

**2016 Court Rules**

*Court Services Division  
Administrative Office of the Courts*

This document summarizes new court rules and rule amendments adopted by the Arizona Supreme Court during its August 2016 rules agenda. The summary includes potential impacts for several of these rule changes.

- The rule petition numbers in this summary (e.g., R-16-0000) include a hyperlink to the Court's Order promulgating the rule change. The full text of the rule change appears with the Order. Readers may wish to click on the hyperlink to review the complete text of a new or amended rule for additional details concerning each change.
- The effective date of rule changes in this 2016 summary is **January 1, 2017**, except as noted in the summary.
- This summary includes most of the rule changes affecting trial courts, but it does not include every rule change. It does not include rule changes regarding the practice of law or the admission to practice, or that concern judicial discipline, and it excludes some rule petitions previously adopted on a temporary basis. Please see the Court's [August 29, 2016 minutes](#) and the Court's [recent rules amendments webpage](#) for further information concerning rules on these and other topics.

Please contact Mark Meltzer at (602) 452-3242 or by e-mail at [MMeltzer@courts.az.gov](mailto:MMeltzer@courts.az.gov) if you have any questions.

**Rules of Civil Procedure**

Rule	Affects	Summary and Impact
<p>Rule 11</p> <p><a href="#">R-15-0004</a> <a href="#">R-15-0043</a></p>	<p>Superior</p> <p>Judges Clerks Administrators</p>	<p><b>Summary:</b> These Orders amend Rule 11, Arizona Rules of Civil Procedure, as shown in R-16-0010 (see the link below). Rule 11 currently says that the court “shall” impose sanctions for a Rule 11 violation. The amended Rule 11 provides that the court “may” impose an appropriate sanction.</p> <p><b>Impact:</b> Under Rule 11(c), a party’s motion for Rule 11 sanctions must (a) be made separately from any other motion; (b) be accompanied by a certificate indicating that the parties have conferred in good faith concerning the matter; and (c) attach a copy of a written notice to the non-movant detailing the specific conduct that violates Rule 11(b). In addition, there are new provisions in Rule 11 regarding signatures for electronic filings and filings by multiple parties.</p>
<p>All civil rules</p> <p><a href="#">R-16-0010</a></p>	<p>Superior</p> <p>Judges Clerks Administrators</p>	<p><b>Summary:</b> This Order contains comprehensive revisions to the Arizona Rules of Civil Procedure that are both stylistic and substantive. A complete description of those amendments is beyond the scope of this summary, but other materials, including rule petition R-16-0010 and the December 2016 issue of the <i>Arizona Attorney</i> magazine, contain that information.</p> <p>Note that each new rule was restyled. A prefatory comment to the new rules explains what it means to “restyle” a rule. The new rules delete some of the current rule provisions because they were archaic, or because the new rules consolidate the substance of a current rule within another rule. It was also more logical in some instances to relocate a particular provision. Appendix B to the Order includes a “disposition table” of deleted and relocated rules. For example, the table shows that substance in current Rule 10(d) (“method of preparing and filing a document”) is in new Rule 5.2(b) (“document format”).</p> <p>The time for serving a summons under Rule 4(i) is now 90 days rather than 120 days. New Rule 5.1 describes the effective date of filing documents (“Except for documents submitted directly to a judge under Rule 5.1(a), a document is deemed filed on the date the clerk receives and accepts it.</p>

