

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
EXTENSION OF THE CURRENT)	Administrative Order
SMALL CLAIMS PILOT PROGRAM)	No. 2018 - <u>104</u>
AND AUTHORIZATION OF A)	(Affecting Administrative
CONCURRENT PILOT PROGRAM IN)	Order No. 2018-01)
THE JUSTICE COURTS)	
)	

On November 2, 2016, the Committee on Improving Small Claims Case Processing (the Committee) was established by Administrative Order No. 2016-115. The Court charged the Committee with developing recommendations, including proposed rule amendments or pilot projects, to reduce the time required to resolve small claims cases in Arizona’s Justice of the Peace courts. Through Administrative Order No. 2018-01, the Supreme Court authorized a small claims pilot program through December 31, 2018.

The Committee has filed a rule petition, subject to modification based on pilot program data and committee input. Several modifications to the rule petition have been made based on pilot program data already gathered, committee input, and stakeholder feedback. In order to gather and review additional data regarding the modifications that have been made, an extension of the current pilot program is necessary.

An alternative has been suggested which may serve to reduce the time required to resolve small claims cases by amending Rules 113(i) and 144(e) of the Arizona Justice Court Rules of Civil Procedure. Additionally, the Maricopa County Presiding Justice of the Peace and Justice Court Administration have requested the ability to implement a pilot program based on these amendments.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that:

1. The current Small Claims Pilot Program authorized through Administrative Order 2018-01 (Pilot Program A) is extended until June 30, 2019;
2. The amended pilot Arizona Rules of Small Claims Procedure (Appendix A) are approved for use in designated Justice of the Peace courts participating in Pilot Program A. The “redline” version is attached as Appendix B for reference;
3. A concurrent pilot program (Pilot Program B) is hereby authorized utilizing the proposed amendments to the Arizona Justice Court Rules of Civil Procedure through

June 30, 2019. The proposed amendments are set forth in Appendix C, with verbiage additions underlined and verbiage removals stricken.

4. Pilot program courts shall be designated by the Administrative Director;
5. The Committee Chair shall reconvene the Committee during the pilot program period to examine program data collected.
6. A final report of the pilot program results shall be provided to the Arizona Judicial Council by June 30, 2019.

IT IS FURTHER ORDERED that courts participating in the pilot programs may continue to utilize the above-mentioned governing pilot program rules until the effective date of any statewide rules that the Court may adopt.

Dated this 31st day of October, 2018.

SCOTT BALES
Chief Justice

Appendix A

Amended Pilot Arizona Rules of Small Claims Procedure

Rule 1. Small Claims Lawsuit

- (a) Definition of a “Small Claims Lawsuit.”** A “small claims lawsuit” is an elective, simplified procedure for a lawsuit in which the debt, damage, tort, injury, or value of the personal property claims by either the plaintiff or defendant is not more than \$3,500, exclusive of interest and costs. A small claims lawsuit also includes lawsuits where a party asks the court to disaffirm, avoid, or rescind a contract, or seeks equitable relief, and the amount at issue is not more than \$3,500.
- (b) Purpose of the “Small Claims Division.”** The purpose of the justice court’s “small claims division” is to provide a process for the inexpensive, speedy, and informal resolution of small claims lawsuits. Courts and parties should interpret these rules liberally and consistently with this purpose.
- (c) Representation.** A.R.S. § 22-512 governs who may represent a party in a small claims lawsuit. Attorneys may not represent a party in a small claims lawsuit unless all the parties agree to it in writing. A corporation, partnership, association, or any other business or organization must file a notice stating the name of an authorized person who will file and appear in court on its behalf.
- (d) No Jury and No Appeal.** A party does not have a right to a jury trial or to appeal the judgment in a small claims lawsuit. The decision of the justice of the peace or hearing officer is final and binding on both parties.
- (e) Rules and Statutes.** These rules and the Arizona Revised Statutes (“A.R.S.”) Title 22, Chapter 5, govern procedures for small claims lawsuits.

Rule 2. Parties to a Lawsuit

- (a) Parties.** The parties to a small claims lawsuit are the plaintiff and the defendant. A party can be an individual, a marital community, a corporation, a partnership, an association, or other organization.
- (b) Plaintiff.** A plaintiff is the party who files a small claims lawsuit. The plaintiff must be a real party to the original transaction that forms the basis of the lawsuit, unless the person is commencing a lawsuit as a personal representative duly appointed pursuant to a proceeding as provided in Title 14 of the Arizona Revised Statutes.

(c) **Defendant.** A defendant is the party who is sued.

(d) **Use of Correct Legal Name.** A plaintiff must use the party's correct legal name when filing a lawsuit. Each defendant must be sued by the correct legal name.

Rule 3. Phone Numbers and Email Addresses

All parties must provide the court with a physical address, email address, and phone number, if available. The court may use this information to communicate with the parties about their case by mail, email, text message, or phone.

Rule 4. Computing Time

These rules may require a party to take action within a specified number of days from an event. The day of the event is not counted. A party must include Saturdays, Sundays, and holidays when counting days, but if the last day to take action falls on a Saturday, Sunday, or holiday, the party has until the next business day to take that action. Unless otherwise specified, all time periods referenced in these rules are calendar days.

Rule 5. Where to File a Small Claims Lawsuit

The plaintiff must file a complaint in the justice court precinct (the "venue") where the defendant resides or as permitted by A.R.S. § 22-202. The claim may be heard in a different justice court precinct if the court has jurisdiction and the defendant fails to object.

Rule 6. Plaintiff Must File a Complaint

(a) **The Complaint.** A small claims lawsuit starts when a plaintiff files a small claims complaint.

- (1) **Statement of Claim.** The complaint must be legible and must briefly state the plaintiff's reasons for the claim against the defendant.
- (2) **Active Military Service.** The complaint must include a statement indicating whether any defendant listed in the complaint is in active military service.
- (3) **Amount of Claim.** The amount of all claims in the complaint cannot exceed the jurisdictional limit for a small claims lawsuit.

(4) **Filing Fee.** The plaintiff must pay a fee to the court to file a complaint, although the plaintiff may request a deferral or waiver of this fee as provided by A.R.S. § 12-302 and the Arizona Code of Judicial Administration § 5-206.

