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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MOHAVE

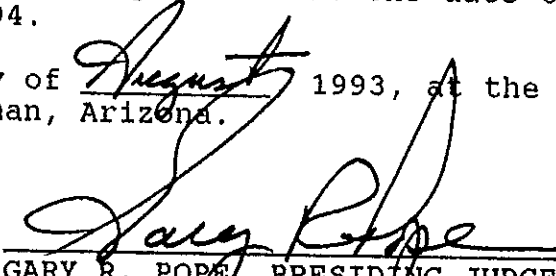
IN THE MATTER OF )  
SELECTION OF PRESIDING )  
JUSTICE OF THE PEACE )

ADMINISTRATIVE ORDER  
93-18

Pursuant to Arizona Supreme Court Administrative Order 93-30 which provides that in counties with four or more justices of the peace, a presiding justice of the peace will be chosen by a vote of the justices of the peace in the particular county, with the advice and consent of the presiding judge of the county,

IT IS ORDERED that Gary R. Arend shall serve as Presiding Justice of the Peace in Mohave County effective the date of this order through December 31, 1994.

Dated this 2<sup>nd</sup> day of August 1993, at the Mohave County Superior Court in Kingman, Arizona.

  
GARY R. POPE, PRESIDING JUDGE  
MOHAVE COUNTY SUPERIOR COURT

*Rick Lewis*

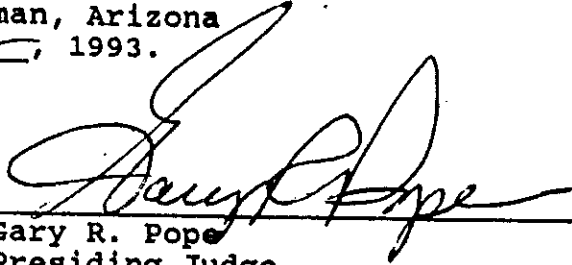
IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
MOHAVE COUNTY

*R-92-0029*  
**FILED**  
AUG 31 1993  
NOEL K. DESSAINT  
CLERK SUPREME COURT  
BY *LLR*

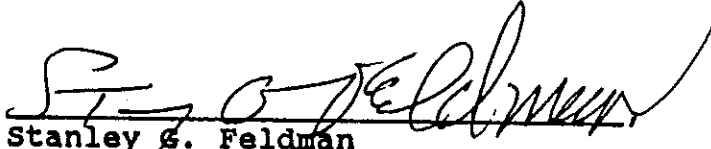
ORDER ADOPTING NEW LOCAL RULES OF PRACTICE  
OF THE SUPERIOR COURT, MOHAVE COUNTY

IT IS ORDERED that the current Local Rules of Practice of the Superior Court, Mohave County, be abrogated and the attached new rules be adopted in their place, effective *December 1*, 1993.

DATED in the city of Kingman, Arizona  
this *3rd* day of *Aug*, 1993.

  
\_\_\_\_\_  
Gary R. Pope  
Presiding Judge  
Mohave County

Approved on August 30th, 1993

  
\_\_\_\_\_  
Stanley G. Feldman  
Chief Justice  
Arizona Supreme Court

## MOHAVE COUNTY RULES OF COURT

### ADMINISTRATIVE RULES

#### RULE AD-1 HOURS OF COURT

**A. CLERK'S OFFICE.** The office of the Clerk of Superior Court will be open from 8:00 a.m. to 5:00 p.m. except Saturdays, Sundays and legal holidays. Filings at other times shall be arranged by the parties and the Clerk of the Court.

**B. TRIAL DIVISIONS.** The court shall be open at all times, except on non-judicial days, for the transaction of business. Regular sessions of court shall be from 8:00 a.m. to 12:00 noon and from 1:30 p.m. to 5:00 p.m., unless otherwise directed by the trial judge. Trials shall be held between the hours of 9:30 a.m. and 12:00 noon and 1:30 p.m. and 5:00 p.m.

#### RULE AD-2 BUDGET

Before the date of submission of the budget to the Board of Supervisors, each department of the Mohave County Court system shall prepare and submit to the Court Administrator a budget request for the following fiscal period. The Court Administrator shall prepare the requested budget for the court system and shall submit it to the Presiding Judge with any recommendations before the date for submission of the budget to the Board of Supervisors. The Presiding Judge shall review the budget, revise it if deemed necessary in his or her discretion and submit it to the Board of Supervisors.

#### RULE AD-3 COURT ADMINISTRATOR

The Presiding Judge may appoint a Court Administrator to serve as the executive officer of the court. The Court Administrator shall have oversight responsibility of the non-judicial operations of the court and its ancillary departments.

#### RULE AD-4 LAW LIBRARY

**A. ADMINISTRATION.** The Presiding Judge shall be responsible for the administration of the county law library. Daily operation of the library shall be delegated to a law librarian who shall be selected and serve at the pleasure of the Presiding Judge. The law library shall be open on all judicial days between the hours of 8:00 a.m. and 5:00 p.m.

**B. COUNTY LAW LIBRARY COMMITTEE.** A county law library committee shall be appointed by the Presiding Judge consisting of a number of members of the State Bar of Arizona residing in Mohave County. The Presiding Judge shall designate one of the attorneys as chairperson. The committee shall make recommendations to the Presiding Judge concerning the operation of the library, and budget and policy matters after consultation with the librarian.

**C. BORROWED MATERIALS.** No library material shall be taken from the library by any person, except with the permission of the librarian and only then after the proper completion of a checkout slip. Borrowed materials shall be charged to the person removing them from the library and to its principal, if any, who shall be answerable for its return. Borrowed library material shall be subject to recall by the librarian at all times and no library materials shall be retained longer than one week without the express permission of the librarian. Shepherd's Citations, digests such as the Decennial Digest system and encyclopedias such as Corpus Juris Secundum, American Jurisprudence, American Law Reports and the like, shall not be removed from the library.

**D. ADDITIONAL RULES; SANCTIONS.** The Presiding Judge shall adopt and publish such additional rules as he or she deems necessary for the orderly operation of the library. Failure to comply with any rule governing the use of the library may result in sanctions, including suspension of library privileges, fine or contempt of court. Further, no books shall be taken from the library without advising the librarian and any violation may be punished as a contempt.

#### **RULE AD-5 VISITING JUDGES**

The Presiding Judge shall arrange for and schedule visiting judges and provide for adequate staff and facilities. He or she may delegate this responsibility to another judge of this court or to an employee of the judicial department of this court.

#### **RULE AD-6 ATTIRE FOR COURT APPEARANCES**

Counsel shall at all court appearances present themselves attired in a manner befitting their profession and indicative of their respect for the court, and shall admonish their clients and witnesses concerning inappropriate courtroom attire.

#### **RULE AD-7 EX PARTE PRESENTATIONS; DUTY TO COURT**

In the event that any ex parte matter or default proceeding has been presented to any judge or judicial officer and the requested relief denied for any reason, such matter shall not be presented to any other judge or judicial officer without making a full disclosure of the prior presentation. Counsel should be governed by the provisions of ER 3.3(d) of the Rules of Professional Conduct, Rule 42, Rules of the Supreme Court.

#### **RULE AD-8 CHANGE OF JUDGE**

Counsel shall file any "Notice of Change of Judge" with the Clerk of the Court and serve copies on all parties, the Presiding Judge (the Presiding Criminal Judge in criminal cases) and the noticed judge. Upon request for a change of judge, the case shall be transferred to the Presiding Judge (the Presiding Criminal Judge in criminal cases) for reassignment.

