

## Arizona Commission on Access to Justice

### Meeting Agenda

November 18, 2015 - 10:00 a.m. to 2:00 p.m.

State Courts Building ♦ 1501 West Washington ♦ Conference Room 119 ♦ Phoenix, Arizona

Conference call-in number: 602-452-3288 Access code: 8795

[ACAJ WEBPAGE](#) [WebEx link](#)  

| TIME       | AGENDA ITEM  | PRESENTER   |
|------------|--|---|
| 10:00 a.m. | Welcome and Opening Remarks  | <i>Judge Lawrence F. Winthrop, Chair</i>                                  |
| * Pg. 3    | Approval of minutes from August 12, 2015<br><input type="checkbox"/> <b>Formal Action/Request</b>                            |   |
| 10:05 a.m. | Chairperson's report   | <i>Judge Winthrop</i>   |
| * Pg. 9    |  |   |
| 10:20 a.m. | Report from SRL-Family Court Workgroup   | <i>Judge Dean Fink, SRL-FC Workgroup Chair</i>                            |
| * Pg. 13   | * Pg. 15 • Maricopa County's AmeriCorps project  | <i>Maggie Kiel-Morse, SRL-FC Workgroup Chair</i>                          |
|            | • Update on Law4AZ training programs   |   |
|            | * Pg. 23 • Update on AZCourtHelp - Arizona's<br>Virtual Access & Resource Center   |   |
|            | * Pg. 25 • FAQ document - "Q&R Handbook"   |   |
|            | • Simpli Phi Lex project – instructions<br><input type="checkbox"/> <b>Formal Action/Request</b>                             |   |
| 10:50 a.m. | Report from SRL-Limited Jurisdiction Courts<br>Workgroup   | <i>Judge Rachel Torres Carrillo,<br/>SRL-LJC Workgroup Chair</i>          |
| * Pg. 85   | * Pg. 86 • Forms and instructions for landlord and<br>tenant issues<br><input type="checkbox"/> <b>Formal Action/Request</b> |   |
|            | • Update on Resources Sub-Workgroup<br>efforts   |   |
|            | * Pg. 135 • Maricopa County Justice Court Best<br>Practices  | <i>Judge Steven McMurry<br/>Encanto Precinct Justice of the Peace</i>     |
| 11:20 a.m. | Barriers to access to justice for tenants in<br>eviction cases   | <i>Pamela Bridge<br/>Director of Litigation, Community Legal Services</i> |
| * Pg. 143  | <input type="checkbox"/> <b>Formal Action/Request</b>  |   |

The Chair may call items on this Agenda, including the Call to the Public, out of the indicated order. Please contact Kathy Sekardi (602) 452-3253 or Nick Olm (602) 452-3134 with any questions concerning this agenda. Persons with a disability may request reasonable accommodations by contacting Julie Graber at (602) 452-3250. Please make requests as early as possible to allow time to arrange accommodations.

11:35 a.m. [R-14-0027](#): Rule 11, Rules of Procedure for Eviction Actions *Judge Mark Armstrong (Ret.)  
Supreme Court Staff Attorney*

11:45 a.m. Update: Arizona Charitable Tax Credit campaign efforts *Judge Winthrop*

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**🍴 Lunch - 12:00 p.m. 🍴**

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1:00 p.m. Report from *Pro Bono* Service and Funding Workgroup *Judge Joseph Kreamer, Pro Bono Workgroup Chair  
Dr. Kevin Ruegg, AZFLSE*

- Update regarding the *Pro Bono* Workgroup and outreach efforts

1:15 p.m. Report on non-lawyer representation issues *Judge Kreamer  
Non-lawyer Representation Task Force Chair*

1:40 p.m. Report on Town Hall discussion *Judge Patricia K. Norris  
Court of Appeals, Div. 1*

1:55 p.m. Good of the Order/Call to the Public Adjournment *Judge Winthrop*

**Mark your calendars!**

**2016 Meetings**

February 17, May 18, August 17, and November 9  
10:00 a.m. to 2:00 p.m.  
State Courts Building, Phoenix, Arizona  
Conference Room 119

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**Arizona Commission on Access to Justice**  
**DRAFT MINUTES**  
**August 12, 2015**  
**10:00 a.m. to 2:00 p.m., Room 119**  
**State Courts Building, 1501 W. Washington Street**  
**Phoenix, AZ 85007**

**Present:** Judge Lawrence Winthrop, Chair; Kip Anderson; Judge Janet Barton; Mike Baumstark; Judge Thomas Berning; Judge Marie Elena Cruz; Michael Jeanes; Ellen Katz; Judge James Marner; John Phelps; Janet Regner; Kevin Reugg; Judge Rachel Torres Carrillo

**Telephonic:** Stacey Butler; Cari Gerchick

**Absent/Excused:** Millie Cisneros; Barb Dawson; Steve Seleznow; Lisa Urias; Anthony Young

**Presenters/Guests:** Kim Bernhart; Dan Christensen; Judge Dean Fink; Janet Fisher; Shawn Friend; Pat Gerrich; Maggie Kiel-Morse; Billie Jo Garcia; Chris Groninger; Tara Jackson; Paul Julien; Judge Joseph Kreamer; Judge Paul McMurdie; Lara Slifko; Deborah Tanner; Merri Tiseth; Scott Uthe

**Administrative Office of the Courts (AOC):** Dave Byers; Paul Julien; Alicia Moffat

**AOC Staff:** Theresa Barrett; Julie Graber; Nick Olm; Kathy Sekardi

## **I. REGULAR BUSINESS**

### **A. Welcome, Opening Remarks and Approval of Minutes**

With a quorum present, the August 12, 2015 meeting of the Arizona Commission on Access to Justice (ACAJ) was called to order by the Chair, Judge Larry Winthrop, at 10:10 a.m.

**Motion:** Judge Cruz moved to approve the May 20, 2015 minutes. The motion was seconded and passed unanimously.

### **B. Chairperson's Report on Presentations and Meetings**

- Judge Winthrop met with the Arizona Supreme Court at its annual retreat to discuss the ACAJ's recommendations and the efforts of the workgroups.
- Judge Winthrop, along with Judge Carrillo and Paul Julien presented at the State Judicial Conference regarding self-represented litigants and judicial ethics.
- Judge Winthrop, along with Sheldon Krantz – a senior partner at DLA Piper in Washington D.C. and Judge Barton, presented at the State Bar Convention a session regarding handling self-represented litigants in family court.

- In July, Judge Winthrop, along with Janet Fisher and Maggie Kiel-Morse, traveled to the American Association of Law Librarians convention in Philadelphia to learn about the library legal resource projects around the country.
- Judge Winthrop met with the Pro Bono and Charitable Activities Committee of the Arizona Chapter of the Association of Corporate Counsel, which will explore potential partnerships with our civil legal aid providers and other pro bono opportunities.
- Judge Winthrop met with a representative from Legal Shield, an entity that provides pre-paid legal services to individuals and business entities. Judge Winthrop may ask a committee member to look further into this and make a recommendation to the ACAJ.
- Ellen Katz, Kevin Reugg and other Arizona Foundation for Legal Services & Education representatives, proposed an amendment to Rule 23 of the Arizona Rules of Civil Procedure. The Arizona Supreme Court will consider it at the Rules Agenda scheduled for August 26, 2015.
- The U.S. Senate Appropriations Committee approved \$385 million for the Legal Services Corporation for fiscal year 2016 and the approval will move to the full Senate for consideration.
- Additional items to note:
  - Paulette Brown is the new president of the American Bar Association.
  - The Conference of Chief Justices and the Conference of State Court Administrators recently issued joint resolutions on access to justice issues.
  - Barb Dawson is working with the editor of the Arizona Attorney Magazine, Tim Eigo, to highlight in the April 2016 edition the generous efforts of pro bono lawyers in Arizona.
  - There may be an increase in the federal funds rate which could lead to a higher return on Interest on Lawyer Trust Account (IOLTA) funds.
  - The 40<sup>th</sup> Anniversary Legal Services Corporation Annual report has been published.
  - There are additional reading materials on the ACAJ webpage regarding access to justice topics.

## **II. REPORT FROM SRL-FAMILY COURT (SRL-FC) WORKGROUP**

### **A. Report from the SRL-FC workgroup.**

- Ms. Kiel-Morse reported that the Law4AZ training has had a few small sessions with positive feedback and attendees have stated that they would like a broader range of issues to be covered. They are currently working on expanding this program to the remaining nine counties in Arizona.
- Ms. Fisher reported that the workgroup is continually working on the list of FAQs and standard answers as well as updating and further expanding the 2007 Legal Information v. Legal Advice report. Judge Winthrop encouraged members to look at the draft FAQs and to provide their suggested edits by September 11, 2015.

- Judge Barton reported that the state administrator of the AmeriCorps grant application suggested that Maricopa County update and provide additional information on their application. This was viewed as promising news and Maricopa County expects to be notified in September if they received the grant.
- Judge Barton also informed the commission that Maricopa County's new Law Library and Self-Help Resource Center should be opened to the public soon.
- Mr. Byers reported that the Administrative Office of the Courts (AOC) hosted and led a team of persons from the Attorney Generals' Office, AOC, Department of Economic Security/Division of Child Support Services and court administration from Coconino County, to visit Family Law Facilitator Programs in two small counties in California. The team was to observe the resource and self-help centers processes and to form ideas for a virtual self-help center. The team also visited the Coconino County Law Library, which will be the home of the new Arizona virtual resource and self-help center.
- Judge Barton presented the Parent Information Program videos on Maricopa County's YouTube page. Judge Barton offered to share this resource (link, videos, and scripts) with other counties so they can modify with their county-specific information.

### **III. REPORT FROM SRL-LIMITED JURISDICTION COURTS WORKGROUP:**

#### **A. Report from the Forms and Instructions sub-workgroup.**

- Judge Carrillo stated the sub-workgroup and other stakeholders met four times since the last ACAJ meeting and continued to work on the following documents: the 5-day Notice to Vacate; 5-Day notice of Health and Safety Violation; 10-day Notice of Material Breach; Immediate Notice to Move; Notice of Repeat Material or Health and Safety Breach; Notice of Non-Renewal of Rental Agreement; General Information about Landlord and Tenant Rights and Options Before You Come to Court; General Information for Tenants Who Have Been Served with Eviction Court Pleadings; General Information for a Landlord Filing an Eviction Action in Justice Court; Judgment; Complaint; and Summons.
- Judge Carrillo requested members of the commission to send any and all comments or suggestions for the forms to Nick Olm.

#### **B. Report from the Resources sub-workgroup.**

- Mr. Paul Julien stated he put together a team that is in the beginning stages of producing landlord/tenant videos for self-represented litigants. The team members include: Beverly Parker, Southern Arizona Legal Aid; Denise Holliday, landlord attorney; and Judge Steven McMurry, Justice of the Peace, Maricopa County. Additionally, the sub-workgroup has been discussing the possibilities of developing short videos for self-represented litigants concerning issues relating to consumer debt law.

- Regarding judicial education, Mr. Julien stated that there was a presentation by Judge Carrillo, Judge Winthrop and Mr. Julien at a recent judicial conference concerning interaction with self-represented litigants in the court. Mr. Julien reported he is working with the Judicial Education Officer of Maricopa County on a program called *Ensuring Access to Justice for Self-represented Litigants in Civil Cases* that Chief Justice Bales and Judge Barton will be participating in; 40 justices of the peace and hearing officers are scheduled to attend this program. Lastly, Mr. Julien and Judge Carrillo will be presenting on dealing with self-represented litigants at the annual Justice of the Peace Conference on September 2.

#### IV. REPORT FROM *PRO BONO* SERVICES AND FUNDING WORKGROUP

##### A. Kevin Ruegg and Lara Slifko presented the [Online Arizona Justice](#) website and navigated the Arizona Foundation for Legal Services & Education Charitable Tax Credit website.

- Ms. Slifko stated that the OnlineArizonaJustice.org website is an on-line portal for lawyers to learn of pro bono opportunities and to provide legal information to individuals who have submitted written questions. This website allows Arizona attorneys the opportunity to view cases that need legal assistance and make a selection to take a case on a *pro bono* basis -- the attorney will receive Continuing Legal Education (CLE) credit.
- Ms. Slifko and Dr. Ruegg stated that they plan to work further with *pro bono* lawyers to disseminate information regarding the availability of the state tax credit and they hope to have another informative tax credit video completed for this tax year.

##### B. Intel colleagues, Dan Christensen and Scott Uthe, provided a brief report on the potential for corporate *pro bono* assistance.

- Mr. Christensen and Mr. Uthe stated that in-house counsel are an untapped resource for *pro bono* services and they are reaching out to other corporations, such as Honeywell, WalMart, and SRP to encourage others to provide *pro bono* legal services, to educate on the value of *pro bono* participation, and for in-house counsel to receive education and resources they need in order to provide *pro bono* services.

#### VI. INFORMATION REGARDING NON-LAWYER REPRESENTATION ISSUES

##### A. Kay Radwanski, AOC staff to the Committee on the Impact of Domestic Violence and the Courts (CIDVC), presented on the Arizona Rules of Order of Protection Procedure (ARPOP) Rule Change Petition and Amendments

- Ms. Radwanski stated that, as part of the Advancing Justice Together Strategic Agenda, CIDVC reorganized ARPOP into 42 rules with subparts, including two new rules. Rule

20b states that a plaintiff cannot be asked to disclose the location of a domestic violence shelter residence. The second addition to Rule 20 allows a plaintiff to use a substitute address provided through the Secretary of State's Address Confidentiality Program.

- Ms. Radwanski further related that Barbara LaWall, Pima County Attorney, suggested two additions: that there be a rule that allows a lay domestic violence advocate accompany the plaintiff in an *ex parte* protective order hearing; second, that would allow a plaintiff to appear at an *ex parte* protective order hearing with children if the plaintiff would otherwise be denied access to the courts. CIDVC filed a reply to their rules petition that supported the incorporation of Ms. LaWall's suggestions.
- The proposed changes are slated for the Supreme Court's rules agenda on August 26.

**B. Chris Groninger and Merri Tiseth presented on increasing the effectiveness of the "Lay Legal Advocates" and information regarding the Arizona Town Hall discussion regarding non-lawyer representation.**

- Ms. Groninger proposed expanding the definition and role of the Domestic Violence Lay Legal Advocated to include sitting with the client at the litigant table and providing factual information to the judge. The expanded definition also envisions the advocate becoming a licensed Certified Legal Document Preparer, which would allow the advocate to prepare forms on behalf of the client. A proposed pilot project would be slated to last 24 months.
- Member responses included a recognition that the State needs to start the discussion and examine standards, accountability, ethical requirements, and protocols of this type of advocate, in addition to discussing expectations of an "advocate." Other members recognized and discussed the statutory and historical protections, privileges, and scope of representation that are afforded formal attorney/client relationships.

**Motion:** Ms. Ruegg moved to have the commission move forward with evaluating non-lawyer representation in Arizona. The motion was seconded by Judge Barton and passed unanimously.

- Judge Winthrop delegated the task of initial investigation and recommendations concerning this topic to Todd Lang and Judge Joseph Kreamer. If others would like to volunteer for this project, they should contact Judge Winthrop.

## **VII. OTHER BUSINESS**

### **A. Miscellaneous**

Judge Winthrop mentioned that the Supreme Court is considering an amendment to Rule 23 of the Arizona Rules of Civil Procedure that deals with class actions. This amendment would allow the court to direct unallocated funds for class action settlements to the Bar Foundation in trust to be distributed to legal aid providers and other non-profit organizations providing

legal services, particularly related to the class action itself, rather than being returned to the defendant(s) whose conduct was the subject of the class action lawsuit.

**Motion:** Judge Berning moved to support the petition for the Supreme Court to consider amending Rule 23 of the Arizona Rules of Civil Procedure as stated above. The motion was seconded by Judge Cruz and passed unanimously.

Judge Winthrop concluded the meeting by thanking members and guests for their presence and contributions at today's meeting.

**B. Good of the Order/ Call to the Public**

There was no response to a call to the public.

**C. Adjournment**

Meeting adjourned at 2:11 p.m.

**D. Next Commission Meeting Date**

November 18, 2015

10:00 a.m. to 2:00 p.m.

State Courts Building, Conference Room 119A/B

1501 W. Washington

Phoenix, Arizona 85007

Arizona Commission on Access to Justice

|                                    |  |                                  |
|------------------------------------|--|----------------------------------|
| Meeting Date:<br>November 18, 2015 | Type of Action Requested:<br><input type="checkbox"/> Formal action or request<br><input checked="" type="checkbox"/> Information only<br><input type="checkbox"/> Other | Subject:<br>Chairperson's Report |
|------------------------------------|--|----------------------------------|

From: Judge Lawrence F. Winthrop, Chair

Presenter: Judge Winthrop

Discussion: Judge Winthrop will report on: (1) the latest statistics from the U.S. Census Bureau regarding poverty population and income levels; and (2) the presentations and meetings.

Recommended motion: Information only

# 2014 Poverty Rates (U.S. Census Bureau)

United States

▶ 14.8%

Arizona

▶ 21.2%

# Median Income by Arizona County

| County   | Poverty Rate | Median Income |
|----------|--------------|---------------|
| Apache   | 38.7         | \$30,252      |
| Cochise  | 18.8         | \$45,294      |
| Coconino | 23.2         | \$48,732      |
| Gila     | 22.6         | \$39,868      |
| Graham   | 21.6         | \$43,497      |
| Greenlee | 11.6         | \$54,673      |
| La Paz   | 23.2         | \$33,994      |

| County     | Poverty Rate | Median Income |
|------------|--------------|---------------|
| Maricopa   | 17.6         | \$52,066      |
| Mohave     | 21.3         | \$38,560      |
| Navajo     | 30.3         | \$36,927      |
| Pima       | 19.3         | \$43,926      |
| Pinal      | 16.7         | \$49,887      |
| Santa Cruz | 22.7         | \$35,753      |
| Yavapai    | 16.4         | \$40,498      |
| Yuma       | 19.2         | \$40,486      |



Arizona Commission on Access to Justice

|                                    |  |   |
|------------------------------------|--|---|
| Meeting Date:<br>November 18, 2015 | Type of Action Requested:<br><input type="checkbox"/> Formal action or request<br><input checked="" type="checkbox"/> Information only<br><input type="checkbox"/> Other | Subject:<br>Report from the Self-represented Litigants in Family Court Workgroup (SRL-FC) |
|------------------------------------|--|---|

From: SRL-FC Workgroup

Presenters: Co-chairs Judge Dean Fink and Maggie Kiel-Morse

Description of presentation:

Judge Dean Fink will discuss the current status of the Maricopa County AmeriCorps project and timeline for implementation.

Ms. Kiel-Morse will describe the updating efforts of the FAQ document, the Law4AZ training programs across the state, and provide information regarding the AZCourtHelp project in Coconino County.

Recommended motion: None at this time.





## Superior Court of Arizona

### PACS AmeriCorps Member – Law Library Resource Center

**This position is not covered by the Judicial Merit Rules or Classified Personnel Rules.**

The Superior Court of Arizona in Maricopa County, the 4th largest general jurisdiction Court system in the nation, seeks enthusiastic volunteers to participate in an AmeriCorps program, as a Providing Access to Court Services (PACS) Member in the Law Library Resource Center. AmeriCorps PACS Members will be critical to the operations of the Self-Service Center and Protective Order Center. The Superior Court is committed to providing access to justice for all people in the community. This position performs customer service functions, having contact with members of the public who need help with court services, which is crucial to promoting access to the Court.

Service Location: Central and East Court Buildings  
101 and 201 W. Jefferson  
Phoenix, AZ 85003

Service Position Functions: Under general supervision, provides customer assistance in finding court services, completing needed court forms, and navigating court processes.

Program Benefits:

During the term of service, Members will receive a living stipend totaling \$2,652 for minimum time Members and totaling \$4,863 for reduced half-time Members. Upon completion of service, Members are eligible to receive an education award of \$1,212.44 for minimum time Members and \$2,182.78 for reduced half-time Members.

Comments: This position will report to Shawn Haught, Deputy Court Administrator  
[haughts@superiorcourt.maricopa.gov](mailto:haughts@superiorcourt.maricopa.gov)  
602-506-3464

All interested applicants should email or fax a cover letter and résumé to:

**Human Resources**

**Attn: Michelle Hall**

**Email: [hallm007@superiorcourt.maricopa.gov](mailto:hallm007@superiorcourt.maricopa.gov)**

**Fax: 602-372-2280**

**Please include cover sheet**

Primary Duties of the Position:

Provide direct customer service to litigants in various situations within a self-service environment; handle a variety of requests, inquiries, and complaints from litigants and the general public; attend and participate in training and evaluation; assist court

customers with finding needed services or locations; become knowledgeable about various community resources and provide information to customers as necessary; track services using computer software; recruit and assist community volunteers.

Citizenship Training and Responsibilities:

As an AmeriCorps Member, all PACS Members must participate in AmeriCorps training and events as required by the Arizona Governor's Office For Children, Youth and Families as well as participate in any identified community service activity.

Service Schedule:

AmeriCorps PACS Members must complete a minimum of 300 service hours over the course of their service term. A minimum of 6-8 hours per week at the Downtown Superior Court facility is required. Service hours can only be completed between 8 am and 5 pm Monday through Friday. There are no night or weekend hours. Hours worked per week and schedule will vary depending on the Member's schedule.

Qualifications:

**Minimum Qualifications:** High School Diploma /GED and must pass criminal background check.

**Desired Qualifications:** The ability to multitask and manage a high-volume and time-critical work environment; excellent interpersonal skills; the ability to establish effective working relationships with others; the ability to communicate effectively both orally and in writing; the ability to plan, organize and maintain work flow; the ability to work under supervision and exercise judgment; basic computer skills. Should be able to accurately maintain statistics and records; maintain confidentiality of all parties.

The Court is an Equal Opportunity Employer. It is the policy of the Judicial Branch not to discriminate in employment or the provision of services. To arrange for reasonable accommodation under the Americans with Disabilities Act (ADA), please call 602-506-4473.

Prohibited Activities:

Members may not, while actively providing service, do any of the following: attempt to influence legislation; organize or engage in protests, petitions, boycotts, or strikes; assist, promote, or deter union organizing; impair existing contracts for services or collective bargaining agreements; engage in partisan political activities; participate in, or endorse, events or activities that are likely to include political advocacy; engage in religious instruction or proselytization; provide a direct benefit to a business organized for profit, a labor union, a partisan political organization, or other organizations specified by the CNCS; conduct a voter registration drive; provide abortion services or referrals for receipt of such services; and such other activities as CNCS may prohibit.

# PACS-AMERICORPS PROJECT

Status Update on Maricopa County Superior Court Project

**LAW LIBRARY RESOURCE CENTER, MARICOPA COUNTY SUPERIOR COURT**

November 9, 2015

# PACS-AMERICORPS PROJECT

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## Status Update on Maricopa County Superior Court Project

### Overview of the program

The Maricopa County Superior Court Law Library Resource Center (LLRC) received a state AmeriCorps Grant to have 38 AmeriCorps Members in the LLRC to assist self-represented litigants gain access to justice by helping them find legal information and complete and file forms. The program will initially focus on domestic relations and orders of protection. The Members will work 6-10 hours per week, with the goal being to have 2-4 Members actively assisting self-represented litigants at any given time.

### Recent Activity

- The grant has been funded and the LLRC is on track with Court staff training. Recruitment has begun to meet the requirement for Member Service Hours over the course of the grant year.
- Various staff members have attended informational sessions at the Career Department at ASU, and Career Fairs at ASU West and ASU Downtown in October. As of November 6th, over 50 applications had been received for the 38 Member positions.
- Pre-enrollment Orientation is planned for November 10th to speak to all the applicants about the importance of and the requirements for the project.
- All needed administrative infrastructure is being put in place. This includes setting up AmeriCorps software, as well as working with Human Resources to process and pay the Members' living expense stipend. The enrollment software should be fully operational by the time recruitment is completed. Human Resources is in the process of verifying that the processes to be used are compliant with grant requirements. Finance is also providing information regarding compliance.

### Future Plans

#### Enrollment and Training Schedule

Once Pre-Enrollment Orientation is complete, applicants will be personally interviewed. By November 30, 2015 the Members will be selected from the applicants that were interviewed. During December, Members will receive a modified in-processing with the Court.

Training will take place the first two weeks of January.

Training topics will include:

- Introduction to AmeriCorps Service
- Justice and Fairness Basics
- Court Ethics
- Introduction to Protective Orders
- Introduction to Family Law

Members will also shadow staff as staff assists self-represented litigants. The goal is to have Members working independently (but with close supervision and assistance of staff) by the end of January 2015.

## Planned duties of Members

Staff of the LLRC, together with Judicial Officers and Court Administration, have identified the duties of the Members going forward as follows:

Information Desk (no more than 2 Members working in this area at a time)

- Give information and directions
- Act as guides for navigation to destination
- Distribute resource information and pamphlets
- Proactively offer to help
  - All who come through security
  - Alternatively, if very busy, select groups
    - Elderly
    - Those with children
    - Obvious disabilities
    - Those who seemed confused by security

Protective Order Center (no more than 2 Members working in this area at a time)

- Distribute resource information and pamphlets
- Refer to Domestic Violence Advocate
- Assist with completion of forms
  - Provide information regarding fillable forms and computer prompts, i.e. definitions
  - Review forms for completeness

- Assist with copying and collating
- Act as guides for navigation to destination
  - Clerk of Court
  - Courtrooms
  - Sheriff's Office for service
- Distribute questionnaires
  - Collect
  - Enter data
- Prepare and send email to stakeholders regarding readiness of litigants
  - Both at DT and Regional Courts for comparison
  - Judges, Commissioners, judicial staff, admin

Self-Service Center (no more than 4 Members working in this area at a time)

- Distribute resource information and pamphlets
- Assist with form selection
  - Review FAQs
  - Review checklists if necessary
- Assist with completion of forms
  - Provide information regarding what the prompts are requesting for ezCourt forms
  - Assist with fillable forms for family and criminal
  - Review forms for completeness
- Assist with copying, collating, getting filed (file stamped) and mailing
- Act as guides for navigation to destination for filing
- Prepare and send email to stakeholders regarding readiness of litigants
  - Both at DT and Regional Courts for comparison
  - Judges, Commissioners, judicial staff, admin

Workshops (no more than 2 Members working in this area at a time)

- Assist with hands on computer workshops
  - Provide one-on-one guidance during workshops to clarify instructor's information
  - Work with litigants afterward to provide information
    - Answer informational questions
    - Review for completeness
- Administer pre- and post-tests to attendees
  - Develop tests

- Enter data from test results
- Workshops to be planned for January and February
  - Dissolution w/out children
  - Dissolution w/ children
  - Service of process
  - Service of process when opposing party cannot be located
  - Injunction against harassment
  - Collection of child support
  - Trial preparation

General (no more than 3 Members working in this area at a time)

- Recruit other (non-member) volunteers
- Recruit and coordinate speakers



## **“AZCourtHelp” – Arizona’s Virtual Access & Resource Center**

**ACCESS TO JUSTICE CHALLENGE:** Many people cannot afford legal representation in court proceedings. The problem is even more profound in remote and rural areas where geographical barriers, unemployment, transportation issues, and child care concerns are additional burdens faced by litigants. Consequently, the courts must be prepared to assist self-represented individuals in understanding court processes and legal procedures in ways that make it more likely they will pursue self-help if information is easily accessible and meets their needs.

**PROJECT VISION:** This project will integrate the current Coconino County Law Library space into an expansive physical and virtual resource center. The space will include a small reception area and seating for the public, as well as public access computer terminals for filling-out paperwork, and public information racks for forms packages, referrals and services. The center will be reinforced and supported by an online presence -- a comprehensive webpage that will host a repository of statewide and county-specific self-help videos, low-income service referrals, legal information links, as well as standardized forms and instructions. The physical space will continue to operate as a law library and self-help center; however it will be re-configured to allow room for people to participate in “live” workshops and scheduled clinics. Technology will be incorporated into this project to allow streaming of workshops and interaction with participants.

**PROJECT PARTNERS:** The Arizona public library system will act as a conduit for public consumption of workshops at local public libraries, even in remote rural counties. Additionally, the community will have an opportunity to learn about and apply for services from the Division of Child Support Services, as another work area will be identified for a caseworker to engage and assist patrons. The physical space will also host a place for volunteer attorneys (from CLS, DNA, SALA, State Bar of Arizona, and local bar association) to meet one-on-one, provide clinics and educational opportunities on a pro bono basis.

Project Milestones:

- Applied for and was awarded an AmeriCorps VISTA grant to assist with implementation of project. The new VISTA member will start working in the center the first week of November.
- The current law librarian was re-classified and promoted to the position of Law Library Coordinator (LLC). The LLC will continue performing all law librarian duties in addition to manage and directly supervise grant members’ activities, including reporting requirements, and will oversee the coordination of the virtual resource center’s projects.
- A task force was established to assist with implementation of the project. Tasks completed:
  - Developed project plan with timeline of deliverables that correspond to the VISTA member’s assignments.
  - Determined delivery methods for training opportunities to be initial focus in Phase 1. (Streaming and live “legal talks.”)
  - “Branded” the center’s name to capture the essence of what the resource can provide to the court community and public.

- Reviewed floor plans of the physical space and brainstormed options for configuration. Obtaining quotes for build-out and expect estimates by November 13.
- Working with AOC ITD to determine technology requirements for streaming live trainings (sending out and for remote sites receiving) and internet functionality for public terminals.
- Conducting outreach to court administrators to identify courts that may be interested as serving for pilot locations for webinars and interactive “legal talks.”
- Exploring collaboration with the Arizona Foundation for Legal Services & Education for website design and site location in order to avoid duplication of court resources and leverage long-standing relationship.
- Formulating research questions for DCSS staff in order to determine if IV-D monies available for funding current staff and new staff to sustain the project.
- Obtained list of equipment and internet connectivity available to Arizona public library partners.
- Identified resources and contact people for VISTA representative. Arranging connections between key stakeholders and making introductions for future relationships.

# Q&R Handbook



*How to Respond to Common Questions  
from Court Customers*

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This Question and Response (Q&R) Handbook is a reference for court personnel to use while helping our customers, the public.

Of course, this handbook cannot anticipate all of the possible questions that court users may ask. When new questions arise, consult your supervisor. There are questions and responses that you may wish to annotate, supplement, or provide additional information that is appropriate for your specific court, with the approval or at the suggestion of your supervisor.

When you are uncertain if you are being asked to give legal advice, please suggest that the one asking the question consult an attorney.

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### **What is legal information?**

Legal information is communication of facts about court procedures, timing, and resources. It includes information contained in court records, examples of forms and pleadings, informational pamphlets, copies of statutes and explanation of court rules, procedures, practices and due dates.

### **What is legal advice?**

1. A written or oral statement that interprets some aspect of the law, court rules, court procedures, or recommends a specific course of conduct in an actual or potential legal proceeding.
  2. A written or oral statement that applies the law to an individual person's specific factual circumstances.
  3. A written or oral statement requires the person giving advice to have knowledge of the law and legal principles beyond familiarity with court requirements and procedures.
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## **TODAY'S COURT SYSTEM HAS THREE LEVELS**

**Level 1—Limited Jurisdiction.** Justice of the peace courts and municipal (or city) courts have limited jurisdiction, meaning that their authority is restricted to certain cases. The cases these courts decide may be limited by the subject, the amount of money involved, or the sentence that can be imposed. They are non-record courts and do not have to make permanent records of court proceedings, although some courts do.

**Level 2—General Jurisdiction.** The general jurisdiction court is the Superior Court of Arizona, a statewide trial court. This court hears the widest variety of cases and keeps permanent records of court proceedings. Each county has at least one superior court facility, and it is referred to by its county location—for example, the Superior Court in Maricopa County.

**Level 3—Appellate Jurisdiction.** The Court of Appeals and the Supreme Court are Arizona's appellate courts. The state appellate courts have jurisdiction to review trials and decisions appealed to them. Most appeals heard by the two divisions of the Court of Appeals come from the superior court, except for death penalty appeals and some cases involving elected officials and disputes between counties, which go directly to the Supreme Court.

To appeal a decision from the Court of Appeals, the appellant must file a petition for review requesting a Supreme Court hearing. The Supreme Court justices evaluate the petitions for review and decide whether they will hear the case. Unlike the Court of Appeals, the Supreme Court is not required to hear every appeal.

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## WELCOME TO THE ARIZONA COURTS

**We will be happy to help you if we can. As we must be fair to everyone, we are allowed to help you only in certain ways.**

This is a list of some things court personnel can and cannot do for you:

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- We can** explain and answer general questions about how the court works.
  - We can** give you general information about court rules, procedures, and practices.
  - We can** provide you with the number for lawyer referral services, legal aid programs, and other services where you can get legal information.
  - We can** provide court schedules and information on how to get a case scheduled.
  - We can** give you information from your case file that is not restricted.
  - We can** provide you with court forms and instructions that are available.
  - We can** usually answer questions about court deadlines.
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- We cannot** tell you whether or not you should bring your case to court.
- We cannot** tell you what words to use in your court papers or whether they are correct.
- We cannot** tell you what to say in court.
- We cannot** give you an opinion about what will happen if you bring your case to court.
- We cannot** conduct legal research for you.
- We cannot** talk to the judge for you or let you talk to the judge outside of court.
- We cannot** alter court documents.

**Our ability to assist you will depend on the time and resources available as well as the scope of our responsibilities, knowledge and experience.**

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## SECTION 1 FEE WAIVERS AND DEFERRALS

### **1-Q. What is a fee deferral or waiver?**

**1-R.** Arizona law requires the court to charge filing fees, service fees and other fees to cover costs. Court fees are due at the time of filing or at the time of requesting service. If you wish to file a civil case (family court, small claims, non-guardianship juvenile, tax, and mental health) and you cannot afford to pay the court fees at the time of filing you may apply for a fee deferral or waiver. The court will review your individual situation as presented in the application, including participation in a qualifying program, income and extraordinary circumstances, to determine if you qualify for a fee deferral or waiver.

**Resources:**

- [Fee Deferral and Waiver Forms](#)

### **2-Q. What is the difference between a fee deferral and a fee waiver?**

**2-R.** If the court grants you a deferral, payment may be postponed to the end of the case or you may be required to pay a portion of the fee now and be given additional time to pay the balance. If you are awarded a waiver you will not be required to pay the fees.