(b) **Claim for More Than \$3,500.** If the claim amount or amount at issue in the plaintiff's complaint exceeds the small claims jurisdictional limit, the plaintiff cannot file the lawsuit in the small claims division. A plaintiff cannot avoid this requirement by splitting the claim amount into several smaller claim amounts.

(c) **Amendments.** No amended complaints will be allowed. A plaintiff can choose to dismiss the complaint and file a new lawsuit.

(d) **Settlement.** The plaintiff must notify the court if the lawsuit settles before the hearing date by filing a Notice of Settlement.

Rule 7. Setting the Hearing

Summons; Hearing Date. Except as provided in Rule 14 of these rules, the court will set a hearing date when the plaintiff files a complaint. The court will write the hearing date on the summons and return the summons to the plaintiff. The court will provide one summons for each defendant named in the complaint. The hearing must be held between 60 and 75 days after the complaint filing date. All parties must appear at the scheduled hearing.

Rule 8. Service

(a) **Serving the Defendant: When.** Proof of service of the summons, complaint, and Notice to the Plaintiff and Defendant ("notice") must be filed within 30 days of the complaint filing date.

(b) **Serving the Defendant: How.** The plaintiff must serve the summons, complaint, and notice on each defendant in a manner provided by this rule.

(1) **Registered or Certified Mail.** The plaintiff may serve the defendant by registered or certified mail, with a "return receipt requested." The plaintiff must file the return receipt with the court within 30 days of the complaint filing date to establish that the defendant was served. The return receipt can be the card returned to the plaintiff by the postal or delivery service or the return receipt printed from the postal or delivery service's website.

(2) Constable, Sheriff, or Private Process Server. The plaintiff may arrange for personal service on the defendant by a constable, sheriff, or private process server. If personal service is used, an affidavit of service must be filed with the court within 30 days of the complaint filing date.

(c) Failure to Serve Within 30 Days of the Complaint Filing Date. If the plaintiff is unable to execute and file proof of service within 30 days of the complaint filing date, the plaintiff must file a written request for an extension for time to serve the defendant. The court may grant an extension of no more than 30 days to allow additional time for service.

(d) Dismissal for Lack of Proof of Service. The court may dismiss a complaint as to any defendant for whom the plaintiff has not filed proof of service within 60 days after the filing date of the complaint.

Rule 9. Providing Subsequent Documents to the Other Party

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

(1) Hand-delivery to the other party;

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

(3) Delivering the document electronically.

(b) Noting the Method of Service. On the last page of a document that is filed with the court, the party who is providing the document under section (a) of this rule must state the date and method used to provide the document to the other party. For first class mailing, the date stated must be the date that it was deposited in the mail with first class postage.

Rule 10. Answer

A defendant may file an answer within 20 days of service, but is not required to do so unless the defendant files a counterclaim or is otherwise ordered to file an answer under Rule 15(e) of these rules. The defendant must pay a fee to the court to file an answer, although the defendant may request a waiver or deferral of this fee as provided by A.R.S. § 12-302 and the Arizona Code of Judicial

Administration § 5-206. The defendant must still appear at the hearing to dispute the claim regardless of whether an answer is filed.

Rule 11. Counterclaim

(a) Definition. A counterclaim asserts that the plaintiff owes something to the defendant.

(b) When to File. A defendant who files a counterclaim must also file an answer. The defendant may file a counterclaim against the plaintiff that is based on the same event described in the plaintiff's complaint or based on a different event than the one described in the plaintiff's complaint. A counterclaim must be filed within 20 days of service of the summons, complaint, and notice.

(c) Limit on the Dollar Amount. The amount of the counterclaim cannot exceed the jurisdictional limit of the small claims division. If the defendant files a counterclaim that exceeds the small claims division's jurisdictional limit, but the counterclaim does not exceed the justice court's jurisdictional limit, the court must transfer the plaintiff's claim and the defendant's counterclaim to the justice court's "civil division." A counterclaim that is more than \$10,000 will result in a transfer of the entire lawsuit to the superior court.

(d) Amendments. No amended counterclaims will be allowed.

Rule 12. Defendant Can File a Motion to Change Venue

If the lawsuit is not filed in the correct justice court precinct, the defendant may file a motion at least 15 days before the hearing to change the venue of the lawsuit. The plaintiff has 10 days to file a response. If the justice of the peace grants the motion, the court will transfer the lawsuit to the proper precinct. The parties must appear at any scheduled court date until they receive notice that the court has granted the motion.

Rule 13. Either Party Can Transfer the Lawsuit to the Civil Division

(a) Transfer to Civil Division by Request. Either party can file a request to transfer the lawsuit to the justice court's "civil division."

(b) Time for Filing a Request to Transfer. A party must file the request to transfer the lawsuit to the justice court’s “civil division” no later than 10 business days before the hearing date.

(c) Voluntary Dismissal After Transfer to Civil Division. If a request is made to transfer the lawsuit to the justice court’s “civil division,” and the defendant has not filed an answer or counterclaim, a plaintiff who does not want the lawsuit to proceed in the civil division has 15 days after the defendant files the transfer request to voluntarily dismiss the lawsuit.

Rule 14. Alternative Dispute Resolution (A.D.R.) Conference

(a) A.D.R. Conference in Lieu of Hearing. If a county has an A.D.R. program, the court may schedule an A.D.R. conference in lieu of a hearing when the complaint is filed. The A.D.R. conference must occur within 60 to 75 days of the complaint filing date.

(b) A.D.R. Conference Continuance. The court may continue the A.D.R. conference date up to 30 days for good cause.

(c) Setting the Case for Hearing. If the lawsuit is not settled at the A.D.R. conference, the court must set a hearing to occur within 30 days of the conference date. The court must notify all parties of the hearing date and the requirement to attend the hearing.

Rule 15. The Hearing

(a) Hearing Officer. A party may request that a justice of the peace, rather than a hearing officer, decide the lawsuit. A party must make this request in writing at least 15 days before the hearing date.

(b) Rescheduling a Hearing. As soon as possible, but at least 15 days before the hearing date, a party may file a request in writing to reschedule the hearing and deliver a copy to the other party. The request must include a good reason for rescheduling and, if possible, provide supporting documentation. The court may deny the request if a party does not provide a good reason for rescheduling, does not provide documentation for the request, or if the party has made previous requests to reschedule the hearing. The court will consider emergency requests (a request received less than 15 days before the hearing) only if the request also shows a good reason for not filing it earlier.