#### **RULE AD-9 PAPERS AND DOCUMENTS TO BE PROVIDED TO JUDGE**

Copies of the following papers and documents shall be provided to the judge, and indicated as a **COPY** upon filing the originals with the Clerk, and no others shall be provided unless directed by the judge: any civil or criminal motion, opposition thereto, reply to the opposition, and all supporting memoranda of points and authorities.

#### **RULE AD-10 MINUTE ENTRIES**

**A.** The original of every minute entry containing an order, judgment or direction of the court shall be filed by the Clerk in the individual case file and a copy mailed to each counsel of record or party not represented by counsel no later than two court days from the making of the minute entry by the court.

**B.** All formal orders and judgments for money or costs or that all relief be denied signed by a judge shall be evidenced by a minute entry as to the date of signing, and a copy shall be delivered to every party who is not in default for failure to appear, by mailing to each counsel of record or party not represented by counsel and the Clerk shall further attach a complete copy of such judgment to the notice of entry of judgment. The necessary copies of the judgment for this purpose shall be provided to the Clerk by the attorney or party not represented by counsel who lodges the judgment. The original shall be placed in the court file.

C. The courtroom clerk shall make minute entry notes of all courtroom events such as motions, stipulations of counsel, rulings and orders, names of witnesses and jurors, the date and time of the start of proceedings, the time of recesses and adjournments, directions of the court, future dates of hearings, and other significant court matters, but shall not include the substance of testimony, discussions between the court and counsel and arguments of counsel, unless otherwise directed by the court.

#### **RULE AD-11 EXHIBITS**

A. **ENTRY INTO FILE.** Exhibits attached to a pleading or other filed paper shall be so mounted, folded and affixed that after the pleading or paper is fastened into the court file, they can be clearly, freely and easily read and examined without their having to be removed from the file or loosened from their fasteners.

B. **CONTROL BY COURTROOM CLERK.** Exhibits marked for identification or introduced as evidence shall be under the control of the courtroom clerk and shall be secured in a manner prescribed by the Clerk of this court during the trial period, unless otherwise ordered by the court.

C. **RETURN OF EXHIBITS.** Exhibits in any case may be withdrawn by written stipulation or order of the court. After a judgment has become final and nonappealable, a person who files an affidavit setting forth that he or she is the owner of or lawfully entitled to the possession of an exhibit may obtain an ex parte order permitting its withdrawal. A receipt shall be filed for each exhibit withdrawn. No order shall be required when it is stipulated in open court during the progress of trial that an exhibit may be withdrawn on the filing of a certified or photostatic copy thereof.

D. **DISPOSAL OF EXHIBITS.** Subject to the provisions of Rule 28, Rules of Criminal Procedure, all exhibits admitted in evidence or marked for identification may be disposed of after ninety (90) days from the conclusion of a case by judgment, order or other final disposition which is not appealed, or by mandate on appeal, as follows:

1. The Clerk shall mail a notice to counsel of record or if none, to parties acting in pro se at their last known address advising them to present themselves at the office of the Clerk of the Court to accept delivery of those exhibits introduced by them. It shall be the responsibility of the attorney who introduced the exhibit to notify the owner of the exhibit of its availability within ten (10) days.
2. Any attorney, party or owner desiring the Clerk to retain any exhibit in the pending action shall notify the Clerk of such desire in writing within ten (10) days of receiving the notice, and request the clerk to retain designated exhibits for stated reasons. Upon receipt of a request to retain exhibits, such exhibits shall be retained by the Clerk unless ordered to be disposed by the court after hearing upon notice to all parties.
3. If counsel or the parties do not present themselves to the Clerk to accept delivery of exhibits, or if the notice is returned undeliverable, and if no order of retention is made, the Clerk shall retain the exhibits for an additional sixty (60) days from the date the notice was sent for the purpose of releasing them to the attorney or party introducing them.
4. If the Clerk is not notified to retain the exhibits or if the exhibits are not released to an attorney or party pursuant to this rule, the Clerk may dispose of the exhibits.
5. If the notice is returned to the Clerk undelivered, the Clerk may, after sixty (60) days from the date of the return of the notice, dispose of the exhibits.

6. Large exhibits made or created for purposes of trial to illustrate testimony may, by court order, be returned to counsel offering same during the pendency of the trial or hearing or any time thereafter, and counsel shall preserve same during the periods of time hereinabove provided.

7. The Clerk shall maintain a record of the procedure employed under this rule in the case file.

**E. TEMPORARY CUSTODY OF COURT RECORDS.** Attorneys admitted to the State Bar of Arizona may obtain temporary custody of official court files, transcripts and exhibits for no longer than seven (7) days upon:

1. Stipulation of all parties and order of the court, or;
2. Motion, notice to all parties, a hearing and order of the court.

The motion or stipulation shall be presented to the judge to whom the case is assigned. Upon execution of a receipt therefore, the attorney shall be responsible for the safety, security and integrity of the file, transcript or exhibits in his or her custody. Neither the Clerk of the Court nor any of his/her deputies shall be responsible for any file, transcript or exhibit released to the temporary custody of any attorney pursuant to this rule and shall not be required to accompany any files, transcripts or exhibits in the possession of attorneys for duplicating purposes.

#### **RULE AD-12 COURT REPORTERS; COURT REPORTERS' NOTES**

**A. SCOPE.** This rule shall apply to all court reporters' notes taken in sessions of this court.

**B. RESPONSIBILITY OF COURT REPORTERS.** It shall be the responsibility of all reporters employed in any capacity by this court to be aware of and comply with all provisions of this rule. All court reporters including per diem or contract reporters shall keep the Clerk of this court advised of their current address and telephone number. All official court reporters of this court shall be responsible for the safekeeping of their notes until the notes have been delivered and accepted for storage by the Clerk of this court pursuant to this rule. All court reporters employed by the court on a per diem or other contract basis shall retain physical possession of their notes while also ensuring their accessibility by the court. The notes shall be presented to the Clerk of this court for storage when the notes for a given case category completely fill a prescribed storage container or upon the reporter's permanently leaving the state of Arizona.

**C. PERSONAL STORAGE OF NOTES.** All reporter's notes which have not been stored with the Clerk shall be kept by the reporter of the division in which the proceedings were reported. Official reporters who maintain offices in the court building shall keep their notes in their offices, whether those notes were taken in their own or some other division.

**D. STORAGE OF NOTES WITH CLERK.** Not less than once a year each year, all reporters shall store with the Clerk of the Court all notes which are more than two years old. All reporters who store their notes with the Clerk of this court as required by this rule shall place the notes in a carton prescribed by the clerk. All reporters shall store civil, juvenile, habeas corpus and criminal proceeding notes in containers and shall identify the carton and its contents on a label affixed to the front of the storage container. All notes shall be stored under the name of the reporter taking the notes.

**E. FACILITIES AND PROCEDURES.** All court reporter's notes in the custody of the Clerk shall be kept in a separate room which shall be locked. No one shall have the key to the room

except the superintendent of buildings and the Clerk of this court and/or his or her deputies. The Clerk shall store the notes so that they may be readily obtained.

**F. RETRIEVAL OF NOTES.** When it becomes necessary for a reporter to obtain any of his or her notes stored with the Clerk, the Clerk shall admit the reporter to the storage room for such purposes during normal working hours. A receipt shall be given for any notes removed and they shall be returned for storage within ninety (90) days unless this court grants an extension.

