

APPENDIX E

**CONFORMING CHANGES
TO OTHER RULES¹**

RULES OF THE SUPREME COURT OF ARIZONA

Rule 47. General Procedural Matters

(a) Pleadings. There may be a complaint, an answer, an amended complaint, and an answer to an amended complaint. No other pleadings may be filed unless as permitted by these rules or otherwise permitted by the presiding disciplinary judge, the hearing panel, or the court.

1. *General Rules of Pleading.* Pleadings filed shall conform to the requirements of Rule 8(b), (d), and (e), ~~and~~(f), Ariz. R. Civ. P., as may be applicable to these proceedings.

2. *Form and Signing of Pleading.* In addition to the requirements of these rules, pleadings filed shall also conform to the requirements of Rule 5.2(b), Rule 10(b); and (c) ~~and~~(d) and Rule 11(a), Ariz. R. Civ. P., as may be applicable to these proceedings.

(b) through (c): No change

(d) Motions. Procedural or substantive motions may be filed and must comply with the requirements of Rule 7.1(a), Rule 12(b), (c), (d), (e) and (f), and Rule 56, Ariz. R. Civ. P., as may be applicable to these proceedings. Motions for sanctions are governed by Rule 58(f)(3) of these rules. All motion practice shall be subject to the provisions of Rule 7.1(b), Ariz. R. Civ. P.

(e) through (j): No change

(k) Computation of Time. Unless otherwise provided, Rules 6(a), and ~~6(e)~~(c), Ariz. R. Civ. P., shall apply in all proceedings brought pursuant to these rules.

(l) No change

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Rule 48. Rules of Construction

(a) No change

¹ Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

(b) Rules of Civil Procedure. Only the following Arizona Rules of Civil Procedure are applicable to discipline and disability proceedings before the presiding disciplinary judge or the hearing panel, as specifically set forth in these rules: Rules 4, 4.1, 4.2, 5, ~~5(f)~~, 5.1(e), 5.2(b), 5.3, 6(a), ~~6(e)(c)~~, 7.1(a), 7.1(b), 8(b), ~~8(d)-(f)-(e)~~, ~~10(b)-(d)(c)~~, 11(a)-(d), 12(b), 12(c), 12(d), 12(e), 12(f), 16(a), 16(g)(2)(A-E) and (J), 16(i), 26(a)-(f), 29-36, ~~38.1(e)(b)~~, ~~38.1(d)~~, 42(a), 43-45, 56, ~~60(b)-(e)(d)~~, 80(a), 80(c), and ~~80(d)~~, ~~80(h)~~, and ~~80(i)~~. ~~In addition, Rules 4(b) and 13 of the Arizona Rules of Civil Appellate Procedure shall apply as specified in Rule 59.~~

(c) through (m): No change

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Rule 57. Special Discipline Proceedings

(a) Discipline by Consent

1. No change

2. *Form of Agreement.* An agreement for discipline by consent shall be signed by respondent, respondent's counsel, if any, and bar counsel. An agreement shall include the following:

A. through D.: No change

E. *Legal Grounds.* Each agreement shall include a discussion of the American Bar Association's Standards for Imposing Lawyer Sanctions and an analysis of the proposed sanction, including a discussion as to why a greater or lesser sanction would not be appropriate under the circumstances of the case. Exhibits, such as a record of criminal conviction, pre-sentence reports, medical records, public records, and any other records in support of the agreement or the sanction to be imposed may be filed with the agreement, as agreed upon by the parties, in addition to any statement of costs and expenses on admitted counts. The parties shall be responsible for redacting any sensitive data filed with the agreement, in accordance with Rule 5.1(e)(f), Ariz. R. Civ. P.

F. No change

3. through 5.: No change

(b) No change.

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Rule 58. Formal Proceedings

(a) through (c): No change

(d) Default Procedure; Aggravation/Mitigation Hearing. If respondent fails to answer within the prescribed time, the disciplinary clerk shall, within ten (10) days thereafter, enter that party's default and serve a copy of the notice of default upon respondent and bar counsel. A default entered by the disciplinary clerk shall be effective ten (10) days after service of the notice of default, upon which the allegations in the complaint shall be deemed admitted. A default shall not become effective if the respondent pleads or otherwise defends within ten (10) days from the service of the notice of default. Entry of default shall not be set aside except in cases where such relief would be warranted under Rule 60~~(e)~~~~(b)-(d)~~, Ariz. R. Civ. P. The presiding disciplinary judge shall schedule an aggravation/mitigation hearing before the hearing panel. Not less than fifteen (15) days before the date set for the aggravation/mitigation hearing, the presiding disciplinary judge shall serve notice of the hearing on the parties. The hearing shall be held not earlier than fifteen (15) days nor later than thirty (30) days after the entry of default. The hearing panel shall prepare a report as provided in paragraph (k) of this rule.

