



ARIZONA RULES OF SMALL CLAIMS PROCEDURE

January 2020

Background

1

Committee established in November 2016 to address case processing delays

2

Developed rules of procedure intended to simplify process for litigants and expedite caseflow

3

Pilot program conducted and rule petition filed

4

Effective date: 1/1/2020

Rule 1

Defines “small claims” and provides jurisdictional limits

Provides governing authorities

No attorney representation, jury trials, or appeals

NEW: 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.



Rule 2

- Defines who can be a party to a small claims lawsuit
- **NEW: Plaintiff** must use his/her **correct legal name** when filing a lawsuit, and must list the **correct legal name** for the **defendant**.
- **NEW:** All parties must provide the court with **contact information**, including mailing address, email address, and phone number, if available. The court may use this information to communicate with the parties about their case.

Rule 3

- **NEW: Computation of time.** Unless specified, all time periods in small claims rules are calendar days
 - *The day of the event is not included. 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.*
 - *Exception: Default process initiated pursuant to Rule 7 follows time calculation in Rule 140(d), Justice Court Rules of Civil Procedure:*
 - “If the party claimed to be in default files with the court a written answer or other response within ten (10) days after the application was filed . . . , the default does not become effective, and the court may not enter a default judgment against that party. The ten (10) day period begins the day after the application is filed with the court; the ten (10) day period does not include Saturdays, Sundays, or holidays, and no additional time is added for service by mail.”

Rule 4

Defines “venue”:

The plaintiff must file the lawsuit in the precinct where the defendant resides, EXCEPT:

- If a defendant or all of several defendants reside outside the state or when their residence is unknown, the action may be brought in the justice precinct where the plaintiff resides.
- A married person may be sued in the justice precinct where the person's spouse resides unless the spouse is living separate and apart from the defendant.
- Transient persons may be sued in any justice precinct in which found.
- Persons who have contracted a debt or obligation in one justice precinct and thereafter move to another precinct may be sued in either precinct.
- Persons who have contracted in writing to perform an obligation in one justice precinct may be sued in that precinct or where the persons reside.
- If there are several defendants residing in different justice precincts, an action may be brought in the justice precinct where any of the defendants reside. **ARS §§ 22-202(A) and 22-505(A)**

Rule 4 cont.

NEW: Establishes Complaint requirements

Must be legible

Must list reasons for claims
against defendant

**NEW: Prohibits claim amount splitting to avoid small
claims jurisdictional limit**

NEW: No amended complaints

**NEW: Requires plaintiff to file Notice of Settlement if
parties settle before hearing**

Rule 5

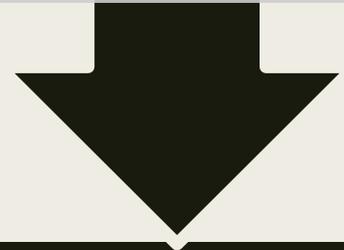
- **NEW: Proof of service** must be filed within **45 days** of complaint filing date, or **court SHALL dismiss** the case.
- Sets forth how service can be executed: By registered or certified mail, process server, sheriff, or constable.
- **NEW: Upon receipt of proof of service**, the **court MUST mail a notice** to the plaintiff and any defendant appearing in the case informing them that **the case must be concluded within 65 days of service** or the case will be dismissed.
 - *Exception: no dismissal if a hearing has been scheduled or the plaintiff has applied for a default judgment.*



Rule 6

NEW: A complete and exact copy of every document filed with the court must be provided to every other party in the lawsuit before or promptly after it is filed by (unless otherwise specified in rule):

- | | | |
|---|------------------|----------------------------|
| <i>Hand-delivery to the other party</i> | <i>U.S. mail</i> | <i>Electronic delivery</i> |
|---|------------------|----------------------------|



NEW: Last page of document must state date document was provided and method used

Rules 7 & 8

Rule 7: Timeframe for mandatory answer is 20 days

Rule 8: Court must set hearing date and hold hearing within 60 days of answer filing date

Rule 9

NEW: Defendant has 20 days after service to file a counterclaim

- *The counterclaim may be filed separately from answer*

Counterclaim cannot exceed small claims jurisdictional limit

NEW: No amended counterclaims

Rules 10 & 11

Rule 10: Defendant may file a motion to change venue if case filed in wrong precinct.

- ***NEW:*** Plaintiff has ***10 days*** to file ***response***

Rule 11: Either party can transfer the case to the civil division if the request is made at least 10 days before the hearing.

- ***NEW:*** If a ***defendant requests a transfer*** but has ***not filed an answer or counterclaim***, a ***plaintiff*** who does not want the case to proceed in the civil division ***has 15 days*** after the ***transfer request*** to voluntarily ***dismiss*** the lawsuit.

Rule 12

- **NEW**: Requires that **objection to hearing officer** deciding case be made **in writing at least 15 days before hearing**
- **NEW**: 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** or the **court may deny the request**. Requests made less than 15 days before the hearing may be considered only if the request shows a good reason for not filing it earlier.

Rule 12 cont.

NEW: Outlines procedures when defendant, plaintiff, or both parties fail to appear at scheduled hearing

NEW: A party may request to appear telephonically at the hearing if the request is made at least 15 days before the hearing date

NEW: Outlines hearing procedures for evidence and testimony

Rules 13, 14, & 15

NEW (Rule 13): Allows court to refer case to **Alternative Dispute Resolution** program, including Online Dispute Resolution, at any time before the hearing

NEW (Rule 14): **Interpreter** and **special accommodations requests** should be made **at least 15 days before a court date**

NEW (Rule 15): Defines “**judgment**”, requires the **court to mail the judgment** to the parties **within 5 days** of the judgment being rendered, and allows the court to **correct a judgment** for a **misspelled name, misstatement of fact, or a miscalculation** of an amount. The court should document when the judgment was mailed to the parties.

Rule 16

- Vacating a Judgment
- **NEW**: Lists **reasons for vacating a judgment**, provides **timeframe for filing** a motion to vacate a judgment, the moving party must **deliver** a copy of the motion to the other party **on the filing date**, and the other party has **15 days** to file a **response**. The **response** must be **delivered** to the other party **on the date** it is **filed**.

Rule 17

- **NEW**: Allows for **voluntary dismissal by plaintiff** if **no answer or counterclaim** has been filed
- **NEW**: Allows for **stipulated dismissal** of complaint and counterclaim

Rule 18

- Sets forth authorities for **enforcing a judgment** and explicitly states that an attorney can represent parties for post-judgment proceedings

Rule 19

- **NEW**: Lists forms AOC must develop and maintain for courts to provide to the parties
 - *Complaint*
 - *Summons*
 - *Proof of Service*
 - *Answer*
 - *Counterclaim*
 - *Application for Default*
 - *Request for Default Judgment*
 - *Motion to Change Venue*
 - *Motion to Vacate Judgment*
 - *Request*
 - *Objection to Hearing Officer*
 - *Subpoena*
 - *Notice of Voluntary Dismissal*
 - *Notice of Settlement*