**G. DESTRUCTION OF NOTES.** All reporter's notes for civil and probate proceedings except writs of habeas corpus in storage for more than ten (10) years shall be destroyed by the Clerk of this court after giving thirty (30) days written notice by certified mail directed to the reporter at his or her last known business address and place of residence. Prior to such destruction, the reporter may reclaim his or her notes if he or she desires prior to the date set for their destruction. Notes of habeas corpus, juvenile and criminal proceedings shall be stored indefinitely.

**H. TERMINATION OF EMPLOYMENT.** On termination of employment any court reporter shall immediately deliver his or her notes to be stored with the Clerk and shall at all times keep the Clerk advised of his or her address and telephone number.

#### **RULE AD-13 ATTORNEY'S RESPONSIBILITY TO COURT**

**A.** Pursuant to Rule XII(a), Uniform Rules of Practice, each attorney shall promptly advise the Clerk of the Court in writing of his or her office address, telephone number or law firm affiliation if it is different from that listed in the current Directory of the State Bar of Arizona or is omitted from the directory.

**B.** In any case where more than sixty (60) days have elapsed after a matter has been finally submitted to the court for decision, and no such decision has been rendered, counsel shall notify the Presiding Judge or the Clerk of the Court to ascertain whether such matter is presently under advisement or has been inadvertently overlooked by the court.

#### **RULE AD-14 DISCOVERY READ INTO EVIDENCE**

When discovery is read into evidence, the party proffering same shall submit to the court the original or a photocopy of the portion read, which shall be marked and admitted in evidence as the court's exhibit for the purpose of having a complete and accurate record on appeal. The court's exhibit shall not be used by the jury during deliberations or any other time except upon stipulation of counsel or upon motion of any party where otherwise permitted by law or the rules of evidence.

#### **RULE AD-15 FORM OF PLEADINGS**

**A.** The following information shall be stated upon the first page of every document single-spaced: The name, address, telephone number and State Bar of Arizona attorney identification number of the attorney causing the document to be filed. There shall also be included an identification of the party being represented by the attorney, e.g., plaintiff, defendant, third party plaintiff, etc. This information shall be typewritten or printed in the space to the left of the center of the page.

**B.** If the document is being presented by a litigant representing himself or herself, the information required in paragraph A shall be included with the exception of the State Bar of Arizona identification number.

C. All pleadings, civil, criminal or other, filed with the Clerk of the Court, shall comply with Arizona Rules of Civil Procedure, Rule 10(d). The space above the title of the court to the right of the center of the page shall be reserved for the filing marks of the Clerk.

D. All pleadings, civil, criminal or other, shall be signed as provided in Rule 11, Arizona Rules of Civil Procedure.

E. All typewritten pleadings, motions and other original papers filed with the Clerk shall be in a type size no smaller than 10 pitch, in **BLACK INK**.

F. All handwritten pleadings, motions and other original paper filed with the Clerk shall be in legible handwriting, in **BLACK INK**.

#### **RULE AD-16 PRELIMINARY ORDERS AND WRITS**

**A. INJUNCTIONS, RESTRAINING ORDERS AND ORDERS TO SHOW CAUSE.** No injunction, restraining order, order to show cause or other writ shall be signed by a judge before the petition or complaint requesting such relief has been regularly filed in the office of the Clerk or filed with a judge of the Superior Court outside of regular court hours. On filing, the Clerk shall cause the file to be delivered to the judge of the division to which the case has been assigned for consideration of the preliminary order or writ.

**B. HABEAS CORPUS AND SPECIAL ACTIONS.** Habeas corpus and special action cases pertaining to the custody or detention of individuals shall be assigned as follows:

1. To a criminal division if the case pertains to the custody or detention of a person pursuant to a criminal charge;
2. To a juvenile division if the case pertains to the custody or detention of a person under the jurisdiction of the juvenile court;
3. To a civil division if the case pertains to the custody and detention of a juvenile not under the jurisdiction of the juvenile court or if the case pertains to the custody and detention of an adult not pursuant to a criminal charge.

#### **RULE AD-17 AUDIO, VIDEO AND OTHER SOUND REPRODUCTION EXHIBITS**

**A.** In the interest of a complete and accurate record in the event of an appeal, when audiotapes, videotapes, or other exhibits that reproduce sound are intended to be offered in evidence to demonstrate the substance of conversation, a transcription of that portion intended to be played for the trier of fact shall be made and concurrently offered in evidence as the court's exhibit. The proponent of the exhibit shall cause that portion to be transcribed and shall present it to opposing counsel for comparison against the audio exhibit sufficiently in advance of the trial or hearing so that a good faith stipulation may be entered into by counsel as to its accuracy. The proponent may nevertheless establish the accuracy of the transcription sufficient for its admission into evidence by appropriate testimony. When the recording is played for the trier of fact, the transcription shall be incorporated in the record of the trial by the court reporter's reference to its exhibit number.

**B.** Copies of a transcription admitted in evidence may be provided to the jurors during the playing of the recording to assist them in following the recording, but the transcription shall be immediately collected thereafter from the jury. The transcription shall not be used by the jury during deliberations or any other time except upon stipulation of counsel or upon motion by any party where otherwise permitted by law or the rules of evidence.



### **RULE AD-18 FAILURE TO PAY FILING FEE ON CIVIL APPEAL FROM JUSTICE COURT**

When an appeal is taken in a civil case from the justice court to this court and the appellee fails to pay to the Clerk of the Superior Court the required fee within the time set forth in A.R.S. 22-283 and Rule 12(d), Superior Court Rules of Procedure - Civil, the Clerk shall, upon application, enter the default against the appellee if the appellee was the defendant in the action before the limited jurisdiction court; and, if the appellee was the plaintiff in the action before the limited jurisdiction court the Court, upon application, shall order the complaint dismissed. The Court also may award costs against the appellee in either case.

### **RULE AD-19 CIVIL CASE FORWARDED FROM JUSTICE COURT ON BASIS OF COUNTERCLAIM**

In cases forwarded to this court from the justice court by reason of a counterclaim, cross claim or third party complaint stating a claim which exceeds the Justice Court Jurisdiction pursuant to A.R.S. 22-201(F), upon receipt of the case the Clerk of this court shall give notice in writing to the defendant filing said pleading that he or she shall have twenty-five (25) days from the date of receipt of said case in the Superior Court to pay the required filing fee of a defendant in the Superior Court and failure to do so will result in a dismissal of the counterclaim, cross claim or third party complaint and a remand of the case to the justice court. In such case the court may order the defendant to pay costs and, where appropriate, attorney fees pursuant to A.R.S. 12-349.

### **RULE AD-20 TEMPORARY SESSIONS OUTSIDE OF COUNTY SEAT**

Pursuant to A.R.S. 12-130, sessions of the court may be held at places other than the county seat when in the opinion of the Presiding Judge the public interest so requires, provided facilities are available for such sessions. Such temporary sessions shall involve only short causes and civil or criminal non-jury trials or hearings of no longer than one day duration. The court shall seek the concurrence of all parties for the holding of such temporary sessions but concurrence or the lack of concurrence, although persuasive, shall not be controlling. Objections to such sessions shall be heard by the judge to whom that matter proposed for hearing is assigned.

### **RULE AD-21 TELEPHONIC CONFERENCE CALLS**

Telephonic conference calling in lieu of personal appearances by counsel shall be acceptable and accommodated by the court on matters of motions, pretrial arguments, and all other issues not requiring evidentiary hearings. The Court may direct which party shall initiate and/or pay the cost of the call.

