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**IN THE SUPREME COURT STATE OF ARIZONA**

In the Matter of PETITION	)	
TO AMEND RULES	)	Supreme Court
4(a), 4(b), 4(f), 11(a), 16(d),	)	No. R- _____
30(b)(2), 30(b)(4), 30(e), 33(a),	)	
41(a)(1)(B), and 58(a), Arizona	)	Petition to Amend
Rules of Civil Procedure and Rules	)	Rules 4(a), 4(b), 4(f), 11(a), 16(d),
40(A), 40(B), 40(F), 31(A),	)	30(b)(2), 30(b)(4), 30(e), 33(a),
76(C)(1), 57(B)(2), 57(B)(4), 57(E),	)	41(a)(1)(B), and 58(a) ARCP and
60(A), 46(A), and 81(A), Arizona	)	Rules 40(A), 40(B), 40(F), 31(A),
Rules of Family Law	)	76(C)(1), 57(B)(2), 57(B)(4), 57(E),
Procedure regarding signatures	)	60(A), 46(A), and 81(A), ARFLP
_____	)	

**INTRODUCTION**

Pursuant to Rule 28 of the Rules of the Supreme Court, the Clerks of the Superior Courts in the State of Arizona respectfully petition the Arizona Supreme Court to amend Rules 4(a), 4(b), 4(f), 11(a), 16(d), 30(b)(2), 30(b)(4), 30(e), 33(a), 41(a)(1)(B), and 58(a) of the Arizona Rules of Civil Procedure and the equivalent Family Law Rules 40(A), 40(B), 40(F), 31(A), 76(C)(1), 57(B)(2), 57(B)(4), 57(E), 60(A), 46(A), and 81(A) of the Arizona Rules of Family Law Procedure to authorize electronic signatures on electronically filed documents with the full force and effect of traditional ink signatures on paper documents, as detailed below.

It is envisioned that, before these rule changes can apply to a county in

Arizona, that county must meet the Administrative Office of the Court's criteria for implementing an electronic filing system in that county. A county seeking approval for an electronic filing system after implementation of the rule changes in this amendment would seek such approval through Judicial Council by the Clerk of the Superior Court and Presiding Judge submitting a comprehensive electronic filing plan.

## **I. SUMMARY OF PROPOSED CHANGES**

Unless noted otherwise, the following grounds for amending the existing rules apply to both civil and family law rules, the civil rule number listed first, with its equivalent family law rule number following. Section II contains proposed revisions to the civil rule and its equivalent family law rule.

Civil Rule (CvR) 4(a) and Family Law Rule (FLR) 40(A) currently require the Clerk to sign summonses for issuance. With electronically filed documents, the rule currently requires Clerks to use an ink-and-paper signature and scan the paper for the electronic record. Amending Rules 4(a) and 40(A) will allow the Clerk to affix an electronic signature to the summons, thus allowing clerks to more efficiently process electronically filed documents.

CvR 4(b) and FLR 40(B) regarding the form of summonses currently contain the same signature requirement and process inefficiencies as Rules 4(a) and 40(A), and the ability to affix an electronic signature offers the same improvements.

CvR 4(f) and FLR 40(F) currently require a written signature in order to accept service of a summons or other process. Electronic filing offers the ability to serve the other parties to a case electronically. Maintaining a requirement for a traditional ink signature will derail the effective and efficient ability to accept

service electronically and to affix an electronic signature. Amending Rules 4(f) and 40(F) will allow parties to affix an electronic signature on an electronically filed document, thus reducing the time and steps necessary to accomplish service.

CvR 11(a) and FLR 31(A) currently require that every pleading, motion, and other paper of a party be signed. Authorizing electronic signatures on electronic filings maintains the court's interest in receiving only those filings that are grounded in fact and law. Maintaining the requirement of an ink signature on a piece of paper prevents the court systems in Arizona from moving forward with a more manageable, electronic process. Amending Rules 11(a) and 31(A) clarifies that electronic signatures on electronic filings are equivalent to traditional signatures on paper filings in both the filing party's intent and regarding potential sanctions.

