") that apply in your lawsuit. The rules are available in many public libraries, at the courthouse, and online at the Court Rules page of the Arizona Judicial Branch website, at *http://www.azcourts.gov/* , under the "AZ Supreme Court" tab.

3. A "plaintiff" is someone who files a lawsuit against a "defendant." You must file an answer or other response to the plaintiff's complaint **in writing** and **within twenty (20) days** from the date you were served with the summons and complaint (or thirty (30) days if you were served out-of-state.) If you do not file an answer within this time, the plaintiff may ask the court to enter a "default" and a "default judgment" against you. Your answer must state your defenses to the lawsuit. Answer forms are available at the courthouse, and on the Self-Service Center of the Arizona Judicial Branch website at *http://www.azcourts.gov/* under the "Public Services" tab. You may prepare your answer electronically at *http://www.azturbocourt.gov/* ; this requires payment of an additional fee. You may also prepare your answer on a plain sheet of paper, but your answer must include the court location, the case number and the names of the parties. You must provide to the plaintiff a copy of any document that you file with the court, including your answer.

4. You may bring a claim against the plaintiff if you have one. When you file your answer or written response with the court, you may also file your "counterclaim" against the plaintiff.

5. You must pay a filing fee to the court when you file your answer. If you cannot afford to pay a filing fee, you may apply to the court for a fee waiver or deferral, but you must still file your answer on time.

6. You may contact the plaintiff or the plaintiff's attorney and try to reach an agreement to settle the lawsuit. However, until an agreement is reached you must still file your answer and participate in the lawsuit. During the lawsuit, the court may require the parties to discuss settlement.

7. Within forty (40) days after your answer has been filed, you and the plaintiff are required to provide a disclosure statement to each other. The disclosure statement provides information about witnesses and exhibits that will be used in the lawsuit. A party may also learn more about the other side's case through discovery. Read the Justice Court Rules of Civil Procedure for more information about disclosure statements and discovery.

8. The court will notify you of all hearing dates and trial dates. You must appear at the time and place specified in each notice. If you fail to appear at a trial or a hearing, the court may enter a judgment against you. To assure that you receive these notices, you must keep the court informed, in writing, of your current address and telephone number until the lawsuit is over.

Name:
Address:
City:
State:
Phone:

IN THE _____ JUSTICE COURT OF THE STATE OF ARIZONA
_____COUNTY

_____	)	
Plaintiff	)	Case No.:
	)	
vs.	)	**SUBPOENA IN A CIVIL CASE**
	)	
_____	)	
Defendant	)	
	)	
	)	

TO: _____
(Name of Recipient)

[Select one or more of the following, as appropriate:]

[ ] **For Attendance of Witnesses at Hearing or Trial**

YOU ARE COMMANDED to appear in the _____ Justice Court at the place, date and time specified below to testify at [ ] a hearing [ ] trial in the above cause:

Judicial Officer:

Courtroom:

Address:

Date:

Time:

[ ] **For Taking of Depositions**

YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of a deposition in the above cause:

Place of Deposition:

Address:

Date:

Time:

Method of Recording:

[ ] **For Production of Documentary Evidence or Inspection of Premises**

YOU ARE COMMANDED, to produce and permit inspection, copying, testing, or sampling of the following designated documents, electronically stored information or tangible things, or to permit the inspection of premises:

[designation of documents, electronically stored information or tangible things, or the location of the premises to be inspected]

at the place, date, and time specified below:

Place of Production or Inspection:

Address:

Date:

Time:

[The following text must be included in every subpoena:]

Your Duties in Responding To This Subpoena

***Attendance at a Trial*.** If this subpoena commands you to appear at a trial, you must appear at the place, date and time designated in the subpoena unless you file a timely motion with the court and the court quashes or modifies the subpoena. *See* Rule 45(b)(5) and Rule 45(e)(2) of the Arizona Rules of Civil Procedure. *See also* "Your Right To Object To This Subpoena" section below. Unless a court orders otherwise, you are required to travel to any part of the state to attend and give testimony at a trial. *See* Rule 45(b)(3)(A) of the Arizona Rules of Civil Procedure.

