Task Force on the Arizona Rules of Family Law Procedure

Meeting Agenda

Friday, February 16, 2018
10:00 AM to 4:00 PM
State Courts Building * 1501 West Washington * Conference Room 345 * Phoenix, AZ

Item no. 1	**Call to Order** **Introductory remarks**	*Hon. Rebecca Berch and Hon. Mark Armstrong, Co-Chairs*
Item no. 2	**Approval of the December 15, 2017 meeting minutes**	*Justice Berch and Judge Armstrong*
Item no. 3	**Review and discussion of** • **Pre-filing comments** • **Draft Family Law Rules, version 02.12.2018 (Appendix A to the rule petition)** • **Forms** • **Draft petition R-17-0054** • **Other appendices or materials for the rule petition** **Discussion of other rules issues**	*All*
Item no. 4	**Roadmap** • **The deadline for filing the rule petition is March 30, 2018**	*Justice Berch and Judge Armstrong*
Item no. 5	**Call to the Public** **Adjourn**	*Justice Berch*

The Chairs may call items on this Agenda, including the Call to the Public, out of the indicated order.

Please contact Mark Meltzer at (602) 452-3242 with any questions concerning this Agenda. Persons with a disability may request reasonable accommodations by contacting Sabrina Nash at (602) 452-3849. Please make requests as early as possible to allow time to arrange accommodations.

Task Force on the Arizona Rules of Family Law Procedure

State Courts Building, Phoenix

Meeting Minutes: December 15, 2017

Members attending: Hon. Rebecca Berch (Chair), Hon. Mark Armstrong (Co-Chair), Michael Aaron, Hon. John Assini, Annette Burns, Hon. Dean Christoffel, Cheri Clark, Hon. Suzanne Cohen, Helen Davis, Kiilu Davis, Hon. Karl Eppich, Mary Boyte Henderson, Joi Hollis, David Horowitz, Aaron Nash, Jeffrey Pollitt by his proxy Jennifer Raczkowski, Janet Sell, Hon. Peter Swann, Steven Wolfson, Gregg Woodnick

Absent: Keith Berkshire, Hon. Paul McMurdie

Guests: Ed Pizarro, Sr., Terry Decker

Administrative Office of the Courts Staff: Mark Meltzer, Sabrina Nash, Angela Pennington, Jodi Jerich

1. Call to order; remarks by the Chair; approval of meeting minutes. The Chair called the twelfth Task Force meeting to order at 10:03 a.m. She reported that workgroups have met 59 times this year, including 4 meetings after the December 1 Task Force meeting. Staff calculated that since February, members have invested more than 1,500 hours of their time attending Task Force and workgroup meetings, and this figure does not include their additional time preparing for, and traveling to, these meetings. The Chair commended the members' investment of time and effort in this project, which she expects will benefit the legal community and the public in years to come.

Judge Armstrong announced that the Chief Justice has entered an Order allowing the Task Force until March 31, 2018 to file its rule petition. However, the Task Force should have a draft set of rules ready in early January for pre-filing vetting. Before proceeding with today's rules, Ms. Clark followed-up on an item at the December 1 meeting by advising that she had further researched the issue of expiration dates for civil arrest warrants. She concluded that although Maricopa's civil arrest warrant form has a one-year expiration, no statutes or rules require such a date, and she believes that no further revisions to Rule 94 are necessary in this regard. The Chair then asked members to review the draft December 1, 2017 meeting minutes, and a member made this motion:

> **Motion:** To approve the draft minutes. Seconded, and the motion passed unanimously. **FLR: 012**

The Chair requested workgroup reports, beginning with Workgroup 4. Members approved all the rules presented at today's meeting, with the caveats noted below.

2. Workgroup 4. The Task Force returned Rule 76.1 to the workgroup at the December 1 meeting, and Ms. Davis presented the workgroup's revisions to that rule.

Rule 76.1 ("pretrial statement; scheduling conference; scheduling conference statement"): The workgroup intended its recent changes to promote more thoughtful pretrial

management of family court litigation. Following the discussion on December 1, the workgroup changed "pretrial conference" to "scheduling conference." It modified section (b) ("joint and separate statements") to require the parties to file separate statements if there are concerns with domestic violence. The workgroup's most significant changes were in Rule 76.1(c) ("contents"). The workgroup bifurcated the provisions of section (c) into (1) statements filed for a scheduling conference; and (2) statements filed for trial. The revised rule requires parties to include their positions on disputed issues, as well as other items that apply only at trial, such as designating deposition testimony, only to statements filed for trial. By comparison, a scheduling statement has a shorter list of required items. The workgroup raised an issue in section (g) ("scheduling conference") about whether the court would "hold" or "conduct" a conference. After a brief discussion, the members preferred "hold." Section (g) also provides that a conference is set only on the court's initiative or on a party's request, rather than automatically in every case. The workgroup envisioned that parties would utilize a simplified affidavit of financial information in conjunction with this rule, but the workgroup has not yet drafted the form.

3. **Workgroup 3.** Mr. Wolfson presented several rules that had been returned to the workgroup, and one new rule.

Rule 52 ("subpoena"): Revised subpart (a)(1)(D) now includes language taken from the current family rule about the manner of and time for making an objection to a subpoena. The revised rule does not require objections to a subpoena in a family case to be made by motion, as they are made in civil cases. The rule also specifies that a copy of a subpoena must be served on other parties in the case; Mr. Wolfson explained that service should be accomplished like service of other documents under Rule 43.

Rule 57 ("depositions by oral examination"): Although members had previously discussed a provision about the attendance of nonparties at a deposition, the workgroup declined to include such a provision. Instead, it concluded that counsel and the court should address this circumstance on a case-by-case basis. The workgroup modified the amount of time allowed for a deposition. The revised rule specifies that the deposition "should be of reasonable length, is presumptively limited to 4 hours, and must be completed in a single day," unless the parties agree or the court orders otherwise. A new provision in subpart (b)(3) ("method of recording") allows a party to designate another method of recording, in addition to the certified reporter; that other recorder need not be a formal videographer, and a party could even record the deposition with a cell phone. The revised rule omits a provision contained in the corresponding civil rule concerning placement of a video recording device. Mr. Wolfson noted another newly added provision in subpart (d)(3) ("motion to terminate or limit"). This provision requires the party who limits or terminates a deposition to file a motion within 10 days thereafter. If the party who limited or terminated the deposition does not timely file such a motion, the other party may move to compel the continuation of the deposition or seek sanctions under Rule 65.

Rule 60 ("interrogatories to parties"): Mr. Wolfson reported that an *ad hoc* Task Force group of members from multiple workgroups contemplated revisions to the uniform interrogatories, but those have not yet been completed.

Rule 63 ("physical, mental, and vocation evaluations of persons"): Members previously discussed who may be present at, or record, an examination under this rule. The workgroup further reviewed section (c) ("attendance of representative; recording) in light of that discussion and considered the effect a representative or a recording may have on a mental exam compared to a physical or vocational exam. Following Mr. Wolfson's presentation, members agreed to the following changes. First, in subpart (c)(1) concerning a physical or vocational exam, the sentence will begin with the words, "the person to be examined…has the rights…," and it will conclude with the words, "unless the court determines it may adversely affect the examination's outcome." Second, in subpart (c)(2) regarding a mental health exam, the sentence will begin with the words, "Unless the examiner agrees or the court orders otherwise, the person to be examined may not…." Finally, in the title of this rule and elsewhere in the body of the rule, members agreed to use the phrase "mental health exam" rather than "mental exam."

Rule 64 ("requests for admission"): Mr. Wolfson noted the addition of a standard in the second sentence of section (b) ("effect of an admission") for the withdrawal of an admission, which is derived from the current Arizona civil rule. Members discussed whether an admission is "for purposes of the pending action only," or whether the admission might be allowed in other actions. Members had concerns with conducting discovery in a family case with the intent to use those responses in another case. They concurred that these rules should not encourage that practice. The workgroup had omitted the phrase "for purposes of the pending action only," but Task Force members agreed to add it back to Rule 64. They also agreed, for the time being, to add it back to other rules, or even to add it as a global provision in Rule 51. Parenthetically, members noted the use of "he or she" in subpart (a)(5); the Chairs will do a comprehensive search for these pronouns and replace them with words that are gender neutral.

Rule 68 ("conciliation court"): The title of draft Rule 68(d) is "assessment or evaluation," and those words are used elsewhere in the section. Members briefly discussed whether there is a meaningful distinction between an "assessment" and an "evaluation," and whether they should use a single word rather than both. They believed that an assessment is briefer and an evaluation is fuller, and accordingly, they retained both words and made no changes to the draft.

Rule 73 ("family law conference officer"): Mr. Wolfson advised that the December 15 meeting was the workgroup's initial presentation of this rule to the Task Force. The workgroup believed that the use of family law conference officers ("FLCO") varied by county. But generally, the workgroup's proposed revisions to this rule would curtail a FLCO's ability to serve a quasi-judicial function. The workgroup believed that a FLCO should assist parties, but should not forward recommendations to the assigned judicial officer. Accordingly, the workgroup removed provisions found in the current rule that

permit a FLCO to make such recommendations. However, section (d) ("failure to comply with an order to bring information") allows a FLCO to report to the court a party's failure to cooperate. Because the FLCO would not serve a judicial function, the workgroup also removed the immunity provision. (Members also hypothesized that if this rule contained an immunity provision for a FLCO, then shouldn't the rules require analogous immunity provisions for everyone? And in any event, immunity is as provided by law.) As one workgroup member observed, these revisions eliminate the FLCO's role as a special master, and restore the FLCO's role as a mediator.

Members discussed other issues under draft Rule 73. First, the draft rule would permit a FLCO to record a session with the parties. However, if the FLCO is not performing a judicial function, members questioned whether a recording was necessary. After discussion, members agreed to keep this provision. First, a recording might be helpful in preparing written documentation of an agreement the parties reach during a session. Second, a FLCO might be subject to attack for something the FLCO allegedly said at a session, and a recording might provide a clear record for the FLCO's protection. The rule provides that recording is optional. Members recognized that parties could request a recording after a session, but members did not consider that a significant factor during their discussion. Members considered whether the FLCO's report to the court under Rule 73(b) should also be provided to the parties. Members believe that although the rule is silent on this question, in Maricopa County the current practice is to provide the FLCO's report to the parties. The FLCO's report is particularly helpful for self-represented parties who do not reach agreements because it informs them of the issues that will be tried. Finally, members also discussed whether the rule should allow a FLCO to interview children. Because the FLCO would not make recommendations, members thought it was unlikely that a FLCO would conduct interviews. Regardless, interviews are governed by Rule 12.

4. **Workgroup 2:** Members then considered Workgroup 2's revisions to Rules 47 and 48 and its recent revisions to the default form for spousal maintenance.

Rule 44.1 ("default decree or judgment by motion and without a hearing;" and a form ("default information for spousal maintenance"): Commissioner Christoffel explained at the outset that he prepared most of the recent revisions to the form, but he inadvertently omitted a paragraph that said, "I am requesting spousal maintenance in the amount of X dollars per month for X years." Staff then added this new paragraph 10 to the OneDrive version of the form. Members had previously discussed the checkboxes on the first page of the form, which are derived from A.R.S. § 25-319, and Commissioner Christoffel proceeded with a review of the questions below the checkboxes.

Question 2 as proposed by the workgroup asked, "Do you have a physical or emotional condition that would require spousal maintenance to meet your needs? Describe: ___." The workgroup thought this language reflected the statute, but after discussion, members agreed that the question should relate to employability. They accordingly revised the question to ask, "Do you have a physical or emotional condition

that limits your ability to work? Describe: ____." In question 4 regarding educational expenses, members added the words, "be able to contribute…." After the question, they added the word "describe." Question 8 concerns the spouse's monthly income. Revised question 8 asks, if there is no documentation of that income, how the moving party estimated the income. Members made syntactical edits to other questions, but continued to use the phrases "the other party" and "your spouse" as suitable in the context. Commissioner Christoffel also reviewed a newly added page of the form that requests information concerning expenses, debt payments, and income. He reminded members that the form is designed for use in a default proceeding without a hearing, and represents an effort to get sufficient information on which to base a financial decision.

Rule 47 ("motions for temporary orders"), Rule 47.1 ("simplified child support orders") and Rule 47.2 ("motions for post-decree temporary legal decision-making orders"): Commissioner Christoffel noted that Mr. Pollitt, who was not present at today's meeting, was instrumental in revising these rules. He also noted that the workgroup proposed dividing current Rule 47 into three separate rules to simplify the process and to assist users in locating appropriate provisions.

Stylistically, the workgroup referred to a temporary order throughout the rule in the plural, i.e., "temporary orders." Commissioner Christoffel explained that the workgroup removed several statutory references found in current Rule 47(A) and instead used descriptive language in the restyled rule. An exception appears in subpart (a)(1), which includes a reference to A.R.S. § 25-402 and requires specification of the court's authority to enter temporary orders concerning legal decision-making and parenting time. Although the moving party should include a jurisdictional reference in a pleading, it would be helpful for the court to also have this in the Rule 47 motion. Members also believed Rule 47 should expressly provide that the court does not have jurisdiction if the moving party did not previously or concurrently file a petition; members therefore added a new sentence in section (a) that states, "The motion must be filed either after or concurrently with the initial petition." In what is now section (b) ("order to appear" ["OTA"]), the workgroup removed requirements concerning the number of copies that are currently in Rule 47(C): the workgroup thought this matter should be addressed by local rules.

This led to a discussion about the timing of an OTA and service of a Rule 47 motion. Because of the immediacy of a Rule 47 motion, some members believed Rule 43 service of the motion should be required on the date of filing, even if a concurrently filed petition had not yet been served under Rules 40 or 41. Other members observed that there may be strategic reasons not to serve a Rule 47 motion so quickly. After discussion, members approved section (d) ("service"), which requires "good faith efforts to complete service promptly, and, absent good cause, [the moving party] must complete service within 5 days after receipt of the issued order to appear and no later than 14 days before the date set in the order."

Members then discussed whether the hearing set by the OTA could be an evidentiary hearing. The return on an OTA is often a resolution management conference, but case law precludes the taking of evidence at a resolution conference. However, the objective of the hearing is to enter orders, which typically require the taking of evidence. This is a quandary in Maricopa County, where some OTAs say evidence may be taken at the return hearing, and other OTAs are silent on the issue. These OTAs require attorneys to prepare for evidentiary hearings even though the court may not receive evidence at the return. On the other hand, judges may be able to encourage parties to reach agreements if the return is set for a resolution management conference, and this would be an effective use of time for both the court and the parties. If the parties don't agree on temporary orders, and since they are already present in the courtroom, an evidentiary hearing may be necessary as a practical matter. On the other hand, some judges set the return for an evidentiary hearing and omit a resolution conference altogether. After further discussion, members agreed that a resolution conference should presumptively be the first step of a temporary orders hearing. Judge Swann then proposed the following new language for section (c) ("scheduling"):

> Upon receiving a motion for temporary orders and the required supporting documents, the court must schedule a resolution management conference. No evidence shall be taken at a resolution management conference, unless the parties agree. The purpose of a resolution management conference is to engage the court in an effort to facilitate agreements between the parties that permit the entry of temporary orders at the conclusion of the conference. If, at the conclusion of the resolution management conference, issues remain that require an evidentiary hearing concerning temporary orders, the court must schedule an evidentiary hearing on those issues. If the court finds that the circumstances of a specific case demonstrate that a resolution management conference would not serve the interests of efficiency, it may schedule an evidentiary hearing on temporary orders instead of a resolution management conference.

Members appreciated the flexibility of this language, which allows the court to set an evidentiary hearing concerning temporary orders on a case-by-case basis when it determines that a resolution conference would not be efficient. But otherwise, a resolution conference would be the presumptive first step on the return of an OTA. The Chair would welcome stakeholder comments on the new provision, but members agreed to incorporate the provision in their draft rule. Members retained other portions of the draft rule that deal with when the court must set a conference or hearing, disputed issues of fact, and extensions of time. Commissioner Christoffel added that under subpart (c)(3), a judge who enters temporary parenting time orders must determine an amount of child support under A.R.S. § 25-320, as required by A.R.S. § 25-403.09.

Members also discussed draft section (f) ("requirements before a conference or hearing"). In the domestic violence exception to the meet and confer requirement, they deleted the word "significant" before the word "history." They also rearranged the order of the subparts so the domestic violence exception applied to the exchange of witness lists and exhibits, as well as to the general meet and confer conference. In section (h), members changed the captioning requirement in current Rule 47(K) from "expedited hearing required" to "expedited hearing requested." Members also modified subpart (j)(1) to provide that temporary orders "are enforceable as final orders but terminate and are unenforceable upon dismissal of the action, [etc.]."

Commissioner Christoffel reviewed draft Rules 47.1 and 47.2. The workgroup intended its restyled versions to clarify and simplify these provisions, and members had no questions or comments.

Rule 48 ("temporary orders without notice"): Commissioner Christoffel proposed adding "serious or life-threatening" to the elements of this rule, but members disagreed because they are not included in statute. Otherwise, the workgroup made no substantive changes. Members added "evidentiary" before the word "hearing" in section (d) ("hearing"). A member inquired whether the rule applied when the other party could not be located, but after discussion, the question was unresolved.

5. Workgroup 1. Judge Cohen introduced the rules on "pleadings and motions" in Part II of the family rules by noting that the current rules are not in a sensible sequence. As part of its reorganization of these rules, the workgroup proposed relocating what had become Rule 21 on "sealing, redacting, and unsealing court records" to Rule 17, which was previously reserved. The workgroup then renumbered Rule 23.1 concerning "improper venue," which the Court adopted earlier this year, as Rule 21. Both renumbered rules would fall within the rules on general administration. Most of the "reserved" rules in Part II would be located toward the end of the rules on pleadings and motions. The rule on motions would retain its current number, Rule 35. In summary, Part II of the family rules would be reorganized as follows:

Part II	**As proposed: Pleadings and Motions**	**Part II**	**Currently: Pleadings and Motions**
Proposed #	**Proposed Title**	**Current #**	**Current Title**
23 FKA R. 24	Pleadings; Petition and Response	23	Commencement of Action
24 FKA R. 29	Contents of Pleadings	24	Pleadings Allowed
25 FKA R. 26	Additional Filings	25	Family Law Cover Sheet
26 FKA R. 31	Signing Pleadings, Motions, and Other Documents; Representations to the Court; Sanctions	26	Additional Filings

27	Service of the Petition	27	Service on the Opposing Party or Additional Parties
28 FKA R. 34	Amended and Supplemental Pleadings	28	Mandatory Responsive Filings
29 FKA R. 32	Defenses and Objections; Motion for Judgment on the Pleadings; Joining Motions; Waiving Defenses; Pretrial Hearing	29	General Rules of Pleading
30	Reserved	30	Form of Pleading
31	Reserved	31	Signing of Pleadings
32	Reserved	32	Defenses and Objections; When and How Presented; By Pleading or Motion; Motion for Judgment on Pleadings
33	Third-Party Rights and Other Claims in an Existing Action	33	Counterclaims; Third Party Practice
34	Reserved	34	Amended and Supplemental Pleadings
35	Family Law Motion Practice	35	Family Law Motion Practice

Proposed Rule 23 ("pleadings; petition and response"): Ms. Henderson explained that this proposed rule merges content from current Rule 23 ("commencement of action") with content from current Rule 24 ("contents of pleadings"). The proposed rule also includes a definition of "petition" derived from current Rule 3. In section (a) ("petition"), and in contemplation of whatever future legislation might be passed, the workgroup added a provision that permits a party to begin an action by filing a petition seeking "relief otherwise authorized by statute." Section (e) ("response") has provisions that differentiate whether a response to a petition is required or permissive.

Proposed Rule 24 ("contents of pleadings"): Ms. Henderson also explained that current Rule 29 ("general rules of pleading"), which is the source of this proposed rule, requires pleadings to contain "short and plain" statements. The workgroup changed this to "simple, concise, and direct," but after discussion, members further modified this to require "simple" statements in a petition (section (a)) and in a response (section (b).) In subpart (a)(1), members added two words as follows: "unless the court already has exercised its jurisdiction…." In section (b), members agreed to delete as unnecessary the word "fairly" in the phrase, "a denial must fairly respond to the substance of an allegation."

Proposed Rule 25 ("additional filings"): Ms. Burns noted that this proposed rule incorporates content from current Rule 26 ("additional filings") as well as a single sentence that composed current Rule 25 ("family law cover sheet"), which has become Rule 25(d). Members added a statutory reference in the second sentence of section (b) ("petition for legal decision-making or parenting time, paternity, or maternity") to clarify

that a preliminary injunction is issued when a party files a petition to establish legal decision-making or parenting time for a child whose paternity has been established. Section (e) ("order to appear") requires a party in certain proceedings to provide the court with two copies of an order to appear.

Proposed Rule 26 ("Signing Pleadings, Motions, and Other Documents; Representations to the Court; Sanctions"): Mr. Woodnick briefly reviewed proposed Rule 26, and members corrected cross-references in the draft.

Rule 27 ("service of the petition"): This rule number corresponds with current Rule 27, but Mr. Davis explained the differences. The proposed rule removes references in the title and body of section (a) ("annulment, dissolution of marriage, or legal separation") to dissolution of a covenant marriage or legal separation in a covenant marriage. He raised the issue whether the title and body of section (b) should refer to legal-decision making or parenting time "by a parent," and after discussion, members agreed that it should. In section (c) ("order to appear and petition"), members again considered the issue of how many days before a court hearing a petitioner must serve the respondent. Members discussed 20 days and 10 days, and concluded by adding the following new sentence: "Petitioner must complete service not later than 20 days before the scheduled hearing, or not later than 10 days if the only issue is child support, unless the court orders otherwise." The Chair welcomes public comment on this proposed provision.

Proposed Rule 28 ("amended and supplemental pleadings"): This proposed rule corresponds to current Rule 34, and the rule's title remains the same as it is currently. Ms. Burns noted that the rule provides for amendments before a response is filed, as well as thereafter. The current provision concerning the relation back of amendments was substantially shortened in the draft because families know the identity of their members, and amendments changing the identity of a putative father, rather than just correcting the putative father's name, should not proceed simply by an amendment to the pleadings under this rule. Members removed a provision in the draft rule concerning service of an amended pleading on a government entity.

Proposed Rule 29 ("Defenses and Objections; Motion for Judgment on the Pleadings; Joining Motions; Waiving Defenses; Pretrial Hearing"): Mr. Woodnick advised that this rule corresponds to current Rule 32. Section (c), which concerns the time to assert defenses under this rule, has been revised and clarified. The workgroup's draft of section (d) ("motion for judgment on the pleadings") proposed a filing deadline of not later than 90 days before trial, but after discussion, members changed that to "within such time as not to delay trial." In section (f) ("motions to strike"), members added a reference to the limitations on such motions that is specified in Civil Rule 7.1(f). Members reviewed section (g) ("waiving and preserving certain defenses") to assure the provision, including the defense of lack of subject matter jurisdiction, was legally correct. They revised the subpart titles of section (g) to say "(1) waiver of certain defenses," and "(2) how to preserve other defenses." The title of current section (D) ("preliminary hearings") was

changed in draft section (h) to "hearing on Rule 29 motions." Under the draft provision, a party may request to have the motion heard and decided before trial.

6. Other rules issues. Judge Armstrong raised an issue regarding Rule 49 ("disclosure"), which members had discussed extensively at the August 4 meeting. Judge Armstrong said that during a review session, the Chairs and staff believed that the meet and confer requirement for electronically stored information ("ESI") was burdensome, unnecessary, and omitted a provision concerning self-represented litigants with protective orders. Judge Armstrong inquired if members objected to removing this meet and confer requirement. There were no objections. Judge Armstrong also advised that draft Rule 49 includes a provision that requires parties to file a joint motion in the event of a dispute regarding ESI. However, the Family Law Rules do not provide for joint motions, and he also requested the members' consent to remove that provision. After discussion, members believed it would be useful to have an expedited process for resolving ESI disputes, and the Chairs and staff will refashion the provision.

Justice Berch also noted an issue raised by AOC-Legal that touches on Rules 13(e) ("access to records"), 17 ("sealing, etc."), and 43.1(f) ("sensitive data"). The issue is whether the draft rules should include a provision that makes psychological evaluations in family cases presumptively confidential. These evaluations are not usually filed over the counter, but sometimes they are. When that occurs, the assigned judge may seal the document. But on some occasions, evaluations are attached as exhibits to motions and become publicly accessible. Members expressed concerns with other reports and filings regarding children's issues and other matters that may raise issues of confidentiality. Justice Berch suggested adding a confidentiality provision to the rule on protected addresses, and she'll consider that provision with Judge Armstrong and staff.

7. Call to the public; roadmap; adjourn. There was no response to a call to the public.

The Chairs and staff are continuing to meet and review the draft rules. Their goal is to have a complete draft set of rules ready for submission to the State Bar by January 8. Once the draft set is complete, staff also will circulate it to the members. The Chair requested members to review the draft from top to bottom, and to pay special attention to rules prepared by their respective workgroups. She asked that members send any comments and corrections to staff. She also asked that they continue to work on their rule summaries. But in doing this work, the Chair stressed the importance of members not making edits or revisions on OneDrive. She requested that as of the close of today's meeting, members refrain from making changes to the rules on OneDrive. This is necessary to assure that the version of the rules on OneDrive is stable and final.

The draft set of rules will be available for public review next month on the Task Force webpage. There will also be an Outlook mailbox on the webpage to facilitate the submission of comments concerning the draft. Staff will compile comments and distribute them to Task Force members. The Task Force will not meet in January, but it

probably should meet in early to mid-February to discuss comments. Staff will poll the members for an available date. At the next meeting, members should also consider any necessary revisions to forms and interrogatories.

The Chair again expressed her appreciation for the members' work and diligence. The meeting adjourned a**t** 3:34 p.m.

M E M O R A N D U M

TO: Family Law Rules Task Force
FROM: Jennifer Greene, Assist. Counsel, Administrative Office of the Courts
DATE: January 26, 2018
RE: Request to consider amending ARFLAP Form 2: Affidavit of Financial Information, to facilitate redaction of sensitive information

The AOC Court Services Division staffs a User Group of superior court clerks from the 13 counties that use the statewide case management system known as AJACS. Among other tasks, this User Group develops uniform computer coding for various case document types. They have created codes for some 40 different confidential document types that will include an automatic "restricted" flag as the documents are logged into the system, so the flag will not need to be applied manually on a document-by-document basis. This flag will prevent the public from viewing these documents online or at the courthouse on a computer terminal.

ARFLAP Form 2: Affidavit of Financial Information does not contain any sensitive data fields itself, and no rule or statute protects it from public inspection. Nevertheless, the User Group has seen many cases in which the form warrants a restricted flag because parties have attached unredacted tax documents and pay stubs displaying a social security or other financial account number.

Indeed, sections 2 and 4 of Form 2 require parties to attach tax forms and pay stubs that may contain full social security and other financial account numbers. Although Rule 43(G) directs parties to redact this type of information, many parties aren't familiar with that rule. The User Group believes it would be more effective if Form 2 included redaction reminders on its face.

Family Law Rule 97 permits forms to be amended by administrative order, and the AOC may pursue this solution if, for whatever reason, the Task Force does not include form amendments in its rule petition. However, since the Task Force is making a comprehensive review of the rules, I am requesting your consideration of proposing this amendment as part of your rule change petition, which would also allow an opportunity for public comment.

Steven M. Ellsworth
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ELLSWORTH
FAMILY LAW, P.C.

February 12, 2018

SENT VIA EMAIL TO FLR@COURTS.AZ.GOV

To the Task Force on the Arizona Rules of Family Law Procedure:

I commend the Task Force on their efforts in revising the family law rules. The draft you have provided makes many welcome changes to the current rules. A few weeks ago, prior to receiving a copy the draft changes, I emailed Keith Berkshire with some suggestions for modifications based on some issues we had recently faced in our practice. He informed me that the draft was just about done, and two days later I received a copy when I attended a CLE presentation. I am happy to report that all of the issues I raised with Keith had already been addressed in the draft.

Still, there are a few more matters I would ask the Task Force to consider before the new rules are adopted.

Rule 6(f): As was confirmed in a previous appellate case, under the current rules, a party's right to exercise a notice of change of judge is not renewed on remand after an appeal if the party previously exercised the notice of change of judge. However, it seems appropriate to allow a successful appellant to avoid having to having the "overturned" judge hear the case on remand, irrespective of whether the right to a change of judge was previously exercised. Considering how relatively rare successful appeals are, these additional changes of judge should not pose significant logistical issues.

Rule 12: (1) there are some typos in this rule referring to "on camera" rather than "in camera." (2) In 12(b), the definition of "court" excludes court appointed advisors. The problem with excluding CAAs from the requirement of recording interviews with children is that CAAs usually perform the same function as another provider (such as Conciliation Services) would who is tasked with conducting a child interview. In fact, when a CAA is appointed in a case, a separate child interview is rarely, if ever, ordered and the CAA simply interviews the child.

The policy behind the recording an interview is set forth in the current comment to Rule 12:

> Arizona Revised Statutes § 25-405 allows for an in camera interview of a child to ascertain the child's wishes as to the child's custodian and as to parenting time. A record of the proceeding will be kept to ensure the integrity of the process, to allow for rebuttal

> information in appropriate cases, and to provide for appropriate appellate review.

If a CAA is gathering the same information as another third-party interviewer of a child, there is no compelling reason why a CAA's interview of a child should be treated any differently than another child interview. Whether a CAA or another provider is conducting the interview, there is still a need to "ensure the integrity of the process, to allow for rebuttal information in appropriate cases, and to provide for appropriate appellate review." The proposed rule would exempt CAAs from recording their interviews, making it impossible for a party, an attorney, or a judge from determining if the CAA's interview process was appropriate. Moreover, those involved in the case would be forced to be completely reliant on the accuracy of the CAA's interpretation of what a child has stated, having no ability to assess the accuracy of the CAA's report. This runs counter to the primary thrust of Rule 12, which is to ensure that parties, attorneys, and fact finders do not have to rely on the interpretation of one person regarding their assessment of a child's statements.

Therefore, no exception to the definition of "Court" should be made for CAAs.

In conjunction with this edit to the draft version of Rule 12, to remove any doubt, **Rule 10.1** should also be revised to indicate that a CAA must record their interviews of children.

Finally, the draft of Rule 12 also excludes from the definition of *Court* any "experts hired by the parties." It is not clear if this reference is intended to exclude experts that are appointed by court order, but paid for by the parties (such as an expert to perform a comprehensive family evaluation). This should probably be clarified.

Ultimately, requiring all experts to record their interviews with children would be optimal for the reasons stated above. However, the due process concerns related to an expert performing a CFE (a "custody evaluator") not having to record their interviews of children are not as serious as the concerns created by a CAA being exempt from the requirement. This diminished concern stems from the fact that CAAs are typically ordered by the Court regardless of whether the parties wish to have a CAA or not. On the other hand, courts typically do not appoint a custody evaluator without the agreement of the parties or, at the very least, the request of at least one party. Assuming custody evaluators are not required to record their interviews with children, parties that stipulate of the appointment of a custody evaluator have the least to complain about if a child interview is not recorded as they know at the outset they are agreeing to a process that does not require the recording of child interviews. However, where one party wants a custody evaluator and the other party does not, this is more problematic, as the party objecting to the custody evaluator may oppose the child being interviewed without any ability to verify how the interview was conducted; this results in due process concerns.

In the end, CAAs should be required to record their interviews of children, and optimally, other experts who are appointed by the court and are expected to render recommendations based in part on their interviews with children should likewise be required to record those interviews.

Rule 84: Removing the reference to a Motion for Reconsideration should have relatively limited impact when dealing with final orders or judgments because there is a superior alternative in

Rule 83. However, because the reference to a Motion for Reconsideration was removed from Rule 35 a few years ago, and with because it will no longer exist in Rule 84, there now appears to be a gap in the Rules when dealing with an interim order of the Court. I understand that motions for reconsideration are often overused, particularly when they are brought because of a difference of opinion over the exercise of judicial discretion rather than because of actual legal error. However, there are times that an interim order may be erroneous (and not simply confusing or ambiguous); in those instances, there really should be a mechanism to seek a modification of the order and that has typically been a motion for reconsideration.

Thank you again for your efforts and I appreciate your consideration of these comments.

Sincerely,

Glenn D. Halterman

FLR: Pre-filing comments
For discussion at the 02.16.2018 TF meeting

Comment numbers followed by an asterisk (*) were submitted in the Outlook mailbox.

Source + Date+ Rule	**Summary**
1. James Smith 01.09.18 Rule 72	Rule 72(F) discusses objections to a special master's report and a response to the objections. The last sentence reads, "No further pleadings shall be permitted without prior court order." I'd change "pleadings" to something like "submissions" or "filings." A "pleading" is a term of art under Rule 24 (e.g., a petition, notice of filing foreign judgment). Staff's Response: The Task Force draft of Rule 72(f) already addresses Mr. Smith's concerns because it does not mention "pleadings."
2. John Rogers 01.10.2018 Rule 17	John Rogers provided staff with a detailed memo he wrote regarding new Civil Rule 5.4, which concerns sealing. Rule 5.4 became effective on January 1, 2018. Our draft version of the Family Law Rules includes Rule 17, which governs sealing, redacting, and unsealing court records in family law cases. Rule 17 is based on Maricopa County Local Rules 2.19 and 2.20. John included this analysis in his memo: > The principal difference between the standards in the Maricopa County local rule and the standards in California's and New Mexico's rules is the latter rules' use of the word "overriding" rather than "compelling." Rule 5.4(c)(2) uses "overriding" both because it is consistent with *Tucker* and because the use of "compelling" might cause confusion due to the term's use in other constitutional contexts under the First and the Fourteenth Amendments to the U.S. Constitution. The key point is a court should not file a document under seal unless it is convinced that confidentiality concerns outweigh the general presumption in favor of public access. Considering John's caution that use of the word "compelling" might cause confusion, and also to align Family Rule 17 with Civil Rule 5.4, the Family Law Rules Task Force might consider substituting "overriding" for "compelling" in its proposed rule. Staff's Response: The Chairs concur with making this change, and the change is shown in the 02.12.2018 version of the draft rules.

3.* Marie Piccarreta 01.12.18 Rule 67.3	Thank you for the excellent job that has been done updating these rules. When I commenced my legal career as an Arizona mediator twenty-five years ago the thought that "Private Mediation" would be the topical heading of an Arizona Rule was a distant hope. Unfortunately, the credentialing aspects of my chosen professional designation as an attorney who practices mediation lag behind those of other professions. Although there are various designations awarded to practitioners who meet certain education and experiential requirement through the nationwide Association for Conflict Resolution, and a small section of Arizona attorneys listed in Best Lawyers in American under the divorce mediation heading, I am aware of no statewide requirements addressing with this matter. My question/comment is the following: What, if any, requirements will be considered by the court when determining under proposed Rule 67.3(e) who will be listed on "the court's own list of private mediators? Thanks again to the committee for your efforts. <u>Staff's Response:</u> See further Judge Bryson's comment, number 10 below.
4.* Maureen Kane 01.19.18 Rule 10 + attorney's fees	1. Rule 10 refers to a "Best Interests" attorney. Is this the new name for a Guardian Ad Litem? If so, will other statutes and rules be amended to reflect the change (to be consistent)? On page 6, "guardian" is defined, but not "GAL." Should there be some mention that "best interests attorney" and GAL are interchangeable terms? 2. The legislature changed references to "attorney's fees" and "attorneys' fees" to the simplified punctuation-less "attorney fees." The proposed Rules contain inconsistent spellings of "attorney's fees." I recommend replacing "attorneys' fees" (e.g., on page 102) and "attorney's fees" (e.g., on pages 85, 236) with "attorney fees" throughout. <u>Staff's Response:</u> The first part of this comment may also implicate Civil Rule 17 and various. Probate Rules. Should the Task Force consider harmonizing the provisions in these various sets of rules? Regarding the second part of the comment, please see, for examples, ARCAP 21 ("attorneys' fees") and Civil Rule 54 ("attorney's fees.") On a related matter, the draft FLR, e.g., Rule 10, currently refers to a "best interests attorney." Should it instead be "best interests' attorney" or "best interest's attorney?"
5.* Keith Evans 01.23.18 Rule 77	On many cases, the parties are required to Continue a matter. I think it is the responsibility of the requesting party to confer or contact opposing counsel to inquire if they Object to a continuance.

	In California, for civil matters it was required to ask the opposing party if the motion was opposed or unopposed. Here in Maricopa County, the clerk will usually call the opposing counsel. This is not the job of the Courts. The attorney requesting the continuance should always contact the other side first before filing their motions. Staff's Response: Draft FLR 77(b)(1) now provides, ***Continuance.*** The court will not reschedule a case that has been set for trial, hearing, or conference except on written motion showing good cause, or unless the court orders otherwise. The court will consider a stipulation for continuance as a joint motion to continue, which must show good cause. Only a court order can vacate or continue a trial setting or hearing date. Should the provision require the party who wants the postponement to contact the opposing party as a first-step?
6.* Annette Burns 01.24.18 Rules 12, 29, 37, 40	Rule 12: do a global search for "on camera" should be "in camera" Rule 29: There are references to "third party defendants" and, in (a)(1)(A)(i), a reference to Rule 42 (which is now reserved) Rule 40(g) "Proof of Service", refers to doing something with a "return" [in subparts (2) and (3)]. What a "return" is is not defined until Rule 41(m)(4), so possibly Rule 40(g) should have some reference to the later rule? Rule 37, subparts (b) and (c) still make reference to Rule 42, which is now reserved. Staff's Response: Staff changed a couple references to "on camera" to "in camera." There still might be a third-party defendant under the restyled rules. Restyled FLR 33 includes a cross-reference to Civil Rule 14 (third-party practice.) Staff changed the only reference in Rule 29 to Rule 42 to instead refer to Rule 41. Staff also changed the references in Rule 37 from Rules 41 or 42, to Rules 40 or 41. The Task Force might consider new terminology for a return of service to avoid possible confusion with a return hearing.
7.* Megan Hill 01.26.18	Thank you for all of the work that is going into rewriting the Family Law Rules. I am working my way through them, and will likely send other comments as I move through.

Rule 47	I am concerned that the requirement for an RMC prior to setting a temporary orders hearing will result in 1) court calendars that are even more congested; and 2) additional delays in setting temporary orders hearings. I understand that an exception can be made for emergencies, but we are already waiting 90+ days in some instances for a temporary orders hearing due to calendar congestion. I predict what will happen is that the judges will be flooded with emergency requests because no support is being paid or is inadequate, there is such high conflict regrading parenting time schedules that attorney's fees and trauma to the children are mounting, or experts are unable to be retained without a contribution towards fees. Further, attorneys will go longer without payment due to delayed hearings on contributions towards legal fees. I understand that the motivation is avoid setting hearings that should settle outside of court and taking up court time, and this is admirable. I cannot envision a situation where an automatic RMC makes things better, though. Thank you again for your hard work. <u>Staff Response:</u> The Task Force should discuss these concerns.
8. Jennifer Greene 01.26.18 Form 2	Request to consider amending ARFLAP Form 2: Affidavit of Financial Information, to facilitate redaction of sensitive information The AOC Court Services Division staffs a User Group of superior court clerks from the 13 counties that use the statewide case management system known as AJACS. Among other tasks, this User Group develops uniform computer coding for various case document types. They have created codes for some 40 different confidential document types that will include an automatic "restricted" flag as the documents are logged into the system, so the flag will not need to be applied manually on a document-by-document basis. This flag will prevent the public from viewing these documents online or at the courthouse on a computer terminal. ARFLAP Form 2: Affidavit of Financial Information does not contain any sensitive data fields itself, and no rule or statute protects it from public inspection. Nevertheless, the User Group has seen many cases in which the form warrants a restricted flag because parties have attached unredacted tax documents and pay stubs displaying a social security or other financial account number. Indeed, sections 2 and 4 of Form 2 require parties to attach tax forms and pay stubs that may contain full social security and other financial account numbers. Although Rule 43(G) directs parties to redact this type of information, many parties aren't familiar with that rule. The User Group believes it would be more effective if Form 2 included redaction reminders on its face.

	Family Law Rule 97 permits forms to be amended by administrative order, and the AOC may pursue this solution if, for whatever reason, the Task Force does not include form amendments in its rule petition. However, since the Task Force is making a comprehensive review of the rules, I am requesting your consideration of proposing this amendment as part of your rule change petition, which would also allow an opportunity for public comment. Staff's Response: The Task Force should consider making the recommended change to the form.
9. Prof. Barbara Atwood 01.31.18 Rules 67.1 and 67.2	Thanks for the opportunity to look over the style revisions to Rules 67.1 and 67.2. In general, the changes seem fine, but I do have a couple of questions. First, since the overall revision will change the paragraph lettering to lower case, the internal references to paragraphs also need to be changed to lower case. I noticed that had not yet been done. In the Family Law Arbitration Rule alone, there are about two dozen internal references that need to be changed to lower case to avoid confusion. Second, under paragraph v of that rule, you've included "must/may" -- meaning, I assume, that you're unsure of which verb to use. I do think the appropriate word is "must" -- since the uniform act itself uses "shall." We intended to ensure that confirmed awards would be treated like any other court judgment. I hope this is helpful. Thanks again for the chance to look at the revisions. Staff's Response: With the Chair's concurrence, the must/may references were changed to "must." But staff has not yet made the necessary numbering/lettering changes.
10. Judge Kyle Bryson 02.02.18 Rule 67.2	I recently received a letter from a local divorce mediator and ADR professional, xxxxxx xxxxxx, Ph.D., wherein he applied to serve as a volunteer arbitrator pursuant to FL Rule 67.2. He submitted his request on our judge pro tem application form because there was no other way for him to get on "the list" for FL Rule 67.2 arbitrators. To be fair, he states he was advised to complete that form, even though he is "volunteering as an arbitrator and not a Judge Pro Tempore." While I see the rule addresses qualifications, I don't see there's any contemplation that the court keep a list of pre-approved mediators, as we do of course with sworn pro tems. As such, my presumption is that the issue of qualifications would have to be litigated if any questions about same arise. The only thing I see that gives me pause is Rule 67.2 (G) (3), which concludes with this: "If an arbitrator is unable or unwilling to act or if the agreed-on method of selecting an arbitrator fails, on motion of a party, the court shall select an arbitrator." Do you know if the aim of this rule is that the court conduct a vetting of arbitrators, or keep a list of "qualified" arbitrators?

	I wasn't part of the rule drafting process, so don't know what was contemplated. Can you direct me to the chair, or someone there at AOC? Thanks, and regards. Staff Response: Rule 67.2 provides in part: **(d) Arbitration agreement.** **(1)** An arbitration agreement must: **(A)** be in a record signed by the parties; **(B)** identify the arbitrator, an arbitration organization, or a method of selecting an arbitrator; and **(C)** identify the family law dispute the parties intend to arbitrate. [staff's underline] • Because the arbitration agreement must directly or indirectly identify an arbitrator, it appears that the court should have to choose the arbitrator only infrequently, and as provided in section (g). **(g) Qualification and Selection of Arbitrator.** **(1)** Except as otherwise provided in subdivision G(2), unless waived in a record by the parties, an arbitrator must be: **(A)** an attorney in good standing admitted to practice or on inactive status or a judge on retired status; and **(B)** trained in identifying domestic violence and child abuse according to standards established under law of this state other than this rule for a judicial officer assigned to hear a family law proceeding. **(2)** The selection of the arbitrator must be in accordance with the identification in the arbitration agreement of an arbitrator, arbitration organization, or method of selection. **(3)** If an arbitrator is unable or unwilling to act or if the agreed-on method of selecting an arbitrator fails, on motion of a party, the court will select an arbitrator. [staff's underline] Staff does not believe Rule 67.2 requires the court to vet arbitrators, or to keep a list, but doing both is probably a good best practice. The attorneys must meet the qualifications in subpart (g)(1). Assuring that the attorney is in good standing should be straightforward. But what action is necessary for judges to refer applicants to training in "domestic violence and child abuse according to standards established under law of this state…." Are there standards? Is the training available to attorney applicants?
11. Judge Peter Swann 02.03.18 Rule 95	I'd like to change Rule 95 further, to make it more closely resemble Rule 74. Staff's Response: This requires further discussion.

12.* Kristy Clairmont 02.12.18 Various	**Rule 2**: Subpart (d)--The words "timely" and "adequately" are fairly indefinite terms, and it may be more useful to mention the specific rules that define these terms. For example, "The court may exclude otherwise relevant evidence that a party did not timely and adequately disclose" *as required by Rule 49 or by court order*. **Rule 3:** There may be a few more definitions that self-representing parties would appreciate. For example, Conciliation Court, Mediation, Service, legal decision-making, affidavit, to suggest a few. There are also various other definitions provided in other sections. It may make more sense organizationally to have all definitions in one rule. **Rule 4:** The "next day" explanation could use an example. The current language is a bit confusing. **Rule 5.1:** It seems there may need to be a method of communication that will take place between the family bench and the juvenile bench when cases trigger this rule. Without bench communication, there is the potential that parties will bounce back and forth without resolution because they will give notice to the family law judge only to potentially have the juvenile court judge refer it back to the family court. **Rule 8 (d)(1):** A request for telephonic testimony must allow the opposing party "a reasonable opportunity to respond." Is there a time frame specifically in mind, and would it be better to define it? **Rule 9:** The "good faith consultation certificate" requiring an in person or phone conversation may have an undesired result for self-represented parties. Communication via email is a viable way for parties who do not have attorneys to negotiate and have a record of agreements. In person/phone conversations may be preferred for represented parties as attorneys are professionals held to ethical standards and expectations. A valid and often preferred method of communication would be lost by construing what constitutes a "good faith" effort so narrowly for all litigants. **Rule 12:** The definitions in Rule 3 (b) defines the term as "***in camera***" however, this rule uses the term "**on** camera" instead. **Rule 29:** Subsection (e) has a misplaced comma that causes confusion. "If, on a motion...to, and not excluded by (should be no comma) the court, ..." **Rule 41:** Minor formatting issue (2)(B)(ii) and (iii) A reference to the timing of response periods triggered by different service methods may be useful for clarity purposes.

	Rule 44.1: Minor formatting issue with (c)(2)(A)(ii) and (iii) **Rule 48:** a) "proposed form of orders" should state *proposed form of* ***order*** **Rule 49:** (m) "additional discover" should state ***discovery*** Pima county uses different affidavits for cases that involve only child support. Will local rules still be able to designate a different financial affidavit other than the long form, and if so does this language need to be added to the rule. **Rule 52:** Minor formatting issue (c)(6)(B)(iii) **Rule 54:** Minor formatting issue (a)(1)(F)(i)(ii)(iii) **Rule 65:** Minor formatting issue (a)(4)(A)(ii) and (iii) **Rule 67.1:** Minor formatting issue (e)(4)(ii)(iii) and (7)(ii) and (iii) The language style of the ADR section is generally less simplified than the other sections. All references to subparts used in this rule are incorrect. The subparts are referenced using capital letters, however, the subsections are lower case letters. Staff's Response: Other than the formatting suggestions, staff's action on these recommendations is pending discussion by Task Force members.
13. Staff 02.12.18 Rules 82 and 83	After consulting with one of the chairs, staff revised the title of Rule 83 by eliminating the term "supplemental hearings." (The title now is, "Rule 83. Altering or Amending a Judgment; Supplemental Hearings.") Rule 83(b) says, Court Action. The court may, on motion, vacate the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new ones, and direct the entry of a new judgment. The relief, if granted, must be limited to the question or questions found to be error, if separable. Because taking additional testimony (i.e., holding a supplemental hearing) is just one possible course of action under Rule 83(b), staff believed that putting "supplemental hearings" in the title gave that option undue emphasis. Also, compare Rule 82(b) with Rule 83(b) quoted above. Rule 82(b) says, Amended or Additional Findings. On a party's motion filed no later than 15 days after the entry of judgment, the court may amend or make additional

	findings, and may amend the judgment accordingly. This deadline may not be extended by stipulation or court order, except as allowed by Rule 4. The motion to amend or make additional findings may be included in a motion under Rule 83. Staff believed there was an inconsistency in requiring the filing of a Rule 82(b) motion to amend findings 15 days after entry of judgment, but then requiring the filing of a Rule 83(b) motion to amend findings 25 days after entry of judgment. Staff recommended to one of the chairs, who concurred, that Rule 82(b)'s time limit should be expanded to 25 days so it is harmonious with Rule 83(b), and the 02.12.2018 draft shows this change.
14.* Judge Cele Hancock 02.12.2018 Rules 5, 5.1, 17, 47, 91, and 92	<u>Rule 5. Consolidation</u> Section(a)(4) – I am concerned about not being able to consolidate a OOP into a family law case. There are so many OOP's that are granted and if there is one in a family law case, we certainly need to know about it, not only from an information standpoint, but to notify our ADR department for mediation and to make sure we know which cases could be more volatile. <u>Rule 5.1 Simultaneous Dependency and Legal Decision Making/Parenting Time Proceedings</u> (c) – I don't have any problem with this rule, but I believe at the end that the Juvenile Court needs to make a statement in the referral indicating that the family law division now has jurisdiction to decide legal decision making and parenting time, otherwise we're hearing cases over which we technically have no jurisdiction. <u>New Rule 17</u> In general, I can see why you drafted this rule. However, in family law cases, if I have to do written findings for every, single AFI that gets filed with the court, this is unduly burdensome. <u>Rule 47</u> (c)(1) – In the first paragraph the rule says that the court *must* schedule a resolution management conference…. but at the end there is this opt out provision where if, when the court sees the motion for temporary orders and "finds that the circumstances of a specific case demonstrate that a resolution management conference would not serve the interests of efficiency, it may schedule an evidentiary hearing on temporary orders instead of a resolution management statement." This internally contradictive. Rule 76. This rule is also contradictive to Rule 47 saying now that a court may set an RMC and on parties' request shall (not must) set a RMC. In Rule 47 the

	court is to set the evidentiary hearing or RMC within 30 days, in this rule it is within 60 days. Rules 91 and 92 Rule 91 has always been the enforcement rule. The new rule now refers to civil contempt and Rule 92. In practice, this never happens. A petitioner or Respondent almost always just files a petition to enforce. In the vast majority of my cases, the party that is not paying CS, SS is not selling the house or is not dividing up property per the decree, just doesn't show up. So the litigant hasn't asked for civil contempt, as far as I know we can't invoke civil contempt ourselves or even suggest it to the litigants, because that would be legal advice. And then the litigant has a judgment that they can execute on, like the former Rule 93 suggests. I don't see a rule that replaces Rule 93 that explains executing on a judgment. I have always seen a lot of issues with Rule 92. If the person is personally served, per the rule, and doesn't appear, if the rule is followed, technically you could issue an arrest warrant if someone has failed to divide a bank account that had $1,000 in it. This when s/he's never even spoken to a judge and no one has heard his/her side of the story. S/He also has had no chance to indicate whether they have an ability to pay or if the contempt is willful. This is a whole separate issue than parents who are trying to enforce a parenting plan or litigants who are trying to enforce financial issue from there decree. Thank you for the opportunity to comment on the new rules. Having been there, I appreciate the Task Force's hard work. Staff's Response: Staff's action on these recommendations is pending discussion by Task Force members.
15.* Glenn Halterman 02.12.2018 Rules 6, 10.1, 12, 84	Mr. Halterman's 3-page letter is included separately in the meeting materials. Staff's Response: Staff's action on these recommendations is pending discussion by Task Force members.
16.* Benjamin Norris 02.12.2018	A few thoughts on these new proposed FC rules: 1. These rules are over 250 pages long. They will work just fine if Bill and Melinda Gates decide to divorce in Arizona, but unfortunately over 50% of Arizona FC litigants are unrepresented, and having 250+ pages of rules for pro se litigants is like having no rules at all. Just as an example, pro se litigants

General comments + Rule 12	often do no Rule 49 disclosure, because they have no idea the obligation exists and don't understand it, and if the other party's counsel tells them they have to do disclosure, they are afraid they are somehow being tricked into doing something they shouldn't, so they freeze up and do nothing. Frustrated counsel then often move for Rule 65 sanctions, but if a Court is deciding parenting time, schools, etc. for the child, the Court can't simply refuse to take evidence from the pro se parent and at the same time follow the statutory requirement to do what is in the child's best interest. The whole process leaves everyone involved frustrated and angry. Suggestion: Keep these rules, but only for the (rare) complex case with lots of assets in issue, where both parties are represented. For most cases, draft rules that are designed so that pro se litigants can understand -- and follow -- them. A good example is the set of rules used by the Office of Administrative Hearings, A.A.C. R2-19-101 to 122. Simplified rules for FC wouldn't look exactly like the OAH rules, of course, but the OAH rules are a good model of simple, clear, reasonable rules for a Court where many parties are pro se -- like FC. 2. Title 8, Chapter 4 (dealing with dependency cases) has 26 separate statutes that use the word "permanency." The Arizona Juvenile Rules, Part III (again, governing dependency cases) contain 15 separate rules that use the word "permanency." In contrast, Title 25 (governing FC) contains NO statutes that use the word "permanency," and NONE of these proposed rules reference "permanency" either. Anyone who has done JD cases understands the importance of permanency for a child. Yet our FC statutes and rules, while ostensibly requiring the Court to do what is in the "best interest" of the child, make no mention of one of the most important factors in the child's life. While most parents understand this intuitively, for the 5% or so of parents who take up 80% of FC court time, the child is just a weapon to be used against the hated ex, the child's interests be damned. The Courts can't change Title 25, but some recognition of the child's need for permanency desperately needs to be included in these rules. 3. One of the most appalling aspects of the recent Larry Nasser/USA gymnastics scandal was that no one listened to the children. Over 100 young people were molested, one after the other, and many tried to communicate with a parent, a coach, a doctor, but no adult listened. We have a culture that does not support or encourage listening to children. It wasn't as if Nasser go lucky over 100 times in a row and found kids with lousy adults in their lives -- he KNEW no one would listen, which encouraged him to molest, and then molest again and again. And this points to another problem with Title 25 and these rules: There is no recognition of a child's right to be heard. Under Arizona's FC statutes and these rules, a child has exactly the same rights to be heard as the family dog -- none. In fact, the comment to the 2015 amendment to Rule 12 actually instructs the Court to "proceed with caution when interviewing a child in any case in which a party has alleged 'domestic violence'" -- which is EXACTLY when the child most needs to be heard. Suggestion: Create a

	presumption that a child WILL be interviewed (not by the judge, but by a person with training to interview children) in all such cases. This will both discourage false allegations of abuse (of which there are many in FC) and give the child the opportunity to be heard when no one else has listed. This doubtless would cost additional money in the beginning, but once parents learned that their child is going to be heard, a lot of the really destructive parental conduct would cease, and the number of hearings, DCS investigations, etc. (and the associated costs) would decrease over time, to the benefit of the taxpayers, the parents (many of whom would be relieved to hear from a neutral that the child really is safe with the other parent -- or that the child's endangerment is finally being recognized), and especially the child. Staff's Response: Staff's action on these recommendations is pending discussion by Task Force members.
17. Staff 02.12.2018 Rule 43	Current Rule 43(B) provides, **B. Service; Parties Served; Continuance.** When there are several respondents, and some are served with summons and others are not, the petitioner may proceed against those served or continue the action. The court may order the petitioner to proceed against those served. Was this intentionally omitted from draft Rule 43? Current Rule 47(J) provides: **J. Summary Temporary Child Support Order.** If upon review of the pleadings and the supporting documents submitted pursuant to paragraph I, or, if at the time of the Resolution Management Conference, the court determines that the party entitled to receive child support is seeking an amount that is less than or equal to 150% of the amount of child support the obligor is willing to pay, the court may enter a Summary Temporary Child Support Order within the range of the parties' positions without an evidentiary hearing. The entry of a Summary Temporary Child Support Order does not prejudice the rights of the parties to have the issue finally determined at a subsequent hearing or trial. The parties' positions under this paragraph must be based on an application of the *Arizona Child Support Guidelines*. Was this intentionally omitted from draft Rule 47.1?