**Resources:**

- [Fee Deferral and Waiver Forms](#)

### **3-Q. How do I get a fee deferral or fee waived?**

**3-R.** Forms are available online for many courts, or you can access forms on the Arizona Judicial Branch webpage.

**Resources:**

- [Fee Deferral and Waiver Forms](#)
- Maricopa County [Fee Deferral and Waiver Forms](#)
- Pinal County Justice Courts Fee [Deferral and Waiver Forms](#)

### **4-Q. What kinds of fees are waived or deferred?**

**4-R.** Filing or answer fees, Constable service fees (with some restrictions), summons or subpoena issuance fees, appeal preparation filing fees, fees for obtaining one certified copy of a temporary order in a domestic relations case and fees for obtaining one certified copy of a final order, judgment or decree in all civil proceedings.

## SECTION 2 PROCEDURAL GUIDANCE

### **1-Q. What proof or evidence do I bring to court with me?**

**1-R.** You can bring whatever witnesses, documents, and other evidence you think support your case. We can't help you decide what to bring. It may be helpful to read the rules regarding evidence for your case type.

**Resources:**

- [Arizona Court Rules](#) web page
- [Rules of Evidence](#) in Courts in the State of Arizona
- [Rules of Family Law Procedure](#)
- Arizona Revised Statutes [Title 25](#) - Marital and Domestic Relations

**2-Q. When do I submit my proof or evidence to court personnel before court?**

**2-R.** Read your court orders carefully to see if the judge ordered you to submit evidence ahead of time in your specific case. Unless you have an emergency hearing, you will almost always need to submit copies of your exhibits to the judge's clerk before the hearing so they can be marked.

**Resources:**

- [Arizona Court Rules](#) web page
- [Rules of Evidence](#) in Courts in the State of Arizona
- [Rules of Family Law Procedure](#)
- Arizona [Clerks of Superior Court](#)

**3-Q. I received an inactive notice – what am I supposed to do now?**

**3-R.** If no action has been taken in your case or you haven't served your court papers, the court might notify you that your case is about to be dismissed. That notice explains your options to stop your case from being dismissed.

**4-Q. When am I supposed to file the affidavit of default?**

**4-R.** You can file for default if the other party hasn't responded within 20 days of being served, or 30 days if they were served outside of Arizona.

**5-Q. I have a disability that prevents me from filling out this form. Would you fill it out for me?**

**5-R.** We can read you exactly what the form says and fill in the blanks with exactly the words you give us. We can't help you understand what the form means or advise you on what to put in the blanks or what words to use. (If court personnel filled out the form for the customer, please state on the form that you helped them by writing their words on the form exactly as they said them to you.)

**6-Q. Where can I find a QDRO (Qualified Domestic Relations Order) form?**

**6-R.** The U.S. Department of Labor web site provides some direction to sample forms and other assistance. A sample of a QDRO form can be found for Pinal County at the link below. Another reference is in the Arizona Legal Forms which most Arizona law libraries will have available.

**Resources:**

- [U.S. Department of Labor](#)
- [Sample Pinal County QDRO form](#)
- Arizona Legal Forms – Volume 4A, Chapter 10

**7-Q. Would you look over this form and tell me if I did it right?**

**7-R.** Court personnel can take a quick look to see if there are any obvious blanks that you've missed. Only an attorney can make sure this is complete and correct, and only an attorney can review *how* you've filled in the blanks.

**8-Q. I want to talk to the judge. Where is the office?**

**8-R.** To ask the judge to do something, you need to file a written request with the clerk of court. To ensure that the court process is fair and impartial, the judge isn't allowed to talk to one side without the other side being present.

**9-Q. I know I can't talk to the judge, but you're nice – could you please take this message for me?**

**9-R.** Court personnel are not allowed to act on behalf of either side on a case. Court personnel must remain neutral and not give one side an advantage over the other. You may be able to put the request in writing to file in court, with a copy provided to the other side.

**10-Q. What is “*ex parte*” communication?**

**10-R.** It is a Latin term that means communication with the court by one side without the presence or knowledge of the other side. In most cases *ex parte* contacts with the judge are not allowed in order to remain neutral.

**11-Q. What will the judge say?**

**11-R.** We can't predict what the judge will decide. You can research the laws that might guide the judge's decision in your particular case.

**12-Q. How do I file for default?**

**12-R.** You can file for default 20 days after you served the other party (30 days if you served them out-of-state). To file for default, file an Application for Entry of Default and Entry of Default, then mail a copy to the other party. From the day you file the Application, the other party has 10 business days to file a Response, otherwise default will be entered against them, and the case will go forward without their input. The Clerk of Court can tell you the filing fee if there is one. Your local court might have forms and instructions for default.

**13-Q. Should I get a lawyer?**

**13-R.** You're not required to have a lawyer. It's up to you to decide whether you want to hire a lawyer. We can't help you decide what's best in your situation. Your local court might provide a phone number for an attorney referral service and your local court might have a list of low-cost or no-cost legal services.

**Resources:**

- Maricopa County Bar Association Lawyer Referral Service  
602-257-4434 - <http://maricopalawyers.org>
- Pima County Bar Association Lawyer Referral Service:  
520-623-4625 - <http://www.pimacountybar.org>
- Arizona Foundation for Legal Services & Education:  
866-637-5341 - [www.azlawhelp.org](http://www.azlawhelp.org)

**14-Q. I can't afford an attorney. Can you tell me what to do?**

**14-R.** If you know what you want to do, we can tell you about procedures, but we can't help you decide what to do or counsel you on your situation. Your local court might have a list of low-cost or no-cost legal services, or go to [azlawhelp.org](http://www.azlawhelp.org).

**15-Q. I want a court-appointed attorney assigned. How do I get one?**

**15-R.** You have a right to a court-appointed attorney only in certain types of cases. When you're in court, you can ask the judge to appoint an attorney for you, and the judge will let you know if that's an option in your case.

**16-Q. I need a good lawyer. Who is the best?**

**16-R.** We can't recommend a specific lawyer. We can just give you a list of lawyers who work on the type of law you need help with. Your local court might provide a phone number for an attorney referral service, and your local court might have a list of low-cost or no-cost legal services.

**Resources:**

- Maricopa County Bar Association Lawyer Referral Service  
602-257-4434 - <http://maricopalawyers.org>
- Pima County Bar Association Lawyer Referral Service:  
520-623-4625 - <http://www.pimacountybar.org>
- Arizona Foundation for Legal Services & Education:  
866-637-5341 - [www.azlawhelp.org](http://www.azlawhelp.org)

**17-Q. I'm filing this document asking the court to do something. Does that make me the plaintiff on this filing?**

**17-R.** The person who started this case at the very beginning will always be the plaintiff or petitioner, even when, in family law cases, the divorce or paternity action is final. If the parties are coming back to the court and starting a new post-decree or post-order case, the original plaintiff or petitioner will remain the plaintiff or petitioner. (Unless conciliation is filed in a divorce case).

**18-Q. What is a warrant?**

**18-R.** A warrant is an order from the court to law enforcement to take someone or something into custody. Some warrant information is forwarded to law enforcement agencies throughout Arizona. For example, the court may order a bench warrant for law enforcement to arrest someone who failed to appear in court, or the court may issue a search warrant for law enforcement to seize and remove property from a person, place, or thing.

**19-Q. It says "relief requested" next to this blank on the form. What do I put there?**

**19-R.** That blank is asking you to write in your own words what you're asking the court to do. "Relief requested" is your chance to write in your own words what you're asking the judge to do. Court personnel cannot tell parties what words to use. If you have questions about what you can ask for in a case, you may consult an attorney.

**20-Q. What is the difference between a petition and a decree?**

**20-R.** A petition is a request, usually written, that a party files asking the court to do something. A decree is an order from the court detailing the parties' status and obligations.

**21-Q. I have asked you several questions and you won't answer them. Why aren't you more helpful?**

**21-R.** Only an attorney is allowed to give you certain kinds of help. We can tell you facts about options, procedures, and forms, but only an attorney can interpret the law or how it applies in your specific case, and only an attorney can help you decide what's best in your situation. Court personnel must remain neutral in all situations. Many questions

would require court personnel to explain or interpret the law or how the law would apply in the party's case. To do so would constitute legal advice, which court personnel may not provide.

**22-Q. Where can I find information on Arizona's laws and rules?**

**22-R.** Arizona's statutes (laws passed by the state legislature) are available in any law library and many public libraries. They may also be viewed at the Arizona State Legislature's web site. The *Arizona Rules of Court* contain the procedures that litigants must follow in Arizona courts and are available in any law library and many public libraries.

**Resources:**

- [Arizona State Legislature statutes](#)
- [Arizona Court Rules](#) web page

### **SECTION 3 SCHEDULING AND COURT APPEARANCES**

**1-Q. Do I have to be in court today?**

**1-R.** Court personnel may review whatever notice the party has to determine whether the party must appear in court and where the hearing (if any) will be held. Court personnel may also have access to the judicial calendar for the time period in question.

**2-Q. Can I reschedule (continue) my hearing to a later date?**

**2-R.** The judge decides whether or not to continue a hearing. You may file a written request with the clerk or court and provide a copy of the request to the other side, and the judge will consider the request.

### **SECTION 4 SEALED RECORDS**

**1-Q. Can I see a sealed file (for example, an adopted person is seeking information)?**

**1-R.** Court personnel are not authorized to provide sealed records to the public. Local courts and judges may have different requirements, including an informal written request or a formal motion before allowing a court customer to view sealed information. The court customer's written request may include the following:

- Sufficient information for the judge to determine whether such a record exists (e.g. nature of the case; case number; names of parties; dates of possible case filings, judgments or events; date of birth);
- The reason(s) supporting the court customer's right to view the sealed record; and
- The court customer's name, address, and phone number.

## SECTION 5 SUBPOENAS

### **1-Q. What are subpoenas?**

**1-R.** Subpoenas are orders to witnesses to give testimony in court or at a deposition. They are also an order for someone to submit documents to the court or the requesting party.

### **2-Q. How do I subpoena someone?**

**2-R.** A subpoena is issued by the clerk's office. Some clerks' offices have the subpoena form available, but the clerk's office does not prepare the form. The side wanting the subpoena needs to prepare it, have it issued by the clerk's office, and make arrangements to have it served. The clerk's office can inform you of the current filing fee, if any, for issuing the subpoena.

### **3-Q. Where can I find a Subpoena Duces Tecum form for a family case?**

**3-R.** The Maricopa County Self-Service Center has this form available online.

#### **Resources:**

- [Subpoena Duces Tecum](#)

## SECTION 6 DOMESTIC VIOLENCE OR HARASSMENT

### **1-Q. What's the difference between a restraining order and a protective order?**

**1-R.** A restraining order is simply another term for an Order of Protection or an Injunction Against Harassment, which are protective orders in Arizona. Other states call them restraining orders, protection from abuse orders, and similar names.

#### **Resources:**

- Criminal Harassment [A.R.S. § 13-2921](#)
- Injunction Against Harassment [A.R.S. § 12-1809](#)
- Injunction Against Harassment [Forms](#)
- Injunction Against Workplace Harassment [A.R.S. § 12-1810](#)
- Protective order [forms](#) (English, Spanish, Arabic, Chinese, Vietnamese)

### **2-Q. What is an Order of Protection?**

**2-R.** It is an order used for protection when there is a family relationship or a romantic or sexual relationship between the plaintiff and the defendant. The plaintiff must file a petition stating how an act of domestic violence was threatened or committed against the plaintiff within the last year. If a family or a romantic or sexual relationship do not apply, an Injunction Against Harassment is an alternative if the defendant has committed a series of acts of harassment against the plaintiff. The plaintiff must file a petition and then appear before a judge to explain why an Order of Protection is needed. If the judge finds that the defendant may commit or has committed an act of domestic violence, the judge can issue an Order of Protection that:

- Orders the defendant not to commit acts of domestic violence,

- Gives the plaintiff exclusive use of a house that both people previously shared.
- Prevents the defendant from coming near the plaintiff's house or apartment, place of employment, or school,
- May prohibit the defendant from possessing guns, and
- Includes any other relief necessary for the plaintiff's protection.

The Order of Protection is not in effect until it is personally served on the defendant. Once served, the defendant has a right to a hearing. After a hearing, the judge may order the defendant to obtain counseling.

**Resources:**

- Arizona Judicial Branch [Domestic Violence](#) webpage
- [Arizona Coalition to End Sexual and Domestic Violence](#) webpage
- [Address Confidentiality Program](#) (Secretary of State)
- [Arizona Rules of Protective Order Procedure](#)

**3-Q. What is a domestic violence crime?**

**3-R.** Arizona law currently includes 30 crimes, that when combined with a family or a romantic or sexual relationship, equal domestic violence. Domestic violence includes assault and aggravated assault; harassment and aggravated harassment; aggravated domestic violence; child or vulnerable adult abuse; criminal damage; criminal trespass; dangerous crimes against children; custodial interference; disobeying a court order; disorderly conduct; endangerment; kidnapping; stalking; surreptitious photographing; threats and intimidation; unlawful imprisonment; sexual assault; unlawful distribution of images; neglect, abandonment, or cruel mistreatment of animals; preventing or interfering with use of a telephone in an emergency; telephone harassment; and murder, manslaughter, and homicide.

**Resources:**

- Domestic violence [A.R.S. § 13-3601](#)

**4-Q. What is the relationship test for an Order of Protection?**

**4-R.** The plaintiff and the defendant must have one of the following relationships:

- married now or in the past
- live in the same household now or lived in the same household in the past
- parents of a child in common
- one party is pregnant by the other
- the parties are related by blood or marriage (such as parent, in-law, brother, sister, grandparent, step-parent, step-sibling)
- the parties have a current or previous romantic or sexual relationship

**Resources:**

- [Things You Should Know About Protective Orders](#) booklet

**5-Q. How do I ask for an Order of Protection?**

**5-R.** Fill out the form called a petition provided by the court, and return it to court staff. It's important to know that a copy of the petition will be given to the defendant if an Order of Protection is issued and sent out for service. Although an order may protect more than one person (one plaintiff and other protected persons), it can be issued

against only one person. A separate petition must be completed for each person against whom you want to file.

Each petition must have:

- The defendant's name.
- The defendant's date of birth (or a reasonable estimate).
- A specific statement listing all acts and approximate dates of domestic violence that the defendant has committed against you within the past year. (The one-year requirement may be waived if the defendant is out of state, incarcerated, or good cause is shown.)
- Your address and telephone number so the court can contact you if the defendant requests a hearing. (Upon request, this information will be withheld from the defendant.)

An address, if known, at which the defendant can be legally served with the court's order.

**Resources:**

- Protective order [forms](#) (English, Spanish, Arabic, Chinese, Vietnamese)

**6-Q. How long is the Order of Protection in effect?**

**6-R.** If the judge issues the Order of Protection, the defendant must be served with the order before it will be effective. If it is not served, it will expire one year from the date the judge issued it. Once an order has been served, it will be in effect for one year from the date it was served. A private process server or local law enforcement may serve the order. A law enforcement agency cannot charge a fee for serving an Order of Protection. If hiring a private process server, the plaintiff is responsible for delivering the defendant's copy of the order to the process server and for paying a service fee and mileage.

**Resources:**

- [Things You Should Know About Protective Orders](#) booklet

**7-Q. What if the defendant is in jail?**

**7-R.** If the plaintiff believes that the defendant is in jail, the plaintiff can ask jail staff to serve the defendant. Court staff may be able to direct the plaintiff to the appropriate jail location. If the defendant is in the process of being released, there may not be enough time to have service completed at the jail. If not, the plaintiff has one year in which to serve the defendant by requesting service from a law enforcement agency or hiring a private process server.

**8-Q. What do I do if the defendant violates the Order of Protection once it is in effect?**

**8-R.** Violation of the court order is a criminal charge, and law enforcement must be notified. If you are in immediate danger, call 9-1-1.

**Resources:**

- [Safety plan](#)
- [Safety plan](#) (Spanish)

**9-Q. What if the other person contests the order?**

**9-R.** The defendant may request a hearing on the order one time during the year in which it is in effect. A hearing will be held within five days (if exclusive use of the residence has been ordered) or ten business days.

**10-Q. What if the plaintiff and the defendant are in the process of divorce?**

**10-R.** If a protective order was issued by a municipal or a justice court and a petition for dissolution or separation of marriage or a maternity or paternity action is filed in superior court, one of the parties must notify the issuing court immediately. The protective order proceedings then will be transferred to superior court and heard with the family court case.

**11-Q. What is an Injunction Against Harassment?**

**11-R.** An Injunction Against Harassment is a court order that is issued to prevent one person from harassing another person. The plaintiff must file a petition, explaining specifically how the defendant has harassed the plaintiff and then appear before a judicial officer to explain the reason for the request. If the judge determines that a series of acts of harassment have been committed by the defendant against the plaintiff over a period of time, the judge can issue the order. The injunction is not in effect until it is served on the defendant. Once served, the defendant has a right to a hearing.

**Resources:**

- Criminal Harassment [A.R.S. § 13-2921](#)
- Injunction Against Harassment [A.R.S. § 12-1809](#)
- Injunction Against Harassment [Forms](#)
- Injunction Against Workplace Harassment [A.R.S. § 12-1810](#)
- Injunction Against Workplace Harassment [Forms](#)

**12-Q. What is harassment?**

**12-R.** There are several different types of harassment under Arizona law: criminal harassment, Injunction Against Harassment and Injunction Against Workplace Harassment. You will need to determine which definition applies to your situation and then fill out the correct petition.

For purposes of an Injunction Against Harassment, harassment involves a series of acts that happened over any period of time that are purposefully directed at a specific person. The acts are those that serve no legitimate purpose and would cause a reasonable person to be seriously alarmed, annoyed, or harassed. A single incident, no matter how bothersome, does not constitute harassment for purposes of a protective order.

**13-Q. How do I file for an Injunction Against Harassment?**

**13-R.** Fill out the petition provided by the court and return it to court staff. It's important to know that a copy of the petition will be given to the defendant if an Injunction Against Harassment is issued and sent out for service. Although an injunction may protect more than one person (the plaintiff and other protected persons), it can be issued against only one person (the defendant). A separate petition must be completed for each person against whom you want to file.

Each petition must have:

- 1) The defendant's name.
- 2) The defendant's date of birth (or a reasonable estimate).
- 3) A specific statement showing events and dates of the acts constituting the alleged harassment.
- 4) Your address and telephone number so the court can contact you if the defendant requests a hearing. (Upon request, this information will be withheld from the defendant.)
- 5) An address, if known, at which the defendant can be legally served with the court's order.

**Resources:**

- Injunction Against Harassment [A.R.S. § 12-1809](#)
- Injunction Against Harassment [Forms](#)

**14-Q. What if I don't know where the person I am filing against lives?**

**14-R.** If you do not know the defendant's address, you should keep a copy of the injunction. As soon you find out the address, you can contact a private process server or law enforcement so they can try to serve the defendant.

**15-Q. How long is the Injunction Against Harassment in effect?**

**15-R.** If the judge issues the Injunction Against Harassment, the defendant must be served with the order before it will be effective. If it is not served, it will expire one year from the date the judge issued it. Once the injunction has been served, it will be in effect for one year from the date it was served. A private process server or local law enforcement may serve the order. If using a private process server, the plaintiff is responsible for delivering the defendant's copy of the order to the process server and paying a service fee and mileage. Unless the relationship between the plaintiff and the defendant is a dating relationship, law enforcement will also charge a fee for service of an Injunction Against Harassment.

**16-Q. What do I do if the defendant violates the injunction once it is in effect?**

**16-R.** Violation of the court order is a criminal charge, and law enforcement must be notified. If you are in immediate danger call 9-1-1.

**17-Q. What if the other person objects to the injunction?**

**17-R.** The defendant may request a hearing on the injunction one time during the year in which it is in effect. A hearing will usually be held within ten business days from the date requested.

**18-Q. What do I do if my child is being harassed by a bully at school?**

**18-R.** Arizona law requires schools to have policies and procedures to prevent students from bullying, harassing, and intimidating other students in schools, on school grounds, on school buses, at school bus stops, and at school-sponsored activities and events. This includes harassment by electronic means on school networks and forums. Each school is required to have a procedure for students, parents and teachers to report, in confidence, bullying behavior to school officials. If the bullying acts threaten or actually cause injury to a person or property, then more severe penalties are called for and carried out under Arizona's criminal laws.

**Resources:**

- Powers and duties of school district governing boards [A.R.S. § 15-341\(37\)](#)
- Criminal disruption of an educational institution [A.R.S. § 13-2911](#)

**19-Q. What is an Injunction Against Workplace Harassment?**

**19-R.** It is an injunction filed by an employer or the owner of a business or operation. It is similar to an Injunction Against Harassment, except that it protects the employer, employees, people coming into the place of business, or employees who are performing official work duties elsewhere. For purposes of an Injunction Against Workplace Harassment, harassment means a single threat or act of physical harm or damage or a series of acts over any period of time that would cause a reasonable person to be seriously alarmed or annoyed.

**Resources:**

- Injunction Against Workplace Harassment [A.R.S. § 12-1810](#)
- Injunction Against Workplace Harassment [Forms](#)

**SECTION 7  
SMALL CLAIMS AND CIVIL CASES**

**1-Q. How do I file a small claims case?**

**1-R.** You start a small claims case by filing a Complaint with Justice Court. Your local Justice Court may have forms and instructions.

**Resources:**

- General information [Justice Courts](#) in Arizona
- [Mohave](#) County Small Claims information and procedures
- Mohave County [Plaintiff flowchart](#)
- Mohave County [Defendant flowchart](#)
- [Pinal](#) County Small Claims information and procedures

**2-Q. It says “relief requested” next to a blank on the form. What do I put there?**

**2-R.** “Relief requested” is your chance to write in your own words what you’re asking the judge to do. Court personnel cannot tell parties what words to use. If you have questions about what you can ask for in a case, you may consult an attorney.

**3-Q. I have a disability that prevents me from filling out this form. Would you fill it out for me?**

**3-R.** We can read you exactly what the form says and fill in the blanks with exactly the words you give us. We can’t help you understand what the form means or advise you on what to put in the blanks or what words to use. (Court personnel - Please state on the form that you helped the customer by writing their words verbatim on the form).

**4-Q. I live in Arizona and the defendant lives in another state. Where do I file?**

**4-R.** You may consult an attorney or refer to Rule 4.2 of *Arizona Rules of Civil Procedure*.

**Resources:**

- [Rule 4.2](#) of *Arizona Rules of Civil Procedure*

**5-Q. I live in this county and the person I want to sue lives in another county. Where do I file?**

**5-R.** You file the Complaint in the county where the defendant lives or does business or where the act or incident took place.

**6-Q. What kind of notice do I have to give?**

**6-R.** Your local court might have forms and instructions.

**Resources:**

- For small claims:  
[Rule 4.1](#) of *Arizona Rules of Civil Procedure*  
[Rule 4.2](#) of *Arizona Rules of Civil Procedure*  
[A.R.S. § 22-513](#)
- For civil lawsuits in Justice Court:  
[Rule 113](#) of *Justice Court Rules of Civil Procedure*
- For civil lawsuits in Superior Court:  
[Rule 4.1](#) of *Arizona Rules of Civil Procedure*  
[Rule 4.2](#) of *Arizona Rules of Civil Procedure*

**7-Q. Do I have a potentially winning case?**

**7-R.** We can't predict what the judge will do or advise you on how strong your case is. Only an attorney can give you that service.

**8-Q. Once I file my claim, how long before I go to court?**

**8-R.** The party may refer to the instruction packet provided to the party or court personnel may explain the process for a particular court. If there are statistics for your court, refer to those to tell the party how long a case takes on average to conclude in your court.

**9-Q. My case was dismissed a year ago. Can I re-file?**

**9-R.** If the case was dismissed "with prejudice," no. If the case was dismissed "without prejudice," yes. The court order that dismissed the case will say whether it was with or without prejudice. You'll also need to make sure you're still within the statute of limitations.

**Resources:**

- Mohave County information regarding [statute of limitations](#)

**10-Q. I received a paper and I don't know what it is. What am I supposed to do?**

**10-R.** To respond appropriately, ask questions to determine what the paper is (the court customer may have to read the paperwork to you). Look at the paper and answer the question if it would be considered legal information. If a professional is needed to

interpret the paper, provide a link to sources of attorney lists. If they need to ask the judge for clarification, provide information on how to file a Motion for Clarification.

**Resources:**

- Maricopa County Bar Association Lawyer Referral Service  
602-257-4434 - <http://maricopalawyers.org>
- Pima County Bar Association Lawyer Referral Service:  
520-623-4625 - <http://www.pimacountybar.org>
- Arizona Foundation for Legal Services & Education:  
866-637-5341 - [www.azlawhelp.org](http://www.azlawhelp.org)
- Motion for Clarification

**11-Q. What is the difference between small claims and a civil case?**

**11-R.** Small claims can be used if you're suing for \$3,500 or less. If you're suing for less than \$10,000, you can file a civil case in Justice Court. Also there are no attorneys allowed in small claims (unless both sides agree), and there are no appeals in small claims. Attorneys and appeals are allowed in civil claims.

**12-Q. My friend's dog bit me. Should I sue him?**

**12-R.** We can't help you decide what to do. Only an attorney can provide that service. Once you've decided what you want to do, we can try to help you find forms and explain procedures. Another option is to contact local law enforcement or animal control.

**13-Q. I was dating someone and we split up. They have property that belongs to me that they won't let me have (car, furniture, etc.). How do I get my property back?**

**13-R.** If the value of the property is \$10,000 or less, you can look at filing a civil case in Justice Court. If the value of the property is more than \$10,000, you can look at filing a civil complaint in Superior Court. An attorney could tell you if you have other options.

**14-Q. Are these the forms I need?**

**14-R.** If you know what you want to do, we can try to connect you with forms and explain procedures. If you're not certain that you have the right forms for your specific situation, only an attorney can help you confirm that.

**15-Q. What do I do if I don't have the money to pay the filing fees?**

**15-R.** You can file a request for fee deferral or waiver of fees. The court will determine what fees, if any, are waived or postponed until later in the case.

**16-Q. What do I put in my complaint?**

**16-R.** In general, you use the complaint to tell the court in your own words why you're suing someone and what you want the judge to do (for example, you might be asking the judge to order the person to pay you a certain amount of money). To learn what you can ask the judge to do in your specific situation, you can research that question at a law library, or an attorney can advise you.

**17-Q. What is the time limit to file a small claims case?**

**17-R.** Time limits in civil actions start from the date the events that gave rise to the action occurred.

**Resources:**

- Mohave County information regarding [statute of limitations](#)

**SECTION 8  
SERVICE**

**1-Q. What do I do when I don't know where the other person is to serve him or her?**

**1-R.** The *Arizona Revised Statutes* and court rules explain how to proceed if the other party is refusing or avoiding service, or if the other party is no longer at the last known address. The Service Members Civil Relief Act (SMCRA) is a federal statute that explains the requirements for serving a party who is in the military.

**Resources:**

- [Rule 4.1](#) of *Arizona Rules of Civil Procedure*
- [SMCRA](#) website
- [Service Members Civil Relief Act Waiver](#) form

**2-Q. Can I serve this or do you?**

**2-R.** A small claims summons and complaint may be served by registered or certified mail, return receipt requested. Service is considered to be complete when the defendant signs for it. The return receipt must then be filed with the court, unless there is a permissible exception. Service for other civil cases must be made in person by a sheriff, a sheriff's deputy, or private process server. Some exceptions are set out in Rule 4.1 and 4.2 of *Arizona Rules of Civil Procedure*. See Rules 40-42 of *Arizona Rules of Family Law Procedure* concerning service in family law cases.

**Resources:**

- [Rule 4.1](#) of *Arizona Rules of Civil Procedure*
- [Rule 4.2](#) of *Arizona Rules of Civil Procedure*
- [Rule 40](#) of *Arizona Rules of Family Law Procedure*
- [Rule 41](#) of *Arizona Rules of Family Law Procedure*
- [Rule 42](#) of *Arizona Rules of Family Law Procedure*

**3-Q. How do I serve the papers on someone who is out of state?**

**3-R.** Contact law enforcement or the local courts for a list of process servers or constables in that state. The party may consult an attorney or refer to Rule 4.2 of *Arizona Rules of Civil Procedure*, or Rule 42 of *Arizona Rules of Family Law Procedure*, based on the type of case.

**Resources:**

- [Rule 4.2](#) of *Arizona Rules of Civil Procedure*
- [Rule 42](#) of *Arizona Rules of Family Law Procedure*

## SECTION 9 ANSWERING A CLAIM

**1-Q. Where can I find legal information about answering a claim?**

**1-R.** You will find information in the Civil Trial Practice Volume 2, Chapter 13, at a law library, or seek advice from an attorney.

**2-Q. I received a small claim notice in the mail. What do I do now?**

**2-R.** Follow the instructions on the notice and perhaps seek advice from an attorney. Court personnel cannot tell you what words to use in your answer.

**3-Q. How do I file a counterclaim?**

**3-R.** Court personnel may provide the appropriate forms and indicate where the information should be placed on the form, but cannot suggest what to write or whether a counterclaim should be filed.

**4-Q. I was served with this complaint and summons. What do I do now?**

**4-R.** Follow the instructions in the summons and file an answer to the complaint within 20 calendar days (30 calendar days if out of state). Ask court personnel about the current filing fee, if any.

**5-Q. What do I do if I'm served with an amended complaint?**

**5-R.** You may file a response or you may contact an attorney for advice.

**6-Q. What do I write in my answer?**

**6-R.** You write down the response to a complaint. Court personnel cannot advise what to put in an answer. You may want to consult an attorney.

**7-Q. If I did not file my answer in time, and the plaintiff did not file default papers, can I still file my answer?**

**7-R.** Yes. The court will determine the effect of the late filing.

**8-Q. When are my 20 days up for filing an answer?**

**8-R.** Start counting the 20 days on the day after service was completed. If you don't know the date of service, court personnel may advise if proof of service was filed with the court.

**9-Q. What do I do when I don't know where the other person is?**

**9-R.** Service by publication may be available. *Arizona Revised Statutes* and court rules explain how to proceed if the other party is refusing or avoiding service, or if the other party is no longer at the last known address. The Service Members' Civil Relief Act (SMCRA) is a federal statute that explains the requirements for serving a party who is in the military.

**Resources:**

- [Rule 4.2](#) of *Arizona Rules of Civil Procedure*
- [SMCRA](#) website

**10-Q. How long do I have to file my complaint?**

**10-R.** Many deadlines may apply depending on the type of case and facts involved. *Arizona Revised Statutes* and court rules list additional procedures and requirements, or you may consult an attorney.

**11-Q. How do I serve my petition on the opposing party?**

**11-R.** There are various means of service in Rules 4.1 and 4.2 of *Arizona Rules of Civil Procedure*. You may consult an attorney to determine the proper means of service for the party's particular case.

**Resources:**

- [Rule 4.1](#) of *Arizona Rules of Civil Procedure*
- [Rule 4.2](#) of *Arizona Rules of Civil Procedure*

**12-Q. In what city or county do I file my case?**

**12-R.** The answer to this question depends on the type of case being filed, where the litigants live, and where events took place. You may consult an attorney.

**13-Q. How do I file an answer?**

**13-R.** Your answer must be in writing and filed within the proper time period after the complaint was served on the party. You must provide a copy to the opposing side.

**14-Q. When do I have to file my opposition papers on this motion?**

**14-R.** In civil cases, Rule 7.1 of *Arizona Rules of Civil Procedure* states that the opposing party shall file any answering memorandum within ten (10) days after the motion was filed and served. Rule 6 (e) of *Arizona Rules of Civil Procedure* allows an additional five (5) calendar days when the motion is served by mail. The judge may determine there are grounds for an accelerated ruling, in which case the time for filing may be shortened. The time periods may be different when specific times for motions are otherwise provided by statute, *Arizona Rules of Civil Procedure*, or order of the court. Unless the court orders otherwise, Arizona law requires all papers opposing a motion be filed and served on the opposing party at least ten (10) calendar days before the hearing.

**Resources:**

- [Rule 7.1](#) of *Arizona Rules of Civil Procedure*
- [Rule 6\(e\)](#) of *Arizona Rules of Civil Procedure*

**15-Q. I figured out that I have to file my papers ten days before the hearing, but that day falls on a holiday when the court is closed. What do I do?**

**15-R.** This situation is an exception to the ten-day rule. You must file and serve the papers by the end of court business on the next day that the court is open following the holiday.

## SECTION 10 CIVIL

Civil cases involve legal conflicts among individuals, businesses, corporations, partnerships and governmental entities. Most civil cases are the result of personal injury, property damage, medical malpractice and contract disputes. [Arizona Rules of Civil Procedure](#), beginning at Rule 72, explain how and when arbitration may be required in a civil case.

### **1-Q. I want to file a lawsuit. Can you tell me how to do it?**

**1-R.** Civil actions start by filing a complaint. Additional steps in the rules of procedure are required. A civil case can be complex. Court customers may wish to contact an attorney.

#### **Resources:**

- [Forms](#) for civil actions (\$10,000 and under)
- To prepare civil forms in Apache, Cochise, Coconino, Gila, Greenlee, La Paz, Maricopa, Mohave, Pima, Pinal, Santa Cruz and Yuma Counties [AzTurboCourt.gov](#). This website walks users through the process of creating documents required for civil cases.

### **2-Q. What are subpoenas?**

**2-R.** Subpoenas are orders to give testimony in court or demand documents be submitted to the court or the requesting party.

### **3-Q. How do I subpoena someone?**

**3-R.** A subpoena is issued by the clerk's office. Some clerk's offices have the subpoena form available, but the clerk's office does not prepare the form. The party wanting the subpoena must prepare it, have it issued by the clerk's office, and make arrangements to have it served. The clerk's office can inform the party of the current filing fee, if any, for issuing the subpoena.

#### **Resources:**

- Arizona [Clerks of Superior Court](#)

### **4-Q. Can I serve a subpoena or do I have to hire someone to do it?**

**4-R.** *Arizona Rules of Civil Procedure* Rule 45(b) allows service by anyone who is at least 18 years of age and not a party to the case.

#### **Resources:**

- [Rule 45\(b\)](#) *Arizona Rules of Civil Procedure*

### **5-Q. How do I serve someone with a complaint?**

**5-R.** Service in the state of Arizona shall be by a sheriff, sheriff's deputy or private process server. A party to an action may also sign an Acceptance or Waiver of Service. *ARCP* Rule 4 and 4.1 cover different types of service, including out of state service.

#### **Resources:**

- [Rule 4](#) of *Arizona Rules of Civil Procedure*
- [Rule 4.1](#) of *Arizona Rules of Civil Procedure*

**6-Q. What do I do when I don't know where the other person is?**

**6-R.** Service by publication may be available. The *Arizona Revised Statutes* and court rules explain how to proceed if the other party is refusing or avoiding service, or if the other party is no longer at the last known address. The Service Members' Civil Relief Act is a federal statute that explains the requirements for serving a party who is in the military.

