

APPENDIX A

Proposed Rules

TABLE OF CONTENTS FOR THE RULES OF PROCEDURE FOR SPECIAL ACTIONS

PART I. GENERAL PROVISIONS

1. Scope and Construction; Computing Time
2. Special Actions Defined
3. Statutory Authority for Certain Special Actions
4. Grounds for Bringing a Special Action
5. Parties

PART II. ORIGINAL SPECIAL ACTIONS

6. Where to File Original Special Actions
7. Procedures for Original Special Actions
8. Stays in Original Special Actions
9. Decisions and Judgments in Original Special Actions

PART III. APPELLATE SPECIAL ACTIONS

10. General Provisions for Appellate Special Actions
11. Factors for Accepting or Declining Jurisdiction of Appellate Special Actions
12. Certification
13. Petition, Response, and Reply
14. Filing Fees; Service of Documents; Clerk's Distribution of Documents; Request for Oral Argument
15. Procedure for Stay Requests in Appellate Special Actions
16. Costs and Attorney Fees
17. Disposition of Appellate Special Actions
18. Motions for Reconsideration in Appellate Special Actions
19. Petition for Review to the Supreme Court

PART IV. ACTIONS INVOLVING INDUSTRIAL COMMISSION AWARDS

20. Review of Industrial Commission Awards by the Court of Appeals
21. Petition for Special Action Review of Industrial Commission Matters
22. Service and Distribution of Documents in Industrial Commission Matters
23. Notice of Appearance; Respondent's Request for Affirmative Relief in Industrial Commission Matters
24. Briefs in Industrial Commission Matters
25. Action by the Court of Appeals in Industrial Commission Matters

PART I. GENERAL PROVISIONS

Rule 1. Scope and Construction; Computing Time

- (a) **Title.** These are the Rules of Procedure for Special Actions. A rule may be cited as “RPSA 00.”
- (b) **Scope.** These Rules govern procedures for all special actions in the Superior Court of Arizona, the Arizona Court of Appeals, and the Arizona Supreme Court, except where these Rules specify that other rules or sets of rules apply.
- (c) **Construction.** Parties and courts should use and construe these Rules in a just manner that avoids unnecessary delay and expense.
- (d) **Computing Time.** Rules 6(a) and, except electronically served documents, 6(c) of the Rules of Civil Procedure govern the computation of any time period set by these Rules, a court order, or an applicable statute.

Rule 2. Special Actions Defined

- (a) **Generally.** Special actions allow a party to obtain relief in a superior or appellate court from a decision of a body, officer, or person. Grounds for relief include a body, officer, or person failing to exercise discretion they must exercise; failing to perform duties they must perform; acting beyond their jurisdiction or legal authority; or making a decision arbitrarily, capriciously, or in abuse of their discretion.
- (b) **Original Special Actions; Appellate Special Actions.** There are two types of special actions – original special actions and appellate special actions.
 - (1) ***Original Special Actions.*** An original special action begins a case in court. It does not request review of an earlier decision of a court. A party seeks original special action relief by filing a complaint. With few exceptions, jurisdiction is mandatory in original special actions.
 - (2) ***Appellate Special Actions.*** An appellate special action requests review of an earlier decision of a lower court. A party seeks appellate special action relief by filing a petition. With few exceptions, jurisdiction is discretionary in appellate special actions.
- (c) **Old Writs Now Described as Special Actions.** The writs of certiorari, mandamus, or prohibition by which parties formerly obtained relief in proceedings are now called special actions. Special action proceedings should no longer be designated as proceedings for certiorari, mandamus, or prohibition. If a party brings an action formerly described as one for certiorari,

mandamus, or prohibition, whether under A.R.S. §§ 12-2001-2007, A.R.S. §§ 12-2021-2030, or the common law, that action is a special action. These Rules do not enlarge the scope of relief those writs formerly granted.

2025 Comment

Arizona's Constitution authorized the legislature to create the writs that are now described as special actions. Ariz. Const. Art. 6, §§ 5, 18.

Most special actions are appellate special actions. They are governed by Rules 10 through 19. The Supreme Court has jurisdiction over appellate special actions under the Arizona Constitution, Article 6, Section 5, and A.R.S. §§ 12-2001 and 12-2021. The Court of Appeals has jurisdiction over appellate special actions under A.R.S. § 12-120.21. The Superior Court has jurisdiction over appellate special actions under A.R.S. § 12-122. Jurisdiction in appellate special actions is discretionary, except in the rare instances when a statute requires an appellate court to accept jurisdiction. See, for example, A.R.S. § 13-753(I).

Unlike an appellate special action, a court's jurisdiction over an original special action is generally not discretionary, provided the special action complaint alleges the factual and legal basis required by a statute.

Rule 3. Statutory Authority for Certain Special Actions

If any statute, other than those listed in Rule 2(c), authorizes filing a special action, or an action for a writ of certiorari, mandamus, or prohibition, that action is a special action. These special actions, known as statutory special actions, may be either original or appellate special actions. They are governed by these Rules unless the statute authorizing a particular special action contains specific procedures supplementing or contradicting these Rules.

2025 Comment

Most original special actions are statutory special actions filed in the Superior Court that challenge a decision of a public body, officer, or person.