(c) Failure to Appear for the Hearing.

(1) Both Parties Fail to Appear. If both parties fail to appear at the hearing, the court will dismiss the complaint and any counterclaims without prejudice, meaning the claims may be refiled if all other legal requirements have been met.

(2) Defendant Fails to Appear. If the plaintiff appears and has properly served the defendant, but the defendant does not appear, the court will consider the plaintiff's evidence and, if substantiated by the evidence, the court may award judgment for the plaintiff. However, if the defendant is on active military duty and (1) fails to appear at the hearing, and (2) has not made an appearance in the case, the court cannot award judgment for the plaintiff at that time and must transfer the case to the justice court civil division for further proceedings.

(3) Plaintiff Fails to Appear. If the plaintiff fails to appear, but the defendant appears, the court may dismiss the lawsuit with or without prejudice, or it may award judgment for the defendant.

(d) Appearing by Telephone. For a good reason, a party may appear at a hearing by telephone if the court allows telephonic appearances. The party must file a request to appear by telephone in writing at least 15 days before the hearing date. The request must contain that party's telephone number. The party must attach to the request any documents, photographs, or other evidence the party wants to submit at the hearing. If the court approves the request, the court will provide a phone number the party must call to appear telephonically for the hearing.

(e) Conducting the Hearing. The justice of the peace or hearing officer will consider testimony from the parties and witnesses, will consider any documents, and will decide the claim and any counterclaim. The justice of the peace or hearing officer may ask questions, and also may permit the parties to ask questions of each other and of any witnesses. The justice of the peace or hearing officer may continue the hearing and require the defendant to file a written answer if justice so requires. Formal rules of evidence do not apply. Any non-privileged evidence tending to make a fact at issue more or less probable is admissible unless the justice of the peace or the hearing officer determines the evidence lacks reliability or will cause unfair prejudice, cause confusion, or waste time.

(f) Additional Time to Prepare. If the defendant believes the time of service did not allow adequate time to prepare or properly exercise other rights under these rules, such as filing a counterclaim under Rule 11 or a transfer under Rule 13, the defendant may ask the court for a continuance. If the justice of the peace or hearing officer finds that the defendant's rights have been harmed by the amount of time to prepare or properly exercise other rights under these rules, a continuance will be granted.

Rule 16. Requesting an Interpreter or Special Accommodations

The court should be notified of requests for an interpreter or special accommodations at least 15 days before a court date.

Rule 17. Judgment

(a) Definition and Requirements. A "judgment" is a final written order of the court that decides the claims in the lawsuit. A judgment must be signed by a justice of the peace or hearing officer and filed with the court.

(b) Rendering and Mailing a Judgment. A justice of the peace or hearing officer may render a judgment at the end of the hearing or within 10 days after the hearing. The court must mail a copy of the judgment to all parties within five days. The judgment is final and binding on all parties.

(c) Correcting a Judgment. On the court's own initiative or at either party's request, the court may correct the judgment if a name is misspelled, there is a misstatement of a fact, or there is a miscalculation of an amount.

Rule 18. Vacating a Judgment

(a) Reasons for Vacating a Judgment. On either party's motion, the court may relieve a party from a judgment for the following reasons:

- (1)** mistake, inadvertence, surprise, or excusable neglect;
- (2)** fraud, misrepresentation, or other misconduct of an opposing party;
- (3)** the judgment is void;
- (4)** 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
- (5)** any other reason justifying relief.

(b) Timing and Effect of the Motion.

(1) *Timing.* A motion under Rule 18(a) must be made within a reasonable time, and for reasons (1) and (2), no more than 6 months after the entry of the judgment or date of the proceeding, whichever is later.

(2) *Effect on Finality.* The motion does not affect the judgment's finality or suspend its operation.

(c) Providing the Motion to the Other Party and Time for Response. The moving party must deliver a copy of the motion to the other party on the date of filing. The other party has 15 days to file a written response, and must deliver a copy of the response to the moving party on the date the response is filed.

(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; or

(2) set aside a judgment for fraud on the court.

(e) Representation. An attorney may represent a party on a motion to vacate a judgment.

Rule 19. Dismissing a Lawsuit

(a) Dismissal by the Court. If the lawsuit is not concluded within 180 days of filing, the court must dismiss the lawsuit without prejudice absent good cause for continuing the case past 180 days.

(b) Dismissal by the Plaintiff. If the defendant has not filed an answer or counterclaim in the lawsuit, the plaintiff may dismiss the complaint at any time by filing a Notice of Voluntary Dismissal.

(c) Dismissal by Agreement. At any time before the hearing, the parties may mutually agree to dismiss the complaint and any counterclaims by filing an agreement to dismiss that is signed by all the parties who have appeared in the case.

Rule 20. Enforcing a Judgment and Representation

Payment of the judgment is due when the judgment is rendered. A judgment from a small claims lawsuit may be enforced in accordance with Title 12, Chapter 9 and sections 22-243 through 22-246 of the Arizona Revised Statutes. An attorney may represent a party for post-judgment proceedings.

Rule 21. Exception for Consolidated Justice Courts

These rules apply in their entirety to all justice courts in Arizona, except that consolidated justice courts of more than three justice court precincts operating on a blended calendaring system are not required to apply these rules if the court's county superior court presiding judge issues an order that these rules do not apply to small claims cases in that court. An exception under this rule shall be applied to these rules in their entirety, except that no exception shall be made for Rule 19.

Rule 22. Forms

(a) The Administrative Office of the Courts shall develop recommended forms to be used in small claims cases. Court may modify these forms to comport with local practice or use forms that are substantially similar.

