

Rule 78. Judgment, Attorney Fees, Costs, and Expenses

(a) Definitions; Form.

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(1) “Judgment” as used in these rules ~~includes a decree~~ IS A DECREE OF DISSOLUTION OF MARRIAGE, A DECREE OF LEGAL SEPARATION, A DECREE OF DISSOLUTION OF A COVENANT MARRIAGE, A DECREE OF LEGAL SEPARATION OF A COVENANT MARRIAGE, A DECREE OF ANNULMENT, JUDGMENTS OF PATERNITY AND MATERNITY, AND A DECISION DEFINING OR MODIFYING LEGAL DECISION-MAKING, PARENTING TIME, OR CHILD SUPPORT. A DECISION RESOLVING A POST-JUDGMENT PETITION FILED PURSUANT TO RULE 91(B) IS A JUDGMENT. A TEMPORARY ORDER IS NOT A JUDGMENT. ~~or an order from which an appeal lies.~~

(2) “Decision” as used in this rule is a written order, ruling, or minute entry that adjudicates at least one claim or defense.

(b) Judgment upon Multiple Claims or Involving Multiple Parties. When more than one claim for relief is presented in an action, whether as a claim, counterclaim, ~~or~~ third-party claim, ~~or when multiple parties are involved,~~ OR PETITION TO MODIFY OR ENFORCE A JUDGMENT the court may direct the entry of ~~a final~~ AN APPEALABLE judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines there is no just reason for delay and recites that the judgment is entered under Rule 78(b). If there is no such express determination and recital, any decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties, and is subject to revision at any time

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before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities. For purposes of this section, a claim for attorney fees is considered a separate claim from the related judgment regarding the merits of the action.

(c) Judgment as to All Claims, Issues, and Parties. A judgment as to all claims, issues, and parties is not ~~final~~ APPEALABLE unless the judgment recites that no further matters remain pending and that the judgment is entered under Rule 78(c).

(d) Entry of Judgment after Death of Party. Judgment may be entered after the death of a party upon a decision or upon an issue of fact rendered in the party's lifetime, except that an order dissolving the marriage may not be entered after the death of either party.

(e) Attorney Fees, Costs, and Expenses.

(1) *Asserting a Claim for Attorney Fees, Costs, and Expenses.* A claim for attorney fees, costs, and expenses must be made in the pleadings or by motion filed before trial or a post-~~decree~~ **JUDGMENT** evidentiary hearing. A claim for attorney fees, costs, and expenses must also be included in any required pretrial statement. A claim for attorney fees, costs and expenses not made in compliance with this subpart is waived absent good cause shown.

(2) *Establishing a Claim.* The claim must be supported by an itemized affidavit or exhibits submitted as directed by the court, or, in the court's discretion, by testimony.

(3) *Time of Determination.* The determination of attorney fees, costs, and expenses must be included in the judgment or as otherwise ordered by the court. If a party asserts a claim for attorney fees, costs, and expenses under subpart (e)(1), and a judgment is entered under this rule that omits a ruling on the claim, the claim is deemed denied unless the party files a **TIMELY** Rule 83 motion ~~within 15 days after entry~~ **of the judgment.**

Rule 85. Relief from Judgment ~~or Order~~

(a) Corrections Based on Clerical Mistakes; Oversights and Omissions. A court must correct a clerical mistake or a mistake arising from oversight or omission if one is found in a judgment, ~~order, or other part of the record~~. The court may do so on motion or on its own, with notice. But after an appeal has been filed and while it is pending in the appellate court, such a mistake may be corrected only with the appellate court's leave. After a mistake in the judgment is corrected, execution must conform to the corrected judgment.

(b) Grounds for Relief from a ~~Final Judgment, Order, or Proceeding~~. On motion and on such terms as are just, the court may relieve a party or its legal representative from a ~~final judgment, order, or proceeding~~ for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to file a motion under Rule 83(a)(1);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or other misconduct of an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason justifying relief.

(c) Timing and Effect of the Motion.

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(1) *Timing.* A motion under section (b) must be made within a reasonable time--and for the reasons set forth in subparts (b)(1), (2), and (3), no more than 6 months after the entry of the judgment ~~or order or date of the proceeding, whichever is later.~~ This deadline may not be extended by stipulation or court order, except as allowed by Rule 4(b)(2).

(2) *Effect on Finality.* The motion does not affect the judgment's finality OR APPEALABILITY or suspend its operation.

(d) Other Powers to Grant Relief. This rule does not limit the court's power to:

- (1) entertain an independent action to relieve a party from a judgment, ~~order, or proceeding;~~
- (2) grant relief to a party served by publication as provided in Rule 83(e); or
- (3) set aside a judgment for fraud on the court.

(e) Reversed Judgment of Foreign State. If a judgment was rendered on a foreign judgment from another state or country and the court of such state or country reverses or sets aside the foreign judgment, the Arizona court that rendered judgment must set aside, vacate, and annul its judgment.

Rule 91. Modification or Enforcement of a Judgment

(a) Definitions.

(1) *Judgment.* When used in this rule and in Rules 91.1 through 91.6, “judgment” ~~includes a decree of dissolution of marriage, a decree of legal separation, a decree of dissolution of a covenant marriage, a decree of legal separation of a covenant marriage, a decree of annulment, judgments of paternity and maternity, and orders defining legal decision-making, parenting time, or child support.~~ IS AS DEFINED IN RULE 78(A)(1).

(2) *Applicant.* When used in this rule and in Rules 91.1 through 91.6, an “applicant” is the party who,

after the entry of a judgment, seeks to modify or enforce all or part of a judgment.

(3) *Designating the Parties*. The original designation of the parties as “petitioner” and “respondent” in this jurisdiction remains unchanged in all post-judgment petitions, motions, and documents.

(b) through (p) No changes.