***Attendance at a Hearing or Deposition*.** If this subpoena commands you to appear at a hearing or deposition, you must appear at the place, date and time designated in this subpoena unless either: (1) you file a timely motion with the court and the court quashes or modifies the subpoena; or (2) you are not a party or a party's officer and this subpoena commands you to travel to a place other than: (a) the county in which you reside or you transact business in person; or (b) the county in which you were served with the subpoena or within forty (40) miles from the place of service; or (c) such other convenient place fixed by a court order. *See* Rule 45(b)(3)(B) and Rule 45(e)(2)(A)(ii) of the Arizona Rules of Civil Procedure. *See also* "Your Right To Object To This Subpoena" section below.

***Production of Documentary Evidence or Inspection of Premises*.** If this subpoena commands you to produce and permit inspection, copying, testing or sampling of designated documents, electronically stored information, or tangible things, you must make the items available at the place, date and time designated in this subpoena, and in the case of electronically stored information, in the form or forms requested, unless you provide a good faith written objection to the party or attorney who served the subpoena. *See* Rule 45(c)(5) of the Arizona Rules of Civil Procedure. *See also* "Your Right To Object To This Subpoena" section below. Similarly, if this subpoena commands you to make certain premises available for inspection, you must make the designated premises available for inspection on the date and time designated in this subpoena unless you provide a good faith written objection to the party or attorney who served the subpoena. *See* Rule 45(c)(5) of the Arizona Rules of Civil Procedure. *See also* "Your Right to Object to This Subpoena" section below.

You should note that a command to produce certain designated materials, or to permit the inspection of premises, *may* be combined with a command to appear at a trial, hearing or deposition. *See* Rule 45(b)(2) of the Arizona Rules of Civil Procedure. You do not, however, need to appear in person at the place of production or inspection unless the subpoena *also* states that you must appear for and give testimony at a hearing, trial or deposition. *See* Rule 45(c)(3) of the Arizona Rules of Civil Procedure.

If the subpoena commands you to produce documents, you have the duty to produce the designated documents as they are kept by you in the usual course of business, or you may organize the documents and label them to correspond with the categories set forth in the subpoena. *See* Rule 45(c)(4) of the Arizona Rules of Civil Procedure.

Your Right To Object To This Subpoena

***Generally*.** If you have concerns or questions about this subpoena, you should first contact the party or attorney who served the subpoena. The party or attorney serving the subpoena has a duty to take reasonable steps to avoid imposing an undue burden or expense on you. The superior court enforces this duty and may impose sanctions upon the party or attorney serving the subpoena if this duty is breached. *See* Rule 45(e)(1) of the Arizona Rules of Civil Procedure.

***Procedure for Objecting to a Subpoena for Attendance at a Hearing, Trial or Deposition*.** If you wish to object to a subpoena commanding your appearance at a hearing, trial or deposition, you must file a motion to quash or modify the subpoena with the court to obtain a court order excusing you from complying with this subpoena. *See* Rules 45(b)(5) and 45(e)(2) of the Arizona Rules of Civil Procedure. The motion must be filed in the Justice Court precinct in which the case is pending or from which the subpoena was issued. *See* Rule 45(e)(2)(A) and (B) of the Arizona Rules of Civil Procedure. The motion must be filed before the time specified for compliance or within 14 days after the subpoena is served, whichever is earlier. *See* Rule 45(e)(2)(D) of the Arizona Rules of Civil Procedure. You must send a copy of any motion to quash or modify the subpoena to the party or attorney who served the subpoena. *See* Rules 45(e)(2)(E) of the Arizona Rules of Civil Procedure.

The court *must* quash or modify a subpoena:

(1) if the subpoena does not provide a reasonable time for compliance;

(2) unless the subpoena commands your attendance at a trial, if you are not a party or a party's officer and if the subpoena commands you to travel to a place other than: (a) the county in which you reside or transact business in person; (b) the county in which you were served with a subpoena, or within forty (40) miles from the place of service; or (c) such other convenient place fixed by a court order; or

(3) if the subpoena requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(4) if the subpoena subjects you to undue burden.

