

TO:

Rule 28 Distribution
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ATTACHMENT¹

RULES OF PROCEDURE FOR EVICTION ACTIONS

Rule 5. Summons and Complaint; Issuance, Content and Service of Process

a. Summons. The summons in an eviction action shall be a document separate from the complaint, shall be issued in accordance with applicable statutory provisions, and shall identify the defendants to the action. If the name of a defendant is unknown, the summons and complaint may name a fictitious defendant and any occupants of the property. The court shall liberally grant leave to amend the complaint and summons to reflect the true names of defendants if they become known to the plaintiff. The summons shall also include the following:

(1) Name of the court and its street address, city, ~~and~~ telephone number, facsimile number, email address, and website address;

(2) Date and time set for the trial of the matter; and that a landlord, tenant, attorney, or witness may participate at the initial hearing through telephone or video conference by contacting the court for directions at least two hours before the hearing, to ensure the court has time to make necessary arrangements;

(3) Notice that if the tenant fails to appear, a default judgment will likely be entered against the tenant, granting the relief specifically requested in the complaint, including removing the tenant from the property; and

(4) A disclosure in substantially the following form: “Requests for reasonable accommodation for persons with disabilities should be made to the court as soon as possible.”

(5) In residential property actions only, on a separate page served upon the tenant, the information contained in the Residential Eviction ~~Procedures~~ Information Sheet substantially in the form included as Appendix A to these Rules.

b. - f. [No changes]

Rule 6. Service of Pleadings, Other Papers and Orders After Complaint

a. General Requirement of Service. Except as otherwise provided in these Rules or ordered by the court, every pleading subsequent to the original complaint, every written motion, every written notice, appearance, demand and similar paper and any attachments, and every order shall be served upon each of the parties to the action. A written motion or request that is filed with the court, but not served as required by this rule, shall be considered an impermissible ex parte communication.

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

(1) Filing of documents may be made by delivering the documents to the appropriate justice court or superior court file counter for date stamping.

(2) The court may permit a party to file documents directly with the judge in open court.

(3) Filing may also be accomplished by prepaid, first class mail to the court, whereupon the date of receipt by the file counter shall be considered the date of filing.

(4) Each court shall permit any party, attorney, or witness to submit notice via email, facsimile, telephone, or other electronic process, that the party, attorney or witness will participate at the initial appearance remotely. Such notice is a means of exercising the option of appearing remotely. Failure to provide such notice to each of the other parties to the action shall not be a basis for denying a remote appearance that can be provided or challenging the validity of a remote appearance that occurred.

b. - e. [No changes]

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Rule 11. Initial Appearance and Trial Procedures

a. In General. All proceedings in eviction actions shall be recorded, either through a recording device or by a court reporter. Each court shall provide the option for landlords, tenants, attorneys, and witnesses to participate at an initial appearance by telephone or video conference. A court may require participants to provide notice of their intent to participate by telephone or video conference up to two hours before the hearing as is necessary to avoid delaying hearings. A participant may submit such notice via email, facsimile, telephone, or other electronic process. If one participant appears remotely, all other participants must also be permitted to appear remotely. Each court may provide this option routinely to all participants in all initial appearances.

b. Preliminary Procedures. On the date and at the time set for the initial appearance, and after announcing the name of the plaintiff and the defendant, the court shall:

(1) Call the case, identify the parties and any attorneys or representatives present and ascertain that they are properly authorized to represent the parties to the action. As provided by Arizona Supreme Court Rule 31, no property manager or other agent shall be allowed to represent a party unless he or she is the property owner, a sub lessor entitled to possession, or an attorney licensed to practice law and in good standing in Arizona.

(2) State or summarize the material allegations contained in the complaint.

(3) Ask the defendant whether the defendant contests the allegations contained in the complaint.

bc. [No change in text]

ed. [No change in text]

de [No change in text]

ef. [No change in text]

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APPENDIX A

RESIDENTIAL EVICTION INFORMATION SHEET

(PUBLICATION AND DISTRIBUTION REQUIRED BY THE ARIZONA SUPREME COURT)

Notice. [No change]

Rent cases. [No change]

Before Court. Eviction cases move through the court system very quickly. If the tenant disagrees with the landlord's allegations, the tenant is encouraged to file a written answer. The answer form available from the justice court allows the tenant to admit or deny the allegations and explain his or her position. If the tenant cannot afford to pay the answer fee, he or she may apply for a waiver or deferral of that fee. If a tenant believes that the landlord owes him or her money, the tenant may under some circumstances file a counterclaim. The summons states that a trial will occur on the date listed, but due to the high volume of cases, a trial may not occur then. A landlord, tenant, attorney, or witness will be permitted to participate at the initial hearing by telephone or video conference and should contact the court at least two hours before the hearing to obtain information about how to connect to the hearing. If the tenant fails to appear, and the landlord or his attorney is present, a judgment will probably be entered against the tenant. Tenants can represent themselves or arrange for lawyers to represent them. The court will not provide a lawyer.

At Court. [No change]

Continuances. [No change]

After a Judgment. [No change]

Sources of Additional Information. [No change]