Statutory special actions are sometimes referred to in their enabling legislation by the terms certiorari or mandamus. Examples of statutory special actions (and their subjects) include:

Referred to as certiorari: A.R.S. § 9-957(C) (firemen's pensions); § 11-402 (county officers); § 23-237(C) (youth employment); § 23-423(I) (OSHA review board); §

23-951 (workers' compensation – writ of certiorari); § 28-7046(B) (state highways – opening, altering, vacating); and § 28-8475(B) (airport zoning).

Referred to as mandamus: A.R.S. §§ 1-501(G), 1-502(G) (eligibility for public benefits); § 3-1010(B) (coliseum and exposition center bonds – provision of bond resolution); § 3-3115(D) (agricultural safety – imminent dangers); § 9-531(B) (municipal bonds for financing utilities – provision of resolution for bond issue); § 11-815(H) (county zoning – enforcement); § 11-1006(E) (animal control); § 15-1687 (universities and related institutions – issuance of bonds – contract enforcement); §§ 19-121.03(A), 19-121.02 (review of county recorder actions); §§ 19-122(A), 19-121.01 (refusal of Secretary of State to file petitions); §§ 19-208.04(A), 19-208.02 (refusal of county recorder); §§ 19-208.06(A), 19-208.01 (refusal of filing officer; circulator affidavits); § 23-419(D) (OSHA – imminent dangers); § 23-948 (workers' compensation – jurisdiction for mandamus); § 30-227(B) (Arizona power authority – revenue bonds – additional provisions of bonds); §§ 35-319(B), 12-2021 (handling of public funds – state trust land fund monies); § 35-408 (public finance); § 35-724 (industrial development financing – security for bonds); § 36-1416(1) (municipal housing); § 36-1485(1) (redevelopment areas; clearance); § 36-2818(A) (Arizona Medical Marijuana Act – enforcement and mandamus); § 38-431.04 (public officers); §§ 40-360.25(A), (B), 40-360.32(A) (underground facilities – injunction; mandamus); § 40-422(A) (public utilities); § 40-1133(B) (financing for metropolitan public transit authority); § 42-11052(C) (powers and duties of Department of Revenue – investigating and prosecuting violations); § 45-1714(B) (state water and power plan – remedies); § 46-140.01(C) (applications for public benefits); § 48-149(B) (issuance of revenue bonds by irrigation and agricultural improvement districts – covenants in resolution); § 48-1603 (power districts – failure or neglect of officer to impress lien or collect taxes); § 48-2912 (irrigation districts – remedy; board of supervisors); and § 48-3131 (irrigation and water conservation districts – failure of officials to create lien or collect taxes).

Referred to as special action: A.R.S. § 3-2098(A) (sale of meat – suspension of license); § 9-462.06(K) (board of adjustment; municipal zoning); § 13-753(I) (mental examination – capital defendant); § 13-4437(A) (victims' rights); § 15-141(B) (educational records); § 20-481.30(C) (insurance company holding systems); §§ 23-483(A), 23-481 (safety conditions for boilers, pressure vessels, hot water heaters); §§ 23-491.14(A), 23-491.12 (elevator safety); § 33-420(B) (quiet title); §§ 36-2865(A), (B), 36-2854 (responsible adult use of marijuana – enforcement); §§ 37-301(C), 37-133 (state land auctions); § 39-121.02 (denial of access to public records); §§ 41-194.01(B)(2), 42-5029, 43-206 (attorney general and department of law – violations of state law); § 41-1279.07(G) (legislature – uniform expenditure

reporting system); §§ 47-9527(B), 47-9509 (material misstatements in records (secured transactions)); §§ 48-706(A), 48-705 (community facilities districts); § 48-924(D) (county improvement districts – form and execution of contract); § 48-2047(F) (collector sewer construction); § 48-2837(D) (flood districts); § 48-3706(C) (multi-county water conservation districts); § 48-3734(A) (judicial validation of contracts – multi-county water conservation districts); §§ 48-6021(A), 48-6006(A)(9) (recreational corridor channelization districts – special assessments; assessment lien bonds); §§ 48-6806, 48-6805 (revitalization districts – judicial review); and §§ 48-6815, 48-6818, 48-576 (revitalization districts – special assessments).

The following statutory special actions are original special actions that must be filed in an appellate court: A.R.S. §§ 23-237(C), 23-951 (youth employment); § 23-423(I) (OSHA review board); §§ 23-483(A), 23-481 (safety conditions for boilers, pressure vessels, hot water heaters); §§ 23-491.14(A), 23-491.12 (elevator safety); §§ 35-319(B), 12-2021 (handling of public funds – state trust land fund monies); §§ 37-301(C), 37-133 (state land auctions); §§ 41-194.01(B)(2), 42-5029, 43-206 (attorney general and department of law – violations of state law); § 48-706(A) (municipal improvement districts); § 48-3706(C) (multi-county water conservation districts); § 48-3734(A) (judicial validation of contracts – multi-county water conservation districts); §§ 48-6021(A), 48-6006(A)(9) (recreational corridor channelization districts – special assessments; assessment lien bonds); §§ 48-6806(A), 48-6805 (revitalization districts – judicial review); and §§ 48-6815(A), 48-6818, 48-576 (revitalization districts – special assessments).