See Rule 45(e)(2)(A) of the Arizona Rules of Civil Procedure.

The court *may* quash or modify a subpoena:

(1) if the subpoena requires you to disclose a trade secret or other confidential research, development or commercial information;

(2) if you are an unretained expert and the subpoena requires you to disclose your opinion or information resulting from your study that you have not been requested by any party to give on matters that are specific to the dispute;

(3) if you are not a party or a party's officer and the subpoena would require you to incur substantial travel expense; or

(4) if the court determines that justice requires the subpoena to be quashed or modified.

See Rule 45(e)(2)(B) of the Arizona Rules of Civil Procedure.

In these last four circumstances, a court may, instead of quashing or modifying a subpoena, order your appearance or order the production of material under specified conditions if: (1) the serving party or attorney shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and (2) if your travel expenses or the expenses resulting from the production are at issue, the court ensures that you will be reasonably compensated. *See* Rule 45(e)(2)(C) of the Arizona Rules of Civil Procedure.

***Procedure for Objecting to Subpoena For Production of Documentary Evidence*.** If you wish to object to a subpoena commanding you to produce documents, electronically stored information or tangible items, or to permit

the inspection of premises, you may send a good faith written objection to the party or attorney serving the subpoena that objects to: (1) producing, inspecting, copying, testing or sampling any or all of the materials designated in the subpoena; (2) inspecting the premises; or (3) producing electronically stored information in the form or forms requested. You must send your written objection to the party or attorney who served the subpoena before the time specified for compliance or within 14 days after the subpoena is served, whichever is earlier. *See* Rule 45(c)(5)(A)(ii) of the Arizona Rules of Civil Procedure.

If you object because you claim the information requested is privileged, protected, or subject to protection as trial preparation material, you must express the objection clearly, and support each objection with a description of the nature of the document, communication or item not produced so that the demanding party can contest the claim. *See* Rule 45(c)(5)(C) of the Arizona Rules of Civil Procedure.

If you object to the subpoena in writing, you do not need to comply with the subpoena until a court orders you to do so. It will be up to the party or attorney serving the subpoena to first personally consult with you and engage in good faith efforts to resolve your objection and, if the objection cannot be resolved, to seek an order from the court to compel you to provide the documents or inspection requested, after providing notice to you. *See* Rule 45(c)(5)(B) of the Arizona Rules of Civil Procedure.

If you are not a party to the litigation, or a party's officer, the court will issue an order to protect you from any significant expense resulting from the inspection and copying commanded. *See* Rule 45(c)(6)(B) of the Arizona Rules of Civil Procedure.

Instead of sending a written objection to the party or attorney who served the subpoena, you also have the option of raising your objections in a motion to quash or modify the subpoena. *See* Rule 45(e)(2) of the Arizona Rules for Civil Procedure. The procedure and grounds for doing so are described in the section above entitled "Procedure for Objecting to a Subpoena for Attendance at a Hearing, Trial or Deposition."

If the subpoena *also* commands your attendance at a hearing, trial or deposition, sending a written objection to the party or attorney who served the subpoena does not suspend or modify your obligation to attend and give testimony at the date, time and place specified in the subpoena. *See* Rule 45(c)(5)(A)(iii) of the Arizona Rules of Civil Procedure. If you wish to object to the portion of this subpoena requiring your attendance at a hearing, trial or deposition, you must file a motion to quash or modify the subpoena as described in the section above entitled "Procedure for Objecting to a Subpoena for Attendance at a Hearing, Trial or Deposition." *See* Rule 45(b)(5) and 45(c)(5)(iii) of the Arizona Rules of Civil Procedure.

ADA Notification

Requests for reasonable accommodation for persons with disabilities must be made to the court by parties as soon as possible in advance of a scheduled court proceeding.

[Optional: this form may include the provisions of Rule 145(b)(2) of the Justice Court Rules of Civil Procedure].