(b) Small claims forms are:

- (1) Notice to Plaintiff and Defendant
- (2) Complaint;
- (3) Summons;
- (4) Proof of Service by Registered or Certified Mail;
- (5) Answer;
- (6) Counterclaim;
- (7) Motion [for a motion to change venue (Rule 12) or a motion to vacate judgment (Rule 18)];
- (8) Request [for example, a request to transfer a lawsuit to the justice court civil division, request for telephonic hearing, stipulation to dismiss lawsuit; or a request to postpone the hearing];
- (9) Objection to Hearing Officer and Request for Justice of the Peace to Hear Matter
- (10) Subpoena;
- (11) Notice of Voluntary Dismissal; and
- (12) Notice of Settlement

READ THIS NOTICE CAREFULLY

Notice to the Plaintiff and Defendant: A small claims lawsuit has been filed in justice court

1. The small claims process is an inexpensive, quick, and informal way to resolve civil disputes up to \$3,500.
2. Persons in a lawsuit are called “parties.” There is a “plaintiff” and a “defendant.” A “plaintiff” is someone who files a lawsuit against a “defendant.”
3. Individuals represent themselves in a small claims lawsuit. There usually are no attorneys. One spouse may represent both spouses. A full-time corporate officer or authorized employee may represent a corporation; an active general partner or an authorized full-time employee may represent a partnership; an active member or an authorized full-time employee may represent an association; and any other organization may be represented by one of its active members or authorized full-time employees.
4. **You do not have a right to an appeal from a small claims judgment.** The defendant may request a transfer of the lawsuit from the Small Claims Division to the regular Civil Division of the justice court. A transfer will allow:
 - (1) Either party to have an attorney;
 - (2) The defendant to file a counterclaim for more than \$3,500;
 - (3) Either party to file motions that are not permitted in small claims lawsuits;
 - (4) Parties to have a jury trial; and
 - (5) A party to have the right to appeal.
5. You must properly complete your court papers and file them when they are due. Blank forms for a small claims lawsuit are available on the Arizona Judicial Branch website and are available from any justice court.
6. Court staff are not allowed to give you legal advice. However, court staff can provide information regarding the jurisdiction, venue, pleadings, and procedures of the small claims division.
7. You must follow the Arizona Revised Statutes and Rules of Procedure for Small Claims Cases that apply in your lawsuit. The statutes and rules are available in many public libraries and at the courthouse. The statutes are also online at the [Arizona State Legislature](#) webpage, and the rules are online at the [Arizona Judicial Branch Court Rules](#) webpage.
8. Some filings require a filing fee. Either party can request a fee waiver or deferral from the court, but the party must still file documents on time.
9. PLAINTIFF: When you file your lawsuit, the court will provide you with a summons and a copy of this notice. You must file proof of service within 30 calendar days or your case may be dismissed. **A lawsuit against the defendant cannot proceed without proper service.** Methods of service can be found in Rule 8(b), Rules of Procedure for Small Claims Cases. If proof of service is not timely received or your case is not concluded within 180 days of filing, the court will dismiss your case unless it finds a good reason not to.
10. DEFENDANT: If you have a claim against the plaintiff that is based on the same event described in the plaintiff's complaint or based on a different event, you may file a counterclaim. A defendant who files a counterclaim must also file an answer and mail a copy of the documents to the plaintiff.
11. DEFENDANT: The filing of a written answer is optional unless you file a counterclaim or you are ordered by the court to file a written answer. A defendant who files a written answer must mail a copy to the plaintiff.
12. BOTH PARTIES: You must appear at all scheduled hearings or alternative dispute resolution conferences. Both parties must provide supporting evidence for their claims and defenses.

A justice of the peace or a hearing officer who has received specialized training will conduct the hearing. You should be prepared to clearly present your evidence. Although you may be permitted to appear telephonically for reasons such as no longer residing in the area, it would present a financial hardship,

etc., you may be at a disadvantage since all evidence must be submitted to the court before the hearing. If you fail to appear at a hearing, the court may enter a judgment against you. To assure that you receive these notices, you must keep the court informed, in writing, of your current address and telephone number until the lawsuit is over.

Appendix B

Rule 1. Small Claims Lawsuit

- (a) Definition of a “Small Claims Lawsuit.”** A “small claims lawsuit” is an elective, simplified procedure for a lawsuit in which the debt, damage, tort, injury, or value of the personal property at issue ~~claims~~ by either the plaintiff or defendant is not more than \$3,500, exclusive of interest and costs. A “small claims lawsuit”² also includes lawsuits where a party asks the court to disaffirm, avoid, or rescind a contract, or requests other relief involving an amount of seeks equitable relief, and the amount at issue is not more than \$3,500 or less.
- (b) Purpose of the “Small Claims Division.”** The purpose of the justice court’s “small claims division” is to provide a process for the inexpensive, speedy, and informal resolution of small claims lawsuits. Courts and parties should interpret these rules liberally and consistently with this purpose.
- (c) Representation.** A.R.S. § 22-512 governs who may represent a party in a small claims lawsuit. Attorneys may not represent a party in a small claims lawsuit unless all ~~of~~ the parties agree to it in writing. A corporation, partnership, association, or any other business or organization, must file a notice stating the name of an authorized person who will file and appear in court on its behalf.
- (d) No Jury and No Appeal.** A party does not have a right to a jury trial or to appeal the judgment in a small claims lawsuit. The decision of the justice of the peace or hearing officer is final and binding on both parties.
- (e) Rules and Statutes.** These rules and the Arizona Revised Statutes (“A.R.S.”) Title 22, Chapter 5, govern procedures for small claims lawsuits.

Rule 2. Parties to a Lawsuit

- (a) Parties.** The parties to a small claims lawsuit are the plaintiff and the defendant. A party can be an individual, a marital community, a corporation, a partnership, an association, ~~a business, or another organization.~~
- (b) Plaintiff.** A plaintiff is the party who files a small claims lawsuit. The plaintiff must be a real party to the original transaction that forms the basis of the lawsuit, unless the person is commencing a lawsuit as a personal representative duly appointed pursuant to a proceeding as provided in Title 14 of the Arizona Revised Statutes. ~~A plaintiff must use the party’s correct legal name when filing a lawsuit.~~

(c) Defendant. A defendant is the party who is sued. ~~Each defendant must be sued by the correct legal name.~~

(e)(d) Use of Correct Legal Name. A plaintiff must use the party's correct legal name when filing a lawsuit. Each defendant must be sued by the correct legal name.

Rule 3. Phone Numbers and Email Addresses

All parties ~~should~~must provide the court with a physical address, email address, and phone number, if available. The court may use this information to communicate with the parties about their case by mail, email, text message, ~~and or~~or phone.

