

PINAL COUNTY
Apache Junction Justice Court
Eloy Justice Court
Superior/Kearny Justice Court
Maricopa/Stanfield Justice Court



JUSTICE COURTS
Casa Grande Justice Court
Florence/Coolidge Justice Court
Mammoth/San Manuel Justice Court
Oracle Justice Court

INFORMATION FOR FILING AND DEFENDING A CIVIL CASE IN JUSTICE COURT

In situations where a civil dispute arises, the justice court offers grounds for a civil lawsuit within its jurisdictional limit. Jurisdiction means the types of cases a court has authority to hear. In justice court you may file a lawsuit claiming an amount **UP TO AND INCLUDING \$10,000.00**. You may also ask for reimbursement of court costs and/or attorney fees.

IF YOU ELECT TO REPRESENT YOURSELF

This is your case. **YOU** have a responsibility to yourself and to the court to acquire a sufficient knowledge to complete the forms properly and to follow your lawsuit to conclusion. There are certain steps you must follow to pursue your lawsuit properly. This information is provided to assist you with general procedures. You should also refer to the Arizona Revised Statutes (A.R.S.) and Arizona Rules of Court (ARCP) online or at your local library or law library at the Superior Court ([web links provided at the end of these instructions](#)).

CLERKS DUTY (A.R.S. § 22-507)

The clerks in the justice court are not attorneys and cannot provide legal advice. The clerks' responsibility is to provide forms, take your filing and fees, and explain court procedure. It is not the clerks' responsibility to advise you if you have a legal claim. The clerks are not responsible for any error you may make in asserting or defending your claim. The court does not take sides or render an opinion regarding the merits of a claim.

COURT FEES (A.R.S. §§ 22-281, 22-522)

Civil Filing Fee: \$85.00

Civil Answer Fee: \$55.00

Fees are payable at the time of filing.

JURISDICTION (A.R.S. § 22-503A)

The Plaintiff may file a civil lawsuit for any amount up to and including \$10,000.00. A larger claim may be reduced to \$10,000.00 or less and the remaining amount waived. Reimbursement of court costs and/or attorneys fees may be claimed in addition to the \$10,000.00 maximum. Court costs include but are not limited to filing and service fees.

VENUE (A.R.S. § 12-401)

Venue means the proper geographical area (precinct) in which a lawsuit may be filed. You must file the lawsuit in the precinct where the defendant resides or does business or where the cause of the lawsuit occurred. To view the Pinal County Precinct Map, please visit the court's website.

MOTION FOR CHANGE OF VENUE (A.R.S. §§ 12-404A, 12-407)

A motion for change of venue for improper venue must be filed prior to filing the answer, or venue is waived. If a motion is filed alleging that the lawsuit is filed in the wrong precinct and the court orders a change of venue, the case will be transferred to the proper precinct. If you oppose a motion for change of venue you must file an objection in writing within ten (10) legal working days after service of the motion.

Venue may be proper in more than one precinct. However if, after hearing, the original venue is found to be wrong, additional fees may be assessed to the Plaintiff to transfer the case to the proper precinct.

ATTORNEYS (A.R.S. § 22-211)

An attorney may represent either party in a civil lawsuit. With few exceptions, the Arizona Rules of Civil Procedure (ARCP) for the Superior Court of Arizona are followed in the Justice Courts.

PARTIES

Every civil lawsuit shall be prosecuted in the name of the real party in interest. Please ensure you have named the correct party in the lawsuit.

- **INDIVIDUALS:** An individual named in a lawsuit may represent him/herself. One spouse cannot represent the other. If both husband and wife are named as parties, both must answer the complaint (each must sign the forms). If one party fails to answer or appear he/she may be subject to a judgment by default.
- **CORPORATIONS:** A corporation authorized to transact business in the State of Arizona is required to maintain a statutory agent upon whom court papers may be served. The name and address of the statutory agent may be obtained by calling the Corporation Commission at (602) 542-3026 – Phoenix, (520) 628-6560 – Tucson, or *Toll Free* 1-800-345-5819, or visit their website at www.azcc.gov.

*When filing against a corporation, it is recommended that you contact the Corporation Commission and obtain the correct corporate name and the name and address of the statutory agent. **CAUTION: The statutory agent is not the defendant. The statutory agent is the party upon whom service may be made on behalf of the corporation.***

- **UNINCORPORATED BUSINESSES:** When filing on behalf of, or against an unincorporated business, it is necessary that the true name(s) of the party doing business under that business name be shown as the Plaintiff or Defendant. The information may be obtained by calling the Secretary of State at (602) 542-6187 – Phoenix or (520) 628-6583 – Tucson.
- **PARTNERSHIPS:** A partnership may sue, or be sued, in the name that it has assumed or by which it is known. A partner may appear and represent his own partnership interest but cannot represent the partnership or the interest of other partners unless he/she is an attorney.