CvR 16(d) and FLR 76(C)(1) currently require that joint pretrial statements be signed by each counsel. A change to court rule will allow parties to sign and submit the final version electronically in those courts accepting electronic filings. This petition does not seek to oppose amendments requested by the State Bar of Arizona's Rule 28 Petition R-06-0011 regarding ARCVp 16(d), except insofar as signatures are concerned.

CvR 30(b)(2) and FLR 57(B)(2) currently require an attorney's signature certifying circumstances for deposing an individual without leave of the court. CvR 30(b)(4) and FLR 57(B)(4) further require a witness' signature on changes or to mark the deposition as the witness' own. Amending Rules 30(b)(2), 57(B)(2) and 30(b)(4), 57(B)(4) clarifies that electronic signatures satisfy the signature and writing requirements of depositions filed electronically, a particularly useful application of the electronic model in a section of the rules intended to assist and manage time-sensitive cases.

CvR 30(e) and FLR 57(E) currently require a deponent to sign the deposition, and any changes, within 30 days. Amending Rules 30(e) and 57(E) allows the deponent to affix an electronic signature to the deposition and any statements or explanations that accompany it, furthering the court's interest in moving forward within 30 days on electronically filed cases.

CvR 33(a) and FLR 60(A) currently require that a party sign their answers and that attorneys sign their objections to interrogatories. Amending Rules 33(a) and 60(A) clarifies that answers and objections to interrogatories may be signed electronically in those cases electronically filing.

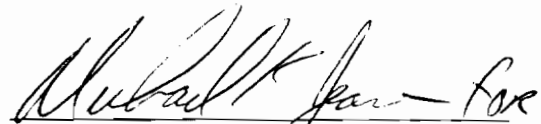
CvR 41(a)(1)(B) and FLR 46(A), regarding voluntary dismissal, currently require a stipulation signed by all parties who have appeared in the action. Further, CvR 41(a)(1)(B) states the dismissal order may be signed by a judge, duly authorized court commissioner, clerk of court, or deputy clerk. Amending Rules 41(a)(1)(B) and 46(A) clarifies that electronic signatures in electronically filed cases are the equivalent in force and effect as traditional signatures in paper-filed cases.

CvR 58(a) and FLR 81(A) currently require all judgments "be in writing and signed by a judge or a court commissioner duly authorized to do so." The proposed amendment will secure a more permanent status for electronic signatures in electronically filed cases, where the electronic filing is the original filing of record, and will clarify the force and effect of electronic signatures. In current electronic filing pilot projects, a judgment on an electronically filed case is issued electronically with an electronic signature. For the Court of Appeals to accept jurisdiction of the appeal, the appellate court requests judicial officers to print the electronic original and affix a traditional ink signature, thereby creating a problem by the apparent existence of duplicate originals. As organizations, practitioners, and government entities become accustomed to electronic processes, the apparent

existence of duplicate originals risks increased litigation to resolve the authenticity of court documents. This amendment, as applicable to courts electronically filing, will eliminate the confusion and establish a standard for the court record.

The Clerks of the Superior Courts in the State of Arizona therefore respectfully request that the Court amend Rules 4(a), 4(b), 4(f), 11(a), 16(d), 30(b)(2), 30(b)(4), 30(e), 33(a), 41(a)(1)(B), and 58(a) of the Arizona Rules of Civil Procedure and the equivalent Family Law Rules 40(A), 40(B), 40(F), 31(A), 76(C)(1), 57(B)(2), 57(B)(4), 57(E), 60(A), 46(A), and 81(A) of the Arizona Rules of Family Law Procedure as detailed in the proposed amendments in section II.

DATED this 31<sup>st</sup> day of October, 2006.



**Juanita Mann, President**  
**Arizona Association of Superior Court**  
**Clerks**

## II. TEXT OF PROPOSED RULE CHANGES

### **Civil Rule 4(a). Summons; Issuance**

Effective January 1, 2008 for counties maintaining an electronic filing system authorized by the Judicial Council

When the complaint or any other pleading which requires service of a summons is filed, the clerk shall endorse thereon the day and hour on which it was filed and the number of the action, and shall forthwith issue a summons. The party filing the pleading may present a summons to the clerk for signature and seal. If in proper form, the clerk shall sign, traditionally or electronically, and seal the summons and issue it to the party for service or for delivery to a person authorized by Rule 4(d) to serve it. A summons, or a copy of the summons if addressed to multiple persons, shall be issued for each person to be served.