### **RULE AD-22 JURIES**

**A. REQUEST FOR PANEL.** Not later than 10:00 a.m. of the judicial day preceding the day for which a case is set for trial, each judge shall cause the Jury Commissioner to be advised of the number of jurors required for the following judicial day. The Jury Commissioner will be provided the case number, names of the plaintiff and defendant, courtroom location, and time to appear. In the case of a criminal jury, the Jury Commissioner will also be advised if there has been a previous jury called for the defendant, either in the current case or another criminal matter.

**B. JURY LISTS AND QUESTIONNAIRES.** Jury lists shall be provided to each party to the action on the day on which jury selection is to begin, or upon further order of the court. Juror

questionnaires given to all prospective jurors or any jury pool shall be available to any party to any action at any time before the trial. The Clerk of the Superior Court shall make the questionnaires available to the parties to an action by written request. Copies of the questionnaires will suffice to meet the requirements of this rule.

The Clerk of the Superior Court will endeavor to make the juror lists and juror questionnaires as complete as possible with such data as full legal name, address, age, birth date, occupation, spouse's name and occupation, family members and ages and prior jury service.

**C. ASSESSMENT OF JURY FEES - BEFORE/AFTER IMPANELMENT.** In the event a civil case set for trial is settled before trial, and the Jury Commissioner is not notified in sufficient time by counsel or the parties, if not represented by counsel, to excuse the jury from attendance, the jury fees and mileage incurred for the entire panel shall be assessed against one or more of the parties in such proportions as the trial judge deems reasonable. Dismissal will not be entered by the court until a sum sufficient to defray such jury fees has been deposited with the Clerk of the Superior Court.

If a jury has been impaneled for a trial but the case is settled or for any other reason the panel is not used for that trial, an assessment of jury fees shall be made for each juror and alternate juror impaneled for each day on which the jury was present for trial.

**D. PARTIES AGAINST WHOM FEES ASSESSED.** Except as otherwise provided by law, the parties may by agreement, subject to approval by the court, designate the party or parties against whom jury fees are to be assessed. If the parties fail to so designate, the court shall assess the jury fees equally against each side unless the court determines that the interests of justice require assessment of jury fees in some other manner.

**E. MISTRIALS.** Jury fees for mistrials shall be fixed by the court at the time of the mistrial, and may be assessed at the time judgment is given or disposition made.

**F. MEALS.** Maximum dollar amounts for juror meals shall be established by supplemental order.

**G. ALCOHOLIC BEVERAGES.** No alcoholic beverages shall be consumed by jurors during court hours or jury deliberations.

#### **RULE AD-23 SUSPENSION OF RULES**

The parties to any proceeding, with the consent of the court, may waive any local rule, and the court, in specific instances, may suspend the operation of any local rule when harm or injustice would otherwise result.

### **CIVIL RULES**

#### **RULE CV-1 MOTIONS AND SPECIAL MATTERS - NON-CRIMINAL MATTERS**

**A. MOTION CALENDAR.** Default cases, probates, adoptions, orders to show cause, short causes and motions with oral argument will be heard on Mondays except if that day is a holiday in which case these matters will be heard on the following day.

**B. SUBMISSION UPON MEMORANDUM.** All motions shall be in accordance with Rule IV, Uniform Rules of Practice and shall be deemed submitted upon memoranda unless the motion or response contains in the caption the words "oral argument requested". Oral argument on all motions shall be limited to ten (10) minutes for each side, unless additional

time is requested by any party and granted by the court. Motions for which oral argument has not been requested will be considered for decision upon expiration of the time prescribed for filing of a reply. The fact that either party has requested oral argument upon the motion, or that the motion has been set down for oral argument by the court shall not in any way relieve the parties from the filing of written memoranda required by Rule IV, Uniform Rules of Practice.

**C. TELEPHONE ARGUMENT AND CONFERENCE.** When permitted by this rule, oral argument may, in the discretion of the court, be presented by telephonic conference call. The party filing the motion shall initiate the telephonic conference call unless otherwise ordered by the court. The call shall be scheduled as indicated in the order setting the time for oral argument. Counsel requesting any change or continuation of the oral argument shall schedule such calls at a time mutually agreeable to all parties and the court. The court may direct which party shall initiate and/or pay the cost of the call.

#### **RULE CV-2 TRIAL CALENDAR**

**A.** The Clerk of this court shall maintain an Active Calendar and an Inactive Calendar and cases shall be placed thereon, respectively, by the Clerk as provided by Rule V(d) and (e) of the Uniform Rules of Practice.

**B.** Cases in which the trial has been continued by counsel and which have remained inactive for six months, shall be placed on the inactive calendar and all counsel shall be notified, and such cases shall be dismissed without further notice sixty (60) days thereafter, unless the court, on motion of any party, resets said case for trial.

#### **RULE CV-3 TRIAL SETTINGS, ATTORNEY CONFLICTS**

**A.** All trial settings shall be in accordance with the Uniform Rules of Practice.

**B.** In the event any counsel or party shall have a conflict in trial settings, that party shall promptly notify all counsel and the Court in each case wherein the conflict exists of the existence of the conflict. The conflict shall be resolved by the judge to whom the case with the lowest case number is assigned. Except for good cause, the court should determine priority of cases according to applicable statutes and rules and, between cases of the same type, the court should give priority to the case with the Clerk's lowest assigned number.

#### **RULE CV-4 STIPULATIONS**

No agreement, stipulation or consent between parties, or their attorneys, in respect to the proceedings in a cause before the court shall be considered by the court unless it be in writing filed with the Clerk or dictated in open court, except that counsel may orally consent out of court as to the continuance of a matter provided proper notification to the Clerk is given.

#### **RULE CV-5 BRIEFS, INSTRUCTIONS AND INTERROGATORIES TO JURIES**

**A. BRIEFS.** Any party may file a trial brief. When any matter is submitted to a trial judge for decision, and the filing of briefs is requested by the judge, the original of each brief shall be filed with the Clerk of the Court and a duplicate thereof shall be provided to the trial judge.

**B. INSTRUCTIONS.** All requested instructions shall be numbered and shall cite the authorities relied on by counsel in support thereof. To the extent possible under the circumstances of each case, all instructions shall be submitted to the court on the morning of the first day of trial.

**C. INTERROGATORIES.** In those matters wherein interrogatories are to be submitted to the jury they shall be submitted on plain 8.5 by 11 inch paper, each such paper being without any indication as to the party or the attorney submitting the same, and there shall be but one interrogatory to a sheet. The interrogatory number will be left blank. To the extent possible under the circumstances of each case, all interrogatories shall be submitted to the court on the morning of the first day of trial.

#### **RULE CV-6 DISMISSALS FOR FAILURE OF PROSECUTION**

**A.** In accordance with Rule V(e), Uniform Rules of Practice, the court shall dismiss without prejudice for lack of prosecution all cases remaining on the Inactive Calendar for two (2) months. In addition, any civil action may be dismissed for failure to prosecute upon written Motion and Notice to opposing counsel, in the discretion of the court, upon the following grounds and conditions:

1. Failure to comply with Rule V, Uniform Rules of Practice, within two (2) months after the date of the order for a new trial, or the date of the filing of the mandate of the Appellate Court.
2. Where good cause and/or other circumstances warrant dismissal of the case.

**B.** No dismissal shall be ordered during any period that the court finds that a necessary party to the action is in the military service of the United States and is unable during such period to be present at the trial by virtue of such service.