Arizona Rules of Family Law Procedure

Draft

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Prefatory Comment to the 2019 Amendments

The 2019 amendments make extensive changes to the Arizona Rules of Family Law Procedure ("FLR").

These amendments restyle the FLR in a manner similar to the 2017 restyling of the Arizona Rules of Civil Procedure and the 2018 restyling of the Arizona Rules of Criminal Procedure. The 2019 version of the FLR adds informative titles and subheadings, which should make rules and sections easier to locate. To enhance clarity and reflect current usage, some provisions have been abrogated, relocated, consolidated, bifurcated, or presented in a different sequence. The restyled rules attempt to use clearer language, uniform formatting, and consistent terminology.

The amended rules also include some substantive changes, the most significant of which include the following:

(a) Rule 2 ("applicability of the Arizona Rules of Evidence") incorporates by reference the Evidence Rule 403 standard. It also eliminates Rule 2(B)(3)(b), which provides for automatic admissibility of court-required reports and forms, but relaxes the foundation requirements for such documents; and moves the provision on the applicability of the Arizona Rules of Civil Procedure to Rule 1.

(b) Rule 5.1 ("simultaneous dependency and legal decision-making/parenting time proceedings") provides that if pending family law and dependency proceedings concern the same parties, the juvenile division has jurisdiction over the children.

(c) The provisions for requesting a change of judge no longer incorporate a civil rule by reference, but instead are set out in two new self-contained rules, Rule 6 ("change of judge as a matter of right") and Rule 6.1 ("change of judge for cause").

(d) An amendment to Rule 9 adds a new section (c) with requirements for a "good faith consultation certificate."

(e) Rule 10 has been broken down into Rule 10 ("Representation of Children," including provisions for best interests attorneys and child's attorneys), and Rule 10.1 ("Court-Appointed Advisor").

(f) An amendment to Rule 12 ("court interviews of children") requires the recording of judicial interviews of children.

(g) A new Rule 17 concerns sealing, redacting, and unsealing court records.

(h) Rule 20 ("form of documents") applies to electronic as well as handwritten filings.

(i) Rules 23 through 35 in Part II ("pleadings and motions") are reorganized in a more sensible sequence.

(j) A new Rule 39 ("meaning of service") differentiates service of a summons and petition from serving documents during a case.

(k) Rule 41 consolidates provisions for service of process within and outside Arizona. Former Rule 42 is reserved.

(l) Rule 44 now governs only the application for default. New Rule 44.1 governs a default decree by motion and without a hearing, and new Rule 44.2 governs a default decree or judgment by hearing. These rules provide a new form that provides the evidentiary basis for entering a default decree for spousal maintenance.

(m) Rule 47 provides for the scheduling of a resolution management conference when a party files a motion for temporary orders.

(n) To obtain a complex case designation, Rule 50 now requires the filing of a motion.

(o) Former Rule 58 concerning depositions by written questions has been abrogated.

(p) Rule 65 ("failure to make disclosures or to cooperate in discovery; sanctions") has been streamlined.

(q) Rule 66 is now titled "duties to consider and attempt settlement by alternative dispute resolution ('ADR')." This is followed by Rule 67 ("types of alternative dispute resolution") and Rules 67.1 through 67.4 ("collaborative law proceedings," "uniform family law arbitration rule," "private mediation," and "settlement conferences").

(r) A family law conference officer under Rule 73 is strictly a facilitator, and no longer has the authority to make recommendations.

(s) Revised Rule 76 concerns the resolution management conference. A new separate Rule 76.1 governs scheduling conferences, scheduling conference statements, and pretrial statements.

(t) Rule 78 ("judgment; attorney's fees, costs, and expenses") includes provisions formerly contained in Rule 81, which is now reserved. To be appealable, a judgment must include language under Rule 78(b) or 78(c).

(u) Rule 83, now titled "altering or amending a judgment; supplemental hearings") no longer contains a reference to "new trial" because in a family case, the granting of a motion under this rule does not result in a new trial. A party's response to a Rule 83 motion must address any issue that might arise if the court grants the motion.

(v) Rule 84 concerns a motion for clarification; it no longer provides for a motion for reconsideration. The rule expressly provides that it does not extend the time for filing a notice of appeal, that it may not be combined with a Rule 83 motion, and that under Rule 84, the court may not open the judgment or accept additional evidence as it can under Rule 83.

(w) Rule 91 ("modification or enforcement of a judgment") is a general rule. New Rule 91.1 through 91.6 contain provisions applicable to specific types of modification or enforcement actions.

The wording of an amended rule may be very different, or only slightly different, from the rule that it replaces. The intent of these differences is to make the FLR more functional and easier to understand and use. –Existing case law continues to be authoritative, unless it would be inappropriate because of a new requirement or provision in these amended rules.

The amended rules attempt to incorporate substantive requirements previously contained within comments to the former FLR. Because of that, these amendments delete most of those comments, along with comments that have outlived their usefulness. Parties may continue to refer to comments to pre-2019 versions of the 2019 to the extent those comments still apply to these amended rules.

Part I. General Administration.

Rule 1. Scope and Applicability of These Rules.

(a) Scope. These rules govern procedures in family law cases and all matters arising under Title 25 of the Arizona Revised Statutes.

(b) Construction. Parties and courts should construe these rules, and courts should enforce them, in a manner that ensures a just, prompt, and inexpensive determination of every action and proceeding.

(c) Civil Rules. The *Arizona Rules of Civil Procedure* apply only when these rules expressly incorporate them. If language in these rules is substantially the same as language in the civil rules, case law interpreting the language of the civil rules will apply to these rules.

(d) Applicability of Local Rules. If a local rule is inconsistent with these rules, these rules will apply.

Rule 2. Applicability of the Arizona Rules of Evidence.

(a) Effect of a Rule 2(a) Notice; Time for Filing. Any party may file a notice to require compliance with the Arizona Rules of Evidence at a hearing or trial. A party must file the notice at least 45 days before the hearing or trial, or by another date set by the court. If a hearing or trial is set fewer than 60 days in advance, the notice is deemed timely if a party files it within a reasonable time after the party is notified of the hearing or trial date.

(b) Effect of No Notice. If no party files a timely notice under (a),

(1) Arizona Rules of Evidence 602, 801-806, 901-903, and 1002-1005 do not apply; and

(2) the other Rules of Evidence, including Rule 403, still apply, except as provided in (c).

(c) Records of Regularly Conducted Activity. Regardless of whether a notice was filed, a record of regularly conducted activity as defined in Rule 803(6) of the Arizona Rules of Evidence or reports prepared pursuant to Rules 68 or 73 may be admitted into evidence without testimony of a custodian or other qualified witness regarding its authenticity if the record is relevant, reliable, and was timely disclosed.

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(d) Untimely Disclosure. The court may exclude otherwise relevant evidence that a party did not timely and adequately disclose under these rules.

Rule 3. Definitions.

(a) Guardian. A "guardian" is a person appointed under Titles 8 or 14 of the Arizona Revised Statutes. Guardian is defined in order to distinguish a guardian from a guardian *ad litem* or best interests attorney.

(b) In Camera Review. "In camera" means a judicial officer's review of a document that occurs in chambers and not in open court. If the court orders that a document be reviewed in camera, the party who possesses the document must submit it directly to the judicial officer without disclosing it to the other party. The judicial officer must then privately review the document and determine whether it should be disclosed under the applicable law and rules.

(c) Party. A "party" is an individual, or a private or public entity, designated in a pleading as a petitioner, respondent, or third party. The State of Arizona may be designated as a party.

(1) A "petitioner" is the person or entity that files the first petition.

(2) A "respondent" is any opposing party other than the petitioner.

(3) The petitioner and respondent are referred to by those designations in all later filings in the same case, including motions and post-decree or post-judgment petitions.

(d) Sealing. "Sealing" is an action taken by the clerk to restrict access to a record under Rule 21.

(e) Title IV-D. "Title IV-D" means Title IV-D of the Social Security Act, 42 U.S.C. §§ 651 et seq., which is administered in Arizona by the Division of Child Support Services (DCSS) of the Arizona Department of Economic Security.

(f) Witness. A "witness" is a person whose testimony under oath or affirmation is offered as evidence for any purpose, whether by oral examination, deposition, or affidavit.

Rule 4. Computing and Extending Time.

(a) Computing Time. The following rules apply in computing any time period specified in these rules or in any local rule, court order, or statute:

(1) ***Day of the Event Excluded.*** Exclude the day of the act, event, or default that begins the period.

(2) ***Exclusions if the Deadline Is Less Than 11 Days.*** Exclude intermediate Saturdays, Sundays, and legal holidays if the period is less than 11 days.

(3) ***Last Day.*** Include the last day of the period unless it is a Saturday, Sunday, or legal holiday. When the last day is excluded, the period runs until the next day that is not a Saturday, Sunday, or legal holiday.

(4) ***Next Day.*** The "next day" is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.

(b) Extending Time.

(1) ***Generally.*** When an act may or must be done within a specified time, the court may, for good cause, extend the time:

(A) with or without motion or notice if the court acts, or the request is made, before the original time or its extension expires; or

(B) on motion made after the time has expired if the party failed to act because of excusable neglect.

(2) ***Exceptions.*** The court may not extend the time to act under Rules 83 or 85 unless otherwise allowed by those rules, or:

(A) the court finds that the moving party was entitled to notice of the entry of judgment or the order, but did not receive notice from the clerk or any party within 21 days after its entry;

(B) the moving party files the motion within 30 days after the specified time to act expires under these rules or within 7 days after the party received notice of the entry of the judgment or order triggering the time to act under these rules, whichever is earlier; and

(C) the court finds that no party would be prejudiced by extending the time to act.

(c) Additional Time After Service Under Rule 43(b)(2)(C) or (D). When a party may or must act within a specified time after service and service is made under Rule 43(b)(2)(C) or (D), 5 calendar days are added after the specified period would

otherwise expire under Rule 4(a). This rule does not apply to the clerk's distribution of notices—including notice of entry of judgment under Rule 78(h)—minute entries, or other court-generated documents.

(d) Minute Entries and Other Court-Generated Documents. Notices, minute entries, and other court-generated documents are entered on the date they are filed by the clerk. Unless the court orders otherwise, if an order states that an act may or must be done within a specified time after the order is entered, the date the order is filed is "the day of the act, event or default" under Rule 4(a)(1).

COMMENT TO 2019 AMENDMENT

Rule 4(c) is amended to remove any doubt as to the method for extending the time to respond after service by mail or other means, including electronic means, if consented to in writing by the recipient or ordered by the court. Five days are added after the prescribed period otherwise expires under Rule 4(a). Intermediate Saturdays, Sundays, and legal holidays are included in counting these added five days. If the fifth day is a Saturday, Sunday, or legal holiday, the last day to act is the next day that is not a Saturday, Sunday, or legal holiday. The effect of invoking the day when the prescribed period would otherwise expire under Rule 4(a) can be illustrated by assuming that the thirtieth day of a thirty-day period is a Saturday. Under Rule 4(a), the period expires on the next day that is not a Sunday or legal holiday. If the following Monday is a legal holiday, under Rule 4(a) the period expires on Tuesday. Five calendar days are then added—Wednesday, Thursday, Friday, Saturday and Sunday. As the fifth and final day falls on a Sunday, by operation of Rule 4(a), the fifth and final day to act is the following Monday. If Monday is a legal holiday, the next day that is not a legal holiday is the fifth and final day to act. If the period prescribed expires on a Wednesday, the five added calendar days are Thursday, Friday, Saturday, Sunday, and Monday, which is the fifth and final day to act unless it is a legal holiday. If Monday is a legal holiday, the next day that is not a legal holiday is the fifth and final day to act.

Application of Rule 4(c) to a period that is less than eleven days can be illustrated by a paper that is served by mailing on a Wednesday. If 10 days are allowed to respond, intermediate Saturdays, Sundays, and legal holidays are excluded in determining when the period expires under Rule 4(a). If there is no legal holiday, the period expires on the Wednesday two weeks after the paper was mailed. The five added Rule 4(c) days are Thursday, Friday, Saturday, Sunday, and Monday, which is the fifth and final day to act unless it is a legal holiday. If Monday is a legal holiday, the next day that is not a legal holiday is the final day to act.

Rule 5. Consolidation.

(a) Scope of Consolidation.

(1) ***Generally.*** If pending cases involve a common child, common parties, or a common question of law or fact, the court may order a joint hearing or trial of any or all the matters at issue, or it may consolidate the cases.

(2) ***Assigned Judge.*** The judge assigned to the first-filed case will hear a motion to consolidate.

(3) ***Other Orders.*** The court may enter orders under this rule to avoid unnecessary costs or delay or to serve the best interest of a minor child.

(4) ***Orders of Protection.*** The court may not consolidate a case involving an order of protection with a family law case, but may conduct a joint hearing.

(b) Lowest Case Number. If the court consolidates two or more cases, the first-filed case number will be the controlling case number, and the clerk must file all further filings under that number only. Unless the court orders otherwise, consolidation is for all purposes and not only for conducting a hearing or trial.

(c) Duplicate Pleadings. If the court consolidates cases in which a party in one case has filed a petition that substantially responds to an opposing party's petition in another case, the party's petition will be treated as a response to the opposing party's petition, unless the court orders a further response.

Rule 5.1. Simultaneous Dependency and Legal Decision-Making/Parenting Time Proceedings.

(a) Transfer to Juvenile Division. If pending family law and dependency proceedings concern the same parties, the juvenile division has jurisdiction over the children.

(1) ***Notice.*** The parties must notify the family division of a pending dependency proceeding.

(2) ***Effect of Transfer*****.** If the proceedings are transferred, the juvenile division will hear legal decision-making and parenting time issues until the dependency is dismissed or the juvenile division defers jurisdiction to the family division.

(b) Referral to Family Division. If the juvenile division determines that a change of legal decision-making or parenting time is appropriate, it may refer the matter to the family division for further proceedings.

(c) Support Orders. During any dependency or guardianship proceeding in the juvenile division, the juvenile division may establish, suspend, modify, or terminate a child support order. Except in Title IV-D cases, the juvenile division also may make appropriate orders regarding any past due support or child support arrears, and may direct that an income withholding order be quashed or modified. Any order regarding child support must be filed in both the family division and the juvenile division.

Rule 6. Change of Judge as a Matter of Right.

(a) Definitions.

(1) ***Judge.*** The term "judge" as used in this rule and Rule 6.1 refers to any judge, judge *pro tem*, or court commissioner.

(2) ***Presiding judge***. The term "presiding judge" as used in this rule refers to the presiding superior court judge in the county where the action is pending, or that judge's designee.

(b) Generally. In each action, whether single or consolidated, each party is entitled as a matter of right to a change of judge.

(c) Notice Requirements. A party seeking a change of judge as a matter of right must either file a written notice, or make an oral request on the record, in the manner provided below:

(1) ***Written Notice.*** A written notice of change of judge must be served on all other parties, the presiding judge, the noticed judge, and the court administrator, if any, by any method provided in Rule 43(c). The notice must contain:

(A) the name of the judge to be changed;

(B) a statement that:

(i) the notice is timely under Rule 6(d);

(ii) no waiver has occurred under Rule 6(e); and

(iii) the party has not been granted a change of a judge as a matter of right previously in the action. The notice cannot specify grounds for the change of judge.

(2) ***Oral Notice.*** An oral request for change of judge must include the information required by Rule 6(c)(1)(A) and (B). When made, it is deemed to be an "oral notice of change of judge" for purposes of this rule. The judge must enter on the record the date of the oral notice, the requesting party's name, and the judge's disposition of the request. A party obtaining a change of judge based on an oral notice is deemed to have exercised its right to a change of judge under Rule 6(b). For purposes of this rule, an oral notice is deemed "filed" on the date that it is made on the record.

(d) Time Limits. A party is precluded from obtaining a change of judge as a matter of right unless the party files a timely notice.

(1) The notice must be filed 60 or more days before a scheduled contested hearing or trial.

(2) If a new judge is assigned within 60 days of a scheduled contested hearing or trial, a notice is timely filed as to the newly assigned judge if filed within 10 days after the party receives notice of the new assignment, or within 10 days after the new judge is assigned, whichever is later.

(3) If a party has received less than 10 days' notice of a proceeding or the assignment of the judge, the party must file a notice at least 3 days before the proceeding.

(4) If a party has received less than 5 days' notice of a proceeding or a judge assignment, the party may file a notice of change of judge at any time before the proceeding begins.

(5) If the right to a change of judge is renewed under Rule 6(f), a notice is timely if filed within 15 days after issuance of the appellate court's mandate under ARCAP 24.

(e) Waiver. A party waives the right to change a judge assigned to preside over any proceeding in the action, if:

(1) the party agrees to the assignment;

(2) the judge rules on any contested issue, or grants or denies a motion to dispose of any claim or defense, if the party had an opportunity to file a notice of change of judge before the ruling is made;

(3) a resolution management, scheduling, pretrial, or similar conference begins; or

(4) a scheduled contested hearing or trial begins.

(f) Actions Remanded from an Appellate Court. In actions remanded from an appellate court, the right to a change of judge is renewed and no event connected with the first trial constitutes a waiver:

(1) if the appellate decision requires a new trial or contested hearing; and

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

(g) Procedures on Notice.

(1) ***On Proper Notice.*** If a notice is timely filed and no waiver has occurred, the judge named in the notice should proceed no further in the action except to make such temporary orders as are necessary to prevent immediate and irreparable

injury, loss, or damage from occurring before the action can be transferred to another judge. If the named judge is the only judge in the county, that judge may also reassign the case.

(2) ***On Improper Notice.*** If the court determines that the party who filed the notice is not entitled to a change of judge, the named judge may proceed with the action.

(3) ***Reassignment.***

(A) *On Stipulation.* If a notice of change of judge is filed, the parties should inform the court in writing if they have agreed on an available judge who is willing to hear the action. An agreement of all parties may be honored and, if so, bars further changes of judge as a matter of right unless the agreed-on judge becomes unavailable. If a judge to whom an action is assigned by agreement later becomes unavailable because of a change of calendar assignment, death, illness, or other incapacity, the parties may assert any rights under this rule that existed immediately before the assignment to that judge.

(B) *Absent Stipulation.* If no judge is agreed on, the presiding judge must promptly reassign the action.

Rule 6.1. Change of Judge for Cause.

(a) Grounds. A party seeking a change of judge for cause must establish grounds by affidavit as required by A.R.S. § 12-409.

(b) Filing and Service. The affidavit must be filed and copies served on the parties, the presiding judge, the noticed judge, and the court administrator, if any, by any method provided in Rule 43(b).

(c) Timeliness and Waiver. A party must file an affidavit seeking a change of judge for cause within 20 days after discovering that grounds exist for a change of judge. Case events or actions taken before that discovery do not waive a party's right to a change of judge for cause.

(d) Hearing and Assignment. If a party timely files and serves an affidavit complying with A.R.S. § 12-409:

(1) Within 5 days after the affidavit is served, any other party may file an opposing affidavit or a response of no more than two pages. No reply or affidavits are permitted unless authorized by the presiding judge.

(2) The presiding judge may hold a hearing to determine the issues raised in the affidavit, or may decide the issues based on any affidavits and memoranda filed by the parties.

(3) On filing of the affidavit for cause, the named judge should proceed no further in the action except to make such temporary orders as are necessary to prevent immediate and irreparable harm from occurring before the request is decided and the action transferred. However, if the named judge is the only judge in the county, that judge may also perform the functions of the presiding judge.

(4) The presiding judge must decide the issues by the preponderance of the evidence. Under A.R.S. § 12-409(B)(5), the sufficiency of any "cause to believe" must be determined by an objective standard, not by reference to the affiant's subjective belief. If grounds for disqualification are found, the presiding judge must promptly reassign the action. Any new assignment must comply with A.R.S. § 12-411.

(5) If the court determines that the party who filed the affidavit is not entitled to a change of judge, the named judge may proceed with the action.

Rule 7. Protected Address.

(a) Effect of Filing. A party's address is automatically protected upon filing a request for a protected address until further order of the court.

(b) On Request. The court must designate a party's address as protected on a showing by the requesting party that the other party does not know the party's address; and either

(1) a reasonable belief exists that without a protected address, the party or a minor child may suffer physical or emotional harm; or

(2) A valid order of protection exists.

(c) Request Procedure. A party may request the court to designate that party's address as protected by:

(1) filing a written request substantially similar to Form 15, Rule 97 ("Request for Protected Address"), which must include the party's address on a separate sheet of paper; and

(2) providing the court, a proposed order substantially similar to Form 15, Rule 97 ("Order for Protected Address").

(d) Court Action.

(1) ***Timing and Procedure.*** No later than 5 days after a request is filed, the court must rule on it without waiting for a response and without holding a hearing, unless the court finds that a hearing is appropriate. If the court decides to hold a hearing, it must hold the hearing not later than 20 days after the request is filed and it must give notice of the hearing to all parties who have appeared in the action.

(2) ***Effect of Ruling.*** If the court grants the request, the clerk must not publicly disclose the person's address, and the requesting party's later filings do not need to include the party's address. If the court denies the request, the requesting party must include the party's address in all later filings.

(3) ***Later Orders.*** At any time, the court may order that a protected address is no longer protected:

(A) on request of the party whose address is protected; or

(B) after a hearing and on a finding that there is no reasonable belief that disclosure of the party's address will cause the party or a minor child to suffer physical or emotional harm.

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(e) Serving a Document on a Party with a Protected Address.

(1) ***Generally.*** A party may serve a document on a person with a protected address by delivering a copy of the document to the clerk and paying the fee established by administrative order to cover the cost of service. The clerk then must promptly mail the document by regular first-class mail to the most recent protected address the person has provided to the clerk. The clerk's mailing envelope must show the clerk's return address.

(2) ***Date of Service and Mailing Verification.*** Service on the person is deemed complete when the clerk mails the document. The clerk must promptly file a signed statement that verifies that the document was mailed and the date of mailing.

(3) ***Undelivered Mail.*** The clerk must note in the court file any mail to a protected address that is returned as undelivered.

(f) Continuing Duty to Provide the Clerk with Current Address. Any person whose address is ordered protected from disclosure has a continuing duty to provide the clerk with a current and correct mailing address where the person can be served.

(g) Protecting the Address in a Title IV-D Case. This rule does not affect a parent's right under federal law to the protection of the parent's address in connection with seeking services in a Title IV-D case.

(h) Clerk's Duty. The clerk's duty to protect the address ends when the person whose address is protected files a notice of published address that sets forth the person's current mailing address for future service.

Rule 8. Telephonic Appearances and Testimony.

(a) Meaning of "Telephonic." When used in this rule, "telephonic" includes an appearance or testimony by telephone, by videoconferencing, or by other available audio and video technology.

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

(c) Testimony of a Party or Witness at an Evidentiary Proceeding. On request of a party or a witness or on its own, and subject to A.R.S. § 25-1256(F), the court may allow a party or witness to testify telephonically if the court finds it would not substantially prejudice any party and the testifying party or witness:

(1) is not reasonably able to attend the hearing or trial;

(2) would be unduly inconvenienced by attending the hearing or trial in-person; or

(3) would incur a burdensome expense to attend the hearing or trial in-person.

(d) Request to Testify by a Telephonic Appearance.

(1) ***Time.*** A party must file a request to have a party or witness give telephonic testimony within a time that allows the opposing party a reasonable opportunity to respond.

(2) ***Hearing.*** The court may rule on the request with or without a hearing.

(e) Introducing Documents During Telephonic Testimony. To introduce exhibits through a party or witness who testifies telephonically:

(1) the party calling the witness must make a good faith effort to contact the opposing party to identify and provide exhibits that will be used during the witness's testimony;

(2) the exhibits must be provided in advance to the party or witness;

(3) the party who introduces the exhibits must affirm that they are accurate copies of the exhibits provided to the party or witness who is appearing telephonically.

(f) Responsible Party. The party requesting a telephonic appearance, or who presents a witness's testimony telephonically, must arrange and pay the related cost, unless the court orders otherwise.

Rule 9. Duties of Parties or Counsel.

(a) Current Address. Parties or counsel must keep the court informed of a current mailing addresses, email address, and telephone number.

(b) Responsibility to the Court. Parties and counsel are responsible for knowing the status of their cases and keeping the court informed of material changes in the status of their cases.

(c) Good Faith Consultation Certificate.

(1) ***Generally.*** When these rules require a "good faith consultation certificate," the certificate must demonstrate that a party has tried in good faith to attempt to resolve the issue. The consultation or attempted consultation required by this rule must be in person or by telephone, and not merely by letter or email.

(2) ***Domestic Violence.*** If there is a current court order prohibiting contact of the parties or a history of domestic violence between the parties, the parties are not required to personally meet or contact each other, but the parties or their counsel must take reasonable steps under the circumstances to consult in good faith.

(d) Appearance, Withdrawal, and Substitution of Counsel.

(1) ***Attorney of Record; Duties of Counsel.***

(A) *Appearance Required.* Counsel may appear as attorney of record by filing a document that identifies counsel as the attorney of record for a party. Counsel may not file anything in any action or act on behalf of a party in open court without appearing as attorney of record.

(B) *Duties.* Once counsel has appeared as attorney of record in an action, and except pursuant to Rule 9(e), counsel will continue as attorney of record before and after judgment until:

(i) the time to appeal a final judgment has passed,

(ii) a judgment has become final after appeal, or

(iii) there has been a formal withdrawal or substitution in the case pursuant to Rule 9(d)(2).

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(2) ***Withdrawal and Substitution.***

(A) *Notice of Withdrawal.* When a judgment, decree, or other appealable order has become final, the time for appeal has passed, and there are no matters pending before the court, an attorney may withdraw from further representation by filing a notice of withdrawal. The notice must state that

the attorney will no longer represent the client and include the client's address and telephone number, unless protected. The withdrawing attorney must provide a copy of the notice to the client and all other parties. An order approving the notice of withdrawal is not required.

(B) *Motion to Withdraw as Counsel.* A motion to withdraw as attorney of record must be in writing, state the reasons for the withdrawal, and set forth the client's address and telephone number. Additionally:

(i) If the motion bears the client's written approval, it must be accompanied by a proposed written order and may be presented to the court *ex parte.* The withdrawing attorney must give prompt notice of the entry of such order, together with the client's address and telephone number, unless protected, to all other parties.

(ii) If the motion does not bear the client's written approval, it must be served on the client and all other parties. The motion must be accompanied by a certificate of the moving attorney that the client has been notified in writing of the status of the action, including the dates and times of any court hearings or trial settings, or the client cannot be located or cannot be notified of the motion's pendency and the case status.

(C) *Withdrawal After Trial Setting.* No attorney will be permitted to withdraw as attorney of record after a trial date is set, unless:

(i) the application includes the party's signed statement that the party is aware of the trial date and has made suitable arrangements to be prepared for trial; or

(ii) the attorney seeking withdrawal shows good cause for allowing the attorney to withdraw even though the action has been set for trial.

(D) *Substitution of Counsel.* Counsel may be substituted upon written notice to the court and all parties bearing the written consent of the represented party. The notice must affirm that the substituting attorney is advised of pending court dates and has made suitable arrangements to be prepared. The notice must be accompanied by a form of order approving the substitution.

(E) *Change of Counsel Within the Same Firm or Office.* If there is a change of counsel within the same law firm, an order of substitution or association is not required. Instead, the new attorney must file a notice of substitution or association. The notice must state the names of the attorneys who are the subjects of the substitution or association and the current address and email address of the attorney substituting or associating.

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(e) Limited Scope Representation.

(1) ***Scope.*** In accordance with ER 1.2, Arizona Rules of Professional Conduct, an attorney may undertake a limited scope representation of a person involved in a family court proceeding.

(2) ***Notice.*** An attorney undertaking a limited scope representation may appear by filing and serving a Notice of Limited Scope Representation in a form substantially similar to Rule 97, Form 1.

(3) ***Service.*** Service on an attorney who has undertaken a limited scope representation on behalf of a party will constitute effective service on that party under Rule 43(b) with respect to all matters in the action, but will not extend the attorney's responsibility for representing the party beyond the specific matters, hearings, or issues for which the attorney has appeared.

(4) ***Withdrawal.*** Upon an attorney's completion of the representation specified in the Notice of Limited Scope Representation, the attorney may withdraw from the action as provided in Rule 9(d)(2)(A).

Rule 10. Representation of Children.

(a) Appointment of a Child's Attorney and Best Interests Attorney. The court may appoint one or more of the following on behalf of a minor child:

(1) a best interests attorney; or

(2) a child's attorney.

(b) Grounds. The court may appoint an attorney to represent a child in a family law case under A.R.S. § 25-321 for any reason the court deems appropriate.

(c) Qualifications. The court may appoint a child's attorney or best interests attorney only if the attorney is qualified through training or experience in the type of proceeding in which the appointment is made, as determined by the court. The attorney should be familiar with the American Bar Association Standards of Practice for Lawyers Representing Children in Custody Cases.

(d) Appointment Order. The order appointing an attorney must include:

(1) a clear statement of the reasons for the appointment;

(2) the duration of the appointment;

(3) the attorney's compensation, and an allocation of fees and expenses between the parties;

(4) language authorizing the attorney to have immediate access to the child;

(5) language authorizing the attorney to have immediate access to any privileged or confidential information and records relating to the child;

(6) language requiring a custodian of any of the child's records to provide the appointed attorney with access to those records.

(e) Participation. An attorney appointed under this rule:

(1) must participate in the proceeding to the same extent as an attorney for any party;

(2) may not engage in *ex parte* contact with the court except as authorized by law;

(3) may not be compelled to produce the attorney's work product developed during the appointment;

(4) may not be required to disclose the source of information obtained as a result of the appointment;

(5) may not submit a report into evidence; and

(6) may not testify in court.

(f) Appointments from Juvenile Dependency Rosters. The court may not appoint a best interests attorney or a child's attorney from a state or county-funded juvenile dependency roster unless the court finds that a child may be the victim of child abuse or neglect as defined in A.R.S. § 8-201.

Rule 10.1. Court-Appointed Advisor

(a) Generally. For any reason the court deems appropriate, the court may appoint a qualified individual as a court-appointed advisor.

(b) Qualifications. An individual is qualified if he or she has training or experience in the type of proceeding in which the appointment is made, and meets and complies with A.R.S. § 25-406. The court-appointed advisor should be familiar with the Uniform Law Commission's Uniform Representation of Children in Abuse and Neglect and Custody Proceedings Act.

(c) Appointment Order. The appointment order must include:

(1) a statement of the reasons for the appointment;

(2) the duration of the appointment;

(3) the advisor's compensation, and an allocation of fees and expenses between the parties;

(4) language authorizing the advisor to have immediate access to the child;

(5) language authorizing the advisor to have immediate access to any privileged or confidential information and records relating to the child;

(6) language requiring a custodian of the child's records to provide the appointed advisor with access to those records.

(d) Participation. A court-appointed advisor:

(1) may not engage in *ex parte* contact with the court except as authorized by rule or court order;

(2) may not make opening and closing statements, examine witnesses, or engage in discovery; and

(3) is subject to deposition and may testify at a hearing;

(4) if the advisor is an attorney, may take only those actions that an advisor who is not an attorney may take;

(5) must submit a report under A.R.S. § 25-406, which is admissible, stating the advisor's recommendations regarding the child's best interests and the basis for those recommendations, including consideration of the applicable statutory factors.

(e) Right to Call Advisor as a Witness. A party, including a child's attorney or best interests attorney, may call an advisor as a witness and cross-examine the advisor regarding the advisor's report, even if the party did not list the advisor as a witness.

(f) Appointments from Juvenile Dependency Rosters. The court may not appoint a court-appointed advisor from a state or county-funded juvenile dependency roster unless the court finds that a child may be the victim of child abuse or neglect as defined in A.R.S. § 8-201.

Rule 11. Attendance of Minors.

(a) Exclusion of Minors Generally. The court may exclude any minor child from attending any proceeding if:

(1) the child's attendance is not in the child's best interests, or

(2) the child's attendance might be disruptive or distracting.

(b) Attendance of a Minor Child Affected by the Proceeding. A minor child affected by the proceeding may not attend any proceeding involving the child or the child's parents without the court's prior permission.

Rule 12. Court Interviews of Children.

(a) Generally. On a party's motion or on its own, the court may conduct an ~~*on*~~ *in camera* interview with a minor child who is the subject of a legal decision-making or parenting time dispute to ascertain the child's preferences as to both.

(b) Definition of "Court." As used in this rule, "court" includes any Conciliation Services department, agency, or other third-party professional ordered by the assigned judge to conduct a child interview under A.R.S, § 25-405 or these rules. This definition excludes court-appointed advisors under Rule 10.1 and experts hired by the parties.

(c) Record of the Interview.

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

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

(3) ***Availability to the Parties.*** The parties may stipulate that the court not provide them with a record of the interview. If a party makes a request for recording, the court must make the record available to the parties no later than 14 days before the hearing at which the court will consider the interview, unless the court finds good cause for a different deadline.

(d) Special Precautions.

(1) ***General Conduct of the Interview.*** In conducting an ~~*on*~~ *in camera* interview with a child, the court must take special care to protect the child from embarrassment and must not repeat questions unnecessarily. The court also must take special care to state questions in a form appropriate to the child's age and intellectual capacity.

(2) ***Disclosures.*** The court must inform the child in an age-appropriate manner:

(A) about the process by which the court will make a decision;

(B) about the limitations on the confidentiality of the child's communications with the court;

(C) that information the child provides to the court may be on the record;

(D) that information the child provides to the court will be provided to the parties in the case unless the parties have stipulated otherwise; and

(E) that whatever the child says will be considered but will not alone be determinative of the issues of legal decision-making and parenting time.

(F) *Child's Preference.* In the process of listening to and inviting the child's input, the court must allow, but may not require, the child to state a preference regarding legal decision-making and parenting time.

COMMENT TO THE 2015 AMENDMENT

Generally, the court should not conduct an ~~*on*~~ *in camera* interview of a child under this rule unless it finds that the child is of sufficient age and intellectual capacity to reason and form an intelligent preference as to legal decision-making and parenting time. The court is strongly encouraged to utilize other resources, where available and appropriate, to ascertain that preference. In particular, a court should proceed with caution when interviewing a child in any case in which a party has alleged "domestic violence" as defined in Ariz. Rev. Stat. §§ 13-3601(A) and 25-403.03(D), or "abuse" as defined in Ariz. Rev. Stat. § 8-201.

Rule 13. Public Access to Proceedings and Records.

(a) Generally. Family court proceedings are presumptively open to the public. However, subject to the requirements in section (b), the court may close the courtroom and exclude the public to promote amicable settlement of the issues, to protect the best interests of a minor child, or to protect the parties from physical or emotional harm.

(b) Order to Close the Courtroom. On motion of an interested person or on its own, the court may order the courtroom closed if it finds on the record that:

(1) there is a compelling interest in closure that outweighs the public interest in attending a hearing or other proceeding;

(2) there are no alternatives to closure that will protect the compelling interest; and

(3) the court-ordered closure is no broader than necessary to protect the compelling interest.

(c) Timing. An interested person must file and serve a motion under this rule not later than two days before the applicable hearing or proceeding.

(d) Stipulation to Close the Courtroom. A stipulation to close the courtroom does not alone constitute justification for closure.

(e) Access to Records.

(1) ***General Restrictions.*** The court must maintain and disclose records of family court proceedings in accordance with Rule 123, Rules of the Supreme Court, Rule 7, Arizona Rules of Protective Order Procedure, and Rule 43.1 of these rules.

(2) ***Court's Authority.*** Unless otherwise provided in Rule 123, Rules of the Supreme Court, or Rule 7, Arizona Rules of Protective Order Procedure, the court may find that the confidentiality or privacy interests of the parties, their minor children, or another person outweigh the public interest in disclosure. After making that finding, the court may order that any record of a family court matter be closed or deemed confidential, or may otherwise limit access to those records.

Rule 14. Written Verifications and Unsworn Declarations Under Penalty of Perjury.

(a) Written Verification. A written verification is a sworn statement before a notary public or other officer who is authorized to administer an oath. A verification is required for:

(1) an acceptance ~~or waiver~~ of service under Rule 40(f);

(2) an affidavit submitted in support of an application for a default decree;

(3) a consent decree under Rule 45; or

(4) a stipulation or agreement that substantially changes the terms of a legal decision-making or parenting time order, unless the stipulation is entered in open court or through conciliation services.

(b) Unsworn Declarations Under Penalty of Perjury. Except as provided in section (a), when these rules require a verification, the requirement is satisfied if the declaration is signed by the person and is substantially in the following form:

"I declare under penalty of perjury that the foregoing is true and correct. ~~Dated:~~ Dated: _____ Signature:_____"

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Rule 15. Affirmation Instead of Oath.

When these rules require an oath, a solemn affirmation suffices.

Rule 16. Interpreters.

The court may appoint an interpreter of its choosing and may set the interpreter's reasonable compensation, to be paid as provided by law.

Rule 17. Sealing, Redacting, and Unsealing Court Records.

(a) Request to Seal or Redact Court Records; Service. Any person may request that the court seal or allow the filing of a redacted court record in a case that is subject to these rules by filing a written motion, or the court may on its own seal or allow the filing of a redacted court record. The title of the motion to seal or allow the filing of a redacted court record must disclose that the motion seeks sealing or redaction. The motion must be served on all parties in accordance with the applicable rules of service.

(b) Hearing. The court may conduct a hearing on a motion to seal or allow the filing of a redacted court record.

(c) Grounds to Seal or Redact; Written Findings Required. The court may order the court files and records, or any part thereof, to be sealed or redacted, provided the court enters written findings of fact and conclusions that the specific sealing or redaction is justified. The conclusions must include the following:

(1) there exists ~~a compelling~~ an overriding interest that overcomes the right of public access to the record;

(2) the ~~compelling~~ overriding interest supports sealing or redacting the record;

(3) a substantial probability exists that the ~~compelling~~ overriding interest will be prejudiced if the record is not sealed or redacted;

(4) the proposed sealing or redaction is narrowly tailored; and

(5) no less restrictive means exist to achieve the ~~compelling~~ overriding interest.

(d) Access. Court records that are sealed may be examined by judicial officers. Access by the public to sealed records will be allowed only after entry of a court order in accordance with this rule.

(e) Motion; Service. A sealed court record will be unsealed only upon stipulation of all the parties, on the court's own motion, or on a motion filed by a party or another person. A motion to unseal a court record must be served on all parties to the action in accordance with the applicable rules of service. If the movant cannot locate a party for service after making a good faith effort to do so, the movant may file an affidavit setting forth the efforts to locate the party and requesting that the court waive the service requirements of this rule. The court may waive the service requirement if it finds that further good faith efforts to locate the party are not likely to be successful.

(f) Objection to Unsealing. Any party opposing a motion to unseal must demonstrate why the motion should not be granted. The opposing party must show that ~~compelling~~ overriding circumstances continue to exist or that other grounds provide a sufficient basis for keeping the record sealed.

Rule 18. Preserving a Recording of a Court Proceeding.

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

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

Rule 19. Lost or Destroyed Records.

(a) Motion to Substitute. If a court record is lost or destroyed, any party may file a motion to supply the court with an accurate copy of the record. The motion must identify the lost or destroyed record, be accompanied by an accurate copy of the record, and offer proof that the copy is accurate.

(b) Order and Further Proceedings. If the court finds that the copy is accurate, the court must order the copy substituted for the lost or destroyed record. If the court finds that the copy may not be accurate, it may take further evidence and direct the parties to prepare an accurate copy of the record based on that evidence.

(c) Filing and Effect. If the court enters an order substituting a copy for a lost or destroyed record, the moving party must file the copy with the clerk. Upon filing, the copy will constitute a part of the record in the action and will have the force and effect of the original record.

Rule 20. Form of Documents.

(a) Caption. The first page of every document filed with the court must contain a caption. A caption details the county, state, parties, and title of the document. Fictitious names are allowed if a party's name is unknown. When the party's true name is discovered, the pleading must be amended accordingly.

(b) Document Format.

(1) ***Generally.*** Unless the court orders otherwise, all filed documents—other than a document submitted as an exhibit or attachment to a filing—must be prepared as follows:

(2) ***Text and Background.*** The text of every document must be black on a plain white background. All documents filed must be single-sided.

(3) ***Type Size and Font.*** Every typed document must use at least a 13-point type size. The court prefers proportionally spaced serif fonts, such as Times New Roman, Bookman, Century, Garamond, or Book Antiqua, and discourages monospaced or sans serif fonts such as Arial, Helvetica, Courier, or Calibri. Footnotes must be in at least a 13-point type size and must not appear in the space required for the bottom margin.

(4) ***Page Size.*** Each page of a document must be 8 ½ by 11 inches.

(5) ***Margins and Page Numbers.*** Margins must be set as follows: a margin at the top of the first page of not less than 2 inches; a margin at the top of each subsequent page of not less than 1-1/2 inches; a left-hand margin of not less than 1 inch; a right-hand margin of not less than 1/2 inch; and a margin at the bottom of each page of not less than 1/2 inch. Except for the first page, the bottom margin must include a page number.

(6) ***Handwritten Documents.*** Handwritten documents must be legible.

(7) ***Line Spacing.*** Typed text must be double-spaced.

(8) ***Originals***. Unless filing electronically or when including attachments, only originals may be filed.

(9) ***Court Forms***. Printed court forms may deviate from the requirements of this rule, but they must be single-sided. Forms provided by the superior court or the Supreme Court meet the requirements of this rule.

(c) Electronically Filed Documents.

(1) ***Format.***

(A) *File Type.* A document filed electronically that contains text, other than a scanned document image that is submitted under this rule, must be in a text-searchable .pdf, .odt, or .docx format, or other format permitted by Administrative Order. A text-searchable .pdf format is preferred. A proposed order must be in a format that permits it to be modified, such as .odt or .docx or other format permitted by Administrative Order, and must not be password protected.

(B) *File Size.* A document may not exceed the file size limits allowed by the court's electronic filing portal, but it may be broken up into multiple files to accommodate such a limit.

(2) ***Format of Attachments.***

(A) *Generally.* An attachment to an electronically filed document also may be filed electronically if it is attached to the same submission as either a scanned image or an electronic copy using an approved file type and format.

(B) *Official Records.* A scanned copy of an official record of a court or government body may be filed electronically if it contains the court's or body's official seal of authority or its equivalent.

(C) *Notarized Documents.* A scanned copy of a notarized document may be filed electronically if it contains the notary's signature and stamp or seal.

(D) *Certified Mail, Return Receipt Card.* When establishing proof of service by a form of mail that requires a signed and returned receipt, the return receipt may be filed electronically if both sides of the return receipt card are scanned and filed.

(E) *National Courier Service.* When establishing proof of service by a national courier service, the receipt for such service may be filed electronically by scanning and filing the receipt.

(3) ***Bookmarks and Hyperlinks.***

(A) *Bookmarks.* A bookmark is a linked reference to another page within the same document. An electronically filed document may include bookmarks. A document that is incapable of bookmarking may be made accessible by a hyperlink. The use of bookmarks is encouraged.

(B) *Hyperlinks.* A hyperlink is an electronic link in a document to another document or to a website. An electronically filed document may include hyperlinks. Material that is not in the official court record does not become part of the official record merely because it is made accessible by a hyperlink. The use of hyperlinks is encouraged.

(C) *Originals.* An electronically filed document (or a scanned copy of a document filed in hard copy) constitutes an "original" under Arizona Rule of Evidence 1002.

Rule 21. Improper Venue.

(a) Transfer on Court's Motion. When a family law action has been commenced in an improper county in violation of A.R.S. § 12-401, A.R.S. § 25-502, or A.R.S. § 25-802, the court, on a finding that venue is improper, may on its own motion transfer the case to a county where venue is proper, so long as such transfer occurs no later than 30 days after a Resolution Management Conference has been scheduled pursuant to Rule 76. Before ordering a transfer of the case under this rule, the court must provide the parties notice of its intent to transfer the case and allow the parties 10 days to file objections to the proposed transfer.

(b) Fees. If a change of venue is ordered under this rule, the petitioner must pay the transmittal fee under A.R.S. § 12-284 to the clerk of the court transferring the case no later than 20 days after the order directing the change. No later than 30 days after the clerk of the receiving court receives the file, the petitioner must pay that clerk the initial case filing fee. If the petitioner fails to timely pay either the transferring court's transmittal fee or the receiving court's filing fee, the court that ordered the change must dismiss the case without prejudice. The court ordering the transfer of venue may order the clerk of that court to refund the petitioner's original filing fee.

Rule 22. Conduct of Proceedings.

(a) Time Limits. The court may impose reasonable time limits appropriate to the proceedings. A party may request additional time.

(b) Decorum. All participants must conduct themselves in an orderly, courteous, and dignified manner. Parties must address their arguments and remarks to the court and not to the other parties or their counsel.

(c) Examining a Witness. Unless allowed by the court, only one attorney for each party may examine a witness.

Part II. Pleadings and Motions.

Rule 23. Pleadings: Petition and Response.

(a) Petition. A "petition" is the initial pleading that begins a family law case or a post-decree matter, as described in this rule. A party begins an action by filing a verified petition seeking:

(1) annulment (A.R.S. § 25-301);

(2) dissolution of a marriage (A.R.S. § 25-312);

(3) legal separation (A.R.S. § 25-313);

(4) dissolution of a covenant marriage (A.R.S. § 25-903);

(5) legal separation in a covenant marriage (A.R.S. § 25-904);

(6) establishment of paternity or maternity (A.R.S. § 25-806);

(7) third party rights (A.R.S. § 25-409);

(8) to establish, enforce, register, or modify legal decision-making or parenting time (A.R.S. §§ 25-403, -411, -803(C), and -1031 et seq.);

(9) to establish, enforce, register or modify support (A.R.S. §§ 25-320, -503, -1201 et seq.); or

(10) relief otherwise authorized by statute.

(b) Notice of Filing a Foreign Judgment.

(1) A party may file a foreign judgment or decree pertaining to the disposition of marital property or debt under A.R.S. §§ 12-1701 to 1708.

(2) A party may begin an action for disposition of property (A.R.S. § 25-318(A)) or maintenance (A.R.S. § 25- 319(A)) under a foreign court's decree by filing the foreign judgment under A.R.S. §§ 12-1701 to 1708. Once the party has filed the foreign judgment, the party may file a petition for an order to appear specifying the relief sought.

(c) Voluntary Acknowledgment of Paternity. A party seeking to voluntarily acknowledge paternity may file any of the documents listed in A.R.S. § 25-812.

(d) Appearance of Parties and Child; Warrant to Take Physical Custody of a Child. A party may request a court order under A.R.S. §§ 25-1040 for the appearance of parties and children, or may request the court under A.R.S. § 25-1061 to issue a warrant to take physical custody of a child.

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(e) Response. A response is a document that substantially answers a petition.

(1) ***Required Response.*** A party who is served with a petition described in subparts (a)(1through 6) must file a response. If a party does not file a response, the petitioner has the right to request a default and obtain a default judgment against that party.

(2) ***Permissive Response.*** A party who is served with a petition described in subparts (a)(7 through 10), (b), (c), or (d) may file a response.

Rule 24. Contents of Pleadings.

(a) Petition. A petition must contain:

(1) a simple statement of the grounds for the court's jurisdiction, unless the court already has exercised its jurisdiction and the claim needs no new jurisdictional proof to support it;

(2) a simple statement of a claim that shows the petitioner is entitled to relief; and

(3) a demand for the relief sought, which may include relief in the alternative or of different types of relief.

(b) Response.

(1) ***Generally.*** In responding to a pleading, a party must:

(A) state in simple terms its defenses to each claim asserted against the party; and

(B) admit or deny the allegations asserted against the party by an opposing party.

(2) ***Denials—Responding to the Substance.*** A denial must respond to the substance of the allegation. It also must include any statement of fact on which the party relies that differs from the opposing party's allegations.

(3) ***Denying Part of an Allegation.*** Any party who intends in good faith to deny only part of an allegation must admit the part that is true and deny the rest.

(4) ***Lacking Knowledge or Information.*** A party who lacks knowledge or information sufficient to form a belief about the truth of an allegation must so state, and the statement has the effect of a denial.

(5) ***Asserting Claims.*** The response may include claims for relief.

(6) ***Effect of a Response.*** Except as provided in Rule 32(f), the filing of a response has the effect of placing at issue any matter in the petition not specifically admitted.

(c) Alternative Statements; Inconsistency. A party may set out two or more statements of a claim or defense hypothetically or alternatively. If a party makes alternative statements, the pleading is sufficient if any one of them is sufficient. A party may state as many separate claims or defenses as the party has, regardless of consistency.

(d) Construing Pleadings. Pleadings must be construed so as to do substantial justice.

Rule 25. Additional Filings.

(a) Petition for Annulment, Dissolution of Marriage, or Legal Separation. When filing a petition for annulment, dissolution of marriage, or legal separation, the petitioner must present to the clerk a preliminary injunction for issuance under A.R.S. § 25-315(A) and a summons. The clerk will issue the preliminary injunction and the summons, and return them to the petitioner for service.

(b) Petition for Legal Decision-Making or Parenting Time, Paternity, or Maternity. When filing a petition for legal decision-making or parenting time, or for paternity or maternity, the petitioner must present to the clerk a summons that the clerk will issue and return to the petitioner for service. When filing a petition to establish legal decision-making or parenting time for a child whose paternity has been established, the party must present to the clerk for issuance a preliminary injunction for service, pursuant to A.R.S. § 25-808.

(c) Notices, Forms and Orders. In addition to the documents described in sections (a) and (b), the petitioner must present to the clerk for issuance all notices, forms, and orders required by statutes, these rules, local rules, or administrative orders, which the clerk will issue and return to petitioner for service.

(d) Family Law Cover Sheet. A family law cover sheet must be presented as required by administrative order or local rule.

(e) Order to Appear. When filing any action other than those listed in sections (a) and (b), the petitioner must give the court two copies of an order to appear. The court will use the order to appear to schedule a hearing on the petition and will return a copy to the petitioner for service.

Rule 26. Signing Pleadings, Motions, and Other Documents; Representations to the Court; Sanctions.

(a) Signature.

(1) ***Generally.*** Every pleading, written motion, and other document filed with the court or served must be signed by at least one attorney of record in the attorney's name, or by a party personally if the party is unrepresented. The court must strike an unsigned document unless the omission is promptly corrected after being called to the filer's attention.

(2) ***Electronic Filings.*** A person may sign an electronically filed document by placing the symbol "/s/" on the signature line above the person's name. An electronic signature has the same force and effect as a signature on a document that is not filed electronically. The court may treat a document that was filed using a person's electronic filing registration information as a filing that was made or authorized by that person.

(3) ***Signing for Another Party.*** A person filing a document containing more than one place for a signature, such as a stipulation, may sign on behalf of another party only if the person has actual authority to do so. The person may indicate such authority either by attaching a document confirming that authority and containing the signatures of the other persons who have authority to consent for such parties, or, after obtaining a party's consent, by inserting "/s/ [the other party's or person's name] with permission" as any non-filing party's signature.

(b) Representations to the Court. By signing a pleading, motion, or other document, the attorney or party certifies that to the best of the person's knowledge, information, and belief formed after reasonable inquiry:

(1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law or for establishing new law;

(3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

(c) Sanctions.

(1) ***Generally.*** If a pleading, motion, or other document is signed in violation of this rule, the court—on motion or on its own—may impose on the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the document, including a reasonable attorney's fee.

(2) ***Consultation.*** Before filing a motion for sanctions under this rule, the moving party must:

(A) attempt to resolve the matter by good faith consultation as provided in Rule 9(c); and

(B) if the matter is not satisfactorily resolved by consultation, provide the opposing party with written notice of the specific conduct that allegedly violates section (b). If the opposing party does not withdraw or appropriately correct the alleged violation(s) within 10 days after the written notice is served, the moving party may file a motion under subpart (c)(3).

(3) **Motion for Sanctions.** A motion for sanctions under this rule must:

(A) be made separately from any other motion;

(B) describe the specific conduct that allegedly violates section (b);

(C) be accompanied by a Rule 9(c) good faith consultation certificate; and

(D) attach a copy of the written notice provided to the opposing party under subpart (c)(2)(B).

Rule 27. Service of the Petition.

(a) Annulment, Dissolution of Marriage, or Legal Separation. In an action for annulment, dissolution, or legal separation, the petitioner must serve on the opposing party a copy of the petition, the summons, the preliminary injunction, and any notice, form and order required under Rule 25(c).

(b) Legal Decision-Making or Parenting Time by a Parent, Paternity, or Maternity. In an action for legal decision-making or parenting time by a parent, paternity, or maternity, the petitioner must serve on each party entitled to service a copy of the petition, summons, and any preliminary injunction, notice, form and order required under Rule 25(c).