SIGNED AND SEALED this date _____
By: _____
Justice of the Peace

Words and Phrases Defined or Explained in the JCRCP

Word/Phrase	Rule
Affidavit	109(d)
Appearance	114(e)
Caption	108(a)
Civil arrest warrant	145(a)
Default	114(d), 140(a)
Defendant	104(b)
Deposition	123(a)
Discovery	122(a)
Dismissal with prejudice	144(f)
Dismissal without prejudice	144(f)
Exhibits	108(c)
Interpleader	106(b)
Interrogatories	124(a)
Intervention	106(a)
Judgment	139(a)
Jurisdiction	110(b), 116(a)
Mediation	130(a)
Mediator	130(a)
Motion	128(a)
Party	102(a)
Person	104(e)
Personally served	113(a)
Plaintiff	104(a)
Pleading	107(a)
Real party in interest	104(a)
Request for admissions	126(a)
Request for production	125(a)
Subpoena	137(b)
Summons	112(b)
Third-party complaint	118(a)
Venue	110(b), 116(a)
Verified	109(c)
Witness	137(a)

ARIZONA RULES OF CIVIL PROCEDURE

Rule 4.1. Service of Process Within Arizona

(d) **Service of Summons upon Individuals.** Service upon an individual from whom a waiver has not been obtained and filed, other than those specified in paragraphs (e), (f) and (g) of this Rule 4.1, shall be effected by delivering a copy of the summons and of the pleading to that individual personally or by leaving copies thereof at that individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by delivering a copy of the summons and of the pleading to an agent authorized by appointment or by law to receive service of process.

(e) **Service of Summons upon Minors.** Service upon a minor under the age of sixteen years shall be effected by service in the manner set forth in paragraph (d) of this Rule 4.1 upon the minor and upon the minor's father, mother or guardian, within this state, or if none is found therein, then upon any person having the care and control of such minor, or with whom the minor resides.

(f) **Service of Summons upon a Minor with Guardian or Conservator.** Service upon a minor for whom a guardian or conservator has been appointed in this state shall be effected by service in the manner set forth in paragraph (d) of this Rule 4.1 upon such guardian or conservator and minor.

(g) **Service of Summons upon Incompetent Persons.** Service upon a person who has been judicially declared to be insane, gravely disabled, incapacitated or mentally incompetent to manage that person's property and for whom a guardian or conservator has been appointed in this state shall be effected by service in the manner set forth in paragraph (d) of this Rule 4.1 upon such person and also upon that person's guardian or conservator, or if no guardian or conservator has been appointed, upon such person as the court designates.

(h) **Service of Summons upon the State.** If a waiver has not been obtained and filed, service upon the state shall be effected by delivering a copy of the summons and of the pleading to the attorney general.

(i) **Service of Summons upon a County, Municipal Corporation or Other Governmental Subdivision.** Service upon a county or a municipal corporation or other governmental subdivision of the state subject to suit, and from which a waiver has not been obtained and filed, shall be effected by delivering a copy of the summons and of the pleading to the chief executive officer, the secretary, clerk, or recording officer thereof.

(j) **Service of Summons upon Other Governmental Entities.** Service upon any governmental entity not listed above shall be effected by serving the person, officer, group or body responsible for the administration of that entity or by serving the appropriate legal officer, if any, representing the entity. Service upon any person who is a member of the “group” or “body” responsible for the administration of the entity shall be sufficient.

(l) **Service of Summons upon a Domestic Corporation if Authorized Officer or Agent Not Found within the State.** When a domestic corporation does not have an officer or agent in this state upon whom legal service of process can be made, service upon such domestic corporation shall be effected by depositing two copies of the summons and of the pleading being served in the office of the Corporation Commission, which shall be deemed personal service on such corporation. The return of the sheriff of the county in which the action or proceeding is brought that after diligent search or inquiry the sheriff has been unable to find any officer or agent of such corporation upon whom process may be served, shall be prima facie evidence that the corporation does not have such an officer or agent in this state. The Corporation Commission shall file one of the copies in its office and immediately mail the other copy, postage prepaid, to the office of the corporation, or to the president, secretary or any director or officer of such corporation as appears or is ascertained by the Corporation Commission from the articles of incorporation or other papers on file in its office, or otherwise.