Rule 4. Computing Time

These rules may require a party to take action within a specified number of days from an event. The day of the event is not counted. A party must include Saturdays, Sundays, and holidays when counting days,⁵ but if the last day to take action falls on a Saturday, Sunday, or holiday, the party has until the next business day to take that action. Unless otherwise specified, all time periods referenced in these rules are calendar days.

Rule 5. Where to File a Small Claims Lawsuit

The plaintiff must file a complaint in the justice court precinct (the "venue") where the defendant resides or as permitted by A.R.S. § 22-202. The claim may be heard in a different justice court precinct if the court has jurisdiction and the defendant fails to object.

Rule 6. Plaintiff Must File a Complaint

(a) The Complaint. A small claims lawsuit starts when a plaintiff files a small claims complaint.

- (1) Statement of Claim.** The complaint must be legible and must briefly state the plaintiff's reasons for the claim against ~~each~~the defendant.
- (2) Active Military Service.** The complaint must include a statement indicating whether ~~the any~~ defendant listed in the complaint is in active military service.

~~(3)~~ **Amount of Claim.** The amount of all claims in the complaint cannot exceed the jurisdictional limit for a small claims lawsuit.

~~(1)(4)~~ **Filing Fee.** The plaintiff must pay a fee to the court to file a complaint, although the plaintiff may request a deferral or waiver of this fee ~~if the plaintiff is unable to pay the fees provided by A.R.S. § 12-302 and the Arizona Code of Judicial Administration § 5-206.~~ The amount of all claims in the complaint cannot be more than \$3,500.

~~(a)(b)~~ **Claim for More Than \$3,500.** If the claim amount or amount at issue in the plaintiff's complaint ~~is more than \$3,500~~ exceeds the small claims jurisdictional limit, the plaintiff cannot file the lawsuit in the small claims division. ~~and does not exceed the justice court's jurisdiction, t~~ he plaintiff must file the lawsuit in the justice court's "civil division" and not in the "small claims division." A plaintiff ~~may~~ cannot avoid this requirement by splitting a the claim amount ~~for more than \$3,500~~ into several smaller claim amounts.

~~(b)(c)~~ **Amendments.** No amended complaints will be allowed. A plaintiff can choose to dismiss the complaint and file a new lawsuit.

~~(e)(d)~~ **Settlement.** The plaintiff ~~has a responsibility to~~ must notify the court if the lawsuit settles before the hearing date by filing a Notice of Settlement.

Rule 7. Plaintiff Must Serve the Summons, Complaint, and Notice on Each Defendant

Setting the Hearing
Summons; ; Hearing Date. ~~The summons is an order that requires the defendant to appear for a hearing.~~ Except as provided in Rule 143 of these rules, the court will set a hearing date when the plaintiff files a complaint. The court will write the hearing date on the summons and return the summons to the plaintiff. The court will provide one summons for each defendant named in the complaint. ~~T~~he hearing, ~~or an alternative dispute resolution conference under Rule 13 of these rules,~~ ~~wi~~ll ~~must~~ be held between ~~45-60 and 75~~ and ~~60~~ days after the complaint filing date. All parties must appear at the scheduled hearing.

Rule 8. Service

Notice to the Plaintiff and Defendant. ~~Before serving the summons and complaint, the plaintiff must attach to each summons a "Notice to the Plaintiff and Defendant" ("notice") as shown in Appendix 1.~~

(a) Serving the Defendant: When. ~~The plaintiff must serve~~ Proof of service ~~the defendant with copies of the summons, complaint, and~~ and Notice to the Plaintiff and Defendant (“notice”) ~~must be filed~~ notice ~~within 20-30 days of the complaint filing date.~~

(b) Serving the Defendant: How. ~~The plaintiff must serve the~~ summons, complaint, and notice ~~summons, complaint, and notice~~ on each defendant as in a manner provided by this rule.

(1) Registered or Certified Mail. ~~The plaintiff may serve the defendant by registered or certified mail, with a “return receipt requested.”~~ When the post office returns the return receipt card to the plaintiff, the plaintiff must promptly file it ~~the return receipt~~ with the court within 30 days of the complaint filing date ~~to establish that the defendant was “served.~~ The return receipt can be the card returned to the plaintiff by the postal or delivery service or the return receipt printed from the postal or delivery service’s website. ”

(2) Constable, Sheriff, or Private Process Server. ~~If the defendant cannot be served by certified mail,~~ The plaintiff must ~~may~~ arrange for personal service on the defendant by a constable, sheriff, or private process server. The constable, sheriff, or private process server will ~~If personal service is used, file written evidence of service with the court, or provide that evidence to the plaintiff, and the plaintiff must promptly file it with the court.~~ an affidavit of service must be filed with the court within 30 days of the complaint filing date.

(c) Failure to Serve Within 320 Days of the Complaint Filing Date. ~~If the plaintiff does not~~ unable to execute and timely or properly serve the summons, complaint, and notice ~~file proof of service within 30 days of the complaint filing date,~~

(d) ~~the plaintiff must~~ must ~~contact the court to obtain~~ file ~~a written request for an extension for time to serve the defendant.~~ The plaintiff may contact the court before the hearing date to obtain the extension for time to serve, or the plaintiff may appear at the scheduled hearing date and time to inform the court that additional time for service is needed.

(e)

(f) ~~If the plaintiff contacts the court before the hearing date or appears on the hearing date to obtain an extension of time to serve, the court may continue the hearing~~

and require the plaintiff to complete service by a date that is at least 20 days from the date of the new hearing.

~~(c) When the plaintiff contacts the court, or appears on the court date, the court may continue the hearing grant an extension of no more than 30 days to allow additional time for service.~~

~~If the request for additional time to serve is granted, the court will issue a new summons with the new court date. The plaintiff must serve the new summons, complaint and notice on the defendant.~~

(d) Dismissal for Lack of Proof of Service. The court may dismiss a complaint as to any defendant for whom the plaintiff has not filed proof of service within 60 days after the filing date of the complaint.

Rule 98. Providing Subsequent Documents to the Other Party After Service of the Summons, Complaint, and Notice

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

(1) Hand-delivery to the other party;

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

(3) Delivering the document electronically.