### **Family Law Rule 40(A). Summons; Issuance**

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When the petition or any other pleading which requires service of a summons is filed, the clerk shall endorse thereon the day and hour on which it was filed and the number of the action, and shall forthwith issue a summons. The party filing the pleading may present a summons to the clerk for signature and seal. If in proper form, the clerk shall sign, traditionally or electronically, and seal the summons and issue it to the party for service or for delivery to a person authorized to serve it under paragraph C. A summons, or a copy of the summons if addressed to multiple persons, shall be issued for each person to be served.

#### **Civil Rule 4(b). Summons; Form; Replacement Summons**

The summons shall be signed, traditionally or electronically, by the clerk, be under the seal of the court, contain the name of the court and the names of the parties, be directed to the person to be served, state the name and address of the attorney, if any, for the party on whose behalf service is being made, and otherwise that party's address. The summons shall state the time within which these Rules require the person being served to appear and defend, and shall notify that person that in case of a failure to do so judgment by default will be rendered against that person for the relief demanded in the pleading served. A summons, or a copy of the summons in the case of multiple persons to be served, shall be served together with a copy of the pleading to be served. If a summons is returned without being served, or if it has been lost, the clerk may upon request issue a replacement summons in the same form as the original. A replacement summons shall be issued and served within the time prescribed by Rule 4(i) of these Rules for service of the original summons. The summons shall state that "requests for reasonable accommodation for persons with disabilities must be made to the court by parties at least 3 working days in advance of a scheduled court proceeding."

#### **Family Law Rule 40(B). Summons; Form; Replacement Summons**

The summons shall be signed, traditionally or electronically, by the clerk, be under the seal of the court, contain the name of the court and the names of the parties, be directed to the person to be served, state the name and address of the attorney, if any, for the party on whose behalf service is being made, and otherwise that party's address. The summons shall state the time within which these rules require the person being served to appear and defend, and shall notify that person that in case of a failure to do so

judgment by default will be rendered against that person for the relief demanded in the pleading served. In an action for annulment, dissolution of marriage, or legal separation, the summons shall also contain a statement that either spouse, or both spouses, may file in the conciliation court a petition invoking the jurisdiction of the court for the purpose of preserving the marriage by effecting conciliation between the parties. A summons, or a copy of the summons in the case of multiple persons to be served, shall be served together with a copy of the pleading to be served. If a summons is returned without being served, or if it has been lost, the clerk may upon request issue a replacement summons in the same form as the original. A replacement summons shall be issued and served within the time prescribed by paragraph I of this rule. The summons shall state that "requests for reasonable accommodation for persons with disabilities must be made to the court by parties at least three (3) working days in advance of a scheduled court proceeding."

**Civil Rule 4(f). Service; Acceptance or Waiver; Voluntary Appearance**

The person to whom a summons or other process is directed may accept service, or waive issuance or service thereof, in writing, signed, traditionally or electronically, by that person or by that person's authorized agent or attorney, and the acceptance or waiver shall be filed in the action. A person upon whom service is required may, in person or by attorney or by an authorized agent, enter an appearance in open court, and the appearance shall be noted by the clerk upon the docket and entered in the minutes. Such waiver, acceptance or appearance shall have the same force and effect as if a summons had been issued and served. The filing of a pleading responsive to a pleading allowed under Rule 7(a) of these Rules shall constitute an appearance.

**Family Law Rule 40(F). Service; Acceptance or Waiver; Voluntary Appearance**

The person to whom a summons or other process is directed may accept service, or waive issuance or service thereof in writing, dated and signed, traditionally or electronically, by that person, and subscribed and sworn to (or affirmed to) before a notary public, and the acceptance or waiver shall be filed with the clerk. Instead of notarization, the person may sign, traditionally or electronically, the acceptance or waiver in the presence of the clerk after verification of the person's identity by the clerk. If the person is represented by counsel, counsel may sign, traditionally or electronically, the acceptance or waiver. A person upon whom service is required may, in person or by attorney or by an authorized agent, enter an appearance in open court, and the appearance shall be noted by the clerk upon the docket and entered in the minutes. Such waiver, acceptance or appearance shall have the same force and effect as if a summons had been issued and served. The filing of a pleading responsive to a pleading allowed under Rule 24 shall constitute an appearance.