The following statutory special action is an appellate special action that must be filed in the Court of Appeals: A.R.S. § 13-753(I) (mental examination – capital defendant).

The following statutory special action is an appellate special action that is generally filed in the Court of Appeals or the Supreme Court, but which should be filed in the Superior Court when challenging the decision of a limited jurisdiction court: A.R.S. § 13-4437(A) (victims' rights).

The Arizona Supreme Court adopts policies and procedures to guide Arizona courts within the Code of Judicial Administration. The Supreme Court there authorized parties to bring special actions that function like statutory special actions, though they were not enacted by the legislature. These include Code of Judicial Administration § 7-201(H) (review of board's final decision on complaints); and § 7-204(H) (private process servers).

Rule 4. Grounds for Bringing a Special Action

A special action may be brought only if:

- (a) a body, officer, or person failed to exercise discretion that they have a duty to exercise; or failed to perform a duty required by law for which they have no discretion;
- (b) a body, officer, or person proceeded, or threatened to proceed, without, or in excess of, jurisdiction or legal authority; or
- (c) a body, officer, or person made a decision that was arbitrary and capricious or an abuse of discretion, which can include a legal error.

Rule 5. Parties

(a) In Original Special Actions.

- (1) ***Who May Be a Plaintiff.*** Any person aggrieved by the action or inaction of a body, officer, or person for the reasons set forth in Rule 4 may file an original special action as a plaintiff.
- (2) ***Naming a Defendant.*** The complaint in an original special action must name as a defendant the body, officer, or person whose decision is being challenged. It must also name as defendants all other interested parties.

(b) In Appellate Special Actions

(1) *Petitioner Defined.*

- (A) **Generally.** Any person aggrieved by a judicial decision for the reasons set forth in Rule 4 may file an appellate special action as a petitioner.
- (B) **Victim as Petitioner.** A victim as defined in Rule 1.4(v) of the Rules of Criminal Procedure may file an appellate special action seeking relief from a decision denying any right guaranteed to victims under Article 2, Section 2.1 of the Arizona Constitution or under any implementing legislation or court rule. A prosecutor may also initiate a special action proceeding seeking such relief at the victim's request.

- (2) ***Respondent Defined.*** The petition in an appellate special action must name as respondents all other parties in the case. The court may allow

other persons to respond. The judge whose decision is being challenged is not a respondent.

- (c) **Other Persons: Intervenors, Joinder, Amicus Curiae.** The court may direct that notice of a special action be given to any person. The court may: (1) allow other persons to intervene subject to Rule 24 of the Rules of Civil Procedure; (2) order joinder of other persons as parties; or (3) allow other persons to participate as amicus curiae.

PART II. ORIGINAL SPECIAL ACTIONS

Rule 6. Where to File Original Special Actions

(a) Original Special Actions Brought in the Superior Court.

- (1) **Generally.** An original special action in the Superior Court must be brought in the county where the body, officer, or person has decided, or should have decided, the matter that is the subject of the special action.
- (2) **State of Arizona.** An original special action involving an officer or body of the State of Arizona may be filed in the Superior Court in Maricopa County or the plaintiff's county of residence.
- (3) **Other Public Officer or Body; Private Entity.** An original special action involving any public officer or body other than a state officer or body, or a special action involving a private entity, must be filed in the county of the principal place of business of such officer, body, or entity. If a private entity has no principal place of business in Arizona, the action may be filed in the Superior Court in Maricopa County or the plaintiff's county of residence.

- (b) **Original Special Actions Filed in the Court of Appeals.** An original special action in the Court of Appeals must be filed in the division containing the county where the action could have been filed in the Superior Court. An original special action filed in the Court of Appeals must allege the county where the action could have been filed in the Superior Court to allow the Court of Appeals to transfer the matter, if needed. The special action may be transferred to the other division of the Court of Appeals under A.R.S. § 12-120(E).

- (c) **Original Special Actions Filed in the Supreme Court.** An original special action filed in the Supreme Court must allege the county where the action

could have been filed in the Superior Court to allow the Supreme Court to transfer the matter, if needed.

- (d) **Transfer or Dismissal for Improperly Filing in Appellate Court.** If an original special action is filed in the Court of Appeals or the Supreme Court and the action might have been properly initiated in the Superior Court, the complaint must state the reasons for not filing in the Superior Court. If the appellate court finds these reasons insufficient, it will transfer or dismiss the complaint without prejudice.
- (e) **Transfer to Resolve Fact Issue.** The Court of Appeals and the Supreme Court do not conduct trials in original special actions. If a special action raises a triable issue of fact, an appellate court may designate a master to try the issue or order the Superior Court to try the issue, subject to returning any unresolved portion of the action to the appellate court after trial.

Rule 7. Procedures for Original Special Actions

(a) Pleadings.