	<p>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...”). Also see new Rule 6(d): “...court-generated documents are entered on the date they are filed by the clerk;” and new Rule 80(e), which allows the clerk to distribute minute entries and other court documents electronically. Note also that although parties “file” documents with the clerk, the clerk “distributes” documents to the parties. See, for example, new Rule 6(c).</p> <p>Judges should note that one of the objectives of case management in new Rule 16(a) is assuring that discovery is “proportional” to the needs of the case. Rule 26(b) also requires that discovery be “proportional to the needs of the case....” This rule no longer includes the phrase “reasonably calculated to lead to the discovery of admissible evidence.”</p> <p>The restyled rules reorganize and in many instances relocate provisions in the current rules on trials (particularly provisions in current Rules 39, 40, 43, 44, 47, and 49). The disposition table should be helpful in navigating to the new locations of these provisions.</p> <p>Requests for a change of judge, currently located in Rule 42(f), are now governed by two new rules: Rule 42.1 (“change of judge as a matter of right”) and Rule 42.2 (“change of judge for cause.”) There are substantive changes to Rule 45, and there is a new conforming subpoena form in Rule 84, form 9. Note that there are substantive changes to Rules 54, 55, and 58.</p> <p>The R-16-0010 Order adopted conforming changes to Juvenile, Family, Criminal, Evidence, Justice Court Civil, Supreme Court, ARCAP, and Judicial Review of Administrative Decision rules that cross-reference civil rules. Attachment C to the R-16-0010 Order shows these changes.</p> <p><u>Impact:</u> The <u>current</u> provisions of the Arizona Rules of Civil Procedure and associated forms and comments are abrogated effective January 1, 2017. The <u>new</u> rules, forms, and comments (contained in Attachment A to the Order), are effective January 1, 2017. The new rules apply in</p>
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		actions filed on or after that date. The new rules also apply to actions that are pending on January 1, 2017, except to the extent the court determines that applying a new rule “would be infeasible or work an injustice,” in which event a former rule or procedure applies.
Rule 5.3(a)(2) <a href="#">R-16-0017</a>	Superior  Judges Clerks Administrators	<u>Summary:</u> This Order amends Rule 5.3(a), Arizona Rules of Civil Procedure, as shown in R-16-0010 (see the link above).  The new provision is as follows:  “If there is a change of counsel within the same law firm or governmental law office, 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.”  <u>Impact:</u> In these circumstances (a change of counsel within the same law firm or governmental law office), the Clerk will need to note the substitution or association as provided in the notice, and without the need for a court order approving the substitution or association.
Rule 49(d)(2) <a href="#">R-16-0018</a>	Superior  Judges Clerks Administrators	<u>Summary:</u> Rule 49(d)(2) will allow the foreperson, on a unanimous verdict, to affix either a signature <u>or</u> a juror number and initials on the verdict form. If the verdict is not unanimous, the jurors who agree may sign their names on the form or write their juror numbers and initials.  <u>Impact:</u> Instructions to the jury should include this new option for returning the verdict form.

**Rules of Criminal Procedure**

Rule	Affects	Summary and Impact
Rule 8.4 <a href="#">R-16-0007</a>	Superior Justice Municipal  Judges	<u>Summary:</u> Rule 8.4(a) currently excludes from the computation of time limits any delays resulting from the examination and hearing to determine the competency or intellectual disability of the defendant, the time when a defendant is incompetent to stand trial, or the time the

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	<p>Clerks Administrators</p>	<p>defendant is absent and cannot be arrested or taken into custody. Once a delay caused by the circumstances under Rule 8.4(a) terminate—i.e., the defendant is found by the court to be competent to stand trial or is no longer absent—the excluded time ends, and the time limits under Rules 8.2 and 8.3 begin to run again. In some situations, the end of the excluded time period can occur when the time limits to bring the defendant to trial have nearly expired, requiring the defendant to be brought to trial within days—even when the defendant’s trial has otherwise been delayed for months or years due to the defendant’s incompetency or absence. This in turn requires the scheduling of an immediate trial, locating and subpoenaing witnesses, and trial preparation with little advance notice for the court or the parties.</p> <p>The amendments to Rule 8.4(a) allow the court to exclude an additional period of 30 days from its computation of time limits if the court finds that the defendant is competent or restored to competency, or is no longer absent; and the finding occurs within 30 days of the time limits set forth in Rules 8.2 and 8.3.</p> <p><u>Impact:</u> The trial court should make, and the record should reflect, the requisite findings for excluding this time. The exclusion of an additional 30-day period from the time limits should allow the court and parties sufficient time to schedule and prepare for a trial.</p>
<p>Rule 7.6 <a href="#">R-16-0024</a></p>	<p>Superior Justice Municipal</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> These amendments result from the enactment of HB 2231, effective September 13, 2013. Rule 7.6(d)(2) currently provides a circumstance [surrender of a defendant by a surety to the sheriff] where the court “may” exonerate a bond. The amendments add these additional circumstances:</p> <ul style="list-style-type: none"> <li>- The defendant is in the sheriff’s custody on or before the day and time the defendant is ordered to appear in court, the surety provides an affidavit of surrender of the appearance bond to the sheriff, and the sheriff reports the affidavit of surrender of the appearance bond and the defendant’s custody to the court.”</li> <li>- Before the defendant was released to the surety’s custody, the defendant was released or transferred to the custody of another government agency, preventing the defendant from appearing in court on the day and</li> </ul>