(m) **Alternative or Substituted Service.** If service by one of the means set forth in the preceding paragraphs of this Rule 4.1 proves impracticable, then service may be accomplished in such manner, other than by publication, as the court, upon motion and without notice, may direct. Whenever the court allows an alternate or substitute form of service pursuant to this subpart, reasonable efforts shall be undertaken by the party making service to assure that actual notice of the commencement of the action is provided to the person to be served and, in any event, the summons and the pleading to be served, as well as any order of the court authorizing an alternative method of service, shall be mailed to the last known business or residence address of the person to be served. Service by publication may be employed only under the circumstances, and in accordance with the procedures, specified in Rules 4.1(n), 4.1(o), 4.2(f) and 4.2(g) of these Rules.

(n) **Service by Publication; Return.** Where the person to be served is one whose residence is unknown to the party seeking service but whose last known residence address was within the state, or has avoided service of process, and service by publication is the best means practicable under the circumstances for providing notice of the institution of the action, then service may be made by publication in accordance with the requirements of this subpart. Such service shall be made by publication of the summons, and of a statement as to the manner in which a copy of the pleading being served may be obtained, at least once a week for four successive weeks (1) in a newspaper published in the county where the action is pending, and (2) in a newspaper published in the county of the last known residence of the person to be served if different from the county where the action is pending. If no newspaper is published in any such county, then the required publications shall be made in a newspaper published in an adjoining county. The service shall be complete thirty days after the first publication. When the residence of the person to be served is known, the party or officer making service shall also, on or before the date of the first publication, mail the summons and a copy of the pleading being served, postage prepaid, to that person at that person's place of residence. Service by publication and the return thereof may be made by the party procuring service or that party's attorney in the same manner as though made by an officer. The party or officer making service shall file an affidavit showing the manner and dates of the publication and mailing, and the circumstances warranting the utilization of the procedure authorized by this subpart, which shall be prima facie evidence of compliance

herewith. A printed copy of the publication shall accompany the affidavit. If the residence of the party being served is unknown, and for that reason no mailing was made, the affidavit shall so state.

Rule 4.2: Service of Process Outside the State of Arizona

Rule 4.2(e). Service under Nonresident Motorist Act

In an action involving operation of a motor vehicle in this state, a nonresident minor, insane or incompetent person may be served in the manner provided by A.R.S. §§ 28-2321 through 28-2327 for service upon a nonresident in such cases as if that person were sui juris. When service of a copy of the summons and complaint is made pursuant to A.R.S. § 28-2327, the service shall be deemed complete thirty days after filing defendant's return receipt and plaintiff's affidavit of compliance, as required by A.R.S. § 28-2327, subsection A, paragraph 1, or, in case of personal service out of the state under A.R.S. § 28-2327, subsection A, paragraph 2, thirty days after filing the officer's return of such personal service. The defendant shall appear and answer within thirty days after completion of such service in the same manner and under the same penalties as if the defendant had been personally served with a summons within the county in which the action is pending.

Rule 4.2(f). Service by Publication; Return

Where the person to be served is one whose present residence is unknown but whose last known residence was outside the state, or has avoided service of process, and service by publication is the best means practicable under the circumstances for providing notice of institution of the action, then service may be made by publication in accordance with the requirements of this subpart. Such service shall be made by publication of the summons, and of a statement as to the manner in which a copy of the pleading being served may be obtained, at least once a week for four successive weeks in a newspaper published in the county where the action is pending. If no newspaper is published in any such county, then the required publications shall be made in a newspaper published in an adjoining county. The service shall be complete thirty days after the first publication. When the residence of the person to be served is known, the party or officer making service shall also, on or before the date of the first publication, mail the summons and a copy of the pleading being served, postage prepaid, directed to that person at that person's place of residence.

Service by publication and the return thereof may be made by the party procuring service or that party's attorney in the same manner as though made by an officer. The party or officer making service shall file an affidavit showing the manner and dates of publication and mailing, and the circumstances warranting utilization of the procedure authorized by this subpart which shall be prima facie evidence of compliance herewith. A printed copy of the publication shall accompany the affidavit. If the residence of the person to be served is unknown, and for that reason no mailing was made, the affidavit shall so state.