- (1) ***Complaint.*** A plaintiff initiates an original special action by filing a complaint that must be entitled “complaint for special action.” The caption and format of the complaint should comply with Rules 5.2, 10(a), and 10(b) of the Rules of Civil Procedure. When filing a complaint in the Superior Court, the plaintiff must also submit to the clerk a cover sheet using a form designated by the court.
 - (2) ***Answer or Response.*** Unless the court orders otherwise, a defendant must file an answer or other appropriate response in the time allowed under Rule 12(a) of the Rules of Civil Procedure.
- (b) **Evidence Supporting Pleadings.** A special action complaint, or an answer or response to a complaint, may be supported by verifications, affidavits, or other evidence. The court may order any party or person to file with the court any records, or a part of those records, in the party’s or person’s possession.
 - (c) **Order to Show Cause.** The plaintiff in an original special action may file an application for an order to show cause why the requested relief should not be granted. If the court issues an order to show cause, the court must set an expedited response date and may set a hearing on the application, as provided in Rule 7.3 of the Rules of Civil Procedure.

(d) Summons and Service.

- (1) *In the Superior Court.*** On or after filing a special action complaint in the Superior Court, the plaintiff must present a summons to the clerk for issuance. The summons and special action complaint, and any order to show cause, must be served as provided in Rules 4, 4.1, or 4.2 of the Rules of Civil Procedure, unless the court otherwise specifies the manner and time for service.
 - (2) *In an Appellate Court.*** In an appellate court, the plaintiff does not serve a summons. Instead, upon the filing of a special action complaint, the appellate court will issue a scheduling order that contains the information in Rule 4(b)(1) of the Rules of Civil Procedure and directs the plaintiff to serve the special action complaint and scheduling order.
- (e) Service After the Complaint.** Every party and amicus curiae filing a document in an original special action must serve a copy of the document on all other parties to the action, including any amicus curiae. Parties and amici curiae must serve all documents they file by the means set forth in Rule 5(c)(2) of the Rules of Civil Procedure and provide a certificate of service under Rule 5(c)(3) of the Rules of Civil Procedure.
- (f) Scheduling and Management.** As soon as practicable, but no later than 30 days after any defendant files an answer or other appropriate response to the complaint, the court must schedule a speedy hearing date to determine the course of further proceedings, including what briefing, discovery, evidentiary proceedings, or hearings are needed, and to schedule them.
- (g) Discovery Generally Prohibited.** Discovery is not routinely permitted in special actions. If a special action raises a material issue of fact, the court may issue special orders concerning discovery.
- (h) Trial.** If the court orders a trial, it may use an advisory jury to assist in resolving factual issues.
- (i) Costs and Attorney Fees.** A party may claim costs and attorney fees in a special action as in any other civil action.

2025 Comment

Rule 7(g)

Rule 7(g) gives the court in original special actions the latitude to allow discovery in those rare instances when it is necessary. *See, e.g., Lewis v. Arizona Dep't of Econ.*

Sec., 186 Ariz. 610, 616 (App. 1996). For example, if the pleadings contain allegations of extra-record information review by an administrative body or its members, discovery may be required to determine the true nature and extent of the actual administrative record. *See Austin Shea (Arizona) 7th St. & Van Buren, L.L.C. v. City of Phoenix*, 213 Ariz. 385, 392 (App. 2006) (“When a superior court is asked to review a decision made by a board of adjustment, the superior court is presented with and reviews the record before the board when the board made the decision.”).

As another example, limited discovery and disclosure in the form of expert witness depositions and the submission of written declarations regarding expert opinions was warranted in a special action that raised a disputed issue of fact about the impact of the public disclosure of test questions on the results of a standardized state exam. *See Phoenix Newspapers, Inc. v. Keegan*, 201 Ariz. 344, 347, 350 (App. 2001).

In special actions, “the speedy determination of the issue is of prime consideration.” *See Riggins v. Graham*, 20 Ariz. App. 196, 198 (1973). Unless an appropriate showing is made on which the court in an original special action can ground its exercise of discretion to issue special orders concerning discovery, the parties are generally not entitled to discovery. *See King v. Neely*, 143 Ariz. 329, 331 (App. 1984) (affirming trial court’s denial of deposition of county attorney when there was no showing of illegality or actions in excess of power).

Rule 7(h)

Rule 7(h) is grounded in A.R.S. § 12-2025, permitting jury use in matters of mandamus. The jury’s function is advisory only. *See Brown v. Greer*, 16 Ariz. 215, 218 (1914).

Rule 8. Stays in Original Special Actions

- (a) **No Automatic Stays.** Filing an original special action complaint does not automatically stay any action or proceeding of a body, officer, or person.
- (b) **When Stays Are Issued.** The court may stay any action or proceeding of a body, officer, or person—with or without notice to the other parties or a hearing—as provided in Rule 65 of the Rules of Civil Procedure.
- (c) **Stays Pending Appeal.** While an appeal is pending from a decision in an original special action, the court that issued the decision being challenged may grant an injunction under Rule 62(e) of the Rules of Civil Procedure.

Rule 9. Decisions and Judgments in Original Special Actions

- (a) **Decisions.** The court must state the grounds for a decision in an original special action. The court may:
- (1) grant all or part of the requested relief;
 - (2) wholly or partly affirm, vacate, or modify the challenged decision;
 - (3) order or prohibit specified action by any defendant; or
 - (4) dismiss a special action with or without prejudice.
- (b) **Judgments.** Judgments in an original special action are the same as judgments in any civil action and must comply with Rules 54 and 58 of the Rules of Civil Procedure.