(e) through (i): No change

(j) Hearing.

1. through 2.: No change

3. *Procedure.* The state bar shall prove the allegations contained in the complaint by clear and convincing evidence. The respondent may retain counsel to provide representation at the hearing and may cross-examine witnesses and present evidence on respondent's behalf, as permitted by the rules of evidence. Rule 38.1~~(e)~~~~(b)-and-(d)~~, Rule 42(a), Rule 43, Rule 44, Rule 80(a),~~(d)~~~~(c)~~, and (h)(d), ~~and (i)~~, Ariz. R. Civ. P., are applicable to these proceedings.

4. through 5.: No change

(k) No change.

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Rule 79. Formal Proceedings Before the Superior Court; Appeal

(a) through (e): No change

(f) **Enforcement.** An order or judgment of the superior court in unauthorized practice of law proceedings shall be enforceable like any other judgment, including through civil contempt proceedings pursuant to Rule 65(j)(f), Ariz. R. Civ. P.

(g) No change

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Rule 96. Powers and Duties of Court Commissioners

All court commissioners and juvenile court commissioners appointed in accordance with Article VI, Section 24, of the Constitution of the State of Arizona, and Sections 12-213 and 8-231 of the Arizona Revised Statutes, shall have such powers and duties as are provided by this Rule.

(a) **Powers of Commissioner; Hearings and Determinations; Order; Contempt.** Each court commissioner shall, except as otherwise provided by this Rule, have the power to:

1. through 6.: No change

7. Hear and determine any motion or application relating to an order, judgment or decree granted or signed by a commissioner, and made subsequent to the entry thereof, including an application or motion made under Rules 55(c) or 60(e)(b)-(d) of the Rules of Civil Procedure.

8. Issue an order to show cause under Rule ~~6(d)~~-7.3 of the Rules of Civil Procedure.

9. through 17.: No change

(b) through (e): No change

(f) **Powers of Juvenile Court Commissioner; Hearings and Determination; Order; Contempt.** All juvenile court commissioners appointed in accordance with Article VI, Section 24, of the Constitution of the State of Arizona, and Section 8-231 of the Arizona Revised Statutes, shall have the power to:

1. through 12.: No change

13. Hear and determine any motion or application relating to an order, judgment or decree granted or signed by a juvenile court commissioner, including an application or motion made under Rules 55(c) or 60(e)(b)-(d) of the Rules of Civil Procedure.

14. No change

(g) through (i): No change

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ARIZONA RULES OF CIVIL APPELLATE PROCEDURE

Rule 5. Computing and Modifying Deadlines

(a) **Computing Time.** Rules 6(a) and 6(~~e~~)(c) of the Arizona Rules of Civil Procedure govern the computation of any time period set by these Rules, a court order, or an applicable statute.

(b) No change

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Rule 7. Stay of Proceedings to Enforce a Judgment

(a) **Supersedeas Bond.**

(1) *Generally.*

(A) through (B): No change

(C) A judgment against the State, or an agency or a political subdivision of the State, is stayed as provided by Rule 62(~~g~~)(e) of the Arizona Rules of Civil Procedure.

(D) No change.