(a) Noting the Method of Service. On the last page of a document that is filed with the court, the party who is providing the document under section (a) of this rule must state the date and method used to provide the document to the other party. For first class mailing, the date stated must be the date that it was deposited in the mail with first class postage. ~~Once a defendant is properly served with the summons, complaint, and notice, if the defendant chooses to file a written answer, counterclaim, or other document with the court, the defendant must do so in person or by mail. The defendant must also promptly deliver a copy to the plaintiff by mail or by electronic means.~~

(b)

Rule 109. Answer Not Required

~~A defendant who files a counterclaim must also file an answer. A defendant may file an answer within 20 days of service, but who does not file a counterclaim may file an answer but is not required to do so unless the defendant files a~~

~~counterclaim or is otherwise ordered to file an answer by the court under Rule 154(e) of these rules. The defendant must pay a fee to the court to file an answer, although the defendant may request a waiver or deferral of this fee as provided by A.R.S. § 12-302 and the Arizona Code of Judicial Administration § 5-206 if the defendant is unable to pay the fee. The defendant must still appear at the hearing to dispute the claim regardless of whether an answer is filed. If an answer is filed, the defendant must mail a copy or electronically send a copy to the plaintiff on the day of filing.~~

Rule 110. Counterclaim

(a) Definition. A counterclaim asserts that the plaintiff owes something to the defendant.

(b) When to File. A defendant who files a counterclaim must also file an answer. The defendant may file a counterclaim against the plaintiff that ~~it~~ is based on the same event described in the plaintiff's complaint or based on a different event than the one described in the plaintiff's complaint. A counterclaim must be filed within 20 days of service of the summons, complaint, and notice. ~~If the defendant files a counterclaim, it must be filed at least 10 days before the hearing date. No amended counterclaims will be allowed.~~

(c) Limit on the Dollar Amount. The amount of the counterclaim cannot ~~be more than \$3,500~~ exceed the jurisdictional limit of the small claims division. If the defendant files a counterclaim ~~for more than \$3,500 and that exceeds the small claims division's jurisdictional limit,~~ but the counterclaim does not exceed the justice court's jurisdictional limit, the court must transfer the plaintiff's claim and the defendant's counterclaim to the justice court's "civil division." A counterclaim that is more than \$10,000 will result in a transfer of the entire lawsuit to the superior court.

(d) ~~Mailing to the Plaintiff~~ Amendments. No amended counterclaims will be allowed. ~~The defendant must mail a copy of the counterclaim to the plaintiff or send a copy electronically on the day of filing.~~

Rule 121. Defendant Can File a Motion to Change Venue

If the lawsuit ~~was~~ not filed in the correct justice court precinct, the defendant may file a motion at least 15 days before the hearing to change the venue of the lawsuit. ~~The defendant must mail a copy or electronically send a copy of the motion to the plaintiff, and t~~The plaintiff has 10 days to file a response. If the justice of the peace

grants the motion, the court will transfer the lawsuit to the proper precinct. The parties must appear at any scheduled court date until they receive notice that the court has granted the motion.

Rule 132. Either Party Can Transfer the Lawsuit to the Civil Division

(a) Transfer to Civil Division by Request. Either party can file a request to transfer the lawsuit to the justice court's "civil division."

(b) Time for Filing a Request to Transfer. A party must file the request to transfer the lawsuit to the justice court's "civil division" no later than 10 business days before the hearing date.

(c) Voluntary Dismissal After Transfer to Civil Division. If a request is made to transfer the lawsuit to the justice court's "civil division," and the defendant has not filed an answer or counterclaim, a plaintiff who does not want the lawsuit to proceed in the civil division has 15 days after the defendant files the transfer request to voluntarily dismiss the lawsuit.

Rule 143. Alternative Dispute Resolution (A.D.R.) Conference

(a) A.D.R. Conference in Lieu of Hearing. ~~If the justice court a county has an alternative A.D.R. dispute resolution ("A.D.R.") program, the court may schedule an A.D.R. conference in lieu of a hearing when the complaint is filed. The A.D.R. conference must occur within 60 to 75 days of the complaint filing date.~~

(b) A.D.R. Conference Continuance. ~~The court may continue the A.D.R. conference date up to 30 days for good cause.~~

~~(a)~~**(c) Setting the Case for Hearing.** ~~If the lawsuit is not settled at the A.D.R. conference, the court ~~will~~ must set a hearing to occur within ~~45 to 60~~ 30 days after of the conference date. The court must notify all parties of the hearing date and the requirement to attend the hearing.~~

Rule 154. The Hearing

(a) Hearing Officer. A party may request that a justice of the peace, rather than a hearing officer, decide the lawsuit. A party must make this request in writing at least 15 days before the hearing date.

(b) Rescheduling a Hearing. As soon as possible, but at least 15 days before the hearing date, a party may file a request in writing to reschedule the hearing ~~in writing~~ and deliver a copy to the other party. The request must include a good reason for rescheduling and, if possible, provide supporting documentation. The court may deny the request if a party does not provide a good reason for rescheduling, does not provide documentation for the request, or if the party has made previous requests to reschedule the hearing. The court will consider emergency requests (a request received less than 15 days before the hearing) only if the request also shows a good reason for not filing it earlier.

(c) Failure to Appear for the Hearing.

(1) Both Parties Fail to Appear. If both parties fail to appear at the hearing, the court will dismiss the lawsuit-complaint and any counterclaims without prejudice, meaning the ~~plaintiff may refile the complaint~~ claims may be refiled if all other legal requirements have been met.

(2) Defendant Fails to Appear. If the plaintiff appears and has properly served the defendant, but the defendant does not appear, the court will consider the plaintiff's evidence and, if substantiated by the evidence, the court may award judgment for the plaintiff. However, if the defendant is on active military duty and (1) fails to appear at the hearing, and (2) has not made an appearance in the case, the court cannot award judgment for the plaintiff at that time and must transfer the case to the justice court civil division for further proceedings.

(3) Plaintiff Fails to Appear. If the plaintiff fails to appear, but the defendant appears, the court may dismiss the lawsuit with or without prejudice, or it may award judgment for the defendant.