**C.** After a case has been set for trial and the parties have announced settlement without presenting a final judgment to the court, the case shall be placed on the Inactive Calendar, all counsel notified and shall be dismissed without further notice sixty (60) days thereafter, unless in the meantime, a final judgment shall have been filed and entered of record, or unless the court shall, on motion of any party, either reset said case for trial or extend same on the Inactive Calendar for additional periods of time as circumstances warrant.

#### **RULE CV-7 ARBITRATION**

All civil cases, which are filed with the Clerk of Superior Court in which the court finds or the parties agree that the amount in controversy does not exceed \$25,000.00, except those specifically excluded by the Uniform Rules of Procedure for Arbitration, shall be submitted to and decided by an arbitrator or arbitrators in accordance with the provisions of A.R.S. 12-133 and the Uniform Rules of Procedure for Arbitration.

#### **RULE CV-8 COMPLETION OF DISCOVERY; PRETRIAL STATEMENTS; PRETRIAL CONFERENCES**

**A. COMPLETION OF DISCOVERY.** In civil cases, except where the court has entered an order pursuant to Arizona Rules of Civil Procedure 16(c), all discovery shall be completed ten (10) days prior to the date set for trial except when additional time for discovery is allowed by order of the court.

**B. PRETRIAL STATEMENTS.** Thorough pretrial statements, containing all the information required by Rule VI, Uniform Rules of Practice, shall be filed with the court no later than five (5) days prior to the date of trial.

**C. REQUEST FOR PRETRIAL CONFERENCE.** After the filing of the Pretrial Statement, either party may request a pretrial conference as provided in Rule VI, Uniform Rules of Practice. This provision does not alter any party's right to request a Comprehensive Pretrial Conference as contemplated by Rule 16(b) of the Arizona Rules of Civil Procedure.

**D. PRETRIAL CONFERENCE.** In addition to the matters set forth in the pretrial statement the court will consider and counsel shall be prepared to discuss:

1. Motions deferred to the pretrial conference and legal issues expected to be encountered at trial.
2. Any matter by way of stipulation, pleading or proof that may simplify the issues or expedite the trial.
3. Requirements or necessity of filing trial briefs.
4. Number of jurors, alternates, peremptory strikes.
5. Exhibits.
6. Order of trial.
7. Length of trial.
8. Special Rules of Court.
9. Requirements for proposed jury instructions or jury interrogatories.
10. Requirements with regard to voir dire questions.
11. The possibility of compromise or settlement; however, nothing with respect thereto shall be with prejudice to any party in accordance with Rule 408, Arizona Rules of Evidence.

#### **RULE CV-9 FINDINGS AND CONCLUSIONS**

In all actions in which findings are requested and required, the prevailing party shall prepare proposed findings of fact and conclusions of law within ten (10) days after the court has announced its decision or within such further time as the court may direct. The proposed findings and conclusions shall be filed with the Clerk of the Court and a copy served upon the adverse party who shall have ten (10) days thereafter to file and serve written objections to the proposed findings and conclusions.

#### **RULE CV-10 CASES PREFERRED FOR TRIAL**

**A. PRIORITY.** The following cases shall be preferred for trial:

1. Any case granted a preference by statute or other rule of court;
2. Juvenile cases;
3. Criminal cases;
4. Domestic Relations cases;
5. Contested Probate cases;
6. Short Cause Civil cases;
7. Hardship Civil cases; and

8. Mental Health cases.

**B. STATUTORY, RULE OR COURT ORDERED PREFERENCE.** All cases entitled to a preference for trial by reason of statute, rule or order of court shall be set for trial at the earliest practicable date.

**C. HARDSHIP.** Preference by reason of hardship may be granted only upon motion supported by affidavit.

**D. EXTRAORDINARY CIRCUMSTANCES.** Upon motion to the Presiding Judge in extraordinary circumstances any case entitled to a preference may be assigned to another judge on the court, to a visiting judge, retired judge or judge pro tempore. In the absence of prior resolution by the assigned trial judge and lawyers involved, resolution of trial calendar conflicts among lawyers in different cases involving extraordinary circumstances may be determined by the Presiding Judge.

**E. SHORT CAUSE (CIVIL).** A short cause (Civil) is any civil case stipulated by all parties to take less than one hour to try to the court. If the trial of any short cause is not completed within one hour of actual trial time, the trial judge shall make such orders as are appropriate, including a continuance and may order that it take place on the regular trial calendar without preference.

#### **RULE CV-11 CASE NUMBER ASSIGNMENT AND CONSOLIDATION**

**A. NUMBER ASSIGNMENT.** The Clerk of the Court shall assign a chronological number to every case filed with the court and indicate to which division of the court the case has been assigned. After the preliminary assignment by the Clerk, the party filing any pleading, motion, memorandum or other paper in the case shall indicate below the case number the division of the court to which the case has been assigned.

**B. CONSOLIDATION.** Unless the court shall otherwise order, when two or more cases are consolidated, the Clerk shall regard the lowest case number as the controlling number of the consolidated cases and all further pleadings and papers shall be filed and docketed under that number only. Unless the court shall otherwise specify, the consolidation is for all purposes, and not merely for the purpose of trial. A motion to consolidate shall be heard by the judge to whom the case with the lowest number is assigned, unless otherwise assigned by the Presiding Judge. A motion to consolidate shall be filed simultaneously in all cases proposed to be consolidated with copies served on all parties and their counsel.

#### **RULE CV-12 SETTLEMENT CONFERENCES AND STATEMENTS**

The purpose of the settlement conference is to permit an informal discussion of every aspect of the lawsuit bearing on its settlement value and to consider, and in appropriate instances to enter into settlement agreements. For these purposes, it is essential that in addition to trial counsel, the individual parties be present and in the case of corporate parties and insurance carriers a representative executive with unrestricted authority to consider and approve or disapprove any settlement proposal.

**A. SETTLEMENT CONFERENCE STATEMENTS.** The parties are directed to submit ex parte and under seal settlement conference statements setting forth, among other things, each party's position concerning factual issues, issues of law, damages or relief requested and the party's settlement position and grounds therefore. Neither the settlement statement nor the contents thereof shall be disclosed to any other party and the same shall remain under seal to

be opened only by the court. Pertinent evidence, documents or otherwise, to be offered at trial, should be brought to the settlement conference for presentation to the settlement judge if deemed relevant.

**B. TRIAL USE OF SETTLEMENT CONFERENCE STATEMENTS AND COMMUNICATIONS PROHIBITED.** Neither the settlement conference statements nor communications with the settlement judge during the settlement conference may be used by either party in the trial of the case.

**C. PRE-SETTLEMENT CONFERENCE PREPARATION.** Before the settlement conference, the parties should discuss settlement with their respective clients, and opposing parties should discuss settlement with each other, so that the parameters of settlement have been explored in advance of the settlement conference.

**D. DISCRETION TO TRANSFER.** Upon motion, either party may request that a judge other than the trial judge to whom the case is assigned preside over the settlement conference and the court may transfer the settlement conference to another division of the court willing to conduct the conference. Upon agreement of all parties and approval by the court, settlement negotiations may be conducted by a non-judge as appointed by the court.

#### **RULE CV-13 HEARING OR TRIAL ON DEFAULT**

In accordance with Rule 55(a), Arizona Rules of Civil Procedure, no hearing or trial on default shall be heard until ten (10) judicial days after the formal default has been entered in the Clerk's office, unless the court shall waive the time requirement for good cause shown.