**Resources:**

- [Rule 4.2](#) of *Arizona Rules of Civil Procedure*
- [SMCRA](#) website

**7-Q. It says "relief requested" next to this blank on the form. What do I put there?**

**7-R.** "Relief requested" is a party's opportunity to write in your own words what is requested of the court. Court personnel cannot tell you what words to use. If you have questions about the types of remedies available in the case, you may consult an attorney.

**8-Q. I was served with this complaint and summons. What do I do now?**

**8-R.** You should follow the instructions in the summons. If you file an answer, it must be in writing and a copy served on the other party. If you are unsure how to file an answer you may contact an attorney. The clerk can inform you of the current filing fee, if any. See Section 8 entitled "Answering a Claim."

**9-Q. How long do I have to answer a complaint?**

**9-R.** The time to file an answer to a civil complaint is twenty (20) days from the date you are served or accept service, if it is in state. If it is out of state, you have thirty (30) days to file an answer. If the last day falls on a weekend or holiday, you have until the end of the next business day to file.

**10-Q. How do I appeal a superior court ruling to the court of appeals?**

**10-R.** You (the appellant) must file a written Notice of Appeal no later than 30 days after entry of the judgment. The local court can inform you of the current filing fee, if any. You must post a \$500.00 bond unless the court sets another bond amount. An Affidavit in Lieu of Bond may be submitted if you are unable to post the bond (*Superior Court Rules of Appellate Procedure*, Rule 10).

**Resources:**

- [Rule 10](#) *Superior Court Rules of Appellate Procedure - Civil*
- Appeals [Guide](#) for Self-Represented Parties
- Court of Appeals – [Div. 1](#)
- Court of Appeals – [Div. 2](#)

**11-Q. How do I file for default?**

**11-R.** You can file an Application for Entry of Default and Entry of Default 20 days after the other party has been served (30 days if they were served out of state). The local court may have forms with instructions available that you can prepare, or you may seek the help of an attorney. The clerk's office can inform you of the current filing fee, if any. You must send a copy of the Application for Default to the other party. The entry of default does not take effect for 10 business days after filing the application. Service can

occur in several ways. *Arizona Rules of Civil Procedure* Rule 55 and *Arizona Rules of Family Law Procedure* Rule 44 provide specific information.

**Resources:**

- [Rule 55](#) of *Arizona Rules of Civil Procedure*
- [Rule 44](#) of *Arizona Rules of Family Law Procedure*

**12-Q. I got an inactive notice. What am I supposed to do now?**

**12-R.** Inactive notices may be sent when there has been no action taken on a case or if there has been no service on a case. The notice explains options available to you. You must choose the option that best fits the situation. If you are not sure what to do, you may want to consult an attorney.

**13-Q. Would you look over this form and tell me if I did it right?**

**13-R.** Court personnel may tell you if you provided all the required information. Court personnel cannot tell you whether the information provided is correct or legally sufficient.

**14-Q. When do I have to file my opposition papers on this motion?**

**14-R.** In civil cases, Rule 7.1 of *Arizona Rules of Civil Procedure* states that the opposing party shall file any answering memorandum within ten (10) days after the motion was filed and served. Rule 6 (e) of *Arizona Rules of Civil Procedure* allows an additional five (5) calendar days when the motion is served by mail. The judge may determine there are grounds for an accelerated ruling, in which case the time for filing may be shortened. The time periods may be different when specific times for motions are otherwise provided by statute, *Arizona Rules of Civil Procedure*, or order of the court. Unless the court ordered otherwise, Arizona law requires all papers opposing a motion be filed and served on the opposing party by at least ten (10) calendar days before the hearing.

**Resources:**

- [Rule 7.1](#) of *Arizona Rules of Civil Procedure*
- [Rule 6\(e\)](#) of *Arizona Rules of Civil Procedure*

**15-Q. I figured out that I have to file my papers ten days before the hearing, but that day falls on a holiday when the court is closed. What do I do?**

**15-R.** This situation is an exception to the ten-day rule. You must file and serve the papers by the end of court business on the next day that the court is open following the holiday.

**16-Q. I have a disability that prevents me from filling out this form. Would you fill it out for me?**

**16-R.** For qualifying disabilities, court personnel must write exactly what you dictate, being careful not to correct grammar or make any other changes to your words. Court personnel will note on the form that they assisted you, and will record your words verbatim on the form.

**17-Q. The judge ruled in my favor in a civil case. How do I collect from the defendant?**

**17-R.** Check with your county court for informational packet. Here are a couple of examples from Maricopa and Yavapai county courts.

**Resources:**

- Maricopa County Justice Court– [How to Collect a Money Judgment](#)
- Mayer Justice Court – [Collecting Your Judgment](#)

## **SECTION 11 JUDGMENTS - SMALL CLAIMS**

**1-Q. I filed a debt collection case against a person. After that, the person filed for bankruptcy. How will the bankruptcy case affect my case against that person?**

**1-R.** Often, the bankruptcy will put a hold on the lawsuit. An attorney can advise you how it will affect your particular case.

**2-Q. If I file bankruptcy will my debts go away?**

**2-R.** Bankruptcy law is complicated and it depends on your circumstances. An attorney could advise you. You can read about bankruptcy on these websites.

**Resources:**

- <http://www.azb.uscourts.gov/filing-without-Rttorney>
- <http://bankruptcy.findlaw.com/>

**3-Q. Once a judgment is obtained, how long before I get my money?**

**3-R.** If the person who lost the case doesn't pay you, you can review these websites for your options to collect the money.

**Resources:**

- Maricopa County Justice Court– [How to Collect a Money Judgment](#)
- Mayer Justice Court – [Collecting Your Judgment](#)

**4-Q. Does my judgment ever expire?**

**4-R.** Judgments are usually good for five years. You can research the law or consult with an attorney to learn if a different time period applies to your specific case.

**5-Q. How do I garnish the wages of the person who lost this case in order to collect the money the court ordered them to pay me?**

**5-R. Resources:**

- [Garnishment forms and instructions](#)

**6-Q. If the person who lost this case has more than one employer, can I garnish their wages at both jobs?**

**6-R.** No. You can only garnish someone's wages at one job at a time.

**7-Q. How do I find out where the defendant works?**

**7-R.** One option is a process called a “debtor examination” or “supplemental proceedings.” The purpose of this process is to learn about the defendant’s assets and other information that might help you collect the judgment. An attorney could advise you if there are other options available to you.

**Resources:**

- Coconino County – [Instructions for supplemental proceedings.](#)

**8-Q. I tried a Writ of Execution, but it didn’t work. What do I do now?**

**8-R.** A Writ of Execution is an order to the Constable to serve the defendant and attempt to collect on the judgment. Information could be obtained through a debtor examination after a judgment has been obtained. Court personnel may provide an “if you win packet” for more information. You may want to contact an attorney, as there could be more options available.

**9-Q. What is a debtor’s exam?**

**9-R.** This is a process available to someone who has obtained a judgment against another party and has attempted an execution on the judgment, but the judgment debtor still has not paid the debt. In this situation the winning party may file a request for a debtor’s exam. Both parties will have to appear in court where the winning party may question the judgment debtor under oath regarding the amount and location of the judgment debtor’s assets (e.g., bank accounts, real property).

**10-Q. Can the losing party make installment payments on the judgment?**

**10-R.** It’s up to the person who won the case whether to accept installment payments.

**11-Q. The other party paid me just the judgment and not court costs. How do I collect the court costs?**

**11-R.** View these resources for options to collect the money.

**Resources:**

- Maricopa County Justice Court– [How to Collect a Money Judgment](#)
- Mayer Justice Court – [Collecting Your Judgment](#)

**12-Q. Why can’t the judge just put the defendant in jail?**

**12-R.** Arizona law doesn’t usually let the judge put someone in jail in a civil case.

**13-Q. How do I calculate my interest?**

**13-R.** A basic method for calculating interest on a judgment:

Step 1: Multiply \$ (judgment) X (interest) % = (annual interest rate due)

Step 2: Divide (annual rate) by 365 = (daily interest amount)

Step 3: Multiply the daily interest amount times the number of days since the judgment was entered. (Note: every time a payment is made the interest must be refigured.)

**14-Q. I paid my judgment in full and the plaintiff has not released it. How do I get the judgment released?**

**14-R.** You can file a request in your own words asking the court to “satisfy the judgment” and include proof that you’ve paid the judgment in full.

**Resources:**

- [Justice Court Rules of Civil Procedure](#)

**15-Q. I paid my judgment, so why don't you satisfy it?**

**15-R.** The court can “satisfy the judgment” only if one of the parties files a request for that. You can file a request in your own words asking the court to “satisfy the judgment” and include proof that you’ve paid the judgment in full.

**16-Q. How do I stop a garnishment?**

**16-R.** You can file a Request for Hearing; however, filing this request will not automatically stop a garnishment currently in effect. The Request for Hearing will get you before a judge within five (5) business days, at which point the judge will issue a ruling on any modification to the garnishment. The garnishment will still be in effect until a decision is made by the judge.

**Resources:**

- [Garnishment forms and instructions](#)

**17-Q. Are there any liens on my property?**

**17-R.** You may search the records in the recorder’s office, or have a title company or an attorney conduct a search for them. Court personnel do not provide this service.

**18-Q. How do I file a mechanic’s lien?**

**18-R.** This is done in the recorder’s office. Due to potential complications concerning questions of law and notice, you may want to consult with an attorney.

**19-Q. How long do I have to file a mechanic’s lien or an action to enforce a mechanics lien?**

**19-R.** In most cases a contractor or subcontractor who is owed money for products or services must file for a mechanic’s lien within 90 days after the last of the materials were furnished or the last of the labor was performed. An action to enforce a mechanic’s lien may be brought within two years from the expiration of the 90 days for filing a claim for the mechanic’s lien. Since the determination of the 90-day filing period may involve complicated legal issues, you may consult an attorney as to the application of these code sections to the party’s case.

**Resources:**

- Property [A.R.S. §§ 33-981 through 33-1008](#)

**SECTION 12**

**MINORS AS PARTIES IN A SMALL CLAIMS OR CIVIL CASE**

**1-Q. I’m 15 years old and I haven’t been paid for work I’ve done. How do I sue to get my money?**

**1-R.** Your parent or guardian must file the claim.

**Resources:**

- [Pima County Justice Court](#) forms and instructions

- [Maricopa County Justice Court](#) forms and instructions
- [Pinal County Justice Court](#) forms and instructions

**2-Q. Can I sue a minor?**

**2-R.** No; however, the parent or guardian of the minor may be sued.

**SECTION 13  
LANDLORD/TENANT - EVICTION**

This is a complex area of law that court customers may prefer the use of an attorney.

**Resources:**

- [Arizona Residential Landlord and Tenant Act](#)
- [Rules of Procedure for Eviction Actions](#)
- [AZLawHelp.org](#) – Eviction
- [Landlord and Tenant Rights and Responsibilities](#)

**1-Q. Are eviction actions just like other lawsuits?**

**1-R.** No, these cases move faster and require the court to hold a final hearing within a few days. If you want to contest the filing of the case you must do so as soon as possible.

**2-Q. Do I have to have an attorney represent me in an eviction action?**

**2-R.** No. There are lots of resources available for people who want to represent themselves.

**Resources:**

- [Arizona Residential Landlord and Tenant Act](#)
- [Rules of Procedure for Eviction Actions](#)
- [AZLawHelp.org](#) – Eviction
- [Landlord and Tenant Rights and Responsibilities](#)

**3-Q. Does a three day “notice to quit” include weekends and holidays?**

**3-R.** Yes.

**4-Q. What does “calendar days” mean?**

**4-R.** Calendar days include weekends and holidays.

**5-Q. Where can I get legal help?**

**5-R.** You can apply for legal services at the Arizona's Access to Justice Online Intake System.

**Resources:**

- [AZLawHelp.org](#)
- [Arizona's Access to Justice Online Intake System](#)
- [Southern Arizona Legal Assistance](#)
- [Community Legal Services](#)

## **SECTION 14 RECOVERY OF PERSONAL PROPERTY**

### **1-Q. How do I get my stuff out of my house?**

**1-R.** After the court evicts you, you can file a written request with the court to let you return to the residence to pick up your personal property. You must give a copy of your request to the other party. The court will schedule a hearing to decide what property you can take, when you can pick it up, and under what conditions.

## **SECTION 15 REAL PROPERTY**

### **1-Q. Can you provide me with a legal description of my property?**

**1-R.** You can get this information from your county's treasurer, assessor, or recorder's office.

### **2-Q. Is an address good enough when a legal description of real property is needed?**

**2-R.** No, you need to list the official legal description. You can get this information from your county's treasurer, assessor, or recorder's office.

### **3-Q. How do I get someone's name off my property?**

**3-R.** This could be accomplished by a petition to quiet title. Like most lawsuits, it could become legally complicated. You may wish to seek the assistance of an attorney.

## **SECTION 16 APPEALS IN CIVIL AND LIMITED JURISDICTION COURTS**

### **1-Q. How long do I have to file an appeal?**

**1-R.** Fourteen (14) days from the date the court mailed the judgment or decision to you. If it is a small claims case, there is no right to appeal. If it is an eviction action, the deadline is five (5) days from the date of mailing. Weekends and holidays are not excluded from the calculation. They must be counted to determine the deadline. If, however, your deadline falls on a Saturday, Sunday or day when the court is closed, the Notice of Appeal is due on the next day the court is open.

#### **Resources:**

- [Representing Yourself: A Guide on How to Appeal a Final Order or Judgment from a Justice Court or Municipal Court](#)
- [Forms](#)

### **2-Q. If I am evicted, do I still have to move and pay the judgment once I file my appeal?**

**2-R.** Yes, unless you post a "supersedeas bond" with the court. A party seeking to appeal a judgment may stay or "suspend" the enforcement of the judgment while the appeal is pending by filing a supersedeas bond. This bond is usually the amount of the judgment and stays with the court while the appeal is in process. For most tenants, filing a

supersedeas bond is the second most important step in appealing a justice court's decision. (The first is filing the "Notice of Appeal" on time.) By paying the "supersedeas bond" to the court, a tenant can temporarily stop the order that he or she be removed from rental housing. If a tenant does not pay the supersedeas bond, he or she will be locked out of the rental home five (5) days after the Judgment of Eviction is entered, or in the case of an "immediate" eviction, 24 hours after the Judgment of Eviction is entered.

**Exception for restraining orders:** The rules governing the payment of supersedeas bonds do not apply to Orders of Protection and Injunctions Against Harassment ("restraining orders").

**3-Q. What do I do to file an appeal?**

**3-R.** Fill out the proper paperwork and pay the filing fee. Read the notice of right to appeal to find out the process of the appeal and what to do next.

**Resources:**

- [Representing Yourself: A Guide on How to Appeal a Final Order or Judgment from a Justice Court or Municipal Court](#)

**4-Q. I have filed an appeal on my eviction. Who do I pay my rent to?**

**4-R.** The monthly rent gets paid to the court and the court will issue a check to the landlord. If you want to remain in your rental home pending your appeal, you must pay the supersedeas bond and then continue to pay your rent into the court on or before the day it is due each month. There is no "grace period" for payment. If you fail to pay rent into the court on time you may be removed from the rental property during the appeal.

**Resources:**

- [Representing Yourself: A Guide on How to Appeal a Final Order or Judgment from a Justice Court or Municipal Court](#)

**5-Q. I have filed my appeal. Now what?**

**5-R.** File an appellant memorandum (and typed transcript if the taped proceedings are more than 90 minutes) within 60 calendar days of the expiration of the deadline to file the Notice of Appeal. The Notice of Right to Appeal explains what an appellant memorandum is.

**Resources:**

- [Representing Yourself: A Guide on How to Appeal a Final Order or Judgment from a Justice Court or Municipal Court](#)

**6-Q. I still don't understand what a memorandum is.**

**6-R.** It is a written explanation of why the court's ruling was legally wrong. It may not exceed 15 pages in length.

**Resources:**

- [Representing Yourself: A Guide on How to Appeal a Final Order or Judgment from a Justice Court or Municipal Court](#)

**7-Q. I filed my appellant memorandum. Now what?**

**7-R.** The opposing side has 30 days to file an appellee’s memorandum (response). Once filed, a Notice to Pay Filing Fees in Superior Court will be sent. Once the fees are paid, the trial court will send the record on appeal to superior court for a decision.

**8-Q. Will I get another court date?**

**8-R.** Only if the superior court overturns the trial court’s decision or if the record on appeal cannot be sent.

**SECTION 17  
APPEALS IN GENERAL JURISDICTION COURTS**

**1-Q. How do I appeal a superior court ruling to the court of appeals?**

**1-R.** The party wanting to appeal (the appellant) may file a written Notice of Appeal no later than 30 days after entry of the Judgment. The local court can inform the party of the current filing fee, if any. You must post a \$500.00 bond unless the court sets another bond amount. An Affidavit in Lieu of Bond may be submitted if you are unable to post the bond.

**Resources:**

- [Guide for Self-Represented Appellants and Appellees](#)
- [Rule 6 of Arizona Rules of Appellate Procedure - Civil](#)

**2-Q. What does the “due date” heading on the appellate index refer to?**

**2-R.** This is the date the clerk’s appellate unit is required to have the lower court record transmitted to the court of appeals, and is not related to the parties’ obligations.

**3-Q. I filed a document with the superior court but it is not included on the appellate index. Why not?**

**3-R.** Most often this occurs because the document was filed after the lower court record was transmitted to the court of appeals. If the appellate court requires the document, it will order the clerk to supplement the record by providing that document.

**4-Q. Where do I file the appellate brief?**

**4-R.** Once the Court of Appeals accepts jurisdiction in your case, you must file the Appellate Brief with the Court of Appeals. If you make a mistake and file it with the Superior Court at this point in your case, the Superior Court will deliver it to the Court of Appeals, but this could delay the filing of your Brief with the Court of Appeals by your deadline.

**5-Q. What happens at the court of appeals after the lower court record is transmitted?**

**5-R.** This guide explains the procedures in detail.

**Resources:**

- [Guide for Self-Represented Appellants and Appellees](#)

**6-Q. The appellate court ruled on my case. How do I reopen it in the lower court?**

**6-R.** For more information, contact the division of court administration for the case type that was appealed.

## **SECTION 18 JUVENILE IN LIMITED JURISDICTION COURTS**

**1-Q. My child got a ticket for curfew violation, possession of tobacco, underage drinking, or truancy. Does my child need to go to court?**

**1-R.** Yes.

**Resources:**

- [Rule 12](#) of *Arizona Rules of Procedure for the Juvenile Court*

**2-Q. Do I have to appear in court with my child?**

**2-R.** A parent or guardian must appear with the juvenile for all criminal or petty offenses.

**3-Q. My child received a criminal traffic ticket. Does he or she need to appear in court?**

**3-R.** In most cases, if the juvenile prefers to pay the ticket, he or she may; however, the juvenile will be required to appear in court with a parent or guardian on a class 1 misdemeanor or serious traffic violation.

**4-Q. Can I be held liable if my juvenile does not do what the judge says?**

**4-R.** Yes.

**5-Q. Can a warrant be issued for my child's arrest?**

**5-R.** At this level of the court, a warrant will not issue for the child; however, the child's license may be suspended until the child turns 18 years of age, at which time the court can issue a warrant for arrest.

**6-Q. Can I sue a minor?**

**6-R.** No; however, the parent or guardian of the minor may be sued.

## **SECTION 19 JUVENILE IN GENERAL JURISDICTION COURTS**

**1-Q. How can I cancel an adoption?**

**1-R.** Court personnel do not provide any forms. The person may wish to consult an attorney. Adoption laws are in.

**Resources:**

- Child Safety [A.R.S. §§ 8-101 through 8-173](#)

**2-Q. How can I contest an adoption?**

**2-R.** Court personnel do not provide any forms. You may wish to consult an attorney.

**3-Q. After a juvenile delinquency record has been destroyed, how do I answer the question “have you ever been convicted?” when completing a job application?**

**3-R.** “Application for Destruction of Records” answers this question. An attorney can provide more information.

**Resources:**

- Destruction of Juvenile Records [A.R.S. § 8-349](#)

## **SECTION 20 FAMILY AND DOMESTIC RELATIONS**

**1-Q. If a marriage license was never recorded would someone have to file for a divorce? Who would know a marriage occurred if there is no record?**

**1-R.** There’s not an easy answer to this question. An attorney could advise you on your specific situation.

**2-Q. How does someone file for divorce without an attorney?**

**2-R.** The statutes pertaining to dissolution of marriage are found in *Arizona Revised Statutes*, Title 25. The *Arizona Rules of Family Law Procedure* list additional procedures and requirements. Your court might have a do-it-yourself divorce packet. If not, check to see if your courts will accept the Maricopa County or Pima County packet. These packets explain the steps and include forms. Some courts offer special programs, such as counseling, or require additional steps, such as mediation.

**Resources:**

- Marital and Domestic Relations A.R.S. [Title 25](#)
- [Arizona Rules of Family Law Procedure](#)
- [Maricopa County forms, instructions, and packets](#)
- [Pima County forms, instructions, and packets](#)

**3-Q. How do I file for legal separation?**

**3-R.** Legal separation is filed in the same manner as a petition for dissolution of marriage. Check to see if your courts will accept the Maricopa County or Pima County packet. These packets explain the steps and include forms. Some courts offer special programs, such as counseling, or require additional steps, such as mediation.

**Resources:**

- Marital and Domestic Relations A.R.S. [Title 25](#)
- [Arizona Rules of Family Law Procedure](#)
- [Maricopa County forms, instructions, and packets](#)
- [Pima County forms, instructions, and packets](#)

**4-Q. How do I file for divorce in a covenant marriage?**

**4-R.** You can read about covenant marriage in a brochure that explains when you can file for divorce if you have a covenant marriage. It also explains the extra information you’d need to give the court about your case that might not be in the do-it-yourself forms.

**Resources:**

- [Covenant Marriage in Arizona](#) brochure

**5-Q. How soon after a divorce is final can someone get married again?**

**5-R.** There is no waiting period in Arizona.

**6-Q. How do I file for an annulment?**

**6-R.** If you and your spouse have no children together, your court might have a do-it-yourself annulment packet. If not, many courts accept Maricopa County's packet. These packets explain the steps and include forms. Some courts offer special programs, such as counseling, or require additional steps, such as mediation. If you and your spouse do have children together, you can research what's required for an annulment in the *Arizona Revised Statutes* and the *Arizona Rules of Family Law Procedure* and write your forms from scratch based on your research, or an attorney could help you. The clerk's office can inform you of the current filing fee, if any.

**Resources:**

- [Annulment of a Non Covenant Marriage](#) Forms and instructions
- Marital and Domestic Relations A.R.S. [Title 25](#)
- [Arizona Rules of Family Law Procedure](#)

**7-Q. Do I have grounds for an annulment?**

**7-R.** The following information sheet explains when an annulment might apply. You can also research this question in *Arizona Practice: Marriage Dissolution Practice*, section 114, which you can find at or through your local law library. If you're still unsure, an attorney can advise you. As court staff, we can give you this information, but we aren't qualified to help you decide how these laws apply to your specific case.

**Resources:**

- [Annulment information sheet](#)

**8-Q. I don't know if I'm divorced. I haven't seen my spouse for years. Do I need to get a divorce here?**

**8-R.** To check if you're already divorced, you can contact the court clerk's office in the county where the divorce might have happened.

**Resources:**

- Arizona [Clerks of Superior Court](#)

**9-Q. How can I serve someone when I can't find them?**

**9-R.** Usually, if you can't find the person, you can serve them by publishing a notice in a newspaper. You can read about the requirements and steps in the "Service of Process" section of the *Arizona Rules of Family Law Procedure*. Your court might have forms and instructions for serving by publication.

**Resources:**

- [Arizona Rules of Family Law Procedure](#)
- Maricopa County [How to Serve the Court Papers by Publication](#)

**10-Q. I just got served with divorce papers. What do I do?**

**10-R.** If you disagree with anything in the divorce papers, you can file a Response to give your input. Your deadline to file the Response is 20 days after you were served (30 days if you were served out of Arizona). If you agree with everything in the divorce papers, you have a few options. The first option is called "Consent Decree." With this option, you and

the other party fill out a Consent Decree together listing all your agreements. You pay a fee to participate in the case in this way. Often, there is no hearing with a Consent Decree. Your court might have do-it-yourself packets for this option. If not, many courts accept Maricopa County’s packet. These packets explain the steps and include forms. Some courts offer special programs, such as counseling, or require additional steps, such as mediation. If you and the other party don’t agree on all areas of the divorce, you may have a “contested” case. If you and the other party don’t come to a full or agreement, the court may set the matter for a hearing. Another option is called “Default,” which has specific requirements. With default, the other party was served with divorce papers and proof of service has been filed with the clerk of court, and the other party has not filed a written response or answered within the time frame set by law.

**Resources:**

- Arizona divorce or legal separation [flowchart](#)
- Maricopa County [divorce packets](#)
- Maricopa County [How to Get a Default Decree in Family Court Cases](#)

**11-Q. I was served with divorce papers on June 3. Exactly how many days do I have to respond?**

**11-R.** See the table below for how long you have to file a written response to the Petition. Find the date in the “After” column on a calendar. Start counting on the next day. Count off the days in the “Count” column, including weekends and holidays. You must respond by the last date you counted, unless it’s a weekend or court holiday, in which case you must respond by the next workday.

| <b>Where were the papers served?</b>     | <b>How were the papers served?</b> | <b>Count:</b> | <b>After:</b>   |
|--|------------------------------------|---------------|---|
| In Arizona, not on an Indian Reservation | Acceptance of Service              | 20 days       | The other party signs the Acceptance of Service             |
|  | Certified Mail                     | 20 days       | The other party signs the green card                        |
|  | Process Server                     | 20 days       | The other party receives the papers from the process server |
|  | Sheriff                            | 20 days       | The other party receives the papers from the sheriff        |
| In Arizona, on an Indian Reservation*    | Acceptance of Service              | 30 days       | The other party signs the Acceptance of Service             |
|  | Tribally Licensed Process Server   | 30 days       | The other party receives the papers from the process server |

| <b>Where were the papers served?</b> | <b>How were the papers served?</b> | <b>Count:</b> | <b>After:</b>   |
|--------------------------------------|------------------------------------|---------------|---|
|                                      | Tribal Law Enforcement             | 30 days       | The other party receives the papers from the officer        |
| Outside of Arizona                   | Acceptance of Service              | 30 days       | The other party signs the Acceptance of Service             |
|                                      | Certified Mail                     | 30 days       | The other party signs the green card                        |
|                                      | Process Server                     | 30 days       | The other party receives the papers from the process server |
|                                      | Sheriff or Tribal Law Enforcement  | 30 days       | The other party receives the papers from the officer        |
|                                      | Publication                        | 60 days       | The first publication                                       |

**\*If the papers were served on an Indian Reservation in Arizona:** Depending on the facts and circumstances of the case, there *may* be fewer days for you to respond. An attorney can advise you.

**12-Q. How do I modify my divorce decree?**

**12-R.** Your court might have a do-it-yourself packet for changing parts of your decree, however property and debt division are generally not subject to modification and you may want to seek the help of an attorney. Many courts accept Maricopa County’s packets, which explain the steps and include forms. Some courts offer special programs, such as counseling, or require additional steps, such as mediation.

**Resources:**

- Maricopa County [divorce packets](#)

**13-Q. Can I dismiss my dissolution or divorce case?**

**13-R.** If you are the Petitioner and service has not been completed, you can submit a Notice of Dismissal. If service has been completed you can file a Motion to Dismiss your divorce. If both of you agree to dismiss your divorce, you can submit a Stipulation to Dismiss your divorce. You can pick up the form from the Self Service Center or you can download the form, complete it, and return it to the court. You will need to determine which form you will need.

**Resources:**

- Maricopa County [Stipulation to Dismiss](#)

**14-Q. How can I get a Consent Decree signed by the court?**

**14-R.** The court enters a consent decree when all parties have agreed on how to resolve everything required for a divorce, legal separation or annulment. You must agree in writing to issues such as division of property and debt, spousal maintenance (if any), legal decision-making, parenting time, and support (if you have children). All parties must sign the written decree. In Maricopa County, after you have waited the required time frames, paid the response fee, and attended the Parenting Information Program (if you have children) you can submit a consent decree by mail or set a hearing on the Internet.

**Resources:**

- In Maricopa County – Call 602-372-3332 to schedule a time to come to court and have your paperwork signed during a hearing.
- In Maricopa County set hearing on the [ezCourtForms](#) site

**15-Q. How can I get a Default Decree signed by the court?**

**15-R.** If **no** response is filed, you may be able to get divorced by default. You can set a default hearing if the other party has not filed a written response. A default hearing is scheduled when you want a divorce, other judgment or order when the opposing side does not respond in writing to your petition or motion. A default hearing cannot be set for at least 61 days after the date the petition (and other documents) were served on the respondent. If you want to set a default hearing, you must complete the Application and Affidavit of Default and file it with the clerk of the court. You must be sure service of the petition was complete, and that the other party did not file a written response or answer with the court.

At the time you file the Application and Affidavit of Default with the clerk of the court, make sure you have two (2) copies of the Application and Affidavit of Default date-stamped by the clerk. You must mail or hand-deliver one copy to the other party the day that you filed the Application and Affidavit of Default with the clerk of the court. After you have given the other party a copy of the Application and Affidavit of Default you must wait ten (10) court days.

If the other party still does not file a written response or answer in ten (10) court days, you may be able request a default hearing date.

**Resources:**

- Arizona divorce or legal separation [flowchart](#)
- Maricopa County [divorce packets](#)
- Maricopa County [How to Get a Default Decree in Family Court Cases](#)
- In Maricopa County – Call 602-372-3332 to schedule a time to come to court and have your paperwork signed during a hearing.
- In Maricopa County set hearing on the [ezCourtForms](#) site

**16-Q. If I cannot afford to pay the fees, can I have my fees deferred?**

**16-R.** You may fill out an Application for Deferral of your filing or service fees. Your application will be reviewed and if you qualify the court may allow you to make payments for your fees.

**Resources:**

- Maricopa County [To Request a Deferral or Waiver of Court Fees](#)

**17-Q. How can I get documents or exhibits released to me from the exhibits?**

**17-R.** You will need a court order and valid identification (driver's license or other picture I.D.) to remove materials from this section.

**18-Q. How long do you keep exhibits?**

**18-R.** There are strict criteria that have to be met in order to return exhibits or dispose of them. There is no set time for a case; only specific criteria that must be met to determine when an individual case is closed. At the conclusion of a hearing, exhibits not offered into evidence or received in evidence by the court, can be returned to the respective parties. If the matter is taken under advisement, exhibits can be returned at the time of ruling. There is a different method of return for exhibits offered into evidence or received in evidence by the court. When a case is determined closed, including such considerations as a final judgment or decree, all appeals times are over, complete, and dismissal of the case, exhibits can be released to the parties or disposal can occur.

**Resources:**

- In civil cases, [Local Rule of Maricopa County 2.8\(d\)](#) is used to determine that the case is closed for all parties.

**19-Q. I filed a motion for temporary orders; how soon will I see the judge?**

**19-R.** It usually takes about 30 days to have a hearing on temporary orders.

**20-Q. My child's other parent is not complying with the decree. How do I make the other parent comply?**

**20-R.** To enforce the order, a party may file a Petition for Enforcement, or the party may initiate a contempt proceeding with an Order to Show Cause or Order to Appear, depending on the situation. Your court might have a do-it-yourself packet to enforce the decree. If not, many courts accept Maricopa County's packet. These packets explain the steps and include forms. Some courts offer special programs, such as counseling, or require additional steps, such as mediation.

**Resources:**

- Maricopa County [divorce packets](#)
- Rules 91 and 92 of the [Arizona Rules of Family Law Procedure](#)

**21-Q. What does the judge consider when determining legal decision-making and parenting time?**

**21-R.** Arizona has statutes that have specific factors that the judge follows when deciding the best interests of the children. There are other factors that may not be written in the statutes, but may be important. These factors include but are not limited to the following: The court shall determine legal decision-making, either originally or on petition for modification, in accordance with the best interests of the child. The court shall consider all relevant factors, including:

- The past, present and potential future relationship between the parent and the child.
- The interaction and interrelationship of the child with the child's parent or parents, the child's siblings and any other person who may significantly affect the child's best interest.
- The child's adjustment to home, school and community.

- If the child is of suitable age and maturity, the wishes of the child as to legal decision-making and parenting time.
- The mental and physical health of all individuals involved.
- Which parent is more likely to allow the child frequent, meaningful and continuing contact with the other parent. This paragraph does not apply if the court determines that a parent is acting in good faith to protect the child from witnessing an act of domestic violence or being a victim of domestic violence or child abuse.
- Whether one parent intentionally misled the court to cause an unnecessary delay, to increase the cost of litigation or to persuade the court to give a legal decision-making or a parenting time preference to that parent.
- Whether there has been domestic violence or child abuse pursuant to § 25-403.03.
- The nature and extent of coercion or duress used by a parent in obtaining an agreement regarding legal decision-making or parenting time.
- Whether a parent has complied with chapter 3, article 5 of this title.
- Whether either parent was convicted of an act of false reporting of child abuse or neglect under §13-2907.02.

**Resources:**

- Legal decision-making; best interests of the child [A.R.S. § 25-403](#)

**22-Q. I want to see my child more than the court order allows. How do I get more time with my child?**

**22-R.** Your court might have a do-it-yourself packet to change parenting time. If not, many courts accept Maricopa County's packet. Modification of parenting time may involve complicated issues and you may want to seek the help of an attorney.

**Resources:**

- Modification of legal decision-making or parenting time [A.R.S. § 25-411](#)
- Maricopa County [forms and instructions](#)

**23-Q. My child doesn't want to return to the other parent's home at the end of my parenting time. Does my child have to go back?**

**23-R.** Everyone must follow the court order until the judge changes it. Your court might have a do-it-yourself packet to change parenting time. If not, many courts accept Maricopa County's packet. These packets explain the steps and include forms. Some courts offer special programs, such as counseling, or require additional steps, such as mediation. If someone is in danger, you can call law enforcement.

**Resources:**

- Maricopa County [forms and instructions](#)

**24-Q. How do I move out of state with my child (the other parent is staying here)?**

**24-R.** If your parenting time order says you can't move, you can ask the court to change that order to let you move. Your court might have a do-it-yourself packet to change parenting time. If not, many courts accept Maricopa County's packet. These packets explain the steps and include forms. Some courts offer special programs, such as counseling, or require additional steps, such as mediation.