SERVICE OF SUMMONS AND COMPLAINT (Rule 4, Arizona Rules of Civil Procedure)

Service is the delivery of a legal document notifying a person that a legal lawsuit has been filed against him/her. In addition to any other service methods as provided by Rule 4, Arizona Rules of Civil Procedure, service of the SUMMONS and COMPLAINT may be performed by a private process server. The process server may ask for payment in advance or may bill you for the cost of the service. You are to make payment arrangements directly with the process server.

EACH NAMED DEFENDANT MUST BE SERVED A COPY OF THE COMPLAINT / SUMMONS.

YOU HAVE 120 DAYS TO SERVE THE SUMMONS AND COMPLAINT OR YOUR CASE WILL BE DISMISSED.

SERVICE AFTER APPEARANCE

After a party has filed an appearance in a lawsuit, unless otherwise ordered by the court, all subsequent pleadings, notices and orders may be served upon the attorney of record or the appearing parties (Plaintiff or Defendant) by regular first class mail.

IT IS IMPORTANT THAT ALL PARTIES KEEP THE COURT APPRISED OF ANY CHANGE IN ADDRESS. A NOTICE of CHANGE OF ADDRESS form is provided on the court's website and at any Pinal County Justice Court and must be filed with the court and mail a copy to the opposing party when a party changes their address.

DEFAULT (Rule 55(b), Arizona Rules of Civil Procedure)

A party defaults when that party fails to respond to the lawsuit within the specified time allowed by rule or statute. If the defendant does not file an answer to the complaint within twenty (20) calendar days after service is complete (or thirty (30) days if served out-of-state), the Plaintiff may apply for an ENTRY of DEFAULT against the Defendant.

If a COUNTERCLAIM has been filed and the Plaintiff fails to file a reply to the counterclaim within the time allowed, the counter-claimant (Defendant) may apply for an ENTRY of DEFAULT against the counter-defendant (Plaintiff) on the counterclaim.

The party seeking the default must mail a copy of the APPLICATION FOR ENTRY OF DEFAULT form to the defaulting party. If the party claimed to be in default fails to file an answer or pleading or otherwise defend in the lawsuit within ten (10) legal working days of the filing of the application, the default will take effect and a default judgment may be entered against the party or parties in default.

Judgment by default may be entered by motion or by hearing. If the claim is for a specified monetary sum, the party seeking the default judgment may file an affidavit stating the amount due and a motion requesting the amount due and a motion requesting the court to enter judgment for that amount as well as court costs. In other cases the court will set the matter for a default hearing to determine the amount of damages and to enter judgment as evidenced by the hearing.

DISMISSAL (Rule 41(a), Arizona Rules of Civil Procedure)

The Plaintiff may dismiss the claim at any time prior to the Defendant filing an answer or other pleading. Once the Defendant has filed an answer both parties must stipulate to a dismissal (agree to dismiss in writing).

FILING AN ANSWER (A.R.S. § 22-216)

An answer is the Defendant’s response to the Plaintiff’s allegations as stated in the complaint.

The Defendant has twenty (20) calendar days to file an answer with the court.

If the complaint is served out-of-state, the Defendant has thirty (30) calendar days to file an answer with the court.

To compute time to file an answer, the date of service is not included. If the last day falls on a Saturday, Sunday, or legal holiday the answer may be filed on the next legal workday.

The answer should respond to each allegation in the complaint. The case will then be set for hearing. Failure to file an answer will result in a default judgment.

FILING A COUNTERCLAIM

A counterclaim is a claim made by the Defendant against the Plaintiff – a counter lawsuit within a lawsuit.

A counterclaim may be filed at the same time the answer is filed. If the Defendant files a counterclaim, the Plaintiff (counter-defendant) has twenty (20) calendar days to file an answer. There is no filing fee for filing an answer to a counterclaim.

If the counterclaim exceeds \$10,000.00 the case will be immediately transferred to the Superior Court and appropriate fees will be paid before the case can continue. Also, the party causing the transfer shall pay a transmittal fee to the court.

MOTIONS (Rule 7.1, Arizona Rules of Civil Procedure)

A motion is a request made by a party asking the court to issue a ruling or order. If a party files a motion of any kind with the court and the opposing party has objections to the motion made, those objections must be filed in writing with the court within ten (10) legal working days of service of the motion. The judge will consider the motion and any objections thereto and enter an order either granting or denying the motion. Or, on request of either party, the court may schedule a hearing before ruling on the motion.