PART III. APPELLATE SPECIAL ACTIONS

Rule 10. General Provisions for Appellate Special Actions

- (a) **Other Rules Applicable.** To the extent they are consistent with these Rules:
- (1) the Rules of Civil Appellate Procedure (ARCAP) apply to appellate special actions in the Court of Appeals or the Supreme Court.
 - (2) the Superior Court Rules of Appellate Procedure – Civil apply to appellate special actions in the Superior Court.
- (b) **Forum.** Appellate special actions are those requesting review of an earlier decision of a lower court. A party may file an appellate special action in:
- (1) the Superior Court, seeking review of a decision of a justice court, municipal court, or other tribunal as allowed by law;
 - (2) the Court of Appeals, seeking review of a decision of the Superior Court, an administrative law judge, tribunal, or public body as allowed by law; or
 - (3) the Supreme Court, seeking review of a decision of any other court.
- (c) **Improper Forum.** If a special action is filed in the Court of Appeals or Supreme Court and the action might have been properly initiated in a lower court, the petition must state the reasons for not filing it in the lower court. If the appellate court finds these reasons insufficient, it will dismiss the petition.

- (d) **Jurisdiction.** The court may decline special action jurisdiction at any time and without oral argument. If the court accepts jurisdiction, it must render a decision on the merits.
- (e) **Exercising Special Action Jurisdiction in a Direct Appeal.** If the reviewing court lacks jurisdiction over a direct appeal for reasons other than timeliness, the court may—on a party’s request or on its own initiative—treat the appeal as a special action and accept special action jurisdiction.
- (f) **Order Pending Further Proceedings.** The court may issue any order during the course of a special action to facilitate or expedite consideration of the case.
- (g) **Suspension and Acceleration.** For good cause, a court may suspend or accelerate any procedure for an appellate special action.
- (h) **Sanctions.** The court may impose any sanction consistent with ARCAP 25.

Rule 11. Factors for Accepting or Declining Jurisdiction of Appellate Special Actions

- (a) **Discretion.** Whether to accept jurisdiction of an appellate special action is within the court’s discretion, unless a statute or an order requires the court to accept jurisdiction.
- (b) **Factors That Support Accepting Jurisdiction.** In deciding whether to accept jurisdiction, the court should consider, among other factors, whether the petition asks the court to resolve questions:
 - (1) certified for review under Rule 12;
 - (2) of privileges or immunities;
 - (3) of first impression;
 - (4) of statewide importance;
 - (5) tending to evade review, including questions that may become moot before an appeal;
 - (6) involving the welfare of children where the harm complained of can only be prevented by resolution before an appeal;
 - (7) the resolution of which will materially advance the efficient management of the case, other than issues presented by ordinary dispositive motion practice; or

(8) concerning a decision that cannot be justified under any rule of law.

These factors support but do not require accepting jurisdiction.

(c) **Factors That Support Declining Jurisdiction.** In deciding whether to accept jurisdiction, the court should also consider, among other factors, whether the petitioner unreasonably delayed in filing the petition, or whether the petition asks the court to resolve questions:

(1) of fact;

(2) resolved under Rules 12(b)(6) or 56 of the Rules of Civil Procedure, or Rules 29(a)(6) or 79 of the Rules of Family Law Procedure;

(3) clearly resolved by settled law;

(4) equally appropriate to address by appeal; or

(5) the resolution of which will not materially advance the efficient management of the case.

These factors support but do not require declining jurisdiction.

Rule 12. Certification

(a) **Contents.** A court may certify a question arising from any decision it has made as one it believes should be reviewed by special action. The certification must state the question certified for review and the reasons special action review is warranted, including any of the grounds listed in Rule 11(b).

(b) **Form.** The certification may be in the court's written decision, a transcript of a proceeding, or a separate writing submitted by a party and approved by the court.

(c) **Attachment to Filed Petition.** A party desiring review of the certified question may file a petition for special action. The appendix to the petition must include the certification. If the question is certified orally on the record, the appendix must include the transcript containing the certification.

Rule 13. Petition, Response, and Reply

(a) **Generally.** A petitioner initiates an appellate special action by filing a petition as prescribed by this rule, listing every other party in the case as respondents. Objections to the relief requested by the petition must be in the form of a

written response. A petition for special action, a response to a petition, or a reply filed in an appellate special action, regardless of whether the special action arises from a civil or criminal proceeding, must comply with ARCAP 4(a) through (h), 4.1, and 4.2.

- (b) **Cover Sheet.** A petition for special action must be accompanied by a special action cover sheet using a form designated by the court.
- (c) **Contents of a Petition.** The petition must be a single document. It must include:
 - (1) a jurisdictional statement;
 - (2) a statement of the issues;
 - (3) a statement of facts, with appropriate references to the record;
 - (4) an argument containing the petitioner's contentions and reasoning with respect to the issues presented, with citations to statutes and other legal authorities; and
 - (5) the case name and number of any other appeal, special action, or petition for review known to the petitioner that is related to this special action through the same parties, events, issues, or transactions giving rise to this action.
- (d) **Response.**
 - (1) **Generally.** A respondent may file a response only if the court orders one, but the court will not grant relief without ordering a response.
 - (2) **Time to File a Response.** The response must be filed within the time ordered by the court, which is presumptively 7 days after entry of the court's order.
 - (3) **Content.** A response should include a statement of any facts that are not contained in the petition, and the respondent's contentions and reasoning with respect to the issues presented.
- (e) **Appendices.**
 - (1) **By Petitioner.** A petitioner must file an appendix that includes a copy of the decision being challenged and copies of all documents from the trial court's record the reviewing court will need to decide the issues the petition raises. Any references to the record appearing in the petition

must be supported by a document in the appendix and identify its location in the appendix by page number.