**Resources:**

- Coconino County - [Moving with Children When There Are Court Orders About the Children](#)
- Maricopa County [forms and instructions](#)

**25-Q. I am supposed to pick up my kids this weekend, but the other parent says I won't be allowed to have them. Can the court make the other parent give me the kids?**

**25-R.** The court can't enforce an order unless the other party has actually disobeyed it. If the other parent denies your parenting time, you can ask the court to enforce the parenting time order. Your court might have a do-it-yourself packet for enforcement. If not, many courts accept Maricopa County's packet. These packets explain the steps and include forms. Some courts offer special programs, such as counseling, or require additional steps, such as mediation.

**Resources:**

- Maricopa County [forms and instructions](#)

**26-Q. Will I get to talk to the judge about my family court emergency?**

**26-R.** That is up to the judicial officer on a case-by-case basis.

**27-Q. Does an unwed mother automatically have sole legal decision-making authority of the children?**

**27-R.** Legal decision-making authority and parenting time are determined by court order. If there is no court order, law enforcement agencies, schools, and doctors may have different and conflicting policies on how they determine which parent has legal decision-making authority. To establish legal decision-making authority and parenting time, the local superior court may have forms with instructions available that the party can prepare, or the party may seek the help of an attorney. The clerk's office can inform the party of the current filing fee, if any.

**28-Q. How do I remove the "presumed father" from the birth certificate when it turns out that he is not the biological father?**

**28-R.** Your court might have a do-it-yourself packet to establish paternity. If not, many courts accept Maricopa County's packet. These packets explain the steps and include forms. Some courts offer special programs, such as counseling, or require additional steps, such as mediation. Parties are encouraged to seek advice and assistance from an attorney. Legal services may be available locally for those who cannot afford to hire a private attorney.

**Resources:**

- Maricopa County [forms and instructions](#)
- [Arizona Department of Health Services](#) – paternity information

**29-Q. How do I add a father's name to the birth certificate?**

**29-R.** Adding the father's name to the birth certificate requires filing an Acknowledgment of Paternity. Acknowledgment of Paternity forms can be found at all birthing hospitals, the Office of Vital Records, the Arizona Department of Economic Security's Division of Child Support Services offices and many of the county registrar's offices health

department Office of Vital Records. You can also work with the courts to file for voluntary paternity or file for paternity, legal decision-making authority and related matters together. Your court may have a do-it-yourself packet. If not, many courts accept Maricopa County's packet.

**Resources:**

- Arizona Department of Health Services Vital Records – [Corrections & Amendments to Birth Certificates](#)
- Division of Child Support Services – [Voluntary Acknowledgement](#) form
- Maricopa County [To Establish Voluntary Acknowledgement](#)

**30-Q. If the father is on the birth certificate, does he still need to petition the court for paternity orders as well as parenting time and legal decision making?**

**30-R.** Is his paternity being challenged? If not, then probably not. Even if paternity has been legally established and the father is on the birth certificate, the father has no legal right to parenting time or decision-making until the court orders parenting time or legal decision-making. Your county superior court may have more information or forms on this particular circumstance.

**Resources:**

- Maricopa County [forms and instructions](#)
- Presumption of paternity [A.R.S. § 25-814](#)

**31-Q. The father of my children agrees that he is the father. How can we get an order from the court?**

**31-R.** If the father's name is on the birth certificate you may not need a court order. If both parents agree who the biological father is, you can sign a statement called an Acknowledgment of Paternity. These forms are available at all birthing hospitals, the Office of Vital Records, the Arizona Department of Economic Security's Division of Child Support Services offices and many of the county registrar's offices.

You can also establish court ordered paternity by competing paperwork and filing it with the court. A court order to change a birth certificate must have the child's birthday on it. If you have a court order for paternity, the order may be filed with the Office of Vital Records directly by the court, the agency that petitioned the court for the order, or one of the parents may deliver it in person. If you decide to bring a court order to the Office of Vital Records in person, you must bring a certified copy of the court order with you.

**Resources:**

- Arizona Department of Health Services Vital Records – [Corrections & Amendments to Birth Certificates](#)
- Division of Child Support Services – [Voluntary Acknowledgement](#) form
- Maricopa County [To Establish Voluntary Acknowledgement](#)

**32-Q. Where can I get help completing the Parent's Worksheet to establish or modify a child support order?**

**32-R.** The Arizona Supreme Court maintains an online child support calculator. If you do not have exact figures, you can estimate the information input on the worksheet. You should be prepared to explain to the court the numbers used.

**Resources:**

- Arizona statewide online [child support calculator](#)

**33-Q. Can I get a child support order without getting a legal separation or divorce?**

**33-R.** If the parties have never been married, yes. You may file a petition directly with the court; a private attorney may file on your behalf; or the local Division of Child Support Services may help you establish a support order, as well as paternity, if that is an issue in the case. If you are currently married, you will need to contact an attorney or research the *Arizona Revised Statutes* to determine if child support can be ordered without filing a separation or divorce proceeding in court. For information regarding child support while married, contact the Division of Child Support Services.

**Resources:**

- Arizona [Division of Child Support Services](#)

**34-Q. Please describe legal decision-making and parenting time.**

**34-R.** Children are your first priority when making decisions concerning their lives. Research tells us that children of separated or divorced parents do better if both parents stay actively involved in their lives. Remember, conflict is not good for your children. The way you and the other parent act may affect them. The more you and the other parent can deal with each other without conflict, the better it will be for your children. As part of the divorce process, parents or the judge will decide if major decisions regarding the children's health, education, and religion can be made by one or both parents.

In most cases, the children will likely spend time with each parent after the divorce. Arrangements regarding when and how the children will spend time with each parent are referred to as parenting time.

**Resources:**

- [Things You Should Know About Legal Decision-Making and Parenting Time](#)

**35-Q. What does the judge consider when determining legal decision-making and parenting time?**

**35-R.** Arizona has statutes that have specific factors that the judge follows when deciding the best interests of the children. There are other factors that may not be written in the statutes, but may be important. These factors include but are not limited to the following: The court shall determine legal decision-making, either originally or on petition for modification, in accordance with the best interests of the child. The court shall consider all relevant factors, including:

- The past, present and potential future relationship between the parent and the child.
- The interaction and interrelationship of the child with the child's parent or parents, the child's siblings and any other person who may significantly affect the child's best interest
- The child's adjustment to home, school and community.
- If the child is of suitable age and maturity, the wishes of the child as to legal decision-making and parenting time.

- The mental and physical health of all individuals involved.
- Which parent is more likely to allow the child frequent, meaningful and continuing contact with the other parent. This paragraph does not apply if the court determines that a parent is acting in good faith to protect the child from witnessing an act of domestic violence or being a victim of domestic violence or child abuse.
- Whether one parent intentionally misled the court to cause an unnecessary delay, to increase the cost of litigation or to persuade the court to give a legal decision-making or a parenting time preference to that parent.
- Whether there has been domestic violence or child abuse pursuant to § 25-403.03.
- The nature and extent of coercion or duress used by a parent in obtaining an agreement regarding legal decision-making or parenting time.
- Whether a parent has complied with chapter 3, article 5 of this title.
- Whether either parent was convicted of an act of false reporting of child abuse or neglect under § 13-2907.02.

**Resources:**

- Legal decision-making; best interests of the child [A.R.S. § 25-403](#)

**36-Q. What are the types of legal decision-making in Arizona?**

**36-R.** You may want to look at the definitions for legal decision-making.

- “Legal decision-making” means the legal right and responsibility to make all nonemergency legal decisions for a child including those regarding education, health care, religious training and personal care decisions. For the purposes of interpreting or applying any international treaty, federal law, a uniform code or the statutes of other jurisdictions of the United States, legal decision-making means legal custody.
- "Joint legal decision-making" means both parents share legal decision-making and neither parent's rights are superior, except with respect to specified decisions as set forth by the court or the parents in the final judgment or order. "Parenting time" means the schedule of time during which each parent has access to a child at specified times. Each parent during their scheduled parenting time is responsible for providing the child with food, clothing and shelter and may make routine decisions concerning the child's care.
- "Sole legal decision-making" means one parent has the legal right and responsibility to make major decisions for a child.

**Resources:**

- Definitions [A.R.S. § 25-401](#)

**37-Q. How can I find out more information regarding legal decision-making and parenting-time?**

**37-R.** The Arizona Supreme Court has more general information about legal decision-making and parenting time in this brochure.

**Resources:**

- [Things You Should Know About Legal Decision-Making and Parenting Time](#)

**38-Q. What is the Parenting Information Class (PIP)?**

**38-R.** Parent Information Program (PIP) is a mandatory class that provides information to divorcing parents, or parents involved in other domestic relations actions, concerning what their children may be experiencing during this emotionally difficult period. There are certain agencies that provide PIP classes in person and online.

**39-Q. If we agree on joint legal decision-making what paperwork do we need to complete?**

**39-R.** You will need a parenting plan, signed by both parents that includes:

- A designation of the legal decision-making as joint or sole as defined in §25-401.
- Each parent's rights and responsibilities for the personal care of the child and for decisions in areas such as education, health care and religious training.
- A practical schedule of parenting time for the child, including holidays and school vacations.
- A procedure for the exchanges of the child, including location and responsibility for transportation.
- A procedure by which proposed changes, disputes and alleged breaches may be mediated or resolved, which may include the use of conciliation services or private counseling.
- A procedure for periodic review of the plan's terms by the parents.
- A procedure for communicating with each other about the child, including methods and frequency.
- A statement that each party has read, understands and will abide by the notification requirements of A.R.S. § 25-403.05, subsection B.

**Resources:**

- [Things You Should Know About Legal Decision-Making and Parenting Time](#)
- [Planning for Parenting Time Arizona's Guide for Parents Living Apart](#)
- Sexual offenders; murderers; legal decision-making and parenting time [A.R.S. § 25-403.05, subsection B](#)

**40-Q. Is Arizona a community property state?**

**40-R.** Arizona is a community property state because of our state law. Community property generally means that spouses equally share ownership of anything purchased, acquired, or paid for during the marriage no matter who uses the property, who paid for the property or what name a title is under.

**41-Q. What are examples of community property and debts?**

**41-R.** Examples of community property include: real estate, home furnishings, vehicles, bank accounts, investment accounts, credit card debts, student loans, car payments, and some retirement plans. All property or debt that either spouse acquires during the marriage is likely considered community property or debt unless it can be proven that certain property was acquired as a gift or inheritance.

**42-Q. Under what circumstances can spousal maintenance be paid?**

**42-R.** Generally, the parties can agree or the court can order spousal maintenance be paid by one spouse to another. The court will follow the state law (A.R.S. § 25-319) when determining if spousal maintenance is appropriate:

A. In a proceeding for dissolution of marriage or legal separation, or a proceeding for maintenance following dissolution of the marriage by a court that lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order for either spouse for any of the following reasons if it finds that the spouse seeking maintenance:

1. Lacks sufficient property, including property apportioned to the spouse, to provide for that spouse's reasonable needs.
2. Is unable to be self-sufficient through appropriate employment or is the custodian of a child whose age or condition is such that the custodian should not be required to seek employment outside the home or lacks earning ability in the labor market adequate to be self-sufficient
3. Contributed to the educational opportunities of the other spouse.
4. Had a marriage of long duration and is of an age that may preclude the possibility of gaining employment adequate to be self-sufficient.

**43-Q. How do I appear after default is entered against me?**

**43-R.** *Arizona Rules of Family Law Procedure* list these procedures and requirements. The local superior court may have forms with instructions available that you can prepare, or you may seek the help of an attorney. The clerk's office can inform you of the current filing fee, if any.

**Resources:**

- [Arizona Rules of Family Law Procedure](#)
- Maricopa County [How to Get a Default Decree in Family Court Cases](#)

**44-Q. How do I amend a motion?**

**44-R.** *Arizona Rules of Family Law Procedure* list these procedures and requirements. The local superior court may have forms with instructions available that you can prepare, or you may seek the help of an attorney. The clerk's office can inform you of the current filing fee, if any.

**Resources:**

- [Arizona Rules of Family Law Procedure](#)

**45-Q. My child and former in-law are divorced and now I'm being kept from seeing my grandkids. How can I get to see them?**

**45-R.** This is called grandparent's visitation. The local superior court may have forms with instructions available that you can prepare, or you may seek the help of an attorney. The clerk's office can inform you of the current filing fee, if any.

**Resources:**

- Maricopa County establish [grandparents visitation](#) packet

**46-Q. How can I get my parental rights restored?**

**46-R.** Restoration of parental rights is a complex matter and court personnel do not provide forms. You may wish to contact an attorney.

**47-Q. How can I get my children back?**

**47-R.** If the Department of Child Safety (DCS) has removed your child from your home, you will be served with a Notice of Hearing. A court hearing will be set within seven (7) days. Any requests to the court must be made in writing. The local court can provide forms

for dependency petitions and service, requests for review of temporary custody (only in dependency) and requests for appointment of an attorney or court interpreter. Other forms are available at local court websites and self-service centers.

**48-Q. How do I tell the court what witnesses I'm bringing to a hearing?**

**48-R.** *Arizona Rules of Family Law Procedure* provides these requirements. The local superior court may have forms with instructions available that you can prepare, or you may seek the help of an attorney. The clerk's office can inform you of the current filing fee, if any.

**Resources:**

- [Arizona Rules of Family Law Procedure](#)

**49-Q. How do I get a protective order (order of protection or injunction against harassment)?**

**49-R.** Most protective orders can be filed in any justice court, municipal court, or superior court. However, when there is an active case between parties pending in superior court in family court, the petition must be filed in the superior court under your active case number. The protective order must be served on the other party by a process server or law enforcement officer before it is effective. The order will remain in effect for one year from the date it is served on the other party. If you are seeking an order of protection at the Superior Court in Maricopa County, you must go to the Family Violence Prevention Center located at the courthouse.

**50-Q. I was dating someone and we split up. They have property that belongs to me that they won't let me have (car, furniture or other property). How do I get my property back?**

**50-R.** This situation is a civil matter. If the value of the property is \$10,000 or less, you may file a small claims case in justice court. If the value of the property is more than \$10,000, you may file a civil complaint in superior court. For other options that may be available, you may want to speak with an attorney.

**51-Q. How is child support determined in Arizona?**

**51-R.** The current Arizona Child Support Guidelines follow the Income Shares Model. An income shares model is a model that takes into consideration the income of both parents. The guidelines allow for the children to be supported at the same level as when the parents and child were living together. Each parent contributes his or her proportionate share of the total child support amount. The Arizona Supreme Court and the Self Service Center also offer a free online child support calculator that may help you determine if a change in the child support amount is appropriate

**Resources:**

- Arizona statewide online [child support calculator](#)
- Arizona [Child Support Guidelines](#)

**52-Q. What are IV-D services?**

**52-R.** Title IV-D (Title IV-D of the Social Security Act) services are for any person with legal decision-making of a child who needs help to establish a child support or medical

support order, any parent who already has a support order who needs help to collect support payments, or any noncustodial parent can apply for IV-D child support. If you are receiving public assistance from Temporary Assistance for Needy Families (TANF), or Medicaid or federally-assisted Foster Care programs, you have been automatically referred to the Division of Child Support Services (DCSS) for services.

**Resources:**

- Arizona [Division of Child Support Services](#)

**53-Q. How do I apply for Title IV-D services?**

**53-R.** You must contact the Division of Child Support Services (DCSS). DCSS is a Division of the Department of Economic Security (DES) that is charged with the statewide administration and operation of the Child Support Enforcement Program as established by Title IV-D of the Social Security Act.

**Resources:**

- Arizona [Division of Child Support Services](#)

**SECTION 21  
NAME CHANGE**

**1-Q. How do I change my name?**

**1-R.** You may file an application in the superior court in your county of residence, listing reasons for the change and the name to be adopted. The court may enter judgment that your adopted name be substituted for your original name. You are required to contact the state vital records department of your birth with the court order.

**Resources:**

- Arizona Supreme Court [name change forms](#) and instruction
- A.R.S. [Title 12](#) Courts and Civil Proceedings

**2-Q. How do I change a minor's name when the other parent won't sign the request?**

**2-R.** When the other parent does not agree with the request to change a minor's name, you must provide Notice of Hearing Regarding Application for Change of Name. The local superior court may have forms with instructions available; you can prepare your own application or seek the help of an attorney. The clerk's office can inform you of the current filing fee, if any.

**Resources:**

- Arizona Supreme Court [name change forms](#) and instruction
- A.R.S. [Title 12](#) Courts and Civil Proceedings

**3-Q. How can I view the electronic court record?**

**3-R.** Maricopa County - You can access the public information portion of the court and clerk's computer system by visiting the Customer Service Center at 601 W. Jackson (Phoenix), the Southeast Court at 222 E. Javelina (Mesa), the Northwest Court at 14264 W. Tierra Buena Lane (Surprise), or the Northeast Court at 18380 N. 40th Street, Suite 120 (Phoenix). You will find computer terminals that access the Integrated Court Information System (iCIS), which allows search capability of both iCIS cases and

information available in the L-Index (an archival listing of past cases and documents, with minimal identifying information). This means you can view case, party, docket, and judgment information from the computer terminal. You can also access and print scanned images of documents.

You can access documents anywhere through the Electronic Court Record (ECR) for those cases you, as a registered user, are directly related to. Attorneys are able to access images on cases where they are on the case record, and individual parties will have access to cases where you are the party of record. The system will not allow access to sealed cases, sealed documents, or Mental Health cases. One time registration to authenticate user identity is required and can be found at <https://ecr.clerkofcourt.maricopa.gov/login.aspx>. An Arizona driver's license is required for online authentication. Please be aware that copies printed from the ECR website are not considered certified. Certified copies of records must be obtained on paper, either in person or by mail from the clerk's office.

## **SECTION 22 PROBATE – MENTAL HEALTH**

Probate cases present a challenge to courts across the country. They require a high degree of oversight to protect and prevent mistreatment of protected individuals and their property. The term “Probate Court” is used generically to reference the court that hears not only estate probate and intestate matters but also a variety of other cases that traditionally involve filings in the areas of guardianship, conservatorship, elder fraud, and physical abuse.

### **1-Q. Do I have to open an estate for a dead relative?**

**1-R.** If you have a legal right to claim the property, and the value of all personal property is less than \$75,000 or the value of the real property is less than \$100,000, you may be able to file an Affidavit for Collection of All Personal Property or Affidavit for Transfer of Title to Real Property. If value of the personal property exceeds \$75,000 or the value of the real property exceeds \$100,000, you may qualify for an informal probate. Forms for filing are available in some self-service centers and some superior courts. You should consult an attorney to determine if you have a legal right to the property or if the estate has to be probated and to help guard against undesired and unexpected consequences. The clerk's office can inform the party of the current filing fee, if any.

#### **Resources:**

- [Affidavit for Transfer of Real Property](#)
- [Affidavit for Collection of All Personal Property](#)
- Maricopa County [Probate](#) cases webpage

### **2-Q. How do I get title changed on property that belonged to my relative (husband, wife, father, mother, etc.) who is now deceased?**

**2-R.** If the value of the estate is less than \$100,000, you may file an Affidavit for Transfer of Title to Real Property. Self-service centers or superior courts may have forms available online. If the value of the real property exceeds \$100,000, you may qualify to file an informal probate. You should consult an attorney to determine if the estate has to be

probated and to help guard against undesired and unexpected consequences. The clerk's office can inform you of the current filing fee, if any.

**Resources:**

- [Affidavit for Transfer of Title to Real Property](#)
- Maricopa County [Probate](#) cases webpage

**3-Q. My spouse died. How do I get his or her last paycheck?**

**3-R.** For wages, you can file an affidavit at any time with the employer of the deceased and collect the deceased's wages if they are not more than \$5,000. If more than \$5,000, a probate case may be filed.

**Resources:**

- Trusts, Estates, and Protective Proceedings [Title 14](#), Arizona Revised Statutes

**4-Q. My spouse died. How do I get the money out of his or her savings or checking account or any other personal property?**

**4-R.** If the value of the personal property is less than \$75,000, you may file an Affidavit for Collection of All Personal Property. If the value of the personal property exceeds \$75,000, you may qualify to file an informal probate. Forms for filing an informal probate are available in some self-service centers and some superior courts. You should consult an attorney to determine if you have a legal right to the property or if the estate has to be probated and to help guard against undesired and unexpected consequences. The clerk's office can inform you of the current filing fee, if any.

**5-Q. Do you have my will?**

**5-R.** The local superior court clerk can tell you whether your will is being stored in the clerk's office. The local county recorder's office can tell you if the will is recorded in its office.

**6-Q. How can I get someone committed because he is a threat to himself or others?**

**6-R.** You should contact the Arizona Department of Health Services, Division of Behavioral Health Services at 602-364-4558, or the Federal Mental Health Services Administration Treatment Referral Routing Service at 1-800-662-HELP (4357). Through either agency, you can request to be connected to the Regional Behavioral Health Authority in your region to inquire about completing an Application for Involuntary Evaluation.

**7-Q. Do I need an attorney to file a guardianship and conservatorship?**

**7-R.** It is possible for you to file a guardianship and conservatorship on your own, but due to legal complexities and potential liability, you may wish to consult an attorney. The local court or self service center may have forms and instructions. The clerk's office can inform you of the current filing fee, if any.

**Resources:**

- Arizona Supreme Court [Probate](#) webpage

**8-Q. How do I establish guardianship and conservatorship of an adult?**

**8-R.** The local superior court may have forms with instructions available that you can prepare, or you may seek the help of an attorney. The clerk's office can inform you of the current filing fee, if any.

**9-Q. As a guardian (or conservator), do I have to file an annual report?**

**9-R.** Yes. *Arizona Revised Statutes*, Title 14, lists additional procedures and requirements in this area.

**Resources:**

- Arizona Supreme Court [Probate](#) webpage
- Trusts, Estates, and Protective Proceedings [Title 14](#) Arizona Revised Statutes

**10-Q. How do I prepare a guardian's report?**

**10-R.** The local superior court may have forms with instructions available that the party can prepare, you may seek the help of an attorney. The clerk's office can inform the party of the current filing fee, if any.

**Resources:**

- Arizona Supreme Court [Probate](#) webpage
- Maricopa County [Probate](#) cases webpage

**11-Q. Who do I call for a bond?**

**11-R.** Some courts provide lists of bonding companies. Bonding companies can also be found online or in the phone book. Maricopa County suggests you contact your insurance agent as well.

**SECTION 23**

**CRIMINAL**

**In Limited and General Jurisdiction Courts**

**1-Q. What is the procedure for entering a plea to a criminal charge?**

**1-R.** There are three possible pleas to a criminal charge:

- Plea of Not Guilty - The defendant denies guilt and the State must prove the criminal charge(s) against him or her. The State is represented by the city or county prosecutor's office.
- Plea of Guilty - The defendant admits that he or she committed the acts charged in the complaint, that the acts are prohibited by law and that he or she has no legal defense for such acts.
- Plea of No Contest - This plea, also known as *nolo contendere*, means the defendant is not admitting guilt and not denying it. The defendant is saying that he or she does not wish to contest the State's charges. Upon a plea of no contest, the judicial officer may find the defendant guilty and enter a judgment of guilt.

**2-Q. What happens at a trial on criminal charges or complaints?**

**2-R.** Depending on the alleged offense, a defendant may be entitled to a trial by jury. The defendant is entitled to hear all testimony introduced against him or her. A defendant

has the right to cross-examine any witness who testifies against him or her, to testify on his or her own behalf and a Constitutional right not to testify. If the defendant chooses not to testify, a refusal cannot and will not be used against the defendant in determining his or her guilt or innocence. However, if a defendant chooses to testify, the prosecutor will have the right to cross-examine the defendant. A defendant may call witnesses to testify on his or her behalf and has the right to have the court issue subpoenas for witnesses to ensure appearance at the trial.

**3-Q. What will be my sentence?**

**3-R.** The judge imposes the sentence. Court personnel cannot guess, as different facts and law may apply to each case.

**4-Q. What happens at the arraignment?**

**4-R.** The process may vary depending on the court. The accused may be advised of his or her rights, charges and consequences of convictions and asked to enter a plea of guilty, not guilty or no contest. In some courts the judge may enter a not guilty plea on behalf of the accused and remind the accused of the need to attend all hearings.

**5-Q. What happens after I enter a plea at arraignment?**

**5-R.** Once you have decided on your plea you must enter a plea with the judge at your arraignment. Unless the case involves a victim who has asked to be present, no witnesses will be present at arraignment and no testimony will be taken. At an arraignment, the judge will not grant a request to dismiss any charges. You must enter a plea to the charges against you.

- If a plea of guilty or no contest is entered you may be sentenced immediately following the judge's acceptance of your plea or you may be sentenced at a later date.
- If a plea of not guilty is entered, a pre-trial disposition conference will be scheduled followed by a trial setting. You must decide, if you have not already done so, whether to employ an attorney to represent you.
- You may be represented only by yourself or an Arizona licensed attorney. In some circumstances, a court-appointed attorney may be provided you.

If you cannot afford an attorney and wish representation, you may request that an attorney be appointed to represent you. An examination of your financial status will be made to determine if you are entitled to a court-appointed attorney. If eligible, you may be ordered to pay a portion of the attorney's cost.

**6-Q. How do I post bond?**

**6-R.** Procedures vary. Contact the local court or jail for locations and hours for posting bond. Some courts or agencies accept cash, money orders, bank checks (cashier's checks), personal checks, MasterCard, Visa or other major credit cards. Some agencies will only accept the exact amount of cash or a money order. Call first.

**7-Q. I do not have the money to post bond. How can I find a bail bond agency?**

**7-R.** Some courts provide lists of bonding companies. Bonding companies may also be found in the yellow pages or search online for bail bond agencies.

**8-Q. What happens at a pre-trial conference?**

**8-R.** A defendant or the defendant's attorney will be given an opportunity to meet with a prosecutor to review the facts supporting the State's criminal charges against him or her. At the pre-trial conference, a defendant is entitled to review a copy of the complaint, any written police reports or any other evidence that the State intends to use at the trial. Witnesses do not attend the pre-trial disposition conference and no testimony is taken. However, victims do have the right to be present if they request to do so.

- A defendant has three options at the pre-trial conference:
  - (a) Change his or her plea to guilty and accept the prosecutor's settlement offer, which contains the recommended sentence he or she will receive upon acceptance by the judge;
  - (b) Reject the prosecutor's offer and change his or her plea of not guilty to a guilty or no contest plea and accept the sentence determined by the judge;
  - (c) Maintain his or her plea of not guilty and have the case set for a trial date.

**9-Q. Can I reschedule (continue) my hearing to a later date?**

**9-R.** Only the judge can continue a hearing. You may file a written request with the clerk and provide a copy of the request to the other parties (or the prosecuting attorney in a criminal case) for the judge to consider the request.

**10-Q. Can I plead by telephone?**

**10-R.** If authorized by the court and the case is a misdemeanor, a telephonic plea may be available provided you are an out of state resident or you reside more than 100 miles from the court.

**11-Q. How do I get unsupervised probation?**

**11-R.** Probation is determined by the judge. You would in most cases be represented by counsel who could make the request to the court on your behalf. You may also talk to the probation officer who is preparing a pre-sentence report and ask the probation officer to recommend that, if appropriate. If you are representing yourself, you may request that the court impose unsupervised probation at the time of sentencing. The final decision is up to the judge.

**12-Q. How do I clear my record and get my rights restored?**

**12-R.** If you are a first-time offender, convicted of a single felony count, you do not need to petition the court for restoration of civil rights. Civil rights are automatically restored upon successful completion of all aspects of sentencing, including payment of all court ordered fines, fees and restitution. The right to possess firearms requires petitioning the sentencing court. The judge will determine whether or not to grant the request. If you served time in prison, two years must have passed since the date of absolute discharge before becoming eligible to file for restoration of civil rights. To restore civil rights, the party may apply to the sentencing court to vacate the judgment of guilt, dismiss charges and restore civil rights in Arizona. The Certificate of Absolute Discharge must be included with your application.

**13-Q. My relative got arrested. Who do I talk to?**

**13-R.** If your relative has an attorney, you may contact your relative's attorney. Court personnel may provide public information, such as upcoming court dates and how to post

bond. In some cases, the arresting agency can provide terms of release or other information and may be able to accept bond.

**14-Q. I posted bond for someone. How and when can I get my money back?**

**14-R.** The bond will be exonerated (released) after the conclusion of the case or when ordered by the court. The court must have a current mailing address to return money, which usually occurs within a few days of the exonerated order.

**15-Q. What victim services are available?**

**15-R.** Victim services are available through the local county attorney's office. Victims' services vary between courts and agencies and based on misdemeanor or felony crimes may be available through the prosecutor's office involved in the case, the law enforcement agency involved in the case, or an outside agency. A victim advocate can explain the judicial system, act as a link between the prosecutor and the victim, give current case status information, assist in obtaining orders of protection, make referrals for counseling, food, shelter, and escort victims while they testify or appear at hearings.

**16-Q. What is a public defender?**

**16-R.** A public defender is an attorney who represents a person who is accused of a crime who cannot afford to hire an attorney. Some counties have public defender offices that have a number of attorneys on staff. Some counties may contract with private attorneys to provide services to the accused who cannot afford to hire an attorney.

**17-Q. Will the county attorney represent me?**

**17-R.** The county attorney and other prosecutorial agencies usually represent the State and its municipalities in criminal cases. For more information, the party may contact the county attorney or prosecuting agency.

**18-Q. Can you appoint an attorney for me?**

**18-R.** Only a judge can appoint an attorney, and only in certain cases. In most civil and domestic cases, attorneys are not appointed.

**19-Q. What is a warrant?**

**19-R.** A warrant is an order from the court to law enforcement to take someone or something into custody. Some warrant information is forwarded to law enforcement agencies throughout Arizona. For example, the court may order a "bench" warrant for law enforcement to arrest someone who failed to appear in court, or the court may issue a search warrant for law enforcement to seize and remove property from a person, place, or thing.

**20-Q. What are the different warrants?**

**20-R.** There are several different times in criminal cases when warrants may be issued by the court: at the beginning of a case, during a case if a defendant fails to appear, or after sentencing when a defendant fails to comply with a court order.

Criminal arrest warrants may be issued when there is reasonable case to suspect an individual of a misdemeanor or felony crime.

Arrests result in being held in jail until a bond is paid or until the defendant is brought to court from the jail to see a judge. The judge will decide if bond is continued or if the defendant can be released on his or her own recognizance, meaning the defendant remains personally responsible for appearing, but is not required to post a bond.

When a person fails to appear for a scheduled court date, a warrant is issued. The defendant may be arrested and may be required to post a bond and another court date will be set. If a defendant knows ahead of time that he or she cannot attend court at the scheduled time, the defendant may request a continuance. The defendant must appear unless the continuance is granted by a judicial officer. The defendant may contact his or her attorney, if one has been appointed or retained, or appear as soon as possible in court to ask the judge to quash (end) the warrant and to reset the court date. The judge decides whether to require bond.

A warrant may be issued if a person placed on probation violated his or her probation, or if the defendant failed to comply with any other order the court imposed at sentencing.

**21-Q. What attorney should I call to handle my case? Who would be good?**

**21-R.** Court personnel cannot advise a party whether the party should hire a lawyer, nor may they recommend a specific lawyer. Some courts provide a list of local attorneys and there may be a list of local resources of attorneys who will work for a reduced fee or no fee.

**Resources:**

- Maricopa County Bar Association Lawyer Referral Service  
602-257-4434 - <http://maricopalawyers.org>
- Pima County Bar Association Lawyer Referral Service:  
520-623-4625 - <http://www.pimacountybar.org>
- Arizona Foundation for Legal Services & Education:  
866-637-5341 - [www.azlawhelp.org](http://www.azlawhelp.org)

**22-Q. I cannot afford to hire an attorney. How do I get one appointed?**

**22-R.** You may request the court to appoint an attorney when you make the first court appearance. You will have to complete a financial affidavit to determine whether or not you qualify for a court appointed attorney. In some cases, the court may appoint an attorney to represent you, even if you do not want an attorney, if the court determines it is in your best interest or if the case is too complex for you to self-represent. In other cases, when you wish to self-represent, the court may appoint an attorney as advisory counsel. The court may order you to pay a monthly amount towards the costs of your attorney either during the case or, if you are convicted, after you have been sentenced.

**23-Q. What have I been charged with?**

**23-R.** Court personnel may show you the public record file if it is not confidential or sealed.

**24-Q. What sentence will I get if I plead guilty?**

**24-R.** The judge imposes the sentence. Court personnel cannot guess, as different facts and law may apply to each case. However, certain offenses have mandatory sentences,

meaning a judge cannot order a lesser sentence than is required. Other offenses allow a judge to use discretion to determine the appropriate sentence. If a charge has a mandatory sentence, the judge will inform you of that during the sentencing proceeding.

**25-Q. When do I have to pay my fine?**

**25-R.** The terms and schedule for paying fines and other obligations are set by the judge at the time of sentencing. If you have lost the paperwork, the information may be available in the public record or from the probation office, if applicable.

**SECTION 24  
CRIMINAL  
In General Jurisdiction Court**

**1-Q. Will you give me an extension to pay my fine?**

**1-R.** Usually only a judge may grant an extension. You may file a request in writing with the clerk who will then process the request to the judge for consideration. In some cases, probation officers have the authority to grant extensions. You may check with the probation officer first.

**2-Q. How do I get unsupervised probation?**

**2-R.** Probation is determined by the court. You would in most cases be represented by an attorney who may make the request to the court. You may also talk to the probation officer who is preparing a pre-sentence report and ask the probation officer to recommend that option. If you are representing yourself, you may make the request at the time of sentencing. The final decision is up to the judge.

**3-Q. How do I get a copy of my grand jury minutes or presentence investigation?**

**3-R.** For a copy of grand jury transcripts, a request must be made in writing to the judge who presided over the case, providing a specific reason to support the request. Presentence investigations are public record after they are filed with the clerk of the court's office. Copies are available from the clerk.

**4-Q. How do I appeal my case?**

**4-R.** In superior court, you may only appeal a criminal case under certain circumstances. The party's Notice of Rights of Review after Conviction will tell you what may be appealed. If you do not have the right to appeal, you may file for post-conviction relief. The Notice of Rights of Review after Conviction provides the procedure for filing post-conviction relief.

## **SECTION 25 JURY SERVICE**

**1-Q. Where does the jury commissioner obtain names of prospective jurors?**

**1-R.** The list of names used to summon people for jury service is created by combining the county's voter registration list and Arizona Department of Transportation records. Names are randomly selected from that master jury list.

**2-Q. I have been called to serve three times in the past five years and none of my friends have ever been called. Why don't you pick some other people?**

**2-R.** Names are randomly selected to summon potential jurors. Since that process is random, some people may be selected more often than others.

**3-Q. Some people would volunteer for jury service if you'd let them. Why don't you?**

**3-R.** The jury office adheres to the random selection process set forth in the law. Arizona law does not allow people to volunteer for jury service.

