

Greg Sakall
Judge, Division 23
Pima County Superior Court
110 W Congress
Tucson, AZ 85701
Telephone: (520) 724-8301
datascoe@courts.az.gov

**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of)	Arizona Supreme Court No. R-23-0008
)	
PETITION TO AMEND RULES)	
91(h) AND 92(c),)	
ARIZONA RULES OF FAMILY)	REPLY IN SUPPORT OF
LAW PROCEDURE)	COFC's ALTERNATIVE
)	PROPOSAL
_____)	

Consistent with this Court's August 26, 2025 Order Circulating Alternative Proposal for Public Comment, the Committee on Family Court ("COFC") files this Reply and requests that the Court adopt COFC's alternative proposal.

In response to COFC's alternative proposal, the State Bar filed the only Comment. The State Bar takes the position that, with a stylistic change only, the Court should adopt the original proposal by former Maricopa County Superior Court Family Court Presiding Judge Bruce R. Cohen. The State Bar objects to COFC's alternative proposal as the alternative "add[s] an additional hearing (increasing time and cost to the litigants), rather than the specific cure proposed by Judge Cohen to ensure timely service of the petition to

modify or enforce the underlying judgment upon the opposing party.” State Bar Comment, p. 2.

Judge Cohen’s original petition sought to address a problem—namely, the number of first scheduled post-decree hearing dates that do not proceed as scheduled and court calendar congestion. Petition, p. 2-3. He estimated that occurred in up to 50% of scheduled proceedings. *Id.*, p. 3. Judge Cohen sought to maintain the goal of reducing “the points of contact a litigant would be required to make with the court before a hearing.” *Id.*, p. 2.

COFC’s alternative proposal does create another calendar event for the family court and the parties. However, considering the realities of the family court in 2025, COFC believes the brief, virtual return hearing is the preferred approach.

Data analysis in Maricopa County shows that in 37%-40% of cases, the moving party had not effectuated service in a timely manner before the first scheduled post-decree hearing. In addition, self-represented litigants file the majority of post-decree petitions, and many of those parties generally struggle with service efforts.

COFC’s alternative proposal was based, in part, upon the practice in Pinal County where they set return hearings, and their practice has met with widespread support.

Additionally, Maricopa County has been running two pilot programs with return hearings—one for IV-D child support hearings and one for parenting time enforcement (single-issue) petitions. They are scheduled as 10-minute virtual hearings to confirm service. Maricopa County conducts up to 70 return hearings per week, and for the IV-D pilot program, it has conducted over 900 return hearings. Maricopa County has found the return hearings to be customer-friendly and very effective. The following are some benefits of the return hearings:

- Self-represented litigants have appreciated the virtual hearings as they allow parties to appear during a work break, and they do not need to take time off work.
- During the return hearing, the family court can schedule necessary conferences or hearings and get input from the parties as to their availability while they have access to their calendars. Parties have appreciated the ability to give input on scheduling to avoid calendar conflicts.
- The return hearings also allow the family court to provide self-represented litigants with appropriate legal information including service of process resources.

- The return hearings also allow the judicial officer to triage the cases. Benefits of triage include identifying whether a wrong petition has been filed, if the parties have otherwise resolved the issues, and if there are additional issues, such as allegations of domestic violence, which may require additional time at a scheduled conference or hearing.
- Lawyers who have participated in the hearings do not object once they grasp that the brief hearing is just about logistics and not about argument and evidence.

Considering the State Bar's Comment and the pilot program experience in Maricopa County, COFC would support a rebranding of a "return hearing" as an "initial conference" if the Court desires. If so, the modified alternative proposal as to Rules 76.2, 91, and 92 can be found below. In all other respects, COFC respectfully requests that the Court adopt COFC's alternative proposal.

Rule 76.2. Sanctions for Failure to Participate in a Court Proceeding

(a) Grounds for Imposing Sanctions. In a pre-judgment or post-judgment proceeding, the court upon motion or its own initiative may impose sanctions if a party or attorney:

- (1) fails to obey a scheduling or pretrial order;

(2) fails to appear at an Initial Conference, a Resolution Management Conference, a scheduling conference, an evidentiary hearing, a trial, or other scheduled hearing;

(3) – (4) no changes

(b)-(c) No changes

Rule 91. Modification or Enforcement of Judgment

(a) – (h) No changes

(i) Initial Review of Petitions.

(1) *Setting a Conference or Hearing or Rejecting a Petition.* Upon receipt of the petition and proposed Order to Appear, the court must review the petition and (a) reject the petition for failure to state grounds upon which relief can be granted, or (b) issue the Order to Appear. If the court rejects the petition, the court must provide the applicant with an explanation of the deficiency and provide an opportunity to correct the deficiency within 30 days after the date of the rejection notice. In deciding whether to reject a petition, the court cannot assess credibility or weigh evidence. If the court issues the Order to Appear, it must set an initial conference, resolution management conference, or evidentiary hearing, as appropriate. No evidence may be taken at an initial conference or resolution management conference except under emergency circumstances.

(2) – (3) No change

(4) Scope of Initial Conference. At an initial conference, the court may inquire as to whether service has been effectuated, and in the court's discretion, schedule a resolution management conference or evidentiary hearing, order the parties to meet and confer, or order dismissal under Rule 91(k), if

appropriate. The court may make any additional orders that the court finds appropriate to ensure a timely resolution of the petition.

(j) Manner and Timing of Service. The applicant must serve the petition, and every order, warrant, and affidavit in support of the petition, on all other parties in the manner required under Rules 40(f)(1) or 41, as applicable. The applicant must make good faith efforts to complete service promptly and within 10 days after the receipt of the issued order to appear but must complete service in no event later than 5 days before an initial conference or 20 days before the a resolution management conference or evidentiary hearing.

(k) – No change

(l) Responses; Time for Response. Unless a statute or rule requires otherwise, a party served with a petition may, but is not required to, file a response to the petition. However, if a party chooses to respond or when these rules specifically require a response, the responding party must file and provide a copy of the response to the applicant or, if represented, the applicant's attorney. Unless the court orders otherwise, the response must be filed at least 3 days before the scheduled resolution management conference or evidentiary hearing.

(m) Disclosure. In any proceeding under Rule 91 or Rules 91.1 through 91.7, each party must comply with Rule 49 within the time established by the court at the initial conference, resolution management conference, or evidentiary hearing or as agreed by the parties.

(n) – (p) No changes

Rule 92. Civil Contempt and Sanctions for Non-Compliance with a Court Order

(a) – (b) No changes

(c) Order to Appear. The order to appear must specify the date, time, and place of ~~the~~ an initial conference or evidentiary hearing, and must contain the following notice using substantially the following language:

Failure to appear at the hearing may result in the court issuing a child support or civil warrant for your arrest. If you are arrested, you may be held in jail for up to 24 hours before you see a judge.

(d) Hearing. The court:

(1) at the initial conference, may inquire as to whether service has been effectuated, and, in the court's discretion, schedule an evidentiary hearing. The court may make any additional orders that the court finds appropriate to ensure a timely resolution of the petition.

(2) at the evidentiary hearing on the petition, ~~the court~~ must make an express finding whether the alleged contemnor had notice of the petition and order to appear. The court also must also determine whether the party who filed the petition has established that:

(i) the court entered a prior order;

(ii) the alleged contemnor had notice of the prior order; and

(iii) the alleged contemnor failed to comply with the order.

(e) – (g) No changes

DATED this 13th day of October, 2025.

/s/ Greg Sakall

Chair, Committee on Family Court