- (2) ***By Respondent.*** A respondent may file an appendix with the response. The appendix should not include any documents that are already included in the petitioner's appendix. The appendix should include only those additional documents that the court will need to decide the issues raised in the petition.
- (3) ***Form.*** An appendix must comply with ARCAP 13.1(c); any appendix filed electronically should, if feasible, comply with ARCAP 13.1(d); and any appendix filed in paper must comply with ARCAP 13.1(e). An appendix filed in paper that exceeds 15 pages must be fastened together and filed separately from the petition or response.
- (f) **Reply.** A petitioner may file a reply only if the court orders one and only within the time specified by the court.
- (g) **Length of Petition, Response, and Reply.** Unless the court orders otherwise:

 - (1) petitions and responses must not exceed 10,500 words excluding its cover page, caption, date and signature blocks, table of contents and citations, and certificates of service and compliance; and
 - (2) a reply, if allowed, must not exceed 5,250 words excluding its cover page, caption, date and signature blocks, table of contents and citations, and certificates of service and compliance.
- (h) **Certificate of Compliance.** Every petition, response, and reply must be accompanied by a certificate of compliance that complies with ARCAP 14(a)(5).
- (i) **Amicus Curiae.** ARCAP 16 governs requests to participate as amicus curiae and the requirements for amicus curiae briefs. Amicus curiae briefs must be filed as expeditiously as possible after the petition for special action is filed. An amicus curiae brief must not exceed 8,500 words excluding its cover page, caption, date and signature blocks, table of contents and citations, and certificates of service and compliance.

2025 Comment

Beginning with the 2025 revisions to these Rules, a respondent in an appellate special action is no longer referred to as a real party in interest. In addition, the judge

whose decision is being challenged is no longer a respondent in an appellate special action. Consistent with that change, Rule 12(a) provides that a judge whose decision is being challenged may certify a question or issue within any decision he or she has made as one that should be reviewed by special action.

Rule 14. Filing Fees; Service of Documents; Clerk's Distribution of Documents; Request for Oral Argument

- (a) Payment of Filing Fee.** A petition for special action and response must be accompanied by the statutorily required filing fee or an application for a fee waiver or deferral unless the filing party is exempt.
- (b) Special Provisions Regarding Filing Documents.**

 - (1) *Filing Documents by Mail.*** If filing is accomplished by U.S. Mail or an express mail service addressed to the clerk, the filing is not timely unless it is received by the clerk within the permitted time.
 - (2) *Filing by an Incarcerated Party.*** An incarcerated party must include in the certificate of service the date the party delivered the document to jail or prison authorities for mailing.
- (c) Service of All Documents Required; Manner of Service.** Every party and amicus curiae filing a document in an appellate special action must serve a copy of the document on all other parties, any amicus curiae, and the judge whose decision is being challenged. Parties and amici curiae must serve all documents they file by the means set forth in Rule 5(c)(2) of the Rules of Civil Procedure and provide a certificate of service under ARCAP 4(g).
- (d) Distribution.** The reviewing court's clerk must distribute all orders and decisions in an appellate special action to all parties and any amicus curiae in the case as well as to any judge identified in the petition whose decision is being challenged, as provided in ARCAP 4(i).
- (e) Oral Argument.** A party may file a separate request for oral argument with the petition or response. The court may order oral argument, or it may issue a decision without oral argument. If the court grants a request for oral argument, or if it orders oral argument on its own, the clerk will notify the parties of the time and place for oral argument and the allocation of time for each side.

2025 Comment

Filing fees in the appellate courts are established by A.R.S. § 12-119.01 and § 12-120.31. These fees may be deferred or waived where filers are eligible by reason of the receipt of certain benefits or insufficiency of income or other factors provided in the Arizona Code of Judicial Administration § 5-206. When considering whether to apply for a waiver of fees in special action filings, criminal defendants are encouraged to review both the Arizona Code of Judicial Administration § 5-206 and Article 2, Section 24 of the Arizona Constitution, which provides that “in no instance shall any accused person before final judgment be compelled to advance money or fees to secure the rights herein guaranteed.”

Rule 15. Procedure for Stay Requests in Appellate Special Actions.

- (a) **Generally.** A petitioner may move a reviewing court to stay the decision challenged by special action, subject to the provisions of this rule.
- (b) **Motion in Court That Issued Challenged Decision.** Before moving to stay the challenged decision in a reviewing court, the petitioner should move for a stay in the court that issued the decision. Except as provided in section (c), a reviewing court has good cause to summarily deny a motion for stay if the petitioner did not first move for a stay in the lower court.
- (c) **Exceptions.** A petitioner may move for a stay in a reviewing court without receiving an order on a motion for a stay in the lower court if either:
 - (1) it would be impracticable to move for a stay in the lower court that issued the challenged decision; or
 - (2) the petitioner moved for the stay in the lower court, but that court has not ruled on the motion, and it would be impracticable to wait for an order.
- (d) **Stay on the Court’s Initiative.** The reviewing court may issue a stay on its own initiative.
- (e) **Separate Stay Filing in Superior Court and Court of Appeals.** A petitioner must file a motion for stay as a document separate from the petition and appendix. Absent extraordinary circumstances, a petitioner should file a motion for stay with the petition and appendix.