**4-Q. I can no longer fulfill my duties as a juror. Can't you take my name off your list?**

**4-R.** Under certain circumstances, such as permanent mental or physical disability, jury staff can permanently remove a name from its records. Prospective jurors must explain their situation in writing and return it to the jury office with any required supporting documentation. Since April 13, 2005, people who receive a jury summons to an Arizona court who are at least 75 years of age may be excused upon written request. Eligible citizens who wish to be excused should mark this option on their summons and return it to the jury office.

**5-Q. I am not a citizen of the United States but I would still like to serve as a juror. Why can't I?**

**5-R.** Arizona law disqualifies non-citizens, non-residents, convicted felons whose civil rights have not been restored, and people under 18 years of age from jury service.

**6-Q. Is jury service mandatory?**

**6-R.** Yes, the United States Constitution and the Arizona State Constitution guarantee the right to trial by jury. Failure to attend as directed may subject the person to penalties provided by law, including a fine up to \$500 and being rescheduled for jury service.

**Resources:**

- Arizona Revised Statutes [Title 21](#)

**7-Q. How long will I have to serve as a juror?**

**7-R.** If selected to serve on a jury for a trial, service is complete at the conclusion of the trial. Generally, jury service is also complete for those who are not selected to serve on the first day.

**8-Q. Are there ever any instances when I may have to serve longer?**

**8-R.** Jurors have to serve the length of the trial. Trials usually end within three to five days. During the jury selection portion of the case, the judge presiding over the trial will state the estimated length of that particular trial.

**Resources:**

- Arizona Supreme Court [Jury Service Information](#) webpage

**9-Q. I served on a jury three years ago. Do I have to serve again already?**

**9-R.** Yes. Jurors who appeared for service but were not chosen for a trial are exempt from serving again for a period of time determined by the jury commissioner, generally ranging from one to two years. Jurors who served on a jury panel for a trial in Arizona are exempt from serving again for two years. If it has been more than two years since serving as a juror, citizens are required to appear for jury service again, regardless of how many times they have served in the past.

**Resources:**

- Arizona Supreme Court [Jury Service Information](#) webpage

**10-Q. How do I request to be excused from jury service?**

**10-R.** Prospective jurors who are otherwise qualified to serve may be excused from jury service for certain reasons and hardships. The jury summons or local jury office can provide the specific reasons or hardships and explain the supporting documentation needed with the request to be excused. Each request is reviewed individually. Potential jurors are encouraged to complete the juror questionnaire truthfully, to the best of their knowledge. Failure to do so is against the law. Jury service is a citizen's civic duty and responsibility.

**Resources:**

- Arizona Supreme Court [Jury Service Information](#) webpage

**11-Q. I know that I will not be selected for a jury because of what I do for a living. Why not excuse me now and save time?**

**11-R.** Many courts try civil and criminal cases, both of which require juries. The random selection process prevents jurors from knowing in advance what trial or the type of trial for which they will be selected. Jury office staff cannot excuse potential jurors based on what they do for a living. However, peace officers wishing to be excused may review the requirements explained in A.R.S. Title 21, and send the necessary documentation to the jury office.

**Resources:**

- Arizona Supreme Court [Jury Service Information](#) webpage

**12-Q. I am unable to judge anyone because of my moral or religious beliefs. May I be excused?**

**12-R.** Arizona law does not provide an excuse from jury service for moral or religious beliefs; jury service is still required. Prospective jurors may tell the judge about their beliefs during the jury selection process.

**13-Q. Does my employer have to pay me for serving as a juror?**

**13-R.** No. Arizona law does not require employers to compensate their employees while they are on jury service. Many employers support the jury system and provide jury service benefits and will continue employee wages while they serve as a juror. Each employer may have a policy answering this question.

**14-Q. Can my employer prevent me from serving as a juror?**

**14-R.** Arizona law prohibits an employer from discharging or in any manner discriminating against an employee for taking time off to serve as a juror if the employee, prior to taking time off, gives reasonable notice to the employer of the requirement to serve as a juror. Jurors who experience problems with their employers should contact the jury office for assistance.

**Resources:**

- Arizona Revised Statutes [Title 21](#)

**15-Q. I live closer to a different court than the one where I've been summoned. Why can't my service be transferred there?**

**15-R.** Arizona law requires that jurors be selected randomly from the court's jurisdiction. Prospective jurors must appear at the court to which they were summoned.

**16-Q. How late will I be at the courthouse?**

**16-R.** The hours of operation for most courts are 8:00 a.m. to 5:00 p.m. Prospective jurors should make arrangements to remain the entire day.

**17-Q. What about getting a postponement?**

**17-R.** Courts realize prospective jurors may have been summoned at an inconvenient time and in most instances are willing to reschedule service to a more convenient time. Review the jury summons or contact the local jury office for information on postponing jury service.

**Resources:**

- Arizona Supreme Court [Jury Service Information](#) webpage

**18-Q. Will I be compensated for jury service?**

**18-R.** Yes, jurors who appear only on the first day will be compensated for their mileage. Jurors selected to serve on a trial will receive compensation for every day the trial lasts, plus mileage. Courts differ in how often they compensate jurors for jury service (daily, weekly, or bi-weekly).

**19-Q. My jury summons asks if I have been convicted of a felony and if my civil rights have been restored. How do I find out if I was convicted, if it was a misdemeanor or a felony, and how do I know if my civil rights have been restored?**

**19-R.** You may check with the records department of the court where you were sentenced to see what the conviction was on the sentencing minute entry or order. Persons are "convicted" when sentenced to a felony or if the charge is left "undesignated." If the conviction was a first-time felony, and all terms of the sentence are completed (monies paid, probation, etc.) then civil rights and the right to sit on a jury are automatically restored. If the conviction was a second-time felony (or more), you must

apply to have civil rights restored. If the sentencing minute entry or order reflects “undesigned felony” (still a felony conviction), the judge has the option to designate the offense a misdemeanor after the party has completed all aspects of the sentence. If the judge chooses to do this, the judge will mark “misdemeanor” on the bottom of the discharge. If the judge chooses not to designate the felony a misdemeanor, you may ask the sentencing judge to do this. The discharge can also be found at the records department of the court where the person was sentenced.

## **SECTION 26 CALCULATING NUMBER OF DAYS**

### **Rules of Civil Procedure 6(a). Computation**

In computing any period of time specified or allowed by these rules, by any local rules, by order of court, or by any applicable statute, the day of the act, event or default from which the designated period of time begins to run shall not be included. When the period of time specified or allowed, exclusive of any additional time allowed under subdivision (e) of this rule, is less than 11 days, intermediate Saturdays, Sundays and legal holidays shall not be included in the computation. When the period of time is 11 days or more, intermediate Saturdays, Sundays and legal holidays shall be included in the computation. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday.

### **Rules of Civil Procedure 6(e). Additional time after service by mail**

Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party, and the notice or paper is served by mail, five calendar days shall be added to the prescribed period. This rule has no application to the distribution of notice of entry of judgment required by Rule 58(e).

### **Rules of Criminal Procedure 1.3. Computation of Time**

In computing any period of time of more than 24 hours prescribed by these rules, by order of court, or by an applicable statute, the day of the act or event from which the designated period of time begins to run is not to be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which case the period shall run until the end of the next day which is neither a Saturday, Sunday nor a legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sunday, and legal holidays shall be excluded in the computation. Whenever a party has the right or is required to take some action within a prescribed period after service of a notice or other paper and the notice or paper is served by a method authorized by Rule 5(c)(2)(C), (D), or (E), *Arizona Rules of Civil Procedure*, five calendar days shall be added to the prescribed period. Mailing pursuant to *Arizona Rule of Civil Procedure* 5(c) (2) (C) includes every type of service except same day hand delivery.

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Arizona Supreme Court  
Administrative Office of the Courts  
Court Services Division

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Question & Response (Q&R) Handbook  
How to Respond to Common Questions from Court Customers

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Court Services Division, Court Programs Unit  
1501 W. Washington, Suite 410  
Phoenix, AZ 85007-3231  
(602) 452-3250

Arizona Commission on Access to Justice

|                                    |  |   |
|------------------------------------|--|---|
| Meeting Date:<br>November 18, 2015 | Type of Action Requested:<br><input checked="" type="checkbox"/> Formal action or request<br><input type="checkbox"/> Information only<br><input type="checkbox"/> Other | Subject:<br>Report from the Self-represented Litigants in Limited Jurisdiction Courts (SRL-LJC) |
|------------------------------------|--|---|

From: SRL-LJC Workgroup

Presenter: Chair Judge Rachel Torres Carrillo

Discussion: Judge Carrillo will be presenting on the work of the SRL-LJC Form's subgroup related to forms and instruction packets. She will also briefly discuss the work of Paul Julien's resources subgroup on landlord/tenant videos.

Judge McMurry will be presenting on the Maricopa County Justice Court Best Practices handout that he worked on along with Judge Gerald Williams and Charles Adornetto who were recognized by Chief Justice Bales for their work in the area of ensuring access to justice for self-represented litigants.

Recommended motion: Motion to approve final drafts in concept with the understanding that these forms and information packets will be edited by ASU to get the forms to a fifth grade reading level. Also, with the understanding that these forms will be translated to Spanish upon final completion.

# Notice for Failure to Pay Rent

**{5 Day Notice to Move + ~~A.R.S 33-1368B~~}**

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\_\_\_\_\_

( ) -  
\_\_\_\_\_  
Tenant(s) Name / Address / Phone

( ) -  
\_\_\_\_\_  
Landlord(s) or Agent Name / Address / Phone

Notice Date: \_\_\_\_\_

**You have not paid your rent. ~~If you do not pay the total owed within 5 calendar days of receiving this Notice your landlord may file an eviction action requiring you to move. You owe the following rent.~~**

Total owed \$ \_\_\_\_\_ as of this date: \_\_\_\_\_. If late fees are allowed in the rental agreement, this amount will increase by \$ \_\_\_\_\_ each day the rent is not paid. The total includes:

**A. Rent \$ \_\_\_\_\_**

1. Current month/week \$ \_\_\_\_\_
2. Prior month \$ \_\_\_\_\_
3. Other \$ \_\_\_\_\_ why \_\_\_\_\_
4. Other \$ \_\_\_\_\_ why \_\_\_\_\_
5. Other \$ \_\_\_\_\_ why \_\_\_\_\_

*(Other means: Items listed as rent in your rental agreement paid monthly to your landlord.)*

**B. Late Fees (if allowed in rental agreement) are \$ \_\_\_\_\_ per day for \_\_\_\_\_ days, which is a total of \$ \_\_\_\_\_ as of the date of this notice.**

~~You may settle this matter before any eviction is filed. Your options are: Your landlord may file an Eviction Action asking the judge to order you to move unless you do one of the following:~~

- A. Pay the total owed within 5 calendar days of receiving this notice.
- ~~B. Move out of the rental and return the keys to the landlord within 5 calendar days of receiving this notice. (You may still be responsible for the total owed.)~~
- C. Contact the landlord and settle this matter, in writing signed by both you and the landlord.

*Receiving means: If hand-delivered – you have 5 calendar days to act from the date you or members of your household received the notice. If sent by certified mail – you have 5 calendar days to act from the date you signed the postal service green card or 10 calendar days from the date the envelope was post-marked, whichever comes first.*

**Failure to pay the amount owed, move out of the rental and return the keys, or settle this matter in writing may result in the landlord filing an Eviction Action. If an eviction is filed, you have the right to appear in Court and dispute the Eviction Action. The judge will decide if you have to move or can remain in the rental. If a judgment is entered against you, you may remain in the rental property only if the landlord agrees in writing to let you stay.**

~~This notice is given under A.R.S. § 33-1368(B). The laws about this Notice are found in the Arizona Residential Landlord and Tenant Act. For more information on the Act, Eviction Actions, and your rights, please visit the Arizona Department of Housing website at <https://Housing.AZ.Gov>, the Maricopa County Justice Courts website at [www.JusticeCourts.Maricopa.Gov](http://www.JusticeCourts.Maricopa.Gov) or [www.AZLawhelp.org](http://www.AZLawhelp.org). The laws about this Notice are found in the Arizona Residential Landlord and Tenant Act. For more information on the Act, Eviction Actions, and your rights, please visit the Arizona Department of Housing website at <https://Housing.AZ.Gov>, the Maricopa County Justice Courts website at [www.JusticeCourts.Maricopa.Gov](http://www.JusticeCourts.Maricopa.Gov) or [www.AZLawhelp.org](http://www.AZLawhelp.org)~~

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Landlord  Agent

This notice is served by:

Hand delivery to (name): \_\_\_\_\_ who is the  tenant  occupant

By certified mail (mail receipt #): \_\_\_\_\_

This notice is given under A.R.S. § 33-1368(B). The laws about this Notice are found in the Arizona Residential Landlord and Tenant Act. For more information on the Act, Eviction Actions, and your rights, please visit the Arizona Department of Housing website at <https://Housing.AZ.Gov>, the Maricopa County Justice Courts website at [www.JusticeCourts.Maricopa.Gov](http://www.JusticeCourts.Maricopa.Gov) or [www.AZLawhelp.org](http://www.AZLawhelp.org). The laws about this Notice are found in the Arizona Residential Landlord and Tenant Act. For more information on the Act, Eviction Actions, and your rights, please visit the Arizona Department of Housing website at <https://Housing.AZ.Gov>, the Maricopa County Justice Courts website at [www.JusticeCourts.Maricopa.Gov](http://www.JusticeCourts.Maricopa.Gov) or [www.AZLawhelp.org](http://www.AZLawhelp.org)

**Notice of Health and Safety Violation(s)**  
**(5 Day Notice to Move ~~A.R.S. 33-1368A~~)**

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(        ) -  
Tenant(s) Name / Address / Phone

(        ) -  
Landlord(s) or Agent Name / Address / Phone

Notice Date: \_\_\_\_\_

You have violated your rental agreement. The following is what happened, where it happened and when. Attach additional sheet(s) if needed.

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~~If you do not fix the violation(s) within 5 calendar days of receiving this Notice, your landlord may file an Eviction Action requiring you to move, asking the judge to order you to move unless you do one of the following:~~

~~You may settle this matter before an eviction action is filed. Your options are:~~

- A. Fix the violation(s) within 5 calendar days of receiving of this notice.
- B. Move out of the rental and **return the keys** to the landlord within 5 calendar days of receiving his notice.
- C. Contact the landlord and settle this matter in writing signed by both you and the landlord.

*Receiving means: If hand-delivered – you have 5 calendar days to act from the date you or members of your household received the notice. If sent by certified mail – you have 5 calendar days to act from the date you signed the postal service green card or 10 calendar days from the date the envelope was post-marked, whichever comes first.*

~~Failure to fix the violation(s), move out or settle this matter may result in an Eviction Action. If an eviction action is filed, you have the right to appear in court to dispute the Eviction Action. After a Hearing, the Judge may order you to move. After a hearing, the Judge will decide if you have to move or if you can remain in the rental. A Writ of Restitution (a court order to have you removed from the rental) may be issued. If a judgment is entered against you, you may remain in the rental property only if the landlord agrees in writing to let you stay.~~

**WARNING:** If there is **another or similar violation** during the rest of the rental agreement, your landlord may give you a Notice requiring you to move within 10 calendar days. If you do not move, the landlord may file an Eviction Action.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
 Landlord     Agent

~~This notice is given under A.R.S. § 33-1368(A). The laws about this Notice are found in the Arizona Residential Landlord and Tenant Act. For more information on the Act, Eviction Actions, and your rights, please visit the Arizona Department of Housing website at <https://housing.az.gov>, the Maricopa County Justice Courts website at [www.justicecourts.maricopa.gov](http://www.justicecourts.maricopa.gov) or [AZLawhelp.org](http://AZLawhelp.org). The laws about this Notice are found in the Arizona Residential Landlord and Tenant Act. For more information on the Act, Eviction Actions, and your rights, please visit the Arizona Department of Housing website at <https://housing.az.gov>, the Maricopa County Justice Courts website at [www.justicecourts.maricopa.gov](http://www.justicecourts.maricopa.gov) or [AZLawhelp.org](http://AZLawhelp.org).~~

This notice is served by

- Hand delivery to (name): \_\_\_\_\_ who is the  tenant  occupant
- By certified mail (mail receipt #): \_\_\_\_\_

This notice is given under A.R.S. § 33-1368(A). The laws about this Notice are found in the Arizona Residential Landlord and Tenant Act. For more information on the Act, Eviction Actions, and your rights, please visit the Arizona Department of Housing website at <https://housing.az.gov>, the Maricopa County Justice Courts website at [www.justicecourts.maricopa.gov](http://www.justicecourts.maricopa.gov) or [AZLawhelp.org](http://AZLawhelp.org). The laws about this Notice are found in the Arizona Residential Landlord and Tenant Act. For more information on the Act, Eviction Actions, and your rights, please visit the Arizona Department of Housing website at <https://housing.az.gov>, the Maricopa County Justice Courts website at [www.justicecourts.maricopa.gov](http://www.justicecourts.maricopa.gov) or [AZLawhelp.org](http://AZLawhelp.org).

**Notice of Material Breach**  
**(10 Day Notice to Move ~~A.R.S. 33-1368A~~)**

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\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

(        ) - \_\_\_\_\_  
Tenant(s) Name / Address / Phone

(        ) - \_\_\_\_\_  
Landlord(s) or Agent Name / Address / Phone

Notice Date: \_\_\_\_\_

You have violated your rental agreement. The following is what happened, where it happened and when. Attach additional sheet(s) if needed.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

~~If you do not fix the violation(s) within 10 calendar days of receiving this Notice y~~our landlord may file an Eviction Action requiring you to move asking the judge to order you to move unless you do one of the following:

~~You may settle this matter before any legal action.~~ Your options are:

- A. Fix the violation(s) within 10 calendar days of receiving this notice.
- B. Move out of the rental and **return the keys** to the landlord within 10 calendar days of receiving this notice.
- C. Contact the landlord and settle this matter in writing signed by both you and the landlord.

*Receiving means:* If hand-delivered – you have 10 calendar days to act from the date you or members of your household received the notice. If sent by certified mail – you have 10 calendar days to act from the date you signed the postal service green card or 15 calendar days from the date the envelope was post-marked, whichever comes first.

~~Failure to fix the violation(s), move out or settle this matter may result in an Eviction Action. If an eviction is filed, y~~ou have the right to appear in court to dispute the Eviction Action. ~~After a Hearing, the Judge may order you to move. After a hearing, the judge will decide if you have to move or if you can remain in the rental. A Writ of Restitution (a court order to have you removed from the rental) may be issued. If a judgment is entered against you, you may remain in the rental property but only if the landlord agrees in writing to let you stay.~~

**WARNING:** If there is **another or similar violation** during the rest of the rental agreement, your landlord may give you a Notice requiring you to move within 10 calendar days. If you do not move, the landlord may file an Eviction Action.

~~This notice is given under A.R.S. § 33-1368(A). The laws about this Notice are found in the Arizona Residential Landlord and Tenant Act. For more information on the Act, Eviction Actions, and your rights, please visit the Arizona Department of Housing website at <https://housing.az.gov>, the Maricopa County Justice Courts website at [www.justicecourts.maricopa.gov](http://www.justicecourts.maricopa.gov) or [AZLawhelp.org](http://AZLawhelp.org).~~

~~The laws about this Notice are found in the Arizona Residential Landlord and Tenant Act. For more information on the Act, Eviction Actions, and your rights, please visit the Arizona Department of Housing website at <https://housing.az.gov>, the Maricopa County Justice Courts website at [www.justicecourts.maricopa.gov](http://www.justicecourts.maricopa.gov) or [AZLawhelp.org](http://AZLawhelp.org).~~

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Landlord  Agent

This notice is served by:

Hand delivery to (name): \_\_\_\_\_ who is the  tenant  occupant

By certified mail (mail receipt #): \_\_\_\_\_

This notice is given under A.R.S. § 33-1368(A). The laws about this Notice are found in the Arizona Residential Landlord and Tenant Act. For more information on the Act, Eviction Actions, and your rights, please visit the Arizona Department of Housing website at <https://housing.az.gov>, the Maricopa County Justice Courts website at [www.justicecourts.maricopa.gov](http://www.justicecourts.maricopa.gov) or [AZLawhelp.org](http://AZLawhelp.org).

~~The laws about this Notice are found in the Arizona Residential Landlord and Tenant Act. For more information on the Act, Eviction Actions, and your rights, please visit the Arizona Department of Housing website at <https://housing.az.gov>, the Maricopa County Justice Courts website at [www.justicecourts.maricopa.gov](http://www.justicecourts.maricopa.gov) or [AZLawhelp.org](http://AZLawhelp.org).~~

# Notice of Material and Irreparable Breach

**{Immediate Notice to Move ~~†A.R.S. 33-1368A~~}**

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( ) -  
\_\_\_\_\_  
Tenant(s) Name / Address / Phone

( ) -  
\_\_\_\_\_  
Landlord(s) or Agent Name / Address / Phone

Notice Date: \_\_\_\_\_

You have violated your rental agreement. **The violation(s) cannot be fixed. You must move out now. Your landlord wants you to move out now.** The following is what happened, where it happened and when. Attach additional sheet(s) if needed.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Please move out of the rental and return the keys to the landlord immediately.** An Eviction Action may be or has been filed against you. **If an eviction is filed, you** have the right to appear in court to dispute the Eviction Action. After a **H**earing, the Judge **may order you to move will decide if you have to move or if you can stay in the rental. If the judge orders you to move, A** Writ of Restitution (a court order to have you removed from the rental) may be issued between 12-24 hours from the date a judgment is signed.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Landlord  Agent

This notice is served by  
 Hand delivery to (name): \_\_\_\_\_ who is the  tenant  occupant  
 By certified mail (mail receipt #): \_\_\_\_\_

~~This notice is given under A.R.S. § 33-1368(A). The laws about this Notice are found in the Arizona Residential Landlord and Tenant Act. For more information on the Act, Eviction Actions, and your rights, please visit the Arizona Department of Housing website at <https://housing.az.gov>, the Maricopa County Justice Courts website at [www.justicecourts.maricopa.gov](http://www.justicecourts.maricopa.gov) or [AZLawhelp.org](http://AZLawhelp.org). The laws about this Notice are found in the Arizona Residential Landlord and Tenant Act. For more information on the Act, Eviction Actions, and your rights, please visit the Arizona Department of Housing website at <https://housing.az.gov>, the Maricopa County Justice Courts website at [www.justicecourts.maricopa.gov](http://www.justicecourts.maricopa.gov) or [AZLawhelp.org](http://AZLawhelp.org)~~

**Notice of Repeat Material or Health and Safety Breach**

**{10 Day Notice to Move ~~A.R.S. 33-13868A~~}**

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\_\_\_\_\_

(       ) -  
\_\_\_\_\_  
Tenant(s) Name / Address / Phone

(       ) -  
\_\_\_\_\_  
Landlord(s) or Agent Name / Address / Phone

Notice Date: \_\_\_\_\_

You have violated your rental agreement again. **This violation cannot be fixed. You need to move.**

The first violation was on this date \_\_\_\_\_. Attached is a copy of the 1st notice.

You committed the same or similar violation again. This is what happened, when it happened and where it happened (Attached ~~are~~ additional sheet(s) if needed):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This is a second material violation during the term of your rental agreement. Your landlord is ending your rental agreement and your right to live in the property. Because the repeat violation cannot be fixed, **you must move out of the rental and return the keys within 10 calendar days of receiving this Notice.**

If you do not move out within 10 calendar days of receiving this Notice your landlord may file an eviction action against you. ~~If an eviction action is filed, you have the right to appear in court to dispute the Eviction Action. After a Hearing, the Judge may order you to move. After the hearing, the judge will decide if you have to move or can remain in the rental. A Writ of Restitution (a court order to have you removed from the rental) may be issued. If the judge orders you to move, you may remain in the rental property only if the landlord agrees in writing to let you stay.~~

*Receiving means: If hand-delivered – you have 10 calendar days to act from the date you or members of your household received the notice. If sent by certified mail – you have 10 calendar days to act from the date you signed the postal service green card or 15 calendar days from the date the envelope was post-marked, whichever comes first.*

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
 Landlord  Agent

This notice is served by

~~This notice is given under A.R.S. § 33-13868(A). The laws about this Notice are found in the Arizona Residential Landlord and Tenant Act. For more information on the Act, Eviction Actions, and your rights, please visit the Arizona Department of Housing website at <https://housing.az.gov>, the Maricopa County Justice Courts website at [www.justicecourts.maricopa.gov](http://www.justicecourts.maricopa.gov) or [AZLawhelp.org](http://AZLawhelp.org). The laws about this Notice are found in the Arizona Residential Landlord and Tenant Act. For more information on the Act, Eviction Actions, and your rights, please visit the Arizona Department of Housing website at <https://housing.az.gov>, the Maricopa County Justice Courts website at [www.justicecourts.maricopa.gov](http://www.justicecourts.maricopa.gov) or [AZLawhelp.org](http://AZLawhelp.org)~~

Hand delivery to (name): \_\_\_\_\_ who is the  tenant  occupant  
 By certified mail (mail receipt #): \_\_\_\_\_

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## Maricopa County Justice Courts

# GENERAL INFORMATION ABOUT LANDLORD AND TENANT RIGHTS AND OPTIONS BEFORE YOU COME TO COURT

– Draft 11.6.15 –

### Introduction

This is general information about the rights, obligations and options landlords and tenants have before an eviction case is filed. This information is not a substitute for an attorney and does not cover every situation.

A landlord cannot lock a tenant out of the rental or force the tenant out.

The information refers to sections of the Arizona Residential Landlord and Tenant Act. The Act may be found at [www.housing.az.gov](http://www.housing.az.gov).

The topics covered are:

[Fill in all major headings – with links]

### Tenant Obligations (what is expected of tenants)

A tenant must do the following: A.R.S. §§ 33-1341 & 33-1344.

- Pay rent on time
- Keep the residence clean and safe
- Remove and dispose of trash
- Keep all plumbing fixtures clean
- Use electrical appliances, heating and air-conditioning systems and plumbing in a reasonable manner
- Not deliberately or negligently damage the property or allow someone else to do so
- Use the property only as a residence, unless there is a different agreement

- Allow reasonable access to the landlord to inspect the rental or make needed repairs with at least 2 days' notice, unless there is an emergency or entry is in response to a tenant request for repairs – A.R.S. § 33-1343
- Follow the rules of the property and the rental agreement
- Require all guests to follow the rules of the property and the rental agreement
- Promptly notify the landlord in writing of needed maintenance or repairs
- Do not knowingly move property into the rental that has bedbugs. A.R.S. § 33-1319
- Give written or electronic notice to the landlord of any bedbugs in the rental

**Landlord Obligations (what is expected of landlords)**

A landlord must do the following: A.R.S. §§ 33-1322 – 1324.

- Make necessary repairs so that the rental is fit and habitable
- Keep common areas clean and safe
- Give the tenant the name and address of the rental's manager and owner (or another person who can receive notices, requests or court papers on behalf of the owner)
- Explain where the tenant may get a free copy of the Arizona Residential Landlord and Tenant Act
- Give the tenant a signed copy of the rental agreement, if there is a written agreement
- Give the tenant keys to and possession of the rental
- Give the tenant a form to list any damage to the rental at time of move-in
- Keep the rental up to the building codes
- Keep all electrical, plumbing, heating, and air-conditioning equipment in good working condition
- Provide trash removal
- Supply running water and reasonable amounts of hot water
- Give the tenant at least 2 days' notice before entering the rental in order to inspect or make needed repairs, unless there is an emergency or there is a request by the tenant for repairs – A.R.S. § 33-1343
- Give the tenant educational materials about bedbugs – A.R.S. § 33-1319
- Not lease a rental that is known to have bedbugs

## Tenant's Options for a Landlord's Violations

- **Tenant Options if Landlord Fails to Make Needed Repairs – Self-Help for Minor Repairs (when not caused by tenant or tenant's guest) – A.R.S. § 33-1363**
  - This option applies to repairs that cost less than \$300 or half of 1 month's rent
  - If the tenant wants the landlord to make any repairs, the tenant must put the request in writing
  - If the landlord does not make the repairs quickly if it is an emergency or within 10 days of the notice for other repairs, the tenant may:
    - Hire a licensed contractor to make the repairs  
The licensed contractor must give a waiver of lien. This is a signed statement that the contractor will not put a lien on the property for the work done. [link]
    - Give the repair bill and the lien waiver to the landlord, and
    - Deduct the cost of the repair from the rent
  - Sample notices are available at [www.AZLawHelp.org](http://www.AZLawHelp.org).
  
- **Tenant Options for Landlord's Failure to Provide Essential Services (when not caused by tenant or tenant's guest) – A.R.S. § 33-1364**
  - If a landlord fails to provide running water, hot water, gas, electrical services, heat, air conditioning or cooling or other essential services, required by the rental agreement or statute, the tenant may give a reasonable written notice to the landlord about the failure to provide the service and do one of the following:
    - Get the service, such as bottled water or a space heater and deduct the cost from the rent
    - Put the utilities in the tenant's name and deduct the cost from the rent
    - Pay the past due utility bill and deduct it from the rent
    - Get other housing and not pay rent while the utilities or services are not provided
    - Sue for damages either in a separate lawsuit or as a counterclaim to an eviction for the reduced value of the rental
    - Get an injunction for the landlord to provide the services or utilities

- Sample notices are available at [www.AzLawHelp.org](http://www.AzLawHelp.org).
- **Tenant Options for Other Violations by the Landlord (not covered above) – A.R.S. § 33-1361**
  - If a landlord violates the rental agreement, a tenant may give the landlord one of the following written notices:
    - A notice for health and safety violations. The notice shall give the landlord 5 days to fix the problem.[link]
    - A notice for other violations. The notice shall give the landlord 10 days to fix the problem. [link]
    - In each of the above situations, if the landlord does not fix the problem, the tenant can end the lease and sue for damages and injunctive relief.
  - Unlawful Access: If the landlord enters the rental without 2 days’ notice, unless it is an emergency, or in response to a repair request, or enters in an unreasonable manner or makes requests that unreasonably harass the tenant, the tenant may
    - Sue for an injunction to keep the landlord out or
    - End the lease
    - In either situation, the tenant may sue for actual damages of not less than 1 month’s rent. A.R.S. § 33-1376(B).
  - Unlawful Removal for Rental: (needs to be developed)
  - Reduction in Essential Services: (needs to be developed)
  - Sample Notices also are available at [www.AzLawHelp.org](http://www.AzLawHelp.org)
- **Giving the Landlord the Notice**
  - For the above notices, the tenant may give the landlord the notice by hand delivery or by certified mail. The days in the notice start to count:
    - The day there is hand delivery, or
    - If certified mail, once the landlord signs the green card or 5 days after the notice is mailed by certified mail, whichever comes first.

### **Landlord’s Options for Tenant Violations**

- Tenant Does Not Pay All Rent Owed:
  - The landlord may give the tenant a written notice asking for payment of the rent owed within 5 days and telling the tenant that the lease will

end if all rent and reasonable late fees (if in the rental agreement) are not paid. [Sample 5 day notice with link].

- Health and Safety Violations:
  - If a tenant's actions affect health and safety, the landlord may give a written notice asking the tenant to fix the violation within 5 days and telling the tenant that the lease will end if the tenant does not fix the violation. [link]
- In each of the above situations, if the tenant does what is asked, the lease continues and the tenant can stay in the rental. If the tenant does not do what is asked, the landlord may file an eviction action.
- Serious Criminal Activity or Major Violations:
  - For some serious tenant actions, the landlord may give a written notice for the immediate end of the lease. [link]. The tenant does not have the option to fix the problem and the landlord may file an eviction.
- Other Violations with Option to Fix the Problem:
  - If the tenant violates the rental agreement and it is not covered by the above situations, the landlord may give a written notice to the tenant to fix the problem within 10 days. [link to sample 10 day notice]. If the tenant does not fix the problem, the landlord may file an eviction action. If the tenant fixes the problem, the landlord should not file an eviction. The tenant will get to stay in the rental.
- Denial of Access: If the tenant denies the landlord reasonable access to the rental or access after 2 days' notice the landlord may
  - Sue for an injunction to allow access, or
  - End the rental agreement, and
  - In either case, sue for actual damages. A.R.S. § 33-1376(A).
- Sample Notices also are available at: [www.AzLawHelp.org](http://www.AzLawHelp.org)

### **Notice to Tenant to End Rental Agreement – A.R.S. § 33-1375**

- For a week to week tenant, the landlord may end the rental agreement by giving the tenant a written notice to move at least 10 days prior to the last day of the week to week period. [link].
- For a month to month tenant, the landlord may end the rental agreement by giving the tenant a written notice to move at least 30 days prior to the last day in the month to month period. [link].
- In both situations, if the tenant remains in the rental after the notice, the landlord may sue for possession of the rental.

- If the tenant’s action is willful and not in good faith, the landlord may sue for 2 months’ rent or actual damages, whichever is greater.
- **Landlord must give the tenant the notice**
  - For the above notices, the time to serve is added to the front of notice, not the end as with other notices
  - The landlord may give the notice by hand delivery or by certified mail.
- The days in the notice start to count
  - The day there is hand delivery or
  - If certified mail, once you sign the green card or 5 days after the envelope was postmarked, whichever comes first.

Sample Notices are available at: \_\_\_\_\_

### **Rights of the Military to End the Rental Agreement**

- A military member or military member’s family may break or end early his or her rental agreement if military service is to begin or there is a Permanent Change of Station or deployment of at least 90 days. 50 App. U.S.C.A. § 535(a).
- To end a rental agreement, the military member must give the landlord a written notice and a copy of the military orders. 50 App. U.S.C.A. § 535(c)(1)(A). [link]
- The notice may be served on the landlord in person or by certified mail, return receipt requested.
- Rent is owed during the notice period.

### **Other Protections for Tenants**

- **Protection from Being Locked Out or Forced Out of Rental – A.R.S. § 33-1367**
  - A landlord may not lock or force the tenant out of the rental. A landlord cannot do such things as change the locks, take off the doors or turn off utilities. If the landlord does, and the landlord has not filed an eviction action:
    - The tenant will need to file an eviction case against the landlord. This is referred to as a “reverse” eviction. The complaint is found at [link]. The tenant can follow the informational materials for a landlord filing an eviction action. [link].