(d) Appearing by Telephone. For a good reason, a party may appear at a hearing by telephone if the court allows telephonic appearances. The party must file a request to appear by telephone in writing at least 15 days before the hearing date. The request must contain that party's telephone number. The party must attach to the request any documents, photographs, or other evidence the party wants to submit at the hearing. If the court approves the request, the court will provide a phone number the party must call to appear telephonically for the hearing.

(e) Conducting the Hearing. The justice of the peace or hearing officer will consider testimony from the parties and witnesses, will consider any documents, and will decide the claim and any counterclaim. The justice of the peace or

hearing officer may ask questions, and also may permit the parties to ask questions of each other and of any witnesses. The justice of the peace or hearing officer may continue the hearing and require the defendant to file a written answer if justice so requires. Formal rules of evidence do not apply. Any non-privileged evidence tending to make a fact at issue more or less probable is admissible unless the justice of the peace or the hearing officer determines the evidence lacks reliability or will cause unfair prejudice, cause confusion, or waste time.

~~(e)~~(f) **Additional Time to Prepare.** ~~If the plaintiff serves the defendant within 20 days of the complaint filing date, but the defendant believes the time of service did not allow the defendant adequate time to prepare or properly exercise other rights under these rules, such as filing a counterclaim under Rule 10-11 or a transfer under Rule 12(b)13, the defendant must appear at the scheduled hearing and may ask the court for a continuance. If the justice of the peace or hearing officer finds that the defendant's rights have been harmed by the amount of time to respond~~prepare or properly exercise other rights under these rules, a continuance will be granted.

Rule 165. Requesting an Interpreter or Special Accommodations

The court should be notified of requests for an interpreter or special accommodations at least 15 days before a court date.

Rule 176. Judgment

(a) Definition and Requirements. A “judgment” is a final written order of the court that decides the claims in the lawsuit. A judgment must be signed by a justice of the peace or hearing officer and filed with the court.

(b) ~~Time for~~ Rendering and Mailing a Judgment. A justice of the peace or hearing officer may render a judgment at the end of the hearing or within 10 days after the hearing. The court must mail a copy of the judgment to all parties within five days. The judgment is final and binding on all parties.

(c) Correcting a Judgment. On the court's own initiative or at either party's request, the court may correct the judgment if a name is misspelled, there is a misstatement of a fact, or there is a miscalculation of an amount.

Rule 187. Vacating a Judgment

~~(f) Reasons for Vacating a Judgment.~~ **On motion and just terms either party's motion**, the court may relieve a party from a judgment for the following reasons:

(a)

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) fraud, misrepresentation, or other misconduct of an opposing party;
- (3) the judgment is void;
- (4) 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
- (5) any other reason justifying relief.

(b) **Timing and Effect of the Motion.**

- (1) **Timing.** A motion under Rule 187(a) must be made within a reasonable time, -and for reasons (1) and (2), no more than 6 months after the entry of the judgment or date of the proceeding, whichever is later.
- (2) **Effect on Finality.** The motion does not affect the judgment's finality or suspend its operation.

(c) **Providing the Motion to the Other Party and Time for Response.** The moving party must deliver a copy of the motion to the other party on the date of filing. The other party has 15 days to file a written response, and must deliver a copy of the response to the moving party on the date the response is filed.

(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; or
- (2) set aside a judgment for fraud on the court.

(e) **Representation.** An attorney may represent a party on a motion to vacate a judgment.

Rule 198. Dismissing a Lawsuit

(a) **Dismissal by the Court.** If the lawsuit is not concluded within 180 days of filing, the court must dismiss the lawsuit without prejudice absent good cause for continuing the case past 180 days.

(b) Dismissal by the Plaintiff. If the defendant has not filed an answer or counterclaim in the lawsuit, the plaintiff may dismiss the complaint at any time by filing a Notice of Voluntary Dismissal. ~~The plaintiff must mail a copy of the voluntary dismissal to the defendant on the date of filing.~~

(c) Dismissal by Agreement. At any time before the hearing, the parties may mutually agree to dismiss the lawsuit complaint and any counterclaims by filing an agreement to dismiss that is signed by all the parties who have appeared in the case.

Rule 2019. Enforcing a Judgment and Representation

Payment of the judgment is due when the judgment is ~~filed~~rendered. A judgment from a small claims lawsuit may be enforced ~~like any other civil judgment in the justice court. The prevailing party may request the court issue a writ of execution or a writ of garnishment, as provided by statute, or request that the court conduct a judgment debtor exam~~in accordance with Title 12, Chapter 9 and sections 22-243 through 22-246 of the Arizona Revised Statutes. An attorney may ~~appear~~represent a party for post-judgment proceedings.

Rule 210. Exception for Consolidated Justice Courts

These rules apply in their entirety to all justice courts in Arizona, except that consolidated justice courts of more than three justice court precincts operating on a blended calendaring system are not required to apply these rules if the court's county superior court presiding judge issues an order that these rules do not apply to small claims cases in that court. An exception ~~to these rules~~under this rule shall be applied to these rules in their entirety, except that no exception shall be made for Rule 198.

Rule 221. Forms

~~(c) Blank forms for a small claims lawsuit are available on the Arizona Judicial Branch website and are available from any justice court. The parties must use these forms when filing documents in the small claims division.~~

(a) The Administrative Office of the Courts (AOC) shall develop recommended forms to be used in small claims cases. Court may modify these forms to comport with local practice or use forms that are substantially similar. The Administrative Director of the Administrative Office of the Courts is

~~authorized to modify small claims forms in response to changes in state laws or procedures, to make other necessary administrative amendments or technical corrections, or to add or delete forms as the Director may deem appropriate.~~

~~(a)~~

(b) Small claims forms are:

- (1) Notice to Plaintiff and Defendant
- (2) Ceomplaint;
- (3) Ssummons;
- (4) ~~proof~~ Proof of Sservice by Registered or ~~certified~~ Certified mailMail;
- (5) Aanswer;
- (6) Counterclaim;
- (7) Motion [for a motion to change venue (Rule 124) or a motion to vacate judgment (Rule 178)];
- (8) Rrequest [for example, a request to transfer a lawsuit to the justice court civil division, request for telephonic hearing, stipulation to dismiss lawsuit; or a request to postpone the hearing];
- (9) Objection to Hearing Officer and Request for Justice of the Peace to Hear Matter
- (10) Subpoena; and
- (11) Notice of Voluntary Dismissal; and
- (12) Notice of Settlement