(c) Order to Appear and Petition. In all actions other than those listed in sections (a) and (b), the petitioner must serve on each party entitled to service a copy of the petition, order to appear, and any notice, form and order required under Rule 25(c). Petitioner must complete service not later than 20 days before the scheduled hearing, or not later than 10 days before the scheduled hearing if the only issue is child support, unless the court orders otherwise.

(d) Manner of Service. Service must be made under Rule 40 or Rule 41.

Rule 28. Amended and Supplemental Pleadings.

(a) Amendments Before Trial.

(1) ***Amending as a Matter of Course.*** A party may amend its pleading once as a matter of course

(A) at any time before a responsive pleading is served, or

(B) if the pleading is one to which no responsive pleading is required and no hearing has been set, the party may amend it at any time within 20 days after it was served.

(C) Otherwise, a party may amend the party's pleading only by leave of court or by written consent of the adverse party. Leave to amend will be freely given when justice requires.

(2) ***Proposed Pleading as an Exhibit.*** A party moving for leave to amend a pleading must attach a copy of the proposed amended pleading as an exhibit to the motion. The exhibit must show how the proposed pleading differs from the existing pleading by bracketing or striking through the text to be deleted and underlining the text to be added.

(3) ***Filing and Response.*** If a motion for leave to amend is granted, the moving party must file and serve the amended pleading within 10 days after the entry of the order granting the motion, unless the court orders otherwise. An opposing party must respond to an amended pleading, if a response is required, within the time remaining for response to the original pleading or within 10 days after the amended pleading is served, whichever is later, unless the court orders otherwise.

(b) Amendments During and After Trial.

(1) ***Based on an Objection at Trial.*** If, at trial, a party objects that evidence is not within the issues raised in the pleadings, the court may permit the pleadings to be amended. The court may grant a continuance to enable the objecting party to respond to the evidence.

(2) ***For Issues Tried by Consent.*** When an issue not raised by the pleadings is introduced at trial by the parties' express or implied consent, it must be treated in all respects as if it had been raised in the pleadings. A party may request, at any time, to amend the pleadings to conform to the evidence. Failure to amend does not affect the result of the trial of that issue.

(c) Relation Back of Amendments. An amendment relates back to the date of the original pleading if the amendment asserts a claim or defense that arose out of the

conduct, transaction, or occurrence set forth, or attempted to be set forth, in the original pleading.

(d) Supplemental Pleadings. On motion and reasonable notice, the court may permit a party to file a supplemental pleading setting forth any transaction, occurrence, or event that happened after the date of the pleading to be supplemented. A court may permit supplementation even though the original pleading is defective in stating a claim for relief or defense. The court may order the opposing party to answer or otherwise respond to the supplemental pleading within a specified time.

Rule 29. Defenses and Objections: Motion for Judgment on the Pleadings; Joining Motions; Waiving Defenses; Pretrial Hearing.

(a) Time to File and Serve a Responsive Pleading.

(1) ***Generally.*** Unless another time is specified by rule or statute, the time for filing and serving a responsive pleading is as follows:

(A) A respondent or third-party defendant must file and serve a response or other responsive pleading:

(i) within 20 days after being served with the summons and complaint, except as otherwise provided in Rule ~~42~~ 41; or

(ii) if the respondent or third-party defendant has timely waived service under Rule 40(f), within 60 days after the request for a waiver was sent, or within 90 days after it was sent to the defendant or third-party defendant outside any judicial district of the United States.

(B) A party must file and serve an answer or other pleading responsive to a counterclaim within 20 days after being served with the pleading that states the counterclaim.

(C) A party must file and serve a reply to an answer within 20 days after being served with an order to reply, unless the order specifies a different time.

(2) ***Effect of a Motion.*** Unless the court sets a different time, filing and serving a motion under this rule alters these periods as follows:

(A) if the court denies the motion or postpones its disposition until trial, the responsive pleading must be filed and served within 10 days after notice of the court's action; or

(B) if the court grants a motion for a more definite statement, the responsive pleading must be filed and served within 10 days after the more definite statement is served.

(b) Certain Defenses. Every defense to a claim for relief in any pleading must be asserted in the responsive pleading if one is required. But a party may assert the following defenses by motion:

(1) lack of subject-matter jurisdiction;

(2) lack of personal jurisdiction;

(3) improper venue;

(4) insufficient process;

(5) insufficient service of process; and

(6) failure to state a claim upon which relief can be granted.

(c) Time to Assert Certain Defenses. A motion asserting any of these defenses must be made before filing a responsive pleading, if one is required. However, a motion for lack of subject matter jurisdiction may be made at any time. If a pleading sets out a claim for relief that does not require a responsive pleading, an opposing party may assert at trial any defense to that claim.

(d) Motion for Judgment on the Pleadings. A party may move for judgment on the pleadings within such time so as not to delay trial.

(e) Result of Presenting Matters Outside the Pleadings. If, on a motion under subpart (b)(6) or section (d), matters outside the pleadings are presented to, and not excluded by, the court, the motion must be treated as one for summary judgment under Rule 79. All parties must be given a reasonable opportunity to present all the material that is pertinent to the motion.

(f) Motion to Strike. Subject to the limits of Arizona Rule of Civil Procedure 7.1(f), the court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. The court may act:

(1) on its own; or

(2) on motion made by a party either before responding to the pleading or, if a response is not allowed, within 20 days after the pleading is served.

(g) Waiving and Preserving Certain Defenses.

(1) ***Waiver of Certain Defenses.*** A party waives any defense listed in subparts (b)(2) through (5) by failing to either:

(A) make it by motion under this rule; or

(B) include it in a responsive pleading or in an amendment to a pleading.

(2) ***How to Preserve Other Defenses.*** Failure to state a claim upon which relief can be granted, to join a person required by Rule 33(c), or to state a legal defense to a claim may be raised:

(A) in any pleading allowed or ordered under Rule 24;

(B) by a motion under section (d); or

(C) at trial.

(h) Hearings on Rule 29 Motions. If a party requests, any defense listed in Rule 29(b)(1) through (6)—whether made in a pleading or by motion—and a motion under Rule 29(d) must be heard and decided before trial unless the court orders a deferral until trial.

Rule 30. [Reserved].

Rule 31. [Reserved].

Rule 32. [Reserved].

Rule 33. Third-Party Rights and Other Claims in an Existing Action.

(a) Third-Party Rights. A person other than a legal parent may petition to intervene in an existing action pursuant to A.R.S. § 25-409.

(b) Intervention by the State. The state may intervene in an existing action pursuant to A.R.S. § 25-509.

(c) Other Parties or Claims. Any other request to assert a counterclaim, a third-party claim, or for joinder of parties, interpleader, or intervention, must be made according to the procedures provided by Rules 13, 14, 18, 19, 20, 21, 22, and 24 of the Arizona Rules of Civil Procedure.

Rule 34. [Reserved].

Rule 35. Family Law Motion Practice.

(a) Requirements.

(1) ***Generally.*** A party must request a court order in a pending action by motion, unless otherwise provided by these rules.

(2) ***Contents.*** Motions must state with particularity the grounds for granting the motion and the relief or order sought. Unless the court orders otherwise, a motion must not exceed 17 pages, not including attachments.

(3) ***Response and Reply.*** Except where otherwise provided in these rules, a response must be filed within 10 days after service of the motion. A reply must be filed by the moving party within 5 days after service of the response. The reply may address only those matters raised in the response. Unless otherwise ordered, a response may not exceed 17 pages, and a reply may not exceed 11 pages, not including attachments. A party may not respond to a reply unless authorized by the court.

(4) ***Affidavits and Other Evidence.*** Except where otherwise provided in these rules or ordered by the court, affidavits and other evidence submitted in support of any motion, response, or reply must be filed at the same time.

(5) ***Motions in Open Court.*** The court may waive any of the requirements of this rule when considering motions made in open court.

(6) ***Service.*** The date and manner of service of every motion, response, and reply must be noted on each document. If the manner of service is not noted, it is presumed that the filing was served by mail, and the provisions of Rule 4(d) will apply.

(b) Effect of Noncompliance or Waiver. The court may summarily grant or deny a motion if:

(1) a motion or response does not substantially comply with section (a);

(2) no response is filed; or

(3) a party fails to appear, personally or through counsel, at the time and place designated for oral argument.

(c) Oral Argument. Any party may request or the court may order oral argument on any motion. The court may limit the length of oral argument. The court also may decide motions without oral argument, even if requested.

Commented [MKH4]: New Trial rule permits parties to file the motion and then supplement with points and authorities later.

Commented [MKH5]: Check Rule 43 – Does Rule 43 also require the precise manner of service to be noted? Compare these 2 rules.

(d) Agreements to Extend Time for Filing.

(1) ***Generally.*** Subject to the approval of the court, parties may agree to extend the dates that the response and reply are due.

(2) ***Notice Procedure.*** Parties who have agreed to extend due dates may file a notice stating the agreed briefing schedule. The notice must identify within its title the number of extensions agreed upon by the parties with respect to that filing (e.g., "Notice of First Agreed Extension of Time to File . . .").

(3) ***Limitation.*** An extension of time will not be effective without prior court approval if briefing is concluded fewer than 5 days before a hearing or oral argument previously set, or if the notice of the extension purports to extend the time to file for which the due date has passed.

(4) ***Effective Date.*** An agreed extension is effective upon the proper filing of a notice of extension, unless the court enters an order disapproving the extension.

Part III. Parties.

Rule 36. Real Party in Interest.

(a) Generally. An action must be brought in the name of the real party in interest.

(b) Minor or an Incompetent Person. A guardian, conservator, child's attorney, or similar fiduciary may bring or defend an action, or otherwise act on behalf of, a minor or an incompetent person.

(c) Compensation. The court may allocate between the parties the fees and expenses of the minor or incompetent person's representative under (b) as the court deems appropriate.

(d) Action in the Name of the State for Another's Use. When a state statute so provides, an action for another's use or benefit must be brought in the name of the State of Arizona.

Rule 37. Substitution of Parties: Death, Incompetency, and Transfer of Interest.

(a) Death.

(1) If a party dies while a petition for dissolution, legal separation, or annulment is pending, the action abates and the court will dismiss the case.

(2) If a party dies while a petition for paternity or maternity is pending, the action does not necessarily abate, in accordance with A.R.S.§ 25-805.

(b) Incompetency. If a party becomes incompetent, the court may—on motion or on stipulation of the parties and the incompetent party's representative—permit the action to be continued by or against the party's representative. Anyone filing such a motion must serve the motion on the parties as provided in Rule 43 and on the incompetent party's representative in the same manner that a summons and pleading are served under Rule 40 or 41 ~~or 42~~, as applicable.

(c) Transfer of Interest. If a party's interest in property is transferred, the action may be continued by or against that party, unless the court—on motion or on stipulation of the parties and the transferee—orders the transferee to be substituted in the action or joined with the original party. Anyone filing such a motion must serve the motion on the parties as provided in Rule 43 and on the transferee—if a nonparty—in the same manner that a summons and pleading are served under Rules 40 or 41 ~~or 42~~, as applicable.

Rule 38. [Reserved].

Part IV. Service.

Rule 39. Meaning of Service.

(a) General Rule. When filing a document with the court, a party must provide every other party with an exact copy of the filed document. The method by which that document must be provided depends on the type of document filed, as follows:

(1) ***Service of a Summons and Petition.*** The petitioner must serve a summons and petition (or an order to appear and a petition) on the respondent as required by Rules 40 and 41.

(2) ***Service of Documents Filed in the Course of the Case.*** Documents filed with the court after service of the summons and petition must be provided by the filing party to the other party as stated in Rule 43.

(3) ***Service of Contempt Petitions.*** Contempt petitions must be personally served by a person authorized to serve process on the individual named in the contempt petition.

(b) Acceptance of Service. A party may accept service under subparts (a)(1) or (a)(3) as provided in Rule 40(f).

Rule 40. Summons.

(a) Issuance; Service.

(1) ***When Required.*** Pleadings that require a summons are petitions for dissolution, legal separation, annulment, paternity or maternity, or to establish legal decision-making or parenting time by a parent.

(2) ***Issuance.*** The party filing one of the pleadings described in subpart (a)(1) must present a summons to the clerk for signature and seal. If the summons is properly completed, the clerk must sign, seal, and issue it to the filing party for service. A summons, or a copy of the summons if addressed to multiple parties, must be issued for each party to be served.

(3) ***Service.*** A summons must be served with a copy of the pleading. Service must be completed as required by this rule or Rule 41, as applicable.

(b) Contents.

(1) ***What a Summons Must Include.*** A summons must:

(A) name the court and the parties;

(B) be directed to the party to be served;

(C) state the name and address of the attorney of the party serving the summons or, if unrepresented, the party's name and address;

(D) state the time within which the respondent must appear and respond;

(E) notify the party to be served that a failure to appear and respond will result in a default judgment against that party for the relief demanded in the pleading;

(F) state that "requests for reasonable accommodation for persons with disabilities must be made to the court by parties at least 3 working days in advance of a scheduled court proceeding";

(G) be signed by the clerk; and

(H) bear the court's seal.

(2) ***Actions for Annulment, Dissolution of Marriage, or Legal Separation.*** A summons in an action for annulment, dissolution, or legal separation filed in a county with an established conciliation court must also contain a statement that either spouse may file a petition that requests the conciliation court's assistance in preserving the marriage or resolving marital controversies.

(c) Replacement Summons. If a summons is returned without being served, or if it has been lost, a party may present a replacement summons for the clerk to issue in the same form as the original. A replacement summons must be issued and served within the time prescribed by Rule 40(i) for service of the original summons.

(d) Who May Serve a Summons.

(1) ***Generally.*** Service of a summons must be made by a sheriff, a sheriff's deputy, a constable, a constable's deputy, a private process server certified under the Arizona Code of Judicial Administration § 7-204, or any other person specially appointed by the court. Service of a summons may also be made by a party or that party's attorney as expressly authorized under Rule 41.

(2) ***Special Appointment.***

(A) *Qualifications.* A specially appointed person must be at least 21 years of age and must not be a party, an attorney, or an employee of an attorney in the action in which process is to be served.

(B) *Procedure for Appointment.* A party may request a special appointment to serve process by filing a motion with the presiding superior court judge in the county where the action is pending. The motion must be accompanied by a proposed order. If the proposed order is signed, no minute entry will issue. Special appointments should be granted freely, are valid only for the cause specified in the motion, and do not constitute an appointment as a certified private process server.

(e) Service of Summons in Title IV-D Cases. If certified under Rule 40(d), a Field Locate Investigator employed by the Department of Economic Security may complete service in the manner set forth in Rule 41(c) in any action initiated by the State for the determination of paternity, or for the establishment, modification, or enforcement of an order of support.

(f) Accepting Service; Voluntary Appearance. A party may accept service. A party also may voluntarily appear without being served.

(1) ***Accepting Service.*** A party subject to service under this rule, Rule 41, or Rule 91 may accept service. The acceptance of service must be in writing, signed by that party or that party's authorized agent or attorney and be filed in the action. A party who accepts service must serve a responsive pleading within the time provided in Rule 32(a)(1).

(A) The petitioner must include with the documents provided to the respondent a form for acceptance of service. The form must list the documents that are provided with the acceptance.

(B) Petitioner must mail, including a self-addressed stamped envelope, or deliver the petition and other documents to the respondent. If the respondent agrees to sign an acceptance of service, the acceptance must be signed before a clerk of the court or a notary.

(C) The respondent may file the acceptance of service with the court or return it to the petitioner, who must file the acceptance with the clerk to complete service.

(D) The respondent's signature is not an admission of the allegations of the petition.

(2) ***Voluntary Appearance.***

(A) *In Open Court.* A party on whom service is required may, in person or by an attorney, enter an appearance in open court. The appearance must be noted by the clerk on the docket and entered in the minutes.

(B) *By Responsive Pleading.* The filing of a pleading responsive to a pleading allowed under Rule 24 constitutes an appearance by the party.

(3) ***Effect.*** Acceptance or appearance under subparts (f)(1) or (f)(2) have the same force and effect as if a summons had been issued and served.

(g) Proof of Service.

(1) ***Timing.*** If service is not accepted, and no voluntary appearance is made, then the person effecting service must file proof that the party was served. Proof of service should be made by no later than when the served party must respond to the summons and petition.

(2) ***Service by the Sheriff.*** If a summons is served by a sheriff or deputy sheriff, the return must be officially marked on or attached to the proof of service and promptly filed with the court.

(3) ***Service by Others.*** If served by a person other than a sheriff or deputy sheriff, the return must be promptly filed with the court and be accompanied by an affidavit establishing proof of service. If the server is a registered private process server, the affidavit must clearly identify the county in which the server is registered.

(4) ***Service by Mail or National Courier Service***. Proof of service by mail or by national courier service must be filed as provided in Rule 41(d).

(5) ***Service by Publication.*** If the summons is served by publication, the return of the person making such service must be made as provided in Rules 41(X) and 42(X).

(6) ***Service Outside the United States.*** Service outside the United States must be proved under Rule 41(h) as provided in the applicable treaty or convention; or by a receipt signed by the addressee, or other evidence satisfying the court that the summons and complaint were delivered to the addressee.

(7) ***Validity of Service***. Failure to file proof of service does not affect the validity of service.

(h) Amending Process or Proof of Service. The court may permit process or proof of service to be amended.

(i) Time Limit for Service. If a respondent is not served with process within 120 days after the petition is filed, the court—on motion, or on its own after notice to the petitioner—must dismiss the action without prejudice against that respondent or order that service be made within a specified time. But if the petitioner shows good cause for the failure, the court must extend the time for service for an appropriate period. Rule 40(i) does not apply to service in a foreign country under Rules 41(h), or to the service of a paternity action described in section (j).

(j) Time Limit for Service in Paternity Actions Involving Adoption. A potential father who has been served with notice of a planned adoption under A.R.S. § 8-106(G) must file with the court and serve on the mother—or an attorney or agency that is licensed in Arizona and is representing the mother—a copy of the verified petition to establish paternity and summons no later than 30 days after the notice of the planned adoption is served. The court must dismiss any proceeding that is barred under A.R.S. § 8-106(J).

Rule 41. Service Within and Outside Arizona.

(a) Generally.

(1) ***Scope.*** This rule governs service of a summons, an order to appear, a pleading, and additional filings required under Rule 26 or Rule 91.

(2) ***Jurisdiction.*** An Arizona court may exercise personal jurisdiction over parties, whether found within or outside Arizona, to the maximum extent permitted by the United States and Arizona Constitutions.

(3) ***In State.*** A summons or order to appear may be served anywhere within Arizona.

(4) ***Out of State.*** A party may serve a summons or order to appear on any person located outside Arizona as provided in this rule, and proper service has the same effect as if personal service was accomplished within Arizona.

(5) ***Authority to Serve a Summons.*** Except as otherwise provided in this rule, a person who serves a summons in Arizona must be authorized to do so under Rule 40(d), and a person who serves a summons outside Arizona but within the United States must be authorized to serve process under the law of the state where service is made.

(b) Serving a Summons and Pleadings. The summons, together with the other documents being served, must be served together within the time allowed under Rule 40(i). The serving party must furnish the necessary copies to the person who makes service.

(c) Serving an Individual. Unless Rule 41(e) or (f) applies, an individual may be served by:

(1) delivering a copy of the summons and the pleading being served to that individual personally;

(2) leaving a copy of each at that individual's dwelling or usual place of abode with someone of suitable age and discretion who resides there; or

(3) delivering a copy of each to an agent authorized by appointment or by law to receive service.

(d) Service by Mail or National Courier Service.

(1) ***Generally.*** If a serving party knows the address of the person to be served and the address is within Arizona or another judicial district of the United States, the party may serve the person by mailing the summons and copies of the pleading

and other documents being served to the person at that address by any form of postage-prepaid mail, including a national courier service, which requests restricted delivery to the person and requires a receipt signed by the addressee.

(2) ***Affidavit of Service.*** When the post office or national courier service returns the signed receipt, the serving party must file an affidavit stating:

(A) the person being served is known to be located inside Arizona or outside Arizona but within a judicial district of the United States,

(B) the serving party mailed the summons and a copy of the pleading or other request for relief to the person as described in Rule 41(d)(1);

(C) the serving party received a signed return receipt, which is attached to the affidavit and that confirms the designated person received the described documents; and

(D) the date of receipt by the person being served.

(3) ***Incarcerated Person.*** If the person being served is incarcerated, the affidavit must also include a statement that the serving party sent a copy of the documents to the person by first class mail.

(e) Serving a Minor. A minor under the age of 16 years may be served by delivering a copy of the summons and the pleading being served to the minor in the manner set forth in Rule 41(c) for serving an individual and delivering a copy of each in the same manner:

(1) to the minor's parent or guardian, if any of them reside or may be found within Arizona; or

(2) if none of them resides or is found within Arizona, to any adult having the care and control of the minor, or any person of suitable age and discretion with whom the minor resides.

(f) Serving a Person Who Has a Court-Appointed Guardian or Conservator. If a person has a court-appointed guardian or conservator, the guardian or conservator must also be served as required by Rule 41(c) for serving an individual, separately from serving the person.

(g) Serving an Incarcerated Person. A person who is incarcerated in a jail or prison within Arizona or outside Arizona but within a judicial district of the United States may be served by mail or national courier service as provided by Rule 41(d), with the return or confirmation of service completed by an official of the jail, prison or correctional facility. The signature of an official of the jail, prison or correctional

facility on the return receipt or signature confirmation is sufficient proof of service on the person being served, as of the date of the signature. In addition, the petitioner must send copies of the documents being served to the inmate by first class mail.

(h) Serving an Individual in a Foreign Country. Unless federal law provides otherwise, an individual may be served at a place not within any judicial district of the United States:

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

(2) if there is no internationally agreed means, or if an international agreement allows but does not specify other means, by a method that is reasonably calculated to give notice:

(A) as set forth by the foreign country's law for service in that country in an action in its courts of general jurisdiction;

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

(C) unless prohibited by the foreign country's law, by:

(i) delivering a copy of the summons and of the pleading being served to the individual personally; or

(ii) using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt; or

(D) by other means not prohibited by international agreement, as the court orders.

(3) A minor or incompetent person in a foreign country may be served as provided by subparts (h)(2)(A) or (B), or as the court directs.

(i) Serving a Governmental Entity.

(1) ***Generally.*** A governmental entity having the legal capacity to be sued may be served by delivering a copy of the summons and the pleading:

(A) for service on the State of Arizona, to the Attorney General or any person designated by the Attorney General;

(B) for service on a county, to the Board of Supervisors clerk for that county;

(C) for service on a municipal corporation, to the clerk of that municipal corporation;

(D) for service on any other governmental entity:

(i) to the individual designated by the entity, as required by statute, to receive service of process; or

(ii) if the entity has not designated a person to receive service of process, then to the entity's chief executive officer(s), or, alternatively, its official secretary, clerk, or recording officer.

(2) ***Alternative Procedure for Serving the State in a Title IV-D Case.***

(A) *Generally.* If a county authorizes electronic service on the State of Arizona in a Title IV-D case, a party may serve the State of Arizona by the following the procedure.

(B) *Procedure.* A party seeking to serve the State must file the documents to be served and a written Notice of State Interest that:

(i) requests electronic service of the documents on the State under this rule and the administrative order authorizing electronic service;

(ii) separately lists the title or description of each document to be served; and

(iii) indicates the State has or may have a right be served with the documents.

(C) *Clerk's Duties:* On receipt, the clerk must promptly file, scan (if necessary), and electronically transmit copies of the documents and the Notice of State Interest to the State designated electronic address.

(D) *Effective Date of Service.* Service is complete when the clerk files a Proof of Service by Electronical Transmittal verifying that the documents and Notice of State Interest were transmitted and received by the State.

(j) Serving a Corporation, Partnership, or Other Unincorporated Association. If a domestic or foreign corporation, partnership, or other unincorporated association has the legal capacity to be sued it may be served by delivering a copy of the summons and the pleading to a partner, an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service, and if required by statute, by also mailing a copy to the party.

(k) Serving a Domestic Corporation if an Authorized Officer or Agent Is Not Found Within Arizona.

(1) ***Diligent Search.*** If after diligent search and inquiry, the sheriff of the county in which the action is pending states in the return an inability to find an officer or

agent of the corporation to be served, the sheriff's statement is rebuttable evidence that the corporation does not have an officer or agent in Arizona.

(2) ***Corporation Commission.*** If a domestic corporation does not have an officer or an agent within Arizona on whom a summons can be served, the corporation may be served by delivering two copies of the summons and the pleading being served to the Arizona Corporation Commission. Following this procedure constitutes personal service on that corporation.

(3) ***Commission's Responsibilities.*** The Arizona Corporation Commission will keep one of the copies of the summons and the pleading being served for its records and immediately mail the other copy, postage prepaid, to the corporation or any of the corporation's officers or directors, using any address obtained from the Corporation Commission records, or another source.

(l) Alternative Means of Service.

(1) ***Generally.*** If a party shows the service provided in Rule 41(c) through Rule 41(i) is impracticable, the court may—on motion and without notice to the person to be served—order that service may be accomplished in another manner.

(2) ***Notice and Mailing.*** If the court allows an alternative means of service, the serving party must make a reasonable effort to provide the person being served with actual notice of the action's commencement. The serving party must also mail the summons, the pleading being served, and any court order authorizing an alternative means of service to the last-known business or residential address of the person being served.

(3) ***Service by Publication.*** A party may serve by publication only if the requirements of Rule 41(m) are met.

(m) Service by Publication.

(1) ***Generally.*** Service by publication is permitted if:

(A) the serving party, despite reasonably diligent efforts, has been unable to determine the person's current address; or the person to be served has intentionally avoided service of process; and

(B) service by publication is the best means practicable in the circumstances for providing the person with notice of the action's commencement.

(2) ***Procedure.***

(A) *Generally.* Service by publication is accomplished by publishing the summons, and a statement describing how a copy of the pleading being served may be obtained, at least once a week for 4 successive weeks:

(i) in a newspaper published in the county where the action is pending; and

(ii) if the last-known address of the person to be served is in a different county, also in a newspaper in that county.

(B) *Who May Serve.* Service by publication may be made by the serving party, its counsel, or anyone authorized under Rule 40(d).

(C) *Alternative Newspapers.* If no newspaper is published in a county where publication is required, the serving party must publish the summons and statement in a newspaper in an adjoining county.

(D) *Effective Date of Service.* Service is complete 30 days after the summons and statement is first published in all newspapers where publication is required.

(3) ***Mailing.*** If the serving party knows the last known address of the person being served, it must, on or before the date of first publication, mail to the person the summons and a copy of the pleading being served, postage prepaid.

(4) ***Return.***

(A) *Required Affidavit.* The party or person making service must file an affidavit stating the manner and dates of the publication and mailing, and the circumstances requiring service by publication. The affidavit must also state if no mailing was made because of lack of knowledge of the current address of the person being served.

(B) *Accompanying Publication.* A printed copy of the publication must accompany the affidavit.

(C) *Effect.* A properly filed affidavit is rebuttable evidence of compliance with the requirements for service by publication.

(n) Service in Other Circumstances. Service on a person or entity not described in Rule 41 may be made as provided in Civil Rule 4.1 or 4.2.

COMMENT TO 2019 AMENDMENT

Former Rules 41 and 42 imposed limitations on the court's personal jurisdiction over a party when the party was served by publication. Revised Rule 41 deletes those limitations, and this rule now follows the holding in *Master Financial, Inc. v. Woodburn*, 208 Ariz. 70,

90 P.3d 1236 (App. 2004), paragraphs 15-22. Nevertheless, service by publication is subject to subsequent challenge if it does not satisfy due process standards of being reasonably calculated to give notice to the party being served and providing the best practicable notice under the circumstances. See Rules 83(d) and 85.

Rule 42. [Reserved].

Rule 43. Service of Other Documents After Service of the Summons, Petition, and Order to Appear.

(a) Generally. This rule governs service after the summons, petition, or order to appear have been served. Rule 41 governs service of petitions for contempt.

(b) Service After Service of the Summons, Petition, and Response.

(1) ***Serving an Attorney.*** If a party is represented by an attorney, service under this rule must be made on the attorney unless the court orders otherwise or a specific rule requires service on the party.

(2) ***Methods of Service.*** A document is served under this rule by:

(A) handing it to the person;

(B) leaving it:

(i) at the person's office with a clerk or other person in charge or, if no one is in charge, in a conspicuous place in the office; or

(ii) if the person has no office or the office is closed, at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there;

(C) mailing it by U.S. mail or other national courier service to the person's last-known address, in which event service is complete upon mailing;

(D) delivering it by any other means, including electronic means other than that described in Rule 43(b)(3)(E), if the recipient consents in writing to that method of service or if the court orders service in that manner, in which event service is complete upon transmission; or

(E) transmitting it through an electronic filing service provider approved by the Administrative Office of the Courts, if the recipient is an attorney of record in the action, in which event service is complete upon transmission.

(3) ***Certificate of Service.*** The date and manner of service must be noted on the last page of the original of the served document or in a separate certificate, in a form substantially as follows:

> *A copy has been or will be mailed/emailed/hand-delivered [select one] on [insert date] to:*
>
> *[Name of opposing party or attorney]*
>
> *[Address of opposing party or attorney]*

If the precise manner in which service has actually been made is not so noted, it will be presumed that the document was served by mail. This presumption will only apply if service in some form has actually been made.

(c) Service After Judgment. After the time for appeal from a judgment has expired or a judgment has become final after appeal, a motion, petition, or other pleading requesting to modify, vacate, or enforce that judgment must be served in the same manner that a summons and pleading are served under Rules 40 or 41, as applicable.

Rule 43.1. Filing Pleadings and Other Documents.

(a) Filing with the Court Defined. The filing of documents with the court is accomplished by filing them with the clerk. If a judge permits, a party may submit a document directly to a judge, who must transmit it to the clerk for filing and notify the clerk of the date of its receipt.

(b) Effective Date of Filing.

(1) ***Generally.*** Except for documents submitted directly to a judge under Rule 43.1(a), a document is deemed filed on the date the clerk receives and accepts it. If a document is filed electronically, it is deemed filed on the date and time the clerk receives it as is shown on the email notification from the court's electronic filing portal or as is displayed within the portal, unless a required filing fee is not paid or the clerk later rejects the document based on a deficiency in the filing. If a filing is rejected because of a deficiency, the clerk must promptly provide the filing party with an explanation for the rejection.

(2) ***Documents Submitted Directly to a Judge.*** If a document is submitted directly to a judge under Rule 43.1(a) and is later transmitted to the clerk for filing, the document is deemed filed on the date the judge receives it.

(3) ***Late Filing Because of an Interruption in Service.*** If a person fails to meet a deadline for filing a document because of a failure in the document's electronic transmission or receipt, the person may file a motion asking the court to accept the document as timely filed. On a showing of good cause, the court may enter an order permitting the document to be deemed filed on the date that the person originally attempted to transmit the document electronically.

(4) ***Incarcerated Parties.*** If a party is incarcerated and another party contends that the incarcerated party did not timely file a document, the court must treat the document as filed on the date it was delivered to prison authorities to deposit in the mail.

(c) Limits on Access to Filed Documents. If prohibited by local rule or an administrative order by the presiding judge, the clerk must not disclose to the general public any pleading filed under Rule 24, any petition for order of protection, or any petition for injunction against harassment—or any document or evidence that is filed relating to those filings—until 45 days after the pleading or petition is filed. Notwithstanding this rule, the clerk must allow access to the documents by judicial officers, court and clerk's office personnel, the parties and their associated counsel of record, and any other person authorized by court order. The clerk may determine the manner in which such access is provided.

(d) Service with Filing and Documents Not to Be Filed.

(1) ***Filing and Service.*** After a petition's filing, if a document must be filed within a specified time, it must be both filed and served within that time.

(2) ***Documents Not to Be Filed.*** The following documents may not be filed separately and may be filed as attachments or exhibits to other documents only if relevant to the determination of an issue before the court:

(A) *Subpoenas.* Any praecipe used solely for issuance of a subpoena or subpoena duces tecum, any subpoena or subpoena duces tecum, and any affidavit of service of a subpoena, except for post-judgment proceedings;

(B) *Discovery and Disclosure Documents.* Notices of deposition; deposition transcripts; interrogatories and answers; disclosure statements; requests for production, inspection, or admission, and responses; requests for physical and mental examination; and notices of service of any discovery or discovery response, including notices of compliance with the provisions of Rule 49, 50, or 91;

(C) *Proposed Pleadings.* Any proposed pleading, unless filing is necessary to preserve the record on appeal;

(D) *Prior Filings.* Any document that has been previously filed in the action, which may be called to the court's attention by incorporating it by reference; and

(E) *Authorities Cited in Memoranda.* Copies of authorities cited in memoranda, unless necessary to preserve the record on appeal.

(3) ***Attachments to the Assigned Judge.*** Except for proposed orders and proposed judgments, a party may attach copies of documents described in Rule 43.1(d)(2) to a copy of a motion, response, or reply delivered to the judge to whom the action has been assigned. Any such documents provided to the judge also must be provided to all other parties.

(4) ***Sanctions.*** If this rule is violated, the court may order removal of the offending document from the record and charge the offending party or counsel such costs or fees as may be necessary to cover the clerk's costs of filing, preservation, or storage. It may also impose any additional sanctions provided in Rule 71.

(e) Proposed Orders; Proposed Judgments.

(1) ***Service.*** Any proposed order or proposed judgment must be served on all parties at the same time it is submitted to the court.

(2) ***Filing.*** The clerk may not file a proposed order or proposed judgment. The clerk must accept electronically submitted proposed orders and proposed judgments; however, these electronically submitted documents must not be included in the publicly displayed court record.

(3) ***Exception.*** If directed by the court, required by rule, or done to preserve the record on appeal, a party may file an unsigned proposed order or proposed judgment as an attachment or exhibit to a notice of lodging or other filing.

(4) ***Format.*** A proposed order or proposed judgment must be prepared and submitted as a separate document and may not be included as a part of any other document. The proposed order or proposed judgment must have at least two lines of text above the signature.

(5) ***Stipulations and Motions; Proposed Forms of Order.***

(A) All written stipulations must be accompanied by a proposed order. If the proposed order is signed and entered, no minute entry need issue.

(B) If a motion is accompanied by a proposed order, no minute entry need issue if the order is signed and entered.

(f) Sensitive Data.

(1) ***Definition.*** For the purposes of this rule, "sensitive data" means social security numbers, driver's license numbers, bank account numbers, credit card numbers, and other financial account and personal identifying numbers.

(2) ***Filing Sensitive Data.***

(A) *Generally.* Before filing any document containing sensitive data, the person making the filing must omit or otherwise redact the sensitive data unless they are specifically requested by the court. References to the data may be made using only the last 4 digits of the identifying number. The responsibility for not including or redacting sensitive data rests solely with the person making a filing with the court. The clerk and the court are not required to review documents for compliance with this rule, or to seal or redact documents that contain sensitive data.

(B) *Court-Requested Data.*

(i) If the court specifically requests sensitive data from a party, the party must record the requested information on a separate sensitive data form that is substantially in the form set forth in Rule 97, Form 3 ("Confidential Sensitive Data Form").

(ii) The clerk will maintain the form as a confidential record that is only available to the parties, the parties' attorneys, court personnel, and any other person or agency authorized by court order.

(iii) Unless the court orders otherwise, further written reference to sensitive data must be made by referring to a corresponding item number on the sensitive data form or other means, rather than inserting the actual data into a document that is filed with the court.

(iv) Whenever new information is needed to supplement the record in a case, the parties or their attorneys must file an updated sensitive data form that includes all previously disclosed sensitive data and any additional sensitive data required for the case.

(C) *Exception.* The provisions of Rule 43.1(f)(2)(A) and (B) do not pertain to orders or decrees, or to petitions and accompanying documents filed under the Uniform Interstate Family Support Act (UIFSA) as adopted by the State of Arizona.

(3) ***Income Withholding Orders and Orders to Stop Income Withholding Orders.*** Income withholding orders and orders to stop income withholding orders may contain sensitive data as required by law, but these orders are confidential and may be made available only to the parties, the parties' attorneys, the parties' employers, child support enforcement agencies, court personnel, and any other person or agency authorized by court order.

(4) ***Clerk's Authority.*** The clerk may maintain sensitive data forms, income withholding orders, and orders to stop income withholding orders, either in paper or electronic form. If these documents are maintained electronically, the clerk is authorized to destroy any paper version.

(5) ***Requests for Relief***. If a document containing sensitive information is filed with the court, any person may request a court order, or the court may order on its own, that the document be sealed or replaced with an identical document with the sensitive data redacted or removed.

(6) ***Sanctions.*** If this rule is violated, the court may impose sanctions against the responsible counsel or party to ensure future compliance.

(g) Confidential Records. The clerk may treat as confidential any medical, mental health, or behavioral health records, reports, or evaluations filed with the court.

Part V. Default Decree and Consent Decree, Judgment, or Order; Dismissal.

Rule 44. Default.

(a) Application for Default.

(1) ***Generally.*** If a party against whom a decree or a judgment for affirmative relief is sought fails to respond, the party seeking relief may file an application for default.

(2) ***Application.*** A party seeking default must file a written application that:

(A) states the name of the party against whom default is sought;

(B) states that the party has failed to respond within the time allowed by these rules;

(C) provides the last known mailing address for the party claimed to be in default, or states that the party requesting the default does not know the whereabouts of the party in default;

(D) identifies an attorney known to represent the party in default, either in the action in which default is sought or in a related matter, whether or not the attorney has formally appeared, or does not know the identity and address of any such attorney;

(E) attaches a copy of the proof or acceptance of service establishing the date and manner of service on the party in default; and

(F) attaches a form substantially similar to Form 6, Rule 97, Default Information for Spousal Maintenance, if the party seeks spousal maintenance and chooses to proceed by motion without a hearing.

(3) ***Notice.*** The party applying for default must provide notice as follows:

(A) *To the Party.* If the party requesting default knows the whereabouts of the party in default, a copy of the application for default must be mailed to the party in default, even if the party is represented by an attorney who has entered an appearance in the action.

(B) *To the Attorney.* If the party requesting default knows that the party in default is represented by an attorney either in the action in which default is sought or in a related matter, a copy of the application also must be mailed to that attorney, whether or not that attorney has formally appeared in the action. A party requesting default is not required to make affirmative efforts to

determine the existence or identity of an attorney representing the party in default.

(C) *Time of Notice.* The notice required under subpart (a)(3)(A) or (B) must be mailed on the date that the application is filed, or as soon as practicable after its filing.

(D) *To Other Parties.* An application for default must be served on all other parties who have appeared in the action.

(4) ***A Default's Effective Date.*** A default is effective 10 days after the application for default is filed.

(5) ***A Default is not Effective.*** A default will not become effective if the party in default responds within 10 days after the application for default is filed.

(b) Setting Aside a Default or a Final Default Judgment. The court may set aside a default for good cause, and it may set aside a final default judgment under Rules 83 or 85.

(c) Judgment Against the State. The court may enter a default judgment against the State of Arizona or one of its officers or agencies only if, after a hearing, a party establishes a claim or right to relief by evidence that satisfies the court.

(d) Party Status. The provisions of this rule apply whether the party entitled to the judgment by default is a petitioner or respondent.

Rule 44.1. Default Decree or Judgment by Motion and Without a Hearing.

(a) Generally. The court may enter a default judgment based on documents in the court's file, on motion and without the parties appearing at a hearing, in the circumstances described in this rule. However,

(1) the court may not enter a default judgment without a hearing that is different from what the petition requested, or for amounts greater than requested in the petition, unless the parties have entered into a written separation agreement under A.R.S. § 25-317; and

(2) the court may not enter a default judgment without a hearing if the party in default is a minor or an incompetent person.

(b) Decree Dissolution, Annulment, or Separation.

(1) ***Generally.*** The court may enter a decree of dissolution, annulment, or legal separation on motion without a hearing.

(2) ***Affidavit.*** A party requesting a decree without a hearing must include affidavits from one or both spouses with their motion. The affidavit must state facts showing:

(A) jurisdictional requirements have been met;

(B) conciliation provisions of A.R.S. § 25-381.09 have been met or do not apply; and

(C) support for the requested relief, including, if applicable, an award of attorney's fees.

(3) ***Appearance.*** A default decree by motion is not available if the other party has appeared, unless the parties have agreed that the matter may proceed as if by default.

(c) Judgment of Maternity or Paternity.

(1) ***Generally.*** The court may enter a judgment establishing maternity or paternity, and orders regarding legal decision-making and parenting time, on motion and with an affidavit of the State, the mother, or the father.

(2) ***Affidavit.***

(A) The affidavit must state facts showing that jurisdictional requirements have been met and that a default order is appropriate under A.R.S. § 25-813.

(i) If the State requests the default judgment, an affidavit of the mother or the father must establish the factual basis for the finding of paternity.

(ii) If the petition requests entry of an order for current and past support, a child support worksheet that establishes the amounts requested must accompany the motion; and an affidavit must state the basis for determining the gross income of the defaulting parent.

(iii) The affidavit must state facts substantiating any other requested relief.

(d) Money Judgments and Attorney's Fees.

(1) ***Generally.*** If a claim is for a certain sum of money or for a sum of money that can be determined by computation, other than child support, spousal maintenance, or attorney's fees, the court may enter judgment on motion with an affidavit and other documentation that establishes the amount due.

(2) ***Attorney's Fees.*** If the claim for a money judgment requests an award of attorney's fees, the judgment may include such an award, if the law allows an award and an affidavit establishes a reasonable amount. When the claim includes a specific amount of attorney's fees if the court enters a default judgment, the award may not exceed the amount demanded.

(e) When Children Are Involved or a Party is Pregnant. When the parties have children in common or a party is pregnant, the default decree must include the following:

(1) whether either party is pregnant with a child common to the parties;

(2) provisions for legal decision-making parenting time, either within the default decree or by a separate parenting plan;

(3) a child support order supported by a child support worksheet, but if a party requests any deviation in the child support amount, the default decree or child support order must state the basis for deviation under the child support guidelines;

(4) if either party is receiving benefits under Temporary Assistance for Needy Families (TANF) or the Title IV-D program, the parties must attach the Attorney General's written approval of any specified child support amount to the default decree;

(5) copies of the filing parent's certificate of completion of the parent information program;

(6) a completed income withholding order, including the current employer information sheet;

(7) if the parties are requesting joint legal decision-making, a statement as to whether domestic violence has occurred, and the extent of any such violence; and

(8) for a paternity or maternity action, the identities of the natural mother and father and anyone who has lawful status as a parent or custodian of a child, including the court case conferring that status if it is not the current case.

(f) Spousal Maintenance. If a party requests spousal maintenance and chooses to proceed by motion without a hearing, the party must file a form substantially similar to Form 6, Rule 97, Default Information for Spousal Maintenance, with the Rule 44 application for default.

(g) Informing Defaulted Party. If a decree or judgment is entered by default, except in those cases resulting in default after service by publication, the party obtaining the decree or judgment must certify on the decree or judgment that, within 3 days of the party's receipt of the decree or judgment, the party obtaining the decree or judgment will mail a copy of the decree or judgment to the party in default at that party's last known address. Failure to comply with this rule does not affect the validity of the decree or judgment entered or the time to appeal, or relieve a party from any obligations set forth in the decree or judgment.

Rule 44.2. Default Decree or Judgment by Hearing.

(a) Hearing Required. If a party does not meet the requirements for obtaining a default decree or judgment by motion without a hearing under Rule 44.1, the party must request, or the court may order, a default judgment hearing.

(b) Notice of Hearing. If the defaulted party has appeared in the matter, that party or, if appearing by a representative, that party's representative, must be served with written notice of the hearing no later than 3 days before the hearing.

(c) Conduct of Hearing. The court may conduct the hearing as necessary to resolve factual issues, determine the relief to be granted, and to enable the court to enter an appropriate decree or judgment.

(d) Rights of a Defaulted Party. A defaulted party is deemed to have admitted every material allegation of the petition. However, if a defaulted party has made a motion under this rule, the court must allow that party to participate in the hearing to determine what relief is appropriate or to establish the truth of any statement.

(e) Past Child Support Judgment. The court will not enter a default judgment for any amount of child support accruing before the filing date of a petition to establish the first order for child support unless, in the petition or in the notice required under Rule 44(a)(3), the party seeking support has notified the party in default:

(1) of the time period for which past support is sought; and

(2) the amount of past support will be calculated by retroactive application of the Arizona Child Support Guidelines.

(f) Informing Defaulted Party. If a decree or judgment is entered by default, the party obtaining the decree or judgment must certify on the decree or judgment that, within 3 days of receiving the decree or judgment, that party will mail a copy of the decree or judgment to the last known address of the party in default. Failure to comply with this rule does not affect the validity of the decree or judgment entered or the time to appeal, nor does it relieve a party from any obligations set forth in the decree or judgment.

(g) Judgment if Service by Publication. If service was made by publication and no response has been timely filed, a decree or judgment may be entered as provided under Rule 41(m). The court must maintain a verbatim record of the default hearing.

Rule 45. Consent Decree, Judgment, or Order.

(a) Generally. If the petitioner and the respondent agree to the terms of a dissolution, annulment, or legal separation, or to the terms of a paternity or maternity action, they may obtain a consent decree, judgment, or order without a court hearing.

(1) To obtain a consent decree for a dissolution or legal separation, the summons and petition must have been served on the respondent, or the respondent must have waived service, at least 60 days before the parties file the consent decree.

(2) To proceed with a consent decree for a dissolution of marriage, the parties must jointly file a consent decree that is substantially similar to Form 8, Rule 97.

(3) The assigned judge or commissioner must determine whether the parties have met the requirements for a consent decree.

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

(1) It must state the terms of the parties' agreement.

(2) In any action for dissolution, annulment, or legal separation, the parties must state:

(A) whether their marriage was a covenant marriage;

(B) whether they have children in common; and

(C) whether one party is pregnant with a child common to the parties.

(3) It must state:

(A) the parties agree to proceed by consent;

(B) each party was not subject to force or threats, or under duress or coercion, when preparing and signing the decree;

(C) for any dissolution or legal separation, each party believes the division of property is fair and equitable;

(D) each party understands that he or she

(i) may retain, or has retained, an attorney of his or her choice, and

(ii) is waiving the right to trial; and

(iii) whether there are any existing protective orders, and if so, the effect of the consent decree, judgment, or order on those orders.

(4) Both parties must personally sign the consent decree, judgment, or order before a notary public. Alternatively, a party may sign the consent decree in the clerk's presence after the clerk has verified the party's identity. If a party is represented by an attorney, the attorney must also sign the consent decree.

(c) When Children Are Involved. When the parties have children in common or a party is pregnant with a child common to the parties, the consent decree, judgment, or order must include the following:

(1) provisions for legal decision-making and parenting time, either within the consent decree or by a separate parenting plan;

(2) a child support order supported by a child support worksheet, but if a party requests any deviation in the child support amount, the consent decree or child support order must state the basis for deviation under the child support guidelines;

(3) if either party is receiving Temporary Assistance for Needy Families (TANF) or services from the Title IV-D program, the parties must attach to the consent decree the written approval of the Attorney General or county attorney;

(4) copies of each parent's Certificate of Completion of the Parent Information Program, if not previously filed with the court;

(5) a completed income withholding order, including the current employer information sheet;

(6) if the parties are requesting joint legal decision-making, a statement as to whether domestic violence has occurred, and the extent of any such violence; and

(7) for a paternity or maternity action, the identities of the natural mother and father and anyone who has lawful status as a parent or custodian of a child, including the court case conferring that status if it is not the current case.

Rule 46. Dismissal.

(a) Voluntary Dismissal.

(1) ***By Notice, Motion, or Stipulated Order.*** The petitioner may dismiss a family law case, or an applicant under Rule 91 may dismiss a post-decree petition:

(A) by filing a notice of dismissal before the opposing party files a response or, if a response is not required, before evidence is introduced at a hearing or trial;

(B) if a response has been filed, only by motion and on such terms and conditions as the court deems proper, including the resolution of any claims by the responding party; or

(C) by court order based on a stipulation to dismiss that is signed by all parties who have appeared.

(2) ***Effect.*** Unless the order states otherwise, a dismissal under subpart (a)(1) is without prejudice.

(b) Involuntary Dismissal; Effect.

(1) ***Dismissal on Motion.*** If the filing party fails to take the steps required by these rules to resolve the case or petition, the responding party may move to dismiss the action or any claim against it.

(2) ***Dismissal by the Court.***

(A) *Generally.* The court may dismiss any action, post-decree petition, or any pending claim for failure to move a case forward after giving all parties notice and an opportunity to object or begin moving forward with their case.

(B) *No Motion to Set.* If no party has filed a motion to set within 120 days after a petition is filed and served and if the court has not set the matter for trial, hearing, or conference, the court may issue a notice that the matter will be dismissed without further notice in not less than 60 days if the parties do not file within that time a motion to set or a request for hearing or conference. If no motion or request is filed within 60 days after the notice is issued, the court may dismiss the action. The court may extend these deadlines for good cause. The court may not dismiss a case if there is a pending motion for judgment on the pleadings, a pending motion for summary judgment, or a motion related to genetic testing in a paternity matter.

(3) ***Effect.*** Unless the dismissal order or notice states otherwise, a dismissal under (b)(1) or (2) is without prejudice.

(c) Dismissal of Counterclaims and Third-Party Claims. A counterclaimant or a third party may voluntarily dismiss its claim by filing a notice of dismissal before an opposing party files a response or answer, or if a response or answer is not required, before evidence is introduced at a hearing or trial. If a response or answer has been filed, the court may dismiss the claim only by motion and upon such terms and conditions as the court deems proper, including the resolution of any claims by the opposing party.

(d) Scope of Dismissal. The entry of an order dismissing a case serves to dismiss all pending, unresolved petitions and issues, but the order does not dismiss, vacate, or set aside any final decree, judgment or order previously entered in the case, unless the order specifies otherwise.

(e) Dismissal Authority. The court's authority to issue notices and dismiss cases and post-decree petitions for lack of service and for lack of moving a case forward may be performed by court administrators or by an appropriate electronic process under the court's supervision.

Part VI. Temporary Orders.

Rule 47. Motions for Temporary Orders.

(a) Motions for Pre-Decree Temporary Orders. A party seeking temporary orders for legal decision-making, parenting time, child support, or spousal maintenance, or concerning property, debt, or attorney's fees, must file a separate verified motion that states the motion's legal and jurisdictional basis and the specific relief requested. The motion must be filed either after or concurrently with the initial petition. The motion must include the following information and documentation, if relevant:

(1) ***For Legal Decision-Making and Parenting Time.*** A motion requesting temporary legal decision-making or parenting time must specify the court's authority to proceed under A.R.S. § 25-402 and must include a proposed parenting plan that specifically states the legal decision-making or parenting time for both parties.

(2) ***For Child Support.*** A motion requesting temporary child support must include a completed Child Support Worksheet that specifies the amount requested in accordance with the current Arizona Child Support Guidelines. The motion must include an affidavit substantially in the form set forth in Form 2, Rule 97 ("Affidavit of Financial Information").

(3) ***For Spousal Maintenance.*** A motion requesting temporary spousal maintenance must state the specific duration and amounts requested. The motion must include an affidavit substantially in the form set forth in Form 2, Rule 97 ("Affidavit of Financial Information").

(4) ***For Property, Debt, and Attorney's Fees.*** A motion requesting a temporary order to exclude a party from a residence, to divide community property, or to order payment of debt, expenses, or attorney's fees, must state the specific relief requested, the proposed division of property, the responsibility that each party would have to pay debts and expenses, and the income and assets that would be available to each party if the motion is granted. A motion for a temporary order requesting payment of attorney's fees must state the specific amount of fees requested and must include an Affidavit of Financial Information.

(b) Order to Appear. Unless a local rule establishes a different procedure, the moving party must provide the assigned judicial officer with the original and one copy of an order to appear substantially in the form set forth in Form 13, Rule 97 ("Order to Appear"). The clerk will file the original Order to Appear when the assigned judicial officer signs it.

(c) Scheduling.

(1) ***Generally.*** Upon receiving a motion for temporary orders and the required supporting documents, the court must schedule a resolution management conference. No evidence will be taken at a resolution management conference, unless the parties agree. The purpose of a resolution management conference is to facilitate agreements between the parties that permit the entry of temporary orders at the conclusion of the conference. If, at the conclusion of the resolution management conference, issues remain that require an evidentiary hearing concerning temporary orders, the court must schedule an evidentiary hearing on those issues. If the court finds that the circumstances of a specific case demonstrate that a resolution management conference would not serve the interests of efficiency, it may schedule an evidentiary hearing on temporary orders instead of a resolution management conference. The court must set the conference or hearing on a date no later than 30 days after the after the motion is filed.

(A) *Disputed Issues of Fact.* The court may not resolve disputed issues of fact at a pretrial conference or Resolution Management Conference without the parties' agreement.

(B) *Evidentiary Hearing.* If not all of the issues are resolved at a pretrial conference or Resolution Management Conference, the court must set an evidentiary hearing to a date no later than 30 days after the conference, unless the parties agree to a different time frame or procedure.

(C) *Extensions of Time.* The court may extend the time frames set forth in (c)(1) for good cause.

(2) ***Motions for Legal Decision-Making and Parenting Time.*** Notwithstanding (c)(1), if a party files a pre-decree motion for a temporary order requesting legal decision-making or parenting time, the court must hold an evidentiary hearing no later than 60 days after the party files the motion unless:

(A) the moving party waives the requirement for a hearing within 60 days;

(B) a temporary order is established during a separate conference or hearing that is held within 60 days after the party files the motion; or

(C) extraordinary circumstances exist and the court is not able to schedule the hearing within 60 days after the motion is filed, and the court makes a finding on the record regarding the cause of the delay.

(3) ***Other Matters.*** For any temporary parenting time order entered under this rule, the court must determine an amount of child support under A.R.S. § 25-320 and the Arizona Child Support Guidelines.

(4) ***Other Settings.*** Subject to the requirements of subpart (c)(1), the court may set any other appropriate conference or hearing.

(d) Service. The moving party must serve all parties with the documents described in sections (a) and (b). The moving party must make good faith efforts to complete service promptly and, absent good cause, must complete service within 5 days after receipt of the issued order to appear and no later than 14 days before the date set in the order.

