



TO:

Rule 28 Distribution  
Hon. Jay M. Polk

## ATTACHMENT<sup>1</sup>

### ARIZONA RULES OF PROBATE PROCEDURE

#### Rule 2. Definitions.

(a)-(c) [No change]

(d) **“Attend”** means to be present, either personally or by counsel, at a court event. If the court permits or requires, a person may attend a court event virtually, as described in Rule 12.

(e)-(y) [No change]

\* \* \*

#### Rule 12. ~~Telephonic and Video~~ Virtual Attendance and Testimony

##### (a) Definitions.

(1) *“Proceeding.”* When used in this rule, “proceeding” means a court event that interested persons or their attorneys have an opportunity to attend. These events include, but are not limited to, a trial, hearing, oral argument, and conference.

(2) *“~~Telephonic~~Virtual.”* When used in this rule, ~~“telephonic virtual”~~ or “virtually” means by telephone, video conferencing, or other ~~available~~ audio or audiovisual technology allowing two or more persons to communicate.

**(b) When Permitted.** A person who wishes to attend a proceeding is expected to do so by appearing in open court for the proceeding unless the court permits or requires virtual attendance. ~~Parties and their attorneys are expected to appear in open court for court proceedings unless the court, in its discretion, permits telephonic attendance under this rule.~~ The court, on a party’s motion or on its own, may allow or require a person to telephonically virtually attend, or testify at, a proceeding if both of the following are true:

(1) the person can be heard by every other person participating in the proceeding, including the judicial officer and, if applicable, the court reporter or an electronic recording system; and

(2) no party will be unfairly prejudiced by the ~~telephonic~~ virtual attendance or testimony.

**(c) How Requested.** Unless otherwise ordered by the court, a person who wishes to ~~telephonically~~ virtually attend or testify at a proceeding must either file a written motion or make an oral motion in open court. The request may be for a particular proceeding or for multiple proceedings. A written motion made under this rule must be

---

<sup>1</sup> Additions to the text of the rule are shown by underscoring and deletions of text are shown by ~~strike-through~~.

served on all parties and any person who has filed a demand for written notice and must be accompanied by a proposed order.

**(d) Time for Making Request.** Unless otherwise provided by local rule, a written or oral motion to allow ~~telephonic~~ virtual attendance or testimony must be made in a timely manner considering the circumstances at the time the request was made. Circumstances may include but are not limited to (1) the promptness of the party in making the request; (2) the nature of the proceeding, including whether it is contested or evidentiary; (3) whether all other parties agree to the ~~telephonic~~ virtual attendance or testimony; (4) the reason why ~~telephonic~~ virtual attendance or testimony is being requested; and (5) logistical factors.

**(e) Objection to Request.** A party opposing a written motion made under this rule must file a response no later than 5 court days after the motion is served. The court may modify or waive this time limit.

**(f) Ruling.** The court may rule on a written motion made under this rule before a response is filed, and without a reply or oral argument.

**(g) Use of Exhibits During ~~Telephonic~~ Virtual Testimony.** Unless ~~otherwise ordered by the court~~ orders otherwise, before a party may question a person testifying ~~telephonically~~ virtually about an exhibit, that party must:

(1) have provided that person and all parties, in advance, with a copy of that exhibit, marked so that it can be easily identified by that person, all parties, and the court; and

(2) confirm to the court that the exhibit provided to the court is identical to the exhibit provided to the person who is testifying ~~telephonically~~ virtually.

**(h) Costs of ~~Telephonic~~ Virtual Attendance or Testimony.** Unless the court orders otherwise, ~~The~~ the person requesting ~~telephonic~~ virtual attendance or testimony must arrange it, and, ~~unless the court orders otherwise~~, pay the related costs.

**(i) Instructions for Virtual Attendance or Testimony.** If the court permits or requires virtual attendance or testimony, the court must either provide instructions for attending the proceeding virtually or require the party who requested the virtual attendance or testimony to provide those instructions.

\* \* \*

## **Rule 16. Notice of Initial Hearing on Petition**

**(a) Required Content.** The notice of an initial hearing on a petition required by Rule 15(d) must state:

- (1) the title of the petition to be heard;
- (2) the date, time, and place of the initial hearing; ~~and~~

(3) the name of the judicial officer before whom the petition is set for hearing;

(4) if the court has authorized virtual attendance at the initial hearing,

(A) a statement that specifies whether the court has permitted, or required, virtual attendance, and

(B) instructions for virtually attending the initial hearing; and

(5) if the court has not authorized virtual attendance at the initial hearing, the following statement: “If you wish to attend this hearing virtually, you must request permission from the court as described in Rule 12(c), Arizona Rules of Probate Procedure.”

**(b)-(e) [No change]**