Rule 4.2(h). Service of Summons upon Corporations, Partnerships Unincorporated Associations Located Outside Arizona but Within the United States

In case of a corporation or partnership or unincorporated association located outside the state but within the United States, service under this Rule shall be made on one of the persons specified in Rule 4.1(k).

Rule 4.2(i). Service upon Individuals in a Foreign Country

Unless otherwise provided by federal law, service upon an individual from whom a waiver has not been obtained and filed, other than an infant or an incompetent person, may be effected in a place not within any judicial district of the United States:

(1) by any internationally agreed means reasonably calculated to give notice, such as those means authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents; or

(2) if there is no internationally agreed means of service or the applicable international agreement allows other means of service, provided that service is reasonably calculated to give notice:

(A) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or

(B) as directed by the foreign authority in response to a letter rogatory or letter of request; or

(C) unless prohibited by the law of the foreign country, by

(i) delivery to the party to be served personally of a copy of the summons and of the pleading; or

(ii) any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the party to be served; or

(3) by other means not prohibited by international agreement as may be directed by the court.

Rule 4.2(j). Service of Summons upon Minors and Incompetent Persons in a Foreign Country

Service upon a minor, a minor with a guardian or an incompetent person in a place not within any judicial district of the United States shall be effected in the manner prescribed by paragraph (2)(A) or (2)(B) of subdivision (i) of this Rule 4.2 or by such means as the court may direct.

ARIZONA RULES OF CIVIL PROCEDURE (continued)

Rule 4.2(k). Service of Summons upon Corporation and Associations in a Foreign Country

Unless otherwise provided by federal law, service upon a corporation or upon a partnership or other unincorporated association that is subject to suit under a common name, and from which a waiver of service has not been obtained and filed, shall be effected in a place not within any judicial district of the United States in any manner prescribed for individuals by subdivision (i) of this Rule 4.2 except personal delivery as provided in paragraph (2)(C)(i) thereof.

Rule 4.2(l). Service of Summons upon a Foreign State or Political Subdivision Thereof

Service of a summons upon a foreign state or a political subdivision, agency, or instrumentality thereof shall be effected pursuant to 28 U.S.C. § 1608.

Rule 22. Interpleader

Rule 22(a). Interpleader

Persons having claims against the plaintiff may be joined as defendants and required to interplead when their claims are such that the plaintiff is or may be exposed to double or multiple liability. It is not ground for objection to the joinder that the claims of the several claimants or the titles on which their claims depend do not have a common origin or are not identical but are adverse to and independent of one another, or that the plaintiff avers that the plaintiff is not liable in whole or in part to any or all of the claimants. A defendant exposed to similar liability may obtain such interpleader by way of cross-claim or counterclaim. The provisions of this Rule supplement and do not in any way limit the joinder of parties permitted in Rule 20.

Rule 22(b). Release from liability; deposit or delivery

Any party invoking the interpleader, as provided by subdivision (a) of this Rule, may move the court for an order discharging that party from liability to either party, and upon depositing in court the amount claimed, or by delivering the property to the party entitled thereto, or into court as the court may direct, that party may be discharged.

Rule 24. Intervention

Rule 24(a). Intervention of Right

Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

ARIZONA RULES OF CIVIL PROCEDURE (continued)

Rule 24(b). Permissive intervention

Upon timely application anyone may be permitted to intervene in an action:

(1) When a statute confers a conditional right to intervene.

(2) When an applicant's claim or defense and the main action have a question of law or fact in common.

In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

Rule 24(c). Procedure

A person desiring to intervene shall serve a motion to intervene upon the parties as provided in Rule 5. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought.

Rule 24(d). Time to answer

If the motion to intervene is granted, the plaintiff and defendant shall be allowed a reasonable time, not exceeding twenty days, in which to answer the pleading of the intervener.