#### **RULE CV-14 ATTORNEY FEES**

**A. NOTICE OF CLAIM.** A claim for attorney fees pursuant to A.R.S. 12-341.01 shall be made in the pleadings, in the joint pretrial statement, or by written notice filed and served before trial or other determination on the merits of the cause.

**B. TIME OF DETERMINATION.** When attorney fees are recoverable pursuant to A.R.S. 12-341.01 and are claimed by one or more parties, the determination as to the claimed attorney fees shall be made following a decision on the merits of the cause. The time for the filing of affidavits and/or the hearing on the claim shall be set by the court.

**C. METHOD OF ESTABLISHING CLAIMS.** The claim for attorney fees may be supported by affidavit or testimony and appropriate exhibits. If the claim is contested, a hearing shall be granted if requested by any party.

**D. ENTRY OF FORMAL JUDGMENT.** Formal judgment on the merits of an action shall be delayed until determination of the issue of the attorney fees as set forth above.

### **DOMESTIC RELATIONS RULES**

#### **RULE DR-1 CONCILIATION COURT AND MEDIATION SERVICES**

**A.** A Conciliation Court with mediation services is hereby established by authority of A.R.S. 25-381.01, et seq., to provide a means for the reconciliation of spouses, the amicable settlement of domestic and family controversies, and to protect the rights of children.

**B.** The Presiding Judge shall assign a Superior Court Judge to act as judge of the Conciliation Court pursuant to A.R.S. 25-381.04.

C. Jurisdiction over the controversies and issues described in A.R.S. 25-381.08, 25-381.09, 25-381.20 and 25-381.22 is invoked automatically by the filing of any action for annulment, dissolution of marriage or legal separation or by petition filed by either or both spouses prior to or after filing any action for annulment, dissolution of marriage or legal separation when there is a minor child of the parties whose welfare may be affected by said action. Jurisdiction of controversies and issues described in A.R.S. 25-381.20 will be invoked only upon entry of an order by the conciliation court that includes as a finding that reconciliation of the spouses or amicable adjustment of the controversy can probably be achieved, and that the work of the conciliation court in cases involving children will not be seriously impeded by acceptance of the case.

D. Upon assignment of an action to Conciliation Court, the judicial administrator shall schedule a conference or conferences with a family counselor. The parties shall be required to attend scheduled conferences. Exemption from mandatory hearings or conferences may be granted by the Conciliation Court Judge only on grounds of undue hardship. The counselor shall report to the court the identity of a party failing to attend and the court may take such action as it deems necessary or appropriate. The counselor shall notify the court when counseling has concluded. Agreements reached between the parties as a result of the counseling shall be in writing and approved by the parties and the counselor. An agreement is not binding until approved by written order of the court.

E. When jurisdiction is invoked, the Clerk of the Court shall cause a minute entry to be made and filed in the case file in such form approved by the Presiding Judge, recording the fact and date of the filing of the petition and transferring the matter to the Conciliation Court. The Clerk shall thereafter deliver the case file to the Conciliation Court Judge for further proceedings pursuant to A.R.S. 25-381.14.

F. When it appears from a pleading or other paper filed with the Clerk of the Court that custody or visitation of a child or children is an issue in a dissolution, legal separation or annulment action, the case shall be transferred to the Conciliation Court. The Conciliation Court shall, as soon as possible, set a conference for the litigants with a person competent to do family counseling designated by the judge of the Conciliation Court. The person designated thereafter shall recommend action to the court, including additional counseling conferences (with the children if the person deems this advisable) and orders for temporary relief under A.R.S. 25-381.17, and the judge of the Conciliation Court may make such orders as are deemed just and proper in regard thereto.

G. The Conciliation Court Judge may appoint a mediator from the Conciliation Court system or an outside mediator. The parties may contract with an outside mediator for his or her services in which event they shall be directly responsible for his or her fee. Where the parties desire to employ an outside mediator but cannot agree on the selection, each party shall submit the name of one qualified person and the court shall make the appointment using the persons selected by the parties or any other qualified individual.

H. To further the aims and service of the Conciliation Court, every attorney who represents a litigant in an action for dissolution of marriage, legal separation or annulment shall furnish to the client as early in the case as conveniently possible a notice about the Conciliation Court. This notice will be a form furnished to the attorneys free of charge by the Conciliation Court. The Clerk will likewise furnish said notice to parties acting pro per. The printed notice shall inform the parties of the availability of blank conciliation petition forms provided at the expense of the county and assistance in their preparation by employees of the Conciliation Court or a social service agency employed to provide conciliation and mediation services.



I. The attorney for the respondent or a respondent acting pro per shall, at the time of filing the response, notify the Clerk of the Superior Court that custody is contested, and designate on the caption that it is a "contested custody matter".

J. In all contested custody cases, all orders to show cause concerning temporary child custody, visitation or support shall be set and heard before the judge of the Conciliation Court.

K. Upon a matter being transferred to the Conciliation Court the judge shall set a time and place for hearing to be held within thirty (30) days of the date of filing the conciliation petition or otherwise in accordance with A.R.S. 25-381.14. An order, in a form approved by the judge of Conciliation Court, shall be issued to both parties directing them to be present. The order shall be signed by the judge of the Conciliation Court or another designated judge and shall give notice of the time, place and nature of such hearing. Such order shall be mailed or served not less than five (5) days prior to the hearing and failure to respond to same without adequate excuse may be deemed a contempt of court. The hearing shall be conducted before a Conciliation Court counselor or the Conciliation Court Judge, as specified in the citation at the discretion of the Conciliation Court Judge. The hearing shall be held in private. Within five (5) days of completion of the conciliation hearings a brief report, in a form approved by the judge of Conciliation Court, shall be filed with the court by the counselor.

#### **RULE DR-2 ORDERS TO SHOW CAUSE**

A. In all orders to show cause in dissolution or legal separation actions, where child or spousal support are sought, the petitioner shall file with the order to show cause an "AFFIDAVIT OF SPOUSE (INCOME)" and "AFFIDAVIT OF SPOUSE (EXPENSES)", a copy of which affidavits shall be served with a copy of the order to show cause. These affidavits shall correctly show the financial status of the parties including assets, liabilities, income and expenses.

B. The respondent in such cases shall serve on the petitioner or his or her attorney, not less than one day prior to the hearing on the order to show cause, an "AFFIDAVIT OF SPOUSE (INCOME)" and "AFFIDAVIT OF SPOUSE (EXPENSES)".

C. At the hearing for an original order or for an order for modification, the petitioner may rest upon the financial data so presented, subject to the right of cross-examination by the opposing party.

D. In an action for contempt for failure to pay support or maintenance, the order to show cause, in addition to the requirements set forth in paragraph A of this rule, shall direct the other party to bring to the hearing: 1) His or her Federal and State Income Tax Return for the preceding two calendar years; 2) The records of all employment and income for at least the last six months; and, 3) Any other documents which may be relevant to prove the information set forth in the "AFFIDAVIT OF SPOUSE" or the issues before the court.

#### **RULE DR-3 TRIALS TO THE COURT**

A. Prior to any trial, the parties shall complete a Pretrial Statement pursuant to Local Rule CV-8 and Rule VI, Uniform Rules of Practice.

B. When the division of property is a contested issue, the Pretrial Statement shall contain a detailed, itemized inventory of the community, joint and common property of the parties and the separate property of each party shall be filed with the court and served on the other party. The inventory shall set forth the nature of the ownership, the date the property was acquired, by what title the property is held, amount of any encumbrance thereon, each party's evaluation of the fair market value of the property and the proposed disposition.

