

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-16-0037
RULE 72, ARIZONA RULES OF FAMILY)
LAW PROCEDURE)
)
)
) **FILED 12/14/2016**
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)
_____)

**ORDER
AMENDING RULE 72, ARIZONA RULES OF FAMILY LAW PROCEDURE**

A petition having been filed proposing to amend Rule 72, Arizona Rules of Family Law Procedure, and comments having been received, upon consideration,

IT IS ORDERED that Rule 72, Arizona Rules of Family Law Procedure, be amended in accordance with the attachment hereto, effective January 1, 2017.

DATED this 14th day of December, 2016.

/s/
SCOTT BALES
Chief Justice

TO:

Rule 28 Distribution

Hon Peter B Swann

Hon Paul J McMurdie

Martin Lynch

Patricia L Cummins

Barry L Brody

Annette T Burns

Aris J Gallios

Helen R Davis

Keith Berkshire

Michael J Shew

Edwin Pizarro

David Alger

Vicki Alger

Alexander Poulos

Marguerite Patterson

ATTACHMENT

(new language is underlined and deletions are ~~struck through~~)

Arizona Rules of Family Law Procedure

Rule 72. Family Law Master.

A. Appointment and Compensation. Upon written stipulation by the parties and application by the parties, or on the court's own motion, or 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. The compensation to be allowed to a master shall be fixed by the court. The parties may stipulate to a particular family law master and the amount of compensation, but the court must approve the family law master and compensation, and the court shall review the qualifications of the family law master prior to appointment. Compensation of the family law master shall be allocated by the court and shall be treated as a taxable cost.

B. Powers. The order of reference appointing a family law master shall specify the particular issues referred to the family law master and shall fix the time and place for beginning and closing the hearings and for filing the master's report. An appointment under this rule may not direct a master to perform services within the scope of Rule 74 or otherwise make decisions or recommendations concerning legal decision-making or parenting time. ~~Other than legal decision-making and parenting time,~~ the master may deal with any issues pursuant to Title 25, A.R.S., that could be presented to the assigned judge including post-decree matters. Subject to any limitations in the order, the master shall exercise the power to regulate all proceedings in every hearing before the master and to do all acts and take all measures necessary or proper for the efficient performance of the master's duties under the order. The master may require the production of evidence upon all matters embraced in the reference. The master may rule upon the admissibility of evidence, unless otherwise directed by the order of reference, and has the authority to place witnesses under oath and may examine the parties and witnesses. When a party requests, the master shall cause a record to be made of the evidence offered and excluded in the same manner and subject to the same limitations as provided in Rule 104, Arizona Rules of Evidence, for a court sitting without a jury. The cost of the record shall be paid by the parties as allocated by the court and shall be a treated as a taxable cost.

C. through F. [No change in text.]

G. Court Actions. If no objection is filed by either party pursuant to this rule, the master's report shall become an order of the court, unless the court on its own motion sets a hearing upon a particular issue in the report within ten (10) days after the time for filing an objection has passed. ~~If the master's report covers all issues in the case, and no objection is filed and the court does not set a hearing, the court shall enter judgment on the master's report.~~ In the event any objection(s) are filed, the court may set oral argument on the objection(s), adopt the report, modify it, reject it in whole or in part or may receive further evidence. The court shall hold a hearing or enter an order in connection with any objection to the master's report within thirty (30) days of the filing of the response or other ordered pleading to such objection.

H. through L. [No change in text.]

M. Effective date. The rule as it exists on January 1, 2017, applies to any appointment or reappointment of a family law master that occurs on or after January 1, 2017. All family law master appointments made prior to January 1, 2017, continue to be governed by the prior version of Rule 72 for the remaining term of that appointment.

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.