- If a landlord locks or forces a tenant out of the rental after an eviction is filed, the tenant should come to court and let the judge know. Information about filing counterclaim is found at [link].
- **Protection from Discrimination**
  - A landlord cannot discriminate against a family with a minor child, or because of the tenant's race, color, sex, religion, ethnicity or disability. A.R.S. § 41-1491 - 1491.37 (state fair housing law link); Federal Fair Housing Law (42 U.S.C. § 3604).
  - Complaints of discrimination may be filed with the Arizona Civil Rights Division of the Arizona Attorney General's Office. Information may be found at [www.azag.gov](http://www.azag.gov) or by calling the Phoenix office (602-542-5263/1-877-491-5742) or the Tucson office (520-628-6500/1-877-491-5740).
  - The Southwest Fair Housing Council provides various housing services including investigating complaints of discrimination, mediations and training. [Swfhc.com](http://Swfhc.com) or 602-252-3423.
  - The Arizona Department of Housing provides training for landlords and tenants on housing discrimination. [www.housing.az.gov](http://www.housing.az.gov).
- **Protection for Victims of Domestic Violence – A.R.S. § 33-1318**
  - A victim of domestic violence may end the rental agreement early and move out if the tenant gives the landlord
    - A written notice that she or he is a victim of domestic violence and wants to end the lease within 30 days, (link to sample notice) and
    - A copy of an order of protection issued to the tenant or a copy of a police report that shows the tenant told the police she or he is a victim of domestic violence
    - The notice and order of protection or police report must be given to the landlord within the 30 days of the domestic violence (landlord may waive this requirement)
    - If proper notice is given
      - The tenant must pay any current rent owed before moving out of the rental
      - The tenant does not owe any future rent for the time after the end of the notice
  - A victim of domestic violence may ask the landlord to install a new lock at the tenant's expense

- A landlord must not let a tenant who has an order of protection against them have access to the rental unless the tenant is with the police
- More information can be obtained from the Arizona Coalition to End Sexual and Domestic Violence. [www.acesdv.org](http://www.acesdv.org); (602) 279-2900.
- **Protection from Retaliation – A.R.S. § 33-1381**
  - A landlord may not retaliate against a tenant by increasing rent, decreasing services or threatening an eviction because the tenant did any of the following:
    - Complained to a government agency that enforces building or housing codes about violations that significantly affects health and safety
    - Complained to the landlord about the landlord’s failure to keep the rental fit and habitable as required by A.R.S. § 33-1324 [link].
    - Organized or became a member of a tenants’ union or similar organization.
    - If any of the above occurred, the tenant may claim retaliation as a defense to the eviction.
    - There is a presumption that the eviction is in retaliation if any of the above actions occurred within the 6 months before the eviction was filed.
    - A landlord can file an eviction for rent owed or health and safety violations.

**Security Deposits – A.R.S. § 33-1321**

- A security deposit may be no more than 1½ months’ rent
- Upon tenant request, a landlord must give a tenant written notice of the move-out inspection date and the right to be present [link to notice]
- Upon tenant request, a landlord must return the security deposit to the tenant and give the tenant an itemized list of damages within 14 business days (not counting weekends and holidays) [link to notice]
- If the landlord does not return the security deposit or give the itemized list, the tenant may file a lawsuit to get the security deposit returned and up to 2 times the amount wrongfully withheld [link here to sample complaint for return of security deposit]
- A lawsuit to get a security deposit returned is not part of an eviction case

### **Public Housing or Section 8 Housing:**

If you live in public housing, subsidized housing or have a Section 8 voucher, you may have other protections in federal law. [link]. You should tell the judge that you live in this type of housing and bring a copy of the public housing contract that explains the amount of rent you are supposed to pay.

- **More Information:**

The above information is general information for landlords and tenants. More information may be found at the following websites:

AzLawHelp. [www.AzLawHelp.org](http://www.AzLawHelp.org).

Community Legal Services. [clsaz.org](http://clsaz.org)

Southern Arizona Legal Aid. [sazlegalaid.org](http://sazlegalaid.org)

DNA People's Legal Services. [dnalegalservices.org](http://dnalegalservices.org).





## Maricopa County Justice Courts

### GENERAL INFORMATION FOR TENANTS WHO HAVE BEEN SERVED WITH EVICTION COURT PLEADINGS

– Draft 11.6.15 –

This is general information to help you understand the eviction court process. This information is not a substitute for an attorney and does not cover every situation in court.

The topics covered are:

[Fill in all major headings with links]

#### **An Eviction Case is Filed When the Landlord Wants You to Move Out of the Rental**

- A landlord cannot lock a tenant out or force a tenant out of the rental. Only a judge can order a tenant to move out.
- An eviction case is filed when the landlord claims you violated the rental agreement or for some other reason the landlord wants to end the rental agreement.
- The landlord should have served you with a copy of the notice to move out.
- If you did not move out, the landlord can file an eviction case.
- To start the eviction, the landlord must serve you with a summons and complaint and a copy of the Residential Eviction Information Sheet.
- The summons will tell you when and where to come to court.
- At court, the judge will decide if you can stay in the rental or if you must move.
- Most landlords are represented by an attorney. You may want to get legal advice. In Maricopa County, you may want to contact Community Legal Services at (602) 258-3434 or [www.clsaz.org](http://www.clsaz.org) or the Modest Means Program at (866) 637-5341. Information also is provided at [www.AzLawHelp.org](http://www.AzLawHelp.org).
- **Note:** An eviction should not be filed if you already moved out of the rental. If you moved out of the rental and owed rent, the landlord must file a lawsuit for the rent owed.

**If you do not come to court, the Judge will only have the landlord's documents to review and a Judgment will likely be entered against you.**

### **If You Represent Yourself**

- You may want to review the information in the Arizona Residential Landlord and Tenant Act and the Arizona Rules of Procedure for Eviction Actions. [Links]. The Act may be found online at [www.housing.az.gov](http://www.housing.az.gov).
- During the eviction case, there are certain steps you should follow. This information is provided to assist you in general to present your case.
- The clerks are not attorneys and cannot give legal advice. The clerks' responsibility is to take your court filings, provide forms and explain court procedures.
- If you need an interpreter or reasonable accommodation, please let the court know as soon as possible.

### **Continuing the Court Date**

- Before the court date:
  - Any request to continue the court date must be in writing.
  - A continuance will only be granted for good cause and will not be for more than 3 court days unless the parties agree to a longer continuance.
- In court:
  - The case may be continued because of the judge's schedule, or at the request of either party for good cause for no more than 3 court days. The parties can agree to a longer continuance.

### **What Will Happen on the Scheduled Court Date**

- **Prior to the hearing:**
  - Your summons will tell you the address and telephone number of the court that will hear the case and the date and time of the hearing.
  - Be sure to let the court know as soon as you can if you need an interpreter or a reasonable accommodation.
  - You should plan to arrive in court at least 30 minutes before your hearing. **Do not be late.**
  - In many courts you will need to check in with the clerk and then go to the courtroom.
  - Once in the courtroom, please pay attention and listen for your case to be called.

- Answer: In Justice Court a written answer is not required. You do not have to file a written answer unless the court orders you to file one. [link to answer]. If you do not file a written answer, you will tell the judge what happened.
      - If you want to file an answer, there is a filing fee. If you cannot afford the filing fee, you have a right to ask for a waiver or deferral of the filing fee. To find out the amount of the filing fee, [link] or call a justice clerk's office.
      - Ask the clerk for an application for a fee waiver or deferral. [link to pleading].
      - If you have any affirmative defenses to the eviction, those should be stated with the answer. [link].
    - Counterclaim:
      - A tenant may claim that the landlord owes the tenant money. This is called a counterclaim.
      - In eviction cases, the counterclaim must be because the landlord violated the rental agreement or the Arizona Residential Landlord and Tenant Act.
      - A counterclaim is filed at the same time the answer is due. The fee to file an answer covers the counterclaim. If you cannot afford the filing fee, ask the clerk for an application for a fee waiver or deferral. [link].
      - If a counterclaim is filed, it will be considered and decided at the time of trial. [link to counterclaim].
      - If a counterclaim is filed, the judge may require you to pay the rent you agree you owe to the justice court. The court will hold the rent paid until the judge decides who gets the rent at the end of the hearing or trial.
      - The court has prepared an answer and counterclaim packet. [link].
  - Please bring any documents and any witnesses to court.
    - Rule 10 of the Rules of Procedure for Eviction Actions allows for certain disclosures and more formal discovery. [link].
- **The hearing on your case:**
  - The judge will call each case by the name of the landlord and the tenant.

- The judge will ask you and your landlord questions to decide if you will have to move and if you owe any rent.
- Be sure to let the judge know if you have any witnesses or documents.
- Listen to the questions the judge asks. If you do not understand a question, let the judge know. Answer the questions the best you can.
- Be polite and courteous to the judge and the landlord.
- The judge will decide:
  - If you were properly served with the summons and complaint.
  - If the summons and complaint included the required information and notice.
  - If you received a proper notice and, if required, the opportunity to fix the problem.
  - If the eviction is for rent owed, whether the landlord followed the required procedures. If the landlord did, whether you paid the rent owed.
    - If the landlord accepted a partial payment, whether a waiver was signed by the tenant.
  - If the eviction is for violation of the rental agreement, whether the landlord followed the proper procedures. If the landlord did, whether you violated the rental agreement. If you did, whether you fixed the problem as requested.
  - If the tenant filed any affirmative defenses, whether these defenses defeat the landlord's case.
  - If the tenant filed a counterclaim, whether the landlord owes the tenant any money.
- The landlord will go first and may call witnesses and offer documents as evidence to support the landlord's claims.
- The tenant may question any witnesses or object to the admission of any documents.
- After the landlord finishes, the tenant will then present his or her case. The tenant may call witnesses and offer documents to support the tenant's claims.
- The landlord may question any witnesses and object to the admission of any documents.

- The judge will hear testimony from both sides, review the documents and make a decision.
- The hearing will be tape recorded.
- **The Judge's Decision:**
  - **If the judge finds for the landlord**, the judge will look at the rental agreement, what the landlord asked for in the complaint and what was proven in court. The judgment may include an order for:
    - Unpaid rent through the end of the month.
    - Reasonable late fees (only if provided for in a written agreement)
    - Damages to the property (only if requested in the complaint and proven)
    - Any unpaid utilities and rental concessions (only if provided for in a written agreement and requested in the complaint and proven)
    - Attorney fees (only if provided for in a written agreement).
    - Court costs paid
    - Annual interest rate on the unpaid judgment
    - The tenant to leave the rental and return the keys to the landlord
    - If a counterclaim was filed, the judge will decide if the landlord owes the tenant any money.
    - If you are ordered to move out of the rental, but do not move, the landlord can ask the judge for a Writ of Restitution. A writ is an order that tells the constable to remove you from the rental. Writs are explained below.
  - **If the judge finds for the tenant:**
    - The tenant will get to stay (remain) in the rental.
    - The judge may enter judgment for the tenant or the eviction may be dismissed.
    - If the tenant was unlawfully removed from the rental by the landlord, the tenant may get possession of the rental back or end the rental agreement.

- If the landlord intentionally reduced essential services such as electric, gas or water, the tenant may get possession of the rental or end the rental agreement.
  - If either of the above things happened, the tenant may get 2 months' rent or 2 times the actual damages, whichever is greater.
  - If the landlord locked out or forced the tenant from the rental and the tenant wants back in, the judge may give the tenant judgment for possession of the rental and order the landlord to immediately let the tenant back into the rental. More information can be found in the "Special Issue" section of these materials. The court has prepared a \_\_\_\_\_. [link].
- If a counterclaim was filed, the judge will decide if the landlord owes the tenant any money.
- Attorney fees (only if provided for in a written agreement).
- Court costs (if any paid).
- Annual interest rate on the unpaid judgment.
- When you are in court.
  - Be sure to get a copy of the judgment.

### **Right to Stay in Rental After Eviction Case Filed**

- If the eviction was filed because of rent owed and the judge has **not** entered a judgment yet for either party, the tenant can stay if all rent, late charges, attorney fees and court fees are paid.
- **After** a judgment is entered for the landlord, even if you pay the entire judgment amount, the landlord may still go ahead with the eviction and have the constable remove you from the rental. If you want to stay in the rental and pay the amount owed, you should get the agreement in writing or get a new written rental agreement with your landlord.
- **Caution:** After a judgment for the landlord, if you pay the judgment amount and the landlord is not willing to give you a written agreement or a new lease, you may still be evicted and will need to find other housing.
- If the judge finds for the tenant, you will get to stay in the rental.

### **Offers to Settle the Case**

- The parties may decide to settle the case.

- Be sure to get any settlement in writing so you understand what you and your landlord agreed to.

### **A Jury Trial**

- A landlord or a tenant can ask for a jury trial. A jury trial is where citizens from the community decide who should win the case.
- If a jury trial is requested, the parties will be asked to submit prepared jury instructions to the court before trial. [link to form eviction jury instructions].
- If a jury trial is not requested, the judge will hear and decide the case.
- The parties may be asked to exchange the names of witnesses expected to be called at trial and list of exhibits expected to be used at trial. [link to disclosure statement].
- If the party who requests a jury loses, the party will be required to pay jury fees.

### **If the Judge Orders the Tenant to Move Out**

- The judge may order the tenant to move by a certain date.
- If the tenant does not move out, the landlord may ask the judge for a Writ of Restitution. This is an order that tells the constable to remove the tenant from the rental.
- A landlord cannot change the locks or force a tenant out of the rental. The landlord must ask for a writ.
- **The Writ:** The landlord can get the writ when the time for the tenant to move has ended.
  - Usually the judge will give the tenant 5 calendar days to move. In the case of an immediate eviction for serious violations, the judge will order the tenant to move out immediately. The landlord will get the writ between 12 and 24 hours after the judgment is signed or soon thereafter.
  - The writ will tell the constable to tell the tenant to immediately leave the rental. You will be able to take some property with you such as clothes, tools, professional books, identification, medication and financial documents. For other property you will need to make arrangements to come back to the rental within 21 days and get your property. In most cases, the landlord will change the locks.
  - If after the constable tells you to leave, you try to go back to the rental without permission, you may be charged with a criminal offense. A.R.S. § 12-1178(D).

## Appeal of a Judge’s Decision When You Did Not Come to Court and Lost

- If you did not come to court and a judgment was entered against you, it is called a Default Judgment.
- A tenant cannot appeal a default judgment. Instead, the tenant must first ask the judge to vacate the judgment. If the judge vacates the judgment, the judgment is gone.
- The court has prepared a motion to vacate packet with instructions and a motion to vacate. [link].
- If the judgment is gone, then the judge will make a new decision. The tenant and the landlord can appeal the new decision.
- If the judge does not vacate the judgment, you can appeal that decision.

## Appeal of Judge’s Decision When You Came to Court and Lost

The court has prepared an “Appeal an Eviction Action Judgment” package that has information on appeals and forms. [link]. There also is General Information About Appeals in Rule 17 of the Rules of Procedure for Eviction Actions [link] and A.R.S. §12-1179. [link].

As you read the information, remember that everything related to the appeal will be filed in the justice court that entered the judgment in your eviction.

- **The Steps to File an Appeal:**
  - A tenant may appeal a justice court judgment (except a default judgment) to the Superior Court. To appeal, the tenant must do the following within 5 days of the date of the judgment:
    - File a **Notice of Appeal** with the Justice Court. [link] There is a fee to file an appeal and if you cannot afford the fee, you can ask for a fee waiver or deferral. [link]
    - Pay money to the court called a **Cost Bond**. This amount is set by the judge. The Cost Bond is paid to the Justice Court that entered the judgment. If you cannot afford a Cost Bond, you can file a statement with the court giving the reasons you cannot pay the Cost Bond. The statement is called An Affidavit of Inability to Post Cost Bond. [link to affidavit].
    - **File a designation of record**. This lists the parts of the record you want the Superior Court to consider on the appeal. [link to form designation of record].
    - The clerks can give you information about bonds, court costs, and applications for fee waivers and deferrals.

- For more information, please go to “Other Steps in the Appeal” below.
- **Time to File the Notice of Appeal:**
  - Either party may appeal an eviction judgment by filing a Notice of Appeal within 5 calendar days from the date of judgment.
    - When the 5<sup>th</sup> day falls on a holiday or a weekend, you will have until the day after the holiday or the weekend to file the appeal.
  - If the judgment is for the tenant, the landlord may file an appeal.
  - If a judgment is for the landlord and is for a material and irreparable violation, the Writ of Restitution will be carried out immediately (usually within 12 - 24 hours). The Notice of Appeal in this situation should be filed before the writ is issued if you want to remain in the rental.
  - The judge cannot extend the time for the appeal.

**Please Note: The filing of a notice of appeal does not stop the landlord from:**

- **Having the constable remove the tenant from the rental or**
- **Collecting the money owed in the judgment from the tenant.**
- **To stop these things from happening during the appeal, a tenant will have to post the following bonds.**

**To Stay in Rental During the Appeal When the Tenant Lost**

- **If The Tenant Wants to Stay in the Rental During the Appeal, the Tenant Must Pay A “Supersedeas Bond” to the Court:**
- Filing a Notice of Appeal does not by itself stop the Writ of Restitution. If you want to stay (remain) in the rental during the appeal, you must file a supersedeas bond.
  - This bond amount is set by the judge. It is the only way to stop the Writ of Restitution. The stop is effective **when** the bond is posted.
  - You are not required to post a supersedeas bond to file an appeal. The appeal will continue with or without a supersedeas bond. However, a supersedeas bond is the **only** way to stop your removal from the rental.
  - If you want to remain in the rental, the judge cannot waive a supersedeas bond.
  - A supersedeas bond is paid to the court that entered the judgment.

- How the supersedeas bond is determined:
  - You will have to pay to the court any prorated rent due from the date of the judgment to the next rent due date. This amount of rent is not listed in the judgment.
  - You will also have to pay to the court any costs and attorney fees listed on the judgment.
  - During the appeal, you must continue to pay to the court the rent as it becomes due. If the tenant fails to make a rent payment, the landlord may ask the judge for an order that the tenant must leave the rental.
- You should try to file the supersedeas bond before the constable comes out to remove you. [Rule 6 of Superior Court Rules of Appellate Procedure link].

### **To Stop the Landlord from Collecting the Money Judgment During the Appeal**

- **If the Tenant Wants to Stop the Landlord from Collecting the Money Part of the Judgment During the Appeal, the Tenant Must Pay the Amount Appealed to the Court:**
- Filing a Notice of Appeal does not stop the landlord from collecting the money judgment such as by garnishment of wages. To stop a collection, a bond must be filed.
- The tenant will have to pay to the court that entered the judgment the amount of the judgment that the tenant is appealing. This also is called a “supersedeas bond” or “rent pending appeal.”
- If the tenant is appealing the entire judgment, the tenant should pay the full judgment, attorney fees and costs listed on the judgment to the court.

**Important:** The tenant should not pay any rent directly to the landlord during the appeal.

### **Other Steps in the Appeal**

- Get copy of court CD (record of court hearing) from the Justice Court. If there is a cost for the CD and you cannot afford the cost, you can file a request for waiver or deferral of the fee. [link]. The CD will be part of the evidence in the appeal but it also will help you prepare an appeal memo.
- After the Justice Court receives the record and the Notice of Appeal, it will tell the tenant when the first memo is due. The due date is 60 days from the deadline to file the notice of appeal. This memo must be in writing. [link to sample memorandum]. The tenant should review the Superior Court Rules of Civil Appellate Procedure, Rule 8 that explains the requirements for a

memo. [link] In the memo, you should tell the court the reasons you think the judge's decision is wrong. [link to memo].

- You must file an original and one copy of your memo with the justice court that heard the case.
- There is a fee to file the appeal with the Superior Court. If you cannot afford the fee, you can request a fee waiver or deferral of the fee. [link]
- The landlord has 30 days to file a response memo giving the landlord's reasons why the tenant should lose.
- The tenant must get permission from the Superior Court to file a reply memo.
- The Superior Court will review the documents submitted and make a decision. The decision will be in writing.
- Either party can file an appeal of the Superior Court's decision to the Arizona Supreme Court.
- Be sure to tell the court if you move. The court has "change of address" forms you can use. [link].

### **Special Issue: When the Landlord Has Locked Out the Tenant**

It is against the law for the landlord to do such things as change the locks, take off the doors or turn off the utilities to force the tenant out of the rental.

- **If the landlord tries to force the tenant out after the landlord has filed an eviction:**
  - If a landlord has changed the locks or forced the tenant out of the rental, the tenant may appear in court and explain the situation to the judge. The tenant also may file a counterclaim. The judge should give possession of the rental to the tenant and order the landlord to immediately let the tenant back in the rental.
  - If the landlord refuses to let the tenant back into the rental, the tenant may ask the judge for a Writ of Restitution. This is an order that tells the constable to allow the tenant in the rental.[link to information on writs]
- **If the landlord tries to force the tenant out but has not filed an eviction:**
  - The tenant will need to file what is often referred to as a "reverse eviction." More information can be found at \_\_\_\_\_.

## **More Information**

If you want more information or legal advice, you may contact: In Maricopa County, you may want to contact Community Legal Services at (602) 258-3434 or [www.clsaz.org](http://www.clsaz.org) or the Modest Means Program at (866) 637-5341.

Information also is provided at:

[www.AzLawHelp.org](http://www.AzLawHelp.org).

Southern Arizona Legal Aid – [sazlegalaid.org](http://sazlegalaid.org)

DNA People’s Legal Services – [dnalegalservices.org](http://dnalegalservices.org)



## Maricopa County Justice Courts

### GENERAL INFORMATION FOR A LANDLORD FILING AN EVICTIION ACTION IN JUSTICE COURT

– Draft 11.6.15 –

If the tenant has not paid rent or has violated the rental agreement or you ended the rental agreement, there are steps a landlord can take to ask the judge to remove the tenant from the rental.

This is a general outline of those steps. This information is not a substitute for an attorney and does not cover every situation.

A landlord cannot change the locks or force the tenant out of a rental. Only a judge can order a tenant to move.

#### **The First Step in the Eviction Process: Notice to Tenant, as Required**

##### **Notice to Tenant of Tenant Violations**

The first step is to give the tenant a notice. In some cases, the tenant will have the option to fix the problem.

- The kinds of notices include:
  - Tenant Does Not Pay All Rent Owed:
    - The landlord may give the tenant a written notice asking for payment of the rent owed within 5 days and telling the tenant that the lease will end if all rent and reasonable late fees (if in the rental agreement) are not paid. [Sample 5 day notice with link].
  - Health and Safety Violations:
    - If a tenant's actions affect health and safety, the landlord may give a written notice asking the tenant to fix the violation within 5 days and telling the tenant that the lease will end if the tenant does not fix the violation. [link].
  - In each of the above situations, if the tenant does what is asked, the rental agreement continues. If the tenant does not do what is asked, the landlord may file an eviction action.

- Serious Criminal Activity or Major Violations:
  - For some serious tenant actions, the landlord may give a written notice for the immediate end of the rental agreement. The tenant does not have the option to fix the problem. [link].
- Other Violations with Option to Fix the Problem:
  - If the tenant violates the rental agreement and it is not covered by the above situations, the landlord may give a written notice to the tenant to fix the problem within 10 days. If the tenant does not fix the problem, the landlord may file an eviction action. (link to sample 10 day notice)
  - If the tenant is given the option to fix the problem and does, then the landlord should not file an eviction. The tenant will get to stay in the rental.
- Denial of Access: If the tenant denies the landlord reasonable access or access after 2 days' notice to the rental, the landlord may
  - Sue for an injunction to allow access, or
  - End the rental agreement, and
  - In either case, sue for actual damages. A.R.S. § 33-1376(A).
- Tenant does not move out at end of lease
  - The lease will explain how this is handled and what steps the landlord will have to take.

Sample Notices are available at: \_\_\_\_\_

**Landlord Must Give the Tenant the Notice**

- For the above notices, the landlord may give the tenant the notice by hand delivery or by certified mail. The days in the notice start to count:
  - When there is hand delivery, or
  - 5 days after the notice is mailed by certified mail
  - Before a landlord may file court papers to evict a tenant, the landlord must give the tenant a notice. After the time in the notice has ended, the landlord may file an eviction. Here is an example:

Landlord hands tenant a notice that the tenant owes rent and has 5 days to pay the rent. 5 days go by and the tenant does not pay the rent. On the 6<sup>th</sup> day, the landlord can file an eviction.

If the notice is served by certified mail, the landlord must add 5 days to the 5 day notice period for a total of 10 days. After 10 days, the landlord can file an eviction.

If the tenant pays the rent within the time periods above, no eviction should be filed.

### **Notice to Tenant to End Rental Agreement – A.R.S. § 33-1375**

- For a week to week tenant, the landlord may end the rental agreement by giving the tenant a written notice to move at least 10 days prior to the last day of the week to week period. [link].
- For a month to month tenant, the landlord may end the rental agreement by giving the tenant a written notice to move at least 30 days prior to the last day in the month to month period. [link].
- In the above situations, if the tenant remains in the rental after the notice, the landlord may sue for possession of the rental.
  - If the tenant’s action is willful and not in good faith, the landlord may sue for 2 months’ rent or actual damages, whichever is greater.
- **Landlord must give the tenant the notice**
  - For the above notices, the time to serve is added to the front of notice, not the end as with other notices
  - The landlord may give the notice by hand delivery or by certified mail.
  - The days in the notice start to count:
    - The day there is hand delivery or
    - If certified mail, once the tenant signs the green card or 5 days after the envelope was postmarked, whichever comes first.

Sample Notices are available at: \_\_\_\_\_

### **The Second Step in the Eviction Process: Filing the Eviction in Court**

#### **Filing the Eviction:**

After you have given the tenant a proper notice and the time period in the notice is over, you may file an eviction.

## **If You Represent Yourself**

- You may want to review the information in the Arizona Residential Landlord and Tenant Act that may be found online at [www.housing.az.gov](http://www.housing.az.gov). and the Arizona Rules of Procedure for Eviction Actions. [Links].
- During the eviction case, there are certain steps you should follow. This information is provided to assist you in general to present your case.
- The clerks are not attorneys and cannot give legal advice. The clerks' responsibility is to take your court filings, provide forms and explain court procedures.
- If you need an interpreter or reasonable accommodation, please let the court know as soon as possible.

## **Where to File the Eviction:**

- Maricopa County has 26 justice courts. You must file in the justice court that covers the address of the rental. You can find out by \_\_\_\_\_.

## **What Pleadings to File:**

- Summons [link].
  - You must attach the Eviction Information Sheet
- Complaint [link].
  - A copy of the original notice must be attached to the complaint.

## **Getting the Summons Issued:**

- You will bring the summons and complaint to the clerk.
- The clerk will “issue” the summons and stamp your pleadings with a court case number.
- The clerk will give you a trial date.
- The court date will be no less than 3 days and no more than 6 days.

## **Court Fees:**

- The costs to file the eviction case can be found at [link]. If you cannot afford the filing fee, you can ask for a fee waiver or deferral. [link].

## **Serving the Court Papers:**

- The landlord must make arrangements to have the Summons and Complaint served on the tenant.
- The landlord cannot serve the court papers. The landlord must have a licensed process server or a Constable serve the court papers.

- The Summons and Complaint must be served 2 days before the court date.
- If you claim there is an immediate and irreparable violation, you may serve the notice of the violation with the summons and complaint.
  - The trial date will be set no later than 3 days after the date the complaint was filed.
- Service must be by:
  - Personal service or
  - “Post and Mail.” Before you can use post and mail, one unsuccessful attempt at service must be made. Then the pleadings can be posted on the main door to the rental and mailed by certified mail, return receipt requested. Tenant is considered to have received the summons 3 days after mailing.
- Proof the summons and complaint were served is shown by an affidavit prepared by the licensed process server or Constable. The proof of service is filed with the court.

### **The Third Step in the Eviction Process: Going to Court:**

#### **Continuing the Court Date**

- Before the court date:
  - Any request to continue the court date must be in writing.
  - A continuance will only be granted for good cause and will not be for more than 3 court days unless the parties agree to a longer continuance.
- In court:
  - The case may be continued because of the judge’s schedule, or at the request of either party for good cause for no more than 3 court days. The parties can agree to a longer continuance.

#### **What Will Happen on the Scheduled Court Date**

- **Prior to the hearing:**
  - Be sure to let the court know as soon as you can if you need an interpreter or a reasonable accommodation.
  - You should plan to arrive in court at least 30 minutes before your hearing. **Do not be late.**
  - In many courts you will need to check in with the clerk and then go to the courtroom.

- Answer: In Justice Court a tenant is not required to file a written answer.
- Counterclaim:
  - A tenant may claim that the landlord owes the tenant money. This is called a counterclaim.
  - In eviction cases, the counterclaim must be because the landlord violated the rental agreement or the Arizona Residential Landlord and Tenant Act.
  - A counterclaim is filed at the same time the answer is due.
  - If a counterclaim is filed, it will be considered and decided at the time of trial. [link to counterclaim].
- Please bring any documents and any witnesses to court.
- Rule 10 of the Rules of Procedure for Eviction Actions allows for certain disclosures and more formal discovery. [link].
- **The hearing on your case:**
  - The judge will call each case by the name of the landlord and the tenant.
  - The judge will ask you and the tenant questions to decide if the tenant will have to move and if the tenant owes any rent.
  - Be sure to let the judge know if you have any witnesses or documents.
  - Listen to the questions the judge asks. If you do not understand a question, let the judge know. Answer the questions the best you can.
  - Be polite and courteous to the judge and the tenant.
  - The judge will decide:
    - If you properly served the summons and complaint.
    - If the summons and complaint included the required information and notice.
    - If you served a proper notice and, if required, gave the tenant an opportunity to fix the problem.
    - If the eviction is for rent owed, whether you followed the required procedures. If you did, whether the tenant paid you the rent owed.
      - If the landlord accepted a partial payment of rent, whether a waiver signed by the tenant.

- If the eviction is for violation of the rental agreement, whether you followed the proper procedures. If you did, whether the tenant violated the rental agreement. If they did, whether they fixed the problem as requested.
- If the tenant filed any affirmative defenses, whether these defenses defeat your case.
- If the tenant filed a counterclaim, whether you owe the tenant any money.
- You will go first and may call witnesses and offer documents as evidence to support your claims.
- The tenant may question any witnesses or object to the admission of any documents.
- After you finish, the tenant will then present his or her case. The tenant may call witnesses and offer documents to support the tenant's claims.
- You may question any witnesses and object to the admission of any documents.
- The judge will hear testimony from both sides, review the documents and make a decision.
  - A hearing is required when the landlord wants the judge to evict the tenant quickly for serious and major violations. A.R.S. § 33-1377(E); Rule 13(b)(3)(B).
- The hearing will be tape recorded.

### **The Judge's Decision**

- The judge will look at the rental agreement, what you asked for in the complaint and what was proven in court.
- **If the judge finds for you**, the judgment may include an order for:
  - Unpaid rent through the end of the month.
  - Reasonable late fees (only if provided for in a written agreement)
  - Damages to the property (only if requested in the complaint and proven)
  - Any unpaid utilities and rental concessions (only if provided for in a written agreement and requested in the complaint and proven)
  - Attorney fees (only if provided for in a written agreement).
  - Court costs paid
  - Annual interest rate on the unpaid judgment

- If a counterclaim was filed, the judge will decide if you owe the tenant any money.
- The tenant to leave the rental and return the keys to the landlord
  - The judgment will explain that if a tenant does not move out as ordered, the landlord can ask the judge for a Writ of Restitution. A writ is an order that tells the constable to remove the tenant from the rental. Writs are only used when the tenant does not move out. Writs are explained below.
- **If the judge finds for the tenant:**
  - The tenant will get to stay (remain) in the rental.
  - The judge may enter judgment for the tenant or the eviction may be dismissed.
  - If the tenant was unlawfully removed from the rental by the landlord, the tenant may obtain a judgment for possession of the rental \_\_\_\_\_ end the rental agreement.
  - If the landlord intentionally reduced essential services such as electric, gas or water, the tenant may get possession of the rental or end the rental agreement.
    - If either of the above things happened, the tenant may get 2 months' rent or 2 times the actual damages, whichever is greater.
    - If the landlord locked out or forced the tenant from the rental and the tenant wants back in, the judge may give the tenant judgment for possession of the rental and order the landlord to immediately let the tenant back into the rental.
  - If a counterclaim was filed, the judge will decide if the landlord owes the tenant any money.
  - Attorney fees (only if provided for in a written agreement).
  - Court costs (if any paid).
  - Annual interest rate on the unpaid judgment.
- **Judgment:**
  - A landlord should have a copy of the judgment for the judge to sign. [link].
  - Be sure the tenant gets a copy of the judgment.

## Right to Stay in Rental After Eviction Case Filed

- If the eviction was filed because of rent owed and the judge has **not** entered a judgment yet for either party, the tenant can stay if all rent, late charges, attorney fees and court fees are paid.

## Offers to Settle the Case

- The parties may decide to settle the case.
- Be sure to get any settlement in writing so you understand what you and the tenant agreed to.

## A Jury Trial

- A landlord or a tenant can ask for a jury trial. A jury trial is where citizens from the community decide who should win the case.
- If a jury trial is requested, the parties will be asked to submit prepared jury instructions to the court before trial. [link to form eviction jury instructions].
- If a jury trial is not requested, the judge will hear and decide the case.
- The parties may be asked to exchange the names of witnesses expected to be called at trial and list of exhibits expected to be used at trial. [link to disclosure statement].
- If the party who requests a jury loses, the party will be required to pay jury fees.

## If the Judge Orders the Tenant to Move Out

- The judge may order the tenant to move by a certain date.
- If the tenant does not move out, the landlord may ask the judge for a Writ of Restitution. This is an order that tells the constable to remove the tenant from the rental.
- A landlord cannot change the locks or force a tenant out of the rental. The landlord must ask for a writ.
- **The Writ:** The landlord can get the writ when the time for the tenant to move has ended.
  - Usually the judge will give the tenant 5 calendar days to move.
  - If the tenant does not move out, the landlord can ask for a writ on the 6<sup>th</sup> day.
  - In the case of an immediate eviction for serious violations, the judge will order the tenant to move out immediately. The landlord can get

the writ between 12 and 24 hours after the judgment is signed or soon thereafter.

- The writ will tell the constable to tell the tenant to immediately leave the rental. The tenant will be able to take some property with them such as clothes, tools, professional books, identification, medication and financial documents. For other property, the tenant will need to make arrangements to come back to the rental within 21 days and get the property. Once the constable has removed the tenant, you can change the locks.
  - The landlord is required to store the tenant’s property for 21 days. Storage fees may be charged. The requirements on storage can be found at A.R.S. § 33-1368(E).
- If after the constable tells the tenant to leave and the tenant tries to go back to the rental without permission, the tenant may be charged with a criminal offense. A.R.S. § 12-1178(D).
- The court has prepared a Writ of Restitution Packet. [\[link\]](#).

