

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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In the Matter of: )  
                        )  
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A PILOT PROJECT SPECIAL MASTER     )                      Administrative Order  
RULE IN FAMILY COURT CASES         )                      No. 2004- 31  
IN THE SUPERIOR COURT IN             )  
MARICOPA COUNTY                     )  
                        )

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The Honorable Colin F. Campbell, Presiding Judge of the Superior Court in Maricopa County, has requested the adoption of a pilot project special master rule for family court cases in Maricopa County.

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that the rule on special masters in family court is adopted as a pilot project rule in Maricopa County as follows:

Special Masters in Family Court Cases in Maricopa County

(a)      Appointment and Compensation

Upon stipulation and application by the parties, or on the Court's own motion, the Court may appoint a special master. The compensation to be allowed to a master shall be fixed by the Court. The parties may stipulate to a particular special master and the amount of compensation, but the special master and compensation must be approved by the Court, and the Court shall review the qualifications of the special master prior to appointment. Compensation of the special master shall be charged to the parties.

(b)      Powers

The order appointing a special master shall specify the particular issues referred to the special master, and shall fix the time and place for beginning and closing the hearings and for filing the master's report. The master may deal with any issues pursuant to Title 25 which could be presented to the assigned judge including post-decree matters. Subject to any limitations in the order, the master shall exercise the power to regulate all proceedings in every hearing before the master and to do all acts and take all measures necessary or proper for the efficient performance of the master's duties under the order. The master may require the production of evidence upon all matters embraced in the reference. The master may rule upon the admissibility of evidence, place witnesses under oath, and examine the parties and witnesses. When a party requests, the master shall cause a

record to be made of the evidence offered and excluded in the same manner and subject to the same limitations as provided in Rule 104, Rules of Evidence, for a court sitting without a jury. The cost of the record shall be paid by the parties equally.

(c ) Meetings

Upon receipt of a reference, the master shall set a time and place for the first meeting of the parties or their attorneys to be held within 20 days after the date of the order of reference. It is the duty of the master to proceed with all reasonable diligence. At the first meeting, the master shall make necessary orders to bring the case to hearing. Unless stipulated otherwise, the Rules of Evidence and Rules of Civil Procedure shall apply to all proceedings before the master.

(d ) Witnesses

The parties may procure the attendance of witnesses before the master by the issuance and service of subpoenas as provided in Rule 45. If without adequate excuse a witness fails to appear or give evidence, the witness may be punished as for a contempt and be subjected to the consequences, penalties and remedies provided in Rules 37 and 45.

(e ) Report

The master shall prepare a report on the matters submitted to the master by the order of reference which includes requested or necessary findings of fact and conclusions of law concerning the disputed issues referred. Before filing the master's report, a master may submit a draft thereof to counsel for all parties for the purpose of receiving their suggestions. The master shall file the final report with the Clerk of the Court along with any transcript of the proceedings prepared and of the evidence and original exhibits. A copy of the report shall be mailed by the master to the parties.

(f ) Court Actions

The Court shall adopt and enter judgment on the master's report unless either party files an objection within 15 days of mailing of the report or the Court orders a hearing within 10 days after the end of the period for filing objections. Objections shall be made by motion as prescribed in Rule 7.1, Arizona Rules of Civil Procedure, shall reference the specific portions of the record supporting the objection and shall include a written transcript of relevant portions of the record of the special master proceeding. Any response shall be filed within 10 days the objection is filed. No further pleadings shall be permitted without prior court order. The Court may set oral argument and may adopt, modify, reject in whole or in part or receive further evidence on the report. The Court shall hold any required hearing and enter an order concerning the master's report within 40 days after an objection is filed or within 30 days after the court orders a hearing on its own motion.

(g ) Effect of Findings of Fact

At the time the master is appointed pursuant to section (a) above, the parties may stipulate that a master's findings of fact shall be final. When so stipulated, only questions of law arising from the report shall thereafter be considered. In the absence of a stipulation, the court shall accept the master's findings of fact unless clearly erroneous.

(h ) Sanctions

The Court may impose sanctions upon any party or counsel for conduct occurring before the master or in conjunction with the master's proceedings or objections to the master's report that is done to harass, or to cause unnecessary delay or needlessly increase the cost of litigation. The master may also make recommendations for imposition of sanctions under applicable Arizona rules, case law or statute.

IT IS FURTHER ORDERED that the rule shall be effective for 12 months from the date of this Order, and the Presiding Judge of the Superior Court in Maricopa County shall report back to the Arizona Judicial Council and Committee on Rules of Procedure in Domestic Relations Cases on the effectiveness of the pilot project rule.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

FOR THE COURT:

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CHARLES E. JONES  
Chief Justice