

**Stylistic Revisions to the Arizona Civil Rules:
Suggested Conventions**
(Revised 12/9/14)

1. If the Arizona rule is substantially the same as the pre-2007 federal rule, adopt the 2007 stylistic revisions to the federal rule, unless it would introduce an ambiguity into the state rule (e.g., Rule 15(a)(3) (suggesting that a defendant may not be required to file an answer to an amended complaint)).
2. If the heading or subheading of a federal rule counterpart differs from the state rule's heading or subheading, adopt the federal rule's heading or subheading, unless it includes a reference to a substantive provision that is in the federal rule but not in the state rule.
3. If the Arizona rule does not have a federal rule counterpart or differs from a federal rule dealing with the same subject matter, revise the rule (and headings) consistent with Bryan Garner, *Guidelines for Drafting and Editing Court Rules* (the "Guidelines").
4. Note that the Arizona rules are inconsistent in capitalizing the first letter in each major word in a rule's heading. If there is a federal rule counterpart, follow the capitalization used in the headings for the federal rule. If there is no federal rule counterpart, capitalize the first letter in major words in the rule's title, consistent with the federal rules' current format.
5. Each lettered subpart to a rule should have a subheading, which should appear in bolded italics. Each numbered subpart that appears as a subdivision to a lettered subpart also should have a subheading, which should appear in unbolded italics.
 - a. Subheading numeric designations should appear in parenthesis (i.e., "(a)(1)(A)(ii)," not "a.1.A.ii.").
 - b. Follow the federal rules' format with respect to the capitalization of words in subheadings.
 - c. If a subpart has a federal rule counterpart, use the subheading title used in the federal rules.
6. Currently, the rules follow two different formats in formatting subparts. Some rules follow the format in Arizona Rule 7, with each subpart repeating the word "Rule." Other rules follow the format in Arizona Rule 7.1, which is formatted like the federal rules (with each subpart beginning just with a letter in parenthesis. The latter format ("the federal format") looks better and is more user-friendly, and should be followed

here. (Note that most of the current Arizona rules follow the former format.)

- a. If we use the federal format, we need to follow a consistent format regarding the placement of comments. Currently, some comments appear in the middle of a rule following the subpart to which the comment pertains, and sometimes comments appear right after the heading for a rule. In all cases, move such comments so they appear after the end of the rule (and not just the subpart). Note: this may require the title of the comment (or the comment itself) to be modified to identify the subpart to which the comment pertains.
7. References to other rules or other subparts should refer to the rule (i.e., “Rule 15(a)(2)”) and not use the words “subpart,” “subdivision” or similar words (i.e., “Rule 15(a)(2)” and not “subpart (a)(2)”). If it does not cause confusion and is on the same level, refer simply to the subpart (e.g., “if allowed in (b)”, not “if allowed in subpart (b)”). *See Guidelines.*
8. Except for the use of “shall” in Arizona Rule 56(a), change references to “shall” to “must,” “should,” “may,” “will” or “is/are,” as the context dictates. *See Guidelines.*
9. We need a convention for the clerk of court: currently, the rules refer to “clerk of court,” “court clerk,” or “clerk.” The federal rules use “clerk”—*see, e.g.*, Rule 79(a)(1). Unless the context of the rule calls for a more specific reference (i.e., if distinguishing a superior court clerk from an appellate court clerk), use “clerk.”
10. We need to decide what to do with sections that are totally “abrogated” (e.g., Rule 5(e)), “deleted” (e.g., Rule 26(h)), “renumbered” (e.g., Rule 42(d)), or “repealed” (e.g., Rule 53(g)). Should these historical references be eliminated or retained?
 - a. The rules are littered with these provisions, some dating back to 1970. All the references to these rules should be deleted. Unless it will cause confusion, the rules (or subparts) that follow should be renumbered.
 - b. A related issue is what to do with notes entitled “Application” indicating that the rule is not applicable during certain time periods that have long ago expired (*See* Rules 37(d), 37(e), & 37(f)). Those references should be deleted.
11. We need to be consistent in how we display the number of days—the current rules sometimes use words (e.g., “ten”), sometimes use numbers instead of words (e.g., “10” instead of “ten”) and sometimes does both (e.g., “ten (10)”). The convention used in the federal rules is to use numbers only. (*See, e.g.*, Rule 6(d) & Rule 12(a)). Follow the federal convention.
12. The word “where” is not to be used as a synonym for “if” (e.g., “If there are multiple parties on a side,” not “Where there are multiple parties on a side”). “When” is

appropriate in some limited circumstances, but, in most cases, “if” should be preferred to “when.” *See Guidelines.*

13. In reviewing a rule, consider whether any of the comments can be profitably deleted altogether. Some of the comments are so old that they are of no use to practitioners. (*See, e.g.*, 1961 comments to Rules 47(a) & 47(b).)
14. If most (or a large part) of the text of existing rule will be replaced by a restyled rule, the changes should be shown by “striking out” all of the existing text, followed by “underscoring” revised text. There will be instances, however, where only minor modifications will be necessary (such as replacing “shall” with the appropriate verb). That is especially true of recently revised rules, such as Rules 45 and 56. In those cases, the entirety of the rule (or a subpart) should not be “stricken out.” Instead, the original text should be retained except for the modifications (“striking out” the deletions and “underscoring” the replacement language).