(e) Response. A party who is served with an Order to Appear on a motion for a temporary order is not required to file a response to the motion, but if the party does so, the party must verify the response.

(1) Whether or not the party files a response, the party must fully comply with the requirements of section (f).

(2) Additionally, if the motion requests child support, the party who is served must file a completed Child Support Worksheet.

(3) The party who is served also must provide copies of all filed documents to the assigned judicial officer and to the moving party no later than 3 days before the date set for a conference or hearing.

(f) Requirements Before a Conference or Hearing.

(1) ***Meet and Confer.*** At least 3 days before any conference or evidentiary hearing set by the court under section (c), the parties and counsel must meet and confer. If the matter is set for a resolution management conference, the parties must submit a Resolution Statement substantially in the form set forth in Form 4 or 5, as applicable, Rule 97, not later than 3 days before the date set for the conference or hearing.

(2) ***Exchange of Exhibits and Witness Lists Before an Evidentiary Hearing.*** Not later than 3 days before the date set for an evidentiary hearing, the parties must exchange any exhibits they will offer at the hearing, unless otherwise ordered by the court. Each party must provide to the other party a list of the names, addresses, and telephone numbers of all witnesses who may testify at the hearing, and the subject of their anticipated testimony.

(3) ***Exception.*** If there is a current court order prohibiting contact between the parties, or there is a history of domestic violence between the parties, the parties

are not required to personally meet, confer, or contact each other before the conference or hearing, or otherwise violate an existing protective order. However, if a party is represented by counsel, then counsel must take reasonable steps under the circumstances to resolve as many issues as possible.

(g) Attendance. All parties and their counsel, if they are represented, must appear at any pretrial conference, Resolution Management Conference, or evidentiary hearing.

(h) Request for Expedited Hearing. If a party requests an expedited hearing, the caption of the motion must include the words, "Expedited Hearing Requested." The motion must specify facts necessitating an expedited hearing. The court may consider and decide a request for an expedited hearing without waiting for a response or holding oral argument.

(i) Local Procedures. Nothing contained in this rule precludes any county from establishing by local rule or administrative order an alternative process for temporary orders.

(j) Enforceability of Temporary Orders.

(1) ***When Enforceable.*** Temporary orders signed by the court and filed by the clerk are enforceable as final orders but terminate and are unenforceable upon dismissal of the action, or following entry of a final decree, judgment, or order, unless that final decree, judgment, or order provides otherwise.

(2) ***Exceptions.*** Orders of Protection and Injunctions Against Harassment are not subject to the provisions of this rule.

Rule 47.1. Simplified Child Support Orders.

(a) Motion for a Temporary Simplified Child Support Order.

(1) ***Generally.*** Unless a local rule provides otherwise, a party seeking a temporary child support order under A.R.S. §§ 25-315 or 25-817 may request a simplified order by filing with the court:

(A) a verified Motion for Simplified Temporary Child Support Order;

(B) a completed Child Support Worksheet;

(C) a proposed Simplified Temporary Child Support Order; and

(D) a proposed Income Withholding Order.

(2) ***Required Disclosures.*** The motion must advise the responding party of a requirement to file a timely response and a completed Child Support Worksheet, and must submit a proposed simplified Temporary Child Support Order and a proposed Income Withholding Order. The motion also must advise the responding party that failure to do so may result in the court entering the requested Temporary Child Support Order.

(3) ***Notice of Hearing.*** If the moving party requested a hearing, the moving party must serve the responding party with a notice of hearing.

(4) ***Service.*** The motion must be served on the responding party in the manner set forth for service of a pleading and summons under Rules 40 or 41, as applicable. The moving party must file a proof of service as provided in those rules.

(b) Response.

(1) ***Timing.*** The responding party must file any response no later than 20 days after the motion is served, if served in Arizona, or 30 days after the motion is served, if served outside Arizona.

(2) ***Request for Hearing.*** At the time of filing a response, the responding party may file a request for hearing. The responding party must serve the response and request for hearing on the respondent under Rule 43.

(3) ***Uncontested Motions.*** If the responding party does not file a response or if the response does not contest the child support requested in the motion, the court will not set a hearing. The court will enter the proposed Simplified Temporary Child Support Order and the Income Withholding Order if the available information in support of the temporary order appears accurate and provides the court with

adequate information to determine the amount of child support under the Arizona Child Support Guidelines.

Rule 47.2. Motions for Post-Decree Temporary Legal Decision-Making Orders.

(a) Generally. A motion requesting temporary legal decision-making or parenting time after entry of a decree must file a verified motion stating the legal and jurisdictional bases for the motion, and the specific relief requested. It also must include a proposed parenting plan containing the legal decision-making and parenting time requested for both parties. The motion must incorporate by reference the relevant allegations of the pending post-decree petition and not separately repeat them.

(b) Timing. The party may file the motion after or at the same time the party files a post-decree petition authorized by statute.

(c) Service. The motion must be served on the responding party in the manner set forth for service of a pleading and summons under Rules 40 or 41, as applicable.

(d) Scheduling. The court will schedule a resolution management conference or an evidentiary hearing on the motion, as appropriate.

Rule 48. Temporary Orders Without Notice.

(a) Filing and Timing. A party may request temporary orders without notice by filing a verified motion, along with a proposed form of orders and a notice of hearing on the motion. A motion may be filed at the same time or after filing an initial pre-decree or post-decree petition.

(b) Grounds. A court may grant temporary orders without written or oral notice to an adverse party or that party's attorney only if the verified motion:

(1) clearly shows by specific facts that if an order is not issued before the adverse party can be heard, the moving party or a minor child of the party, will be irreparably injured, or irreparable injury, loss, or damage will result to the separate or community property of the moving party; and

(2) the moving party or attorney provides written certification of the efforts to give notice to the other party, or why giving notice should not be required.

(c) Orders. Temporary orders without notice must specify the injury, loss, or damage and why it is irreparable, and state why the court granted the orders without notice. Temporary orders expire at the date and time set for hearing on the motion unless the court extends the time for good cause.

(d) Hearing. An evidentiary hearing must be set on the motion no later than 10 days after the order's entry, unless the court extends the time for good cause. The nonmoving party may request an earlier evidentiary hearing with reasonable notice as the court directs.

(e) Service. The order and notice of the evidentiary hearing must be served as soon as possible after the order's entry or as the court directs.

(f) Bond. No bond is required for a temporary order unless the court finds a bond appropriate.

Part VII. Disclosure and Discovery.

Rule 49. Disclosure.

(a) Generally.

(1) ***Purpose.*** This rule's disclosure requirements are intended to ensure that each party to an action arising under A.R.S. Title 25 is fairly informed of the facts, data, legal theories, witnesses, documents, and other information that is relevant to the case.

(2) ***Scope.*** A party must disclose information in the party's possession and control, as well as information that the party can determine or acquire by reasonable inquiry and investigation.

(3) ***Limitation.*** For good cause, the court may limit disclosure under (e) through (i).

(b) Time for Disclosure; Continuing Duty.

(1) ***Initial Disclosures.*** Unless the parties agree in writing or the court orders otherwise, every party must serve an initial disclosure of information required under (d) through (k) no later than 40 days after the filing of the first responsive pleading to a petition.

(2) ***Additional or Amended Disclosures.***

(A) *Continuing Duty.* The duty of disclosure is a continuing duty, and each party must serve additional or amended disclosures when new or additional information is discovered by, or revealed to, the party.

(B) *Time for Additional or Amended Disclosures.* A party must serve such additional or amended disclosures in a timely manner, but in no event more than 30 days after the information is discovered by, or revealed to, the disclosing party. If a party obtains or discovers information that the party knows or reasonably should know is relevant to a hearing scheduled to occur in less than 30 days, the party must disclose that information reasonably in advance of the hearing.

(C) *Disclosure by Written Discovery or Deposition.* If information is disclosed in a written discovery response, another form of written communication, or during a deposition in a manner that reasonably informs all parties of the information, the information need not be presented in a supplemental disclosure statement.

(3) ***Failure to Disclose, False or Misleading Disclosure, Untimely Disclosure.*** A party prejudiced by a failure to disclose, false or misleading disclosure, or untimely disclosure, may seek the remedies identified in Rule 65.

(c) Resolution Statement. Each party must file a Resolution Statement substantially in the form set forth in Form 4 or 5, Rule 97, as applicable 30 days after exchanging their initial disclosure, or as otherwise ordered by the court. The Resolution Statement must include any agreements between the parties and a specific, detailed position that the party proposes to resolve all issues in the case, without argument in support of the position. Each party must file a Resolution Statement with the court and serve the other party with a copy of the resolution statement. Unless the court orders otherwise, a Resolution Statement is not required in proceedings filed under A.R.S. § 25-409 (third party rights).

(d) Legal Decision-Making or Parenting Time. In a case in which legal decision-making or parenting time is an issue, the following documents and information must be served on the other party with the initial disclosure:

(1) a copy of any past or current protective orders and underlying petitions involving a party or member of the party's household;

(2) the name and address of each treatment provider and period of treatment involving any party for psychiatric or psychological issues, anger management, substance abuse or domestic violence, occurring within 5 years before the petition's filing;

(3) the date, description, location and documentation of any criminal charge against or conviction of any party or member of the party's household occurring within 10 years before the petition's filing;

(4) the date, description, location and documentation of any Department of Child Safety investigation or proceeding involving any party or member of the party's household occurring within 10 years before the petition's filing.

(e) Child Support. In a case in which child support is an issue, the following documents must be served on the other party with the initial disclosure:

(1) a fully completed affidavit substantially in the form set forth in Form 2, Rule 97, ("Affidavit of Financial Information" or "AFI");

(2) proof of the party's income from all sources, including:

(A) complete tax returns, W-2 forms, 1099 forms, and K-1 forms, for the past 3 completed calendar years, and year-end information for the most recent calendar year if tax returns are not yet due; and

(B) information for the current calendar year for all income sources, including year-to-date pay stub, salaries, wages, commissions, bonuses, self-employment income, dividends, severance pay, pensions, interest, trust income, income from businesses and properties, annuities, capital gains, social security benefits, worker's compensation benefits, unemployment insurance benefits, disability insurance benefits, recurring gifts, prizes, and spousal maintenance;

(C) proof of court-ordered child support and spousal maintenance actually being paid by the party in any case other than the one in which disclosure is being provided;

(D) proof of all medical, dental, and vision insurance premiums paid by the party for any child listed or referenced in the petition;

(E) proof of any child care expenses paid by the party for any child listed or referenced in the petition;

(F) proof of any expenses paid by the party for private or special schools or other particular education needs of a child listed or referenced in the petition; and

(G) proof of any expenses paid by the party for the special needs of a gifted or handicapped child listed or referenced in the petition.

(f) Spousal Maintenance and Attorneys' Fees and Costs. If either party has requested an award of spousal maintenance or an award of attorney's fees and costs, the following documents must be served on the other party with the initial disclosure:

(1) a fully completed AFI substantially in the form set forth in Form 2, Rule 97; and

(2) the documents and information described in subpart (f)(2).

(g) Property. Unless there is no property at issue in the case, or the parties have entered into a written agreement disposing of every property issue, the following documents must be served on the other party with the initial disclosure:

(1) copies of deeds, deeds of trust, purchase agreements, escrow documents, settlement sheets, and all other documents that disclose the ownership, legal description, purchase price and encumbrances of all real property owned by any party;

(2) copies of all monthly or periodic bank, checking, savings, brokerage and security account statements and all electronically stored information concerning such accounts in which any party has or had an interest for a period beginning 6 months before the petition's filing and through the disclosure date;

(3) copies of all monthly or periodic statements and documents showing the value of all pension, retirement, stock option (reflecting grant date, vesting, exercise price and prior exercises), and annuity balances, including Individual Retirement Accounts, 401(k) accounts, and all other retirement and employee benefits and accounts in which any party has or had an interest for a period beginning 6 months before the petition's filing and through the disclosure date, and, if a claim for premarital accumulation is made as to a defined contribution plan, copies of all monthly or periodic statements and documents showing values, contributions, withdrawals, loans, earnings and losses from the date of marriage to the disclosure date, or if no monthly or quarterly statements are available during these time periods, the most recent statements or documents that disclose the information;

(4) copies of all monthly or periodic statements and documents showing the cash surrender value, face value, and premiums charged for all life insurance policies in which any party has an interest for a period beginning 6 months before the petition's filing and through the disclosure date, or if no monthly or quarterly statements are available for this time period, the most recent statements or documents that disclose the information;

(5) copies of all documents and all electronically stored information that may assist in identifying or valuing any item of real or personal property in which any party has or had an interest for a period beginning 6 months before the petition's filing and through the disclosure date, including any documents that the party may rely on in placing a value on any item of real or personal property;

(6) copies of all business tax returns, balance sheets, profit and loss statements, and all documents and all electronically stored information that may assist in identifying or valuing any business or business interest for the last 5 completed calendar or fiscal years and through the latest available date before the disclosure statement with respect to any business or entity in which any party has an interest or had an interest for a period beginning 5 years before the petition's filing through the disclosure date;

(7) copies of all documents related to any trust in which the party has a beneficial interest; and

(8) a list of all items of personal property, including, but not limited to, household furniture, furnishings, antiques, artwork, vehicles, jewelry, and similar items in which any party has an interest, together with the party's estimate of current fair market value (not replacement value) for each item.

(h) Debts. Unless the parties have entered into a written agreement disposing of all debt issues in the case, the following documents must be served with the initial disclosure:

(1) copies of all monthly or periodic statements and documents and all electronically stored information showing the balances owing on all mortgages, notes, liens, and encumbrances outstanding against all real property and personal property in which the party has or had an interest for a period beginning 11 months before the petition's filing and through the disclosure date, or if no monthly or quarterly statements or electronically stored information are available during this time period, the most recent statements or documents or electronically stored information that disclose the information; and

(2) copies of credit card statements and debt statements for all months for a period beginning 11 months before the petition's filing and through the disclosure date.

(i) Disclosure of Witnesses. Each party must disclose the names, addresses, and telephone numbers of any witness whom the disclosing party expects to call at trial, along with a statement fairly describing the substance of each witness's expected testimony. The court may not allow a party to call witnesses who the party did not disclose at least 60 days before trial or by a different deadline ordered by the court.

(j) Disclosure of Expert Witnesses. Each party must disclose the name, address and telephone number of any person the party expects to call as an expert witness at trial. The party also must disclose the subject matter on which the expert will testify, the substance of the facts and opinions on which the expert will testify, a summary of the grounds for each opinion, the expert's qualifications, and the name and address of any custodian of reports the expert prepared. The court may not allow a party to call an expert witness who the party did not disclose at least 60 days before trial or by a different deadline ordered by the court.

(k) Disclosure of Electronically Stored Information.

(1) ***Production of Electronically Stored Information.*** Unless the parties agree or the court orders otherwise, within 40 days after serving its initial disclosure statement, a party must produce the electronically stored information identified under Rule 49. Absent good cause, no party need produce the same electronically stored information in more than one form.

(2) ***Presumptive Form of Production.*** Unless the parties agree or the court orders otherwise, a party must produce electronically stored information in the form requested by the receiving party. If the receiving party does not specify a form, the producing party may produce the electronically stored information in native form or in another reasonably usable form that will enable the receiving party to

have the same ability to access, search, and display the information as the producing party.

(3) ***Limits on Disclosure of Electronically Stored Information.*** Civil Rule 26(b)(2) applies to the disclosure of electronically stored information.

(4) ***Resolution of Disputes.*** If the parties are unable to satisfactorily resolve any dispute regarding electronically stored information and seek a resolution from the court, the parties may present the dispute in either a joint or individual motion. The motion must include the parties' positions and a good faith consultation certificate under Rule 9(c). In resolving any dispute regarding electronically stored information, the court may shift costs, if appropriate.

(l) No Filing of Disclosures. The disclosures described in sections (d) through (k) must be served on all parties, but may not be filed with the court.

(m) Additional Discover. Nothing in this rule precludes a party from conducting additional discovery under Rule 51.

Rule 50. Complex Case Designation.

(a) Generally. A party may file a motion to designate a case as complex.

(b) Time to File. A party may file the motion not later than 60 days after the initial response, or later for good cause.

(c) Factors. When exercising its discretion in deciding whether an action is complex under this rule, the court should consider the following factors:

(1) issues that will be time-consuming to resolve;

(2) management of a large number of witnesses or a substantial amount of documentary evidence;

(3) the need for significant expert testimony;

(4) any other factor that in the interests of justice warrants a complex designation or as otherwise required to serve the interests of justice.

(d) Effect of Designation. After designating a case complex, the court must conduct a scheduling conference at which it may enter orders concerning the scope and timing of disclosure and discovery. The court also may extend the time for parties to complete discovery under Rule 51, and must provide a minimum of 12 hours for trial.

Rule 51. General Provisions Governing Discovery.

(a) Discovery Methods. A party may obtain discovery by any of the following methods:

(1) depositions by oral examination under Rule 57;

(2) written interrogatories under Rule 61;

(3) requests for production of documents or things or permission to enter onto land or other property for inspection and other purposes, under Rule 62;

(4) physical, mental, and vocational examinations under Rule 63;

(5) requests for admission under Rule 64; and

(6) subpoenas for production of documentary evidence or for inspection of premises under Rule 52.

(b) Discovery Scope and Limits. Unless the court orders otherwise in accordance with these rules, the scope of discovery is as follows:

(1) ***Generally.***

(A) *Scope.* Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable. Written discovery to a party may not request information that party is required to disclose under Rule 49. Disputes concerning the adequacy of disclosure must be presented as required by Rule 65.

(B) *Limits on Discovery.* On motion or on its own, the court must limit the frequency or extent of discovery otherwise allowed by these rules if it determines that the discovery sought: (i) is unreasonably cumulative or duplicative, or can be obtained from another source that is more convenient, less burdensome, or less expensive; (ii) seeks information that the party has had ample opportunity to obtain; or (iii) is outside the scope permitted by Rule 51(b)(1)(A).

(2) ***Specific Limits on Discovery of Electronically Stored Information.*** A party need not provide discovery or disclosure of electronically stored information from sources that the party shows are not reasonably accessible because of undue

burden or expense. If a party makes that showing, the court may nonetheless order disclosure or discovery from such sources if the requesting party shows good cause, considering the limits of Rule 51(b)(1). The court may specify conditions for the disclosure or discovery.

(3) ***Work Product and Witness Statements.***

(A) *Documents and Tangible Things Prepared in Anticipation of Litigation or for Trial.* Ordinarily, a party may not discover documents and tangible things that another party or its representative (including the other party's attorney, consultant, surety, indemnitor, insurer, or agent) prepared in anticipation of litigation or for trial. But, subject to Rule 51(b)(4)(B), a party may discover those materials if:

(i) the materials are otherwise discoverable under Rule 51(b)(1); and

(ii) the party shows that it has a substantial need for the materials to prepare its case and cannot, without undue hardship, obtain their substantial equivalent by other means.

(B) *Protection Against Disclosure of Opinion Work Product.* If the court orders discovery of materials under Rule 51(b)(3)(A), it must protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of a party's attorney or other representative concerning the litigation.

(C) *Discovery of Own Statement.* On request and without the showing required under Rule 51(b)(3)(A), any party or other person may obtain his or her own previous statement about the action or its subject matter. If the request is refused, the party or other person may move for a court order, and Rule 65(a)(5) applies to the award of expenses. A statement discoverable under this rule is either:

(i) a written statement that the party or other person signed or otherwise adopted or approved; or

(ii) a contemporaneous stenographic, video, audio, or other recording—or a transcription of it—that recites substantially verbatim the party's or other person's oral statement.

(4) ***Expert Discovery.***

(A) *Deposition of an Expert Who May Testify.* A party may depose any person who has been disclosed as an expert witness under Rule 49.

(B) *Expert Employed Only for Trial Preparation.* Ordinarily, a party may not discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial. A party may discover such facts or opinions only:

(i) as provided in Rule 63(d); or

(ii) on showing exceptional circumstances under which it is impracticable for the party to obtain facts or opinions on the same subject by other means.

(C) *Payment.* Unless manifest injustice would result, the court must require that the party seeking discovery:

(i) pay the expert a reasonable fee for time spent in responding to discovery under Rule 51(b)(4)(A) or (B), including the time the expert spends testifying in a deposition; and

(ii) for discovery under Rule 51(b)(4)(B), also pay the other party a fair portion of the fees and expenses it reasonably incurred in obtaining the expert's facts and opinions, including—in the court's discretion—the time the expert reasonably spends preparing for deposition.

(5) ***Claims of Privilege or Protection of Work-Product Materials.***

(A) *Information, Documents, or Electronically Stored Information Withheld.* When a party withholds information, a document, or electronically stored information in response to a written discovery request on the claim that it is privileged or subject to protection as work product, the party must promptly identify in writing the information, document, or electronically stored information withheld and describe the nature of that information, document, or electronically stored information in a manner that—without revealing information that is itself privileged or protected—will enable other parties to assess the claim.

(B) *Inadvertent Production.* If a party contends that a document or electronically stored information subject to a claim of privilege or of protection as work-product material has been inadvertently produced in discovery, the party making the claim may notify any party who received the document or electronically stored information of the claim and the basis for it. After being notified, a party: (i) must promptly return, sequester, or destroy the specified document or electronically stored information and any copies it has; (ii) must not use or disclose the document or electronically stored information until the claim is resolved; (iii) must take reasonable steps to retrieve the document or

electronically stored information if the party disclosed it before being notified; and (iv) may promptly present the document or electronically stored information to the court under seal for a determination of the claim. The producing party must preserve the document or electronically stored information until the claim is resolved.

(c) Sequence of Discovery. Unless the court orders otherwise for the parties' and witnesses' convenience and in the interests of justice, or for other good cause:

(1) methods of discovery may be used in any sequence; and

(2) discovery by one party does not require any other party to delay its discovery.

(d) Supplementing and Correcting Discovery Responses. A party who has responded to an interrogatory, request for production, or request for admission must supplement or correct its response if it learns that the response was or has become materially incomplete or incorrect and if the additional or corrective information has not otherwise been disclosed to the other parties during the discovery process or in writing. A party must supplement or correct a discovery response under this rule in a timely manner, but in no event more than 30 days after it learns that the response is materially incomplete or incorrect.

(e) Sanctions. The court may impose an appropriate sanction—including any order under Rules 65 or 76(d)—against a party or attorney who has engaged in unreasonable, groundless, abusive, or obstructionist conduct in connection with discovery.

(f) Discovery and Disclosure Motions. Any discovery or disclosure motion must attach a good faith consultation certificate complying with Rule 9(c).

Rule 52. Subpoena.

(a) Generally.

(1) ***Requirements—Generally.*** Every subpoena must:

(A) state the name of the Arizona court from which it issued;

(B) state the title of the action, the name of the court in which it is pending, and the case number;

(C) command each person to whom it is directed to do the following at a specified time and place:

(i) attend and testify at a deposition, hearing, or trial;

(ii) produce and permit inspection, copying, testing, or sampling of designated documents, electronically stored information, or tangible things in that person's possession, custody, or control; or

(iii) permit the inspection of premises.

(D) include the following language:

You may object to this subpoena if you feel that you should not be required to respond to the request(s) made. Any objection to this subpoena must be made within 14 days after it is served upon you, or before the time specified for compliance, by providing a written objection to the party or attorney serving the subpoena.

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 seek an order from the court to compel you to provide the documents or inspection requested, after providing notice to you.

(2) ***Issuance by Clerk.*** The clerk must issue a signed but otherwise blank subpoena to a party requesting it. That party must complete the subpoena before service. The State Bar of Arizona may also issue signed subpoenas on behalf of the clerk through an online subpoena issuance service approved by the Supreme Court.

(3) ***Interstate Depositions and Discovery.*** Rule 45.1 of the Arizona Rules of Civil Procedure applies when an action pending in another jurisdiction requires the issuance of a subpoena in Arizona, or a pending Arizona action requires the issuance of a subpoena in another jurisdiction.

(b) Subpoena for Deposition, Hearing, or Trial; Duties; Objections.

(1) ***Issuing Court.*** A subpoena commanding attendance at a hearing or trial must issue from the superior court in the county where the hearing or trial is to be held. A subpoena commanding attendance at a deposition must issue from the superior court in the county where the action is pending.

(2) ***Combining or Separating a Command to Produce or to Permit Inspection.*** A command to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, may be included in a subpoena commanding attendance at a deposition, hearing, or trial, or may be set out in a separate subpoena.

(3) ***Place of Appearance.***

(A) *Trial Subpoena.* Subject to Rule 52(e)(2)(B)(iii), a subpoena commanding attendance at a trial may require the subpoenaed person to travel from anywhere within the state.

(B) *Deposition or Hearing Subpoena.* A subpoena commanding a person who is neither a party nor a party's officer to attend a deposition or hearing may not require the subpoenaed person to travel to a place other than:

(i) the county where the person resides or transacts business in person;

(ii) the county where the person is served with a subpoena, or within 40 miles from the place of service; or

(iii) such other convenient place fixed by a court order.

(4) ***Command to Attend a Deposition—Notice of Recording Method.*** A subpoena commanding attendance at a deposition must state the method for recording the testimony.

(5) ***Appearance Required.*** Objections to a subpoena commanding attendance at a deposition, hearing, or trial, must be made under subparts (a)(1)(D) or (c)(6). Unless excused from doing so by the party or attorney serving a subpoena, by a court order, or by any other provision of this Rule 52, a person who is properly served with a subpoena must attend and testify at the date, time, and place specified in the subpoena.

(c) Subpoena to Produce Materials or to Permit Inspection; Duties; Objections.

(1) ***Issuing Court.*** If separate from a subpoena commanding attendance at a deposition, hearing, or trial, a subpoena commanding a person to produce designated documents, electronically stored information, or tangible things, or to

permit the inspection of premises, must issue from the superior court in the county where the production or inspection is to be made.

(2) ***Time for Compliance.*** A person who is served with a subpoena to produce materials must be given at least 14 days to comply.

(3) ***Electronically Stored Information.***

(A) *Specifying the Form for Electronically Stored Information.* A subpoena may specify the form or forms in which electronically stored information is to be produced.

(B) *Form for Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding may produce it in native form or in another reasonably usable form that will enable the receiving party to have the same ability to access, search, and display the information as the responding person.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or expense. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or expense. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 51(b)(1) and (b)(2). The court may specify conditions for the discovery.

(4) ***Appearance Not Required.*** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless the subpoena also commands attendance at a deposition, hearing, or trial.

(5) ***Documents.*** A person responding to a subpoena to produce documents must produce them as they are kept in the usual course of business, or organize and label them to correspond with the categories in the demand.

(6) ***Objections.***

(A) *Form and Time for Objection.*

(i) A person commanded to produce documents, electronically stored information, or tangible things, or to permit inspection, may serve a written objection to producing, inspecting, copying, testing, or sampling any or all of the materials; to inspecting the premises; or to producing electronically stored information in the form or forms requested or from sources that are not reasonably accessible because of undue burden or expense. The objection must state the basis for the objection, and must include the name, address, and telephone number of the person, or the person's attorney, serving the objection. The objection must be served on the party or attorney serving the subpoena before the time specified for compliance or within 14 days after the subpoena is served, whichever is earlier.

(ii) A person served with a subpoena that combines a command to produce materials or to permit inspection, with a command to attend a deposition, hearing, or trial, may object to any part of the subpoena. A person objecting to the part of a combined subpoena that commands attendance at a deposition, hearing, or trial must attend and testify at the date, time, and place specified in the subpoena, unless excused as provided in Rule 52(b)(5).

(B) *Procedure After Objecting.*

(i) A person objecting to a subpoena to produce materials or to permit inspection need not comply with those parts of the subpoena that are the subject of the objection, unless ordered to do so by the issuing court.

(ii) The party serving the subpoena may move under Rule 65(a) to compel compliance with the subpoena. The motion must comply with Rule 65(a)(1), and must be served on the subpoenaed person and all other parties under Rule 43.

(iii) Any order to compel entered by the court must protect a person who is neither a party nor a party's officer from undue burden or expense resulting from compliance.

(C) *Claiming Privilege or Protection.*

(i) A person withholding subpoenaed information under a claim that it is privileged or subject to protection as work-product material must promptly comply with Rule 51(b)(5)(A).

(ii) If information produced in response to a subpoena is subject to a claim of privilege or of protection as work-product material, the person making the claim and the receiving parties must comply with Rule 51(b)(5)(A) or, if applicable, Rule 51(b)(5)(B).

(7) ***Production to Other Parties.*** Unless otherwise stipulated by the parties or ordered by the court, a party receiving documents, electronically stored information, or tangible things in response to a subpoena must promptly make such materials available to all other parties for inspection and copying, along with any other disclosures required by Rule 49.

(d) Service.

(1) ***General Requirements; Tendering Fees.*** A subpoena may be served by any person who is not a party and is at least 18 years old. Serving a subpoena requires delivering a copy to the named person and, if the subpoena requires that person's attendance, tendering to that person the fees for one day's attendance and the mileage allowed by law.

(2) ***Exceptions to Tendering Fees.*** Fees and mileage need not be tendered when the subpoena commands attendance at a trial or hearing or is issued on behalf of the State of Arizona or any of its officers or agencies.

(3) ***Service on Other Parties.*** A copy of every subpoena must be served on every other party in accordance with Rule 43.

(4) ***Service Within the State.*** A subpoena may be served anywhere within the state.

(5) ***Proof of Service.*** Proof of service may not be filed except as allowed by Rule 43.1. Any such filing must be with the court clerk for the county where the action is pending and must include the server's certificate stating the date and manner of service and the names of the persons served.

(e) Protecting a Person Subject to a Subpoena; Motion to Quash or Modify.

(1) ***Avoiding Undue Burden or Expense; Sanctions.*** A party or an attorney responsible for serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and may impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) ***Quashing or Modifying a Subpoena.***

(A) *When Required.* On timely motion, the court in the county where the case is pending or from which a subpoena was issued must quash or modify a subpoena if it:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel to a location other than the places specified in Rule 52(b)(3)(B);

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

(iv) subjects a person to undue burden.

(B) *When Permitted.* On timely motion, the superior court in the county where the case is pending or from which a subpoena was issued may quash or modify a subpoena if:

(i) it requires disclosing a trade secret or other confidential research, development, or commercial information;

(ii) it requires disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party;

(iii) it requires a person who is neither a party nor a party's officer to incur substantial travel expense; or

(iv) justice so requires.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 52(e)(2)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions, including any conditions and limits set forth in Rule 51(b), as the court deems appropriate:

(i) if the party or attorney serving the subpoena shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship; and

(ii) if the person's travel expenses or the expenses resulting from the production are at issue, the party or attorney serving the subpoena assures that the subpoenaed person will be reasonably compensated for those expenses.

(D) *Time for Motion.* A motion to quash or modify a subpoena must be filed before the time specified for compliance or within 14 days after the subpoena is served, whichever is earlier.

(E) *Service of Motion.* Any motion to quash or modify a subpoena must be served on the party or the attorney serving the subpoena. The party or attorney who served the subpoena must serve a copy of any such motion on all other parties.

(f) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it. A failure to obey must be excused if the subpoena purports to require a person who is neither a party nor a party's officer to attend or produce at a location other than the places specified in Rule 52(b)(3)(B).

Rule 53. Protective Orders Regarding Discovery Requests.

(a) Generally. A party or any person from whom discovery is sought may move for a protective order in the court where the action is pending—or alternatively, on matters relating to a deposition, the court in the county where the deposition will be taken. Subject to Rule 53(b), the court for good cause may enter an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) forbidding the discovery;

(2) specifying terms and conditions, including time and place, for the discovery;

(3) prescribing a discovery method other than the one selected by the party seeking discovery;

(4) forbidding inquiry into certain matters, or limiting the scope of discovery to certain matters;

(5) designating the persons who may be present while the discovery is conducted;

(6) requiring that a deposition be sealed and opened only on court order;

(7) requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way; and

(8) requiring that the parties simultaneously file specified documents or information in sealed envelopes, to be opened as the court directs.

(b) Ordering Discovery. If a motion for a protective order is wholly or partly denied, the court may, on terms that are just, order that any party or person provide or permit discovery.

(c) Awarding Expenses. Rule 65(a)(4) applies to the award of expenses on a motion for a protective order.

(d) Confidentiality Orders.

(1) ***Burden of Proof.*** Before the court may enter an order that limits a party or person from disclosing information or materials produced in the action to a person who is not a party to the action and before the court may deny an intervenor's request for access to such discovery materials:

(A) the party seeking confidentiality must show why a confidentiality order should be entered or continued; and

(B) the party or intervenor opposing confidentiality must show why a confidentiality order should be denied in whole or in part, modified, or vacated. The burden of showing good cause for an order remains with the party seeking confidentiality.

(2) ***Findings of Fact.*** When ruling on a motion for a confidentiality order, the court must make findings of fact concerning any relevant factors, including but not limited to:

(A) any party's or person's need to maintain the confidentiality of such information or materials;

(B) any nonparty's or intervenor's need to obtain access to such information or materials; and

(C) any possible risk to the public health, safety, or financial welfare to which such information or materials may relate or reveal.

No such findings of fact are needed if the parties have stipulated to such an order or if a motion to intervene and to obtain access to materials subject to a confidentiality order is unopposed. A party moving for entry of a confidentiality order must submit with its motion a proposed order containing proposed findings of fact.

(3) ***Least Restrictive Means.*** An order restricting release of information or materials to nonparties or intervenors must use the least restrictive means to maintain any needed confidentiality.

Rule 54. Discovery Before an Action Is Filed or Pending an Appeal.

(a) Before an Action Is Filed.

(1) ***Petition.*** A person who wants to perpetuate testimony—including his or her own—or to obtain discovery to preserve evidence about any matter cognizable in any court may file a verified petition in the superior court in the county where any expected adverse party resides. The petition must be titled in the petitioner's name and must:

(A) show that the petitioner expects to be a party to an action cognizable in a court but cannot presently bring it or cause it to be brought;

(B) identify the subject matter of the expected action and the petitioner's interest;

(C) show the facts that the petitioner desires to establish by the proposed discovery and the reasons for perpetuating it in advance of the expected action;

(D) identify the name or a description of each person whom the petitioner expects to be an adverse party and the person's address to the extent known;

(E) identify the name and address of each person from whom discovery is sought—who may but need not be a person identified as an expected adverse party under Rule 54(a)(1)(D)—and the evidence the petitioner expects to obtain from the discovery; and

(F) ask for an order: (i) directing the clerk to issue a subpoena under Rule 52 at the petitioner's request to obtain testimony or other evidence from each named person in order to preserve the testimony or other evidence; (ii) under Rule 63, for a physical or mental examination of an expected adverse party or of a person in the custody or under the legal control of an expected adverse party; or (iii) permitting the petitioner's deposition under Rule 57 to preserve his or her testimony.

(2) ***Hearing Required.*** Unless the petitioner and all expected adverse parties file a stipulation agreeing to the discovery requested in the petition, or unless the court orders otherwise for good cause, the court must hold a hearing on the relief that the petition seeks.

(3) ***Notice and Service.*** Unless the court orders otherwise for good cause, the petitioner must serve each expected adverse party with a copy of the petition and a notice stating the time and place of the hearing at least 20 days before the hearing date. If an expected adverse party is incompetent, Rule 37(b) applies. The petition and notice may be served either inside or outside Arizona in the

same manner that a summons and pleading are served under Rules 40 or 41, as applicable. If the petition seeks an order under Rule 63 for a physical or mental examination, the petition and notice must be served on the expected adverse party whose examination is sought or who has custody or legal control of the person whose examination is sought. In all other instances, if service cannot be made with reasonable diligence on an expected adverse party, the court may order service by publication or otherwise.

(4) ***Opposition and Reply.*** Unless the court orders otherwise, any expected adverse party may file an opposition to the petition at least 5 days before the hearing date. The opposition must be served on the petitioner and each other expected adverse party using any of the methods described in Rule 43. Unless the court orders otherwise, the petitioner may not file a reply memorandum.

(5) ***Order and Effect.***

(A) *Order.* If satisfied that perpetuating the testimony or preserving other evidence may prevent a failure or delay of justice, the court must enter an order that: (i) identifies each person who may be served with a subpoena under Rule 52 to obtain testimony or for the inspection of documents or premises and specifies the subject matter of the permitted examination; (ii) permits the physical or mental examination of an expected adverse party or of a person in the custody or under the legal control of an expected adverse party; or (iii) permits the deposition of the petitioning party.

(B) *Effect and Use.* Discovery authorized by the court must be conducted, and may be used, as provided in these rules. A reference in these rules to the court where an action is pending means, for this rule's purposes, the court where the petition for the discovery was filed. A deposition to perpetuate testimony taken under these rules may be used under Rule 59 in any later-filed action in an Arizona state court involving the same subject matter. Subpoena recipients have the rights of nonparties under Rule 52 regardless of whether they are identified as an expected adverse party under Rule 54(a)(1)(D).

(C) *Appointment of Counsel.* If a court authorizes a deposition, but an expected adverse party is not served in the same manner that a summons and pleading are served under Rules 40 or 41, as applicable, and is otherwise unrepresented by counsel, the court must appoint an attorney to represent that expected adverse party and to cross-examine the deponent. The petitioner must pay for an appointed attorney's services in an amount fixed by the court.

(b) Pending Appeal.

(1) ***Generally.*** The superior court that rendered judgment may, if an appeal has been taken or may still be taken, permit a party to conduct discovery under the rules to preserve evidence for use in any later superior court proceedings in that action.

(2) ***Motion.*** A party who seeks to perpetuate testimony or preserve evidence under the rules may move for leave to conduct discovery. The moving party must provide the same notice and serve the motion in the same manner as if the action was still pending in superior court. The motion must:

(A) identify the name and address of each person to be deposed or from whom discovery under the rules is sought, and the expected substance of the testimony or other discovery; and

(B) show the reasons for perpetuating the testimony or other discovery.

(3) ***Order and Effect.*** If satisfied that perpetuating the testimony or preserving the other evidence may prevent a failure or delay of justice, the court may order the requested discovery. Discovery authorized by the court must be conducted, and may be used, as provided in these rules.

Rule 55. Persons Before Whom Depositions May Be Taken; Depositions in Foreign Countries.

(a) Deposition in the United States.

(1) ***Generally.*** Within the United States or a territory or insular possession subject to United States jurisdiction, a deposition must be taken before:

(A) an officer authorized to administer oaths by federal law, Arizona law, or the law of the place of examination;

(B) a person appointed by the court where the action is pending to administer oaths and take testimony; or

(C) any certified reporter designated by the parties under Rule 56.

(2) ***Definition of "Officer."*** The term "officer" as used in Rules 57, 58, and 59 includes a person appointed by the court under this rule or designated by the parties under Rule 56.

(b) Deposition in a Foreign Country.

(1) ***Generally.*** A deposition may be taken in a foreign country:

(A) under an applicable treaty or convention;

(B) under a letter of request, whether or not captioned a "letter rogatory";

(C) on notice, before a person authorized to administer oaths by federal law, Arizona law, or the law of the place of examination; or

(D) before a person commissioned by the court where the action is pending to administer any necessary oath and take testimony.

(2) ***Form of a Request, Notice, or Commission.*** When a letter of request or any other device is used according to a treaty or convention, it must be captioned in the form prescribed by that treaty or convention. A letter of request may be addressed "To the Appropriate Authority in [name of country]." A deposition notice or commission must designate by name or descriptive title the person before whom the deposition is to be taken.

(3) ***Letter of Request—Admitting Evidence.*** Evidence obtained in response to a letter of request need not be excluded because it is not a verbatim transcript, because the testimony was not taken under oath, or because of any similar departure from the requirements for depositions taken within the United States under these rules.

(c) Letters of Request and Commissions.

(1) ***Not Required.*** A deposition in a pending superior court action may be taken anywhere upon notice prescribed by these rules without a letter of request, commission, or other similar writ.

(2) ***Issuing Letter of Request or Commission.*** The clerk may issue a letter of request—whether or not captioned a "letter rogatory"—a commission, or both:

(A) on appropriate terms after an application and at least one full-day's notice to the other parties; and

(B) without a showing that taking the deposition in another manner is impracticable or inconvenient.

(3) ***Objections; Waiver.*** A party waives any error in the form of a letter of request or commission if it does not file a written objection before the clerk issues the letter of request or commission. The court must rule on any timely filed objection before the clerk may issue a letter of request or commission.

(d) Disqualification. A deposition may not be taken before a person who is:

(1) any party's relative, employee, or attorney;

(2) related to or employed by any party's attorney; or

(3) financially interested in the action.

Rule 56. Modifying Discovery and Disclosure Procedures and Deadlines.

(a) By Written Agreement.

(1) ***Generally.*** Unless the court orders otherwise, the parties may agree in writing to:

(A) take a deposition before any certified reporter, at any time or place, on any notice, and in any manner specified, in which event it may be used in the same way as any other deposition; and

(B) modify other procedures in these rules governing or limiting discovery or disclosure.

(2) ***Court Order.*** Unless it interferes with court-ordered deadlines, the time set for a hearing, or the time set for trial, a written agreement under Rule 56(a)(1) is effective without court order.

(b) By Motion. A party may move to modify any procedure governing or limiting discovery or disclosure. The motion must:

(1) set forth the modification sought;

(2) show good cause for the modification; and

(3) attach a good faith consultation certificate that complies with Rule 9(c).

Rule 57. Depositions by Oral Examination.

(a) When a Deposition May Be Taken.

(1) ***Depositions Permitted.*** A party may depose: (A) any party; (B) any party's current spouse; and (C) any person disclosed as an expert witness under Rule 49(h). A party also may depose any document custodian to secure production of documents and establish evidentiary foundation. Unless all parties agree or the court orders otherwise for good cause, a party may not depose any other person or depose a person who has already been deposed in the action. A party may not unreasonably withhold its agreement to additional depositions under this rule.

(2) ***Depositions Earlier Than 30 Days After Serving the Summons and Petition.*** A party must obtain leave of court to take a deposition earlier than 30 days after serving the summons and petition on any other party unless: (A) unless otherwise agreed in writing; or (B) a party certifies in the deposition notice, with supporting facts, that the deponent is expected to leave Arizona and will be unavailable for deposition after expiration of the 30-day period.

(3) ***Incarcerated Deponents.*** Subject to Rule 57(a)(1), a party may depose an incarcerated person only by agreement of the person's custodian or by leave of court on such terms as the court orders.

(4) ***Attendance of a Party.*** A party's attendance at a deposition is required without service of a subpoena.

(5) ***Compelling Attendance of Non-Party Deponent.*** A party may compel a nonparty deponent's attendance by serving a subpoena under Rule 52.

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

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

(2) ***Producing Materials.*** If a subpoena for documents, electronically stored information, or tangible things has been or will be served on the deponent, the materials designated for production in the subpoena must be listed in the deposition notice or in an attachment to the notice. A deposition notice to a

deponent who is a party to the action may be accompanied by a separate request under Rule 62 to produce documents, electronically stored information, or tangible things at the deposition. The procedures under Rule 62 apply to any such request.

(3) ***Method of Recording.***

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

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

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

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

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

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

(1) ***Examination and Cross-Examination.*** The examination and cross-examination of a deponent must proceed as they would at trial under the Arizona Rules of Evidence including Rule 615. Parties may not make evidentiary objections, including relevance objections. Any party not present within 30 minutes after the time specified in the notice of deposition waives any objection that the deposition was taken without the party's presence. After putting the deponent under oath or affirmation, the certified court reporter personally—or a person acting in the presence and under the direction of the officer—must record the testimony by the method(s) designated under Rule 57(b)(3).

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

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

(d) Duration; Sanctions; Motion to Terminate or Limit.

(1) ***Duration.*** Unless the parties agree or the court orders otherwise, a deposition should be of reasonable length, is presumptively limited to 4 hours and must be completed in a single day. An unreasonable refusal to extend deposition time may result in sanctions.

(2) ***Sanctions.*** The court may impose appropriate sanctions—including any order under Rule 65—against a party or attorney who has engaged in unreasonable, groundless, abusive, or obstructionist conduct in connection with a deposition, or who without good cause terminates or limits a deposition.

(3) ***Motion to Terminate or Limit.***

(A) *Grounds.* At any time during a deposition, the deponent or a party terminate or limit the deposition on the ground that it is being conducted in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses the deponent or party. Within 10 days thereafter, the deponent or party must file a motion in the court where the action is pending or the court where the deposition is being taken. If the objecting deponent or party so demands, the deposition must be suspended for the time necessary to obtain an order. If the person who limits or terminates the deposition fails to file a timely motion, any other party may move to compel the continuation of the deposition and seek sanctions under Rule 65.

(B) *Order.* The court may order that the deposition be terminated or that its scope and manner be limited as provided in Rule 51(c). If terminated, the deposition may be resumed only by order of the court where the action is pending.

(C) *Award of Expenses.* Rule 65(a)(4) applies to the award of expenses.

(e) Review by the Deponent; Changes.

(1) ***Review; Statement of Changes.*** If requested by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign and deliver to the certified reporter a statement listing the changes and the reasons for making them.

(2) ***Officer's Certificate to Attach Changes.*** The officer must note in the certificate prescribed by Rule 57(f)(1) whether the officer received a statement of changes from the deponent and, if so, the officer must attach any changes the deponent made during the 30-day period.

(f) Officer's Certification and Delivery; Documents and Tangible Things; Copies of the Transcript or Recording; Filing.

(1) ***Certification and Delivery.*** The officer must certify in writing that the deponent was duly sworn by the officer and that the deposition accurately records the deponent's testimony. The certificate must accompany the record of the deposition. Unless the court orders otherwise, the officer must seal the deposition in an envelope or package bearing the title of the action and marked "Deposition of [witness's name]" and must promptly deliver it to the attorney who arranged for the transcript or recording. The attorney must store it under

conditions that will protect it against loss, destruction, tampering, or deterioration.

(2) ***Documents and Tangible Things.***

(A) *Originals and Copies.* Documents and tangible things produced for inspection during a deposition must, on a party's request, be marked for identification and attached to the deposition—and any party may inspect and copy them—but if the person who produced them wants to keep the originals, the person may:

(i) offer copies to be marked, attached to the deposition, and then used as originals—after giving all parties a fair opportunity to verify the copies by comparing them with the originals; or

(ii) give all parties a fair opportunity to inspect and copy the originals after they are marked—in which event the originals may be used as if attached to the deposition.

(B) *Order Regarding the Originals.* On motion, the court may order that the originals be attached to the deposition until final disposition of the action.

(3) ***Copies of the Transcript or Recording.*** Unless the parties agree or the court orders otherwise, the officer must retain the record of a deposition according to the applicable records retention and disposition schedules adopted by the Supreme Court. Upon payment of a reasonable charge, the officer must provide a copy of the transcript or recording to any party or to the deponent.

(g) Failure to Attend a Deposition or Serve a Subpoena; Expenses. A party who attends a noticed deposition in person or by an attorney may recover reasonable expenses for attending, including attorney's fees, if the noticing party failed to:

(1) attend and proceed with the deposition; or

(2) serve a subpoena on a nonparty deponent, who did not attend as a result of the lack of service.

Rule 58. [Reserved].

Rule 59. Using Depositions in Court Proceedings.

(a) Using Depositions.

(1) ***In the Same or Similar Action.*** At a hearing or trial, all or part of a deposition taken in the action—or in another federal or state court action involving the same subject matter between the same parties, or their representatives or predecessors in interest—may be used against a party if:

(A) the deposition testimony would be admissible under the Arizona Rules of Evidence if the deponent were present and testifying;

(B) the party or its predecessor in interest was present or represented at the deposition or had reasonable notice of it; and

(C) the party, its representative, or its predecessor in interest had an opportunity and similar motive to develop the testimony by examination at the deposition.

(2) ***In a Different Action.*** At a hearing or trial, all or part of a deposition taken in another federal or state court action may be used as allowed by the Arizona Rules of Evidence.

(3) ***Deponent's Availability at Trial.*** Subject to Rule 59(a)(1) and (2), all or part of a deposition may be used at trial regardless of the deponent's availability to testify at trial. Use of a deposition at trial does not limit, in any way, any party's right to call the deponent to testify in person.

(4) ***Using Part of a Deposition.*** If a party offers in evidence only part of a deposition, the court may require that party to introduce contemporaneously other parts that in fairness should be considered with the part offered.

(5) ***Substituted Party.*** Substituting a party under Rule 37 does not affect the right to use a previously taken deposition.

(6) ***Other uses.*** A deposition may also be used as permitted by Rule 2 of these rules.

(b) Objections to Admissibility. Subject to Rules 55(b) and (c), and 59(d)(3), an objection may be made at a hearing or trial to the admission of any deposition testimony that would be inadmissible if the witness were present and testifying.

(c) Form of Presentation.

(1) ***Generally.*** Unless the court orders otherwise, a party must provide the court a transcript of any deposition testimony the party offers, but also may provide the court with the testimony in non-transcript form.

(2) ***Designation.*** A party intending to offer deposition testimony at trial or at a hearing, for any purpose other than impeachment, must designate the portions to be offered by page and line reference and identify the party or parties against whom it will be offered. The designations must be included in any pretrial or prehearing statement required by the court.

(d) Preservation and Waiver of Objections.

(1) ***To the Notice.*** A party objecting to an error or irregularity in a deposition notice must promptly serve the objection in writing on the party giving the notice.

(2) ***To the Officer's Qualification.*** A party objecting to the qualification of the officer before whom a deposition is to be taken must make such objection:

(A) before the deposition begins; or

(B) promptly after the basis for disqualification becomes known or, with reasonable diligence, could have been known.

(3) ***To the Taking of the Deposition.***

(A) *To Competence, Relevance, or Materiality.* A party objecting to a deponent's competence or to the competence, relevance, or materiality of testimony must make the objection before or during the deposition if the ground for the objection could have been corrected at that time.

(B) *To an Error or Irregularity at an Oral Deposition.* A party objecting to the manner of taking the deposition, the form of a question or answer, the oath or affirmation, a party's conduct, or other matters that could be corrected at that time must timely make the objection during the deposition.

(4) ***To the Officer's Completion and Return of Deposition.*** A party objecting to how the officer (A) transcribed the testimony, or (B) prepared, signed, certified, sealed, endorsed, delivered, or otherwise dealt with the deposition, must file a motion to suppress promptly after the error or irregularity becomes known or, with reasonable diligence, could have been known.

Rule 60. Interrogatories to Parties.

(a) Generally.

(1) ***Definition.*** Interrogatories are written questions served by a party on another party, and answered in writing and under oath.

(2) ***Number.*** In connection with any petition, unless the parties agree or the court orders otherwise, a party may serve on any other party no more than 40 written interrogatories. A uniform interrogatory and its subparts count as one interrogatory. Any subpart to a non-uniform interrogatory is considered a separate interrogatory.

(A) *Stipulations.* If a party believes good cause exists for the service of more than 40 interrogatories, that party must consult with the party upon whom the additional interrogatories would be served and request a written stipulation regarding the number of additional interrogatories.

(B) *By Motion and Court Order.* If a party cannot obtain a stipulation permitting the service of additional interrogatories, the party may serve additional interrogatories only if a court grants a party's motion to do so. The party requesting additional interrogatories must show that:

(i) the issues presented warrant the service of additional interrogatories;

(ii) requiring the responding party to answer additional interrogatories is a more practical or less burdensome method of obtaining the information sought than by other alternatives; or

(iii) other good cause exists for serving additional interrogatories.

(C) *Accompanying the Motion.* A motion for additional interrogatories must be accompanied by a copy of the proposed additional interrogatories and by a good faith consultation certificate required by Rule 9(c).

(3) ***Scope.*** An interrogatory may ask about any matter allowed under Rule 51(b). An interrogatory is not improper merely because it asks for an opinion. An interrogatory may ask for a party's contention about facts or the application of law to facts, but the court may, on motion, order that such a contention interrogatory need not be answered until a later time.

(4) ***Uniform Interrogatories.*** Rule 97, Form 7, contains uniform interrogatories that a party may use under this rule. A party may use a uniform interrogatory when it is appropriate to the legal or factual issues of the particular action, regardless of how the action or claims are designated. The use of uniform interrogatories is

not mandatory. A party propounding a uniform interrogatory may do so by serving a notice that identifies the uniform interrogatory by form and number. A party may limit the scope of a uniform interrogatory—such as by requesting a response only as to particular persons, events, or issues—without converting it into a nonuniform interrogatory.

(5) ***Service.***

(A) *Nonuniform Interrogatories.* A party propounding nonuniform interrogatories must serve a copy on every party who has appeared in the action.

(B) *Uniform Interrogatories.* A party propounding uniform interrogatory must serve a Notice of Service of Uniform Interrogatories containing the names of the party and attorney to whom the requests are made, and each uniform interrogatory for which the propounding party requests an answer. The propounding party also must serve the notice on every other party.

(C) *No Filing with the Court.* The propounding party must not file nonuniform interrogatories or a notice of service of uniform interrogatories.

(b) Answers and Objections.

(1) ***Time to Respond.*** Unless the parties agree or the court orders otherwise, the responding party must serve its answers and any objections within 40 days after being served with the interrogatories. But a respondent may serve its answers and any objections within 60 days after service—or execution of an acceptance of service—of the summons and petition.

(2) ***Answers Under Oath.*** Subject to Rule 60(b)(3), an answering party must answer each interrogatory separately and fully in writing under oath. In answering an interrogatory, a party must furnish the information available to it. It must also reproduce the text of an interrogatory immediately above its answer to that interrogatory.

(3) ***Objections.*** The grounds for objecting to an interrogatory must be stated with specificity. Any ground not stated in a timely objection is waived unless the court, for good cause, excuses the failure. If a party states an objection, it must still answer the interrogatory to the extent that it is not objectionable.

(4) ***Signature.*** The party who answers the interrogatories must sign them under oath. An attorney who objects to any interrogatories must sign the objections.

(5) ***Service.*** The answering party must serve the original answers, with any objections, on the propounding party, and must serve a copy on every other party

who has appeared in the action. The answering party must not file interrogatory answers with the court.

(c) Use. An answer to an interrogatory may be used to the extent allowed by the Arizona Rules of Evidence.