TIME LIMITS (Rule 6(a) & (e), Arizona Rules of Civil Procedure)

In computing any period of time, the day of the act is not included (for example, day 1 is the day following the day you were served a copy of the COMPLAINT and SUMMONS). When any period of time allowed is less than 11 days, Saturdays, Sundays or legal holidays are NOT counted (*only judicial days or legal working days are counted*). When any period of time allowed is 11 days or more, all days are counted (*calendar days*). The last day of the period of time IS included in the count – but does not end until 12:00 midnight of that day.

Whenever one party has the right or is required to respond to the other party's filing or motion and the notice is served by mail, you will add five (5) calendar days to the period of time.

DISCLOSURE (Rule 26.1, Arizona Rules of Civil Procedure)

Disclosure is the pre-trial process requiring each party to fully disclose to the other the evidence and witness testimony that will be presented in trial. Disclosure statements must be filed with the court and a copy sent to all parties within forty (40) calendar days of the filing of the answer. Failure to comply with disclosure may result in sanctions, dismissal or a default judgment.

Disclosure includes:

- The factual basis for each claim/defense.
- A description of the damage(s) and copies of any exhibits substantiating the dollar value of the damages.
- The legal theory upon which claim is based.
- The names, addresses and telephone numbers of all witnesses and a brief summary of the expected testimony.
- A list of documents or other evidence that supports the claim.

TRIAL (A.R.S. §§ 22-220B, 22-221)

If your lawsuit is set for trial you should educate yourself regarding court procedures and the rules regarding what evidence is admissible. The Plaintiff has a responsibility to prove by the greater weight of evidence ("preponderance of evidence") that they have a legal right to the claim for damages.

Motions to continue a trial date must be in writing and filed with the court at least ten (10) days prior to the trial.

A failure to appear at the scheduled trial date may result in dismissal and the Defendant may be awarded his/her costs and/or attorney fees incurred to defend the lawsuit.

Either party can request a jury trial. Both parties will be required to exchange and submit prepared jury instructions to the court before trial. The party requesting the jury trial will be assessed jury fees if judgment is not found in favor of the requesting party.

If a jury is not requested the judge will hear the case. A person representing himself (acting as their own attorney) will be held to the same standard as an attorney.

At trial the Plaintiff will proceed first and may call witnesses and/or introduce exhibits. The Defendant may cross-examine any witnesses or object to the admission of any exhibit. After the Plaintiff rests, the Defendant will then present his case and may call witnesses and/or introduce exhibits that may prove or defend his position. The Plaintiff may cross-examine any witnesses or object to the admission of any exhibit.

After all the evidence is presented the judge or jury will decide the case.

IF YOU ARE AWARDED JUDGMENT

Refer to the court's handout COLLECTING A MONETARY JUDGMENT.

SATISFACTION OF JUDGMENT

When you are paid in full you must file a SATISFACTION OF JUDGMENT with the court. You can obtain a copy of this form at the court's website or at any Pinal County Justice Court.

APPEAL (A.R.S. § 22-261A, Superior Court Rules of Appellate Procedure - Civil)

Either party may appeal from a justice court judgment by filing a Notice of Appeal within fourteen (14) calendar days from the entry of judgment. A cross-appeal may be filed within twenty-eight (28) calendar days after the entry of the order, ruling or judgment. A bond for costs on appeal will be determined by the court and must be paid within fourteen (14) calendar days from the entry of judgment.

After the Notice of Appeal has been filed the appellant (the person filing the appeal) has sixty (60) calendar days to file his memorandum with the court. If the appellee (the opposing party not filing the appeal or is filing a cross-appeal) is not represented by counsel, the appellant must file one additional copy with the original.

The appellee has thirty (30) calendar days from the date the appellant's memorandum is filed to file a reply memorandum. If the appellant is not represented by counsel, the appellee must file one additional copy with the original.

IF A MEMORANDUM IS NOT FILED TIMELY THE APPEAL WILL BE DEEMED ABANDONED.

IN THE EVENT AN APPEAL IS DISMISSED, THE JUDGMENT OF THE COURT MAY BE ENFORCED AS IF NO APPEAL HAD BEEN FILED.

Ask the court clerk for information regarding bonds and costs of appeal.

RESOURCES:

Pinal County Justice Courts website:

<http://pinalcountyz.gov/Departments/JudicialBranch/JusticeCourts/Pages/Home.aspx>

Arizona Revised Statutes website:

<http://www.azleg.gov/ArizonaRevisedStatutes.asp>

Arizona Rules of Court website:

<http://government.westlaw.com/linkedslice/default.asp?SP=AZR-1000>