(2) through (7): No change

(b) through (d): No change

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Rule 9. Appeal and Cross-Appeal--When Taken

(a) through (d): No change

(e) **Effect of Post-Judgment Motion on Notice of Appeal; Amended Notice of Appeal.**

(1) If a party timely and properly files with the superior court clerk any of the following motions, the time to file a notice of appeal or cross-appeal for all parties begins

to run from the entry by the superior court clerk of a signed written order disposing of the last such remaining motion:

(A) No change

(B) No change

(C) To alter or amend the judgment under Rule 59~~(f)~~(d) of the Arizona Rules of Civil Procedure or Rule 83(A) of the Arizona Rules of Family Law Procedure;

(D) No change

(E) No change

(2) through (3): No change

(f) Reopening the Time to File an Appeal for Lack of Notice of Entry of Judgment. The superior court may on motion reopen the time for filing a notice of appeal for a period of 14 days after entry of its order granting a motion to reopen, but only if all of the following conditions are satisfied:

(1) The court finds that the moving party did not receive notice under Rule 58~~(e)~~(c) of the Arizona Rules of Civil Procedure, or Rule 81(D) of the Arizona Rules of Family Law Procedure, of entry of the judgment or order that the party seeks to appeal within 21 days after entry;

(2) through (3): No change

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ARIZONA RULES OF PROCEDURE FOR THE JUVENILE COURT

Rule 46. Motions

A. through D.: No change

E. Motion to Set Aside Judgment. A motion to set aside a judgment rendered by the court shall conform to the requirements of Rule 60~~(e)~~(b)-(d), Ariz. R. Civ. P., except that the motion shall be filed within six (6) months of the final judgment, order or proceeding unless the moving party alleges grounds pursuant to Rule 60~~(e)~~(b)(1), (2) or (3), in which case the motion shall be filed within three (3) months of the final judgment.

F. No change

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Rule 74. Motions

A. through D.: No change

E. Motion to Set Aside Judgment. A motion to set aside a judgment rendered by the court shall conform to the requirements of Rule 60(e)(b)-(d), Ariz. R. Civ. P., except that the motion shall be filed within one (1) year of the final judgment, order or proceeding unless the moving party alleges grounds pursuant to Rule 60(e)(b) (1), (2) or (3), in which case the motion shall be filed within six (6) months.

F. No change

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Rule 85. Motion and Hearing to Set Aside Adoption

A. Motion to Set Aside Adoption. A person seeking to set aside a final order of adoption shall file a motion to set aside the adoption with the clerk of the court. The motion shall allege grounds only as permitted by Rule 60(e)(b)-(d), Ariz. R. Civ. P. or by the Indian Child Welfare Act. Upon receipt of the motion, the court shall set an initial hearing within ten (10) days and shall advise the parties as to the date, time and location of the initial hearing. If the child is an Indian child, the court shall proceed in the manner set forth in the Indian Child Welfare Act.

B. through G.: No change

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ARIZONA RULES OF FAMILY LAW PROCEDURE

Rule 2. Applicability of Other Rules

A. Applicability of Arizona Rules of Civil Procedure. *The Arizona Rules of Civil Procedure* apply only when incorporated by reference in these rules. In 2016, the Arizona Supreme Court adopted comprehensive amendments to the Arizona Rules of Civil Procedure, which took effect on January 1, 2017 (the “2016 amendments”). Cross-references to the Arizona Rules of Civil Procedure contained in these rules, or in any Comment to these rules, or in the accompanying Correlation Table, are to the Arizona Rules of Civil Procedure as they existed before the 2016 amendments.

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ARIZONA RULES OF CRIMINAL PROCEDURE

Rule 35.5. Service and filing

Unless otherwise specified in these rules, the manner and sufficiency of service and filing of motions, requests, petitions, applications, and all other pleadings and documents shall be governed by Rules 5 and 5.1 of the Arizona Rules of Civil Procedure.

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Rule 35.7. Proposed orders

Any proposed order shall be prepared as a separate document and shall not be included as an integral part of a motion, stipulation, or other document. The proposed order shall be prepared in accordance with this subsection and Rules ~~5(j)(2)~~ 5.1(d) and ~~10(d)~~5.2(b) of the Rules of Civil Procedure, and shall contain the following information as single spaced text on the first page of the document:

(1) To the left of the center of the page starting at line one, the filing party's typed or printed name, address, telephone number, State Bar of Arizona attorney identification number, and any State Bar of Arizona law firm identification number, along with an identification of the party being represented by the attorney, e.g., the State or defendant. (Note: If the document is being presented by a litigant representing himself or herself, all of this information shall be included except the State Bar of Arizona identification numbers);

(2) Centered on or below line six (6) of the page, the typed or printed title of the court;

(3) Below the title of the court and to the left of the center of the paper, the typed or printed title of the action or proceeding;

(4) Opposite the title, in the space to the right of the center of the page, the typed or printed case number of the action or proceeding; and

(5) Immediately below the case number, a brief typed or printed description of the nature of the document.