(d) Option to Produce Records. If the answer to an interrogatory may be determined by examining, auditing, compiling, abstracting, or summarizing a party's business, medical, mental health, behavioral health, employment, income tax, or education records (including electronically stored information), and if the burden of determining the answer will be substantially the same for either party, the responding party may answer by:

(1) specifying the records that must be reviewed, in sufficient detail to enable the interrogating party to locate and identify them as readily as the responding party could; and

(2) giving the interrogating party a reasonable opportunity to examine and audit the records and to make copies, compilations, abstracts, or summaries.

Rule 61. [Reserved].

Rule 62. Production of Documents and Things and Entry onto Land.

(a) Generally. A party may serve on any other party a request within the scope of Rule 51(b):

(1) to produce and permit the requesting party or its representative to inspect, copy, test, or sample the following items in the responding party's possession, custody, or control:

(A) any designated documents or electronically stored information—including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form; or

(B) any designated tangible things; or

(2) to permit entry onto designated land or other property possessed or controlled by the responding party, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

(b) Procedure.

(1) ***Number.*** Unless the parties agree or the court orders otherwise, a party may not serve requests for more than 10 items or distinct categories of items on any other party.

(2) ***Contents of the Request.*** The request:

(A) must describe with reasonable particularity each item or distinct category of items to be inspected;

(B) must specify a reasonable time, place, and manner for the inspection and for performing the related acts; and

(C) may specify the form or forms in which electronically stored information is to be produced.

(3) ***Responses and Objections.***

(A) *Time to Respond.* Unless the parties agree or the court orders otherwise, the party to whom the request is directed must respond in writing within 40 days after being served with the request, or within 60 days after service of the summons and petition upon the respondent or execution of an acceptance of service by that respondent.

(B) *Responding to Each Item.* For each item or distinct category of items, the response must either state that inspection and related activities will be permitted as requested or state the grounds for objecting with specificity, including the reasons.

(C) *Objections.* An objection must state whether any responsive materials are being withheld based on that objection. A party objecting to part of a request must specify the objectionable part and permit inspection of the other requested materials.

(D) *Producing the Documents or Electronically Stored Information.* Unless the parties agree or the court orders otherwise, these procedures apply to producing documents or electronically stored information:

(i) a party must produce documents as they are kept in the usual course of business or must organize and label them to correspond to the categories in the request;

(ii) a party must produce electronically stored information in the form requested by the receiving party. If the responding party objects to a requested form—or if no form was specified in the request—the producing party may produce the electronically stored information in native form or in another reasonably usable form that will enable the receiving party to have the same ability to access, search, and display the information as the producing party; and

(iii) absent good cause, a party need not produce the same electronically stored information in more than one form.

(c) Nonparties. As provided in Rule 52, a nonparty may be compelled to produce documents and tangible things or to permit an inspection.

Rule 63. Physical, Mental or Behavioral Health, and Vocational Evaluations.

(a) Examination on Order.

(1) ***Generally.*** The court where the action is pending may order a party whose physical or mental condition or ability to work is in controversy to submit to a physical examination, mental or behavioral health examination, or a vocational evaluation by a physician, psychologist, or designated expert. The court has the same authority to order a party to produce for examination a person who is in the party's custody or under the party's legal control.

(2) ***Motion and Notice; Contents of the Order.*** An order under this rule:

(A) may be entered only on motion for good cause and on notice to all parties and the person to be examined; by agreement of the parties, or on the court's own motion.

(B) must specify the time, place, manner, conditions, and scope of the examination; and

(C) must specify the person or persons who will perform the examination.

(b) Examination on Notice; Motion Objecting to Examiner; Failure to Appear.

(1) ***Notice.*** When the parties agree that an examination is appropriate but do not agree on the examiner, the party seeking the examination may proceed by giving reasonable—and not fewer than 30 days—written notice to all other parties. The notice must:

(A) identify the party or person to be examined;

(B) specify the time, place, and scope of the examination; and

(C) identify the examiner(s).

(2) ***Motion Objecting to Examiner.*** After being served with a proper notice under this rule, a party who objects to the examiner(s) identified in the notice may file a motion in the court where the action is pending. For good cause, the court may order that the examination be conducted by a designated expert other than the one specified in the notice.

(3) ***Failure to Appear.*** Unless the party has filed a motion under Rule 53(a), the party must appear—or produce the person in the party's custody or legal control—for the noticed examination. If the party fails to do so, the court where the action is pending may, on motion, make such orders concerning the failure as are just, including those under Rule 65(a)(4).

(c) Attendance of Representative; Recording.

(1) ***Physical or Vocational Exam.*** The person to be examined at a physical or vocational examination has the right to have a representative present during the examination and to make a video or audio recording of the examination unless the court determines that it may adversely affect the examination's outcome.

(2) ***Mental or Behavioral Health Exam.*** Unless the examiner agrees, or the court orders, the person to be examined at a mental or behavioral health examination may not have a representative present during the examination or make a video or audio recording of the examination.

(d) Copy of Recording. A copy of a recording of an examination under section (c) must be provided to any party upon request.

(e) Examiner's Report; Other Like Reports of Same Condition; Waiver of Privilege.

(1) ***Contents.*** The examiner's report must be in writing and set out in detail the examiner's findings, including diagnoses, conclusions, and the results of any tests.

(2) ***Request by the Party or Person Examined.*** The party who is examined—or who produces the person examined—may request the examiner's report, and written or recorded notes from the examination. If such a request is made, the party who moved for or noticed the examination must, within 20 days of the examination or request—whichever is later—deliver to the requestor copies of:

(A) the examiner's report; and

(B) all written or recorded notes made by the examiner and the person examined at the time of the examination, and must provide access to the original written or recorded notes for purposes of comparing them with the copies.

(3) ***Disclosure of Other Reports.*** Absent good cause, the party who is examined must disclose reports of all other examinations for the same condition, except for a vocational exam protected by the work product privilege.

(4) ***Waiver of Privilege.*** An examination conducted under this rule does not constitute a waiver of any privilege that the examined party is otherwise entitled to assert under law.

Rule 64. Requests for Admission.

(a) Scope and Procedure.

(1) ***Scope.*** A party may serve on any other party a written request to admit, for purposes of the pending action only, the truth of any matters within the scope of Rule 51(b) relating to:

(A) facts, the application of law to fact, or opinions about either; and

(B) the genuineness of any described documents.

(2) ***Form; Copy of a Document.*** Each request must be separately stated. A request to admit the genuineness of a document must be accompanied by a copy of the document.

(3) ***Number.*** Unless the parties agree or the court orders otherwise, a party may serve on any other party no more than 25 requests for admission.

(4) ***Time to Respond; Effect of Not Responding.*** A matter is admitted unless timely denied or objected to. The responding party must serve his or her response within 40 days after service, or within 40 days after being served with the request, or within 60 days after service of the summons and petition upon the respondent or execution of an acceptance of service by that respondent. A response must be signed by the party or the party's attorney. The parties may agree to, or the court may order, a shorter or longer time for responding.

(5) ***Response.*** If a request is not admitted, the response must specifically deny it or state in detail why the responding party cannot truthfully admit or deny it. A denial must fairly respond to the substance of the request; and when good faith requires that a party qualify a response or deny only part of a request, the response must specify the part admitted and qualify or deny the rest. The responding party may assert lack of knowledge or information as a reason for failing to admit or deny only if the party states that it has made reasonable inquiry and that the information it knows or can readily obtain is insufficient to enable an admission or denial.

(6) ***Objections.*** A party must state grounds for objecting to a request. A party may not object solely on the ground that the request presents a genuine issue for trial.

(7) ***Motion Regarding the Sufficiency of a Response or Objection.*** The requesting party may move to determine the sufficiency of a response or objection.

(b) Effect of an Admission. A matter admitted under this rule is conclusively established unless the court, on motion, permits the admission to be withdrawn or

amended. Subject to Rule 76.1, the court may permit withdrawal or amendment if it would promote the presentation of the merits of the action and if the court is not persuaded that it would prejudice the requesting party in maintaining or defending the action on the merits. An admission under this rule is not an admission for any other purpose and cannot be used against the party in any other proceeding.

Rule 65. Failure to Make Disclosures or to Cooperate in Discovery; Sanctions.

(a) Motion for Order Compelling Disclosure or Discovery.

(1) ***Generally.*** A party may move for an order compelling disclosure or discovery. The party must serve the motion on all other parties and affected persons and must attach a good faith consultation certificate complying with Rule 9(c).

(2) ***Specific Motions.***

(A) *To Compel Disclosure.* If a party fails to disclose information required by Rule 49, the other party may move to compel disclosure and for appropriate sanctions.

(B) *To Compel a Discovery Response.* A party seeking discovery may move for an order compelling an answer, designation, production, or inspection if any person or entity has not complied with a discovery rule.

(C) *Related to a Deposition.* When taking an oral deposition, the party asking a question may complete, continue with, or adjourn the examination before moving for an order to compel an answer.

(3) ***Evasive or Incomplete Disclosure, Answer, or Response.*** For purposes of this rule, the court may treat an evasive or incomplete disclosure, answer, or response as a failure to disclose, answer, or respond.

(4) ***Payment of Expenses.***

(A) *If the Motion Is Granted (or Disclosure or Discovery Is Provided After Filing).* If the motion is granted—or if the disclosure or requested discovery is provided after the motion was filed—the court may, after giving an opportunity to be heard, require the party or person whose conduct necessitated the motion, to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees. The court may not order this payment if:

(i) the movant filed the motion before attempting in good faith to obtain the disclosure or discovery without court action;

(ii) the opposing party's nondisclosure, response, or objection was in good faith; or

(iii) other circumstances make an award of expenses unjust.

(B) *If the Motion Is Denied.* If the motion is denied, the court may, after giving an opportunity to be heard, require the movant, the attorney filing the motion, or both, to pay the party or person who opposed the motion its reasonable

expenses incurred in opposing the motion, including attorney's fees. The court may not order this payment if the motion was filed in good faith or other circumstances make an award of expenses unjust.

(C) *If the Motion Is Granted in Part and Denied in Part.* If the motion is granted in part and denied in part, the court, after giving an opportunity to be heard, may apportion the reasonable expenses, including attorney's fees, for the motion.

(b) Failure to Comply with Court Order or Discovery or Disclosure Rule; Sanctions.

(1) ***For Not Obeying a Discovery Order or Rule.*** If a person fails to obey an order to provide or permit discovery, or fails to comply with a disclosure or discovery rule, the court may enter sanctions including, but not limited to, the following:

(A) directing that designated facts be taken as established for purposes of the action;

(B) prohibiting the disobedient party from supporting or opposing designated arguments, or from introducing designated matters in evidence;

(C) striking pleadings in whole or in part;

(D) staying further proceedings until the order is obeyed;

(E) dismissing the action or proceeding in whole or in part, unless dismissal would be contrary to the best interests of a child;

(F) rendering a default judgment, in whole or in part, against the disobedient party; or

(G) scheduling a proceeding to treat the violation as contempt of court.

(2) ***Payment of Expenses.*** Instead of or in addition to the orders above, the court may order the disobedient person or the person's attorney, or both, to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the failure was in good faith or other circumstances make an award of expenses unjust.

(c) Use of Information, Witness, or Document Disclosed After Scheduling Order or Case Management Order Deadline or Later Than 30 Days Before Trial. A party seeking to use information, a witness, or a document that it first disclosed later than the deadline set in a scheduling order or a case management order, or—in the absence of such a deadline—less than 30 days before trial, must obtain leave of court by motion. The motion must be supported by affidavit and must show that:

(A) the party, acting with due diligence, could not have earlier discovered and disclosed the information, witness, or document; and

(B) the party disclosed the information, witness, or document as soon as practicable after its discovery.

(d) Failure to Preserve Electronically Stored Information.

(1) ***Duty to Preserve.***

(A) *Generally.* A party or person has a duty to take reasonable steps to preserve electronically stored information relevant to an action once it commences the action, once it learns that it is a party to the litigation, or once it reasonably anticipates the litigation's commencement, whichever occurs first. A court order or statute also may impose a duty to preserve certain information.

(B) *Reasonable Anticipation.* A person reasonably anticipates an action's commencement if:

(i) it knows or reasonably should know that it is likely to be a party in a specific action; or

(ii) it seriously contemplates commencing an action or takes specific steps to do so.

(C) *Reasonable Steps to Preserve.*

(i) A party must take reasonable steps to prevent the routine operation of an electronic information system or policy from destroying information that should be preserved.

(ii) Factors that a court should consider in determining whether a party took reasonable steps to preserve relevant electronically stored information include the nature of the issues raised in the action or anticipated action, the information's probative value, the accessibility of the information, the difficulty in preserving the information, whether the information was lost as a result of the good-faith routine operation of an electronic information system, the timeliness of the party's actions, and the relative burdens and costs of a preservation effort in light of the importance of the issues at stake, the parties' resources and technical sophistication, and the amount in controversy.

(2) ***Remedies and Sanctions.*** If electronically stored information that should have been preserved is lost because a party, either before or after an action's commencement, failed to take reasonable steps to preserve it, a court may order

additional discovery to restore or replace it, including, if appropriate, an order under Rule 51(b)(2). If the information cannot be restored or replaced through additional discovery, the court:

(A) upon finding prejudice to another party from the loss of the information, may order measures no greater than necessary to cure the prejudice; or

(B) only upon finding that the party acted with the intent to deprive another party of the information's use in the litigation, may:

(i) presume that the lost information was unfavorable to the party; or

(ii) upon also finding prejudice to another party, dismiss the action or enter a default judgment.

Part VIII. Settlement and Alternative Dispute Resolution ("ADR").

Rule 66. Duties to Consider and Attempt Settlement by Alternative Dispute Resolution ("ADR").

(a) Purpose. These rules encourage the resolution of family law cases using non-adversarial means of alternative dispute resolution ("ADR") to the greatest extent possible, whether through a program overseen, administered, or authorized by the court, or by a person or agency independent of the court. Parties are encouraged to participate in mediation independent of the court.

(b) Definitions. The court may provide or authorize ADR processes, which may include the following:

(1) ***Arbitration***. "Arbitration" is a process in which the parties agree to submit disputed issues to one or more neutral individuals, who are retained by the parties and who will render a decision in accordance with the Uniform Arbitration Act, A.R.S. §§ 12-1501 to -1518 or the Revised Uniform Arbitration Act, A.R.S. §§ 12-3001 to -3029, and Rule 67.2.

(2) ***Family Law Master.*** A "family law master" is a person appointed by the court, including a family law conference officer, who receives evidence on disputed issues and submits a report to the court that sets forth the master's findings of fact and conclusions of law under Rule 72.

(3) ***Mediation.*** "Mediation" is a voluntary and confidential process under Rule 67.3 or Rule 68.

(4) ***Open Negotiation.*** An "open negotiation" is a process of non-confidential negotiations between the parties conducted by a neutral negotiator who attempts to facilitate a resolution of their dispute. The negotiator reports disputed issues to the court if the parties are unable to resolve them.

(5) ***Parenting Coordinator***. A "parenting coordinator" is a person the court appoints to assist parents by making recommendations to the court about implementing, clarifying, modifying, and enforcing legal decision-making and parenting time orders under Rule 74.

(6) ***Settlement Conference.*** A "settlement conference" is a confidential process in which parties meet with a neutral judge, commissioner, or judge pro tempore to discuss settlement under Rule 67.4.

(c) Other ADR Processes. The court may create, administer, approve, or authorize other ADR processes designed to provide the parties, who are or have been involved

in a family law matter, or who are thinking about filing a family law matter, with an opportunity to resolve their dispute without court litigation.

(d) Duty to Consider ADR. No later than 90 days after a respondent's appearance, the parties must consider:

(1) the possibilities for a prompt resolution of the case; and

(2) whether they might benefit from participating in an ADR process, and, if so:

(A) the type of process that would be most appropriate in their case;

(B) the selection of an ADR service provider; and

(C) the scheduling of ADR proceedings.

(e) Duty to Attempt Settlement. Attorneys of record and unrepresented parties in a case are jointly responsible for having a good faith discussion about settlement of the case, or agreeing on an ADR process. The court may impose sanctions under Rule 71 for any party's failure to participate in good faith in such discussions.

(f) Domestic Violence. Parties who represent themselves are not required to personally meet or contact each other under this rule in violation of a current court order prohibiting contact, or if there is a history of domestic violence between the parties, but the parties must take reasonable steps under the circumstances to resolve as many issues as possible.

(g) Assistance in Choosing Appropriate ADR Process. Unless the parties have agreed to use a specific ADR process, the court may direct the parties to discuss with a court-appointed ADR specialist, either in person or by telephone, whether ADR is appropriate and if so, the types of ADR processes that might benefit them.

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Rule 67. Types of Alternative Dispute Resolution.

(a) Alternative Dispute Resolution includes these processes:

(1) A collaborative law process under Rule 67.1;

(2) Family law arbitration under Rule 67.2;

(3) Private mediation under Rule 67.3; and

(4) A settlement conference under Rule 67.4.

(b) Conciliation court services are described in Rule 68.

Rule 67.1. Collaborative Law Proceedings.

(a) Short Title. The provisions of this rule may be cited as the Uniform Collaborative Law Rules.

(b) Definitions. In this rule:

(1) "Collaborative law communication" means a statement, whether oral or in a record, or verbal or nonverbal, that:

(A) is made to conduct, participate in, continue, or reconvene a collaborative law process; and

(B) occurs after the parties sign a collaborative law participation agreement and before the collaborative law process is concluded.

(2) "Collaborative law participation agreement" means an agreement by persons to participate in a collaborative law process.

(3) "Collaborative law process" means a procedure intended to resolve a collaborative matter without intervention by a tribunal in which persons:

(A) sign a collaborative law participation agreement; and

(B) are represented by collaborative lawyers.

(4) "Collaborative lawyer" means a lawyer who represents a party in a collaborative law process.

(5) "Collaborative matter" means a dispute, transaction, claim, problem, or issue for resolution, including a dispute, claim, or issue in a proceeding, which is described in a collaborative law participation agreement and arises under the family or domestic relations law of this state, including:

(A) marriage, dissolution, annulment, and property distribution;

(B) legal decision-making, parenting time, and visitation;

(C) spousal maintenance, and child support;

(D) adoption;

(E) parentage; and

(F) premarital, marital, and post-marital agreements.

(G) "Law firm" means:

(i) lawyers who practice law together in a partnership, professional corporation, sole proprietorship, limited liability company, or association; and

(ii) lawyers employed in a legal services organization, or the legal department of a corporation or other organization, or the legal department of a government or governmental subdivision, agency, or instrumentality.

(6) "Nonparty participant" means a person, other than a party and the party's collaborative lawyer, that participates in a collaborative law process.

(7) "Party" means a person that signs a collaborative law participation agreement and whose consent is necessary to resolve a collaborative matter.

(8) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(9) "Proceeding" means:

(A) a judicial, administrative, arbitral, or other adjudicative process before a tribunal, including related prehearing and post-hearing motions, conferences, and discovery; or

(B) a legislative hearing or similar process.

(10) "Prospective party" means a person that discusses with a prospective collaborative lawyer the possibility of signing a collaborative law participation agreement.

(11) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(12) "Related to a collaborative matter" means involving the same parties, transaction or occurrence, nucleus of operative fact, dispute, claim, or issue as the collaborative matter.

(13) "Sign" means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(14) "Tribunal" means:

(A) a court, arbitrator, administrative agency, or other body acting in an adjudicative capacity which, after presentation of evidence or legal argument, has jurisdiction to render a decision affecting a party's interests in a matter; or

(B) a legislative body conducting a hearing or similar process.

(c) Applicability. This rule applies to a collaborative law participation agreement that meets the requirements of Rule 67(d).

(d) Collaborative Law Participation Agreement; Requirements.

(1) A collaborative law participation agreement must:

(A) be in writing;

(B) be signed by the parties;

(C) state the parties' intention to resolve a collaborative matter through a collaborative law process under these rules;

(D) describe the nature and scope of the matter;

(E) identify the collaborative lawyer who represents each party in the process; and

(F) contain a statement by each collaborative lawyer confirming the lawyer's representation of a party in the collaborative law process.

(2) Parties may agree to include in a collaborative law participation agreement additional provisions not inconsistent with these rules.

(e) Beginning and Concluding Collaborative Law Process.

(1) A collaborative law process begins when the parties sign a collaborative law participation agreement.

(2) A tribunal may not order a party to participate in a collaborative law process over that party's objection.

(3) A collaborative law process is concluded by a:

(A) resolution of a collaborative matter as evidenced by a signed document;

(B) resolution of a part of the collaborative matter, evidenced by a signed agreement, in which the parties agree that the remaining parts of the matter will not be resolved in the process; or

(C) termination of the process.

(4) A collaborative law process terminates:

(A) when a party gives written notice to other parties that the process is ended;

(B) when a party:

(i) begins a proceeding related to a collaborative matter without the agreement of all parties; or

(ii) in a pending proceeding related to the matter:

a. initiates a pleading, motion, order to appear, or request for a conference with the tribunal;

b. requests that the proceeding be put on the tribunal's active calendar; or

c. takes similar action with notice to the parties; or

(iii) except as otherwise provided by subdivision E(7), when a party discharges a collaborative lawyer or a collaborative lawyer withdraws from further representation of a party.

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(5) A party's collaborative lawyer must give prompt notice to all other parties in a record of a discharge or withdrawal.

(6) A party may terminate a collaborative law process with or without cause.

(7) Notwithstanding the discharge or withdrawal of a collaborative lawyer, a collaborative law process continues, if within 30 days after the date that the notice of the discharge or withdrawal of a collaborative lawyer required by paragraph E is sent to the parties:

(A) the unrepresented party engages a successor collaborative lawyer; and

(B) in a signed document:

(i) the parties consent to continue the process by reaffirming the collaborative law participation agreement;

(ii) the agreement is amended to identify the successor collaborative lawyer; and

(iii) the successor collaborative lawyer confirms the lawyer's representation of a party in the collaborative process.

(8) A collaborative law process does not conclude if, with the consent of the parties, a party requests a tribunal to approve a resolution of the collaborative matter or any part thereof as evidenced by a signed record.

(9) A collaborative law participation agreement may provide additional methods of concluding a collaborative law process.

(f) Proceedings Pending Before Tribunal; Status Report.

(1) Persons in a proceeding pending before a tribunal may sign a collaborative law participation agreement to seek to resolve a collaborative matter related to the proceeding. The parties must file promptly with the tribunal a notice of the agreement after it is signed. Subject to subdivision F(3) and paragraphs G and H of this rule, the filing operates as an application for a stay of the proceeding.

(2) The parties must file promptly with the tribunal notice in a record when a collaborative law process concludes. A stay of the proceeding under subdivision F(1) is lifted when the notice is filed. The notice may not specify any reason for termination of the process.

(3) A tribunal in which a proceeding is stayed under subdivision F(1) may require the parties and collaborative lawyers to provide a status report on the collaborative law process and the proceeding. A status report may include only information on whether the process is ongoing or concluded. It may not include a report, assessment, evaluation, recommendation, finding, or other communication regarding a collaborative law process or collaborative law matter.

(4) A tribunal may not consider a communication made in violation of subdivision F(3).

(5) A tribunal must provide parties notice and an opportunity to be heard before dismissing a proceeding in which a notice of collaborative process is filed based on delay or failure to prosecute.

(g) Emergency Order. During a collaborative law process, a tribunal may issue emergency orders to protect the health, safety, welfare, or interest of a party or other protected persons as defined in Rule 5 of the Arizona Rules of Protective Order Procedure.

(h) Approval of Agreement by Tribunal. A tribunal may approve an agreement resulting from a collaborative law process.

(i) Disqualification of Collaborative Lawyer and Lawyers in Associated Law Firm.

(1) Except as otherwise provided in subdivision I(3), a collaborative lawyer is disqualified from appearing before a tribunal to represent a party in a proceeding related to the collaborative matter.

(2) Except as otherwise provided in subdivision I(3) and paragraphs J and K of this rule, a lawyer in a law firm with which the collaborative lawyer is associated is disqualified from appearing before a tribunal to represent a party in a proceeding related to the collaborative matter if the collaborative lawyer is disqualified from doing so under subdivision I(1).

(3) A collaborative lawyer or a lawyer in a law firm with which the collaborative lawyer is associated may represent a party:

(A) to ask a tribunal to approve an agreement resulting from the collaborative law process; or

(B) to seek or defend an emergency order to protect the health, safety, welfare, or interest of a party or protected persons as defined in Rule 5 of the Arizona Rules of Protective Order Procedure if a successor lawyer is not immediately available to represent that person.

(4) If subdivision I(3)(b) applies, a collaborative lawyer, or lawyer in a law firm with which the collaborative lawyer is associated, may represent a party or protected personas defined in Rule 5 of the Arizona Rules of Protective Order Procedure only until the person is represented by a successor lawyer or reasonable measures are taken to protect the health, safety, welfare, or interest of the person.

(j) Low Income Parties.

(1) The disqualification of subdivision I(1) of this rule applies to a collaborative lawyer representing a party with or without fee.

(2) After a collaborative law process concludes, another lawyer in a law firm with which a collaborative lawyer disqualified under subdivision I(1) of this rule is associated may represent a party without fee in the collaborative matter or a matter related to the collaborative matter if:

(A) the party has an annual income that qualifies the party for free legal representation under the criteria established by the law firm for free legal representation;

(B) the collaborative law participation agreement so provides; and

(C) the collaborative lawyer is isolated from any participation in the collaborative matter or a matter related to the collaborative matter through procedures within the law firm which are reasonably calculated to isolate the collaborative lawyer from such participation.

(k) Governmental Entity as Party.

(1) The disqualification of subdivision I(1) of this rule applies to a collaborative lawyer representing a party that is a government or governmental subdivision, agency, or instrumentality.

(2) After a collaborative law process concludes, another lawyer in a law firm with which the collaborative lawyer is associated may represent a government or governmental subdivision, agency, or instrumentality in the collaborative matter or a matter related to the collaborative matter if:

(A) the collaborative law participation agreement so provides; and

(B) the collaborative lawyer is isolated from any participation in the collaborative matter or a matter related to the collaborative matter through procedures within the law firm which are reasonably calculated to isolate the collaborative lawyer from such participation.

(l) Disclosure of Information. Except as provided by law other than these rules, during the collaborative law process, on the request of another party, a party must make timely, full, candid, and informal disclosure of information related to the collaborative matter without formal discovery. A party also must update promptly previously disclosed information that has materially changed. The parties may define the scope of disclosure during the collaborative law process.

(m) Standards of Professional Responsibility and Mandatory Reporting Not Affected. These rules do not affect:

(1) the professional responsibility obligations and standards applicable to a lawyer or other licensed professional; or

(2) the obligation of a person to report abuse or neglect, abandonment, or exploitation of a child or adult under the law of this state.

(n) Appropriateness of Collaborative Law Process. Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer must:

(1) assess with the prospective party factors the lawyer reasonably believes relate to whether a collaborative law process is appropriate for the prospective party's matter;

(2) provide the prospective party with information that the lawyer reasonably believes is sufficient for the party to make an informed decision about the material benefits and risks of a collaborative law process as compared to the material benefits and risks of other reasonably available alternatives for resolving the proposed collaborative matter, such as litigation, mediation, arbitration, or expert evaluation; and

(3) advise the prospective party that:

(A) after signing an agreement if a party initiates a proceeding or seeks tribunal intervention in a pending proceeding related to the collaborative matter, the collaborative law process terminates;

(B) participation in a collaborative law process is voluntary and any party has the right to terminate unilaterally a collaborative law process with or without cause; and

(C) the collaborative lawyer and any lawyer in a law firm with which the collaborative lawyer is associated may not appear before a tribunal to represent a party in a proceeding related to the collaborative matter, except as authorized by subdivision I(3), J(2), or K(2) of this rule.

(o) Coercive or Violent Relationship.

(1) Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer must make reasonable inquiry whether the prospective party has a history of a coercive or violent relationship with another prospective party.

(2) Throughout a collaborative law process, a collaborative lawyer reasonably and continuously must assess whether the party the collaborative lawyer represents has a history of a coercive or violent relationship with another party.

(3) If a collaborative lawyer reasonably believes that the party the lawyer represents or the prospective party who consults the lawyer has a history of a coercive or violent relationship with another party or prospective party, the lawyer may not begin or continue a collaborative law process unless:

(A) the party or the prospective party requests beginning or continuing a process; and

(B) the collaborative lawyer reasonably believes that the safety of the party or prospective party can be protected adequately during a process.

(p) Confidentiality of Collaborative Law Communication. A collaborative law communication is confidential to the extent agreed by the parties in a signed writing or as provided by law of this state other than these rules.

(q) Privilege Against Disclosure for Collaborative Law Communication; Admissibility; Discovery.

(1) Subject to paragraphs R and S of this rule, a collaborative law communication is privileged under subdivision Q(2), is not subject to discovery, and is not admissible in evidence.

(2) In a proceeding, the following privileges apply:

(A) A party may refuse to disclose, and may prevent any other person from disclosing, a collaborative law communication.

(B) A nonparty participant may refuse to disclose, and may prevent any other person from disclosing, a collaborative law communication of the nonparty participant.

(3) Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely because of its disclosure or use in a collaborative law process.

(r) Waiver and Preclusion of Privilege.

(1) A privilege under paragraph Q of this rule may be waived in a record or orally during a proceeding if it is expressly waived by all parties and, in the case of the privilege of a nonparty participant, it is also expressly waived by the nonparty participant.

(2) A person that makes a disclosure or representation about a collaborative law communication which prejudices another person in a proceeding may not assert a privilege under paragraph Q of this rule but this preclusion applies only to the extent necessary for the person prejudiced to respond to the disclosure or representation.

(s) Limits of Privilege.

(1) There is no privilege under paragraph Q of this rule for a collaborative law communication that is:

(A) available to the public under Arizona law or rule, or made during a session of a collaborative law process that is open, or is required by law or rule to be open, to the public;

(B) a threat or statement of a plan to inflict bodily injury or commit a crime of violence;

(C) intentionally used to plan a crime, commit or attempt to commit a crime, or conceal an ongoing crime or ongoing criminal activity; or

(D) in an agreement resulting from the collaborative law process, evidenced by a record signed by all parties to the agreement.

(2) The privileges under paragraph Q of this rule for a collaborative law communication do not apply to the extent that a communication is:

(A) sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice arising from or related to a collaborative law process; or

(B) sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation of a child or adult, unless the Arizona Department of Child Safety or the Adult Protective Services, Division of Aging and Adult Services, Arizona Department of Economic Security, is a party to or otherwise participates in the process.

(3) There is no privilege under paragraph Q of this rule if a tribunal finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown the evidence is not otherwise available, the need for the evidence substantially outweighs the interest in protecting confidentiality, and the collaborative law communication is sought or offered in:

(A) a court proceeding involving a felony or misdemeanor; or

(B) a proceeding seeking rescission or reformation of a contract arising out of the collaborative law process or in which a defense to avoid liability on the contract is asserted.

(4) If a collaborative law communication is subject to an exception under subdivision S(2) or S(3), only the part of the communication necessary for the application of the exception may be disclosed or admitted.

(5) Disclosure or admission of evidence excepted from the privilege under subdivision S(2) or S(3) does not make the evidence or any other collaborative law communication discoverable or admissible for any other purpose.

(6) The privileges under paragraph Q of this rule do not apply if the parties agree in advance in a signed record, or if a record of a proceeding reflects agreement by the parties, that all or part of a collaborative law process is not privileged. This

subsection does not apply to a collaborative law communication made by a person that did not receive actual notice of the agreement before the communication was made.

(t) Authority of Tribunal in Case of Noncompliance.

(1) If an agreement fails to meet the requirements of paragraph D of this rule, or a lawyer fails to comply with paragraph N or O of this rule, a tribunal may nonetheless find that the parties intended to enter into a collaborative law participation agreement if they:

(A) signed a record indicating an intention to enter into a collaborative law participation agreement; and

(B) reasonably believed they were participating in a collaborative law process.

(2) If a tribunal makes the findings specified in subdivision T(1), and the interests of justice require, the tribunal may:

(A) enforce an agreement evidenced by a record resulting from the process in which the parties participated;

(B) apply the disqualification provisions of paragraphs E, F, J, and K of this rule; and

(C) apply a privilege under paragraph Q.

Rule 67.2. Uniform Family Law Arbitration Rule.

(a) Definitions. In this rule:

(1) "Arbitration agreement" means an agreement that subjects a family law dispute to arbitration.

(2) "Arbitration organization" means an association, agency, board, commission, or other entity that is neutral and initiates, sponsors, or administers an arbitration or is involved in the selection of an arbitrator.

(3) "Arbitrator" means an individual selected, alone or with others, to make an award in a family law dispute that is subject to an arbitration agreement.

(4) "Child-related dispute" means a family law dispute regarding legal decision-making, parenting time, visitation, or financial support regarding a child.

(5) "Court" means the Arizona Superior Court.

(6) "Family law dispute" means a contested issue arising under Title 25 of the Arizona Revised Statutes and within the scope of the Arizona Rules of Family Law Procedure.

(7) "Party" means an individual who signs an arbitration agreement and whose rights will be determined by an award.

(8) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal entity.

(9) "Record", used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(10) "Sign" means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(11) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

(b) Scope.

(1) This rule governs arbitration of a family law dispute.

(2) This rule does not authorize an arbitrator to make an award that:

(A) grants a legal separation, dissolution of marriage, or annulment;

(B) grants a guardianship of a child or incapacitated adult; or

(C) grants an adoption, terminates parental rights, or determines dependency or other status of a child under Title 8 of the Arizona Revised Statutes.

(c) Applicable law.

(1) Family law arbitration is conducted according to A.R.S. §§ 12-3001 through 3029, as supplemented by this Rule.

(2) In determining the merits of a family law dispute, an arbitrator must apply the law of this state, including its choice of law principles.

(d) Arbitration agreement.

(1) An arbitration agreement must:

(A) be in a record signed by the parties;

(B) identify the arbitrator, an arbitration organization, or a method of selecting an arbitrator; and

(C) identify the family law dispute the parties intend to arbitrate.

(2) Except as otherwise provided in subdivision D(3), an agreement in a record to arbitrate a family law dispute that arises between the parties before, at the time, or after the agreement is made is valid and enforceable as any other contract and irrevocable except on a ground that exists at law or in equity for the revocation of a contract.

(3) An agreement to arbitrate a child-related dispute that arises between the parties after the agreement is made is unenforceable unless:

(A) the parties affirm the agreement in a record after the child-related dispute arises, or

(B) the agreement was entered during a family law proceeding and the court approved or incorporated the agreement in an order issued in the proceeding.

(4) If a party objects to arbitration on the ground the arbitration agreement is unenforceable or the agreement does not include a family law dispute, the court

will decide whether the agreement is enforceable or includes the family law dispute.

(e) Notice of Arbitration. A party may initiate arbitration by giving notice to arbitrate to the other party in the manner specified in the arbitration agreement or, in the absence of a specified manner, under the law and procedural rules of this state, other than this rule, governing contractual arbitration.

(f) Motion for Judicial Relief.

(1) A motion for judicial relief under this rule must be made to the court in which a proceeding is pending involving a family law dispute subject to arbitration or, if no proceeding is pending, a court with jurisdiction over the parties and the subject matter.

(2) On motion of a party, the court may compel arbitration if the parties have entered into an arbitration agreement that complies with paragraph D unless the court determines under paragraph K that the arbitration should not proceed.

(3) On motion of a party, the court must terminate arbitration if it determines that:

(A) the agreement to arbitrate is unenforceable;

(B) the family law dispute is not subject to arbitration; or

(C) under Rule 67.2(k), the arbitration should not proceed.

(4) Unless prohibited by an arbitration agreement, on motion of a party, the court may order consolidation of separate arbitrations involving the same parties and a common issue of law or fact if necessary for the fair and expeditious resolution of the family law dispute.

(g) Qualification and Selection of Arbitrator.

(1) Except as otherwise provided in subdivision G(2), unless waived in a record by the parties, an arbitrator must be:

(A) an attorney in good standing admitted to practice or on inactive status or a judge on retired status; and

(B) trained in identifying domestic violence and child abuse according to standards established under law of this state other than this rule for a judicial officer assigned to hear a family law proceeding.

(2) The selection of the arbitrator must be in accordance with the identification in the arbitration agreement of an arbitrator, arbitration organization, or method of selection.

(3) If an arbitrator is unable or unwilling to act or if the agreed-on method of selecting an arbitrator fails, on motion of a party, the court will select an arbitrator.

(h) Disclosure by Arbitrator; Disqualification.

(1) Before agreeing to serve as an arbitrator, an individual, after making reasonable inquiry, must disclose to all parties any known fact a reasonable person would believe is likely to affect:

(A) the impartiality of the arbitrator in the arbitration, including bias, a financial or personal interest in the outcome of the arbitration, or an existing or past relationship with a party, attorney representing a party, or witness; or

(B) the arbitrator's ability to make a timely award.

(2) An arbitrator, the parties, and the attorneys representing the parties have a continuing obligation to disclose to all parties any known fact a reasonable person would believe is likely to affect the impartiality of the arbitrator or the arbitrator's ability to make a timely award.

(3) An objection to the selection or continued service of an arbitrator and a motion for a stay of arbitration and disqualification of the arbitrator must be made under the law and procedural rules of this state, other than this rule, governing arbitrator disqualification.

(4) If a disclosure required by Rule 67.2(h)(1) or (2) is not made, the court may:

(A) on motion of a party not later than 30 days after the failure to disclose is known or by the exercise of reasonable care should have been known to the party, suspend the arbitration;

(B) on timely motion of a party, vacate an award under subdivision R(1)(b); or

(C) if an award has been confirmed, grant other appropriate relief under law of this state other than this rule.

(5) If the parties agree to discharge an arbitrator or the arbitrator is disqualified, the parties by agreement may select a new arbitrator or request the court to select another arbitrator as provided in paragraph G.

(i) Party Participation.

(1) A party may:

(A) be represented in an arbitration by an attorney;

(B) be accompanied by an individual who will not be called as a witness or act as an advocate; and

(C) participate in the arbitration to the full extent permitted under the law and procedural rules of this state, other than this rule, governing a party's participation in contractual arbitration.

(2) A party or representative of a party may not communicate *ex parte* with the arbitrator except to the extent allowed in a family law proceeding for communication with a judge.

(j) Temporary Order or Award.

(1) Before an arbitrator is selected and able to act, on motion of a party, the court may enter a temporary order under A.R.S. § 25-404 and Rule 47 or 48.

(2) After an arbitrator is selected:

(A) the arbitrator may make a temporary award under A.R.S. § 25-404 and Rule 47 or 48; and

(B) if the matter is urgent and the arbitrator is not able to act in a timely manner or provide an adequate remedy, on motion of a party, the court may enter a temporary order.

(3) On motion of a party, before the court confirms a final award, the court under paragraph O, Q, or R may confirm, correct, vacate, or amend a temporary award made under subdivision J(2)(a).

(4) On motion of a party, the court may enforce a subpoena or temporary award issued by an arbitrator for the fair and expeditious disposition of the arbitration.

(k) Protection of Party or Child.

(1) In this paragraph, "protection order" means an injunction or other order, issued under the domestic-violence, family-violence, or stalking laws of the issuing jurisdiction, to prevent an individual from engaging in a violent or threatening act against, harassment of, contact or communication with, or being in physical proximity to another individual who is a party or a child under the custodial responsibility of a party.

(2) If a party is subject to a protection order or an arbitrator determines there is a reasonable basis to believe a party's safety or ability to participate effectively in arbitration is at risk, the arbitrator must stay the arbitration and refer the parties to court. The arbitration may not proceed unless the party at risk affirms the arbitration agreement in a record and the court determines:

(A) the affirmation is informed and voluntary;

(B) arbitration is not inconsistent with the protection order; and

(C) reasonable procedures are in place to protect the party from risk of harm, harassment, or intimidation.

(3) If an arbitrator determines that there is a reasonable basis to believe a child who is the subject of a child-related dispute is abused or neglected, the arbitrator must terminate the arbitration of the child-related dispute and report the abuse or neglect to the Arizona Department of Child Safety.

(4) An arbitrator may make a temporary award to protect a party or child from harm, harassment, or intimidation.

(5) On motion of a party, the court may stay arbitration and review a determination or temporary award under this paragraph.

(6) This paragraph supplements remedies available under law of this state other than this rule for the protection of victims of domestic violence, family violence, stalking, harassment, or similar abuse.

(l) Powers and Duties of Arbitrator.

(1) An arbitrator must conduct an arbitration in a manner the arbitrator considers appropriate for a fair and expeditious disposition of the dispute.

(2) An arbitrator must provide each party a right to be heard, to present evidence material to the family law dispute, and to cross-examine witnesses.

(3) Unless the parties otherwise agree in a record, an arbitrator's powers include the power to:

(A) select the rules for conducting the arbitration;

(B) hold conferences with the parties before a hearing;

(C) determine the date, time, and place of a hearing;

(D) require a party to provide:

(i) a copy of a relevant court order;

(ii) information required to be disclosed in a family law proceeding under law of this state other than this rule; and

(iii) a proposed award that addresses each issue in arbitration;

(E) meet with or interview a child who is the subject of a child-related dispute in accordance with Rule 12;

(F) appoint a private expert at the expense of the parties;

(G) administer an oath or affirmation and issue a subpoena for the attendance of a witness or the production of documents and other evidence at a hearing;

(H) compel discovery concerning the family law dispute and determine the date, time, and place of discovery;

(I) determine the admissibility and weight of evidence;

(J) permit deposition of a witness for use as evidence at a hearing;

(K) for good cause, prohibit a party from disclosing information;

(L) appoint a child's attorney, best interests attorney, or court-appointed advisor for a child at the expense of the parties in accordance with Rule 10;

(M) impose a procedure to protect a party or child from risk of harm, harassment, or intimidation;

(N) allocate arbitration fees, attorney's fees, expert-witness fees, and other costs to the parties; and

(O) impose a sanction on a party for bad faith or misconduct during the arbitration according to standards governing imposition of a sanction for litigant misconduct in a family law proceeding.

(4) An arbitrator may not allow ex parte communication except to the extent allowed in a family law proceeding for communication with a judge.

(m) Recording of Hearing.

(1) Except as otherwise provided in Rule 67.2(m)(2) or required by law of this state other than this rule, an arbitration hearing need not be recorded unless required by the arbitrator, provided by the arbitration agreement, or requested by a party.

(2) An arbitrator must require a verbatim recording be made of any part of an arbitration hearing concerning a child-related dispute.

(n) Award.

(1) An arbitrator must make an award in writing, dated and signed by the arbitrator. The arbitrator must give notice of the award to each party by a method agreed on by the parties or, if the parties have not agreed on a method, under the law and

procedural rules of this state other than this rule governing notice in contractual arbitration.

(2) Except as otherwise provided in subdivision N(3), the award under this rule must state the reasons on which it is based unless otherwise agreed by the parties.

(3) An award determining a child-related dispute must state the reasons on which it is based as required by law of this state other than this rule for a court order in a family law proceeding.

(4) An award under this rule is not enforceable as a judgment until confirmed under paragraph O.

(o) Confirmation of Award.

(1) After an arbitrator gives notice under Rule 67.2(n)(1) of an award, including an award corrected under paragraph P, a party may move the court for an order confirming the award.

(2) Except as otherwise provided in Rule 67.2(o)(3), the court shall confirm an award under this rule if:

(A) the parties agree in a record to confirmation; or

(B) the time has expired for making a motion, and no motion is pending, under paragraphs Q or R.

(3) If an award determines a child-related dispute, the court must confirm the award under Rule 67.2(o)(2) if the court finds, after a review of the record if necessary, that the award on its face:

(A) complies with paragraph N and law of this state other than this rule governing a child-related dispute; and

(B) is in the best interests of the child.

(4) On confirmation, an award under this rule is enforceable as a judgment.

(p) Correction by Arbitrator of Unconfirmed Award. On motion of a party made not later than 20 days after an arbitrator gives notice under Rule 67.2(n)(1) of an award, the arbitrator may correct the award:

(1) if the award has an evident mathematical miscalculation or an evident mistake in the description of a person, thing, or property;

(2) if the award is imperfect in a matter of form not affecting the merits on the issues submitted; or

(3) to clarify the award.

(q) Correction by Court of Unconfirmed Award.

(1) On motion of a party made not later than 90 days after an arbitrator gives notice under subdivision N(1) of an award, including an award corrected under paragraph P, the court must correct the award if:

(A) the award has an evident mathematical miscalculation or an evident mistake in the description of a person, thing, or property;

(B) the award is imperfect in a matter of form not affecting the merits of the issues submitted; or

(C) the arbitrator made an award on a dispute not submitted to the arbitrator and the award may be corrected without affecting the merits of the issues submitted.

(2) A motion under this paragraph to correct an award may be joined with a motion to vacate or amend the award under paragraph R.

(3) Unless a motion under paragraph R is pending, the court may confirm a corrected award under paragraph O.

(r) Vacation or Amendment by Court of Unconfirmed Award.

(1) On motion of a party, the court must vacate an unconfirmed award if the moving party establishes that:

(A) the award was procured by corruption, fraud, or other undue means;

(B) there was:

(i) evident partiality by the arbitrator;

(ii) corruption by the arbitrator; or

(iii) misconduct by the arbitrator substantially prejudicing the rights of a party;

(C) the arbitrator refused to postpone a hearing on showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to paragraph L, so as to prejudice substantially the rights of a party;

(D) the arbitrator exceeded the arbitrator's powers;

(E) no arbitration agreement exists, unless the moving party participated in the arbitration without making a motion under paragraph F not later than the beginning of the first arbitration hearing;

(F) the arbitration was conducted without proper notice under paragraph E of the initiation of arbitration, so as to prejudice substantially the rights of a party; or

(G) a ground exists for vacating the award under law of this state other than this rule.

(2) Except as otherwise provided in Rule 67.2(r)(3), on motion of a party, the court shall vacate an unconfirmed award that determines a child-related dispute if the moving party establishes that:

(A) the award does not comply with paragraph N or law of this state other than this rule governing a child-related dispute or is contrary to the best interests of the child;

(B) the record of the hearing or the statement of reasons in the award is inadequate for the court to review the award; or

(C) a ground for vacating the award under subdivision R(1) exists.

(3) If an award is subject to vacation under subdivision R(2)(a), on motion of a party, the court may amend the award if amending rather than vacating is in the best interests of the child.

(4) The court may determine a motion under subdivision R(2) or (3) based on the record of the arbitration hearing and facts occurring after the hearing or may exercise *de novo* review.

(5) A motion under this paragraph to vacate or amend an award must be filed not later than 90 days:

(A) after an arbitrator gives the party filing the motion notice of the award or a corrected award; or

(B) for a motion under subdivision R(1)(a), after the ground of corruption, fraud, or other undue means is known or by the exercise of reasonable care should have been known to the party filing the motion.

(6) If the court under this paragraph vacates an award for a reason other than the absence of an enforceable arbitration agreement, the court may order a rehearing before an arbitrator. If the reason for vacating the award is that the award was procured by corruption, fraud, or other undue means or there was evident

partiality, corruption, or misconduct by the arbitrator, the rehearing must be before another arbitrator.

(7) If the court under this paragraph denies a motion to vacate or amend an award, the court may confirm the award under paragraph O unless a motion is pending under paragraph Q.

(s) Clarification of Confirmed Award. If the meaning or effect of an award confirmed under paragraph O is in dispute, the parties may:

(1) agree to arbitrate the dispute before the original arbitrator or another arbitrator; or

(2) proceed in court under law of this state other than this rule governing clarification of a judgment in a family law proceeding.

(t) Judgment on Award.

(1) On issuing an order confirming, vacating without directing a rehearing, or amending an award under this rule, the court shall enter judgment in conformity with the order.

(2) On motion of a party, the court may order that a document or part of the arbitration record be sealed or redacted to prevent public disclosure of all or part of the record or award to the extent permitted under law of this state other than this rule.

(u) Modification of Confirmed Award or Judgment. If a party moves under Rule 91 for modification of a confirmed award or a judgment on the award based on a fact occurring after confirmation:

(1) the parties must proceed under the dispute-resolution method specified in the award or judgment; or

(2) if the award or judgment does not specify a dispute-resolution method, the parties may:

(A) agree to arbitrate the modification before the original arbitrator or another arbitrator; or

(B) absent agreement proceed under law of this state other than this rule governing modification of a judgment in a family law proceeding.

(v) Enforcement of Confirmed Award.

(1) The court must/may enforce an award confirmed under paragraph O, including a temporary award, in the manner and to the same extent as any other order or judgment of a court.

(2) The court must/may enforce an arbitration award in a family law dispute confirmed by a court in another state in the manner and to the same extent as any other order or judgment from another state.

(w) Appeal.

(1) An appeal may be taken under this rule from:

(A) an order denying a motion to compel arbitration;

(B) an order granting a motion to stay arbitration;

(C) an order confirming or denying confirmation of an award;

(D) an order correcting an award;

(E) an order vacating an award without directing a rehearing; or

(F) a final judgment.

(2) An appeal under this paragraph may be taken as from an order or a judgment in a civil action.

(x) Transitional Provision. This rule applies to arbitration of a family law dispute under an arbitration agreement made on or after January 1, 2018. If an arbitration agreement was made before January 1, 2018, the parties may agree in a record that this rule applies to the arbitration.

Rule 67.3. Private Mediation.

(a) Generally. Private mediation is a voluntary and confidential process in which parties confer with a neutral mediator to help them resolve the dispute. The parties may retain a private mediator under Rule 67.3(d), or a private mediator may be selected by the court under Rule 67.3(e). Although the court may order a party to appear for a mediation conference, participation in mediation is voluntary.

(b) Confidentiality; Communications with the Court; Other Roles of the Mediator.

(1) ***Confidentiality.*** Mediation conferences are conducted privately. Oral and written communications exchanged during a mediation are confidential. Unless these rules specifically state otherwise, the provisions of A.R.S. § 12-2238 apply to mediation conferences under this rule.

(2) ***Communications with the Court.*** The mediator must not communicate with the assigned judge or commissioner about anything that was said, submitted, or done before or during the mediation, except:

(A) the mediator may advise the court in writing about the mediation schedule and any procedural matter related to the mediation, so long as the substance of what the parties or their counsel say or do during the mediation remains confidential;

(B) the mediator may report matters to the court if the parties agree or if the law requires or permits the disclosure;

(C) the mediator may report to the court a party's failure to appear at a scheduled mediation conference as required under section (k), or a party's failure to submit a mediation memo as required by the mediator under section (l); and

(D) the mediator may report to the court information as allowed in section (n).

(3) ***Other Roles of a Mediator.*** The mediator may not conduct any other form of dispute resolution process in the same case, unless the parties agree and the court approves.

(c) Subjects for Mediation. The parties may privately mediate any issue in dispute.

(d) Privately Retained Mediator. The parties may agree to, and jointly select, a private mediator. The parties must sign and file a notice that states that private mediation will take place, identifies the name of the jointly selected mediator, and specifies the date set for the initial mediation conference.

Commented [RJW7]: "Verbal" means "using words" and can be either oral or written.

Commented [RJW8]: "Concerning" is too vague.

(e) Court-Selected Private Mediator. The parties may ask the court to select a mediator for them from a list of private mediators they provide to the court, or from the court's own list of private mediators.

(f) Payment for a Private Mediator's Services. The parties must contract directly with a private mediator and be responsible for payment of the mediator's fees. Unless the parties agree or the court orders otherwise, the cost of mediation must be shared equally by the parties.

(g) Judges Pro Tempore as Mediators.

(1) ***Request.*** The parties may ask the court to appoint an active judge pro tempore in good standing to conduct a private mediation. The request must be accompanied by an affidavit signed by the judge pro tempore stating that he or she is an active judge pro tempore in good standing, and was appointed by the Supreme Court at the request of the presiding judge of the superior court in that county.

(2) ***Order.*** A court order appointing a judge pro tempore to conduct a private mediation may authorize him or her to:

(A) approve binding agreements made by the parties that comply with Rule 69;

(B) make any findings necessary to approve party agreements under A.R.S. § 25-317;

(C) make the jurisdictional findings under A.R.S. § 25-312 or A.R.S. § 25-313; and

(D) sign any Decree of Dissolution that conforms to the agreements reached by the parties.

(3) ***Effect.*** A Decree of Dissolution signed by a judge pro tempore under subpart (g)(2) has the same force and effect as a Decree of Dissolution signed by a judge or court commissioner. The judge pro tempore must promptly deliver the signed decree to the judge who authorized the judge pro tempore to conduct the mediation, and that judge will file the decree and enter it into the court's minutes.

(4) ***Payment for a Judge Pro Tempore's Services.*** The parties may pay a judge pro tempore for his or her services as a private mediator. But the parties may not pay, and the judge pro tempore may not ask them for, remuneration or anything of value for his or her service as a judge pro tempore involving the approval of agreements, or for signing a Decree of Dissolution.

(h) Discretion to Order Mediation. On agreement of the parties, the court may enter an order referring a matter to mediation. The court may decline to refer a matter to

mediation if it appears that mediation is inappropriate because of parental unfitness, substance abuse, mental incapacity, domestic violence, or other good cause, or because mediation will cause undue delay.

(i) Consideration of Domestic Violence.

(1) ***Limit on Referring a Matter to Mediation.*** In a case concerning legal decision-making or parenting time, if an order of protection is in effect involving the parties or if the court finds that a party's conduct would justify the entry of a protective order, the court may order mediation or refer the parties to mediation only if policies and procedures are in place that protect the victim from harm, harassment, or intimidation.

(2) ***Disclosure.*** Before a mediation, the court must notify parties in writing or orally in open court of their right to ask to waive mediation, or to ask the court to order reasonable procedures at the mediation, to protect a victim of domestic violence. A party is not required to appear for mediation pending the court's ruling on such a request.

(3) ***Mediator's Duty.*** The mediator must decline to mediate, or must terminate mediation, if the mediator determines that domestic violence makes mediation inappropriate.

(j) Applications for Default. Upon entry of an order to mediate or a referral to mediation, and unless the court orders otherwise, a party may not file an application for entry of default until the mediator files a report advising that the mediation has concluded.

(k) Scheduling Mediation Conferences; Persons Who May Attend.

(1) ***Scheduling.*** After the court has entered an order or referral to mediation, the mediator will schedule joint or individual conferences with the parties. Each party must attend conferences as the mediator directs.