Appendix to the ARSCP

READ THIS NOTICE CAREFULLY

Notice to the Plaintiff and Defendant: A small claims lawsuit has been filed in justice court

1. The small claims process is an inexpensive, quick, and informal way to resolve civil disputes up to \$3,500.
2. Persons in a lawsuit are called “parties.” There is a “plaintiff” and a “defendant.” A “plaintiff” is someone who files a lawsuit against a “defendant.”
3. Individuals represent themselves in a small claims lawsuit. There usually are no attorneys. One spouse may represent both spouses. A full-time corporate officer or authorized employee may represent a corporation; an active general partner or an authorized full-time employee may represent a partnership; an active member or an authorized full-time employee may represent an association; and any other organization may be represented by one of its active members or authorized full-time employees.
4. **You do not have a right to an appeal from a small claims judgment.** The defendant may request a transfer of the lawsuit from the Small Claims Division to the regular Civil Division of the justice court. A transfer will allow:
 - (6) Either party to have an attorney;
 - (7) The defendant to file a counterclaim for more than \$3,500;
 - (8) Either party to file motions that are not permitted in small claims lawsuits;
 - (9) Parties to have a jury trial; and
 - ~~(10)~~A party to have the right to appeal.
 - ~~(10)~~
5. You must properly complete your court papers and file them when they are due. Blank forms for a small claims lawsuit are available on the Arizona Judicial Branch website and are available from any justice court.
- 5.6. Court staff are not allowed to give you legal advice. However, court staff can provide information regarding the jurisdiction, venue, pleadings, and procedures of the small claims division.
- 6.7. You must follow the Arizona Revised Statutes and Rules of Procedure for Small Claims Cases that apply in your lawsuit. The statutes and rules are available in many public libraries and at the courthouse. The statutes are also online at the Arizona State Legislature webpage, and the rules are online at the Arizona Judicial Branch Court Rules webpage.
- 7.8. Some filings require a filing fee. ~~If either party is unable to pay the filing fee, the~~ Either party can request a fee waiver or deferral from the court, but the party must still file documents on time.
- 8.9. PLAINTIFF: When you file your lawsuit, the court will provide you with a summons and a copy of this notice. You must ~~serve these items and a copy of your complaint on the defendant~~ file proof of service within 30 calendar days or your case may be dismissed. A lawsuit against the defendant cannot proceed without proper service. Methods of service can be found in Rule ~~78(bd)~~, Rules of Procedure for Small Claims Cases. ~~If your proof of service is not timely or your case is not concluded within 180 days of filing, the court will dismiss your case unless it finds a good reason not to.~~
10. DEFENDANT: If you have a claim against the plaintiff that is based on the same event described in the plaintiff's complaint or based on a different event, you may file a counterclaim. A defendant who files a counterclaim must also file an answer and mail a copy of the documents to the plaintiff.
- 9.11. DEFENDANT: The filing of a written answer is optional unless you file a counterclaim or you are ordered by the court to file a written answer. ~~If you have a claim against the plaintiff that is based on the same event~~

~~described in the plaintiff's complaint or a different event, you may file a counterclaim. A defendant who files a counterclaim must also file an answer and mail a copy of the documents to the plaintiff. A defendant who files a written answer must mail a copy to the plaintiff.~~

~~10.12. BOTH PARTIES: The hearing date will be stated on the summons. You must appear at the time and place specified in the summons all scheduled hearings or alternative dispute resolution conferences. Both parties MUST appear at the small claims hearing and must provide supporting evidence for their claims and defenses.~~

~~11.13. A justice of the peace or a hearing officer who has received specialized training will conduct the hearing. You should be prepared to clearly present your evidence. Although you may be permitted to appear telephonically for reasons such as no longer residing in the area, it would present a financial hardship, etc., you may be at a disadvantage since all evidence must be submitted to the court before the hearing. If you fail to appear at a hearing, the court may enter a judgment against you. To assure that you receive these notices, you must keep the court informed, in writing, of your current address and telephone number until the lawsuit is over.~~

Appendix C

Justice Court Rules of Civil Procedure

Rule 113. Serving a Summons and Complaint

i. Dismissal because of lack of service; service on some but not all defendants.

(1) Small Claims Cases. Not later than 60 days after the filing date of the complaint in the small claims division, the plaintiff must file proof of service of process or transfer the matter out of the small claims division. As to any defendant for whom proof of service of process is not timely filed, the court shall dismiss without prejudice the complaint against them.

(2) All Other Cases. After at least twenty (20) days notice to plaintiff, the court may dismiss a complaint as to any defendant who has not been served with the summons and complaint within one hundred twenty (120) days after the filing date of the complaint. Before the dismissal date, if the plaintiff shows good reasons why a defendant has not been served, the court may extend the time for service. When some but not all of the defendants in a lawsuit have been timely served, the court may dismiss from the lawsuit the defendants who have not been served, and allow the plaintiff to proceed against the defendants who have been served. [ARCP 4(i), 5(b)]

Rule 144. Dismissal of Lawsuits

e. Dismissal for failure to conclude a lawsuit ~~within ten months~~.

(1) Small Claims Cases. If a final judgment has not been entered within 100 days from the filing date of the complaint remaining in the small claims division, the court will mail a notice to the plaintiff and to any defendant who has appeared in the lawsuit informing them that unless this requirement is met within two (2) months from the date of mailing, the court will dismiss the lawsuit for failure to have judgment timely entered. If the requirement has not been met within two (2) months from the mailing of the court's notice, the court will dismiss the lawsuit without further notice to the parties.

(2) All Other Cases. If a final judgment has not been entered within ten (10) months from the date a lawsuit is filed, or if a party has not filed a written motion to extend the time for entry of judgment to a particular date, the court will mail a notice to the

plaintiff and to any defendant who has appeared in the lawsuit informing them that unless this requirement is met within two (2) months from the date of mailing, the court will dismiss the lawsuit for failure to have judgment timely entered. If the requirement has not been met within two (2) months from the mailing of the court's notice, the court may dismiss the lawsuit without further notice to the parties.