

SUPREME COURT OF ARIZONA

In the Matter of	)	Arizona Supreme Court
	)	No. R-23-0039
RULES 16 AND 17, RULES OF	)	
PROBATE PROCEDURE	)	
	)	FILED 12/06/2023
	)	
	)	
	)	

**ORDER ADOPTING ON A PERMANENT BASIS
AMENDMENTS TO RULES 16 AND 17 OF THE
ARIZONA RULES OF PROBATE PROCEDURE**

On July 5, 2023, David K. Byers, on behalf of the Administrative Office of the Courts, filed a rule petition requesting expedited consideration and emergency adoption of amendments to Rules 16 and 17 of the Arizona Rules of Probate Procedure. On July 5, 2023, the Court granted the request for expedited consideration and opened the petition for public comment through October 2, 2023, with any reply due no later than October 16, 2023.

On August 24, 2023, the Court entered an order adopting the proposed amendments on an emergency basis, effective October 30, 2023. The order further provided that the Court would consider whether to adopt the amendments on a permanent basis during the December 2023 Rules Agenda. Having considered the petition, the two comments that were received, and the reply,

IT IS ORDERED that the amendments to Rules 16 and 17 of the Arizona Rules of Probate Procedure that were adopted on an emergency basis on August 24, 2023, are adopted permanently, as modified in accordance with Attachment A of this order, effective January 1, 2024. Attachment B to this order shows the changes the Court made to the rule amendments that were previously adopted on an emergency basis.

DATED this 6th day of December, 2023.

/s/
ROBERT BRUTINEL
Chief Justice

TO:

Rule 28 Distribution

David K Byers

David Redkey

Hon Dean M Fink

Hon Jay M Polk

ATTACHMENT A¹

ARIZONA RULES OF PROBATE PROCEDURE

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)-(3) [No change]

(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.”; and

(6) any notice regarding the right to a jury trial required under A.R.S. §§ 14-5309(C) or 14-5405(C).

(b) Required Warning. The notice must include the following warning:

This is a legal notice; your rights may be affected. [Éste es un aviso legal. Sus derechos podrían ser afectados.]

You are not required to attend this hearing, but in some cases A.R.S. § 14-5401(D) may prohibit the court from granting the relief requested in the petition if you have not appeared before the court. However, if you oppose any of the relief requested in the petition that accompanies this notice, you must file with the court a written response at least 7 calendar days before the hearing date or you or your attorney must attend the hearing. Any written response must comply with Rule 15(e) of the Arizona Rules of Probate Procedure. If you do not file a timely response or attend the hearing:

(1) unless otherwise prohibited by law, the court may grant the relief requested in the petition without further proceedings, and

(2) you will not receive additional notices of court proceedings relating to the petition unless you file a demand for notice pursuant to Title 14, Arizona Revised Statutes.

(c)-(e) [No change]

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

Rule 17. Initial Hearing on a Petition

(a) [No change]

(b) Procedure at the Initial Hearing

(1) *No Opposition.* Except as provided in A.R.S. § 14-5401(D), If no interested person has opposed the relief requested in the petition as provided in Rule 15, the court may decide the issues raised in the petition at the initial hearing without setting additional court events.

(2) **[No change]**

(c) [No change]

ATTACHMENT B²

*(Showing Changes from the Rule Amendments
Adopted on an Emergency Basis)*

ARIZONA RULES OF PROBATE PROCEDURE

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)-(3) **[No change]**

(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;

(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”; and

(6) any notice regarding the right to a jury trial required under A.R.S. §§ 14-5309(C) or 14-5405(C).

(b) Required Warning. The notice must include the following warning:

This is a legal notice; your rights may be affected. [Éste es un aviso legal. Sus derechos podrían ser afectados.]

You are not required to attend this hearing ~~except as provided in A.R.S. § 14-5401(D)~~, but in some cases A.R.S. § 14-5401(D) may prohibit the court from granting the relief requested in the petition if you have not appeared before the court. However, if you oppose any of the relief requested in the petition that accompanies this notice, you must file with the court a written response at least 7 calendar days before the hearing date or you or your attorney must attend the hearing. Any written response must comply with Rule 15(e) of the Arizona Rules of Probate Procedure. If you do not file a timely response or attend the hearing:

(1) unless otherwise prohibited by law, the court may grant the relief requested in the petition ~~unless otherwise prohibited by law and~~ without further proceedings, and

² Additions to the text of the rule as amended on an emergency basis are shown by underscoring and deletions are shown by ~~strike-through~~.

(2) you will not receive additional notices of court proceedings relating to the petition unless you file a demand for notice pursuant to Title 14, Arizona Revised Statutes.

(c)-(e) [No change]

Rule 17. Initial Hearing on a Petition

(a) Attendance at the Initial Hearing.

(1) [No change]

(2) *Other Interested Persons and Their Attorneys.*

(A) No Opposition to Relief Requested in Petition. Unless the court has specified otherwise ~~and except as provided in A.R.S. § 14-5401(D)~~, an interested person who does not oppose the relief requested in the petition is not required to attend the initial hearing.

(B) [No change]

(b) Procedure at the Initial Hearing

(1) *No Opposition.* Except as provided in A.R.S. § 14-5401(D), ~~If~~ if no interested person has opposed the relief requested in the petition as provided in Rule 15, the court may decide the issues raised in the petition at the initial hearing without setting additional court events.

(2) [No change]

(c) [No change]