

TO:

Rule 28 Distribution
Lisa M Panahi

ATTACHMENT¹

RULES OF CIVIL PROCEDURE

Rule 76. Posthearing Procedures

(a) [No change]

(b) Arbitrator's Award.

(1) *Submission of Proposed Award-; Costs; Attorney's Fees.* Within ~~40~~ 15 days after the notice of decision is filed, either party may submit a proposed form of award to the arbitrator. The Any verified request for an award of taxable costs under A.R.S. § 12-332 and any motion for attorney's fees must also be filed within 15 days after the notice of decision is filed. If a request for costs or a motion for attorney's fees is filed, the proposed award may should include blanks for requested amounts for attorney's fees and costs.

(2) *Award Exceeding Limit.* If an arbitrator finds that the appropriate award in an action exceeds the limit for compulsory arbitration set by local rule or statute, the arbitrator must render an award for the full amount.

(3) *Objections to Proposed Award.* Within ~~5~~ 15 days of ~~receiving~~ service of the proposed form of award, an opposing party may file objections-, including any objection to any request for costs and any motion for attorney's fees. Any replies must be filed within 5 days of service of the objections.

(4) *Final Award.* Within 10 days of ~~receiving~~ the deadline for filing a the ~~objections~~ reply, the arbitrator must rule on the objections and file one signed original award with the clerk. On the same day the arbitrator must mail or otherwise deliver copies of it to all parties or their counsel.

(c) Arbitrator's Failure to File Award.

(1) *Notice of Decision Constituting the Award.* If an award or stipulation for entry of another form of relief is not filed with the court within ~~50~~ 75 days after the notice of decision is filed, the notice of decision will constitute the arbitrator's award.

(2) *Motion to Alter or Amend.* If the notice of decision becomes the arbitrator's award, a prevailing party seeking costs and/or fees must file a motion to alter or amend the award to include costs and/or fees no later than 90 days after the notice of decision is filed. The arbitrator is authorized to rule on the motion, but the clerk or court administrator must refer it to the assigned judge for appropriate action if the arbitrator does not rule on the motion or file an amended award before Rule 76(e)'s deadlines

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

expire. An opposing party may not file a response unless ordered to do so by the arbitrator or assigned judge.

(3) Effect on the Notice of Appeal Deadline. If a timely motion to alter or amend an award is filed under this rule, the time to file a notice of appeal under Rule 77(b) begins to run from the date of filing of a written decision on that motion.

(d) Judgment. If no appeal is filed by the deadline for filing an appeal under Rule 77(b), any party may file a motion to enter judgment on the award. If no party files such a motion within ~~90~~ 125 days of the filing of the notice of decision and if no appeal is pending, the clerk or court administrator must notify the parties in writing that the action will be dismissed without prejudice unless a motion to enter judgment is filed within 30 days after the date of the notice. If no motion is filed within that time, the court must dismiss the action without prejudice and enter an appropriate order regarding any bond or other posted security. No further notice to the parties is required before dismissing the action.

(e) Referral of an Action to the Assigned Judge. If the arbitrator does not file an award or amended award with the clerk within the later of ~~145~~ 170 days after the arbitrator's appointment or ~~30~~ 110 days after a noticed hearing, the clerk or the court administrator must refer the matter to the assigned judge for appropriate action.

(f) [No change]

(g) Payment of Compensation. The arbitrator is not entitled to receive compensation under Rule 76(f) until after an award or amended award addressing any timely request for costs and/or attorney's fees is filed with the clerk, or, if the parties agree to settle and stipulate to dismiss the action at a proceeding before the arbitrator, until after the action is dismissed.