(2) ***Persons Who May Attend.*** The mediator may permit persons other than parties and their counsel to attend or participate in a mediation, if those other persons agree in writing to be bound by this rule's confidentiality provisions. Counsel for a party may be excluded from a private mediation conference only if the party and counsel agree. However, a conciliation court mediator or conciliation court policy may authorize the exclusion of counsel.

(3) ***Failure of a Party to Appear.*** The parties are required to appear at mediation conferences as the mediator directs. The mediator must report to the court the

identity of a party who fails to appear, and the court may impose sanctions on that party under Rule 71.

(4) ***Failure to Complete Mediation.*** The court will not continue a scheduled trial or hearing based on a failure to complete mediation unless a party shows good cause for the continuance.

(l) Mediation Statement.

(1) ***Generally.*** The mediator may require each party to submit a mediation statement before a conference, and the court may impose sanctions if a party fails to do so. If a mediation statement is required, a party must submit it to the mediator but must file it with the clerk.

(2) ***Content.*** A mediation statement must include the following information along with any other information required by the mediator:

(A) a general description of the issues in dispute, the party's position on each issue, and the evidence that will be presented to support the party's position;

(B) if the issues involve financial matters, a current Affidavit of Financial Information, a list of outstanding debts and the party responsible for each debt, and an inventory of community or joint assets, including dates of acquisition, amounts of encumbrances, and present values;

(C) a summary of negotiations the parties have had previously; and

(D) any other information the party believes will be helpful to resolving the issues.

(m) Binding Agreements in Mediation. Any binding agreement reached by the parties during a private mediation must comply with Rule 69. Any agreement between the parties during the mediation must contain their acknowledgement that:

(1) each party entered the agreement voluntarily, without threat or undue influence, and after full disclosure of all relevant facts and information;

(2) each party intends the agreement to be final and binding;

(3) the agreement is fair and equitable; and

(4) if the parties have minor children in common, the agreement is in the best interests of the children.

(n) Report to the Court.

(1) ***By the Parties.*** The parties must notify the court when the mediation has concluded and advise the court of any agreements that fully resolve their issues.

The parties must provide this notice no later than 10 days after the mediation concludes, but also no later than 10 days before the date set for trial or hearing.

(2) ***By the Mediator.*** If the parties reach a partial agreement or no agreement during mediation, the mediator must file a brief report with the court stating that the parties met and attempted to resolve their differences but that the mediation was unsuccessful. The report also must state any agreements the parties reached and the remaining unresolved issues. The mediator must not report the parties' respective positions and must not comment on or offer any opinion about a party's position. The mediator also may advise the court if the parties or the mediator believes that further mediation would be helpful for resolving the remaining issues.

Rule 67.4. Settlement Conferences.

(a) Generally. On a party's motion or on its own, the court may order the parties to attend a settlement conference. If the parties agree, the assigned judge or commissioner may conduct the settlement conference. The court also may order that another judge, a commissioner, or a judge pro tempore conduct the conference. The word "judge" when used in the remainder of this rule includes a judge, commissioner, and a judge pro tempore assigned to conduct a settlement conference. A Decree of Dissolution signed by a judge pro tempore under this rule has the same force and effect as a Decree signed by the judge or commissioner to whom the case is assigned.

(b) Procedures.

(1) ***Who May Attend.*** The court may order the parties, their attorneys, and any other person who the court deems necessary to facilitate settlement of the issues, to attend and participate in the settlement conference.

(2) ***Scheduling and Other Orders.*** The court may enter an order setting the date for the conference. The court also may enter other orders that facilitate the settlement conference. The parties and counsel are required to appear in person at all scheduled settlement conferences, and the court may impose sanctions under Rule 71 if a party fails to appear at, or participate in, the conference.

(3) ***Settlement Memorandum.*** The settlement judge may require each party to submit a settlement memorandum before a conference, and the court may impose sanctions if a party fails to do so. If a settlement memorandum is required, a party must submit it to the judge conducting the conference, but must not file it with the clerk. A settlement memorandum should include the following information, along with any other information required by the court:

(A) a general description of the issues in dispute, the party's position on each issue, and the evidence that will be presented to support the party's position;

(B) if the issues involve financial matters, a current Affidavit of Financial Information, a list of outstanding debts and the party responsible for each debt, and an inventory of community or joint assets, including dates of acquisition, amounts of encumbrances, and present values;

(C) a summary of negotiations the parties have had previously; and

(D) any other information the party believes will be helpful to settlement of the issues.

(c) Communication with One Party. If the court determines that it will facilitate settlement, and with consent of all those participating in the conference, the court may communicate with one party during the conference outside the presence of the other parties.

(d) Domestic Violence. On a party's motion or on its own, the court must put reasonable procedures in place to protect the victim from harm, harassment, or intimidation if it finds that domestic violence has occurred between the parties.

(e) Agreements. Any binding agreement that is reached by the parties at a settlement conference must comply with Rule 69 and include the parties' acknowledgement that:

(1) each party entered the agreement voluntarily and without threat or undue influence, and after full disclosure of all relevant facts and information;

(2) each party intends the agreement to be final and binding;

(3) the agreement is fair and equitable; and

(4) if there are minor children common to the parties, the agreement is in the best interests of the children.

(f) Findings and Approval. The judge conducting the settlement conference must make any findings under A.R.S. § 25-317 that are necessary to approve the agreement. The judge may sign any Decree of Dissolution presented that conforms to the parties' agreements.

(g) Report to the Court. If the parties reached a partial agreement or no agreement during the settlement conference, the settlement conference judge must file a brief report with the court stating that the parties met and attempted to resolve their differences, but that the settlement conference was unsuccessful. The report also must state any agreements the parties reached and the remaining unresolved issues. The report of the settlement conference judge must not include the parties' respective positions and must not comment on or offer any opinion about a party's position. The settlement conference judge also may advise the court if the parties or the judge believes that a further settlement conference would be helpful to resolve the remaining issues.

(h) Other Dispute Resolution Processes; Fees. The court may establish, approve, or administer other dispute resolution processes designed to assist the parties in resolving disputes without contested proceedings. Participants in a dispute service provided through the court may be charged a fee in accordance with the law.

Rule 68. Conciliation Court.

(a) Services. The conciliation court provides the following services:

(1) conciliation counseling both before filing a petition for dissolution of marriage, legal separation, or annulment, or while a petition for dissolution of marriage, legal separation, or annulment is pending, as provided in Rule 68(b);

(2) mediation of issues relating to legal decision-making and parenting time, as provided in Rule 68(c)

(3) assessments and evaluations regarding legal decision-making and parenting time, as provided in Rule 68(d);

(4) family education services, as provided in Rule 68(e); and

(5) other services designed to assist the parties and the court in resolving disputes, as provided under Rule 68(f).

(b) Conciliation Services.

(1) ***Generally.*** Either spouse may file a petition for conciliation services, as provided in A.R.S. § 25-381.09, to preserve a marriage or to resolve controversies through counseling.

(2) ***Before Filing for Dissolution, Separation, or Annulment.*** If no petition for dissolution, separation, or annulment is pending, a party may file a petition requesting conciliation services with the clerk, or may submit the petition directly to the conciliation court, as established by local rule or administrative order.

(3) ***After Filing for Dissolution, Separation, or Annulment.*** If a petition for dissolution, legal separation, or annulment is pending, a party may file a petition for conciliation services with the clerk. The requesting party must provide a copy of the petition to the conciliation court.

(4) ***Further Proceedings.***

(A) *Time.* The conciliation court must conduct and complete its services no later than 60 days after the petition requesting conciliation services is filed.

(B) *Stay.* During the 60-day period in subpart (b)(4)(A), neither party may file a petition for dissolution, separation, or annulment. If a party has already filed a petition for dissolution, separation, or annulment, the action is stayed. The court may lift the stay before the expiration of the 60-day period and it may grant an extension as provided in subpart (b)(4)(D). But in no event may more than one stay may be entered during any 12-month period.

(C) *Protective and Temporary Orders.* During a stay, the court may consider petitions for orders of protection under A.R.S, § 13-3602 and requests for temporary orders under A.R.S. § 25-381.17, and enforce its orders.

(D) *Extension of the Stay.* If a party wants to extend a stay, the party must ask the court for the extension in writing. The request must provide good cause for the extension and include either a plan for reconciliation or a counseling schedule. The court may grant a reasonable extension of no more than 120 days, but it must not grant an extension if the other party has good cause to object to it.

(5) ***Conference or Hearing.*** After the conciliation court accepts a petition for conciliation services, the court or a conciliator will schedule individual or joint meetings with the parties. Each party must attend scheduled meetings as the conciliator directs. The person who filed the petition for conciliation services may withdraw the request with the conciliation court's approval. If the parties agree, the conciliation court may retain jurisdiction while reconciliation efforts are continuing. The parties may not participate in alternative dispute resolution under Rule 66 or evaluation services under section (c) until the conciliation court terminates its jurisdiction.

(6) ***Report.*** The conciliation court must notify the assigned judge or the conciliation court presiding judge when it concludes conciliation services. The notice should include a recommendation about whether to terminate the conciliation court's jurisdiction. In addition, the notice should disclose whether a party withdrew the petition for conciliation services, whether a party failed to appear for a scheduled meeting, or if the parties reached and signed a written agreement.

(7) ***Confidentiality.*** All oral and written communications during conciliation services are confidential and must not be disclosed without the consent of the party making a communication, or as required by law.

(c) Mediation/ADR. All family law cases that involve a dispute over legal decision-making or parenting time are subject to mediation or other alternative dispute resolution ("ADR") process under local rules. Unless the parties agree to private mediation under Rule 67.3, the court must determine whether mediation or ADR services are appropriate in a particular case. The court or conciliation services may deem mediation inappropriate for reasons such as parental unfitness, substance abuse, mental incapacity, domestic violence, or other good cause. The mediator may not conduct any subsequent family assessment or evaluation in the same case.

(1) ***Commencement.*** If there is a disagreement between the parties concerning legal decision-making or parenting time, either or both parties may file a motion or

request for mediation or ADR services. The requesting party shall provide a copy of the request to the assigned judge and the conciliation court. An order for mediation or ADR services may also be made on the court's own motion.

(2) ***Domestic Violence.***

(A) In a proceeding concerning legal decision-making or parenting time, if an order of protection is in effect involving the parties or there is a history of domestic violence between the parties, the court may order mediation or ADR services only if there are policies and procedures in place that protect the victim from harm, harassment, or intimidation.

(B) The court will notify every party in writing or orally in open court before mediation or ADR services that a party may request a waiver of mediation or request that reasonable procedures be in place at the mediation to protect a victim of domestic violence as determined by the court or conciliation services. Neither party is required to appear for mediation pending determination of this issue.

(C) Conciliation services must reject for mediation or terminate mediation in any case if the mediator deems mediation is inappropriate because of domestic violence.

(3) ***Confidentiality.*** All communications, both oral and written, made by a party in mediation are confidential and must not be divulged to third parties, as provided by Arizona statutes and court rules.

(4) ***Mediation Conferences.*** When a matter has been ordered or referred to mediation, conciliation services will schedule one or more individual or joint conferences that each party must attend. The mediator may meet with either or both parties in a confidential conference to determine the appropriateness of mediation before the start of the process. Counsel are not permitted to attend mediation conferences unless approved by the mediator or conciliation court policy. The mediator may permit any person to attend a conference that the mediator believes is appropriate. Any person not a party to the action who attends the mediation must sign an agreement to be bound by the confidentiality provisions of this rule.

(5) ***Reports to the Court.*** At the conclusion of a conciliation services mediation, the mediator must file a report with the court describing any agreements, full or partial, the parties reached. The report must also identify the parties' areas of disagreement, but the report must not identify the parties' position regarding areas of disagreement. If no agreements are reached in mediation, the mediator's

report to the court will advise the court only that the mediation was unsuccessful in resolving the dispute.

(6) ***Agreements, Signature of Counsel, Notice to Counsel, and Notice of Objection.*** Any agreements reached as a result of conciliation services mediation must be placed in writing.

(A) The parties must sign the agreement and their attorneys, if any, must sign or object to the agreement within 30 days after the mediation. Conciliation services will submit agreements signed by the parties, and approved by their attorneys, if any, to the court for approval. If no timely objection is filed, the agreement will be forwarded to the court with a proposed order for the court's consideration and signature. Upon receipt of an objection, conciliation services will terminate the mediation and issue a memorandum to the court indicating that there is no agreement in the matter.

(B) The court retains final authority to accept, modify or reject the agreement, or to set a further hearing on the agreement. Upon the entry of a written order by the court approving or modifying an agreement reached by the parties in mediation, it is considered binding.

(d) Assessment or Evaluation.

(1) ***Referral.*** If the court believes it would be in a child's best interests, it may refer a case to the conciliation court for the assessment or evaluation of legal decision-making or parenting time issues.

(2) ***Scheduling.***

(A) *Notice of Appointments.* Conciliation services must notify the parties and counsel, if any, of all scheduled appointments. However, counsel is not permitted to attend these appointments unless the evaluator deems counsel's presence is necessary for the process to be successful. Conciliation services will not reschedule appointments without good cause.

(B) *Appearance Required.* All parties are required to appear at all scheduled appointments. If one or both parties fail to appear, the evaluator will not proceed but will report to the court the identity of each party who failed to appear. The court may sanction any party who fails to appear for an appointment.

(C) *Notice of Agreements.* If the parties reach an agreement concerning legal decision-making or parenting time before the assessment or evaluation begins,

the parties must immediately notify the court and conciliation services of the agreement.

(3) ***Conducting the Assessment or Evaluation.***

(A) *Generally.* Conciliation services will conduct the assessment or evaluation to determine what allocation of legal decision-making or parenting time would be in a child's best interests.

(B) *Interviews.* Conciliation services may conduct interviews that it deems appropriate, including interviewing the parents jointly or individually, interviewing the children, and observing interactions between parents and children.

(C) *Documents.* Conciliation services also may review documents that it deems appropriate. If either party submits documents to the evaluator, the party submitting the documents must promptly provide copies to the other party.

(D) *Notification of Agreement.* Conciliation services will notify the court if the parties reach an agreement concerning legal decision-making or parenting time before the evaluation is complete.

(E) *Confidentiality.* Conciliation services' assessment or evaluation files are confidential, and only an order of the assigned judge or the family court presiding judge may release a file.

(4) ***Report.***

(A) *Duty to Prepare a Report*. When the assessment or evaluation is complete, conciliation services must provide the court and the parties with a written report, but must not file it with the clerk. The court may direct the evaluator to provide an oral report in open court instead of a written report.

(B) *Report's Contents.* The report may include recommendations to the court regarding legal-decision making, parenting time, or therapeutic interventions allowed by law.

(C) *Confidentiality.* A written report is confidential but it will be available for appellate purposes.

(5) ***Testimony.***

(A) *Court Appearances.* Conciliation services evaluators may testify in court proceedings only if a party properly and timely subpoenas the evaluator.

(B) *Depositions.* Conciliation services evaluators may be deposed only by subpoena and with the judge's approval. The judge may set reasonable limits concerning the time, duration, and location for the deposition, the nature of the questions, and the release of conciliation services files and records.

(C) *Stipulation that Testimony Will Not Be Sought.* Before the evaluator begins an evaluation or assessment, the parties may stipulate that the parties will not call the evaluator as a witness in any court proceeding or depose the evaluator, unless the court orders otherwise.

(e) Family Education Services. The presiding superior court judge in a county or a designee may implement family education services that parties must attend as the court deems appropriate.

(f) Other Services; Fees. Conciliation services may approve, establish, or administer other services designed to assist the parties or the court in resolving a dispute, including open negotiation, parenting conferences, or early post-decree conferences. The conciliation court may charge fees to persons participating in these services. The court may defer or waive these fee as provided by statute.

Rule 69. Binding Agreements.

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

(1) the agreement is in writing and signed by the parties personally or by counsel on a party's behalf;

(2) the agreement's terms are stated on the record before a judge, commissioner, judge pro tempore, or court reporter; or

(3) the agreement's terms are stated in an audio recording made before a mediator or a settlement conference officer appointed by the court.

(b) Court Approval. An agreement under this rule is not binding on the court until it is submitted to and approved by the court.

(c) Challenge to Validity. An agreement under section (a) is presumed valid, and a party who challenges the validity of an agreement has the burden to prove any defect in the agreement. Under A.R.S. § 25-324, the court may award a party the cost and expenses of maintaining or defending a challenge to the validity of an agreement that was made in accordance with this rule.

Rule 70. Notice of Settlement.

(a) Notice of Settlement. An attorney of record, and any party not represented by counsel, has a duty to give the assigned judge or commissioner, the clerk, and the court administrator prompt notice of the settlement of any matter set for trial, hearing, or argument. If an attorney or self-represented party does not give prompt notice, the court may impose sanctions on the attorney or the party.

(b) Settlement Without Final Judgment. If the parties have notified the court that a matter set for trial or hearing has been settled, but the parties do not present a final judgment, decree, or order to the court, the court may dismiss the case without further notice unless a final judgment, decree, or order is filed within 45 days thereafter. Alternatively, the court may require the parties to place their agreement on the record, as provided in Rule 69, at or before the time set for trial or hearing. The court also may take other action to ensure the entry of a final judgment, decree, or order.

Rule 71. Sanctions.

(a) Sanctions.

(1) ***Generally.*** The court may impose a sanction if a party or attorney fails to comply with these rules.

(2) ***Available Sanctions.*** On a party's motion or on its own, the court may enter appropriate orders concerning such conduct unless the noncompliant party or attorney shows good cause. An order may, among other things:

(A) refuse to allow the party to support or oppose a designated claim or defense;

(B) prohibit a party from introducing designated matters in evidence;

(C) stay further proceedings until the party or attorney obeys a previous order;

(D) dismiss a claim;

(E) find the party or attorney in contempt of court; or

(F) enter a default judgment against the disobedient party.

(b) Fees and Costs.

(1) ***Reasonable Expenses.*** Instead of or in addition to another sanction, the court may require a noncompliant party or attorney, or both, to pay reasonable expenses incurred by the opposing party because of the noncompliance. Reasonable expenses may include attorney's fees and costs.

(2) ***Assessment to the Clerk.*** Instead of or in addition to an order to pay another party's reasonable expenses, the court may order the noncompliant party or attorney, or both, to pay an assessment to the clerk.

(3) ***Limitation.*** The court may not order the payment of reasonable expenses or an assessment if it finds that a party's or attorney's noncompliance was substantially justified, or that other circumstances make an award of expenses or an assessment unjust.

Rule 72. Family Law Master.

(a) Appointment and Compensation.

(1) ***Appointment.*** On written stipulation by the parties or the parties' oral agreement on the record in open court, the court may appoint a family law master who is an attorney or other professional with education, experience, and special expertise regarding the particular issues to be referred to the master.

(2) ***Compensation.*** The court will determine the master's allowed compensation. The court will allocate the master's compensation among the parties, which will be treated as a taxable cost.

(3) ***Party Stipulation.*** The parties may stipulate to the appointment of a particular person to serve as a master and the amount of compensation, but before such a person may be appointed, the court must still approve the appointment and the proposed compensation after reviewing the person's qualifications.

(b) Powers.

(1) ***Order of Reference and Scope of Authority.***

(A) *Contents of Order.* The order of reference appointing a family law master must specify the particular issues referred to the master and must fix the time and place for beginning and closing any hearings and for filing the master's report.

(B) *Scope of Authority.* An order of reference may not direct a master to perform services within the scope of Rule 74 or to otherwise make decisions or recommendations concerning legal decision-making or parenting time. Other than these subjects, the master may determine with any issues under A.R.S. Title 25 that could be presented to the assigned judge, including post-decree matters.

(2) ***Proceedings Before a Master.***

(A) *Generally.* Subject to any limitations in the order of reference, the master may exercise the power to regulate all proceedings in every hearing before the master, and may do all acts and take all measures necessary or proper for the efficient performance of the master's duties under the order.

(B) *Discovery.* The master may require the production of evidence on all matters embraced in the order of reference.

(C) *Evidence Admissibility and Witness Testimony.* The master may rule on the admissibility of evidence, unless otherwise directed by the order of reference, and has the authority to place witnesses under oath and examine them.

(D) *Procedural and Evidentiary Rules.* Unless stipulated otherwise, Rule 2and these rules apply to all proceedings before the master.

(E) *Record.* If a party requests it, the master must make a record of the evidence offered and excluded in the same manner and subject to the same limitations as provided in Arizona Rule of Evidence 104 for a court sitting without a jury. The court must allocate the cost of creating the record among the parties, with allocated costs being treated as a taxable cost.

(c) Meetings.

(1) ***First Meeting.*** Upon receipt of an order of reference, the master must set a time and place for the first meeting of the parties or their attorneys. The first meeting should be held no later than 20 days after the order of reference is filed.

(2) ***Notice.*** The master must provide the parties reasonable notice of the first and any later meeting.

(3) ***Proceeding with Reasonable Diligence.*** In scheduling meetings and otherwise discharging the master's authority under the order of reference, the master must proceed with all reasonable diligence.

(4) ***Failure to Appear.*** If a party fails to appear at a scheduled meeting, the master may proceed *ex parte* or, in the master's discretion, reschedule the meeting with notice to the parties.

(d) Witnesses. The parties may procure the attendance of witnesses before the master by the issuing and serving subpoenas as provided in Rule 52. If a witness fails to appear or give evidence without adequate excuse, the court may hold the witness in contempt and order the sanctions and remedies provided in Rules 52 and 65.

(e) Report.

(1) ***Generally.*** The master must prepare a report on the matters submitted to the master by the order of reference, including requested findings of fact and conclusions of law concerning disputed issues. Before filing the report, a master may circulate a draft to the parties' counsel and solicit their comments and suggestions.

(2) ***Filing.*** The master must file the final report with the clerk. Unless the order of reference orders otherwise, the master also must file any transcript of the proceedings and the evidence and original exhibits submitted by the parties.

(3) ***Mailing.*** The master must mail a copy of the report to each of the parties on the same day the master files the report with the clerk.

(f) Objections.

(1) ***Procedure.*** A party may object to the master's report by filing a motion to modify or reject the master's report but must do so no later than 15 days after the master's report is mailed. Each objection must be stated with specificity and must reference the exhibits or portions of the record supporting the objection.

(2) ***Response and Further Briefing***. Any response to an objection must be filed no later than 10 days after the objection is served. No further briefing may be filed without a prior court order authorizing it.

(g) Court Actions.

(1) ***If No Objection Is Made.*** If no objection is filed by either party, the master's report will become an order of the court, unless the court sets a hearing on a particular issue in the report within 10 days after the due date for filing an objection.

(2) ***If an Objection Is Made.*** If an objection is filed, the court may set oral argument on the objection, adopt the report, modify it, wholly or partly reject it, or receive further evidence. The court must hold a hearing or enter an order regarding the objection no later than 30 days after a response or later court-authorized brief is filed.

(h) Stipulation as to Findings. When the master is appointed, the parties may stipulate that a master's findings of fact will be final. If the parties have filed such a stipulation, the court may consider only questions of law arising from the master's report. Absent such a stipulation, the court may not reverse a finding of fact by the special master unless it is clearly erroneous, but it must review de novo the master's conclusions of law.

(i) Sanctions. The court may impose sanctions on any party or counsel in connection with proceedings before a master under this rule for conduct intended to harass another party or a witness, cause unnecessary delay, or needlessly increase the cost of litigation. The master also may make recommendations to the court for imposing sanctions under these rules, case law, or statute.

(j) Immunity. A family law master has immunity in accordance with Arizona law as to all acts undertaken under and consistent with the order of reference.

(k) Applicability. No county is required to employ or use family law masters, but these rules apply if a county does so.

Comment to 2017 Amendment

The Court recognizes that in cases involving complex property or financial issues, appointment of a neutral expert witness may be helpful to the court in resolving these issues. A court may appoint a neutral expert witness to testify concerning these issues pursuant to Arizona Rule of Evidence 706 over a party's objection and at the parties' expense upon a showing that the parties can afford the expert without undue hardship.

Rule 72.1. Retirement, Benefits, Stock Options, and Other Employment Related Compensation.

(a) Appointment of a Professional with Special Expertise. If a court order requires retirement benefits, stock options or other employment related benefits to be divided, the court may appoint an attorney or other professional with the appropriate expertise to recommend a division or to implement the division that the court has ordered.

(b) Order of Reference. The court's order of reference must identify the specific assets to be divided.

(c) Additional Discovery Authority. A court's order of reference may authorize a professional appointed under this rule to:

(1) require the production of documents;

(2) require answers to interrogatories; and

(3) request subpoenas to obtain any needed records.

(d) Additional Authority. In addition to the other powers specifically listed elsewhere in this rule, a professional appointed under this rule has the power to order the appearance of any party using that party's most recent available address.

(e) Determination. A professional appointed under this rule must calculate the parties' relative interests and address any other issues submitted to the master by the order of reference. The professional may make its determinations even if a party does not appear or present a position on the merits of the parties' claims or the terms of dividing retirement benefits, stock options, or other employment related benefits. In making the determination, the professional must consider the availability of records and the cooperation of the parties in assisting the professional in making the determination. In the event the professional finds the division requires the use of discretion, the professional must submit its recommendation to the court for approval.

Rule 73. Family Law Conference Officer.

(a) Generally.

(1) ***Appointment.*** The presiding judge or a designee may appoint a conference officer to conduct conferences and facilitate agreements concerning the establishment, enforcement, and modification of child support, legal decision-making, or parenting time, and to affirm or divide property or determine and allocate responsibility for debts.

(2) ***Neutral.*** The conference officer is a neutral employee of the court and does not represent or advocate for either party.

(3) ***Qualifications.*** The superior court must establish and file written qualifications for the position of conference officer. At a minimum, a conference officer must have a bachelor's degree and must abide by the Code of Conduct for Judicial Employees. A conference officer also must have completed 40 hours of basic mediation training, or must complete that training within 6 months of appointment.

(4) ***Applicability.*** A county is not required to use conference officers, but this rule applies if a county elects to use them.

(b) Report. After the conference concludes, the conference officer must prepare a report to the court listing the parties' agreements or disagreements on the following issues: legal decision-making, parenting time, child support, spousal maintenance, property division, debt allocation, and attorney's fees. The conference officer's report must not contain recommendations concerning these issues.

(c) Procedures.

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

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

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

(d) Failure to Comply with an Order to Bring Information. If a party does not appear and participate or provide information at the conference as ordered, the conference officer may vacate the conference and report the failure to the court.

Rule 74. Parenting Coordinator.

(a) Purpose of a Parenting Coordination. Parenting coordination is a child-focused alternative dispute resolution process. The purpose for appointing a parenting coordinator is to protect and sustain safe, healthy, and meaningful parent-child relationships by:

(1) assisting parents with implementing and complying with their legal decision-making and parenting plan orders; and

(2) helping parents timely resolve conflicts that may arise concerning legal decision-making and parenting plans.

(b) Parents' Agreement and Understandings.

(1) ***Appointment's Timing and Conditions.*** The court may appoint a third party as a parenting coordinator in proceedings under A.R.S. Title 25 only after the court has entered a legal decision-making or parenting time order, and only if each parent has agreed to the appointment in writing or orally on the record in open court.

(2) ***Agreement's Terms.*** The agreement must state that both parents:

(A) agree to be bound by decisions made by the parenting coordinator that fall within the scope of the parenting coordinator's authority and that relate to issues submitted to the parenting coordinator for decision;

(B) understand the term of the parenting coordinator's appointment;

(C) agree to release documents that the parenting coordinator determines are necessary for performing the parenting coordinator's services;

(D) understand the method by which the parenting coordinator will be selected or the name of the agreed-upon parenting coordinator;

(E) understand how the parenting coordinator charges for services, including the parenting coordinator's hourly rate;

(F) agree that the parents can afford the parenting coordinator's services;

(G) understand how the parenting coordinator's fees will be allocated between the parents; and

(H) acknowledge they have read Form 11, Rule 97 ("Parent Information Regarding the Use of Parenting Coordinators").

(3) ***Option to Use Conciliation Services.*** Rather than having a privately-paid parent coordinating, parents may request, or a court may appoint, if available, parenting coordination assistance through conciliation services. Parents obtaining parenting coordinator services through conciliation services must agree to subparts (b)(2)(A) through (C).

(c) Selection of a Parenting Coordinator.

(1) ***Who May Be Appointed.*** The following persons can serve as parenting coordinators:

(A) an attorney who is licensed to practice law in Arizona;

(B) a psychiatrist who is licensed to practice medicine or osteopathy in Arizona;

(C) a psychologist who is licensed to practice psychology in Arizona;

(D) a person who is licensed to practice independently by the Arizona Board of Behavioral Health Examiners;

(E) professional staff of a court's conciliation services department; or

(F) a person with education, experience, and expertise who is deemed qualified by the court's presiding judge or a designee.

(2) ***Additional Requirements.*** The court can set additional requirements for service as a parenting coordinator.

(3) ***Disqualification from Later Participation in Another Role.*** A person appointed as a parenting coordinator may not serve in any other function or role in the case, except that each parent and the parenting coordinator may agree that a person who is serving or has already served in a legal, treatment, evaluative, or therapeutic role in the case may be appointed as the parenting coordinator.

(d) Term of Service.

(1) ***Generally.*** The parenting coordinator's term will be designated in the appointment order.

(2) ***Initial Term.*** A parenting coordinator's initial term cannot exceed one year, unless both parents and the parenting coordinator agree to a longer term.

(3) ***Reappointment.*** The parenting coordinator cannot be reappointed at the end of the term unless each parent and the parenting coordinator agree to the reappointment in writing or orally on the record in open court. By agreeing to the reappointment, the parents are reaffirming and accepting the agreements and understandings in subparts (b)(2)(A) through (G). The reappointment term

cannot exceed one year unless both parents and the parenting coordinator agree to a longer term.

(4) ***Resignation.*** The parenting coordinator can resign by court order and following notice to each parent.

(5) ***Discharge.*** Both parents can agree to discharge the parenting coordinator. If only one parent wishes to discharge the parenting coordinator, that parent must file a motion with the court establishing good cause for the request. Disagreement with one or more of the parenting coordinator's decisions does not constitute good cause.

(6) ***Replacement of the Parenting Coordinator.*** Both parents can agree in writing or orally on the record in open court to replace the existing parenting coordinator. The agreement to replace the parenting coordinator must also confirm the parents' agreements and understandings in subparts (b)(2)(A) through (G).

(e) Confidentiality.

(1) ***Generally.*** Parenting coordination is not a confidential process. Therefore, the following communications are not confidential:

(A) between each parent and the parenting coordinator;

(B) between the child and the parenting coordinator;

(C) between the parenting coordinator and other relevant parties to the parenting coordination process; and

(D) between the parenting coordinator and the court.

(2) ***Counsel's Participation.*** An attorney for either parent cannot attend parenting coordinator meetings with their clients unless both parents and the parenting coordinator agree, or unless allowed by a court order. However, a parenting coordinator can meet separately with each parent's attorney to obtain information relevant to the issue before the parenting coordinator.

(f) Scope of Appointment and Authority.

(1) ***Generally.*** The court appointment order must specify the scope of the parenting coordinator's appointment and the parenting coordinator's authority.

(2) ***Scope of Authority.*** A parenting coordinator's scope of appointment can include:

(A) helping the parents:

(i) address disputed issues;

(ii) reduce misunderstandings;

(iii) clarify priorities;

(iv) explore possibilities for compromise;

(v) develop methods of collaboration in parenting; and

(vi) comply with legal decision-making authority and parenting time orders;

(B) making decisions regarding implementation and clarification of the court's orders, including minor adjustments to parenting time orders;

(C) making decisions regarding parenting challenges not specified in the parenting plan that the parents are unable to resolve, such as disagreements about pick-up and drop-off locations, dates and times of pick-up and drop-off, holiday scheduling, discipline, health issues, personal care issues, school and extracurricular activities, choice of schools, and managing problematic behaviors;

(D) interviewing and requesting documentation from anyone who has relevant information necessary to resolve a matter currently before the parenting coordinator; and

(E) recommending that the court order the parents or their child to participate in ancillary services provided by the court or third parties, including but not limited to physical or psychological examinations or assessments, counseling, and alcohol or drug monitoring and testing.

(3) ***Facilitating Agreements.*** A parenting coordinator must attempt in a timely manner to facilitate agreement on disputed issues between the parents. If the parents are unable to reach agreement, the parenting coordinator will timely decide any disputed issues within the scope of the parenting coordinator's authority.

(4) ***Limits on Authority.*** A parenting coordinator cannot make a decision that will:

(A) affect child support, spousal maintenance, or the allocation or property or debt;

(B) change legal decision-making authority; or

(C) substantially change parenting time.

(g) Emergency Authority and Procedure. If by personal observation the parenting coordinator determines that a parent's functioning is impaired and the parent is incapable of fulfilling either the court-ordered legal decision-making or parenting functions, or the parent's conduct will expose the child to an imminent risk of irreparable harm, a parenting coordinator may file a motion for temporary orders without notice under Rule 48. The court must consider the motion even if a Rule 91 modification petition is not pending.

(h) Report.

(1) ***Form.*** The parenting coordinator's decision on an issue must be substantially in the form set forth in Form 9, Rule 97 ("Parenting Coordinator's Report").

(2) ***Transmission.*** The parenting coordinator must:

(A) mail or transmit the report to the assigned judge—but not the clerk—no later than 5 days after receipt of all information necessary to make a decision; and

(B) mail or transmit a copy of the report to each parent or the parent's attorney on the same day it is mailed or transmitted to the assigned judge.

(i) Court Action.

(1) ***Receipt and Filing.*** The court, upon receipt of the parenting coordinator's report, must file the report. If the report contains confidential or private information, it must be filed in a manner that prevents the public from accessing the report consistent with Rule 13(e).

(2) ***Action.*** Once the report has been filed, the court may:

(A) adopt the decision as an order of the court;

(B) reject the decision and the report entirely or partially as outside the scope of the parenting coordinator's authority, and affirm all or part of the current court order; or

(C) set a hearing regarding the decision.

(3) ***Form of Order.*** For the purposes of acting on a report, the court's order may be substantially similar to the form set forth in Form 10, Rule 97 ("Order Regarding Parenting Coordinator's Report").

(j) Objection.

(1) ***Binding Nature of the Decision.*** The parenting coordinator's decision is binding if the parenting coordinator acted within the coordinator's authority under this rule and the appointment order.

(2) ***Objection.*** If a parent believes that the parenting coordinator's decision exceeds the scope of the parenting coordinator's authority, the parent may object to the parenting coordinator's decision by filing an objection. The objection must be filed no later than 20 days after the parenting coordinator's report is filed. The objection must explain in detail the reasons why the parent believes the parenting coordinator exceeded the coordinator's authority, and whether the parent is requesting a hearing on the objection.

(3) ***Court Action on an Objection.*** If either parent files an objection, any court action will remain in effect pending resolution of the objection.

(k) Fees.

(1) ***Disclosure of Fees.*** The parenting coordinator must fully disclose all fees and charges to each parent before providing services. A parenting coordinator may not increase the parenting coordinator's hourly rate during a term of appointment.

(2) ***Adjustment to Allocation of Fees.*** Both parents may agree to a change in the allocation of fees by amending their written agreement with the parenting coordinator. Without the parents' agreement, a parenting coordinator may not reallocate fees based on a change in a parent's financial circumstances.

(3) ***Sanctions and Reallocation of Fees.***

(A) *Recommendation.* If reason exists to believe that one parent is using parenting coordinator services excessively or to harass the other parent, a parenting coordinator or a parent may recommend, as a sanction, an adjustment to the allocation of the parenting coordinator's fees. Any recommendation must be filed with the court and must explain the reasons for the recommended fee reallocation.

(B) *Transmission.* The recommendation must be provided to each parent or the parent's attorney if filed by the parenting coordinator, and if filed by a parent, the parent must provide it to the parenting coordinator and the other parent or the other parent's attorney.

(C) *Objection.* A parent may file an objection to the recommendation but must do so no later than 20 days after the recommendation is filed.

(D) *Hearing.* If an objection is filed, the court must hold a hearing before it may reallocate fees.

(l) Immunity. The parenting coordinator has immunity in accordance with Arizona law as to all acts undertaken under, and consistent with, the court's appointment order.

(m) Complaints about Unethical or Unprofessional Conduct by Parenting Coordinators. Complaints about alleged unethical or unprofessional conduct by the parenting coordinator should be submitted to the parenting coordinator's applicable licensing or regulatory board. If the parenting coordinator is not subject to a licensing or regulatory board, the complaint should be brought to the court's attention.

(n) Applicability. No court is required to employ or use a parenting coordinator, but if it does so, these rules apply.

Rule 75. [Reserved].

Part IX. Pretrial and Trial Procedures.

Rule 76. Resolution Management Conference.

(a) Purpose and Setting. The purpose of a resolution management conference ("RMC") is to facilitate agreements between the parties. The court may, and on a party's request must, set an RMC. The court must hold an RMC no later than 60 days after a request is filed, unless the court extends the time for good cause.

Commented [MPJ9]: I always thought this was too much time. But it is in the current rules. Does it need to be changed?

(b) Meet-and-Confer and Other Party Duties.

(1) ***Generally.*** Not less than 5 days before the RMC, the parties must:

(A) confer to resolve as many issues as possible. This requirement does not apply if a court order prohibits contact between the parties, or they have a significant history of domestic violence. However, in such situations the parties and their counsel still must take all reasonable steps to resolve as many issues as possible without having personal contact; and

(B) prepare and file a written resolution statement setting forth any agreements reached by the parties. Each party must file a separate position statement setting forth the party's position on all disputed issues in the case.

(2) ***Form of Resolution Statement.*** The resolution statement must be substantially in the form set forth in Form 4 or 5, Rule 97, as applicable.

(c) Court Action. At the RMC, the court may:

(1) enter binding agreements on the record under Rule 69;

(2) determine the parties' positions on the disputed issues and explore reasonable solutions to facilitate their resolution;

(3) enter temporary orders based on the parties' stipulations or, if the parties agree, based upon the parties' discussions, avowals, and arguments at the RMC without holding an evidentiary hearing on contested issues;

(4) order evaluations, assessments, appraisals, testing, appointments, or other special procedures to properly manage the case and resolve disputed issues;

(5) resolve any discovery and disclosure schedules and disputes and adopt any agreements of the parties regarding discovery and disclosure;

(6) permit the amendment of pleadings;

(7) assist in identifying those issues of fact and law that are still at issue;

(8) refer a matter for settlement conference;

(9) order other alternative dispute resolution processes;

(10) schedule an evidentiary hearing, a trial, and any other necessary hearings or conferences;

(11) set a date for filing the pretrial statement required in Rule 76.1;

(12) impose time limits on trial proceedings or portions of those proceedings, and issue orders about managing documents, exhibits, and testimony; and

(13) make such other orders as the court deems appropriate.

(d) Entry of Orders. The court must enter an order reciting the action it took at the RMC. This order controls the course of the case unless the court modifies it by a later order.

Rule 76.1. Scheduling Conference; Scheduling Statement; Pretrial Statement.

(a) Scheduling Conference. The court may on its own, and on request of a party must, hold a scheduling conference to formulate a plan for trial, including procedures for facilitating the admission of evidence and the filing of a pretrial statements. At least one of the attorneys who will conduct the trial for each party, and any self-represented parties, must attend this conference.

(b) Timing. Unless the court orders otherwise, the parties must file:

(1) a scheduling statement 20 days before the date set for a scheduling conference, if one is set, and

(2) a pretrial statement 20 days before a trial.

(c) Joint and Separate Statements. Unless the court orders otherwise, the parties may file joint or separate statements. However, if the parties are unrepresented and there is a history of domestic violence, the parties must file separate statements. The party who initiated the action set for hearing must take the lead to prepare a draft joint statement, and must communicate with every other party concerning the statement. Every statement must be signed by each party or counsel.

(d) Contents. The parties may use the form of statement provided in Form 16, Rule 97. Each statement must include the information required in section (d) or (e), as applicable.

(e) Scheduling Statement. If the statement is filed for purposes of a scheduling conference:

(1) a brief description of the nature of the action;

(2) each party's name and address, if not confidential;

(3) the name and date of birth of each minor child;

(4) the anticipated length of trial;

(5) the parties' stipulations or agreements;

(6) a statement of uncontested facts or law;

(7) detailed and concise statements of contested issues of fact and law;

(8) a list of witnesses each party expects to call testify during the trial;

(9) a list of the exhibits that each party may use at trial;

(10) a statement by each party providing the status of pretrial discovery and disclosure, existing discovery disputes, discovery and disclosure that each party believes must be pursued before trial, and a proposed schedule for remaining discovery and disclosure;

(11) a statement as to the parties' positions regarding processes to facilitate settlement applicable to the case and the estimated timing for mediation, if that is expected to occur; and

(12) if a request for attorney's fees will be made for purposes of trial.

(f) Pretrial Statement. If the statement is filed for purposes of trial:

(1) a brief description of the nature of the action;

(2) each party's name and address, if not confidential;

(3) the name and date of birth of each minor child;

(4) the parties' stipulations or agreements;

(5) a statement of uncontested facts or law;

(6) detailed and concise statements of contested issues of fact and law;

(7) a position on each contested issue;

(8) if spousal maintenance is at issue, the amount and duration of support sought;

(9) if parenting time is at issue, the schedule of parenting time, including for holidays and vacations, each party maintains is in the best interest of the child;

(10) a list of witnesses each party intends to call at the trial;

(11) designation of deposition testimony under Rule 59(c)(2);

(12) each party's list of objections to any witness, and the basis for each objection;

(13) a list of the exhibits that each party intends to use at trial, specifying exhibits that the parties agree are admissible at trial or, if not in agreement, listing the objections and the specific grounds for each objection that a party will make if the exhibit is offered at trial;

(14) a statement by each party confirming that all pretrial discovery and disclosure has been completed by the trial date and that the parties have exchanged all exhibits and reports of experts who have been listed as witnesses;

(15) a statement as to whether the parties have in good faith discussed settlement, and if not, the reasons for not discussing settlement;

(16) any request for attorney's fees; and

(17) a statement about how a verbatim record of the trial will be made.

(g) Attachments to the Statement. Each of the parties must each file with the statement the following:

(1) If child support, spousal maintenance or attorneys' fees are at issue:

(A) if the statement is submitted prior to a scheduling conference, a summary statement of income and expenses substantially in the form set forth in Form X, Rule 97 ("Simplified Affidavit of Financial Information") or in such other form permitted by local Rule;

(B) if the statement is submitted prior to trial, a comprehensive statement of income and expenses substantially in the form set forth in Form 2, Rule 97 ("Affidavit of Financial Information") or in such other form permitted by local rule;

(2) If child support is at issue, a fully completed Parent's Worksheet for Child Support Amount; and

(3) if the case involves an action for dissolution, legal separation, or annulment, a detailed itemized inventory of property and debt substantially in the form set forth in Form 12, Rule 97 ("Inventory of Property and Debts"):

(A) listing community, joint tenancy, and other property and debts held in common by the parties;

(B) listing the separate property and debts of each party;

(C) listing any equitable lien claims regarding any separate property;

(D) including for each property the title by which the property is held, the amount of encumbrances, and each party's position regarding the value of the property; and

(E) setting forth each party's proposed distribution of property and debts.

(h) Failure to List. A party may not present a witness or offer an exhibit during trial other than those listed and exchanged in a statement submitted before the scheduling conference or trial, unless the court orders otherwise for good cause. A party waives the right to raise an objection at the trial or hearing if the specific objection to a witness, exhibit, or claim is not raised in the statement submitted pursuant to section (f) of this rule.

Rule 76.2. Sanctions for Failure to Participate in a Court Proceeding.

(a) Grounds for Imposing Sanctions. In a pre-judgment or post-judgment proceeding, the court upon motion or its own initiative may impose sanctions if a party or attorney:

(1) fails to obey a scheduling or pretrial order;

(2) fails to appear at a Resolution Management Conference, a scheduling conference, an evidentiary hearing, a trial, or other scheduled hearing;

(3) is substantially unprepared to participate in a conference, hearing or trial;

(4) fails to participate in good faith in a conference, hearing, or trial, or in preparing a resolution statement, scheduling statement, or pretrial statement.

(b) Sanctions. Absent good cause for conduct described in (a), the court may enter sanctions including, but not limited to, the following:

(1) directing that designated facts be taken as established for purposes of the action;

(2) prohibiting the disobedient party from supporting or opposing designated arguments, or from introducing designated matters in evidence;

(3) striking pleadings in whole or in part;

(4) staying further proceedings until the order is obeyed;

(5) dismissing the action or proceeding in whole or in part, unless dismissal would be contrary to the best interests of a child or the compliant party;

(6) rendering a default judgment, in whole or in part, against the disobedient party; or

(7) scheduling a proceeding to treat the violation as contempt of court.

(c) Fees and Expenses. Instead of or in addition to any other sanction, the court may order the disobedient party, the party's attorney, or both, to pay reasonable expenses—including attorney's fees, an assessment to the clerk, or both—caused by any noncompliance with a court order, unless the court finds that the noncompliance was substantially justified or other circumstances make an award of fees, an assessment, or expenses unjust.

Rule 77. Trials.

(a) Setting Cases for Trial. Unless the court has already set a trial on its own or at a resolution management conference or a scheduling conference, any party may file a motion to set a case for trial. The motion must state:

(1) the date by which the case will be ready for trial;

(2) the names, addresses and telephone numbers of the parties or their attorneys who are responsible for the conduct of the litigation;

(3) whether the case is entitled to a preference for trial because legal decision-making or parenting time is at issue; and

(4) the estimated time for trial.

(b) Continuances and Scheduling Conflicts.

(1) ***Continuance.*** The court will not reschedule a case that has been set for trial, hearing, or conference except on written motion showing good cause, or unless the court orders otherwise. The court will consider a stipulation for continuance as a joint motion to continue, which must show good cause. Only a court order can vacate or continue a trial setting or hearing date.

(2) ***Motion to Continue; Unavailability of a Witness or Party.*** On a motion to continue a trial based on the unavailability of a party or witness, the party requesting the continuance must show:

(A) why the testimony of the party or witness is material;

(B) when the party learned of the party's or witness's unavailability;

(C) the party's diligence and efforts in attempting to obtain the party's or witness's testimony; and

(D) the postponement is for good cause and not for delay.

(3) ***Scheduling Conflicts Between Courts.***

(A) *Notice to the Courts and Counsel.* Upon learning of a scheduling conflict between a trial in superior court and another trial or hearing in state or federal court, counsel must promptly notify the affected judges and counsel.

(B) *Resolving a Conflict.* Upon being notified of a scheduling conflict, the respective judges should confer with each other and counsel to resolve the conflict. Neither federal nor state court actions have priority in scheduling. A court may consider the following factors in resolving the conflict:

(i) whether the other action is a criminal matter, and, if so, whether postponement of that matter will deprive a defendant of a speedy trial;

(ii) each action's relative length, urgency, or importance;

(iii) whether the conflicting trials or hearings involve out-of-town witnesses, parties, or counsel;

(iv) the actions' respective filing dates;

(v) which action was first set for trial;

(vi) any priority granted by rule or statute; and

(vii) any other pertinent factor.

(C) *Inter-Division Conflicts.* Conflicts in scheduling between divisions of the same court may be governed by local rule or general order.

Part X. Judgments and Decrees.

Rule 78. Judgment, Attorney's Fees, Costs, and Expenses.

(a) Definitions; Form.

(1) *"Judgment"* as used in these rules includes a decree or an order from which an appeal lies.

(2) *"Decision"* as used in this rule is a written order, ruling, or minute entry that adjudicates at least one claim or defense.

(b) Judgment upon Multiple Claims or Involving Multiple Parties. When more than one claim for relief is presented in an action, whether as a claim, counterclaim, or third-party claim, or when multiple parties are involved, the court may direct the entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines there is no just reason for delay and recites that the judgment is entered under Rule 78(b). If there is no such express determination and recital, any decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties do not end the action as to any of the claims or parties, and is subject to revision at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities. For purposes of this section, a claim for attorney fees is considered a separate claim from the related judgment regarding the merits of the action.

(c) Judgment as to All Claims, Issues, and Parties. A judgment as to all claims, issues, and parties is not final unless the judgment recites that no further matters remain pending and that the judgment is entered under Rule 78(c).

(d) Entry of Judgment after Death of Party. Judgment may be entered after the death of a party upon a decision or upon an issue of fact rendered in the party's lifetime, except that an order dissolving the marriage may not be entered after the death of either party.

(e) Attorney's Fees, Costs, and Expenses.

(1) ***Asserting a Claim for Attorney's Fees, Costs, and Expenses.*** A claim for attorney's fees, costs, and expenses must be made in the pleadings or by motion filed before trial or a post-decree evidentiary hearing. A claim for attorney's fees, costs, and expenses must also be included in any required pretrial statement. A claim for attorney's fees, costs and expenses not made in compliance with this subpart is waived absent good cause shown.

(2) ***Establishing a Claim.*** The claim must be supported by an itemized affidavit or exhibits submitted as directed by the court, or, in the court's discretion, by testimony.

(3) ***Time of Determination.*** The determination of attorney's fees, costs, and expenses must be included in the judgment or as otherwise ordered by the court. If a party asserts a claim for attorney's fees, costs, and expenses subpart (e)(1), and a judgment is entered under this rule that omits a ruling on the claim, the claim is deemed denied unless the party files a Rule 83 motion within 15 days after entry of the judgment.

(f) Form of Judgment; Objections to Form.

(1) ***Proposed Forms of Judgment.*** Proposed forms of judgment must be served on all parties.

(2) ***Objections to Form.***

(A) A judgment may not be entered until 5 days after the proposed form of judgment is served, unless:

(i) the opposing party endorses on the judgment its approval of the judgment's form;

(ii) the court waives or shortens the 5-day notice requirement for good cause;

(iii) the judgment is against a party in default; or

(iv) the judgment was originally prepared by the court.

(B) An opposing party not in default may file an objection to the proposed form of judgment within 5 days after it is served. If an objection is made:

(i) the party submitting the proposed form of judgment may reply within 5 days after the objection is served; and

(ii) after that time expires, the court may decide the matter with or without a hearing.

(g) Entering Judgment.

(1) ***Written Document.*** All judgments must be in writing and signed by a judge or a court commissioner duly authorized to do so.

(2) ***Time and Manner of Entry.*** A judgment is not effective before entry, but a court may direct the entry of a judgment *nunc pro tunc* in such circumstances and on such notice as justice requires, stating the reasons on the record. A judgment,

including a judgment in the form of a minute entry, is entered when the clerk files it.

(h) Notice of Entry of Judgment.

(1) ***Manner of Notice.***

(A) *By the Clerk.* Immediately upon the entry of a judgment, or the entry of a minute entry constituting a judgment, the clerk must:

(i) distribute notice, in the form required by subpart (h)(2), either electronically, by U.S. mail, or attorney drop box, to every party not in default for failing to appear; and

(ii) make a record of the distribution.

(B) *By Any Party.* Any party may serve notice of entry of judgment in the manner provided in Rule 43.

(2) ***Form of Notice.*** Notice of entry of judgment must be in the following form:

(A) a written notice of the entry of judgment;

(B) a minute entry; or

(C) a conformed copy of the file-stamped judgment.

(3) ***Lack of Notice.*** Lack of notice of the entry of judgment by the clerk does not affect the time to appeal or relieve or authorize the court to relieve a party from the failure to appeal within the allowed time, except as provided in Arizona Rule of Civil Appellate Procedure 9(f).

(i) Offers of Judgment Not Applicable. The procedure governing offers of judgment, authorized in civil actions under Arizona Rule of Civil Procedure 68, does not apply in any action under Title 25.

Rule 79. Summary Judgment.

(a) Motion for Summary Judgment or Partial Summary Judgment. A party may move for summary judgment, identifying each claim or defense—or the part of each claim or defense—on which summary judgment is sought. The court must grant summary judgment if the moving party shows that there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion.

(b) Time to File a Motion.

(1) ***Claimant.*** A claimant may move for summary judgment only after:

(A) the date when a responsive pleading is due from the party against whom summary judgment is sought; or

(B) the filing of a Rule 29(b)(6) motion to dismiss or a summary judgment motion by the party against whom summary judgment is sought.

(2) ***Other Parties.*** Any other party may move for summary judgment at any time after the action is commenced.

(3) ***Filing Deadline.*** A summary judgment motion may not be filed later than the dispositive motion deadline set by the court or local rule, or absent such a deadline, 90 days before the date set for trial.

(c) Procedures.

(1) ***Oral Argument.*** On timely request by any party, the court must set oral argument, unless it determines that the motion should be denied or the motion is uncontested. The court may set oral argument even if not requested by a party.

(2) ***Opposition and Reply.*** An opposing party must file a response and any supporting materials within 30 days after the motion is served. The moving party must serve any reply memorandum and supporting materials 15 days after the response is served.

(3) ***Supporting and Opposing Statements of Fact.***

(A) *Moving Party's Statement.* The moving party must set forth, in a statement separate from the supporting memorandum, the specific facts relied on in support of the motion. The facts must be stated in concise, numbered paragraphs. The statement must cite the specific part of the record where support for each fact may be found.

(B) *Opposing Party's Statement.* An opposing party must file a statement in the form prescribed by subpart (c)(3)(A), specifying:

(i) the numbered paragraphs in the moving party's statement that are disputed; and

(ii) those facts that establish a genuine dispute or otherwise preclude summary judgment in favor of the moving party.

(C) *Joint Statement.* In addition, or as an alternative, to submitting separate statements under subparts (c)(3)(A) and (B), the moving and opposing parties may file a joint statement in the form prescribed by this rule, setting forth those facts that are undisputed. The joint statement may provide that any stipulation of fact is not binding for any purpose other than the summary judgment motion.

(4) ***Objections to Evidence.*** A party objecting to the admissibility of evidence submitted by another party must raise the objection in the party's response or reply, or state the objection concisely in an opposing statement of facts, and not in a separate motion to strike.

(5) ***Affidavits.*** An affidavit used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant is competent to testify on the matters stated. If an affidavit refers to a document or part of a document, a properly authenticated copy must be attached to or served with the affidavit.

(6) ***Other Materials.*** Affidavits may be supplemented or opposed by deposition excerpts, interrogatory responses, admissions, additional affidavits, or other materials that would be admissible in evidence.

(d) When Facts Are Unavailable to the Opposing Party; Request for Rule 79(d) Relief; Expedited Hearing.