C. Either party may request a Comprehensive Pretrial Conference pursuant to Rule 16, Arizona Rules of Civil Procedure. If a Comprehensive Pretrial is scheduled, the parties shall exchange a Comprehensive Pretrial Conference Memorandum at least five days prior to the conference. In the alternative, the parties may prepare and file a Joint Pretrial Statement.

#### **RULE DR-4 CHILD SUPPORT AND SPOUSAL MAINTENANCE PAYMENTS**

All child support and spousal maintenance payment shall be made through the Clerk of the Superior Court. The party ordered to make child support and/or spousal maintenance payments through the Clerk shall also be ordered to pay annually, in advance, the Clerk's statutory fee for the handling of child support or spousal maintenance payments as set forth in A.R.S. 12-284(A).

### **CRIMINAL RULES**

#### **RULE CR-1 RELEASE**

A. All motions seeking a reconsideration of the conditions of release shall be heard by the assigned trial division and will be heard at the earliest possible time, especially when the defendant is in custody.

B. Hearings will be scheduled consistent with giving notice to any victim and in conformance with the Rules of Criminal Procedure.

C. If the defendant has been previously released on bond or on some other release conditions before Grand Jury Indictment, these same release conditions shall continue after a Grand Jury indictment on the same charges or any charges arising out of the same events, unless ordered differently by the assigned trial division after a duly noticed and contested hearing.

#### **RULE CR-2 SUBSTITUTION OF COUNSEL**

Substitution of counsel in criminal cases shall be governed by Rule 6.3, Arizona Rules of Criminal Procedure. In the case of a stipulation for substitution of counsel the stipulation shall:

1. Bear the signed statement by the substituting attorney which consents to the substitution and states that the substituting attorney is advised of the trial date, will be prepared for trial on such date and, has the approval of the client; and

2. Be accompanied by a proposed written order, which may be presented ex parte. Copies of said order will be provided for the State and prior counsel.

#### **RULE CR-3 MENTAL HEALTH EXAMINATIONS**

A. **MOTION FOR MENTAL HEALTH EXAMINATIONS.** A motion under Rule 11.2, Rules of Criminal Procedure, for a mental examination to determine whether a defendant is competent to stand trial shall be in writing and supported by the moving party's statement setting forth with specificity the reasons and factual basis for believing such examination is justified. The moving party's statement may include recent observations of the defendant's behavior and affidavits from others familiar with the defendant's recent behavior or past behavior.

B. **ATTENDANCE OF WITNESSES.** Counsel shall have the responsibility of securing the attendance of witnesses for hearings under Rules 11.5 and 11.6. Rules of Criminal Procedure.

**C. EXPENSE OF WITNESSES.** The expense of any witness attending court when the proceeding has been cancelled may be charged to counsel if the witness was not promptly notified not to appear.

#### **RULE CR-4 SPEEDY TRIAL**

**A.** The Rules of Criminal Procedure and applicable Arizona case law govern all rights to a speedy trial in Mohave County Superior Court. Notice of impending speedy trial time limits should be given to the trial judge whenever possible, but such notice is not a prerequisite to a dismissal without prejudice based on violation of speedy trial time limits.

**B.** If, due to a violation of speedy trial time limits, charges against a defendant are dismissed without prejudice, the defendant will continue to be released on his or her own recognizance on any subsequently filed criminal charge arising out of the same events. Such charge shall bear the same case number and shall be assigned to the same judge as before. The defendant shall be served by summons, unless otherwise directed by the assigned judge.

#### **RULE CR-5 CRIMINAL PRETRIAL STATEMENT AND CONFERENCE**

In accordance with this rule and the Rules of Criminal Procedure, the court may require a pretrial statement and conference in criminal cases.

#### **RULE CR-6 REQUESTED VOIR DIRE**

**A. TIMING.** Voir dire questions requested by counsel must be lodged with the assigned trial division not less than seventy-two (72) hours before the day set for trial.

**B. QUESTIONING BY COUNSEL.** Upon motion of either party and for good cause shown, trial counsel may be permitted to ask voir dire questions of prospective jury members. Trial counsel shall be responsible for advising the trial judge of the proposed subject matter of questioning prior to the actual questioning of prospective jurors. The trial judge may allow all voir dire questioning of prospective jurors to be done solely by the attorneys to the action by written stipulation or upon motion. Selected portions of voir dire questioning may also be done by the attorneys to the actions by written stipulation or upon motion.

**C. OBJECTIONS TO PROPOSED VOIR DIRE.** Attorneys may lodge objections to prospective questions prior to the beginning of juror examinations. The trial judge will rule on any such objections prior to juror examinations.

#### **RULE CR-7 POST-CONVICTION RELIEF**

**A. REFERRAL TO CLERK.** When a letter or other writing is received by the judicial administrator, a judge or any other employee which appears in any way to seek some relief from a conviction or sentence but which is not in the form of a petition for post conviction relief, the writing shall be referred to the office of the Clerk of the Court.

**B. POST CONVICTION RELIEF FORMS.** When a letter or other writing as described in paragraph A above is received by the Clerk, either directly or from the judicial administrator, a judge, his or her staff, or the Clerk shall return the writing to the defendant. Before such return, the letter or other writing shall be reviewed by the presiding criminal judge or the trial judge to whom the case had been assigned. Upon order of either judge, copies of criminal Forms V, XXIV(c) and XXV, Rules of Criminal Procedure, shall be sent with the writing to the defendant, together with an explanation that the relief sought will be considered only if the forms are properly completed and returned and that the letter or writing may be attached to Form XXV.

**C. FORMS FORWARDED TO PRESIDING CRIMINAL JUDGE.** When submitted, copies of such post conviction relief forms will be immediately forwarded to the Presiding Criminal Judge. When a case is on appeal, the Clerk shall also forward copies of such forms to the Appellate Court and Attorney General of Arizona in accordance with Rule 32.4(b), Arizona Rules of Criminal Procedure.

**D. APPOINTMENT OF COUNSEL.** The Presiding Criminal Judge shall appoint counsel, if necessary, and send a copy of such completed post-conviction relief forms to that counsel.

#### **RULE CR-8 RESTORATION OF CIVIL RIGHTS**

**A. FILING APPLICATIONS FOR RESTORATION AFTER STATE COURT CONVICTIONS.** Applicants for restoration of civil rights shall use the appropriate form provided by the Clerk of the Court or adult probation department for both the application and order granting relief requested. An application for restoration of civil rights shall be filed with the Clerk of this court who shall obtain an order from the sentencing judge or his or her successor in office setting the application for hearing not less than thirty (30) days after the filing of the application. An application for restoration of civil rights pursuant to A.R.S. 13-905 and 906, and to vacate plea or verdict and to dismiss charges pursuant to A.R.S. 13-907, shall be captioned in the original criminal case number.

**B. FILING APPLICATIONS FOR RESTORATION AFTER FEDERAL COURT CONVICTIONS.** An application for restoration of civil rights by discharged federal probationers or prisoners pursuant to A.R.S. 13-909 and 910 shall be filed as a civil action. The application shall first be filed with the Clerk of the Court to obtain a case number, then presented to the Presiding Criminal Judge to obtain an order setting the matter for hearing. The Clerk shall not impose a fee for such filing.

**C. NOTIFICATION.** Copies of the application and order setting the matter for hearing under subsection A of this rule shall be mailed or delivered by the Clerk of the Court to the Attorney General, County Attorney and Adult Probation Department. Copies of applications under subsection B of this rule shall be mailed or delivered by the Clerk of the Court to the United States Attorney and the United States Probation and Parole Office at the United States Courthouse, Phoenix, Arizona.