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		<p>time the defendant was ordered to appear; and the surety establishes (a) the surety did not know that the defendant’s release or transfer was likely to occur; and (b) the defendant’s failure to appear was a direct result of the release or transfer.</p> <p>In the first of the above circumstances, exoneration of the bond is mandatory. The court is not required to exonerate the bond under the second circumstance if a detainer was placed on the defendant before the bond was posted, or the release or transfer to another government agency was for a period of twenty-four hours or less.</p> <p><u>Impact:</u> The court might see an increased number of motions to exonerate bonds.</p>
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**Rules of the Supreme Court (“SCR”)**

Rule	Affects	Summary and Impact
<p>Rule 32</p> <p><a href="#">R-16-0004</a></p>	<p>Judges</p>	<p><u>Summary:</u> Courts rely on the services of retired judges for coverage in a variety of situations. Retired judges are instrumental in filling the gap between their retirements and new judges taking office. This amendment to Rule 32(c)(6) allows “retired justices and judges who are eligible for temporary judicial assignment and are not engaged in the practice of law” eligible for “judicial member” status in the State Bar of Arizona.</p> <p>R-16-0013 below shows the text of this change. Another amendment to Rule 32(c)(6), proposed by rule petition R-16-0013, allows “tribal court judges” to have judicial member status in the State Bar.</p> <p><u>Impact:</u> Information only</p>
<p>Rule 123(g)</p> <p><a href="#">R-16-0008</a></p>	<p>Judges Clerks Administrators</p> <p>Superior Justice Municipal</p>	<p><u>Summary:</u> These amendments make removal of case management system data and case records from the court’s online display, pursuant to the applicable records retention schedules (ACJA §§3-402 and 4-302) mandatory rather than permissive.</p> <p><u>Impact:</u> The amendments also require courts or clerks of court to post “a prominent disclaimer on the court’s public</p>

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		access website stating that the availability of case management system data and case records is subject to the court’s records retention schedule.” Clerks also must remove case management system data and case records from electronic display as required under the retention schedules of ACJA §§ 3-402 or 4-302.
Rules 32 and 44 <a href="#">R-16-0012</a>	Judges	<p><u>Summary:</u> Amendments to Rule 32(d) provide the State Bar’s Board of Governors with the Court’s express authorization to administer a Board of Legal Specialization (“BLS”) to certify specialists in specified areas of practice in accordance with Rule 44.</p> <p>Among other things, new Rule 44:</p> <ul style="list-style-type: none"> <li>- Requires the Court to appoint members of the BLS;</li> <li>- Requires Court approval of BLS rules, which would include rules concerning the designated practice areas of specialization and the qualifications for specialization; and</li> <li>- Provides an attorney aggrieved by a decision of the BLS the opportunity to seek judicial review.</li> </ul> <p><u>Impact:</u> Information only</p>
Rule 32 <a href="#">R-16-0013</a>	Judges	<p><u>Summary:</u> The amendments include restyling as well as substantive changes.</p> <p>The rule as adopted includes modified language of the State Bar’s mission as stated in Rule 32(a)(2): “The State Bar of Arizona exists to serve and protect the public with respect to the provision of legal services and access to justice. Consistent with these goals, the State Bar of Arizona seeks to improve the administration of justice and the competency, ethics, and professionalism of lawyers practicing in Arizona.”</p> <p>Rule 32(e)(2) concerns “elected governors.” The amendments reduce the number of elected governors from 18 to 15; this is a reduction of one governor in District Five (Pima/Santa Cruz), and a reduction of two governors in District Six (Maricopa). Active out-of-state member of the State Bar may now vote in elections for governors. There</p>