### **Appeal of a Judge’s Decision When You Did Not Come to Court**

- If you did not come to court and a judgment was entered against you, it is called a Default Judgment.
- A landlord cannot appeal a default judgment. Instead, the landlord must first ask the judge to vacate the judgment. If the judge vacates the judgment, the judgment is gone. The court has prepared a motion to vacate packet with instructions. [\[link\]](#).
- If the judgment is gone, then the judge will make a new decision. The tenant and the landlord can appeal the new decision.
- If the judge does not vacate the judgment, you may appeal that decision.

### **Appeal of Judge’s Decision When You Came to Court:**

The court has prepared an “Appeal an Eviction Action Judgment” packet that has information on appeals and forms. [\[link\]](#). Also, there also is General Information About Appeals in Rule 17 of the Rules of Procedure for Eviction Actions [\[link\]](#) and A.R.S. §12-1179. [\[link\]](#).

As you read the information, remember that everything related to the appeal will be filed in the justice court that entered the judgment in your eviction.

- **The Steps to File an Appeal:**
  - A landlord may appeal a justice court judgment (except a default judgment) to the Superior Court. To appeal, the landlord must do the following within 5 days of the date of the judgment:

- File a **Notice of Appeal** with the Justice Court. [link] There is a fee to file an appeal and if you cannot afford the fee, you can ask for a fee waiver or deferral. [link]
- Pay money to the court called a **Cost Bond**. This amount is set by the judge. The Cost Bond is paid to the Justice Court that entered the judgment. If you cannot afford a Cost Bond, you can file a statement with the court giving the reasons you cannot pay the Cost Bond. The statement is called An Affidavit of Inability to Post Cost Bond. [link to affidavit].
- **File a designation of record**. This lists the parts of the record you want the Superior Court to consider on the appeal. [link to form designation of record].
- The clerks can give you information about bonds, court costs, and applications for fee waivers and deferrals.
- **Time to File the Notice of Appeal**
  - Either party may appeal an eviction judgment by filing a Notice of Appeal within 5 calendar days from the date of judgment.
    - When the 5<sup>th</sup> day falls on a holiday or a weekend, you will have until the day after the holiday or the weekend to file the appeal.
  - The judge cannot extend the time for the appeal.

### **To Stop the Tenant from Collecting the Money Judgment During the Appeal**

- **If the Landlord Wants to Stop the Tenant from Collecting the Money Part of the Judgment During the Appeal, the Landlord Must Pay the Amount Appealed to the Court:**
- Filing a Notice of Appeal does not stop the tenant from collecting the money judgment such as by garnishment of wages. To stop a collection, a bond must be filed.
- The landlord will have to pay to the court that entered the judgment the amount of the judgment that the landlord is appealing. This is called a “supersedeas bond.”
- If the landlord is appealing the entire judgment, the landlord should pay the full judgment, attorney fees and costs listed on the judgment to the court.

### **Other Steps in the Appeal**

- Get copy of court CD (record of court hearing) from the Justice Court. If there is a cost for the CD and you cannot afford the cost, you can file a

request for waiver or deferral of the fee. [link]. The CD will be part of the evidence in the appeal but it also will help you prepare an appeal memo.

- After the Justice Court receives the record and the Notice of Appeal, it will tell the landlord when the first memo is due. The due date is 60 days from the deadline to file the notice of appeal. This memo must be in writing. [link to sample memorandum]. The landlord should review the Superior Court Rules of Civil Appellate Procedure, Rule 8 that explains the requirements for a memo. [link] In the memo, you should tell the court the reasons you think the judge’s decision is wrong. [link to memo].
- You must file an original and one copy of your memo with the justice court that heard the case.
- There is a fee to file the appeal with the Superior Court. If you cannot afford the fee, you can request a fee waiver or deferral of the fee. [link]
- The tenant has 30 days to file a response memo giving the tenant’s reasons why the landlord should lose.
- The landlord must get permission from the Superior Court to file a reply memo.
- The Superior Court will review the documents submitted and make a decision. The decision will be in writing.

**If you Move:**

- Be sure to tell the court if you move. The court has “change of address” forms you can use. [link].

**More Information**

If you want more information, information is provided on these websites:

[www.AzLawHelp.org](http://www.AzLawHelp.org).

Community Legal Services – [www.clsaz.org](http://www.clsaz.org)

Southern Arizona Legal Aid – [www.sazlegalaid.org](http://www.sazlegalaid.org)

DNA People’s Legal Services – [www.dnalegalservices.org](http://www.dnalegalservices.org)

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Attorney for Plaintiff / Address / Phone / Bar Number



# Maricopa County Justice Courts, Arizona

CASE NUMBER: \_\_\_\_\_

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\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

( ) - \_\_\_\_\_  
Plaintiff(s) Name / Address / Phone

( ) - \_\_\_\_\_  
Defendant(s) Name / Address / Phone

### COMPLAINT (Eviction Action)

- Immediate
- Residential  Mobile Home  Commercial

### **YOUR LANDLORD IS SUING TO HAVE YOU EVICTED, PLEASE READ CAREFULLY THE ALLEGATIONS AGAINST YOU ARE LISTED BELOW.**

1. This court has jurisdiction to hear this case. The rental is within this court's judicial precinct and is located at: \_\_\_\_\_  
\_\_\_\_\_. The business name of the property, if any, is \_\_\_\_\_.
2. The Plaintiff wants you evicted and wants possession of the rental because of the reasons in section 5.
3. Any required written notice was served on the Defendant on \_\_\_\_\_ and was served  by hand, or  certified mail. A copy of the notice that was served is attached.
4. The Plaintiff is the owner or is authorized by law to file this case on behalf of the owner.
5. The Plaintiff claims (check and complete all that apply):
  - Subsidized Housing. Total rent per month is \$\_\_\_\_\_. Tenant's portion of rent per month is \$\_\_\_\_\_.
  - RENT OWED:** The Defendant has failed to pay the rent owed. The rent is unpaid since \_\_\_\_\_. There is a prior unpaid balance of \$\_\_\_\_\_. The rental agreement requires rent of \$\_\_\_\_\_ to be paid on the \_\_\_\_\_ day of each  month  week. The rental agreement provides for late fees calculated in the following manner: \_\_\_\_\_

**Notice:** If you are a residential tenant and the only claim your landlord makes is that you have not paid your rent, you may contact your landlord or your landlord's attorney and offer to pay all of the rent due, plus any reasonable late fees, court costs and attorney's fees. If you pay these amounts before a judgment is entered, then this case will be dismissed and your rental agreement will be reinstated and will continue.

- NON-COMPLIANCE:** After getting a notice, the Defendant failed to do the following: \_\_\_\_\_  
\_\_\_\_\_ on this date: \_\_\_\_\_, at the following location \_\_\_\_\_.
- IRREPARABLE BREACH:** The Defendant has committed a material and irreparable breach. Specifically, on this date \_\_\_\_\_, at the following location \_\_\_\_\_ the Defendant did the following: \_\_\_\_\_
- OTHER:** State the date, place and reason for eviction: \_\_\_\_\_

6. As of the filing date the Defendant owes the following:
  - Rent (Current and Prior Months) Totaling . . . . \$ \_\_\_\_\_
  - Late Fees: (if any in written agreement) . . \$ \_\_\_\_\_
  - Concessions (if any in written agreement) \$ \_\_\_\_\_
  - Reimbursable Court Costs: . . . . . \$ \_\_\_\_\_
  - Attorney's Fees(if allowed) . . . . . \$ \_\_\_\_\_
  - Other (as authorized by law): . . . . . \$ \_\_\_\_\_
  - Total Amount Requested . . . . . \$ \_\_\_\_\_**

7. The Plaintiff requests a Judgment for the amounts owed above and for possession of the rental.
8. WRIT OF RESTITUTION: The Plaintiff requests the court issue a Writ of Restitution returning the rental to the Plaintiff's possession 5 days from the date of the Judgment. If the eviction is for the material and irreparable breach explained above, return of possession 12 to 24 hours from the time of the Judgment.
9. By signing this complaint, I am agreeing that the allegations written are true and correct to the best of my knowledge.

Date: \_\_\_\_\_  
\_\_\_\_\_ Plaintiff

EA 8150-212  
R: 07/27/15

DRAFT



# Maricopa County Justice Courts, Arizona

CASE NUMBER: \_\_\_\_\_

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\_\_\_\_\_  
\_\_\_\_\_  
( ) -  
Plaintiff(s) Name / Address / Phone

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
( ) -  
Defendant(s) Name / Address / Phone

**SUMMONS (Eviction Action)**  
 Amended

**THE STATE OF ARIZONA TO THE DEFENDANT(S) NAMED ABOVE. YOU ARE HEREBY SUMMONED TO APPEAR.**

An **Eviction Case** has been filed against you. A court hearing has been scheduled.

Date: \_\_\_\_\_ Time: \_\_\_\_\_  
At the: (court address above note: have Kim have this auto-populate)  
Courtroom: \_\_\_\_\_ Floor: \_\_\_\_\_  
Please arrive early.

REQUESTS FOR REASONABLE ACCOMMODATIONS FOR PERSONS WITH DISABILITIES SHOULD BE MADE TO THE COURT AS SOON AS POSSIBLE.

**If an interpreter is needed, please contact the court listed above as soon as possible.**

1. You have a right to come to court.
2. If you do not agree with the claims against you on the attached complaint, you must come to court at the date, time, and location listed above and explain your reasons to the judge.
3. If you do not agree with the claims in the complaint, you also may file a written answer admitting or denying some or all the claims and pay the answer fee. (see number 5)
4. If you want to file a counterclaim, it must be in writing.
5. If you cannot afford the filing fee, you may apply for a deferral or waiver of the filing fee at the court.
6. **IF YOU FAIL TO APPEAR**, a judgment will likely be entered against you, granting the relief specifically requested in the complaint, including removing you from the rental.
7. To learn more see the attached Residential Eviction Information Sheet or contact the court.

(Note: this will be amended) The laws about this Notice are found in the Arizona Residential Landlord and Tenant Act. For more information on the Act, Eviction Actions, and your rights, please visit the Arizona Department of Housing website at <https://Housing.AZ.Gov> or the Maricopa County Justice Courts website at [www.JusticeCourts.Maricopa.Gov](http://www.JusticeCourts.Maricopa.Gov).

Date: \_\_\_\_\_ Justice of the Peace \_\_\_\_\_





# Maricopa County Justice Courts, Arizona

CASE NUMBER: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

( ) -  
Plaintiff(s) Name / Address / Phone

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

( ) -  
Defendant(s) Name / Address / Phone

## JUDGMENT (Eviction Action) Amended

This matter was heard by the Court on this date: \_\_\_\_\_

Plaintiff appeared  in person  by counsel  failed to appear

Defendant appeared  in person  by counsel  failed to appear

If required by law, Defendant  was  was not given proper notice and the opportunity to cure.

Defendant  was  was not properly served with the Summons and a copy of the complaint at least two (2) days prior to Court date.

If a partial rent payment was accepted,  a non-waiver was produced  a non-waiver was NOT produced

Defendant pleads  NOT GUILTY/NOT RESPONSIBLE  Defendant has filed a counterclaim.  
 GUILTY/RESPONSIBLE

Defendant was found  GUILTY/RESPONSIBLE  NOT GUILTY/NOT RESPONSIBLE of  
 RENT OWED  NON-COMPLIANCE  IRREPARABLE BREACH  OTHER

IT IS HEREBY ORDERED granting judgment on the complaint to  Plaintiff  Defendant

IT IS FURTHER ORDERED granting judgment on the counterclaim to  Plaintiff  Defendant

IT IS FURTHER ORDERED granting possession of the rental to  Plaintiff  Defendant

IT IS FURTHER ORDERED granting monetary judgment to:

Plaintiff(s)

1. \$ \_\_\_\_\_ Rent
  2. \$ \_\_\_\_\_ Late charges
  3. \$ \_\_\_\_\_ Court cost
  4. \$ \_\_\_\_\_ Rental concessions
  5. \$ \_\_\_\_\_ Damages
  6. \$ \_\_\_\_\_ Attorney fees
  7. \$ \_\_\_\_\_ Other: \_\_\_\_\_
- \$ \_\_\_\_\_ TOTAL

Plaintiff awarded nothing

Defendant(s)

1. \$ \_\_\_\_\_ Court cost
  2. \$ \_\_\_\_\_ Damages
  3. \$ \_\_\_\_\_ Attorney fees
  4. \$ \_\_\_\_\_ Other: \_\_\_\_\_
- \$ \_\_\_\_\_ TOTAL

Defendant awarded nothing.

With interest at the rate of \_\_\_\_\_ % per annum from the date of judgment until paid in full.

A Writ of Restitution (order to vacate rental) shall be granted upon request of the Plaintiff on:

Date: \_\_\_\_\_ Time: \_\_\_\_\_  
(No sooner than five (5) calendar days after date of judgment)

The court finds that the defendant has committed a material and irreparable breach, in violation of ARS 33-1368A, and a Writ of Restitution (order to vacate rental) shall be granted on:

Date: \_\_\_\_\_ Time: \_\_\_\_\_  
(No sooner than 12 - 24 hours from the time of judgment)

**WARNING:** After service of the Writ of Restitution (order to vacate rental), if you remain on or return unlawfully to the rental, you will have committed criminal trespass in the third degree.

**IT IS ORDERED** dismissing this case  with prejudice  without prejudice

Date: \_\_\_\_\_  
Justice of the Peace

I CERTIFY that I delivered / mailed a copy of this document to:

Plaintiff at the above address  Plaintiff's attorney  Defendant at the above address  Defendant's attorney

Date: \_\_\_\_\_ By \_\_\_\_\_  
Clerk

EA 8150-201 R: 7/22/15



MARICOPA COUNTY JUSTICE COURTS  
BEST PRACTICES

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SUBJECT: Ensuring Access to Justice for Self-Represented Litigants  
in Civil Cases

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EFFECTIVE: August 26, 2015

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- 1.0 RATIONALE: Judges should ensure access to justice by attempting to make sure that people get their day in court by having an opportunity to be heard and by explaining that otherwise admissible evidence should not be excluded due to an insignificant procedural problem. Most self-represented litigants want to trust the process and the judge. Thus, an explanation of questions, descriptions of procedures and of the law, and clarifications of what will happen next are welcomed. If decisions are based upon the merits of a case, and not because a self-represented litigant was unfamiliar with procedural rules, confidence in the judicial branch can be maintained.
- 2.0 PURPOSE: The purpose of any “best practice” is to foster excellence regarding case processing, form development and control, and other operating procedure throughout the Maricopa County Justice Court system (“MCJC”). Implementation of a “best practice” is strongly recommended to promote consistency and efficiency throughout the MCJC but is voluntary by any individual Justice of the Peace (“JP”) Court.
- 3.0 ISSUE: There has been a paradigm shift away from a trial court judge strictly enforcing every court rule against a self-represented litigant (and simply holding them to an identical standard as an attorney) to encouraging judges to inform self-represented litigants of proper procedures. Much of this new judicial philosophy has already been incorporated into the Rules of Procedure for Eviction Actions and into the Justice Court Rules of Civil Procedure. Even so, this type of judicial discretion is especially challenging because it requires the judge to balance competing interests. A judge should ensure that any leniency

that compromises the court's impartiality should not occur.

4.0 **LEGAL AUTHORITY:** In accordance with the Arizona Code of Judicial Conduct, Rule 2.2, Impartiality and Fairness, a "judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially." Comment 4 to that Rule confirms that a judge may "make reasonable accommodations to ensure self-represented litigants the opportunity to have their matters fairly heard." Judges have the obligation to ensure that all parties are heard and the right to be heard is meaningless unless that right is full and complete. In addition, Rule 2.8(B) of the Code of Judicial Conduct requires that a judge shall be patient, dignified, and courteous to litigants. *See also, Turner v. Rogers*, 131 S.Ct. 2507 (2011)(Held 14th Amendment's due process clause requires state assistance to unrepresented litigants in a child support case when the possible outcome includes incarceration); "Proposed Best Practices for Cases Involving Self-Represented Litigants," American Judicature Society; Goals 1 and 4 of the Arizona Supreme Court's Strategic Plan, "Advancing Justice Together." *See generally, R. Engler, Ethics in Transition: Unrepresented Litigants and the Changing Judicial Role*, 22 Notre Dame Journal of Law, Ethics & Public Policy 367 (2008).

5.0 **SUGGESTED BEST PRACTICES:** When a self-represented litigant appears, a judge should consider implementing the following best practices:

#### **BEGINNING A PROCEEDING:**

##### **1. Record all interactions with self-represented litigants.**

Note: Rule 1(L) of the Arizona Rules of Protective Order Procedure states that a judge shall, where practicable, record all hearings, including ex parte proceedings. In addition, an audio record would assist a court in determining whether to allow a withdrawal of a guilty plea pursuant to Rule 17.5 of the Arizona Rules of Criminal Procedure.

##### **2. Make sure the parties understand what is to be decided at the current proceeding.**

OOP Example: "Today I have to decide whether to leave in place an Order of Protection that prohibits the defendant from contacting the plaintiff in certain ways and from visiting certain locations. That is all that I am going to decide. [I am not going to determine child custody, parenting time, who is a better parent, or who is a better person.] Do both sides understand that?"

Civil Pre-trial Conference Example: "The purpose of a pre-trial conference

*is to check in on the status of a case and see what needs to happen next. We can briefly discuss whether the case can be settled today and if it can, great. If not, I need to explain what a motion for summary judgment is. Did both sides exchange a disclosure statement?"*

**3. Outline the procedure to be followed at the hearing, including the responsibility for the burden of proof.**

Civil Case Example: *"I don't expect that either side is an expert in hearing procedures, so I want to give you a brief overview of what is going to happen today. (1) Both sides will have an opportunity to make an opening statement. An opening statement is a brief overview of what you think the evidence will be. It is not your time to tell me everything you think I need to know about the case. (2) After both sides have made opening statements, the Plaintiff will go first. You can call yourself as a witness and can call other people as witnesses. You can also offer documents and photographs into evidence. (3) After you are through with your initial testimony, the Defendant will have a chance to ask you questions. The same is true for any other witnesses you call. (4) This is called cross-examination. You may be familiar with it from TV police shows. However, when you are asking questions to the other side, you must just ask questions. You cannot argue, debate, start to give your own version of the facts, or do anything you see on afternoon TV judge shows. Nobody is going to yell at each other. You just ask questions. (5) After the Plaintiff is through with her case, the Defendant's case will proceed in the same manner. You can call yourself as a witness, offer documents or photographs into evidence, and then she will ask questions of you and of your witnesses. (6) After both sides have presented their evidence, both sides have a chance to tell me why they think their side should prevail. That is called closing argument. The Plaintiff will go first, followed by the Defendant, and then the plaintiff gets the last word because she has the burden of proof. That's called a rebuttal argument. Does either side have any questions?"*

**4. Indicate the time available for the hearing.**

Example: *"I will let you know in advance that we have only thirty minutes for this whole hearing. Please understand that, at times, I may have to keep us moving to ensure that we get to everything we need to and to properly hear from both of you."*

**5. Explain the governing law or explain the elements of the case in a manner that helps the parties focus their testimony.**

Example: *"In order to grant an Injunction against Harassment, I need to find at least two specific examples of harassment that happened within the*

*last year. That means behavior that would cause a reasonable person to be seriously alarmed, annoyed, or harassed."*

**6. Use simple language and invite questions.**

Eviction Example: *"Your landlord is claiming that you have not paid rent for July. Is that true? [If tenant says, yes] Why? [Listen for anything that sounds like a potential defense (e.g. It's been really hard since he cut off the electricity, etc.)]. All kinds of people cannot pay their rent for all kinds of reasons that are not their fault. That does not make you a bad person; but it does entitle the landlord to a judgment against you today."*

**7. Clarify that the judge's questions and interruptions have no purpose other than getting to the facts.**

Example: *"If I ask a question or shape the discussion, it is not to cut you off or to help you. I am just trying to get to the facts we need to decide the issue before us. It does not mean anything about how I feel about the case."*

**8. Pay attention and look like you are paying attention.**

Note: *If you take notes or refer to books or information on a computer screen during a proceeding, explain what you are doing so that the litigants understand that they have your attention.*

**MANAGING EVIDENCE:**

**1. Permit narrative testimony by a self-represented litigant.**

Example: *"You don't have to ask yourself questions and then give answers. Just tell me, what happened from your perspective?"*

**2. Ask questions to get to evidence.**

OOP Example: *"In order to consider an Order of Protection, I need to find a specific relationship and then an act or threatened act of domestic violence. First, tell me about your relationship with the Defendant."*

**3. Ask questions concerning the nature of the evidence and avoid not admitting evidence for overly technical reasons (e.g. foundation or authentication).**

Note: This area is especially tricky and what may be appropriate in one context may not be appropriate for another.

Example: *"I see that you are offering a photograph. Can you tell me where the photograph came from, who took it, and what it shows? Is that what the plumbing looked like after the repairs were made?"*

**4. Probe for details and for clarification.**

Example: *"Can you help me understand what happened by telling me a bit more about that conversation? How did it start? What did he say? How did you respond?"*

**5. Maintain control of the courtroom with courtesy and respect, and help litigants stay focused on matters relevant to the judge's decision.**

Example: *"Sir, I think you may be telling me things that are not directly relevant to this case, and please stop making disparaging comments about the Defendant. That is not appropriate behavior for a courtroom and it makes it harder for me to listen and to consider the points you are making. It is not helpful to me in deciding the case because I need specific acts of conduct, not generalizations. Please just focus on what happened on that Friday between the two of you."*

**6. Clarify the relevance of testimony when it is uncertain.**

Example: *"Why do you think the behavior of the Defendant's girlfriend will help me decide whether to issue a Protective Order against the Defendant? Can you tell me instead about the conduct of the Defendant?"*

**7. A judge in a bench trial determines the facts and applies the law to those facts. As such, the judge can consider any evidence that does not draw an objection and can either admit or reject evidence. However, there is an additional option. The judge can admit evidence that may not appear to comply with the Rules of Evidence and in so doing, can give that potentially questionable evidence the weight the judge sees fit.**

**8. When appropriate, tell litigants when they have failed to establish an important element, and then provide an opportunity to fill the gap.** In some cases, it may be appropriate for the judge to consider telling litigants when they have failed to establish an important element of their claim or defense, and then, provide an opportunity to fill the gap. For example, it is often appropriate to ask a self-represented landlord whether they provided a five-day notice. Before telling a litigant this type of information there are several factors to consider (e.g. whether the other party is represented by an attorney, whether it is a bench or a jury trial, whether doing so is objectively fair, etc.).

Example: "Sir, the only evidence that you have given about the nature of your injuries is your testimony that when it rains, your knee hurts a little. That is not, itself, very strong evidence. Do you have any other evidence about your injuries?"

**9. Provide a final opportunity for litigants to add to their testimony or to present additional evidence.**

Example: "You will still have an opportunity to make a closing argument; but is there any additional evidence you would like me to consider? Do you have any additional documents or photographs? Do you have any additional witnesses?"

**10. When necessary, the judge should remind the parties that the judge must be neutral and fair.**

Example: "I can't help you present your case; but this is a time to ask questions and you need to ask questions. You will have a time to testify and give your own version of these events; but now, you can only ask questions. I am neutral and don't have a stake in the outcome of this case."

**CONCLUDING THE PROCEEDING:**

**1. Announce the decision, if possible, from the bench.**

Eviction Example: "I find that the tenant did not pay rent and did not have a valid reason to withhold rent under Arizona law. In some states you can 'rent strike' or just stop paying all of your rent if you are having problems with your landlord. In Arizona, you can't do that. Now let me explain what your options are now that I am granting judgment for the Plaintiff."

**2. Explain the decision and consider acknowledging the positions and strengths of both sides.**

Example: "Let me explain my decision to you. The Plaintiff did establish that the Defendant was negligent in repairing her car. She did establish that she is entitled to \$1,500.00 for the costs of the additional repairs. However, the Plaintiff did not establish that she was entitled to expenses for the limousine service that she had used while her vehicle was being repaired."

**3. Make sure that the litigants understand the decision and what is expected of them, taking the opportunity to encourage the litigants to explain any problems that they might have complying.**

OOP Example: *"It is very important that you understand what I have just ordered. Do you understand that you are to have no contact with the Plaintiff except by e-mail or by text message? Now let me emphasize that this order is not something for you two to disregard on your own. Plaintiff, if in the future you want the Defendant to be able to contact you in different ways, then you would need to come in to court to have the order modified or dismissed. Do both of you understand?"*

**4. Where relevant, inform the litigants of what will be happening next in the case and what is expected of them.**

Eviction Example: *"All kinds of people cannot pay their rent for all kinds of reasons. This does not make you a bad person, but it does mean that the landlord will get a judgment against you today. You may or may not have to move, but you need to know whether the landlord is willing to work with you or not. If not, then you need to immediately start looking for a new place to live because five days from today, the landlord can file what is called a writ of restitution. When I sign it, it is an order for a constable to remove you from the residence. Five days is not very much time to find a new place to live, but it is much better than the five minutes that the constable will give you. So you need to know today, if possible, whether your landlord is willing to work with you. You also have a right to appeal this case and there is a handout available at our front counter that explains those rights. You only have five days to file a notice of appeal. Do you have any questions?"*

**5. Thank the parties for their participation and acknowledge their efforts.**

Example: *"I want to end by thanking you both for your professionalism. This case had the potential to get very ugly but it didn't."*

- 6.0 IMPLEMENTATION: The above best practice was recommended on August 26, 2015. The practice may be implemented immediately and remain effective until superseded or abolished.



Arizona Commission on Access to Justice

|                                    |  |   |
|------------------------------------|--|---|
| Meeting Date:<br>November 18, 2015 | Type of Action Requested:<br><input checked="" type="checkbox"/> Formal action or request<br><input type="checkbox"/> Information only<br><input type="checkbox"/> Other | Subject:<br>Barriers to Access to Justice for Tenants in Eviction Cases |
|------------------------------------|--|---|

From: William E. Morris Institute for Justice

Presenters: Pamela Bridge, Director of Litigation, Community Legal Services

Discussion: There will be a general introduction to the issues faced by unrepresented tenants in eviction cases. Ms. Bridge will also highlight 3 global concerns: (1) lack of understanding and recognition of subsidized housing in eviction cases; (2) ethical concerns raised by court procedures and landlord attorney efforts to talk to tenants prior to the hearing and the use of stipulated judgments; and (3) how the courts handle non-payment of rent cases and habitability issues.

Recommended motion:

For issue number 1, we request the Commission present a CLE on the subsidized housing issues for all justices of the peace within 3 months.

For issue number 2, we request that the Commission set up a sub work group to study the ethical concerns about represented landlords talking to unrepresented tenants and to propose a rule change to the Rules of Procedure for Eviction Actions, rule 13(b)(4), concerning stipulated judgments.

For issue number 3, we request the Commission set up a sub work group to study changes in court procedures for the handling of non-payment of rent cases.



## Arizona Commission on Access to Justice

|   |   |  |
|---|---|--|
| <b>Meeting Date:</b><br><br>November 18, 2015 | <b>Type of Action Requested:</b><br><br><input type="checkbox"/> Formal action or request<br><input checked="" type="checkbox"/> Information only<br><input type="checkbox"/> Other | <b>Subject:</b><br><br>R-14-0027: Petition to Amend Rule 11 of the Rules of Procedure for Eviction Actions |
|---|---|--|

From: Committee on Limited Jurisdiction Courts

Presenter: Judge Mark Armstrong (Ret.), Staff Attorney

Discussion: The Petition to Amend Rule 11 of the Rules of Procedure for Eviction Actions (RPEA) envisions telephonic appearance by parties and witnesses in an eviction action. Comments have been filed by Judge Gerald Williams on behalf of the Maricopa County Justice Court Bench and Ellen Katz, William E. Morris Institute for Justice. The issues noted in the comments, other than terminology and readability, involve:

1. Statutory time standards
2. Equal protections for both parties
3. Practicality of a written request
4. Alignment of filing deadlines for the request for telephonic appearance, objection to plaintiff's request for telephonic appearance and the Answer as associated with the trial.

At the Committee on Limited Jurisdiction Courts (LJC) October 28, 2015 meeting, the Petitioner and commenters attempted to find middle-ground that would have allowed amended language to move forward to the Arizona Judicial Council meeting scheduled for December 10, 2015. However, at this meeting proposed language based on Rule 1(R) *Arizona Rules of Protective Order Procedure* was offered to replace in whole, the language offered by the petitioner and commentators. Since the rule petition will not be ready for the December Rules Agenda, the LJC has continued the matter until its February 2016 meeting.

Recommended Action or Request (if any): None at this time.

STAFF ATTORNEYS  
COPY

COPY

FILED  
JUL 24 2014  
JANET JOHNSON  
CLERK SUPREME COURT  
BY:

1 Douglas C. Fitzpatrick  
2 49 Bell Rock Plaza  
3 Sedona, Arizona 86351  
4 (928) 284-2190  
5 Bar ID #005152  
6 fitzlaw@sedona.net  
7 Petitioner

BEFORE THE ARIZONA SUPREME COURT

8 PETITION TO AMEND RULE 11 )  
9 OF THE RULES OF PROCEDURE )  
10 FOR EVICTION ACTIONS. )  
11 \_\_\_\_\_ )

Supreme Court No. R-14-0027

12 PURSUANT TO Rule 28 of the Rules of the Supreme Court, undersigned  
13 petitioner submits the following proposed addition to Rule 11 of the Rules of Procedure  
14 for Eviction Actions as set forth in Appendix A hereto.

15 Nonresident landlords are disadvantaged in eviction actions in Arizona because  
16 there is no rule or authority which allows them to appear telephonically at eviction  
17 hearings. While some courts permit telephonic appearances for nonresident landlords,  
18 many do not.

19 Counsel for a nonresident landlord can hope that an expedited motion for leave to  
20 appear telephonically will be granted but there are no guarantees that the Court will be  
21 sympathetic to such motion because there is no rule or statute which authorizes  
22 telephonic appearances.

23 If the Court denies a nonresident landlord's motion for leave to appear  
24 telephonically, the landlord is left to make last-minute travel plans, committing  
25 substantial time and money for an appearance which may take no more than a few  
26 minutes. Depending on the domicile of the landlord, he may need to commit a full day  
27  
28

1 or more to make the trip to the court house. All the while, there is no way to know  
2 whether the tenant will even appear at the hearing. Because of the accelerated nature of  
3 the eviction process, a landlord may not know until one or two days prior to the hearing  
4 whether the motion for leave to appear telephonically is granted or denied.  
5

6 A rule which allows parties or witnesses to appear telephonically if no substantial  
7 prejudice would result and if the court finds that, as to such parties or witnesses, they are  
8 reasonably prevented from attending the hearing or that attendance in person would result  
9 in a burdensome expense would serve the interests of justice. Nonresident landlords and  
10 their counsel could file eviction actions with the knowledge and comfort that they  
11 won't be put to the inconvenience, expense and hassle of needing to make last minute  
12 travel plans and dealing with an upset to their personal and business calendars.  
13  
14

15 The drafters of the Rules of Family Law Procedure fashioned a rule, similar to  
16 that being proposed, which allows for telephonic appearances by parties and witnesses  
17 upon a showing that they are "reasonably prevented from attending the hearing" or that  
18 "attendance in person at hearing or trial would be a burdensome expense..." *Rule 8[A]*  
19 *and [B], Arizona Rules of Family Law Procedure.* The concept adopted for family law  
20 cases makes sense in the context of eviction hearings.  
21

22 For these reasons, petitioner respectfully requests that this Court amend Rule 11  
23 of the Rules of Procedure for Eviction Actions as set forth in Appendix A hereto.  
24

25 DATED this 23<sup>rd</sup> day of July, 2014.

26 LAW OFFICE OF DOUGLAS C. FITZPATRICK

27 By /s/ Douglas C. Fitzpatrick  
28 Douglas C. Fitzpatrick  
Petitioner

1 An electronic copy filed with  
2 the Clerk of the Supreme Court  
3 this 23rd day of July, 2014.

4 /s/ Douglas C. Fitzpatrick

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APPENDIX A

Proposed Rule 11[d][3], Rules of Procedure for Eviction Actions

Rule 11[d] [no change in text]

Rule 11[d][1] [no change in text ]

Rule 11[d][2] [no change in text]

Rule 11[d][3] Upon request of a party or witness, or on its own motion, and upon a finding that no substantial prejudice will result to any party by allowing telephonic testimony, the court may allow a party or witness to give testimony at any evidentiary hearing telephonically if the court finds that the party or witness is reasonably prevented from attending the hearing or that attendance in person at the hearing would result in a burdensome expense to the party or witness.

Any documents a party wishes to introduce into evidence through a party or witness appearing telephonically shall, where practicable, be provided in advance to the party or witness. Exact duplicates shall be provided to the opposing party with an affirmation on the record by the party introducing same that they are true and correct copies of the documents provided to the party or witness who will be appearing telephonically.

A party intending to have offer telephonic testimony at a hearing shall file a request for same with the filing of that party's complaint or answer as the case may be. Opposition to said request shall be made within two [2] days after service, following which the court may, in its discretion, rule upon said request with or without hearing. Unless otherwise ordered by the court, the party requesting telephonic testimony shall arrange and pay for same.

Gerald A. Williams  
Arizona Bar No. 018947  
North Valley Justice Court  
14264 West Tierra Buena Lane  
Surprise, AZ 85301

**IN THE SUPREME COURT OF THE STATE OF ARIZONA**

|                         |   |                                   |
|-------------------------|---|-----------------------------------|
| In the Matter of:       | ) | Supreme Court                     |
|                         | ) | No. R-14-0027                     |
| PETITION TO AMEND       | ) |                                   |
| RULE 11 OF THE RULES OF | ) | <b>Response from Maricopa</b>     |
| PROCEDURE FOR           | ) | <b>County Justice Court Bench</b> |
| EVICITION ACTIONS       | ) |                                   |

**BACKGROUND**

The author of this pleading is the Associate Presiding Justice of the Peace for Maricopa County. After a discussion of the proposed amendment to the Rules of Procedure for Eviction Actions (RPEA), both over e-mail and in person, a vote was taken at our monthly bench meeting to authorize this response.

By any standard, the Justice Courts in Maricopa County have an extremely high eviction workload. Although some individual courts have eviction caseloads that are much higher than others, the system, as a whole, handles on average in excess of 5,000 cases per month. From July 2014 through April 2015, 52,916 eviction actions were filed in Justice Courts in Maricopa County.

The concerns raised by the Petitioner on behalf of out-of-state landlords have value; but, statewide, the party in a landlord and tenant case who is the most likely to request a telephonic appearance is a self-represented tenant. This is true both in rural areas, where the justice court may be on the other side of a geographically large county, and in urban areas. By way of example, the North Valley Justice Court has jurisdiction over Anthem, parts of Glendale and parts of Phoenix, but is located (along with three other Justice Courts) in Surprise, in a facility that is not served by any form of public transportation.