(1) ***Requirements.*** If an opposing party cannot present evidence essential to justify the party's opposition, that party may file a request for relief and expedited hearing. The request must be titled: "Request for Rule 79(d) Relief and for Expedited Hearing." The request must be accompanied by:

(A) a supporting affidavit establishing specific and adequate grounds for the request and addressing, if applicable, the following:

(i) the particular evidence beyond the party's control;

(ii) the location of the evidence;

(iii) what the party believes the evidence will reveal;

(iv) the methods to be used to obtain it;

(v) an estimate of the amount of time the additional discovery will require; and

(vi) a good faith consultation certificate complying with Rule 9(c).

(2) ***Effect.*** Unless the court orders otherwise, a request for relief under subpart (d)(1) does not by itself extend the date for an opposing party to file a responsive memorandum and separate statement of facts under section (c).

(3) ***Responses to Request.*** Unless the court orders otherwise, the party moving for summary judgment is not required to respond to a section (d) request for relief. If such a party elects to file a response, it must be filed no later than two days before any hearing scheduled to consider the requested relief.

(4) ***Expedited Hearing.*** The court must hold an expedited hearing, in person or by telephone, within 7 days after a request is filed in compliance with subpart (d)(1). If the court's calendar does not allow a hearing within 7 days, the court should set a hearing date at the earliest available time allowed by the court's calendar.

(5) ***Relief.*** When a request is filed in compliance with subpart (d)(1), the court may, after holding a hearing:

(A) defer considering the summary judgment motion and allow time to obtain affidavits or to take discovery before a response to the motion is required;

(B) deny the requested relief and require a response to the summary judgment motion by a date certain; or

(C) issue any other appropriate order.

(e) Failing to Properly Oppose a Motion. When a summary judgment motion is made and supported as provided in this rule, an opposing party may not rely merely on allegations or denials of that party's own pleading. The opposing party must, by affidavits or as otherwise provided in this rule, set forth specific facts showing a genuine issue for trial. I f the opposing party does not so respond, summary judgment, if appropriate, shall be entered against that party.

(f) Judgment Independent of the Motion. After giving notice and a reasonable time to respond, the court may:

(1) grant summary judgment for a nonmoving party;

(2) grant summary judgment on grounds not raised by a party; or

(3) consider summary judgment on its own after identifying material facts that may not be genuinely in dispute.

(g) Declining to Grant All the Requested Relief. If the court does not grant all the relief requested by the motion, or if judgment is not rendered on the whole case under section (f), the court may enter an order identifying any material fact that is not genuinely in dispute and treat the fact as established in the case.

(h) Affidavit Submitted in Bad Faith. If a Rule 79 affidavit is submitted in bad faith or solely for delay, the court—after notice and a reasonable time to respond—may order the submitting party to pay the other party the reasonable expenses, including attorney's fees, incurred as a result, or may impose other appropriate sanctions.

Rule 80. Declaratory Judgments.

These rules govern the procedure for obtaining a declaratory judgment. The existence of another adequate remedy does not preclude a declaratory judgment that is otherwise appropriate. The court may order a speedy hearing of a declaratory judgment action.

Rule 81. [Reserved].

Rule 82. Findings and Conclusions by the Court; Judgment on Partial Findings.

(a) Findings and Conclusions.

(1) ***Generally.*** If requested before trial, the court must make separate findings of fact and conclusions of law. The findings and conclusions may be stated orally on the record after the close of the evidence or may appear in an opinion, minute entry, or memorandum of decision filed by the court. Judgment must be entered under Rule 78.

(2) ***For a Motion.*** The court is not required to state findings or conclusions in a ruling on any motion unless these rules provide otherwise.

(3) ***Effect of a Master's Findings and Conclusions.*** A master's findings and conclusions become the court's findings and conclusions to the extent adopted by the court.

(4) ***Contesting the Evidentiary Support.*** A party may contest the sufficiency of the evidence supporting the findings of fact, whether or not the party requested, objected to, or moved to amend the findings.

(5) ***Setting Aside the Findings.*** Findings of fact must not be set aside unless clearly erroneous, and the reviewing court must give due regard to the trial court's opportunity to judge the credibility of witnesses.

(b) Amended or Additional Findings. On a party's motion filed no later than ~~15~~ 25 days after the entry of judgment, the court may amend or make additional findings, and may amend the judgment accordingly. This deadline may not be extended by stipulation or court order, except as allowed by Rule 4. The motion to amend or make additional findings may be included in a motion under Rule 83.

(c) Judgment on Partial Findings. If a party has been fully heard on an issue and the court finds against the party on that issue, the court may enter judgment against that party on a claim or defense that can be maintained or defeated only with a favorable finding on that issue. A judgment on partial findings must be supported by findings of fact and conclusions of law if requested as required by section (a).

(d) Submission on Agreed Statement of Facts. The parties may submit a matter in controversy to the court on an agreed statement of facts, signed by them and filed with the clerk. The court must render its decision based on the agreed statement unless it finds the statement to be insufficient.

Rule 83. Altering or Amending a Judgment~~; Supplemental Hearings~~.

(a) Generally.

(1) ***Grounds for Altering or Amending a Judgment.*** The court may on its own or on motion alter or amend all or some its rulings on any of the following grounds materially affecting a party's rights:

(A) did not properly consider or weigh all of the admitted evidence;

(B) any irregularity in the proceedings or abuse of discretion depriving the party of a fair trial;

(C) misconduct of the other party;

(D) accident or surprise that could not reasonably have been prevented;

(E) newly discovered material evidence that could not have been discovered and produced at the trial with reasonable diligence;

(F) error in the admission or rejection of evidence, or other errors of law at the trial or during the action;

(G) mistakenly overlooked or misapplied uncontested facts, including mathematical errors, which were necessary to the ruling, or

(H) the decision, findings of fact, or judgment is not supported by the evidence or is contrary to law.

(b) Court Action. The court may, on motion, vacate the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new ones, and direct the entry of a new judgment. The relief, if granted, must be limited to the question or questions found to be error, if separable.

(c) Time to File a Motion; Scope; Response and Reply.

(1) ***Motion.*** A motion under this rule must be filed no later than 25 days after the entry of judgment under Rule 78(b) or (c). This deadline may not be extended by stipulation or court order, except as allowed by Rule 4(b)(2).

(2) ***Response.*** Within 15 days of the filing of a motion pursuant to this Rule, the court must either summarily deny the motion or set a deadline for a response. The court may limit the scope of a response to specified issues. The court may not grant a motion without providing the nonmoving party an opportunity to file a response. The response deadline will be 30 days after the entry of an order requiring a response.

(3) ***Contents of Response.*** The response must address any issues raised in the motion, unless limited by the court. The response must also address any issues that might arise if the motion is granted.

(4) ***Reply.*** The reply must be filed no later than 15 days after the filing of a response.

(d) Successive Motions. No party may file a motion to alter or amend an order granting or denying a motion under this rule.

(e) Motion after Service by Publication. When judgment has been rendered on service by publication, and the defaulted party has not appeared, the court may grant a motion made pursuant to this rule if the defaulted party—within one year after entry of judgment—files an application establishing good cause for granting the motion.

(f) Order Must Specify Grounds. Any order granting a motion made pursuant to this rule must specify with particularity the ground or grounds for the court's order.

Rule 84. Motion for Clarification.

(a) Grounds. A party may file a motion that requests the court to clarify a ruling if the ruling is confusing or is susceptible to more than one reasonable interpretation.

(b) Timing. A party may file a motion for clarification at any time, but the motion does not extend the time for filing a notice of appeal.

(c) Procedure. Unless the court orders otherwise, a party may not file a response to a motion for clarification, and the court may summarily deny the motion. However, the court may not grant a motion for clarification without providing the nonmoving party an opportunity to file a written response.

(d) Rule 83 Motion. A party may not combine a motion filed under this rule with a motion under Rule 83. On a motion for clarification, the court may not open the judgment or accept additional evidence as it can under Rule 83.

Rule 85. Relief from Judgment or Order.

(a) Corrections Based on Clerical Mistakes; Oversights and Omissions. A court must correct a clerical mistake or a mistake arising from oversight or omission if one is found in a judgment, order, or other part of the record. The court may do so on motion or on its own, with notice. But after an appeal has been filed and while it is pending in the appellate court, such a mistake may be corrected only with the appellate court's leave. After a mistake in the judgment is corrected, execution must conform to the corrected judgment.

(b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and on such terms as are just, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

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

(2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to file a motion under Rule 83(a)(1);

(3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or other misconduct of an opposing party;

(4) the judgment is void;

(5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or

(6) any other reason justifying relief.

(c) Timing and Effect of the Motion.

(1) ***Timing.*** A motion under section (b) must be made within a reasonable time—and for the reasons set forth in subparts (b)(1), (2), and (3), no more than 6 months after the entry of the judgment or order or date of the proceeding, whichever is later. This deadline may not be extended by stipulation or court order, except as allowed by Rule 4(b)(2).

(2) ***Effect on Finality.*** The motion does not affect the judgment's finality or suspend its operation.

(d) Other Powers to Grant Relief. This rule does not limit the court's power to:

(1) entertain an independent action to relieve a party from a judgment, order, or proceeding;

(2) grant relief to a defendant served by publication as provided in Rule 83(f); or

(3) set aside a judgment for fraud on the court.

(e) Reversed Judgment of Foreign State. If a judgment was rendered on a foreign judgment from another state or country and the court of such state or country reverses or sets aside the foreign judgment, the Arizona court that rendered judgment must set aside, vacate, and annul its judgment.

Rule 86. Harmless Error.

Unless justice requires otherwise, an error in admitting or excluding evidence—or any other error by the court or a party—is not grounds for granting relief under Rule 83, or for vacating, modifying, or otherwise disturbing a judgment or order. At every stage of the proceeding, the court must disregard all errors and defects that do not affect any party's substantial rights.

Rule 87. Stay of Proceedings to Enforce a Judgment.

(a) No Automatic Stay. Except as provided in Arizona Rule of Civil Appellate Procedure 7 or as a court otherwise orders, an interlocutory or final judgment, including in an action for an injunction or a receivership, is not stayed after being entered, even if an appeal is taken.

(b) Stay Pending the Disposition of a Motion. On appropriate terms for the opposing party's security, the court may stay the execution of a judgment or any proceedings to enforce it:

(1) pending disposition of a motion under Rule 83 to alter or amend a judgment, or under Rule 85(a) or (b) for relief from a judgment or order; or

(2) when justice so requires in other circumstances until such time as the court designates.

(c) Injunction Pending an Appeal. While an appeal is pending from an interlocutory order or final judgment that grants, dissolves, or denies an injunction, the court may suspend, modify, restore, or grant an injunction on such terms for bond, security, or otherwise that preserve the opposing party's rights.

(d) Stay of Judgment Ordering Execution of an Instrument or Sale of Perishable Property.

(1) ***Judgment Directing Execution of Instrument.*** If a party appeals a judgment or order directing the execution of a conveyance or other instrument, the judgment or order may not be stayed unless and until the conveyance or other instrument is executed and deposited with the clerk pending the outcome of the appeal.

(2) ***Judgment Directing Sale of Perishable Property and Distribution of Proceeds.*** A judgment or order directing the sale of perishable property may not be stayed pending appeal, but the proceeds of the sale must be deposited with the clerk pending the outcome of the appeal.

(e) Stay of a Judgment Against the State or Its Agencies or Political Subdivisions.

(1) ***Money Judgments.*** If a money judgment is entered against the State of Arizona or one of its agencies or political subdivisions, the judgment is automatically stayed upon the filing of an appeal.

(2) ***Other Judgments.*** If a judgment other than a money judgment is entered against the State of Arizona or one of its agencies or political subdivisions, the judgment is not automatically stayed upon the filing of an appeal. If a court grants a stay of such a judgment, it may not require a bond, obligation, or other security.

(f) Stay of Judgment Entered Under Rule 78(b). A court may stay the enforcement of a judgment entered under Rule 78(b) until it enters a later judgment or judgments, and may prescribe terms necessary to secure the benefit of the stayed judgment for the party in whose favor it was entered.

(g) Stay of a Judgment in Rem. If a claimant has filed a timely claim to the property and is not in default, a judgment in rem is not self-executing until 25 days after its entry, and no execution or other process may issue on the judgment during that time.

Rule 88. Judge's Inability to Proceed.

If a judge conducting a hearing or trial is unable to proceed, any other judge may proceed with the hearing or trial if that judge certifies familiarity with the record and determines that the action may be completed without prejudice to the parties. If an adequate record is unavailable, the replacement judge must recall any witness if all of the following are true:

(a) it is requested by a party;
(b) the testimony is material and disputed; and
(c) the witness is available to testify again without undue burden.

The replacement judge also may recall any other witness.

Rule 89. Enforcing a Judgment for a Specific Act.

(a) A Party's Failure to Act; Ordering Another to Act. If a judgment requires a party to convey land, to deliver a deed or other document, or to perform any other specific act and the party fails to comply within the time specified, the court may order the act to be done—at the disobedient party's expense—by another person appointed by the court. When done, the act has the same effect as if done by the party.

(b) Vesting Title. If the real or personal property is within Arizona, the court—instead of ordering a conveyance—may enter a judgment divesting any party's title and vesting it in others. That judgment has the effect of a legally executed conveyance.

(c) Obtaining a Writ of Attachment or Sequestration. On application by a party entitled to performance of an act, the clerk must issue a writ of attachment or sequestration against the disobedient party's property to compel obedience.

(d) Obtaining a Writ of Execution or Assistance. On application by a party who obtains a judgment or order for possession, the clerk must issue a writ of execution or assistance.

(e) Contempt. The court also may hold the disobedient party in contempt.

Rule 90. Enforcing Relief for or Against a Nonparty.

When an order grants relief for a nonparty or may be enforced against a nonparty, the procedure for enforcing the order is the same as for a party.

Part XI. Post-Decree/Post Judgment Proceedings.

Rule 91. Modification or Enforcement of a Judgment.

(a) Definitions.

(1) ***Judgment.*** When used in this rule and in Rules 91.1 through 91.6, "judgment" includes a decree of dissolution of marriage, a decree of legal separation, a decree of dissolution of a covenant marriage, a decree of legal separation of a covenant marriage, a decree of annulment, judgments of paternity and maternity, and orders defining legal decision-making, parenting time, or child support.

(2) ***Applicant.*** When used in this rule and in Rules 91.1 through 91.6, an "applicant" is the party who, after the entry of a judgment, seeks to modify or enforce all or part of a judgment.

(3) ***Designating the Parties.*** The original designation of the parties as "petitioner" and "respondent" in this jurisdiction remains unchanged in all post-judgment petitions, motions, and documents.

(b) Petition to Modify or Enforce a Judgment. An applicant who seeks to modify or enforce all or a portion of a judgment after the entry of the judgment must file a petition with the court and pay the required filing fee. The petition must meet the requirements of this rule and, as applicable, Rules 91.1, 91.2, 91.3, 91.4, 91.5, or 91.6. The petition must include, at a minimum:

(1) the date the judgment was entered;

(2) the name and location of the court that entered the judgment;

(3) as an attachment, a copy of the judgment the applicant seeks to modify or enforce, but if the judgment is in the official court file, the applicant may incorporate the judgment by reference;

(4) the page numbers and sections, if applicable of the judgment that contains the provisions the applicant wishes to modify or enforce; and

(5) the relief requested.

(c) Verification or Declaration. The petition to modify or enforce a judgment must be verified under Rule 14. However, the State does not need to verify a petition it files in a Title IV-D matter.

(d) Mediation. No party may be required to submit to mediation before filing a petition for modification of legal decision-making or parenting time. However, a local rule or

court order may require the parties to submit to mediation before the court will hold an evidentiary hearing on any legal decision-making or parenting time issues.

(e) Contempt. A petition that requests a contempt remedy must comply with this rule and Rule 92.

(f) Temporary Orders. Any request for a temporary order in a post-judgment proceeding must meet the requirements of Rules 47, 47.2 or, if applicable, Rule 48.

Commented [DH10]: This must be a new rule. We're not sure what it is.

(g) Affidavit of Financial Information. When this rule or Rules 91.1 through 91.6 require an Affidavit of Financial Information, the parties must use an affidavit substantially in the form set forth in Form 2, Rule 97 ("Affidavit of Financial Information"), or another form permitted by local rule.

(h) Order to Appear. After filing the petition, the applicant must submit to the assigned judicial officer two copies of an Order to Appear, and a copy of the petition showing the court's filing stamp. An Order to Appear must be substantially in the form set forth in Form 14, Rule 97 ("Order to Appear Post-Judgment").

(i) Initial Review of Petitions.

(1) ***Setting a Conference or Hearing, or Rejecting a Petition.*** Upon receipt of the petition and proposed Order to Appear, the court must review the petition and~~:~~ (a) reject the petition for failure to state grounds upon which relief can be granted; or (b) issue the Order to Appear. If the court rejects the petition, the court must provide the applicant with an explanation of the deficiency and provide an opportunity to correct the deficiency within 30 days after the date of the rejection notice. In deciding whether to reject a petition, the court cannot assess credibility or weigh evidence. If the court issues the Order to Appear, it must set a resolution management conference or evidentiary hearing, as appropriate. No evidence may be taken at a resolution management conference except under emergency circumstances.

(2) ***Counsels' Duties.*** If the court schedules a resolution management conference, and both parties are represented by counsel, counsel must confer before the conference regarding the issues raised by the petition, anticipated discovery and disclosure, the timing for anticipated discovery and disclosure, alternative dispute resolution or mediation options, and the possible resolution of any of the issues raised by the petition.

(3) ***Scope of Resolution Management Conference***. At the resolution management conference, the court may take any action provided in Rule 76(c).

(j) Manner and Timing of Service. The applicant must serve the petition, and every order, warrant, and affidavit in support of the petition, on all other parties in the manner required under Rules 40 or 41, as applicable. The applicant must make good faith efforts to complete service promptly and within 10 days after the receipt of the issued order to appear, but must complete service in no event later than 20 days before the hearing.

(k) Dismissal of Petition for Lack of Prosecution.

(1) In the following circumstances, the court may dismiss a post-judgment petition:

(A) If a petition to enforce or modify a judgment is filed but not presented to the assigned division with a proposed Order to Appear within 30 days after filing;

(B) if the applicant fails to accomplish service before the conference or hearing as provided in this rule and the date to accomplish service is not extended; or

(C) If the applicant fails to appear at the conference or hearing.

(2) ***Extension of Time.*** The court may extend the deadlines in this rule for good cause.

(l) Responses; Time for Response. Unless a statute or rule requires otherwise, a party served with a petition may, but is not required to, file a response to the petition. However, if a party chooses to respond or when these rules specifically require a response, the responding party must file and provide a copy of the response to the applicant or, if represented, the applicant's attorney. Unless the court orders otherwise, the response must be filed at least 3 days before the scheduled conference or hearing.

(m) Disclosure. In any proceeding under Rule 91 or Rules 91.1 through 91.6, each party must comply with Rule 49 and 50, as applicable, within the time established by the court at the conference or hearing or as agreed by the parties.

(n) Attorney's Fees, Costs, and Expenses. In any post-judgment proceeding in which an award of attorney's fees, costs, and expenses is an issue, both parties must file and exchange a completed Affidavit of Financial Information at the time established by the court, but not later than in compliance with the Rule 76.1 submittals.

(o) Rule 76.1 Statement. Before an evidentiary hearing, the parties must comply with Rule 76.1 and any local rules, including the filing of a scheduling conference or pretrial statement, as ordered by the court.

(p) Stipulations. Stipulations to modify or enforce post-judgment orders that substantially change the terms of a legal decision-making or parenting time order must meet the requirements of Rule 14.

Rule 91.1. Post-Judgment Petition to Modify Spousal Maintenance or Child Support.

(a) Spousal Maintenance. A petition to modify spousal maintenance must comply with Rule 91. In addition, the petition must include a statement of the facts that establish that substantial and continuing changes in circumstances exist that support the requested modification.

(b) Child Support.

(1) ***Standard Procedure.*** A petition to modify child support must comply with Rule 91. In addition, the petition must include a statement of facts establishing substantial and continuing changes in circumstances that support the requested modification and attach a copy of the most recent child support worksheet that supports the existing child support order, if available.

(2) ***Simplified Procedure***. A party seeking to modify child using the simplified procedure for modification outlined in the Arizona Child Support Guidelines must follow the procedures specified in the Arizona Child Support Guidelines, Appendix to A.R.S. § 25-320.

(3) ***Title IV-D.*** In Title IV-D matters, the State must serve both parents with the petition, the issued Order to Appear, and a blank Affidavit of Financial Information, with instructions to complete, file, and serve the Affidavit as required in Rule 91.1(c).

(c) Affidavit of Financial Information. For a petition filed under Rule 91.1(a) or Rule 91.1(b)(1) the parties also must file and exchange current Affidavits of Financial Information 30 days after the conference or hearing, unless a different date is set by the court.

Rule 91.2. Post-Judgment Petition to Enforce Spousal Maintenance or Child Support.

(a) Generally. A petition to enforce an order to pay spousal maintenance, child support, medical, dental, or vision costs, or other sums that are due under a support order must comply with Rule 91. The petition also must include a current summary calculation of arrears derived from support payment clearinghouse records, if available, or if not available, a statement of all sums due.

(b) Medical Costs. If the applicant requests reimbursement of medical, dental, or vision costs, the petition must include a statement of all sums due. In addition, within 30 days after filing the petition, the applicant must disclose to the other party any documentation supporting the claim, including proof of payment.

Rule 91.3. Post-Judgment Petition to Modify Legal Decision Making or Parenting Time.

(a) Generally. A Petition for Modification of Legal Decision-Making or Parenting Time:

(1) must comply with Rule 91;

(2) must contain detailed facts supporting the modification;

(3) must be verified by the applicant or supported by affidavits(s) as required by A.R.S. § 25-411; and

(4) in actions in which the legal decision-making order or decree was not entered by an Arizona court, must include an affidavit required under A.R.S. § 25-1039.

(b) Service. In addition to complying with Rule 91(j), the applicant must comply with A.R.S. § 25-1035.

Rule 91.4. Post-Judgment Petition to Relocate or Prevent Relocation.

(a) Relocation. A petition to relocate a minor child must comply with A.R.S. § 25-408 and Rule 91.3.

(b) Preventing Relocation. A petition to prevent the relocation of a minor child must comply with A.R.S. § 25-408 and Rule 91.

Rule 91.5. Post-Judgment Petition for Enforcement of Legal Decision-Making or Parenting Time; Warrant to Take Physical Custody.

(a) Enforcement. A Petition for Enforcement of Legal Decision-Making, Parenting Time, or Visitation Order must comply with Rule 91, and

(1) must meet all legal requirements, including A.R.S. § 25-1058, if applicable,

(2) must include detailed facts supporting a violation of the order or enforcement action and the specific remedy or remedies sought.

(b) Warrant. A petition seeking a warrant to take physical custody of a child must comply with Rule 91and with A.R.S. § 25-1061.

Rule 91.6. Other Post-Judgment Petitions.

A party seeking any other post-judgment relief not specifically addressed in Rule 91 or Rules 91.1 through 91.5 must file a petition in compliance with Rule 91 that states detailed facts supporting the requested relief; and the specific legal authority that permits the court to grant the relief requested.

Part XII. Civil Contempt and Arrest Warrants.

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

(a) Applicability. This rule governs civil contempt proceedings in family law cases. Its procedures and sanctions are in addition to the procedures and sanctions for a child support arrest warrant under A.R.S. §§ 25-681 et seq.

(1) ***Civil Contempt.*** The court may use civil contempt sanctions under this rule only for compelling compliance with a court order or for compensating a party for losses because of a contemnor's failure to comply with a court order.

(2) ***Criminal Contempt.*** Contempt sanctions that punish an offender, or which vindicate the authority of the court, are criminal in nature and are not governed by this rule.

(b) Petition, Service, and Notice.

(1) ***Petition.*** A party begins a civil contempt proceeding by filing a petition that recites the essential facts alleged to be contemptuous. The petition must comply with this rule and Rules 91(b), (c), (e), and (h).

(2) ***Service.*** The civil contempt petition and order to appear must be personally served on the alleged contemnor as provided in Rule 41.

(3) ***Notice.*** The court may not make a finding of civil contempt without affording notice to the alleged contemnor and without providing the alleged contemnor an opportunity to be heard.

(c) Order to Appear. The order to appear must specify the date, time, and place of the hearing, and must contain the following notice using substantially the following language:

> Failure to appear at the hearing may result in the court issuing a child support or civil warrant for your arrest. If you are arrested, you may be held in jail for up to 24 hours before you see a judge.

(d) Hearing. At the hearing on the petition, the court must make an express finding whether the alleged contemnor had notice of the petition and order to appear. The court also must also determine whether the party who filed the petition has established that:

(1) the court entered a prior order;

(2) the alleged contemnor had notice of the prior order; and

(3) the alleged contemnor failed to comply with the order.

Commented [MPJ11]: The rule refers to the movant proving that the alleged contemnor "willfully failed to comply with the order." I think that incorrectly states the burden of production and persuasion for contempt. Simply deleting "has willfully" probably does it.

The civil contempt statute reads:

> Contempts committed in the presence of the court or so near thereto as to obstruct the administration of justice, and contempts committed by failure to obey a lawful writ, process, order, judgment of the court, and all other contempts not specifically embraced within this article may be punished in conformity to the practice and usage of the common law.

A.R.S. § 12-864.

No mention of willfulness there. In contrast, criminal contempt requires willfulness. A.R.S. § 12-861; Ariz. R. Crim. P. 33.1. That difference suggests that civil contempt does not require willfulness. That follows the general approach in federal courts, which also follow the common law on this topic. *E.g.*, *Paramedics Electromedicina Comercial, Ltda. v. GE Med. Sys. Info. Techs., Inc.*, 369 F.3d 645, 655 (2d Cir. 2004) ("It need not be established that the violation was willful."); *Perry v. O'Donnell*, 759 F.2d 702, 705 (9th Cir. 1985) ("civil contempt may be established even though the failure to comply with the court order was unintentional."). "A court may not impose punishment in a civil contempt proceeding when it is *clearly established* that the alleged contemnor is *unable to comply* with the terms of the order." *Turner v. Rogers*, 564 U.S. 431, 442 (2011) (addressing civil contempt for failing to pay child support) (emphasis added and quotations omitted). It seems that the alleged contemnor is the party who bears the burden of proving an inability to comply; it isn't the movant's burden to prove that the contemnor willfully failed to comply.

(e) Order and Sanctions. The contemnor may show that the failure to comply with the court order was not willful. After hearing the testimony and evidence, the court must enter a written order granting or denying the petition for contempt. An order finding the alleged contemnor in contempt must include the following:

(1) a recital of facts on which the contempt finding is based; and

(2) if the court finds it appropriate, a statement of appropriate sanctions for obtaining the contemnor's compliance with the order, including incarceration, seizure of property, attorney's fees, costs, compensatory or coercive fines, parenting time to make-up for time missed due to the contemnor, parent education classes, employment services, and any other coercive sanction or relief permitted by law, provided the order includes a purge provision under section (f).

(f) Purge.

(1) ***Generally.*** If the court orders incarceration, a fine, or any other sanction for failure to comply with a court order, the order must set conditions for the contemnor to purge the contempt based on the contemnor's present ability to comply.

(2) ***Ability to Comply.*** The court must include in its order a separate affirmative finding that the contemnor has the present ability to comply with the purge and that finding's factual basis. The court may grant the contemnor a reasonable time to comply with the purge conditions.

(3) ***Noncompliance.*** If the court orders incarceration but defers incarceration for more than 24 hours to allow the contemnor a reasonable time to comply with the purge conditions, and if the contemnor fails to comply within the time provided, the other party may file an affidavit of noncompliance. Upon receipt of the affidavit or on its own, the court may issue a child support or civil arrest warrant. The contemnor must be brought before the court within 24 hours of arrest for a determination of whether the contemnor continues to have the present ability to comply with the purge.

(g) Review Hearings for an Incarcerated Contemnor. If the court incarcerates a civil contemnor after a hearing, the court must hold a review hearing at least every 35 days while the contemnor is incarcerated. At that hearing, the court must determine if the contemnor has been able to comply with the purge condition or the amount of release payment, and if not, it must review the contemnor's present ability to comply. The court must continue or modify its orders accordingly.

Rule 93. [Reserved].

Rule 94. Civil and Child Support Arrest Warrants.

Commented [JWS12]: Should we split this out into two rules? CAW and CSAW?

(a) Definitions.

(1) ***Civil Arrest Warrant.*** A "civil arrest warrant" is an order issued in a non-criminal matter that directs any peace officer in Arizona to arrest the person named in the warrant and to bring that person before the court.

(2) ***Child Support Arrest Warrant.*** A "child support arrest warrant" is an order issued in a non-criminal child support matter that directs any peace officer in Arizona to arrest the person named in the warrant and to bring that person before the court.

(b) When Issued.

(1) ***Civil Arrest Warrant.*** On a party's motion or on its own, the court may issue a civil arrest warrant if it finds that the person named in the warrant:

(A) was required to appear personally at a specific time and location by an order to appear or a subpoena;

(B) received actual notice of that order or subpoena, including a warning that failure to appear may result in the issuance of a civil arrest warrant; and

(C) failed to appear.

(2) ***Child Support Arrest Warrant.*** In any action under A.R.S. § 25-502, the court may issue a child support arrest warrant as provided in A.R.S. § 25-681(A) on a party's motion or own its own.

(c) Warrant's Issuance, Content, and Effectiveness.

(1) ***Issuance.*** Only a court may issue a civil arrest or child support arrest warrant.

(2) ***Content.*** The warrant must:

(A) contain the name of the person to be arrested, a description by which the person can be identified with reasonable certainty, and any information required to enter the warrant into the Arizona criminal justice information system; and

(B) command the arrest of the named person and that the person be either remanded to the custody of the sheriff or brought before the issuing judicial officer or the nearest or most accessible judicial officer of the superior court in the same county if the issuing judicial officer is absent or unable to act.

Commented [JWS13]: In Maricopa, the party is rarely brought before the issuing judicial officer. There is a centralized person assigned to that duty. Should this be explicitly allowed by the rule.

(3) ***Effectiveness.*** A warrant that is issued pursuant to this rule remains in effect until it is executed or a court extinguishes it.

(4) ***Bond and Release Amount.***

(A) ***Civil Arrest Warrant.*** A civil arrest warrant must include a reasonable bond amount or other non-monetary terms and conditions that assure the person will appear in court.

(B) ***Child Support Arrest Warrant.*** A court must issue a child support arrest warrant in conformity with A.R.S. §§ 25-681 and 25-683. The court must determine and the warrant must state the amount the person must pay to be released from custody.

(d) Time and Manner of Execution.

(1) ***Civil Arrest Warrant.***

(A) *Execution.* A civil arrest warrant is executed by the arrest of the person named in the warrant. Unless the court orders otherwise for good cause, a civil arrest warrant may not be executed between the hours of 10:00 p.m. and 6:30 a.m.

(B) *Procedure After Arrest.* The arrested person must be brought before the issuing judicial officer—or if that judicial officer is absent or unable to act, the nearest or most accessible judicial officer of the superior court of the same county—within 24 hours of the warrant's execution.

(C) *Notice to Sheriff of the Issuing County.* If the person is arrested in a county other than the issuing county, the arresting officer must notify the sheriff in the issuing county, who must take custody of the arrested person as soon as possible and bring the person before the issuing judicial officer.

(2) ***Child Support Arrest Warrant.*** A child support arrest warrant must be executed in a time and manner that complies with A.R.S. § 25-682.

(e) Duty of Court After a Warrant's Execution.

(1) ***Civil Arrest Warrant.*** After a civil arrest warrant is executed, the judicial officer must:

(A) advise the arrested person of the nature of the proceeding;

(B) set the least onerous terms and conditions of release that reasonably guarantee the person's required appearance; and

(C) set the date of the next court appearance.

Commented [JWS14]: This is discussed above in content of warrant.

Commented [JWS15]: What happens if the Sheriff does not take custody?

(2) ***Child Support Arrest Warrant.*** After a child support arrest warrant is executed, the judicial officer must proceed as provided in A.R.S. § 25-683.

(f) Forfeiture of Bond on a Civil Arrest Warrant. The procedure for forfeiture of bonds in criminal cases under Rule 7.6 of the Arizona Rules of Criminal Procedure applies to the forfeiture of bonds on civil arrest warrants.

Part XIII. Other Family Law Services and Resources.

Rule 95. Other Family Law Services and Resources.

(a) Generally. In addition to services described in other rules, the court in a family law case may consider the services set forth in this rule, if available. The court must determine on the record whether the parties have the ability to pay for private services as well as allocate the costs of those services.

(b) Behavioral or Mental Health Services. The court may order parties to engage in behavioral or mental health services, including counseling and therapeutic interventions.

(c) Substance Abuse Services. In a case involving legal decision-making or parenting time, the court may order substance abuse screening and random testing of a party if there is an allegation or showing that the party has abused alcohol or drugs, including prescription medication. The court must designate the frequency of testing and determine which party is responsible for paying for screening and testing services.

(d) Parent Education. The court must order the parties to engage in parent education as required by Arizona law. The court also may order supplemental or additional education in appropriate cases, such as parenting skills classes and parental conflict resolution classes.

(e) Supervised Exchanges. The court may order supervised exchanges of parenting time to protect the parties or the children from harm.

(f) Domestic Violence Services. To further the court's goals of preventing and protecting parties and children from domestic violence, the court may use family violence prevention services, such as family violence prevention centers and victim advocacy services. In appropriate cases, the court may refer parties to services for victims and batterers, such as those licensed by the Arizona Department of Health Services.

(g) Real Estate Special Commissioner. In accordance with local rule or procedures, the court may appoint a real estate special commissioner to assist the parties in dividing and disposing of community real property.

(h) Department of Child Safety. The court may request or order the services of the Department of Child Safety if the court believes that a child may be the victim of child abuse or neglect as defined in A.R.S. § 8-201.

Rule 96. [Reserved].

Part XIV. Family Law Forms

Rule 97. Family Law Forms. Section lettering below is incorrect.

Formatted: Highlight

(i) Generally. The forms listed in this rule are recommended and meet the requirements of these rules.

(j) Substantial Compliance. When these rules refer to a recommended form, a party may delete content of a recommended form if the form requests particular information that does not apply to the party's case. A party who deletes content in a recommended form, or who fails to complete a portion of a recommended form, represents to the court and to other parties that the question or item does not apply.

(k) Availability. These recommended forms and other family law forms are available at court self-service centers, or at the Arizona Judicial Branch website, http://www.azcourts.gov/selfservicecenter/Self-Service-Forms/ArizonaFamilyLawProcedureForms.

(l) Modification. The Supreme Court may modify these forms by administrative order.

Form 6. Default Information for Spousal Maintenance

(To be included with an Application for Default if spousal maintenance is requested with your petition and you choose to proceed by motion without a hearing.)

To qualify for spousal maintenance under A.R.S. § 25-319, you must provide the following information. Check all boxes that apply.

□ I lack sufficient property, including property I will be receiving in the dissolution, to provide for my reasonable needs.

□ I am unable to be self-sufficient through appropriate employment.

□ I am unable to earn enough money to support myself.

□ I am the custodian of a child whose age or condition is such that I should not be required to seek employment outside the home.

□ I contributed to the educational opportunities of my spouse.

□ My marriage has lasted ____years.

□ I am ____ years old.

□ There have been excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of community, joint tenancy and other property held in common.

□ There are actual damages and judgments from conduct resulting in criminal conviction of either you or your spouse in which the other spouse or child was the victim.

If the court finds you qualify for spousal maintenance, it will need the following information in determining the appropriate amount and duration**.** To assist the court, please answer the following:

1. If you have been employed during the marriage, state how and when you have been employed.

_____

_____

2. Do you have a physical or emotional condition that limits your ability to work? Describe:

_____

_____

3. Describe any contributions you have made to your spouse's earning ability or how you reduced your income or career opportunities to benefit your spouse.
_____
_____

4. If your request for spousal maintenance is granted, will you and the other party be able to contribute to the educational expenses of your children? Describe.
_____
_____

5. Why are the financial resources available to you, including property awarded in the decree, not adequate to meet your needs?
_____
_____

6. Do you think additional education or training would enable you to find employment sufficient to meet your needs? _____. Is this education or training readily available? _____. How long do you think it will take to complete this education or training? _____

7. How much will it cost you per month to obtain health insurance after the divorce? _____. How much will the other party save per month if the insurance changes from a family plan to employee only health insurance? _____.

8. What is your spouse's present occupation and monthly income? (If you do not have documentation of your spouse's income, describe how you came to your estimate.)
_____
_____

Complete this financial statement.

NECESSARY MONTHLY EXPENSES (For yourself and minor children who reside with you)

House (mortgage/rent)	$
Repair/Upkeep	$
Utilities	
Electricity	$
Gas	$
Water & Sewer	$
Phone	$
Garbage	$
Food & Household Supplies	$
Work/School Lunch	$
Medical, dental, drugs, supplies	$
Insurance not deducted from pay	$
Clothing	$
Laundry/Dry Cleaning	$
Childcare/Sitter	$
Support paid for spouse and/or minor children of prior relationship	$
Car Repair/Maintenance	$
Car Insurance	$
Gas/Oil	$
Vehicle License	$
Public Transportation	$
Other _____	$
_____	$
Total Monthly Expenses	$

MONTHLY PAYMENTS/DEBTS

Creditor	Balance	Payment
	$	**$**
	$	**$**
	$	**$**

Total Monthly Payments **$**

Total Expenses, Payments **$**

INCOME

GROSS PAYCHECK
☐ weekly ☐ twice mo.* $
☐ monthly ☐ every 2 weeks $
*For example, the 1st and 15th $

Less: Federal Taxes	$
Less: State Taxes	$
SS & Medicare	$
Insurance	$
Savings, etc.	$
Other _____	$
Other _____	$
	$
Total Deductions	$
Net Paycheck	$

TOTAL GROSS MONTHLY INCOME **$** _____

9. I request $___ per month for spousal maintenance for ___years.

10. Can the other party's needs be met if you receive this requested spousal maintenance?

_____

I declare under penalty of perjury that the foregoing is true and correct.

Date: _____ Signature: _____

Justice Rebecca Berch (ret.), Chair,
Judge Mark Armstrong (ret.), Co-Chair
Task Force on the Arizona Rules of Family Law Procedure, Petitioner
1501 W. Washington St.
Phoenix, AZ 85007

SUPREME COURT OF ARIZONA

PETITION TO AMEND THE ARIZONA RULES OF FAMILY LAW PROCEDURE and ARCAP 9	)	Supreme Court No. R-17-0054

Pursuant to Rule 28 of the Rules of the Arizona Supreme Court, the Task Force on the Arizona Rules of Family Law Procedure ("the Task Force") petitions this Court to amend the Arizona Rules of Family Law Procedure ("family rules" or "family law rules") by restyling, simplifying, and clarifying language of the existing rules, and by making substantive changes that promote Rule 1's goals of securing "a just, prompt, and inexpensive determination of every [family law] action and proceeding."

Because the proposed amendments concern ***all*** the current family law rules, this petition presents the revisions as a complete new set of rules, rather than as individual rule amendments. **Appendix A** to this petition contains a clean version of the proposed rules. The Task Force decided against preparing a "redline"

version because the changes are so extensive that a redline would be more confusing than helpful. However, **Appendix B** contains a detailed, rule-by-rule explanation of the amendments, including proposed substantive changes.

Petitioner also proposes conforming changes to Rule 9 of the Arizona Rules of Civil Appellate Procedure, as shown in Appendix C.

Section 1: Background. For years Arizona had no procedural rules specifically for family law cases. The history of Arizona's family law rules began in 2003, when the Arizona Supreme Court entered Administrative Order No. 2003-63 and created a Committee on Rules of Procedure in Domestic Relations Cases. In 2005, that Committee proposed new rules of family law procedure (R-05-0008) that borrowed heavily from the Arizona Rules of Civil Procedure in areas common to both case types, and established new rules for other procedures only used in family law cases. These rules became effective on January 1, 2006.

Under Strategic Agendas of the current and the former Chief Justices, the Court has undertaken to restyle procedural rules to make them simpler, better organized, consistently formatted, and more user-friendly. The Court has adopted restylings of the Arizona Rules of Evidence (effective 2012), Justice Court Rules of Civil Procedure (2013), Rules of Civil Appellate Procedure (2015), Rules of Protective Order Procedure (2016), Civil Procedure (2017), and Criminal Procedure (2018).

On December 21, 2016, the Court entered Administrative Order No. 2016-131, which established the Task Force on the Arizona Rules of Family Law Procedure and appointed its members. The Task Force is co-chaired by a former Supreme Court chief justice and a retired superior court judge who currently serves as a Supreme Court staff attorney. Task Force membership includes the presiding family court judge in Maricopa County and two family court commissioners from Pima County. It also includes two Division One judges who formerly had family calendars as superior court judges in Maricopa County, and a Division Two judge who formerly had a family calendar in the superior court of Pinal County. Also serving on the Task Force are Maricopa County's Family Court Administrator and a representative from that court's Clerk's office, Pima County's Conciliation Court Director, and the chief counsel of the Arizona Attorney General's Child Support Enforcement Unit. There are ten highly experienced attorneys on the Task Force (eight from Maricopa County, one from Pima County, and one from Yuma County), most of whom are certified family law specialists.

A.O. 2016-131 directed Task Force members to review the current family law rules and "to identify possible changes to conform to modern usage and to clarify and simplify language." The Order included a goal for the Task Force to submit a rule petition by January 10, 2018, but because of the scope of this project, the Task Force requested an extension of time; and by an Order entered on

November 30, 2017 in R-17-0054, this Court extended the filing date until March 31, 2018.

Section 2: General Principals. Members were mindful that a substantial number of parties in family proceedings are self-represented. (Both parties are self-represented in more than 80% of the cases, and one side has an attorney in about 10% of the cases. The number of cases in which both parties are represented by counsel is in the single digits.) The Task Force accordingly adhered to the following eight principles, which were also used by the Civil and Criminal Rules Task Forces:

1. The rules should be clearly written and not present traps for the unwary.
2. If comments to a rule are necessary to understand the rule, then the rule is incomplete or unclear. Substantive matters belong in the rules, not in the comments.
3. If existing case law clarifies or interprets an ambiguity in a current rule, an effort should be made to remove the ambiguity and, if possible, to incorporate interpretative case law.
4. The rules should accommodate electronic filing and document management.
5. The rules should recognize best practices statewide.
6. Substantive changes should be made cautiously, and only if a consensus exists in favor of it. If substantial disagreement exists over a proposed substantive change, it should be presented in a separate rule petition to permit a full airing of views focused just on that change.

7. To avoid unnecessary confusion, rule renumbering should be minimized. Often cited rules should retain the same rule number, if possible.

8. The family rules should be freestanding and generally should not incorporate by reference other rules of procedure. However, the rules in Appendix A reflect some exceptions (*e.g.*, family Rule 33 cross-references civil rules regarding counterclaims, third-party claims, joinder, and intervention, and Rule 41(n) references the civil rules if there are special circumstances for service of process).

Section 3: Methodology. There currently are 101 rules of Family Law Procedure, including three rules (Rules 21, 38, and 96) that are "reserved." The 101 rules are grouped into 14 parts. The Task Force Chair divided the 20 Task Force members into 4 workgroups and assigned each workgroup two or more parts of the rules. Each workgroup included at least one judicial officer. Workgroups met 59 times between March and December 2017. The workgroups reviewed the rules in depth, and then presented proposed revisions to the full Task Force.

The Task Force met twelve times during 2017, with most meetings lasting a full day. Members of the public were present for all or parts of many Task Force meetings. Revisions to some rules were minor or stylistic, requiring little discussion. Other rules were complex or controversial, and were the subject of intense discussions at two or more meetings. When also considering the time members spent outside of meetings—reviewing drafts, researching law, editing documents, as well as travel time—the appendices represent an investment of more than two thousand hours.

Section 4: Restyling Changes. The proposed amendments, like other recently adopted rule sets, include stylistic revisions that make the rules more comprehensible and user-friendly. The elements of restyling include:

1. using informative headings and subheadings;
2. breaking up long sentences, or making them shorter;
3. converting a lengthy rule into shorter subparts, which makes it easier to find provisions;
4. using lists;
5. avoiding repetition;
6. using "plain English" and the active voice;
7. stating things in a positive form; and
8. avoiding legal jargon and ambiguous terminology, including the word "shall" ("shall" is replaced in the proposed amendments with "must," "may," "should," or "will," depending on the context).

The proposed rules also employ consistent formatting and nomenclature. The stylistic revisions generally follow the conventions recommended in Bryan Garner's *Guidelines for Drafting and Editing Court Rules* (1996).

Section 5: Substantive and Organizational Changes. Appendix B details the proposed amendments on a rule-by-rule basis. Each of the family law rules was restyled, but many of the proposed rules also include substantive and organizational changes. The following narrative is illustrative of these changes, but

because there are more than one hundred restyled rules, the narrative is not exhaustive.

Part I: General Administration (Rules 1 through 22). The Task Force relocated provisions currently found in Rule 2 regarding the applicability of civil and local rules to Rule 1 ("scope and applicability of these rules"). Doing so clarifies the focus of Rule 2 ("applicability of the Arizona Rules of Evidence") on the Rules of Evidence. Rule 2's provisions have been reorganized into sections concerning the effect of a Rule 2(a) notice, the effect of no notice, records of regularly conducted activity, and untimely disclosure. Revised Rule 2 no longer requires the court to admit affidavits of financial information or expert's reports, even if an expert's report was prepared pursuant to a court order. The hallmarks of admissibility under the revised rule are relevance, reliability, and timely disclosure.

Rule 5.1 ("simultaneous dependency and legal-decision making/parenting time proceedings") has a new provision that requires parties to notify the family division of a pending dependency proceeding, thereby making the family division aware of the juvenile court proceeding. Like the restyled civil rules, but unlike the current family rule that incorporates former Civil Rule 42(f) by reference, the proposed family rules have new and separate rules for a change of judge: Rule 6 ("change of judge as a matter of right") and Rule 6.1 ("change of judge for cause"). Current Rule 9 ("duties of counsel") would become "duties of parties or counsel"

because it imposes duties on both. New Rule 9(c) adds a requirement for a "good faith consultation certificate" in specified circumstances. This requirement, which corresponds to Civil Rule 7.1(h), includes an exception for cases in which there is domestic violence. The Task Force proposes bifurcating current Rule 10 ("representation of children; minors and incompetent persons") into two new rules: Rule 10 ("representation of children") and Rule 10.1 ("court-appointed advisor"). Issues of incompetence would be governed by Rule 37 ("substitution of parties: death, incompetency, and transfer of interest").

Proposed Rule 12 ("court interviews of children") would require the recording of an interview, unless the parties stipulate otherwise; but notwithstanding, the proposed rule would require recording of an interview conducted by a judicial officer. The Task Force proposes relocating the substance of current Rule 17 (now, "limitation on examination of witness") to Rule 22 ("conduct of proceedings"). New Rule 17 ("sealing, redacting, and unsealing court records") is modeled on current Maricopa County Local Rules 2.19 and 2.20, which members preferred over new Civil Rule 5.4 because of the relative simplicity of the local rules. Current Rule 20 is a one-sentence rule on electronic filing. Restyled Rule 20 would incorporate the formatting requirements currently found in Rule 30 ("form of pleading") and would include provisions for paper and electronic filing. The Task Force proposes to relocate Rule 23.1 on improper

venue from Part II, where it currently is, to Rule 21 of Part I, because the Task Force believes improper venue concerns administration rather than pleading.

Part II: Pleadings and Motions (Rules 23 through 35). The Task Force concluded that these rules were not in a sensible sequence, and that they would be simpler and more logical if they were reorganized and, in some instances, consolidated. Therefore, the Task Force proposes that

Rule 23 (based largely on current Rule 24) concern pleadings;

Rule 24 (based on current Rule 29) concern the contents of pleadings;

Rule 25 (based on current Rule 26) concern additional;

Rule 26 (based on current Rule 31) concern signing pleadings;

Rule 27 (based on current Rule 27) concern service;

Rule 28 (based on current Rule 34) concern amended and supplemental pleadings; and

Rule 29 (based on current Rule 32) concern defenses and objections.

Current Rule 23 illustrates the need for reorganizing these rules. It provides:

> A family law action is commenced by filing a petition with the clerk of the court. During the pendency of an action, parties who are not represented by counsel shall keep the court apprised of their current mailing addresses. Each party shall notify the court within ten (10) days of any changes in the party's mailing address.

The second and third sentences of the current rule are unrelated to the rule's title, "commencement of action." The Task Force accordingly relocated to proposed

Rule 9 ("duties of parties or counsel") the substance of those two sentences. The Task Force restyled the one remaining sentence of current Rule 23 and added additional substance currently located in Rule 24. The title of proposed Rule 23 is "pleadings; petition and response." The proposed rule begins:

> **(a) Petition.** A 'petition' is the initial pleading that begins a family law case or a post-decree matter, as described in this rule. A party begins an action by filing a verified petition seeking: …

The proposed rule then identifies 10 petitions that can initiate a family law action (for example, annulment, dissolution, separation), including a new category not specified in the current rules, "relief otherwise authorized by statute."

The family law cover sheet, currently the subject of a single-sentence Rule 25, would become section (d) of proposed Rule 25 ("additional filings"). Proposed Rule 27 ("service of the petition") differentiates petitions that must be served with a summons from petitions served with an order to appear. Proposed Rule 33 is titled "third-party rights and other claims in an existing action." Proposed Rule 33(a) would govern intervention by a person other than a legal parent in an existing action, and Rule 33(b) would govern intervention by the State. Proposed Rule 33(c) concerns "other parties or claims." Rule 33(c) references Civil Rules 13, 14, 18, 19, 20, 21, 22, and 24 regarding counterclaims, third-party claims, joinder, interpleader, or intervention, procedures that are infrequently used in family cases. Proposed Rule 35 ("family law motion practice") includes a new section (d) on

agreements to extend the time for filing, which is an analog of recently adopted Civil Rule 7.1(g).

Part III: Parties (Rules 36 through 38). The Task Force restyled Rule 36 ("real party in interest") and Rule 37 ("substitution of parties: death, incompetency, and transfer of interest"), but it did not intend substantive changes to those rules. Rule 38 currently is, and remains, reserved. But the Task Force questioned the merit of retaining current rule 39 ("proof of authority by attorney for respondent not personally served") and it proposes abrogation of that rule. It also proposes to move Rule 39 into Part IV, as discussed below.

Part IV: Service (Rules 39 through 43.1). One issue that has confounded rules drafters is the dual meaning of the term "service." On the one hand, it can mean delivery of a summons and complaint by a process server or by other formal methods. On the other hand, it can refer to delivery of court documents by mail following the completion of the initial service. The Task Force addressed this ambiguity in a proposed new Rule 39 titled "meaning of service." This rule notes that a party must provide every other party with an exact copy of every filed document, but further explains that "the method by which that document must be provided depends on the type of document filed." Rule 39 proceeds to differentiate (1) service of a summons and petition (or an order to appear and a petition); (2) service of documents filed in the course of a case; and (3) service of

contempt petitions. Rule 39 adds that a party may accept service under the first and third scenarios.

The subject of Rule 40 is the summons. Proposed Rule 40(f) has provisions for accepting service, but to avoid confusion and differing requirements for accepting and waiving service, which are both allowed under the current rule, the proposed rule would eliminate waiver of service.

Current Rule 41 concerns "service of process within Arizona," while current Rule 42 concerns "service of process outside of State." The Task Force believed there was considerable redundancy in these two rules. To avoid duplication, they merged Rule 41 and Rule 42 provisions into a new Rule 41 entitled "service within and outside Arizona." But there are two notable substantive changes. First, current Rule 41(N) ("service by publication; return") includes the following introductory sentence:

> Service by publication is not sufficient to confer jurisdiction upon the court to determine issues of paternity, child support, spousal maintenance, division of marital property, or any other issue requiring personal jurisdiction over a party.

A committee comment to current Rule 41 provides:

> This rule does not follow the holding in *Master Financial, Inc. v. Woodburn*, 208 Ariz. 70, 90 P.3d 1236 (App. 2004), applicable to Rule 4.1, *Arizona Rules of Civil Procedure*.

The Task Force revised the publication provisions of Rule 41. It also proposes abrogating the comment shown above by substituting a new comment to the 2019 amendment, as follows:

> Former Rules 41 and 42 imposed limitations on the court's personal jurisdiction over a party when the party was served by publication. Revised Rule 41 deletes those limitations, and this rule now follows the holding in *Master Financial, Inc. v. Woodburn*, 208 Ariz. 70, 74, 90 P.3d 1236 (App. 2004), paragraphs 15-22. Nevertheless, service by publication is subject to subsequent challenge if it does not satisfy due process standards of being reasonably calculated to give notice to the party being served and providing the best practicable notice under the circumstances. See Rules 83(d) and 85.

Accordingly, in appropriate circumstances and even when service is made by publication under the proposed rule, the court could enter orders concerning paternity, child support, division of marital property, or other issues. These orders would be subject to subsequent due process challenges by a defaulted party.

The other substantive change in proposed Rule 41 is a new section (n) intended to cover service in uncommon situations. Section (n) provides:

> **(n) Service in Other Circumstances.** Service on a person or entity not described in Rule 41 may be made as provided in Civil Rule 4.1 or 4.2.

Rule 42 would no longer include any content and would be "reserved."

For clarity and ease of use, the Family Rules Task Force has bifurcated Rule 43 into a rule on service and another rule on filing, as the Civil Rules Task Force did with former Civil Rule 5. To assist self-represented litigants in family court—and like restyled Civil Rule 5(c)(3)—proposed Rule 43(b)(3) includes a brief form

for a certificate of service. And like Civil Rule 5.1(b)(4), proposed Rule 43.1(b)(4) contains a provision concerning the effective date of a filing by an incarcerated party. Rule 43.1 also includes a new section (g) that permits the clerk to treat as confidential "any medical, mental health, or behavioral health records, reports, or evaluations filed with the court."