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		<p>is a new category of “appointed governors” in Rule 32(e)(4)(C) designated “district governors.” District governors must be State Bar members and the Court appoints them -- one from District Five and two from District Six. The 26 members of the board therefore include 15 governors elected by district, one elected YLD president, and 10 members appointed by the Court (4 public, 3 at-large, and 3 district.)</p> <p>The immediate past president serves as a board advisor (Rule 32(e)(8), and the law school deans serve as ex officio members (Rule 32(e)(9).)</p> <p>The adopted rule includes a number of other changes recommended by the rule petition, including implementation of the rule in a manner that provides for the election and appointment of approximately one-third of the board each year (Rule 32(e)(1).) Accordingly, the January 1, 2017 effective date of these changes is subject to the provisions of Attachment B to the Order, which provides for a three-year implementation of Rule 32(e) beginning in 2019.</p> <p><u>Impact:</u> Information only</p>
<p>Rule 28.1 <a href="#">R-16-0033</a></p>	<p>Judges Clerks Administrators</p> <p>Superior Justice Municipal</p>	<p><u>Summary:</u> This new rule implements a procedure for presiding judges to request Supreme Court approval of new and amended local rules for superior courts, justice of the peace courts, and magistrate courts.</p> <p>R-16-0033 also abrogates Civil Rule 83, Criminal Rule 36, Juvenile Rule 5, and Family Rule 21.</p> <p><u>Impact:</u> Before submitting a proposed new or amended local rule for Supreme Court approval, the presiding judge must post the proposal for at least 30 days on the website of the judge’s court with an invitation for comments. The presiding judge must concurrently request the Supreme Court clerk to circulate the proposal to the distribution list in Supreme Court Rule 28(C) along with an invitation for the submission of comments on the website of the presiding judge’s court. The Supreme Court may also open the request for public comment.</p> <p>Rule 28.1(i) requires publication of local rules.</p>

**Rules of Civil Appellate Procedure**

Rule	Affects	Summary and Impact
Rule 5(a) <a href="#">R16-0034</a>	Judges Clerks Administrators  ASC + COA	<p><u>Summary:</u> This amended rule eliminates the provision in Rule 5(a) that allows a party to add five calendar days when calculating the deadline for responding to an electronically served appellate filing.</p> <p><u>Impact:</u> Although frequent appellate filers are probably aware of this change, the court should educate and inform occasional and infrequent filers to assist them in avoiding untimely filings because of a miscalculation of a due date.</p> <p>Note that this rule change applies only to civil appeals.</p>

**Rules of Juvenile Procedure**

Rule	Affects	Summary and Impact
Rule 12 <a href="#">R-15-0036</a>	Superior  Judges Clerks Administrators Juvenile Court Directors	<p><u>Summary:</u> This rule petition averred that the use of mechanical restraints (for example, handcuffs, leg irons, or belly chains) on juveniles transported from detention to superior court, and while appearing in court, varies from county to county. The petition requested adoption of a uniform statewide rule on this subject, which the Court has now adopted as a new Rule 12(E). This rule’s provisions include the following:</p> <ul style="list-style-type: none"> <li>- When a juvenile appears before a judicial officer at a hearing in the juvenile’s delinquency case, the juvenile must be free of mechanical restraints unless there are no less restrictive alternatives that will prevent flight or physical harm to the juvenile or to another person. Subpart (E)(1) of the rule specifies several relevant factors that may warrant the use of mechanical restraints.</li> <li>- A prior determination by a court that the juvenile should appear in mechanical restraints remains in effect until further order of the court.</li> <li>- If a juvenile is brought before the judicial officer in mechanical restraints, the juvenile may object through counsel. After the judicial officer has heard from the juvenile, the State, and any detention personnel, and after</li> </ul>