## I.

### **AMENDING THE RULES OF PROCEDURE FOR EVICTION ACTIONS WITH A RULE OF PROCEDURE DESIGNED FOR FAMILY COURT CREATES PROBLEMS CONCERNING LEGAL TERMS OF ART, CONCERNING SCHEDULING, AND CONCERNING STATUTORY REQUIREMENTS.**

Consistent with the Chief Justice’s strategic plan to promote access to justice and to our courts, we do not oppose a rule that would specifically authorize telephonic appearances in eviction actions. Many, if not most, Justice Courts already authorize such appearances. However, there are several problems with the language of the proposed amendment.

First, the proposed rule refers to an “evidentiary hearing.” That is a term of art and there are no evidentiary hearings in residential eviction

actions.<sup>1</sup> If the rules are amended in a way that adds this term to the RPEA, then parties will start demanding evidentiary hearings on potentially a variety of topics or points of law. The only limits would be the imagination of the party making the request.

Second, the proposed amendment does not require a written request to appear by phone. The Family Court rule that it is based on does have detailed pleading requirements.<sup>2</sup> A similar rule for Probate Courts also requires a written request to appear by phone.<sup>3</sup> In its' current form, the suggested rule change would allow a party to call in at the time set for the initial appearance and verbally request to appear by phone. Allowing such a procedure would be impractical. In addition, the proposed language (“the court may, in its’ discretion, rule upon said request with or without a hearing”) arguably creates a new type of hearing on the issue of whether to allow telephonic testimony.

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<sup>1</sup> There is an initial appearance and then a trial. RPEA 11. Although eligible for a jury trial, residential eviction actions are summary proceedings. A.R.S. § 12-1176; RPEA 12. A judgment can be signed after a brief conversation among the judge and the parties and often without the need for witness testimony or anything that looks like a formal trial. RPEA 11. The case will begin by the judge calling it and asking the tenant whether the allegations in the complaint are true. RPEA 11(b). If the tenant disputes the factual allegations, then the judge will make a decision after a trial has been held; however, that trial could be held that same day as the initial appearance.

<sup>2</sup> Arizona Rule of Family Law Procedure 8(D).

<sup>3</sup> Arizona Rules of Probate Procedure 11(A). The rule begins, “Upon timely written motion or on the court’s own motion, a judicial officer may allow telephonic appearance or testimony ...” Id.

Third, the proposed language sets up a procedure that would likely violate the statutory time standards for residential eviction actions. In Arizona, residential actions are, by statute, designed to be resolved within an extremely short window in Justice Courts. When an eviction action is filed, the Justice Court must immediately issue a summons.<sup>4</sup> The summons and complaint can then be served on the tenant by what is often called a “nail and mail” posting.<sup>5</sup> This service need only be made two days before the initial appearance date.<sup>6</sup> In a contested case, there is a preference for holding the trial on the initial appearance date<sup>7</sup> and when a delay is requested, in justice court, it cannot be for longer than three days.<sup>8</sup>

Given the courtroom time demands for other types of cases, many Justice Courts have established calendars where eviction cases are heard two days each week. Under the proposed amendment, a party may have until two days after an answer is filed to object to a request for telephonic testimony (and perhaps to even request that a hearing be held on that

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<sup>4</sup> “The summons shall be issued on the day the complaint is filed and shall command the person against who the complaint is made to appear and answer at the time and place named which shall be not more than six nor less than three days from the date of the summons.” A.R.S. § 33-1377(B); *See also*, A.R.S. § 12-1175(A)(The summons must be issued “no later than the next judicial day”).

<sup>5</sup> A.R.S. § 33-1377(B); RPEA 5(f).

<sup>6</sup> A.R.S. § 12-1175(C); A.R.S. § 33-1377(B).

<sup>7</sup> RPEA 11(c).

<sup>8</sup> A.R.S. § 12-1177(C); A.R.S. § 33-1377(C); RPEA 11(c).

objection). If the answer is filed five minutes before a trial, and the case has already been delayed once because the trial was not held on the date of the initial appearance, it would be difficult for most Justice Courts to allow two days to respond without violating the required time standards.

## II.

### **ANY AMENDMENT TO THE RULES OF PROCEDURE FOR EVICTION ACTIONS ALLOWING FOR TELEPHONIC APPEARANCES SHOULD CONTAIN CLEAR LANGUAGE AND A REFERENCE TO THE REQUIRED TIME STANDARDS.**

The recommended language is consistent with what is used in other sets of court rules; but it is perhaps written in a style that is inconsistent with the goal of having self-represented litigants being able to read our rules and to be able to understand what is expected of them. For example, it begins with an 80 word sentence. It also contains arguably unnecessarily legalistic language, such as “shall file a request for same with the filing” and “Opposition to said request.” In addition to being simple, any amendment must make it clear that a request for telephonic testimony, in and of itself, will not delay a residential eviction case. Accordingly, we recommend the following language as a new RPEA 11(d)(3):

**(3) Telephonic Appearance.** A party may request, that either themselves or a witness, appear by telephone at either an initial appearance and/or a trial. This request must be in writing and must be made in advance of the time of the scheduled court date. The opposing party shall be given an opportunity to object to this request. A request for a telephonic appearance shall not delay the times set by statute for proceeding with an eviction action.

### CONCLUSION

While we have no objection to the concept of allowing parties to eviction actions to request telephonic appearances for either themselves or their witnesses, we do have some significant concerns about the language of the proposed amendment. If the RPEA is to be amended to formalize the practice (that already exists in many if not most Justice Courts) of allowing telephonic testimony, then the amended language should be consistent both with the goals of the RPEA and with the time standards for eviction cases that are required by law.

RESPECTFULLY SUBMITTED, this \_\_\_\_ day of May 2015.

---

GERALD A. WILLIAMS  
Justice of the Peace  
North Valley Justice Court  
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7 **IN THE SUPREME COURT**

8 **STATE OF ARIZONA**

9 **Petition to Amend Rule 11 of the Rules  
10 of Procedure for Eviction Actions**

Supreme Court No. R-14-0027

11 **COMMENTS IN OPPOSITION TO  
12 PETITION TO AMEND RULE 11  
13 OF THE RULES OF PROCEDURE  
14 FOR EVICTION ACTIONS**

15 Pursuant to Rule 28 of the Arizona Rules of the Supreme Court, the William E.  
16 Morris Institute for Justice (“Institute”) submits these comments in opposition to the  
17 Petition to Amend Rule 11 of the Rules of Procedure for Eviction Actions. The proposed  
18 Rule would allow the parties and witnesses to appear telephonically upon request if  
19 certain reasons are satisfied. In response, on May 18, 2015, the Maricopa County Justice  
20 Court Bench submitted a comment that proposes an alternative rule for telephonic  
21 appearances. The Institute also opposes the Bench’s proposal. As explained below, the  
22 Institute would not oppose a rule that allows for telephonic appearances if the rule is fair  
23 and may be of actual use by tenants. Unfortunately, neither the Petition, not the Bench’s  
24 alternate proposal is. Therefore, in opposition to the Petition and the Bench’s alternative  
25 proposal, the Institute states the following:

26 **I. Statements of Interest**

27 The Institute is a non-profit public interest program that works on issues of  
28 importance to low-income Arizonans. The rights of tenants in eviction cases is such an  
issue. In 2005, the Institute published a study of eviction cases in Maricopa County:

1 “Injustice In No Time: The Experience of Tenants in Maricopa County Justice Courts”  
2 found at [morrisinstituteforjustice.org](http://morrisinstituteforjustice.org).

3 The Institute works closely with federally funded civil legal services program for  
4 low-income Arizonans. The legal services programs represent tenants in eviction actions  
5 throughout the state. They typically are the only attorneys who represent tenants in  
6 Justice Court. The Institute’s opposition is based on its knowledge of eviction practices  
7 and information provided by legal services housing attorneys.

## 8 **II. Non-Resident Landlords Do Not Need the Proposed Rule**

9 This rule is being proposed by and for “nonresident landlords” who own  
10 residential property in Arizona. These non-resident landlords want the “knowledge and  
11 comfort” that they will not “be put to the inconvenience, expense and hassle” of coming  
12 to court for an eviction case they filed. These non-resident landlords own property in  
13 Arizona, are the party filing the eviction case, and are typically represented by an  
14 attorney. In such circumstances, there is no “inconvenience” or “hassle” in coming to  
15 court and any “expense” is part of doing business.

16 The non-resident landlord has other options. The Arizona Residential Landlord  
17 and Tenant Act, A.R.S. § 33-1309(B) (“ARLTA”) provides:

18 If a landlord is not a resident of the state or is a corporation  
19 not authorized to do business in this state and engages in any  
20 conduct in this state governed by this chapter, or engages in  
21 any transaction subject to this chapter, he may designate an  
agent ...

22 If the non-resident landlord does not want to hire a local property manager who  
23 could appear at the hearing as a witness, that is the landlord’s decision. The landlord has  
24 a rental business and chose to operate the rental business in Arizona.

25 In support of the Petition, the non-resident landlord references a Rule of Family  
26 Law Procedure, Rule 8(A) that allows for telephonic appearance by parties and witnesses.  
27 An eviction case is markedly different than family court cases where jurisdiction of the  
28 child remains in Arizona even if the parent moves out of state. Significantly, the Justice

1 Court Rules of Procedure do not have a rule pertaining to telephonic attendance. Neither  
2 does the Superior Court Civil Rules of Procedure.

3 **III. The Proposed Rule Is Not Practical For Tenants And Will Only Benefit**  
4 **Landlords**

5 The practicalities of the proposal render it only of use to landlords and of no use to  
6 tenants. As proposed, in order for a tenant to request a telephonic appearance, the tenant  
7 must “file” the request with the “filing” of the answer. In general, all pleadings in Justice  
8 Court may be made orally. A.R.S. § 22-215.<sup>1</sup> Thus, currently tenant answers do not need  
9 to be in writing and filed and neither do requests for telephonic appearances. If the  
10 proposed rule is read to require written pleadings, which the Institute believes it does,  
11 then it imposes additional pleading requirements on tenants that currently do not exist.

12 In marked contrast, as proposed, for the landlord, the request for telephonic  
13 appearance would be “filed” with the complaint. The overwhelming majority of  
14 landlords are represented by counsel. Therefore, such a written request filed with the  
15 complaint will be relatively easy to accomplish.

16 For telephonic requests by landlords, the request would be served with the  
17 complaint. Any tenant opposition would have to be filed two days after service. Given  
18 the statutory time frames for service of process on a tenant, a tenant only needs to be  
19 served 2 calendar days before the hearing. A.R.S. §33-1377(B). Thus in many  
20 situations, if a tenant wanted to oppose the request, the tenant would have to come to  
21 court, often on the day of the trial, to file an objection. Subsequently, the Court would  
22 rule on the motion. That ruling could be at the time for trial or at some other time. How  
23 the tenant would be notified whether the request was or was not granted is not clear.  
24 Thus, as proposed, if a tenant wanted to object to a request, the tenant may have to come  
25 to court 2 times, the date set for the trial and on another date after the ruling on the  
26 motion.

27 \_\_\_\_\_  
28 <sup>1</sup> Eviction claims and defenses do not fit within the limited exceptions to oral  
pleadings in the justice court statute. A.R.S. § 22-216.

1           There are practical problems for the tenant who wants to appear by telephone. If  
2 the tenant wanted to request to appear telephonically, given the short time frames for  
3 service, as proposed, the practical result is that a tenant would have to come to court on  
4 the date set for the trial to “file” the request to be allowed to appear by telephone at the  
5 trial. The same concerns apply if a tenant wanted to request that a witness appear  
6 telephonically. Often the tenant would be making the request at the initial court date.

7           While this proposed rule may work for landlords with attorneys, it certainly does  
8 not work for tenants who rarely have attorneys. The proposed rule appears to be of no  
9 practical use by tenants. For all of these reasons, the proposed rule should be rejected.

10 **IV. The Maricopa Justice Court Bench’s Untimely Alternative Proposal Should**  
11 **Be Rejected**

12           On May 18, 2015, the Maricopa Justice Court Bench (“Bench”) filed a response  
13 supporting the concept of telephonic appearances but not the wording of the Petition.  
14 The Bench proposes an alternative rule. Unfortunately, as explained below, the Bench’s  
15 untimely counter-proposal creates its own problems and should be rejected.

16           First, presented as a comment, the Bench did not submit its comment until 2 days  
17 before the close of the public comment period. Thus, the public has not been given  
18 adequate time to evaluate and respond to the proposal. For that reason alone, the  
19 proposal should be rejected.<sup>2</sup>

20           Second, the proposal is seriously flawed. The Bench claims that self-represented  
21 tenants are the “most likely” to request a telephonic appearance because of the large  
22 geographical areas covered by many justice courts and because many justice courts “are  
23 not served by any form of public transportation.” While the Institute may agree with the  
24 obstacles that face many tenants in appearing in court, upon close examination, the  
25 Bench’s proposal does not address any of these obstacles, and instead, creates more  
26 obstacles for the unrepresented tenant.

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27  
28 <sup>2</sup> The Justices may want to submit a petition for a rule change allowing telephonic  
appearances next petition cycle that allows for adequate public comment.

1           The Bench’s proposal requires that any request “must be in writing and must be  
2 made in advance of the time of the scheduled court date.” As explained above, there is  
3 no statutory requirement in justice court that motions must be made in writing. *See*  
4 A.R.S. § 22-215. The practical result of the Bench’s proposal for tenants, who almost  
5 universally are unrepresented, will be that they will have to travel significant distances to  
6 a court that often is not served by public transportation to file the written request to  
7 appear by telephone. That is because after service of process, there is not sufficient time  
8 to mail in the request. In addition, there is no online court filing in justice courts. Thus,  
9 the only option left for the tenant is to come to court to file the request. If the justices are  
10 concerned about tenant access to the courts, then a system should be developed where  
11 requests to appear telephonically can be made without coming to court.

12           As explained above, tenants often only receive a few days notice of the eviction  
13 prior to the scheduled trial date. Thus, as with the non-resident landlord proposal, most  
14 tenants would have to come to court on the day set for trial to file a written request to  
15 appear telephonically. That defeats the whole purpose of a process to request telephonic  
16 appearances. Thus, the same tenants who will not be able to get to court to appear for  
17 trial will not be able to get to court to file a written request for telephonic appearance.

18           The example of the Northwest Justice Court in Maricopa County is illustrative. A  
19 tenant could live in the Anthem area over 40 miles from the justice court with no public  
20 transportation available. Under either proposal, the tenant would have to find a ride to  
21 court to either appear at trial or to file a written request for a telephonic appearance.

22           The timing concerns that arise with the Petition also arise with the Bench’s  
23 proposal for tenant requests that a witness testify by telephone. A tenant will often have  
24 to make the request for a witness to appear telephonically at the beginning of the trial.  
25 The Institute has concerns whether the justices will grant these requests.

26           In addition, the Bench’s untimely proposal does not include a requirement that the  
27 request to appear telephonically be made for good cause. The Institute is concerned that  
28 without any articulated standards, the justices will be unduly strict with tenant requests

1 and deny a tenant's request to appear telephonically when the tenant has good cause.

2 Finally, the Bench's proposal inserts wording about a request for telephonic  
3 appearance not delaying the timeframes set by statute.<sup>3</sup> Since landlords will file their  
4 requests with the complaint, their requests will have less impact on any delay than the  
5 tenant's request that is filed days later. Thus, this appears to be one more factor that will  
6 weigh against the justices granting tenants' requests.

7 The Institute wants to make it clear that it does not oppose appearance by  
8 telephone if there is a fair and adequate process to request telephonic appearances for  
9 witnesses and parties that would allow tenants to actually be able to make the requests  
10 and receive permission to appear telephonically without the necessity of always coming  
11 to court first to make the request. As explained above, the Petition and the Bench's  
12 untimely alternative proposal do not satisfy even that basic due process requirement.

13 **Conclusion**

14 For all the above reasons, the Institute respectfully requests that the Court deny  
15 this Petition and deny the Bench's untimely alternative proposal.

16 RESPECTFULLY SUBMITTED this 20<sup>th</sup> day of May 2014.

17 WILLIAM E. MORRIS INSTITUTE FOR  
18 JUSTICE

19  
20 By /s/Ellen Sue Katz  
21 Ellen Sue Katz  
22 William E. Morris Institute for Justice  
23 202 East McDowell, Suite 257  
24 Phoenix, Arizona 85004

25  
26 \_\_\_\_\_  
27 <sup>3</sup> The Institute does not agree with the Bench's characterization of any statutory  
28 time restraints. Regardless, these concerns will no doubt affect some justices' rulings on  
the requests and are another example of why the Bench's alternative proposal should be  
rejected.

1 Electronic copy filed with the Clerk  
2 of the Supreme Court of Arizona this  
3 20<sup>th</sup> day of May 2015

4 Copy of the foregoing emailed to

5 Douglas C. Fitzpatrick  
6 49 Bell Rock Plaza  
7 Sedona, Arizona 86351  
8 fitzlaw@sedona.net

9 Attorneys for Petitioner

10 By  /s/ Ellen Sue Katz

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## **Rules of Procedure for Eviction Actions**

### **Rule 11. Initial Appearance and Trial Procedures**

a. – e. [No change in text.]

#### **f. Telephonic or Video Conference Proceedings**

**(1) Grant of Permission.** At the request of a party or a witness or on its own motion, the court may allow a party or a witness to testify at any initial appearance or trial by telephone or video conference upon finding that:

(A) no substantial prejudice will be caused to either party by allowing telephonic or video conference testimony; and

(B) as to a party, the party is reasonably prevented from attending the hearing or trial;

(C) as to a witness, the witness is either reasonably prevented from attending or would be unduly inconvenienced by attending the hearing or trial; or

(D) as to a party or a witness, attendance in person at the hearing or trial would be a burdensome expense.

**(2) Documents.** Any documents a party wishes to introduce into evidence through a party or a witness appearing telephonically or by video conference must, where practicable, be provided in advance to the party or the witness.



Arizona Commission on Access to Justice

|                                    |  |  |
|------------------------------------|--|--|
| Meeting Date:<br>November 18, 2015 | Type of Action Requested:<br><input type="checkbox"/> Formal action or request<br><input checked="" type="checkbox"/> Information only<br><input type="checkbox"/> Other | Subject:<br>Update: Arizona Charitable Tax Credit campaign efforts |
|------------------------------------|--|--|

From: Judge Lawrence F. Winthrop, Chair

Presenter: Judge Winthrop

Discussion: Judge Winthrop will provide an update on the Arizona Charitable Tax Credit campaign and present a new flyer from the Arizona Foundation for Legal Services & Education.

Recommended motion: Information only





### **Support Access to Justice through the Arizona Charitable Tax Credit**

Roughly 25% of Arizonans have an income stream that qualifies them for free civil legal aid services. But, for every 3 people in Arizona who realize they have a legal problem and contact a legal aid office, **2 must be turned away because of a lack of resources.**

### **YOU CAN DECIDE HOW YOUR TAX DOLLARS ARE SPENT**

Charitable Tax Credit donations directly reduce the amount you owe and let you direct where your funds go!

You can help more people receive services by designating where \$200 (single) or \$400 (married) of your taxes owed go! **Give to an approved legal aid agency** (see other side) and the amount you give will reduce the tax you owe.

**That simple.**



For more information on the Charitable Tax Credit visit the Arizona Department of Revenue at [www.azdor.gov](http://www.azdor.gov). This credit is in addition to the school tax credits. Please consult your tax advisor for details

To make a donation go online to [www.azflse.org/legalaid](http://www.azflse.org/legalaid)

**2015 Participating Civil Legal Aid Partners**  
**Approved by the Arizona Department of Revenue**  
**Arizona Women's Education & Employment Inc.**  
**Christian Legal Aid of Arizona**  
**Community Legal Services, Inc.**  
**Defenders of Children**  
**Southern Arizona Legal Aid, Inc.**  
**Tucson Family Advocacy Program (SALA)**  
**William E. Morris Institute for Justice**



I am joining the Campaign– Justice with Arizona Charitable Tax Credit!

**Donate online at [www.azflse.org/legalaid](http://www.azflse.org/legalaid)**

Donate by Dec. 31st and you'll have the added satisfaction of knowing your money is helping Arizona's working poor get the legal assistance they need to solve housing, health care and benefits challenges. You no longer need to itemize deductions to claim this credit!

Arizona Commission on Access to Justice

|                                    |  |  |
|------------------------------------|--|--|
| Meeting Date:<br>November 18, 2015 | Type of Action Requested:<br><input type="checkbox"/> Formal action or request<br><input checked="" type="checkbox"/> Information only<br><input type="checkbox"/> Other | Subject:<br>Report from the Pro Bono Service & Funding Workgroup |
|------------------------------------|--|--|

From: Pro Bono Service & Funding Workgroup

Presenters: Judge Joseph Kreamer and Dr. Kevin Ruegg

Discussion: Judge Kreamer will offer an update regarding the promotion of pro bono services by the Legal Services Corporation (LSC) Volunteer Lawyer Programs in coordination with the Arizona Bar Foundation and upcoming initiatives to increase opportunities for lawyers to offer pro bono services.

Recommended motion: None at this time.



Arizona Commission on Access to Justice

|                                    |  |   |
|------------------------------------|--|---|
| Meeting Date:<br>November 18, 2015 | Type of Action Requested:<br><input type="checkbox"/> Formal action or request<br><input checked="" type="checkbox"/> Information only<br><input type="checkbox"/> Other | Subject:<br>Report from the Non-Lawyer Representation Workgroup |
|------------------------------------|--|---|

From: Non-Lawyer Representation Workgroup

Presenters: Judge Joseph Kreamer

Discussion:

Judge Kreamer will discuss Washington and other states' lay legal advocacy efforts and considerations for any Arizona initiative.

Recommended motion:

None at this time.



Arizona Commission on Access to Justice

|                                    |  |  |
|------------------------------------|--|--|
| Meeting Date:<br>November 18, 2015 | Type of Action Requested:<br><input type="checkbox"/> Formal action or request<br><input checked="" type="checkbox"/> Information only<br><input type="checkbox"/> Other | Subject:<br>Report on Town Hall discussion |
|------------------------------------|--|--|

From: Judge Patricia K. Norris, Court of Appeals, Div. 1

Presenter: Judge Norris

Discussion: A brief report on the Town Hall that was held a few weeks ago concerning the lay legal advocates in the domestic violence arena.

Recommended Action or Request (if any): None at this time.



# DOMESTIC VIOLENCE LEGAL ASSISTANCE PROJECT



8/28/2015

Lay Legal Advocate & Attorney  
Town Hall Meeting

## Introduction

Dedicated attorneys and lay legal advocates throughout Arizona assist and support victims of domestic violence in the civil justice system. As part of the Domestic Violence Legal Assistance Project, a statewide network of legal aid organizations and domestic violence shelters, the Arizona Bar Foundation brought together 29 Project advocates and attorneys operating in rural, tribal and urban Arizona to: identify opportunities to better serve their clients through collaboration with one another; share information about best practices and innovative strategies; and, explore how to more effectively use limited resources. The efforts of these committed professionals led to the development of specific and concrete actions that will help them to: more effectively serve victims of domestic violence; strengthen the partnerships of the Domestic Violence Legal Assistance Project; and, contribute to the Supreme Court's broader Access to Justice initiative.

Participants used the Arizona Town Hall process to create the following consensus report of their discussions and recommendations for action.

## Participants

Participants in the Town Hall meeting included lay legal advocates and attorneys from across Arizona.

|            |            |                       |   |               |
|------------|------------|-----------------------|---|---------------|
| Ninfa      | West       | DV Advocate           | Against Abuse                                       | Casa Grande   |
| Anita      | Green      | Victim Advocate       | Alice's Place                                       | Winslow       |
| Lisa       | Silva      | Program Director      | Catholic Community Services of Southeastern Arizona | Sierra Vista  |
| *Gabriella | Sanchez    | Victim Advocate       | Catholic Community Services Safe House              | Yuma          |
| Ryan       | Esplin     | Managing Attorney     | Community Legal Services                            | Kingman       |
| Patricia   | Madsen     | Managing Attorney     | Community Legal Services                            | Phoenix Metro |
| Jim        | Marshall   | Managing Attorney     | Community Legal Services                            | Yuma          |
| Kimberly   | Nier       | Paralegal             | Community Legal Services                            | Kingman       |
| Ruth       | Szanto     | Staff Attorney        | Community Legal Services                            | Prescott      |
| Sheri      | Timlick    | Legal Assistant       | Community Legal Services                            | Prescott      |
| Konnie     | Young      | Staff Attorney        | Community Legal Services                            | Phoenix       |
| Brenda     | Anderson   | Managing Attorney     | DNA People's Legal Services                         | Window Rock   |
| Kristen    | Fitzharris | Attorney              | DNA People's Legal Services                         | Flagstaff     |
| Charlotte  | Miranda    | Tribal Court Advocate | DNA People's Legal Services                         | Chinle        |
| Sumita     | Misra      | Staff Attorney        | DNA People's Legal Services                         | Kayenta       |
| Stephanie  | Noriega    | Program Manager       | Emerge! Center Against Domestic Abuse               | Tucson Metro  |
| Sheri      | Cassa      | Tribal Court Advocate | Four Rivers Indian Legal Services                   | Sacaton       |
| Suzanne    | Clarke     | Executive Director    | Kingman Aid to Abused People                        | Kingman       |
| Heather    | Marcy      | Lay Legal Advocate    | Northland Family Help Center                        | Flagstaff     |

|         |           |                       |  |                     |
|---------|-----------|-----------------------|--|---------------------|
| Jeane'e | Green     | DV Advocate           | Page Regional Domestic Violence Services | Page                |
| Raquel  | Balcazar  | Lay Legal Advocate    | Sojourner Center                         | Phoenix Metro       |
| Katie   | Osselaer  | Lay Legal Advocate    | Sojourner Center                         | Phoenix Metro       |
| Alex    | Brockman  | Staff Attorney        | Southern Arizona Legal Aid               | Pinetop<br>Lakeside |
| Rachel  | Raynes    | Staff Attorney        | Southern Arizona Legal Aid               | Bisbee              |
| Anthony | Wisz      | Attorney              | Southern Arizona Legal Aid               | Tucson Metro        |
| *Robin  | Miller    | Lay Legal Advocate    | Time Out, Inc                            | Payson              |
| Meily   | Rodriguez | Legal Advocate        | Verde Valley Sanctuary                   | Cottonwood          |
| Valerie | Tapia     | Senior Legal Advocate | Verde Valley Sanctuary                   | Cottonwood          |
| *Marina | Jessop    | Social Worker         | White Mountain S.A.F.E. House            | Pinetop<br>Lakeside |

\*Registered but was unable to attend

#### Town Hall Facilitators

|                      |            |
|----------------------|------------|
| Tara Jackson         | Pat Norris |
| Jennifer Frownfelter | Mary Grier |

#### Town Hall Observers

|   |  |   |
|---|--|---|
| Chris Groninger<br>Arizona Bar Foundation | Laura Guild<br>Arizona Department of Economic Security | Merri Tiseth<br>Arizona Coalition to End Sexual & Domestic Violence |
|---|--|---|

### Current Strengths and Keys for Successful Partnerships

Various systems exist to serve victims of domestic violence in Arizona and we are fortunate to have diverse and active efforts to improve their lives. A key strength in the system is the ease of communication among those who interact with victims of domestic violence, from law enforcement and shelters to advocates and providers of legal assistance. Where there is openness in communication and a mutual understanding of each other's roles and responsibilities, victims are better able to access the services and assistance they need. Mutual understanding facilitates an effective team effort and fosters trust and respect but it takes time to establish, requires regular interaction, and is particularly strong when it can occur on a day-to-day basis.

A strength of Arizona’s system when compared to other states is the means of protecting victims—including the issuance of ex parte orders of protection at no cost which are served by law enforcement as well as the speed at which temporary protective orders can be issued.

The cultures of organizations and agencies, driven in part by the personal support and beliefs of individuals within those organizations, have a great influence on how efforts to support victims are integrated. Geographic areas that have intergovernmental agreements or the support of a police chief or sheriff who are active in the support of domestic violence victims are more effective overall in serving victims.

The system operates best where consistent, regular communication occurs freely and without “turf battles.” Other important factors are a shared commitment to set and carry out protocols for providing assistance and services to victims, and interaction between law enforcement, shelter representatives, Department of Child Safety (DCS), advocates, legal services and others. Face-to-face meetings are critical; however, funding for such meetings is lacking.

### **Working Together Effectively**

The greatest opportunities to improve working relationships between lay advocates and attorneys include increasing communications, conducting training, and recruiting within local communities for additional advocates.

Training opportunities include those that focus on a broad scale with different groups represented as well as those that are more focused for specific groups—such as trainings for lay advocates to assist with paperwork for clients. Cochise County offers an example of training on a broad scale that could be replicated. In Cochise County, training is provided twice a year for multiple agencies about what is allowed and required under the law, so that people within those agencies understand what services should and can be provided. These trainings also help lessen problems encountered due to staff changes with court clerks, the Border Patrol and others.

Focused training for specific groups and organizations is also effective. For example, when law enforcement, advocates and others conduct programs in high schools about domestic violence, there are positive results. Focused training with lay advocates and attorneys that clarifies roles and responsibilities, explains various legal processes (including how to obtain protective orders), and that allows for productive discussion on how best to work together is also effective.



*Participants listen during Town Hall discussions.*

Lay advocates and attorneys can also be more effective when they are able to work with members of the communities they serve. For example, in tribal areas there can be a barrier created when someone from outside the tribe is not able to partner with a tribal advocate who knows the language and law. Recruiting advocates and lawyers who come from the communities served will allow all lawyers and lay advocates to be more effective.

Effectiveness would also be improved by increasing the use of confidentiality agreements and by evaluating and offering recommendations for changes to offender treatment programs and court-ordered classes.



*Judge Pat Norris listens as participants discuss the challenges faced by lay legal advocates and attorneys serving victims of domestic violence.*

## Challenges

Some of the greatest challenges that face attorneys and lay advocates are the inconsistencies between judges, the potential for conflicts of interest, and defining what role lay advocates are able to serve.

In metropolitan areas particularly, there are a lot of inconsistencies among judges. There are also inconsistencies across the state. These inconsistencies make it difficult to communicate expectations about the process to the clients.

Arizona's legal aid organizations must carefully monitor conflicts of interest which can create challenges for serving victims of domestic violence. For example, when one party has asked for and received services from Community Legal Services (CLS) in the past and another party is presently seeking services that involve the first party, CLS cannot represent them. This is especially an issue in rural areas where the potential for a conflict of interest is greater because of the smaller population.

Another challenge is defining what roles can be played by lay advocates under relevant ethical rules. For example, some of the participants believe that telling clients which form they are supposed to fill out and file is legal advice. Other participants believe that lay advocates are allowed to provide options of what someone can do and in this way are providing information as opposed to legal advice. As a result of these inconsistencies when defining legal advice, it can be a challenge to assure that all victims and clients are receiving the same level of legal assistance as rapidly as it may be needed.

Intake requirements can also pose challenges. Intake requirements are separate processes for lay advocates and attorneys, requiring victims to apply to legal aid for assistance. Legal aid program offices have various ways to apply for services: via telephone lines during business hours, by walking in and

completing a paper application, and by applying online. The application process may be streamlined if lay legal advocates and legal aid attorneys were able to communicate with each other about the status of a victim's application for legal aid services. An example was provided where a lay legal advocate had a paper application copy of the form. The lay legal advocate assists the client in completing the application and faxes or emails the application directly to the legal aid program while copying the appropriate attorney to notify them that the application was submitted. It would be beneficial if other programs – advocates and attorneys – were able to replicate this process.

The lack of funding for collaborative activities such as joint trainings and task force group meetings continues to be a challenge. Funding for training events, travel reimbursements to participants in rural areas and for enhanced communication technology would be helpful to bring those who serve victims together so that they can be supported in providing appropriate and consistent services.



*Guest speaker during lunch, Judge David Gass, speaks to participants about efforts in conciliation court services.*

## **Systemic Improvements**

There are many systemic improvements that would allow victims of domestic violence to be better served. First, there should be improved information available to clients about available community services and/or policies or rules that apply to situations where a victim has left an abusive partner. (For example, “when a woman comes in fleeing domestic violence and needs to enroll in a health care program after open enrollment, we need information about how and when she can enroll”.)

We also need to improve methods for identifying appropriate individuals and locations for supervised parenting time. Victims of domestic violence are often isolated from family members and friends, which makes it challenging to identify an appropriate supervisor for child visits with the abusive partner. It usually becomes the mother-in-law which is not always the best resolution. In addition, there is a lack of publicly funded sites for safe exchange and visitation.

Public transportation or reliable private transportation does not exist for many of the clients served. This can result in several days of delay, if not longer, to get to the court. For example, a client who was attempting to get a protective order had to go to a distant court and in the time it took to arrange transport was again assaulted by the same offender. To resolve this type of problem, alternatives need to be considered, including authorization for electronic filing and telephonic appearances in courts across the state.

The system can use more volunteers. Each legal aid program already staffs programs with volunteer attorneys (Volunteer Lawyers Program) but more volunteers with legal expertise are needed—especially as court appointed advocates when the family cannot afford assistance.

We also need to ensure that judicial education programs include information on the real-life effects and impacts of domestic violence on individuals, families and the legal entities that serve them.

### **Action Items for Stakeholders**

Based on the discussion and recommendations above, participants developed the follow list of priorities and action steps. After development of this list, participants met in groups by county to begin sharing specific ideas for implementation.

1. Agencies should set up and organize regular meetings with stakeholders and courts, by county or regional service area. The agenda for those meetings should include:
  - a. Establishing common goals to unite efforts.
  - b. Training on what is considered legal advice.
  - c. Communication about any concerns with services provided.
  - d. Establishment or revising of protocols.
  - e. Education about the roles and services of providers.
  - f. Joint training, as exemplified by the Domestic Violence Task force in Navajo and Yuma counties.
  
2. Applications for legal aid services should be coordinated/communicated using the model implemented in the Cochise County area.

3. Tribes should seek federal monies for training programs for advocates and attorneys providing services to victims.
4. Agencies should initiate the creation or enhancement of classes, including offender classes, with the court.
5. We should support cross training among lay advocates and attorneys. Lay advocates can build these opportunities into their community education requirements.
6. We need to create or enhance specialized training for judges about domestic violence issues, including the unique challenges that can impact victims such as transportation to court to file documents, lack of access to childcare during court hearings, and issues of safety.

### **Action Items for Individuals**

1. Get to know court clerks and other court staff one on one.
2. Get to know and become an “ambassador” for each other’s programs and services.
3. Lay legal advocates and attorneys should communicate with each other to identify what individual, program and victim needs might be.
4. Distribute and share stakeholder informational brochures.