**Civil Rule 11(a). Signing of pleadings, motions and other papers; sanctions**

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Every pleading, motion, and other ~~paper~~ filing of a party represented by an attorney shall be signed, traditionally or electronically, by at least one attorney of record in the attorney's individual name, whose address shall be stated. A party who is not represented by an attorney shall sign, traditionally or electronically, the party's pleading, motion, or other ~~paper~~ filing and state the party's address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied

by affidavit. The rule in equity that the averments of an answer under oath must be overcome by the testimony of two witnesses or of one witness sustained by corroborating circumstances is abolished. The traditional or electronic signature of an attorney or party constitutes a certificate by the signer that the signer has read the pleading, motion, or other ~~paper~~ filing; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion or other ~~paper~~ filing is not signed, traditionally or electronically, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion or other ~~paper~~ filing is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, including a reasonable attorney's fee.

**Family Law Rule 31(A). Signing of Pleadings, Motions and Other Papers; Sanctions**

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Every pleading, motion, and other ~~paper~~ filing of a party represented by an attorney shall be signed, traditionally or electronically, by at least one attorney of record, whose address shall be stated. A party who is not represented by an attorney shall sign, traditionally or electronically, the party's pleading, motion, or other ~~paper~~ filing and state the party's address.

Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The traditional or electronic signature of an attorney or party constitutes a certificate by the signer that the signer has read the pleading, motion, or other ~~paper~~ filing; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion or other ~~paper~~ filing is not signed, traditionally or electronically, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion or other ~~paper~~ filing is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, including a reasonable attorney's fee.

**Civil Rule 16(d). Joint Pretrial Statement: Preparation; Final Pretrial Conference**

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Upon the initiative of counsel for the plaintiff, counsel who will try the case and who are authorized to make binding stipulations shall confer and prepare a written pretrial statement, signed, traditionally or electronically, by each counsel, to be filed by the plaintiff within the time set by the court in the particular case, or by the applicable Local Rules of Practice, or if no time is set, then not less than five judicial days prior to the date of trial.

Such pretrial statement shall contain the following:

(1) – (6) NO CHANGE

**Family Law Rule 76(C). Pretrial Statement, Inventory of Property, and Financial Affidavits; Preparation; Final Pretrial Conference**

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1. Except in the case where there is domestic violence between unrepresented parties, the parties shall file a joint pretrial statement. If there has been domestic violence between unrepresented parties, the parties may file separate pretrial statements. Upon the initiative of the petitioner or counsel for the petitioner, the parties or counsel, if the parties are represented, shall confer and prepare a written pretrial statement, signed, traditionally or electronically, by each party or counsel, to be filed by the petitioner no later than twenty (20) days prior to trial, unless another time is set by the court. Such pretrial statement shall contain the following:

(a) – (k) NO CHANGE

**Civil Rule 30(b). Notice of Examination; General Requirements; Special Notice; Method of Recording; Production of Documents and Things; Deposition of Organization; Deposition by Telephone.**

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(1) NO CHANGE

(2) Leave of court is not required for the taking of a deposition by plaintiff if the notice (A) states that the person to be examined is about to go out of the State of Arizona, and will be unavailable for examination unless the person's deposition is taken before expiration of the 30-day period, and (B) sets forth facts to support the statement. The plaintiff's attorney shall sign the notice, traditionally or electronically, and the attorney's signature

constitutes a certification by the attorney that to the best of the attorney's knowledge, information, and belief the statement and supporting facts are true. The sanctions provided by Rule 11(a) are applicable to the certification.

If a party shows that when the party was served with notice under this subdivision (b)(2) the party was unable through the exercise of diligence to obtain counsel to represent the party at the taking of the deposition, the deposition may not be used against the party.