- (f) **Stay in the Supreme Court.** A party filing a petition for review in the Supreme Court under Rule 19 may file a motion asking the Supreme Court to stay the lower court decision.
- (g) **Stay Conference in Reviewing Court.**
 - (1) ***Superior Court.*** A petitioner must arrange for a stay conference through the chambers of the assigned judge and notify opposing parties when the court will hear the stay request.
 - (2) ***Court of Appeals.*** A petitioner must arrange for a stay conference through the chambers of the presiding judge of the panel to which the case has been assigned and notify opposing parties when the court will hear the stay request.
 - (3) ***Supreme Court.*** If a justice orders a stay hearing, the court will contact the parties to arrange a conference.
- (h) **Continued Jurisdiction.** Unless the reviewing court issues a stay, the court from which special action relief is sought retains jurisdiction over the case, including those matters as to which relief is sought.

Rule 16. Costs and Attorney Fees.

- (a) **Claim for Attorney Fees.** Any claim for fees must be made in the petition or response and must cite the authority for the award with the specificity required by ARCAP 21(a)(2).
- (b) **Opposing a Claim for Attorney Fees.** Any party opposing a claim for attorney fees raised in a petition or a cross-petition must do so in the response to a petition or cross-petition. Any party opposing a claim for attorney fees raised in a response either to a petition or a cross-petition must do so in a separate brief in opposition filed no later than 10 days after the notice is served. The brief may not exceed 4 pages.
- (c) **Statement of Costs and Attorney Fees; Objections.** A party may file a statement of costs and attorney fees within 10 days after the court has issued an order declining jurisdiction or the clerk has given notice that the court has rendered a decision on the merits. Objections to a statement of costs or attorney fees must be filed within 10 days after service of the statement. A reply to the objection must be filed within 5 days after service of the objection.

Rule 17. Disposition of Appellate Special Actions

- (a) Jurisdiction Declined.** Orders declining special action jurisdiction must be in writing and need not state reasons for the decision.
- (b) Jurisdiction Accepted.** If the court accepts special action jurisdiction, orders granting or denying relief must be in writing and state the grounds for the decision.
- (c) Effectiveness of Decision.** The decision will become effective when the mandate or termination letter is issued unless the decision states that it is effective immediately.

Rule 18. Motions for Reconsideration in Appellate Special Actions

(a) Filings Permitted.

- (1) Motion for Reconsideration.** A motion for reconsideration requests the court to consider whether its decision contained an erroneous determination of material fact or law. Any party may file a motion for reconsideration within 15 days after the clerk gives written notice of the decision in an appellate special action. An additional 5 days will be added for any party to whom the decision is sent only by U.S. Mail. The motion must state the particular grounds for reconsideration, as provided in ARCAP 22(b).
 - (2) Motion for Publication.** A motion for publication in the Court of Appeals will be treated as a motion for reconsideration and must be filed within the same time frame.
 - (3) Response.** A party may file a response only if the court orders one, but relief may not be granted without a response. If the court orders a response, it must be filed and served within the time ordered by the court, which is presumptively 7 days after entry of the court's order.
- (b) When Motions for Reconsideration Are Not Permitted.** A motion for reconsideration must not be filed if:
- (1)** the court has declined to accept jurisdiction of the petition; or
 - (2)** the decision states that it is effective immediately, or that the clerk will immediately issue the mandate or termination letter.

Rule 19. Petition for Review to the Supreme Court

- (a) **From a Decision of the Court of Appeals.** A party may petition the Supreme Court to review a special action decision of the Court of Appeals, including a decision that declines jurisdiction or grants or denies relief.
- (b) **Filing Fees.** For petitions arising out of a criminal action, the Supreme Court clerk may not assess a filing fee. For all other petitions, a filing fee must be paid when the petition is filed, unless the party has requested and the court has granted a deferral or waiver, or the party is exempt.
- (c) **Caption.** Any petition for review filed under this rule must be captioned “Petition for Review of a Special Action Decision of the Court of Appeals,” and must be filed with the Supreme Court clerk.
- (d) **Time for Filing a Petition or Cross-Petition for Review.** A party may file a petition for review in the Supreme Court within 30 days after the Court of Appeals has filed its decision or 15 days after the Court of Appeals clerk has distributed a notice of decision on a motion for reconsideration, whichever is later. An opposing party may file a cross-petition for review in the Supreme Court within 15 days after service of a petition for review.
- (e) **Supplemental Briefs; Oral Argument.** If the Supreme Court grants a petition or cross-petition for review, it may order supplemental briefs, oral argument, or both. Within 15 days after the Supreme Court clerk provides notice of the order granting review, a party may move for leave to file supplemental briefs or for oral argument.
- (f) **Criminal Rules; ARCAP.** For petitions for review arising out of a criminal proceeding, Rule 31.21 of the Rules of Criminal Procedure applies. For all other petitions for review, ARCAP 23 applies.