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		<p>considering the factors listed in subparts (E)(1), the judicial officer can approve or disapprove the use of restraints.</p> <p>- Except when a juvenile appears before a judicial officer at a hearing in the juvenile’s delinquency case, the policies and procedures in effect for courts in the specific county, as required by the Arizona Juvenile Detention Standards, govern the use of mechanical restraints.</p> <p><u>Impact:</u> Judicial officers in juvenile court should anticipate objections under this new rule to the use of restraints. Those objections will require the judicial officer to consider the factors specified in the rule and determine whether these factors warrant the use of restraints.</p>
<p>Rule 40.2 <a href="#">R-15-0040</a></p>	<p>Superior Judges Clerks Administrators</p>	<p><u>Summary:</u> In January 2012, the Court adopted Rule 40.1, which provides duties and responsibilities of appointed counsel and GALs for children in dependency and termination cases. This new Rule 40.2 establishes duties and responsibilities for attorneys representing parents in dependency cases.</p> <p>The new rule includes a list of qualifications for serving as counsel in these cases, and the duties of counsel. One of those duties requires attorneys to provide to the presiding juvenile court judge, before or at the time of their first appointment, an affidavit of completion of a 6-hour court-approved training. Attorneys also must file annually an affidavit certifying compliance with the rule’s continuing education requirements [8 hours on juvenile law and related topics].</p> <p>See further Supreme Court Administrative Order number 2011-16, which previously established similar requirements.</p> <p><u>Impact:</u> If not already in place, juvenile courts will need to establish a process for the parents’ attorneys in these proceedings to submit their initial affidavits of completion of training to the presiding judge, and for filing their annual certificates of compliance with continuing education requirements.</p>

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<p>Rules 45 and 58</p> <p><a href="#">R15-0042</a></p>	<p>Superior</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> The intent of these amendments is to increase the educational stability of children in foster care, to increase their graduation rates, and to lower their rate of dropping-out.</p> <p>The amendments to Rule 45 require that the child safety worker’s narrative report address the appropriateness of the child’s school placement, services to help the child achieve his or her educational potential, resolution of school attendance issues, special education services, and grade level progress. The amendments to Rule 58 specifically require DCS reports at review hearings to address the educational stability of the child.</p> <p><u>Impact:</u> An amendment to Rule 58(F)(3) requires that the portion of the court’s findings and orders addressing services provided to the child and family must include the educational stability of the child.</p>
<p>Rule 19</p> <p><a href="#">R-16-0005</a></p>	<p>Superior</p> <p>Judges Clerks Administrators Juvenile Court Directors</p>	<p><u>Summary:</u> Rule 19 of the Rules of Procedure for the Juvenile Court govern juvenile court records. While Rule 19(A)(1) establishes that the juvenile court’s legal file (pleadings, motions, minute entries, orders, etc.) is open to public inspection, Rule 19(A)(2) designates the juvenile’s social file—maintained by the probation department—as confidential and not open to the public.</p> <p>This amendment to Rule 19 clarifies that “in addition to records open to public inspection, the juvenile court may release all records in its possession to a juvenile probation department when necessary for supervision of a juvenile.”</p> <p><u>Impact:</u> The change to Rule 19 allows a juvenile probation officer to seek and receive juvenile court records much the same way that an adult probation officer or prosecutor may pursuant to A.R.S. § 8-208(B). This insures the timely exchange of information when, for example, a juvenile relocates from one county to another and the juvenile’s supervision is transferred from one juvenile probation department to another.</p>
<p>Rule 39</p> <p><a href="#">R-16-0009</a></p>	<p>Superior</p> <p>Judges Clerks</p>	<p><u>Summary:</u> Rule 39 allows an attorney to request to withdraw from a dependency or termination case in writing, but the current rule has no further specifications.</p>