Rule 64.1. Civil Arrest Warrant

Rule 64.1(c). Content of warrant

The civil arrest warrant shall be ordered by the judge and issued by the clerk. It shall contain the name of the person to be arrested and a description by which such person can be identified with reasonable certainty. It shall command that the person named be brought before the judge or, if the judge is absent or unable to act, the nearest or most accessible judge in the same county. The warrant shall set forth a bond in a reasonable amount to guarantee the appearance of the arrested person, or an order that the arrested person be held without bond until the arrested person is seen by a judge.

Rule 64.1(d). Time and manner of execution

A civil arrest warrant is executed by the arrest of the person named therein. Unless the court otherwise directs upon a showing of good cause, a civil arrest warrant shall not be executed between the hours of ten p.m. and six-thirty a.m. The arrested person shall be brought immediately before the issuing judge if it is reasonably possible to do so. In any event, the arrested person shall be brought before the issuing judge, or a judge in the county of arrest, within 24 hours of the execution of the warrant. If the person is arrested in a county other than the county of issue, the arresting officer shall notify the sheriff in the county of issue who shall, as soon as possible, take custody of the arrested person and transport the arrested person to the issuing judge.

Rule 64.1(e). Duty of court after execution of warrant

The judge shall advise the arrested person of the nature of the proceedings, release the arrested person on the least onerous terms and conditions which reasonably guarantee the required appearance, and set the date of the next court appearance.

Rule 64.1(f). Forfeiture of bond

The procedure for the forfeiture of bonds in criminal cases shall apply.

Table of Cross-References (JCRCP to ARCP)

This table cross-references justice court rules to their counterparts in the Arizona Rules of Civil Procedure. The cross-referenced rules share common subjects, but the text of a counterpart rule may be slightly or significantly different.

JCRCP Rule #	JCRCP Rule title	X-ref. ARCP Rule #	ARCP Rule title
Part I: General provisions			
Rule 101	Application and interpretation		
101(a)	Title of these rules	85	Title
101(b)	Application of these rules	1	Scope of rules
101(c)	Interpretation of these rules	1	Scope of rules
101(d)	Relationship of these rules to the Arizona Rules of Civil Procedure	None*	*See Rule 2A of the Family Law Rules of Procedure, and Rule 1 of the Rules of Procedure for Eviction Actions
Rule 102	Responsibilities of a party		
102(a)	Meaning of "party"	None	
102(b)	Every party has these responsibilities: (1) To provide the court with a current address and telephone number (2) To provide copies of filed documents (3) To provide a disclosure statement and to respond to discovery requests (4) To appear in court (5) To give notice of settlement	 5.1(b) 5(a) 26.1 26(a) None 5.1(c)	 Duties of counsel: responsibility to court Service: when required Prompt disclosure of information Discovery methods -- Notice of settlement
102(c)	Parties representing themselves	None	
102(d)	Appearance, withdrawal, and substitution of attorneys	5.1	Duties of counsel
Rule 103	Court conduct		
103(a)	Conduct in court	80(a)	Conduct in trial
103(b)	Exclusion of minors	80(b)	Exclusion of minors from trial
103(c)	Agreements between parties	80(d)	Agreement or consent of counsel or parties
103(d)	Lost or destroyed records	80(h)	Lost records; method of supplying; etc.
Part II: The parties to a lawsuit			
Rule 104	Naming the parties		
104(a)	"Plaintiff" defined; multiple plaintiffs	20(a) 17(a)	Permissive joinder Real party in interest
104(b)	"Defendant" defined; multiple defendants	20(a)	Permissive joinder
104(c)	Naming a defendant by the proper name	17(a) 17(b) 17(c) 17(d) 17(f)	Real party in interest Actions by personal representatives Actions by or against personal representatives Actions by or against county, city, or town Actions against surety, assignor, endorser

JCRCP Rule #	JCRCP Rule title	X-ref. ARCP Rule #	ARCP Rule title
		17(g) 17(h) 17(i) 17(j)	Infants or incompetent persons Bond of guardian ad litem or next friend Consent of guardian at litem or next friend, liability; compensation Partnerships
104(d)	"Necessary" and "indispensable" parties	19(a) 19(b)	Persons to be joined if feasible Determination by court whenever joinder not feasible
104(e)	Definition of a "person"	--	--
Rule 105	Substitution of parties during a lawsuit		
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