(3) NO CHANGE

(4) Unless the parties stipulate or the court orders otherwise, the deposition shall be recorded by stenographic means and may also be recorded by sound or sound-and-visual means. The party taking the deposition shall bear the cost of the recording. The stipulation or order shall designate the person before whom the deposition shall be taken, the manner of recording, preserving and filing the deposition, and may include other provisions to assure that the recorded testimony will be accurate and trustworthy. A party may arrange to have a stenographic transcription made at the party's own expense. Any changes made by the witness, the witness' traditional or electronic signature identifying the deposition as the witness' own or the statement of the officer that is required if the witness does not sign as provided in subdivision (e), and the certification of the officer required by subdivision (f) shall be set forth in a writing to accompany a deposition recorded by nonstenographic means. Unless otherwise agreed by the parties, a deposition shall be conducted before an officer appointed or designated under Rule 28 and shall begin with a statement on the record by the officer that includes (A) the officer's name and business address: (B) the date, time and place of the deposition;(C) the name of the deponent;

(D) the administration of the oath or affirmation to the deponent; and (E) an identification of all persons present. The officer shall repeat items (A) through (C) at the beginning of each unit of recorded tape or other recording medium. The appearance or demeanor of deponents or attorneys shall not be distorted through camera or sound-recording techniques. At the end of the deposition, the officer shall state on the record that the deposition is complete and shall set forth any stipulations made by counsel concerning the custody of the transcript or recording and the exhibits, or concerning other pertinent matters.

(5) – (7) NO CHANGE

**Family Law Rule 57 (B). Notice of Examination; General Requirements; Special Notice; Non-Stenographic Recording; Production of Documents and Things; Deposition of Organization; Deposition by Telephone.**

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(1) NO CHANGE

(2) Leave of court is not required for the taking of a deposition by petitioner or other party initiating an action if the notice (a) states that the person to be examined is about to go out of the State of Arizona and will be unavailable for examination unless the person's deposition is taken before expiration of the 30-day period, and (b) sets forth facts to support the statement. The petitioner's or other initiating party's attorney shall sign the notice, traditionally or electronically, and the attorney's signature constitutes a certification by the attorney that to the best of the attorney's knowledge, information, and belief the statement and supporting facts are true. The sanctions provided by Rule 31(A) are applicable to the certification. If a party shows that when the party was served with notice under subdivision

B(2) the party was unable through the exercise of diligence to obtain counsel to represent the party at the taking of the deposition, the deposition may not be used against the party.

(3) NO CHANGE

(4) The parties may stipulate in writing or the court may upon motion order that the testimony at a deposition be recorded by other than stenographic means. The stipulation or order shall designate the person before whom the deposition shall be taken, the manner of recording, preserving and filing the deposition, and may include other provisions to assure that the recorded testimony will be accurate and trustworthy. A party may arrange to have a stenographic transcription made at the party's own expense. Any changes made by the witness, the witness' traditional or electronic signature identifying the deposition as the witness' own, or the statement of the officer that is required if the witness does not sign as provided in paragraph E, and the certification of the officer required by paragraph F shall be set forth in a writing to accompany a deposition recorded by nonstenographic means.

(5) – (7) NO CHANGE

**Civil Rule 30(e). Submission to Witness; Changes, Signing.**

If requested by the deponent or a party before completion of the deposition, the deponent shall have 30 days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign, traditionally or electronically, a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by subdivision (f)(1) whether any review was

requested and, if so, shall append any changes made by the deponent during the period allowed. If the witness does not submit such a statement or a written explanation why such statement cannot be submitted within the time period provided, the officer shall state on the record the fact of the refusal to submit a statement with the reason therefore, if any, and the deposition may then be used as fully as though signed unless on a motion to suppress under Rule 32(d)(4) the court holds that the reasons given for the refusal to submit a statement require rejection of the deposition in whole or in part.

**Family Law Rule 57(E). Submission to Witness; Changes; Signing**

When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by the witness, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed, traditionally or electronically, by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within thirty (30) days of its submission to the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress under Rule 59(D)(4) the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

**Civil Rule 33(a). Availability; Procedures for Use**

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Any party may serve upon any other party written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association of governmental agency, by any officer or agent, who shall furnish such information as is available to the party. Interrogatories may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the summons and complaint upon that party.

Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed, traditionally or electronically, by the person making them, and the objections signed, traditionally or electronically, by the attorney making them. The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 40 days after the service of the interrogatories, except that a defendant may serve answers or objections within 60 days after service of the summons and complaint upon that defendant, or execution of a waiver of service, by that defendant. The court may allow a shorter or longer time. The party submitting the interrogatories may move for an order under Rule 37(a) with respect to any objection to or other failure to answer an interrogatory.

**Family Law Rule 60(A). Availability; Procedures for Use**

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Any party may serve upon any other party written interrogatories to be answered by the party served or, if the party served is a public or private corporation, a partnership, an association, or a governmental agency, by any officer or agent, who shall furnish such information as is available to the party. Interrogatories may be served without leave of court upon the petitioner after commencement of the action and upon any other party with or after service of the summons and petition upon that party. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed, traditionally or electronically, by the person making them, and the objections signed, traditionally or electronically, by the attorney making them. The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within forty (40) days after the service of the interrogatories, except that a respondent may serve answers or objections within sixty (60) days after service of the summons and petition upon that defendant respondent, or execution of a waiver of service, by that respondent. The court may allow a shorter or longer time. The party submitting the interrogatories may move for an order under Rule 65(A) with respect to any objection to or other failure to answer an interrogatory.

**Civil Rule 41(a). Voluntary dismissal; by plaintiff or by order of court; effect**

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1. Subject to the provisions of Rule 23(c), or Rule 66(c), or of any statute, an action may be dismissed (A) by the plaintiff without order of court by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs,

or (B) by order of the court pursuant to a stipulation of dismissal signed, traditionally or electronically, by all parties who have appeared in the action. Such an order may be signed, traditionally or electronically, by a judge, a duly authorized court commissioner, the clerk of court or a deputy clerk. Unless otherwise stated in the notice or order of dismissal, the dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in any court of the United States or of any state an action based on or including the same claim.

## 2. NO CHANGE

### **Family Law Rule 46(A). Voluntary Dismissal**

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Any family law case or post-decree petition may be dismissed (1) by the petitioner or the filing party without order of court by filing a notice of dismissal at any time before service of a response, or (2) by order of the court pursuant to a stipulation of dismissal signed, traditionally or electronically, by all parties who have appeared in the action. If a response has been filed to a petition or post-decree petition, the petition may be dismissed by the petitioner or the filing party only by motion and upon such terms and conditions as the court deems proper, including proper adjudication of any pending counterclaims or counter petitions filed by an opposing party. Unless otherwise stated in the notice or order of dismissal, the dismissal is without prejudice.

### **Civil Rule 58(a). Service of Form of Judgment; Entry**

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Forms of judgment shall be served upon all parties and counsel. Except as provided in Rule 54(b), a party seeking attorneys' fees shall provide in the form of judgment for an award of attorneys' fees in an amount to be entered by the court. Except as provided in subsection (f) of this rule, all judgments shall be in writing and signed, traditionally or electronically, by a judge or a court commissioner duly authorized to do so. The filing with the clerk of the judgment constitutes entry of such judgment, and the judgment is not effective before such entry, except that in such circumstances and on such notice as justice may require, the court may direct the entry of a judgment *nunc pro tunc*, and the reasons for such direction shall be entered of record. The entry of the judgment shall not be delayed for taxing costs.

**Family Law Rule 81(A). Preparation and Signing of Judgments and Other Orders**

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Forms of judgment shall be served upon all parties and counsel. Except as provided in Rule 78(E), a party seeking attorneys' fees shall provide in the form of judgment for an award of attorneys' fees in an amount to be entered by the court. All judgments shall be in writing and signed, traditionally or electronically, by a judge or a court commissioner duly authorized to do so. The filing with the clerk of the judgment constitutes entry of such judgment, and the judgment is not effective before such entry, except that in such circumstances and on such notice as justice may require, the court may direct the entry of a judgment *nunc pro tunc*, and the reasons for such direction shall be entered of record. The entry of the judgment shall not be delayed for taxing costs.