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	Administrators	<p>These amendments more closely align the requirements for withdrawal under Rule 39 with the civil and family rules.</p> <p>The amendments permit an <i>ex parte</i> application to withdraw, if it includes the client’s written approval, and if the withdrawing attorney gives prompt notice to all other parties of the entry of an order allowing the withdrawal. Otherwise, withdrawal must be by motion, with the attorney’s certification that counsel has notified the client of the status of the case and pending court dates. There are also limitations on withdrawal after a matter has been set for trial. These amendments do not apply to attorneys appointed for children or attorneys appointed as a GAL, because those clients are not in a position to consent to withdrawal of their counsel.</p> <p><u>Impact:</u> Clerks and administrators should anticipate that counsel will file <i>ex parte</i> applications to withdraw.</p>
<p>Rules 19, 30, and 47</p> <p><a href="#">R-16-0025</a></p>	<p>Superior Justice Municipal</p> <p>Judges Clerks Administrators Juvenile Court Directors</p>	<p><u>Summary:</u> These amendments address practices concerning the juvenile’s social file in delinquency cases,</p> <p>Amendments to the “legal file” provisions of <u>Rule 19(A)</u> provide:</p> <p>“The legal file of the juvenile court shall consist of all pleadings, motions, minute entries, orders, or other documents <del>as the court may order</del> <u>as provided by rule or ordered by the court. Within the legal file, the clerk shall file and segregate confidential documents, including any records from the social file submitted to the court as provided in Rule 30(A)(6). In addition, the court may close all or part of the legal file upon a finding of a need to protect the welfare of the victim or another person or a clear public interest in confidentiality. With the exception of the portions of the file marked confidential, or ordered closed by the judge, the legal file shall be open to public inspection without order of the court, except upon a finding by the court of a need to protect the welfare of the victim, another party or a clear public interest in confidentiality. The court shall state its reasons for withholding the legal file, or portions thereof, from public inspection.”</u></p> <p>Amendments to the “disposition report” provisions of <u>Rule 30(A)</u> provide:</p>

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		<p>“The disposition report shall be confidential and withheld from public inspection except upon order of the court.”</p> <p>These amendments also require that the disposition report “include and mark as confidential any Rule 19 (A)(2) social file records relevant to the recommendations.”</p> <p><u>Impact:</u> An amendment to Rule 30(A)(6) requires the clerk to “file disposition reports and any Rule 19(A)(2) social file records provided with the report and marked confidential in a segregated portion of the legal file.”</p>
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**Rules of Family Law Procedure (“ARFLP”)**

Rule	Affects	Summary and Impact
<p>Rules 41 and 42</p> <p><a href="#">R-16-0006</a></p>	<p>Superior</p> <p>Judges</p> <p>Clerks</p> <p>Administrators</p>	<p><u>Summary:</u> These rules respectively concern service of process within and outside of the State of Arizona. Although these rules allow for service of process by certified mail or national courier service, with a receipt signed by the party who is being served, incarcerated individuals are unable to sign for certified mail or courier service deliveries. Accordingly, these rule amendments allow the signature of a jail or prison official on a return receipt or signature confirmation to constitute sufficient evidence of service of process when the party being served is incarcerated.</p> <p><u>Impact:</u> The court should be aware, notwithstanding a requirement that the return receipt “is signed by the party to be served,” the signature on the receipt in these circumstances might not be that of the served party.</p>
<p>Rules 2, 5, 10, 14, 24, 27, 28, 41, 42, 44, 45, 49, 66, 67, 68, 73, 76, 91, 95, and 97</p> <p><a href="#">R-16-0028</a></p>	<p>Superior</p> <p>Judges</p> <p>Clerks</p> <p>Administrators</p>	<p><u>Summary:</u> Amendments to these 20 rules align their nomenclature with Session Law 2012, Chapter 309. “Legal decision-making” replaces “legal custody.” “Physical custody” or “parental visitation” are now “parenting time” or “legal decision-making and parenting time.” There are conforming changes to Rule 97, Forms 1, 7, 8, 11, and 16.</p> <p><u>Impact:</u> Courts should assure that locally promulgated forms are compatible with these terminology changes.</p>

**Rules of Protective Order Procedure**

Rule	Affects	Summary and Impact
Rules 25(b) and 26(b)  <a href="#">R-15-0035</a>	Superior Justice Municipal  Judges Clerks Administrators	<p><u>Summary:</u> Recent amendments to ARPOP Rule 23(b) require a petition for an order of protection to “allege each specific act of domestic violence that will be relied on at hearing.”</p> <p>The amendments add comparable requirements for petitions under Rule 25 (Injunction Against Harassment) and Rule 26 (Injunction Against Workplace Harassment.)</p> <p><u>Impact:</u> The allegation requirements in Rules 25 and 26 now align with those in Rule 23(b).</p>
Rule 31  <a href="#">R-16-0026</a>	Superior Justice Municipal  Judges Clerks Administrators	<p><u>Summary:</u> The amendment to Rule 31 allows a court to transmit documents for service of an Order of Protection or an Injunction Against Harassment based on a dating relationship to a cooperating law enforcement agency or a private process server under contract with a court. This rule change should expedite service of orders, optimize communication between courts and law enforcement, and improve service to court customers.</p> <p><u>Impact:</u> The court needs to obtain the victim’s consent, which can be verbal, to transmit the order for service.</p>

