

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-19-0020
RULES 123, 124, 125, AND 126,)
JUSTICE COURT RULES OF CIVIL)
PROCEDURE)
)
)
) **FILED 12/12/2019**
)
)
_____)

ORDER
AMENDING RULE 123, 124, 125, AND 126,
JUSTICE COURT RULES OF CIVIL PROCEDURE

A petition having been filed proposing to amend Rule 123, 124, 125, and 126 of the Arizona Justice Court Rules of Civil Procedure and comments having been received, upon consideration,

IT IS ORDERED that Rule 123, 124, 125, and 126, Justice Court Rules of Civil Procedure be amended as modified in accordance with the attachment hereto, effective January 1, 2020.

DATED this 12th day of December, 2019.

/s/
ROBERT M. BRUTINEL
Chief Justice

Arizona Supreme Court No. R-19-0020
Page 2 of 7

TO:

Rule 28 Distribution

Andrew M Jacobs

Amanda Weaver

Hon Sara J Agne

Hon Gerald A Williams

Lisa M Panahi

ATTACHMENT*

Justice Court Rules of Civil Procedure

Rule 123. Depositions

a. [[[No Changes]]]

b. When a deposition may be taken. A party may take a deposition of another party thirty (30) days after the party being deposed was served under Rule 113. A party may take a deposition of a witness sixty (60) days after an opposing party has appeared in the lawsuit pursuant to Rule 114(e). A party may take no more than five (5) total hours of depositions of all fact witnesses. [ARCP 26.2(f), 30(a)]

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

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

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

A notice of deposition may be served on a public or private entity, such as a governmental body or agency, a corporation, or a partnership, whether or not the entity is a party to the lawsuit, and the notice may describe with reasonable specificity the topics that will be asked about during the

* Additions are shown in underline; deletions are shown in ~~strikethrough~~.

deposition. The entity must then designate one or more of its officers, directors, or employees who have knowledge of the specified topics and who will appear at the deposition and testify concerning those subjects. [ARCP 30(b), (d)]

d. [[[No changes]]]

e. [[[No changes]]]

Rule 124. Interrogatories to Parties

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

b. Notice of service of interrogatories. Interrogatories may be served with the summons and complaint, or at any time thereafter unless otherwise ordered by the court. Interrogatories must be provided to (“served on”) (1) the party who is required to answer them, and (2) the other parties to the lawsuit. The interrogatories must be served with a notice of service of interrogatories. The notice must state the specific calendar date when the answers are due based on these rules, or as ordered by the court. The notice must also include the following language:

“The Justice Court Rules of Civil Procedure allow a party to send up to ~~forty (40)~~five (5) interrogatories to another party, unless the party asks the court for permission to serve more and the court gives permission because the party showed good cause for serving more. An interrogatory is a written question that is sent by a party to another party that must be answered in writing and under oath by the party to whom the interrogatory is sent. If you do not answer an interrogatory because you object to the interrogatory, you must state a reason for your objection.

“Provide your answers in the space directly below each question. If there is not enough space for your answer to a particular question, you may continue on a blank page by including the question above your answer. After you have completed your response to the interrogatories, you must sign on the last page to affirm that you have truthfully answered the questions and that you have a good faith basis for any objections that you may have made. You must provide your

original answers to interrogatories to the party who sent them to you, and you must provide a copy to every other party in the lawsuit.

“Your response to these interrogatories is due forty (40) days after they have been served on you, unless the interrogatories were served with the summons and complaint, in which case your response is due within sixty (60) days after the date of service, or unless otherwise ordered by the court. If you do not answer these interrogatories by the date provided in this notice, the party who served them may file a motion asking that the court order you to answer them. If the court enters that order, the court may also require you to pay expenses, including attorneys’ fees incurred by the other party in obtaining the order. If you fail to comply with the order, the other party may ask the court to impose additional penalties against you, including: that you may not introduce evidence of some or all of your claims or defenses in this lawsuit; if you are a plaintiff, that your lawsuit be dismissed; or if you are a defendant, that judgment be entered against you by default.” [ARCP 33(a), (b), ~~33.1(a), (e)~~]

c. Uniform interrogatories. The court has standard interrogatories (also known as “uniform interrogatories”) that are available for contract and personal injury cases. A party may request another party to answer one or more uniform interrogatories; each uniform interrogatory and its sub-parts counts as one interrogatory. Uniform interrogatories may be found on the website referred to in Rule 148(a). [ARCP ~~33.1(f)~~33(a)]

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

Rule 125. Request for Production of Documents, Electronically Stored Information, and Things; Request for Entry Upon Land for Inspection and Other Purposes

a. [[[No changes]]]

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

“The Justice Court Rules of Civil Procedure allow a party to request from another party up to ~~ten (10)~~five (5) documents or items, or up to ~~ten (10)~~five (5) categories of documents or items, unless the requesting party asks the court for permission to request more documents, items, or categories of documents or items, and the court gives permission because the requesting party showed good cause for requesting more. If you do not produce a document or a category of

documents or items because you object to a specific request, you must state a reason for your objection. A party may also request to enter on to designated land or other property to inspect it, or to take measurements, photographs, or samples.

“A party who produces documents must provide them as they are kept in the usual course of business, or they must organize and label them in response to the requests. Electronic documents or electronic records must be produced in the format that has been requested or in the format that the electronic documents or records are usually kept.

“You must provide your original response to requests under this rule to the party who sent them to you, and you must provide a copy to every other party in the lawsuit. Your response to requests made under this rule is due forty (40) days after the requests have been served on you, unless the requests were served with the summons and complaint, in which case your response is due within sixty (60) days after the date of service, or unless otherwise ordered by the court. If you do not comply with the requests that have been made in this notice, the party who served them may file a motion asking that the court order you to comply. If the court enters that order, the court may also require you to pay expenses, including reasonable attorneys’ fees, incurred by the other party in obtaining the order. If you fail to comply with the order, the other party may ask the court to impose additional penalties against you, including: that you may not introduce evidence of some or all of your claims or defenses in this lawsuit; if you are a plaintiff, that your lawsuit be dismissed; or if you are a defendant, that judgment be entered against you by default.” [ARCP 26.2(f), 34(a), (b)]

Rule 126. Request for Admissions

a. [[[No changes]]]

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

“The Justice Court Rules of Civil Procedure allow a party to send up to ~~twenty five (25)~~ ten (10) requests for admissions to another party-, unless the sending party asks the court for permission to send more and the court gives permission because the sending party showed good cause for sending more. Each request must contain only one fact or one contention to admit or deny. A request may inquire about whether a document is genuine or accurate. You must admit or deny

each of these requests, unless you object to a request, in which case you must state a reason for your objection. You may not object on the basis that you do not have knowledge or information concerning the request unless you have first made a reasonable inquiry to obtain knowledge or information.

“You must provide your original response to requests under this rule to the party who sent them to you, and you must provide a copy to every other party in the lawsuit. Responses to requests for admissions are due forty (40) days from the date they are served, unless the requests were served with the summons and complaint, in which case your response is due within sixty (60) days after the date of service, or as ordered by the court.

“If you do not respond to these requests for admissions by the date provided in this notice, your failure to respond may be considered as an admission of the requests.” [ARCP 26.2(f), 36(a)-(b)(e)]

c. [[[No changes]]]

d. [[[No changes]]]