**D. OBJECTIONS TO APPLICATION.** Objections or responses in opposition to applications under this rule shall be in writing and copies thereof shall be mailed or delivered to the applicant or his or her representative and a copy lodged with the Presiding Judge not less than four (4) days before the hearing date.

#### **RULE CR-9 CRIMINAL APPEALS FROM LIMITED JURISDICTION COURTS**

**A. NOTICE OF FILING OF APPEAL.** The Clerk will docket all appeals from limited jurisdiction courts and notify the parties of the date of filing.

**B. APPEALS BY INDIGENTS.** If defendant has been denied an appropriate request to proceed as an indigent on appeal by the limited jurisdiction court, the defendant may petition the Superior Court to review the limited jurisdiction court's decision. The defendant shall file the petition for review in the Superior Court within three (3) days of the denial of the defendant's request in the Justice or Municipal court. A sworn questionnaire as required by Rule 6.4(b), Rules of Criminal Procedure, shall be attached to the petition. Copies of the petition are to be presented to the Judicial Administrator's Office, the prosecutor and the Justice or Municipal court on the same day that the petition is filed in Superior Court. The Superior Court shall decide the matter within three (3) days after the petition is filed and shall send a copy of its findings to the limited jurisdiction court.

**C. NO RECORD OF PROCEEDINGS – TRIAL DE NOVO.** In the event no record of the proceedings, either by transcription or audio tape was made the appeal shall be dismissed and the judgment of the limited jurisdiction court affirmed if the appellant does not move to have the case set for a trial de novo within twenty-five (25) days of the date of the filing of the notice of appeal.

**D. RECORD OF PROCEEDINGS – NO TRIAL DE NOVO.** In the event a record was made in the limited jurisdiction court, there will be no trial de novo but rather the court will review the record on appeal. In the event the limited jurisdiction court record was made by audio tape, the court may listen to and hear the tape in lieu of having a transcript of the proceedings prepared. Upon motion of either party or under special circumstances as may from time to time occur (including an inaudible tape or mechanical failure in the recording device), a transcript of the proceedings shall be made. In all instances, the original tape shall be preserved and shall be available to any party for review to verify the accuracy of the transcription.

**E. MEMORANDA – APPEALS ON THE RECORD.** In all appeals based upon the record of proceedings, the parties shall file memoranda to aid the Superior Court in its determination of the appeal. All appeals based upon the record of proceedings shall be deemed submitted upon memoranda and transcript or municipal report unless the appellant's or appellee's memorandum contains in the caption "Oral Argument Requested". When filing any document in Superior Court, each side will comply with Rule 14, Superior Court Rules of Appellate Procedure – Criminal.

**F. FORM AND CONTENT.** Memoranda shall refer only to those portions of the record prepared pursuant to this rule. Where municipal reports constitute the record on appeal, memoranda shall limit themselves to issues of law arising from the reports. All memoranda shall comply with the provisions of Rule 10(b) and (c), Superior Court Rules of Appellate Procedure – Criminal.

**G. CASE ASSIGNMENT – ORAL ARGUMENT REQUESTED.** Upon receipt of appellee's memorandum or twenty (20) days after the filing of appellant's memorandum, if oral argument is requested, the Presiding Judge or a designee shall issue a minute order to the parties notifying them of the receipt of the memorandum, the division of this court to which the appeal has been assigned and the date and time set for the hearing on appeal. The date set for the hearing shall not be less than fifteen (15) days from the date of the order setting the hearing.

**H. CASE ASSIGNMENT – CASE SUBMITTED UPON MEMORANDA.** Upon receipt of appellee's memorandum, if no oral argument was requested, the Presiding Judge or a designee shall issue a minute order to the parties notifying them of the receipt of the memorandum and the assignment of the appeal to a division for the determination of the appeal based upon parties' memoranda and the record.

**I. NOTICE OF CHANGE OF JUDGE.** If the appeal is by trial de novo, each party may exercise one notice of change of judge in a manner prescribed by Rule 10, Rules of Criminal Procedure.

**J. TIME FOR RULING.** The determination of an appeal on the record shall be made within thirty (30) days from the date of submission to the court. A motion for rehearing of the Superior Court's ruling must comply with Rule 13, Superior Court Rules of Appellate Procedure – Criminal.

**K. DISMISSAL OF APPEAL – FAILURE TO MAKE SATISFACTORY ARRANGEMENTS FOR PAYMENT AND COSTS.** In the event a non-indigent appellant fails to make

satisfactory arrangements for payment of record costs pursuant to Rule 7(a), Superior Court Rules of Appellate Procedure - Criminal, or Rule 37, Rules of Procedure in Civil Traffic Violation cases, the court reporter will notify, in writing, the superior court of the failure to pay, and send a copy of the notice to the parties. If the record was on audiotape, the limited jurisdiction court will notify, in writing, the parties and the superior court of the failure to pay. The Presiding Judge or a designee shall then dismiss the appeal and remand the case to the Justice or Municipal court for appropriate action.

**L. DISMISSAL OF APPEAL - FAILURE TO TIMELY FILE APPELLANT'S MEMORANDUM.** In the event that the appellant's memorandum is not filed by the date designated in the Superior Court's order, the Presiding Judge or a designee shall dismiss the appeal and remand the case to the limited jurisdiction court for appropriate action.

#### **RULE CR-10 CHANGES OF PLEA IN CRIMINAL CASES**

**A. NOTICE OF CHANGE OF PLEA HEARING.** When a change of plea has been negotiated by the parties to a criminal case, counsel will advise the court. The court will set a change of plea date at the earliest possible time. For speedy trial purposes, absent a finding by the court of extraordinary circumstances, the parties to any plea agreement shall be deemed to have stipulated to a tolling of the speedy trial time. The time so excluded shall run from the date on which the court set the change of plea hearing to the date of such change of plea hearing.

**B. COURT COSTS, JURY FEES.** A change of plea may be negotiated at any point up to seventy-two (72) hours before the scheduled trial date. Plea agreements may be accepted at any time before the scheduled trial date, but the defendant may be required to pay any court costs or jury fees incurred if the change of plea occurs within seventy-two (72) hours prior to the scheduled trial date. Such orders concerning court costs or jury fees will be at the discretion of the trial judge.

#### **RULE CR-11 GRAND JURY INDICTMENT-REMANDED CASES**

Where an indictment is returned by the grand jury on a matter previously filed with the Clerk of the Court which was remanded to the grand jury by court order for a new finding of probable cause, the case shall be assigned the original number. The county attorney or other prosecuting attorney shall advise the court and clerk at the time of the return of the indictment on any case previously remanded, such proceeding to have taken place within fifteen (15) days. During this time the case shall be deemed as pending, and Rule 10, Rules of Criminal Procedure, Change of Judge, shall not apply.

#### **CRIMINAL AND CIVIL TRAFFIC APPEALS FROM LIMITED JURISDICTION COURTS ON THE RECORD OR BY TRIAL DE NOVO**

#### **RULE TR-1 NOTICE OF RIGHT TO APPEAL AND APPEAL PROCEDURE**

Immediately following judgment and sentence in a criminal matter or the imposition of a civil sanction after a hearing in a civil traffic matter the limited jurisdiction court shall deliver to the defendant a written notice of right to appeal. The notice shall state that a right to appeal exists, the applicable time limit, and the location and manner of filing the notice of appeal and shall refer the defendant to the rules governing the appeal process.