**Rules of Procedure for Eviction Actions (“RPEA”)**

Rule	Affects	Summary and Impact
Rule 9  <a href="#">R-16-0022</a>	Justice  Judges Clerks Administrators	<p><u>Summary:</u> The petition stated that eviction court litigants should have the same right to a change of judge (as a matter of right and for cause) as other civil litigants in justice and superior court. Petitioner contended that allowing a change of judge in eviction cases would affect neither the administration of justice nor time standards for eviction cases. (Note that RPEA Rule 1 already incorporates Civil Rule 42(f) by reference for eviction actions pending in the superior court.)</p> <p>This rule amendment allows a party to request a change of judge as a matter of right orally or in writing. The request is timely if it is made prior to, or at the time of, a party’s first court appearance, or upon reassignment of the matter</p>

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		<p>to a new judge for trial. The request must state that the party or side has not previously requested a change of judge in the action, that the party has not waived the right to change of judge, and that the request is timely. A party waives a right to a change of judge if the judge has ruled on any contested motion or issue, or if the trial has started. Upon a proper and timely request for a change of judge as a matter of right, the court must transfer the case to a new judge within the county for further proceedings. The change of venue procedures of A.R.S. § 22-204 are applicable to a change of judge for cause.</p> <p><u>Impact:</u> This rule amendment -- allowing a change of judge as a matter of right in a justice court eviction action -- is new. Justice court judges and clerks must anticipate the filing of these requests starting January 1, 2017. A party may make the request prior to, or at, the first court appearance, and the party may make the request orally as well as in writing. Justice court judges, clerks, and administrators should establish a process for transferring the case to a new judge when a party makes a proper request.</p> <p><u>Note:</u> The Court adopted the petition on an experimental basis. It recirculated the rule for comment and the Court's further consideration at its August 2017 rules agenda. Comments are due July 14, 2017.</p>
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**Rule Petitions Continued**

Petition Number and Rule	Summary
<p>R-16-0020</p> <p>Family Law Rule 78</p>	<p>The petition states that the purpose of the proposed rule amendment “is to conform the Family Law Rule to the corresponding Rule of Civil Procedure regarding time to request attorney’s fees after a rule on the other pending issues.” The proposed amendment would allow the court to deny a fee award if the court has ruled on all other pending issues except attorney’s fees, and the claimant does not file a timely, separate Rule 83 motion for new trial or amended judgment.</p> <p>The Court continued the petition to its August 2017 rules agenda.</p>

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<p><a href="#">R-16-0037</a></p> <p>Family Law Rule 72</p>	<p>The Court reopened a revised version of the proposed amendments for further comments, which were due on October 28, 2016. An amendment to Rule 72(A) would provide, “The court may not appoint a family law master over a party’s objection unless the court determines and makes findings that the parties can afford to pay the compensation fixed by the court.”</p> <p>An amendment to Rule 72(B) would provide, in part, “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.”</p> <p>The Court continued the petition to its December 2016 rules agenda.</p>
<p>R-15-0037</p> <p>Juvenile Rule 40.2</p>	<p>Juvenile Rule 40C currently permits the court to appoint a guardian ad litem for a parent, guardian, or Indian custodian when the court believes the person may be incompetent and in need of protection. Proposed new Rule 40.2 would delineate the role of these guardians, and provide guidance to all parties concerning the guardians’ duties, which would include the guardians’ ability to file a notice of appeal without an avowal of incompetency.</p>