PART IV. ACTIONS INVOLVING INDUSTRIAL COMMISSION AWARDS

Rule 20. Review of Industrial Commission Awards by the Court of Appeals

- (a) **Award Defined.** In Rules 20 through 25 of these Rules, “award” refers to awards (A.R.S. § 23-942), orders (A.R.S. § 23-237), decisions (A.R.S. §§ 23-481, 23-491.12), and decisions upon review (A.R.S. §§ 23-481, 23-943, 23-491.12), issued by the Industrial Commission of Arizona (“Commission”).

- (b) **Process for Review.** The Court of Appeals reviews an award not by a writ of certiorari, but in accordance with the procedures of Rules 20 through 25 of these Rules. Review of an award takes precedence over all civil cases except matters of general public interest, election cases, and those matters involving or affecting the Corporation Commission.
- (c) **ARCAP.** Except as provided in Rules 20 through 25 of these Rules, the Rules of Civil Appellate Procedure apply to appellate review of awards.

Rule 21. Petitions for Special Action Review of Industrial Commission Matters

- (a) **Title and Signature.** A petitioner initiates appellate review of an award by filing a petition in the Court of Appeals designated as a “Special Action – Industrial Commission.” The petition must be signed by the petitioner or the petitioner’s attorney.
- (b) **Caption.** The caption of the petition and all orders, briefs, and documents must name each party to the award, including the Commission, and must contain an appropriate designation of the interest of each party. The caption must also contain the Commission claim number and the insurer’s claim number in workers’ compensation matters.
- (c) **Content.** The petition must identify the award from which review is sought, including the date. The petition must ask the Court of Appeals clerk to issue a writ of review directing the Commission to certify the record (referred to as “the Commission record”) to the Court of Appeals.
- (d) **Payment of Filing Fee.** A petition for special action and response must be accompanied by the statutorily required filing fee or an application for a fee waiver or deferral, unless the filing party has requested and the court has granted a deferral or waiver, or the party is exempt.
- (e) **Restricted Access.** The clerk and the parties must maintain the confidentiality of the Commission record as provided by law.

Rule 22. Service and Distribution of Documents in Industrial Commission Matters

- (a) **Service of the Petition.** The petitioner must serve all other parties with copies of the petition and must serve the Commission by serving its chief counsel. The petitioner may serve the petition on any other party who appeared by counsel before the Commission as provided in Rule 5(c) of the Rules of Civil Procedure. The petitioner may serve a party who appeared before the

Commission without counsel by mailing the petition to that party's last known address shown in the Commission's claim file. Service is complete on the date of mailing. The petition must be accompanied by a certificate of service.

- (b) **Distribution of the Writ of Review.** The clerk must distribute the Writ of Review to all parties, including the Commission chief counsel, and direct the Commission to certify its record and return it to the Court of Appeals within 10 days after the writ's date of distribution. The clerk will notify the parties of the date of the Commission's submission of the record by sending them a notice of receipt of the Commission record.
- (c) **Service of Other Documents.** All briefs, motions, and other documents filed in the Court of Appeals after the original petition and writ of review must be served on all the other parties as provided in Rule 5(c) of the Rules of Civil Procedure. Mailing a copy to the Commission rather than to its chief counsel does not comply with this rule.

Rule 23. Notice of Appearance; Respondent's Request for Affirmative Relief in Industrial Commission Matters

- (a) **Time For Filing.** Any party other than the petitioner who intends to participate in the Court of Appeals' review of the award must file a notice of appearance in the Court of Appeals within 10 days after the distribution described in Rule 22(b) and must serve a copy of the notice on all other parties as required in Rule 22(c).
- (b) **Effect of Not Filing and Serving a Notice of Appearance.** If a party does not file and serve a notice of appearance, the petitioner and other parties are not required to serve that party with copies of any briefs, motions, or other documents they file in the Court of Appeals after the original petition, and the clerk is not required to distribute to that party any later order or decision of the Court of Appeals. A party that failed to file a notice of appearance may move for leave to participate.
- (c) **Request for Affirmative Relief.** If any party other than the petitioner could have filed a special action petition in the first instance, and that party intends to request affirmative relief in the Court of Appeals, the party must include a statement of that intent in the party's notice of appearance. The party must include the factual and legal basis of the request for affirmative relief in that party's answering brief.

Rule 24. Briefs in Industrial Commission Matters

The petitioner must file the opening brief with the clerk and serve it on the other parties within 60 days from the date of the clerk's notice of receipt of the Commission record, as provided in Rule 22(b). Answering and reply briefs must be filed and served as provided in ARCAP 15(a).

Rule 25. Action by the Court of Appeals in Industrial Commission Matters

- (a) Disposition.** The Court of Appeals may dismiss a special action petition on any ground applicable to civil appeals. The court may decide a case on the merits only by an opinion or a memorandum decision stating the grounds.
- (b) Scope of Review.** The Court of Appeals' review must be limited to determining whether the Commission acted without or in excess of its power and, if findings of fact were made, whether such findings of fact support the award.
- (c) Costs Against the Commission.** Costs may not be assessed against the Commission.