Part V: Default Decree and Consent Decree, Judgment, or Order; Dismissal (Rules 44 through 46). Current Rule 44 ("default decree") is so long and overloaded with content that the Task Force trifurcated it. Proposed Rule 44 ("default") would deal solely with the application for default and related matters. Because the clerk does not perform any ministerial act to "enter" a default, proposed Rule 44, unlike corresponding Civil Rule 55, would not refer to "entry of default." Rather, proposed Rule 44(a)(4) provides that "a default is effective 10 days after the application is filed." (Compare this to Civil Rule 55(a)(4): "A default is effective 10 days after the application for entry of default is filed.")

Proposed Rule 44.1 ("default decree or judgment by motion and without a hearing") reorganizes and clarifies the procedures in current Rule 44(B)(1), while proposed Rule 44.2 ("default decree or judgment by hearing") does the same for current Rule 44(B)(2). The provisions of current Rule 44(B)(4), about informing the defaulting party of the default decree or judgment, would appear in both of these proposed new rules.

Proposed Rule 44.1(f) ("spousal maintenance") contains a significant substantive change to permit a party who requests spousal maintenance to proceed by motion without a default hearing and obtain an award of maintenance, provided the party files a new Form 6 ("default information for spousal maintenance") that contains sufficient financial and other information to support the award. If the party's Form 6 is incomplete or deficient, the court would set the matter for a default hearing under Rule 44.2. But if the form contained sufficient information, the court would have an adequate basis for making the requisite findings under A.R.S. § 25-319(A) and (B), and the petitioner would not be required to attend a default hearing.

Proposed Rule 44.2(e) substantially simplifies the provisions of current Rule 44(B)(3) concerning a past child support judgment.

Part VI: Temporary Orders (Rules 47 through 48). The Task Force also proposes to trifurcate current Rule 47 ("temporary orders") into Rule 47 ("motions for temporary orders"), Rule 47.1 ("simplified child support orders"), and Rule 47.2 ("motions for post-decree temporary legal decision-making orders"). Among the issues the Task Force discussed concerning Rule 47, two are most notable.

First, on receiving a motion for temporary orders, some judges set a return hearing, while others set an evidentiary hearing, and still others set a hearing at which the court may or may not receive evidence. The third scenario, which is not

uncommon, leaves counsel wondering whether to have their witnesses prepared and available. In response to these variations, the Task Force proposes, in Rule 47(c), to provide for a resolution management conference (RMC) for the purpose of facilitating agreements between the parties, while still leaving room for judicial discretion to hold an evidentiary hearing if that becomes necessary, or to schedule an evidentiary hearing initially if it appears that the RMC "would not serve the interest of efficiency."

Second, and while current Rule 47(E) requires service of the motion for temporary orders "at least ten (10) judicial days" before the scheduled hearing, the Task Force wanted to encourage more adequate notice. Accordingly, proposed Rule 47(d) ("service") provides in part:

> The moving party must make good faith efforts to complete service promptly and, absent good cause, must complete service within 5 days after receipt of the issued order to appear and no later than 14 days before the date set in the order.

Part VII: Disclosure and Discovery (Rules 49 through 65). Many of the restyled rules in Part VII are patterned on restyled Civil Rules concerning discovery, but with modifications that the Task Force believed were appropriate for family proceedings. Proposed Rules 49, 50, 52, 60, 63, and 65, however, deserve mention.

Current Rule 49 ("disclosure") requires parties to file a resolution management statement with their initial disclosures. The Task Force believed that

filing a resolution statement concurrently with disclosures was not particularly practical or helpful. Accordingly, the Task Force proposes that the time for doing so be set at 30 days after exchanging disclosures, unless the court orders otherwise. And notwithstanding an amendment to Civil Rule 26.1 that becomes effective on July 1, 2018, which shortens the time for serving civil disclosure statements to 30 days after the filing of a responsive pleading, the Task Force recommends that the 40-day time limit in current family Rule 49 be retained in restyled Rule 49.

The Task Force proposes that Rule 50, currently titled "complex case disclosure," be retitled "complex case designation." The new title reflects a change in how a case would receive a complex designation. Currently, a party can file a notice designating a case complex. Under the proposed rule, a party would file a motion and the court would have discretion to make the designation. The proposed rule also includes factors that warrant a complex designation, and describes court action following a designation, such as conducting a mandatory scheduling conference and providing a minimum of 12 hours for trial.

Under Civil Rule 45, objections to a subpoena commanding attendance at a deposition, hearing, or trial must be made by timely motion. The Task Force considered this approach for Family Rule 52 ("subpoena"), but declined it. Instead, the proposed rule follows the current rule: a person who submits a written

objection to a family law subpoena need not comply, and it is up to the party serving the subpoena to seek a court order compelling compliance.

By comparison, the Task Force followed the lead of the Civil Rules Task Force, which merged civil rules 33 and 33.1 on interrogatories into a unified Rule 33. The Task Force proposes a similar merger of Family Rules 60 ("interrogatories to parties") and 61 ("uniform and non-uniform interrogatories; limitations; procedure") into proposed Rule 60. Proposed Rule 60 would retain its current title, while proposed Rule 61 would be "reserved."

Task Force discussions concerning Rule 63 (as proposed, "physical, mental or behavioral health, and vocational evaluations") concluded by adding the words "behavioral health" to the title and in the body of the rule. The proposed rule differentiates a party's ability to record an exam, or to have a representative present during the exam, based on the type of exam. For a physical or vocational exam, the examined party would have a right to have a representative present, and to make a video or audio recording, unless the court determines it might adversely affect the outcome of the exam. In comparison, at a mental or behavioral health exam, the examined person would have neither of those rights without the examiner's agreement or a court order.

Proposed Rule 65 ("failure to make disclosures or to cooperate in discovery; sanctions") condenses and clarifies several provisions and phrases of the current

rule. A sanction in the current rule of "refusing to allow the disobedient party to support or oppose designated claims or defenses" would become in the proposed rule "prohibiting the disobedient party from supporting or opposing designated arguments." A current sanction of "dismissing the action or proceeding" would contain the limitation, "unless dismissal would be contrary to the best interests of a child."

Part VIII: Settlement and Alternative Dispute Resolution ("ADR"). Some of the rules in this section were reorganized. For example, Rule 67, which currently is a lengthy rule, as proposed would simply advise that ADR includes a collaborative law process under Rule 67.1, family law arbitration under Rule 67.2, private mediation under Rule 67.3, and a settlement conference under Rule 67.4. Rule 67.3 and 67.4 are new, and derive, respectively, from current Rules 67(B) and 67(C). Rules 67.1 and 67.2 are uniform rules, and restyling was limited to such things as making their formats consistent with other rules, and changing "shall" to must, may, will, should, or another appropriate term.

Rule 68 continues to be dedicated to the conciliation court, but the Task Force changed the word "counseling," which is used in the current rule, to "services" in the proposed rule, because some conciliation courts do not utilize licensed counselors or provide counseling. Subpart (a)(1) of Rule 69 ("binding agreements") continues the requirement an agreement be in writing, but adds the

requirement that it be signed by the parties personally or by counsel on a party's behalf. A new section (b) provides that "an agreement under this rule is not binding on the court until it is submitted to and approved by the court."

The Task Force restyled, and made minor changes to, Rule 72 ("family law master) and Rule 74 ("parenting coordinator"), but it did not intend substantive changes. The Task Force proposes a new Rule 72.1 ("retirement, benefits, stock options, and other employment related compensation") as a way for the court to appoint professionals with special expertise, particularly regarding qualified domestic relations orders. The professional would calculate how to divide, or implement the division of, an asset that the court has ordered divided. But if the professional determines that a division requires the use of discretion, the professional must request court approval.

The Task Force revised the role of a family law conference officer under Rule 73. Proposed Rule 73 curtails the conference officer's quasi-judicial function. The Task Force believes that the conference officer should assist the parties, but should not forward recommendations to the assigned judge.

The Task Force found no practical benefit in current Rule 75, a one-sentence rule titled "plan for expedited process," so proposes abrogating this rule.

Part IX: Pretrial and Trial Procedures (Rules 76 and 77). The Task Force also proposes to trifurcate current Rule 76 ("pretrial procedures"). Proposed Rule

76 ("resolution management conference") is based on current Rule 76(A); proposed Rule 76.1 ("scheduling conference; scheduling statement; pretrial statement") is based on current Rule 76 (C); and proposed Rule 76.2 ("sanctions for failure to participate in a court proceeding") is based on current Rule 76(D). Proposed Rule 76.1 differentiates a scheduling statement, which a party would file for a scheduling conference, from a pretrial statement, which a party would file for a trial. These statements would be tailored to the type of request before the court.

Part X: Judgments and Decrees (Rules 78 through 90). The Task Force made substantial changes to two pairs of rules in this part: Rules 78 and 81, and Rules 83 and 84.

Proposed Rule 78 is titled "Judgments, Attorney's Fees, Costs, and Expenses." Rule 78(a) defines "decision" and eliminates the second sentence of the current rule ("a judgment may not contain a recital of pleadings, etc."). The proposed rule includes a new section (c) titled "judgment of all claims, issues, and parties," which corresponds to Civil Rule 54(c) and should help in determining when a family court judgment is final and appealable. Proposed Rule 78(e) ("attorney's fees, costs, and expenses") reflects the Task Force response to *Bollermann v Nowlis,* 234 Ariz. 340 (2014), and pending rule petition R-16-0020. Proposed rule 78(e) requires that a claim for attorney's fees, costs, and expenses be made in the pleadings or by motion before trial, and, because those items may be

considered during trial, they also must be included in the pretrial statement. If not raised, and absent good cause, the claim is waived. The court must include the determination of the claim in the judgment, and if the judgment omits the determination, the claim is deemed denied unless a party files a Rule 83 motion within 15 days after entry of the judgment. Finally, sections (f), (g), and (h) are imported from current Rule 81 ("entry of judgment"), so all the provisions concerning judgment are contained in one rule. Rule 81 is "reserved."

Judges in family proceedings may order supplemental hearings, but they never grant new trials. Accordingly, the Task Force proposes a change in the title of Rule 83, from "motion for new trial or amended judgment" to "altering or amending a judgment; supplemental hearings." Because the time to file a Rule 83 motion may not be extended by stipulation or court order, the Task Force recommends extending the time for filing the motion from 15 days after the entry of judgment, as the current rule provides, to 25 days. This would accommodate situations where, for example, a transcript is not immediately available. Within 15 days after the filing of a Rule 83 motion, the proposed rule provides that the court must either summarily deny the motion or set a deadline for a response. To mitigate the possibility of successive Rule 83 motions, the proposed rule would require a response to address not only issues raised in the motion, but also issues that might arise if the court grants the motion.

The Task Force also proposes that Rule 84, titled "Motion for Reconsideration or Clarification," be modified, to disallow motions for reconsideration. This should reduce confusion about the different purposes of Rule 83 and Rule 84 motions. Proposed Rule 84(d) expressly provides:

> A party may not combine a motion filed under this rule with a motion under Rule 83. On a motion for clarification, the court may not open the judgment or accept additional evidence as it can under Rule 83.

The proposed rule would permit the court to summarily deny a Rule 84 motion.

The Task Force further proposes that Rule 85(a), which is similar to Civil Rule 60, require that "[a] court must correct a clerical mistake or a mistake arising from oversight or omission if one is found in a judgment, order, or other part of the record."

Part XI: Post-Decree/Post Judgment Proceedings (Rules 91 through 91.6). Current Rule 91 is lengthy and repetitious. It also is not user friendly because the description of post-decree procedure begins in section (A), but does not resume until section (I). The confusing structure make compliance difficult for litigants and, as a result, portions of the current rule are commonly ignored. The workgroup addressed these issues by reorganizing the rule. Proposed Rule 91 includes provisions applicable to any post-judgment petition. It then relocated into Rules 91.1 through 91.6 provisions applicable to specific types of modification or enforcement actions (Rule 91.1, to modify spousal maintenance or child support;

Rule 91.2, to enforce spousal maintenance or child support; Rule 91.3, to modify legal decision making or parenting time; Rule 91.4, to relocate or prevent relocation; Rule 91.5, for enforcement of legal decision-making or parenting time; and Rule 91.6, for other post-judgment petitions).

Proposed Rule 91(i) describes the court's process upon receiving a post-decree petition:

> Upon receipt of the petition and proposed Order to Appear, the court must review the petition and (a) reject the petition for failure to state grounds upon which relief can be granted; or (b) issue the Order to Appear. If the court rejects the petition, the court must provide the applicant with an explanation of the deficiency and provide an opportunity to correct the deficiency within 30 days after the date of the rejection notice. In deciding whether to reject a petition, the court cannot assess credibility or weigh evidence. If the court issues the Order to Appear, it must set a resolution management conference or evidentiary hearing, as appropriate. No evidence may be taken at a resolution management conference except under emergency circumstances.

Proposed Rule 91(d) removes an obstacle to post-decree proceedings, namely, a provision in many decrees requiring the parties to submit to mediation before they may file a proceeding to modify legal decision-making or parenting time. It did so because the language permits a non-cooperating party to prevent the filing of a petition by simply refusing to submit mediation. The proposed rule includes this new provision:

> No party may be required to submit to mediation before filing a petition for modification of legal decision-making or parenting time. However, a local rule or court order may require the parties to submit to mediation before the

court will hold an evidentiary hearing on any legal decision-making or parenting time issues.

Part XII: Civil Contempt and Arrest Warrants (Rules 92 through 94). Current Rule 92 ("civil contempt and sanctions for non-compliance with a court order") refers to "orders to show cause or orders to appear." The Task Force eliminated the outdated reference to orders to show cause in its revised rule and so has the shortened title to "civil contempt and arrest warrants." The Task Force also eliminated in proposed Rule 92(d) ("hearing") a finding of a "willful" failure to comply with a court order; willfulness is not an element of contempt, but the absence of willfulness is a defense to contempt. Regarding proposed Rule 94 ("civil and child support arrest warrants") the Task Force disapproved as unclear the phrase used in current Rule 94(E) that the arrested person must be brought before a magistrate "within 24 judicial business hours" of the warrant's execution; proposed Rule 94(d) changed that to "within 24 hours."

Part XIII: Other Family Law Services and Resources (Rules 95 and 96). A new sentence in Rule 95 ("other family law services and resources") requires the court to determine "on the record whether the parties have the ability to pay for private services as well as allocate the costs of those services." This should help parties avoid non-compliance with court orders because of an inability to pay for private services. Proposed Rule 95(b) addresses behavioral as well as mental health services. The Task Force proposes to include current section (F) ("batterer

intervention and prevention programs") within proposed section (f) ("domestic violence services"). Proposed section (f) adds the word "licensed" when describing service providers.

Part XIV: Family Law Forms (Rule 97). The Task Force did not make any substantive changes to Rule 97 ("family law forms"), but it reorganized the rule and updated a currently inactive hyperlink to the Arizona Judicial Branch website. The Task Force proposes abrogating current Form 6 ("joint alternative dispute resolution statement to the court"), which is rarely used, and to substitute as a new Form 6 the Default Information for Spousal Maintenance Form mentioned in the discussion of Rule 44.1.

Section 6. Specific Substantive Issues. Task Force members held differing views regarding several proposals, so they agreed to specifically note those changes in this petition and request comments. The request covers the following areas:

1. Proposed Rule 27(c), which maintains the current limit requiring service of an order to appear 20 days before a scheduled hearing, but also provides for service "not later than 10 days before the scheduled hearing if the only issue is child support, unless the court orders otherwise;"

2. Proposed changes to Rule 41(m) and the court's jurisdiction to enter orders when service is made by publication;

3. Proposed Rule 44.1(f), which would permit an award of spousal maintenance without the petitioner's personal appearance in court, and the proposed new form on default information for spousal maintenance;

4. Proposed Rule 47, which requires the court to set a temporary orders motion for a resolution management conference, although it may set the matter for an evidentiary hearing when a resolution conference would not be effective;

5. Proposed Rule 49(b)(2)(B), and requirements for additional or amended disclosures;

6. The manner and consequences of complex case designation under proposed Rule 50;

7. Whether the time for conducting a resolution management conference under proposed Rule 76(a)—60 days after a party files a request—is too long an interval; and

8. Proposed Rule 91(j)'s provision that an applicant must make good faith efforts to promptly complete service of an order to appear, and other requirements for the time to complete service of the order.

Section 7. Conforming Amendments to ARCAP 9. The Task Force also proposes conforming amendments to references to Family Rules 81 and 83 currently found in Rules 9(e) and 9(f) of the Arizona Rules of Civil Appellate Procedure. The proposed amendments to Family Rules 81 and 83 would result in incorreect references in ARCAP 9 to Rule 81, which would be reserved, and to certain renumbered sections of Rule 83. Conforming changes to ARCAP 9 are shown in Appendix C.

Section 8: Rule Comments. The proposed amendments delete comments in the existing rules that are no longer accurate or have otherwise outlived their usefulness. Also, when an existing comment includes a substantive requirement, the Task Force attempted to include the requirement in the body of the rule. The

proposed rules retain some comments that continue to provide essential information. It added new comments and revised others when necessary to provide courts and practitioners with essential background, references to relevant statutes, and suggestions about how a rule should operate in practice.

The proposed rules also add a "prefatory comment." A similar comment was included in the 2012 amendments to the Arizona Rules of Evidence, the 2015 amendments to the Arizona Rules of Civil Appellate Procedure, the 2017 amendments to the Arizona Rules of Civil Procedure, and the 2018 amendments to the Arizona Rules of Criminal Procedure. The proposed prefatory comment to the family rules identifies significant reasons for these revisions; describes the two general types of changes (stylistic and substantive), and gives examples of substantive changes; provides direction on the use of existing case law; and provides guidance for using comments contained in earlier versions of the rules.

Section 9: Preliminary Stakeholder Comments. On January 11, 2018, the Task Force distributed a link to a preliminary draft of the proposed family rules, version date 01.04.2018, along with a message from the Chair requesting comments, to representatives of the following entities:

State Bar of Arizona
American Academy of Matrimonial Lawyers, Arizona Chapter
Morrison Institute
Association of Family and Conciliation Courts, Arizona Chapter
Arizona Attorney General
State Bar of Arizona, Family Law Section

State Bar of Arizona, Family Law Practice and Procedure Committee
Committee on Superior Court
Committee on the Impact of Domestic Violence and the Courts
Arizona Commission on Access to Justice
Presiding Superior Court Judges
Superior Court Administrators
Superior Court Clerks
William E. Morris Institute for Justice
Community Legal Services
DNA People's Legal Services
Southern Arizona Legal Aid
Maricopa County Bar Association
Maricopa County Bar Association, Paralegal Division
Pima County Bar Association
Arizona Court Reporters Association

The January 16 and January 30, 2018 editions of the State Bar of Arizona's *eLegal* newsletter to its members also included a message from the Chair, a link to the draft family rules, and a request for comments. A link to the 01.04.2018 version of the draft rules was posted on the Task Force webpage on the Arizona Judicial Branch website. Adjacent to the rules, the Task Force posted a link to an Outlook mailbox, which provides an easy mechanism for submission of comments to the Task Force.

In late January, the Task Force requested, and an Arizona member of the Uniform Law Commission provided, comments on proposed Rules 67.1 and 67.2.

Section 10: Modified Schedule. As noted in Section 1, the Court entered an Order on November 30, 2017 extending the filing date of this petition until March 31, 2018. That Order also provided the following modified schedule:

June 1, 2018: Petition open for comments until this date

July 6, 2018: Petitioner's reply is due

Section 11: Conclusion. The Task Force requests the Court to take the following actions:

(1) abrogate the current family rules;

(2) adopt the proposed new set of family rules shown in Appendix A, subject to any modifications proposed by the Task Force's reply, effective January 1, 2019; and

(3) adopt the conforming amendments to ARCAP 9 shown in Appendix C.

RESPECTFULLY SUBMITTED this **th day of March 2018.

By /s/ Rebecca White Berch
Justice Rebecca Berch (ret.), Chair

By /s/ Mark Armstrong
Judge Mark Armstrong (ret.), Co-Chair

Appendix C
Proposed Revisions to ARCAP 9

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

(a) through (d) [No change]

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

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

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

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

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

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

(E) For relief under Rule 60 of the Arizona Rules of Civil Procedure or Rule 85 of the Arizona Rules of Family Law Procedure, if the motion is filed no later than 15 days after entry of the judgment.

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

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

(f) Reopening the Time to File an Appeal for Lack of Notice of Entry of Judgment. The superior court may on motion reopen the time for filing a notice of appeal for a period of 14 days after entry of its order granting a motion to reopen, but only if all of the following conditions are satisfied:

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

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

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

New Rule # and Title	Completed by
Rule 1. Scope and Applicability of These Rules.	Mary
Rule 2. Applicability of the Arizona Rules of Evidence.	Annette
Rule 3. Definitions.	Gregg
Rule 4. Computing and Extending Time.	Mary
Rule 5. Consolidation.	Gregg
Rule 5.1. Simultaneous Dependency and Legal Decision Making/Parenting Time Proceedings.	Gregg
Rule 6. Change of Judge as a Matter of Right.	Mary
Rule 6.1. Change of Judge for Cause.	Mary
Rule 7. Protected Address.	Annette
Rule 8. Telephonic Appearances and Testimony.	Gregg
Rule 9. Duties of Parties or Counsel.	Mary
Rule 10. Representation of Children.	Annette
Rule 10.1 Court-Appointed Advisor.	Annette, Judge Cohen
Rule 11. Attendance of Minors.	Gregg
Rule 12. Court Interviews of Children.	Judge Cohen
Rule 13. Public Access to Proceedings and Records.	Judge Cohen
Rule 14. Written Verifications and Unsworn Declarations Under Penalty of Perjury.	Gregg
Rule 15. Affirmation Instead of Oath.	
Rule 16. Interpreters.	Annette
Rule 17. Sealing, Redacting, and Unsealing Court Records.	Annette, Judge Cohen
Rule 18. Preserving a Recording of a Court Proceeding.	Gregg
Rule 19. Lost or Destroyed Records.	Gregg
Rule 20. Form of Documents.	Gregg
Rule 21. Improper Venue.	Mary [requires update]
Rule 22. Conduct of Proceedings.	Annette
Rule 23. Pleadings: Petition and Response.	
Rule 24. Contents of Pleadings.	
Rule 25. Additional Filings.	Annette
Rule 26. Signing Pleadings, Motions and Other Documents; Representations to the Court; Sanctions.	
Rule 27. Service of the Petition.	
Rule 28. Amended and Supplemental Pleadings.	Gregg
Rule 29. Defenses and Objections; Motion for Judgment on the Pleadings; Joining Motions; Waiving Defenses; Pretrial Hearing.	
Rule 30. [Reserved.]	Gregg
Rule 31. [Reserved.]	
Rule 32. [Reserved.]	
Rule 33. Third-Party Rights and Other Claims in an Existing Action.	Annette
Rule 34. [Reserved.]	
Rule 35. Family Law Motion Practice.	Mary, Annette

Rule 36. Real Party in Interest.	
Rule 37. Substitution of Parties; Death, Incompetency and Transfer of Interest.	
Rule 38. [Reserved.]	
Rule 39. Meaning of Service.	
Rule 40. Summons.	
Rule 41. Service Within and Outside Arizona.	
Rule 42. [Reserved.]	
Rule 43. Service of Other Documents After Service of the Summons, Petition and Order to Appear.	
Rule 43.1 Filing Pleadings and Other Documents.	Aaron
Rule 44. Default.	
Rule 44.1. Default Decree or Judgment by Motion and Without a Hearing.	
Rule 44.2. Default Decree or Judgment by Hearing.	
Rule 45. Consent Decree, Judgment, or Order.	Aaron
Rule 46. Dismissal.	Aaron
Rule 47. Motions for Temporary Orders.	
Rule 48. Temporary Orders Without Notice.	
Rule 49. Disclosure.	
Rule 50. Complex Case Designation.	
Rule 51. General Provisions Governing Discovery.	
Rule 52. Subpoena.	
Rule 53. Protective Orders Regarding Discovery Requests.	
Rule 54. Discovery Before an Action is File or Pending an Appeal.	
Rule 55. Persons Before Whom Depositions May Be Taken; Depositions in Foreign Countries.	
Rule 56. Modifying Discovery and Disclosure Procedures and Deadlines.	
Rule 57. Depositions by Oral Examination.	
Rule 58. [Reserved.]	
Rule 59. Using Depositions in Court Proceedings.	
Rule 60. Interrogatories to Parties.	
Rule 61. [Reserved.]	
Rule 62. Production of Documents and Things and Entry onto Land.	
Rule 63. Physical, Mental or Behavioral Heath, and Vocational Evaluations.	
Rule 64. Requests for Admission.	
Rule 65. Failure to Make Disclosures or to Cooperate in Discovery; Sanctions.	
Rule 66. Duties to Consider and Attempt Settlement by Alternative Dispute Resolution (“ADR”)	
Rule 67. Types of Alternative Dispute Resolution.	
Rule 67.1. Collaborative Law Proceedings.	

Rule 67.2. Uniform Family Law Arbitration.	
Rule 67.3. Private Mediation.	
Rule 67.4. Settlement Conferences.	
Rule 68. Conciliation Court.	
Rule 69. Binding Agreements.	
Rule 70. Notice of Settlement.	
Rule 71. Sanctions.	
Rule 72. Family Law Master.	
Rule 73. Family Law Conference Officer.	
Rule 74. Parenting Coordinator.	
Rule 75. [Reserved.]	
Rule 76. Resolution Management Conference.	
Rule 76.1. Scheduling Conference; Scheduling Statement; Pretrial Statement.	
Rule 76.2. Sanctions for Failure to Participate in a Court Proceeding.	
Rule 77. Trials.	
Rule 78. Judgment, Attorney's Fees, Costs and Expenses.	
Rule 79. Summary Judgment.	
Rule 80. Declaratory Judgments.	
Rule 81. [Reserved.]	
Rule 82. Findings and Conclusions by the Court; Judgment on Partial Findings.	
Rule 83. Altering or Amending a Judgment; Supplemental Hearings.	
Rule 84. Motion for Clarification.	
Rule 85. Relief from Judgment or Order.	
Rule 86. Harmless Error.	
Rule 87. Stay of Proceedings to Enforce a Judgment.	
Rule 88. Judge's Inability to Proceed.	
Rule 89. Enforcing a Judgment for a Specific Act.	
Rule 90. Enforcing Relief for or Against a Non-Party.	
Rule 91. Modification or Enforcement of a Judgment.	
Rule 91.1. Post-Judgment Petition to Modify Spousal Maintenance or Child Support.	
Rule 91.2. Post-Judgment Petition to Enforce Spousal Maintenance or Child Support.	
Rule 91.3. Post-Judgment Petition to Modify Legal Decision Making or Parenting Time.	
Rule 91.4. Post-Judgment Petition to Relocate or Prevent Relocation.	
Rule 91.5. Post-Judgment Petition for Enforcement of Legal Decision-Making or Parenting Time; Warrant to Take Physical Custody.	
Rule 91.6. Other Post-Judgment Petitions.	

Rule 92. Civil Contempt and Sanctions for Non-Compliance with a Court Order.	
Rule 93. [Reserved.]	
Rule 94. Civil Child Support Arrest Warrants.	
Rule 95. Other Family Law Services and Resources.	
Rule 96. [Reserved.]	
Rule 97. Family Law Forms.	

Rule 1. Scope and Applicability of These Rules.

Rule 2. Applicability of the Arizona Rules of Evidence.

The title to Rule 2 was changed as the Rule now refers only to the Rules of Evidence. Subpart A covers the effect of and timing for the filing of a Rule 2(a) notice, and the timing is not changed from the former Rule. Subpart B covers the effect of not filing a Notice, and attempts have been made to simplify the language from former Rule 2. Rule 2(c) retains the fact that records of regularly-conducted activity are admissible whether a notice is filed or not, subject to disclosure and relevancy. Rule 2(c) now clarifies that reports done pursuant to Rule 68 (Conciliation Services) or 73 (Family Law Conference Officer) continue to be admissible regardless of whether a notice was filed, again subject to relevancy and disclosure. This change to Rule 2(c) is significant, as prior language stating that "any report, document, or standardized form required to be submitted to the court . . .." was to be considered as evidence, has been removed. There is no automatic admissibility of Affidavits of Financial Information or expert's reports, even if the expert's report was prepared pursuant to court order.

Rule 3. Definitions.

The changes to Rule 3 are primarily stylistic; however, some definitions were removed. The definitions of terms like "Motion" and "Pleading" were saved for the respective Rule regarding the same (*e.g.*, the definition of "Pleading" would be in Rule 24).

Rule 4. Computing and Extending Time.

Rule 5. Consolidation.

The changes to Rule 5 were primarily stylistic: section (a) was broken into several subsections, and language from section (b) was moved into section (a).

Under the old Rule, a judge was allowed to consolidate an Order of Protection issue into the substantive family law case. The new Rule would disallow such action. *See* Rule 5(a)(4) ("The court may not consolidate a case involving an order of protection with the substantive family law case.").

Rule 5.1. Simultaneous Dependency and Legal Decision Making/Parenting Time Proceedings.

The changes to Rule 5.1 are both stylistic and clarifying.

The old Rule 5.1 allowed any party to move to "*consolidate*" related family law and dependency matters. The new Rule allows any party (or the court) to "*transfer*" jurisdiction to the juvenile division. The new changes make clear that if these issues are to be combined into one proceeding, that proceeding will take place in the juvenile court.

The juvenile division has the discretion to accept or deny the transfer request. If the juvenile court accepts the transfer, it will hear all legal decision-making and parenting time issues until the dependency is dismissed or until the juvenile court transfers the matter back to the family court.

Rule 6. Change of Judge as a Matter of Right.

Rule 6.1. Change of Judge for Cause.

Rule 7. Protected Address.

Rule 7 continues to cover "Protected Addresses" and its substantive content is largely unchanged. The Rule was restyled for ease of use and now specifically establishes when a protected address ceases to become protected and when the Clerk's duty to protect an address ends.

Rule 8. Telephonic Appearances and Testimony.

The substance of Rule 8 is largely unchanged; however, there are some minor changes:

A definition of "Telephonic Appearance" was added. The new Rule distinguishes between "evidentiary" and "non-evidentiary" proceedings—telephonic appearance at a non-evidentiary hearing is appropriate if each person will be able to hear every other person; and telephonic appearance at an evidentiary hearing is appropriate only if in-person testimony would be unreasonably burdensome.

Moreover, the old Rule required a party to file a request for telephonic appearance at least 30 days in advance. The new Rule replaces that 30-day requirement with a reasonable-amount-of-time standard.

The new Rule reaffirms (in more definite terms) that the party questioning a telephonic witness must do all that she can to ensure the witness, the opposing party, and the court have identical copies of all the exhibits being presented.

Rule 9. Duties of Parties or Counsel.

Rule 10. Representation of Children.

Rule 10, "Representation of Children" has been divided into two parts, Rule 10 (best interests attorneys and attorneys for children) and Rule 10.1 (court-appointed advisors). The role of a court-appointed advisor is very different than the attorney roles, and a CAA does not have to be an attorney. The court may appoint any of these roles for any reason the court deems appropriate. This Rule now tracks Grounds, Qualifications, the Appointment Order (including any reference to fees), and Participation of these types of appointees. Reference to minors, incompetent persons, and guardians has been removed from Rule 10 and relocated to Rule 37 "Substitution of Parties". Rule 10.1 tracks Rule 10 in stating the Qualifications, Appointment Order and Participation of a court-appointed advisor.

Rule 10.1 Court-Appointed Advisor.

The committee separated out Court appointed advisors from attorney roles under Rule 10. This rule does not substantively change anything- it is just easier to read.

Rule 11. Attendance of Minors.

The changes to Rule 11 were stylistic.

Rule 12. Court Interviews of Children.

There is a change to the current rule. Now the rule requires the interview to be recorded and the parties can stipulate to not receive the recording. In the proposed rule it would say "unless the parties stipulate otherwise the court must record the interview." Language was further added that if a judicial officer does the interview it must be recorded.

Rule 13. Public Access to Proceedings and Records.

No substantial changes were made except to delete the comment.

Rule 14. Written Verifications and Unsworn Declarations Under Penalty of Perjury.

The changes to Rule 14 are stylistic. The changes deleted unnecessary verbiage and now refers simply to "a verification."

This Rule was meant to mirror restyled Arizona Rule of Civil Procedure 80(c).

Rule 15. Affirmation Instead of Oath.

Rule 16. Interpreters.

Reference to paying an interpreter "out of funds provided by law" has been deleted.

Rule 17. Sealing, Redacting, and Unsealing Court Records.

This Rule now incorporates Maricopa Local Rules 2.19 and 2.20 regarding how to seal or redact court records, including grounds for same, and how records can be unsealed. Rule 17 was previously "Limitation on Examination of Witnesses" which is now in Rule 22(c) "Conduct of Proceedings".

Rule 18. Preserving a Recording of a Court Proceeding.

This Rule was meant to mirror restyled Arizona Rule of Civil Procedure 43(g).

Rule 19. Lost or Destroyed Records.

The old Rule 19 cross-referenced Arizona Rule of Civil Procedure 80. The new version removes the cross-reference and adds Rule 80's language into the rule.

This Rule mirrors restyled Arizona Rule of Civil Procedure 80(d).

Rule 20. Form of Documents.

There were several revisions to this Rule, incorporated to reflect restyled Arizona Rule of Civil Procedure 5.2. However, some of the Civil Rule's requirements would not translate as smoothly into family court matters and were removed.

Because of the revisions, this Rule's title was changed from "Electronic Filing" to "Form of Documents."

Rule 21. Improper Venue.

Rule 22. Conduct of Proceedings.

This Rule now includes the "Responsibility to the Court" section which was previously Rule 9C.

Rule 23. Pleadings: Petition and Response.

Rule 24. Contents of Pleadings.

Rule 25. Additional Filings.

Rule 26. Signing Pleadings, Motions and Other Documents; Representations to the Court; Sanctions.

Rule 27. Service of the Petition.

Rule 28. Amended and Supplemental Pleadings.

The changes to this Rule were stylistic. The title, however, was changed to "Required Response."

Rule 29. Defenses and Objections; Motion for Judgment on the Pleadings; Joining Motions; Waiving Defenses; Pretrial Hearing.

Rule 30. [Reserved.]

This Rule is now "reserved." The prior Rule 30 requirements were incorporated into Rule 20.

Rule 31. [Reserved.]

Rule 32. [Reserved.]

Rule 33. Third-Party Rights and Other Claims in an Existing Action.

Third party practice in family cases now refers to the use of ARS 25-409 and ARS 25-509 for third parties and state intervention in a family case. The Rule also refers to and fully incorporates Rules 13, 14, 18-22 and 24 of the Rules of Civil Procedure so that the basis for actions such as counterclaims, joinder, interpleader or intervention is the same in family cases as in civil cases.

Rule 34. [Reserved.]

Rule 35. Family Law Motion Practice.

Rule 35 was simplified in several ways. Reference to "memoranda" was deleted and replaced with "motion", "response" or "reply". This Rule adopted the Civil Rules provision that permits the parties to agree to extensions of time without necessity of a court order; new subpart (d) permits "agreements to extend time for filing" by filing a notice with the Court. Page limits (17 pages for motion or response, and 11 pages for reply) are based on the limits set in the Civil Rules. The Rule specifically

prohibits sur-replies, absent permission of the court, by stating that a party "may not respond to a reply" unless authorized by the court.

Rule 36. Real Party in Interest.

Rule 37. Substitution of Parties; Death, Incompetency and Transfer of Interest.

Rule 38. [Reserved.]

Rule 39. Meaning of Service.

Rule 40. Summons.

Rule 41. Service Within and Outside Arizona.

Rule 42. [Reserved.]

Rule 43. Service of Other Documents After Service of the Summons, Petition and Order to Appear.

Rule 43.1 Filing Pleadings and Other Documents.

The Task Force proposes to restyle current rule 43(d) into a new rule 43.1 specific to filing. The proposed changes are restyled from Civil Rule 5.1 and are stylistic with two exceptions:

(e) The Task Force proposes changes in subpart (e) relating to proposed orders and judgments that are intended to improve clarity and differ from the language in Civil Rule 5.1(d).

(f) The Task Force proposes changes in subpart (f) relating to sensitive data that are intended to improve clarity and differ from the language in Civil Rule 5.1(e). Also within subpart (f), the Task Force proposes language changes standardized to federal forms used in Uniform Interstate Family Support Act (UIFSA) matters and related to support where Arizona's statutorily-termed "Orders of Assignment" are restyled to the federal terminology of "Income Withholding Orders."

Rule 44. Default.

Rule 44.1. Default Decree or Judgment by Motion and Without a Hearing.

Rule 44.2. Default Decree or Judgment by Hearing.

Rule 45. Consent Decree, Judgment, or Order.

The Task Force's proposed changes to Rule 45 are restyled from current Family Court Rule 45. Where the rules reference pregnancy, "wife," and "husband," the Task Force proposes language reflective of the various relationships currently recognized in law. In subpart (c)(3), the Task Force proposes clarifying language of the range of services available through the Title IV-D program beyond child support. The Task Force's other proposed changes are stylistic or conform to modern usage.

Rule 46. Dismissal.

The Task Force's proposed changes to Rule 46 are restyled from Civil Rule 41 but maintain existing Family Court Rule 46's requirements. To match the phrasing proposed in Family Court Rule 91, references to "petitioner" in subpart (a)(1) were restyled to "applicant."

In subpart (b)(1), the Task Force proposes using the terms "filing party" and "answering party" to reflect that either party may file a post-decree petition. The Task Force proposes a plain English

description of the answering party's ability to dismiss a case or post-decree petition under this subpart. The Task Force's other proposed changes are stylistic.
Rule 47. Motions for Temporary Orders.
Rule 48. Temporary Orders Without Notice.
No summaries to-date for Rules 49 through 97

Correlation Table
02.12.2018

When this correlation table refers to a section of a former family rule or a civil rule, rather than the entire rule, the table includes the title of the section only.

New Family Rule # and Title	**Correlates with Former Family Rule # and Title**	**Correlates with Current Civil Rule # and Title**
Rule 1. Scope and Applicability of These Rules.	Rule 1. Scope of Rules Rule 2. Applicability of Other Rules	Rule 1. Scope and Purpose.
Rule 2. Applicability of the Arizona Rules of Evidence.	Rule 2. Applicability of Other Rules	--
Rule 3. Definitions.	Rule 3. Definitions	--
Rule 4. Computing and Extending Time.	Rule 4. Time	Rule 6. Computing and Extending Time
Rule 5. Consolidation.	Rule 5. Consolidation	Rule 42(a). Consolidation
Rule 5.1. Simultaneous Dependency and Legal Decision Making/Parenting Time Proceedings.	Rule 5.1. Simultaneous Dependency and Legal Decision Making/Parenting Time Proceedings.	--
Rule 6. Change of Judge as a Matter of Right.	Rule 6. Change of Judge	Rule 42.1. Change of Judge as a Matter of Right
Rule 6.1. Change of Judge for Cause.		Rule 42.2. Change of Judge for Cause
Rule 7. Protected Address.	Rule 7. Protected and Unpublished Addresses	--
Rule 8. Telephonic Appearances and Testimony.	Rule 8. Telephonic Appearances and Testimony.	--
Rule 9. Duties of Parties or Counsel.	Rule 9. Duties of Counsel	Rule 5.3. Duties of Counsel and Parties
Rule 10. Representation of Children.	Rule 10. Representation of Children; Minors and Incompetent Persons	--
Rule 10.1 Court-Appointed Advisor.		
Rule 11. Attendance of Minors.	Rule 11. Presence of Children	Rule 40(m). Excluding Minors from Trial
Rule 12. Court Interviews of Children.	Rule 12. Court Interviews of Children.	--

Rule 13. Public Access to Proceedings and Records.	Rule 13. Public Access to Proceedings and Records.	--
Rule 14. Written Verifications and Unsworn Declarations Under Penalty of Perjury.	Rule 14. Sworn Written Verification; Unsworn Declarations Under Penalty of Perjury	Rule 80(c). Unsworn Declarations Under Penalty or Perjury
Rule 15. Affirmation Instead of Oath.	Rule 15. Affirmation in Lieu of Oath	--
Rule 16. Interpreters.	Rule 16. Interpreters.	--
Rule 17. Sealing, Redacting, and Unsealing Court Records.	Rule 71(B). Sealing the File	Maricopa County Local Rules 2.19 and 2.20 Rule 5.4. Sealing and Unsealing Court Records
Rule 18. Preserving a Recording of a Court Proceeding.	Rule 18. Preservation of Verbatim Recording of Court Proceedings	--
Rule 19. Lost or Destroyed Records.	Rule 19. Lost Records; Method of Supplying, Substitution of Copies; Hearing if Corrections Denied	Rule 80(d). Lost or Destroyed Records
Rule 20. Form of Documents.	Rule 30. Form of Pleading	Rule 5.2. Form of Documents
Rule 21. Improper Venue.	Rule 23.1. Improper Venue	--
Rule 22. Conduct of Proceedings.	Rule 17. Limitation on Examination of Witness; Exception Rule 22. Conduct of Proceedings	--
Rule 23. Pleadings: Petition and Response.	Rule 23. Commencement of Action Rule 24. Pleadings Allowed	Rule 3. Commencing an Action Rule 7. Pleadings Allowed; Form of Motions and Other Documents
Rule 24. Contents of Pleadings.	Rule 29. General Rules of Pleading	Rule 8. General Rules of Pleading

Rule 25. Additional Filings.	Rule 25. Family Law Cover Sheet Rule 26. Additional Filings	Rule 8(g). Civil Cover Sheet
Rule 26. Signing Pleadings, Motions and Other Documents; Representations to the Court; Sanctions.	Rule 31. Signing of Pleadings	Rule 11. Signing Pleadings, Motions, and Other Documents; Representations to the Court; Sanctions; Assisting Filing by Self-Represented Person
Rule 27. Service of the Petition.	Rule 27. Service on the Opposing Party or Additional Parties	Rule 4(a)(3). Service [of a Summons]
Rule 28. Amended and Supplemental Pleadings.	Rule 34. Amended and Supplemental Pleadings	Rule 15. Amended and Supplemental Pleadings
Rule 29. Defenses and Objections; Motion for Judgment on the Pleadings; Joining Motions; Waiving Defenses; Pretrial Hearing.	Rule 32. Defenses and Objections; When and How Presented; By Pleading or Motion; Motion for Judgment on Pleadings	Rule 12. Defenses and Objections; When and How Presented; Motion for Judgment on the Pleadings; Joining Motions; Waiving Defenses; Pretrial Hearing
Rule 30. [Reserved.]	--	--
Rule 31. [Reserved.]	--	--
Rule 32. [Reserved.]	--	--
Rule 33. Third-Party Rights and Other Claims in an Existing Action.	Rule 33. Counterclaims; Third Party Practice	Rule 13. Counterclaim and Crossclaim Rule 14. Third-Party Practice Rule 18. Joinder of Claims Rule 19. Required Joinder of Parties Rule 20. Permissive Joinder of Parties Rule 22. Interpleader Rule 24. Intervention

Rule 34. [Reserved.]	--	--
Rule 35. Family Law Motion Practice.	Rule 35. Family Law Motion Practice	Rule 7.1. Motions
Rule 36. Real Party in Interest.	Rule 36. Real Party in Interest	Rule 17(a). Real Party in Interest
Rule 37. Substitution of Parties; Death, Incompetency and Transfer of Interest.	Rule 37. Substitution of Parties	Rule 25. Substitution of Parties
Rule 38. [Reserved.]	--	--
Rule 39. Meaning of Service.	--	--
Rule 40. Summons.	Rule 40. Process	Rule 4. Summons
Rule 41. Service Within and Outside Arizona.	Rule 41. Service of Process Within Arizona Rule 42. Service of Process Outside of State	Rule 4.1. Service of Process Within Arizona Rule 4.2. Service of Process Outside Arizona
Rule 42. [Reserved.]	--	--
Rule 43. Service of Other Documents After Service of the Summons, Petition and Order to Appear.	Rules 43(A). Service; When Required; and 43(C). Service After Appearance; Service After Judgment; How Made	Rule 5. Serving Pleadings and Other Documents
Rule 43.1 Filing Pleadings and Other Documents.	Rules 43(D). Filing; 43(E). Filing with the Court Defined; 43(F). Proposed Orders and Judgments; and 43(G). Sensitive Data	Rule 5.1. Filing Pleadings and Other Documents
Rule 44. Default.	Rules 44(A). Application and Entry; 44(C). Setting Aside Default; 44(D). Petitioners, Counterclaimants; 44(E). Judgement against the State; and 44(F). Judgment When Service by Publication, Statement of Evidence	Rule 55. Default; Default Judgment

Rule 44.1. Default Decree or Judgment by Motion and Without a Hearing.	Rules 44(B)(1). By Motion without Hearing; and 44(C). Setting Aside Default	
Rule 44.2. Default Decree or Judgment by Hearing.	Rule 44(B)(2). By Hearing	
Rule 45. Consent Decree, Judgment, or Order.	Rule 45. Consent Decree, Order, or Judgment Without Hearing	--
Rule 46. Dismissal.	Rule 46. Dismissal	Rule 41. Dismissal of Actions
Rule 47. Motions for Temporary Orders.	Rule 47. Temporary Orders, Sections (A), (C) through (H), (K) through (N)	--
Rule 47.1. Simplified Child Support Orders	Rule 47(I). Simplified Child Support Order	--
Rule 47.2. Motions for Post-Decree Temporary Legal Decision-Making Orders	Rule 47(B). Motions for Post-Decree or Post-Judgment Temporary Legal Decision-Making Orders	--
Rule 48. Temporary Orders Without Notice.	Rule 48. Temporary Orders without Notice	--
Rule 49. Disclosure.	Rule 49. Disclosure	Rule 26.1. Prompt Disclosure of Information
Rule 50. Complex Case Designation.	Rule 50. Complex Case Disclosure	Rule 8(h). Complex Civil Litigation Program Designation [not effective after 7/1/2018]
Rule 51. General Provisions Governing Discovery.	Rule 51. Discovery	Rule 26. General Provisions Governing Discovery
Rule 52. Subpoena.	Rule 52. Subpoena	Rule 45. Subpoena
Rule 53. Protective Orders Regarding Discovery Requests.	Rule 53. Protective Orders Regarding Discovery Requests	Rule 26(c). Protective Orders
Rule 54. Discovery Before an Action is Filed or Pending an Appeal.	Rule 54. Depositions before Action or Pending Appeal	Rule 27. Discovery Before an Action is Filed or Pending an Appeal

Rule 55. Persons Before Whom Depositions May Be Taken; Depositions in Foreign Countries.	Rule 55. Persons Before Whom Depositions May Be Taken	Rule 28. Persons Before Whom Depositions May Be Taken; Depositions in Foreign Countries; Letters of Request and Commissions
Rule 56. Modifying Discovery and Disclosure Procedures and Deadlines.	Rule 56. Stipulations Regarding Discovery Procedure	Rule 29. Stipulations Regarding Discovery Procedure [effective July 1, 2018]
Rule 57. Depositions by Oral Examination.	Rule 57. Depositions upon Oral Examination	Rule 30. Depositions by Oral Examination
Rule 58. [Reserved.]	--	Rule 31. Depositions by Written Questions
Rule 59. Using Depositions in Court Proceedings.	Rule 59. Use of Depositions in Court Proceedings	Rule 32. Using Depositions in Court Proceedings
Rule 60. Interrogatories to Parties.	Rule 60. Interrogatories to Parties	Rule 33. Interrogatories to Parties
Rule 61. [Reserved.]	--	--
Rule 62. Production of Documents and Things and Entry onto Land.	Rule 62. Production of Documents and Things and Entry upon Land for Inspection and Other Purposes	Rule 34. Producing Documents, Electronically Stored Information, and Tangible Things, or Entering Onto Land, for Inspection and Other Purposes
Rule 63. Physical, Mental or Behavioral Heath, and Vocational Evaluations.	Rule 63. Physical, Mental and Vocational Evaluations of Persons	Rule 35. Physical and Mental Examinations
Rule 64. Requests for Admission.	Rule 64. Requests for Admission	Rule 36. Requests for Admission
Rule 65. Failure to Make Disclosures or to Cooperate in Discovery; Sanctions.	Rule 65. Failure to Make Disclosure or Discovery; Sanctions	Rule 37. Failure to Make Disclosures or to Cooperate in Discovery; Sanctions

Rule 66. Duties to Consider and Attempt Settlement by Alternative Dispute Resolution ("ADR")	Rule 66. Alternative Dispute Resolution: Purpose, Definitions, Initiation, and Duty	--
Rule 67. Types of Alternative Dispute Resolution.	--	--
Rule 67.1. Collaborative Law Proceedings.	Rule 67.1. Arizona Rules of Family Law Procedure	--
Rule 67.2. Uniform Family Law Arbitration.	Rule 67.2. Uniform Family Law Arbitration Rule	--
Rule 67.3. Private Mediation.	Rule 67(B). Mediation	--
Rule 67.4. Settlement Conferences.	Rule 67(C). Settlement Conferences	Rule 16.1. Settlement Conferences
Rule 68. Conciliation Court.	Rule 68. Conciliation Court Services; Counseling, Mandatory Mediation, Assessment or Evaluation and other Services	--
Rule 69. Binding Agreements.	Rule 69. Binding Agreements; Presumption of Validity	Rule 80(a). Agreement or Consent of Counsel or Parties
Rule 70. Notice of Settlement.	Rule 70. Settlement	Rule 5.3(d). Notice of Settlement
Rule 71. Sanctions.	Rule 71. Sanctions; Sealing	--
Rule 72. Family Law Master.	Rule 72. Family Law Master	Rule 53. Masters
Rule 73. Family Law Conference Officer.	Rule 73. Family Law Conference Officer	--
Rule 74. Parenting Coordinator.	Rule 74. Parenting Coordinator	--
Rule 75. [Reserved.]	--	--
Rule 76. Resolution Management Conference.	Rule 76(A). Resolution Management Conference (RMC); Preparation and Matters to be Discussed	--

Rule 76.1. Scheduling Conference; Scheduling Statement; Pretrial Statement.	Rule 76(C). Pretrial Statement; Inventory of Property, and Financial Affidavit; Preparation; Final Pretrial Conference	Rule 16. Scheduling and Management of Actions
Rule 76.2. Sanctions for Failure to Participate in a Court Proceeding.	Rule 76(D). Sanctions	Rule 16(h). Sanctions
Rule 77. Trials.	Rule 77. Trial Procedures	Rule 38.1. Setting Civil Actions for Trial; Postponements; Scheduling Conflicts; Dismissal Calendar
Rule 78. Judgment, Attorney's Fees, Costs and Expenses.	Rule 78. Judgments; Costs; Attorneys' Fees Rule 81. Entry of Judgment	Rule 54. Judgment; Costs; Attorney's Fees; Form of Proposed Judgments Rule 58. Entering Judgment
Rule 79. Summary Judgment.	Rule 79. Summary Judgment	Rule 56. Summary Judgment
Rule 80. Declaratory Judgments.	Rule 80. Declaratory Judgments	Rule 57. Declaratory Judgment
Rule 81. [Reserved.]	--	--
Rule 82. Findings and Conclusions by the Court; Judgment on Partial Findings.	Rule 82. Findings by the Court; Judgment on Partial Findings	Rule 52. Findings and Conclusions by the Court; Judgment on Partial Findings
Rule 83. Altering or Amending a Judgment	Rule 83. Motion for New Trial or Amended Judgment	Rule 59. New Trial; Alternating or Amending a Judgment
Rule 84. Motion for Clarification.	Rule 84. Motion for Reconsideration or Clarification	Rule 7.1(e). Motion for Reconsideration
Rule 85. Relief from Judgment or Order.	Rule 85. Motion to Correct Mistakes; Relief from a Judgment or Order	Rule 60. Relief from Judgment or Order
Rule 86. Harmless Error.	Rule 86. Harmless Error	Rule 61. Harmless Error
Rule 87. Stay of Proceedings to Enforce a Judgment.	Rule 87. Stay of Proceedings	Rule 62. Stay of Proceedings to Enforce a Judgment

Rule 88. Judge's Inability to Proceed.	Rule 88. Disability of a Judicial Officer	Rule 63. Judge's Inability to Proceed
Rule 89. Enforcing a Judgment for a Specific Act.	Rule 89. Judgment for Specific Acts; Vesting Title	Rule 70. Enforcing a Judgment for a Specific Act
Rule 90. Enforcing Relief for or Against a Non-Party.	Rule 90. Process on Behalf of and Against Persons Not Parties	Rule 71. Enforcing Relief for or Against a Nonparty
Rule 91. Modification or Enforcement of a Judgment.	Rule 91. Post-Decree/Post-Judgment Proceedings, Section (A) and (I) through (T)	--
Rule 91.1. Post-Judgment Petition to Modify Spousal Maintenance or Child Support.	Rule 91(B). Petition for Modification of Spousal Maintenance or Child Support	--
Rule 91.2. Post-Judgment Petition to Enforce Spousal Maintenance or Child Support.	Rule 91(C). Petition for Enforcement of Child Support or Spousal Maintenance	--
Rule 91.3. Post-Judgment Petition to Modify Legal Decision Making or Parenting Time.	Rule 91(D). Petition to Modify Legal Decision-Making Rule 91(F). Petition for Modification or Clarification of Parenting Time or Visitation	--
Rule 91.4. Post-Judgment Petition to Relocate or Prevent Relocation.	Rule 91(E). Petition to Relocate or Prevent Relocation	--
Rule 91.5. Post-Judgment Petition for Enforcement of Legal Decision-Making or Parenting Time; Warrant to Take Physical Custody.	Rule 91(G). Petition for Enforcement of Legal Decision-Making or Parenting Time; Warrant to Take Physical Custody	--
Rule 91.6. Other Post-Judgment Petitions.	Rule 91(H). Other Post-Decree and Post-Judgment Petitions	--
Rule 92. Civil Contempt and Sanctions for Non-Compliance with a Court Order.	Rule 92. Civil Contempt and Sanctions for Non-Compliance with a Court Order	--

Rule 93. [Reserved.]	--	Rule 64. Seizing a Person or Property
Rule 94. Civil Child Support Arrest Warrants.	Rule 94. Civil and Child Support Arrest Warrants	Rule 64.1. Civil Arrest Warrant
Rule 95. Other Family Law Services and Resources.	Rule 95. Other Family Law Services and Resources	--
Rule 96. [Reserved.]	--	--
Rule 97. Family Law Forms.	Rule 97. Family Law Forms	Rule 84. Forms