**Rule Petitions Denied by the Court**

Petition Number and Rule	Summary
<p>R-16-0019</p> <p>Civil Rule 10 and JCRCP Rule 110</p>	<p>The petition stated that in some cases, and particularly with marital communities, a “known defendant will not reveal another defendant’s existence or true name until after judgment.”</p> <p>The amendments to these two rules proposed that if a defendant’s true name was not discovered before judgment, the court still could enter judgment against the fictitiously named defendant if the court found:</p> <ul style="list-style-type: none"> <li>(1) the defendant received service in accordance with the rules, and</li> <li>(2) the defendant was reasonably identified such that the defendant knew or should have known of the pleading or proceeding.</li> </ul>
<p>R-15-0038</p>	<p>The petition averred that prosecutors’ discovery obligations “frequently are not met.” It proposed that a judge “enter into a</p>

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<p>Criminal Rule 16.4</p>	<p>colloquy with the prosecutor to ensure that proper measures have been or are being taken to ensure that disclosure obligations are met.” It would have codified this practice by an amendment to the rule on mandatory prehearing conferences with the following text:</p> <p>“The Court shall ensure that the prosecutor has searched its files, the investigating police agency’s files, and any other appropriate files, to determine whether information which tends to mitigate or negate the defendant’s guilt, or which would tend to reduce the defendant’s punishment exists and has been disclosed.” [Petitioner proposed this language in a request to amend filed 1/21/16.]</p>
<p>R-16-0031 Criminal Rules 20 and 24</p>	<p>If the trial court grants a judgment of acquittal before the verdict under Rule 20(a), that judgment is not reviewable on appeal and double jeopardy bars a retrial of the defendant on the charge. The petition contended this pre-verdict acquittal process deprives the State of its right to a jury trial on the charge, and denies a crime victim his or her rights to justice and due process. Accordingly, the petition proposed deleting Rule 20.</p> <p>The petition proposed that Rule 20(b), which is a judgment of acquittal after a jury verdict, would be re-located as a new Rule 24.1. A post-verdict judgment of acquittal is reviewable on appeal.</p>
<p>R-16-0001 Supreme Court Rule 122</p>	<p>This petition asserted that the word “proceedings,” which is currently defined in Rule 122, is difficult to understand. The petition requested further clarification of this rule so it did not apply to public meetings (including meetings of a Supreme Court committee.) The proposed amendment to Rule 122 would have provided, “This and all other provisions of this Rule 122 apply only to ‘proceedings’ as defined herein. Access to public meetings is governed by A.R.S. 38-431.01.”</p>
<p>R-16-0011 Supreme Court Rule 42</p>	<p>The proposed amendment to Rule 42, ER 1.6 [“Confidentiality of Information”] would have allowed a licensed Adoption Service Provider to share specific information from its birthparent database, with other licensed Adoption Service Providers anywhere within the United States, for the purpose of preventing or mitigating fraudulent birthparent activities.</p> <p>The petition stated:</p>

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	<p>“The amended Rule would allow, in the event of suspected or confirmed multiple representation, discontinued services, or misrepresentation, for an Adoption Service Provider to contact and release as much information as necessary to any other Adoption Service Providers or adopting family for the purpose of mitigating or preventing fraud. The disclosure of this information is vital to properly assessing the motives, means and intentions of a prospective birthmother. This could in turn, prevent a prospective adoptive family from becoming involved with a birthmother who they felt had too many previous indiscretions or who they felt had questionable intentions regarding the adoption. Knowing that a potential birthmother has a history of placement failures, has worked with multiple families, or has a history of faking pregnancy could prevent an adoptive family from accepting a match with that birthmother that could possibly leave them in emotional and financial ruin.”</p>
<p>R-16-0021</p> <p>Family Law Rules 65 and 76</p>	<p>The petition stated, in part:</p> <p>“Despite the many years since implementation of the original disclosure requirements in the Arizona Rules of Civil Procedure 26.1, which were later substantially adopted in the Arizona Rules of Family Law Procedure 49, many parties are either unaware of their obligations for voluntary disclosure or choose to ignore them.</p> <p>“The change to Rule 76 directs the court to remind the parties of their obligations for disclosure under Rule 49 at any Resolution Management Conference.</p> <p>“Rule 65 allows the court to impose sanctions against a party who fails to comply with the rule. The amendment to Rule 65 adds a <i>clean hands</i> component which provides direction that the court should not impose sanctions at the behest of one party if that party has not themselves substantially complied with their disclosure obligations under Rule 49.”</p>