There shall be at least two lines of text on the signature page. Proposed orders shall not be filed or docketed by the Clerk of Court until after judicial review and decision to file, modify or reject. If the court has signed a proposed form of order submitted by a party, no minute entry shall issue.

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Rule 41. Forms

Form 2 (Arrest Warrant) in the following Appendix is mandatory for use in courts throughout the State of Arizona. The other forms are recommended for use in Arizona courts and are sufficient to meet the requirements of these rules. All forms shall comply with the formatting requirements of Rule ~~105.2(b)~~, Arizona Rules of Civil Procedure.

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ARIZONA RULES OF EVIDENCE

Rule 502. Attorney-Client Privilege and Work Product; Limitations on Waiver

(a) No change

(b) Inadvertent disclosure.

When made in an Arizona proceeding, the disclosure does not operate as a waiver in an Arizona proceeding if:

(1) the disclosure is inadvertent;

(2) the holder of the privilege or protection took reasonable steps to prevent disclosure; and

(3) the holder promptly took reasonable steps to rectify the error, including (if applicable) following Arizona Rule of Civil Procedure ~~26.1(f)(2)~~ 26(b)(6)(B).

(c) through (f): No change

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ARIZONA RULES OF PROBATE PROCEDURE

Rule 2. Definitions

Unless a term is defined differently in these rules, the definitions in A.R.S. § 14-1201 shall apply to these rules. In addition, unless the context otherwise requires, the following definitions shall apply:

A. through G.: No change

H. “Guardian ad litem” means a representative appointed pursuant to A.R.S. § 14-1408 or a person appointed pursuant to Rule ~~17(g)(f)~~, Arizona Rules of Civil Procedure, by the court to represent the interests of a minor, unborn, or unascertained person; a person whose identity or address is unknown; or an incapacitated person in a particular

case before the court. “Guardian ad litem” does not include an attorney appointed pursuant to A.R.S. §§ 14-5207(D), -5303(C), or -5407(B).

I. through R.: No change

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Rule 9. Notice of Hearing

A. through D.: No change

E. The provisions of Rule ~~6(e)(c)~~, Arizona Rules of Civil Procedure, shall not apply to notices of hearing in probate proceedings or notice of proceedings to challenge or enforce the decision of one authorized to make health care decisions for a patient.

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Rule 10. Duties Owed by Counsel, Fiduciaries, Unrepresented Parties, and Investigators

A. through C.: No change

D. Duties Relating to Counsel for Fiduciaries

1. To minimize legal expenses, a fiduciary’s attorney shall encourage the fiduciary to take those actions the fiduciary is authorized to perform and can perform competently on the fiduciary’s own to fulfill the fiduciary’s duties rather than having the attorney take such actions on the fiduciary’s behalf.

2. In addition to the requirements set forth in Arizona Rule of Civil Procedure ~~5.1~~ 5.3, an attorney who has appeared in a probate case as counsel of record for a guardian, conservator, personal representative, or trustee shall include with any motion to withdraw a status report that advises the court and parties of any issues pending in the probate case and informs the court and parties whether, to the best of the attorney’s knowledge, all required guardian reports, inventories, accountings, and other similar required reports have been filed.

E. through G.: No change

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Rule 15. Proposed Orders

A. In addition to the requirements of Rule ~~5(j)~~ 5.1(d), Arizona Rules of Civil Procedure, a party requesting an order shall, at least five days before the scheduled hearing, lodge with the judicial officer to whom the matter is assigned the original

proposed order, ~~as well as copies and envelopes required by Rule 5(j)(2)(b), Arizona Rules of Civil Procedure.~~ The date of the hearing shall be stated immediately below the title of the order.

B. No change

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Rule 16. Applications

A. No change

B. Form of Application. An application shall contain any statements required by statute and any other statements that support the relief requested. The statements shall be set forth in simple, concise, and direct paragraphs, each of which shall be separately numbered. The application shall contain a short and plain statement of the relief requested. Relief in the alternative or several different types of relief may be requested. The application shall comply with the provisions of Rules 5.2(b), and 8 through 11, Arizona Rules of Civil Procedure, applicable to complaints and claims for relief.

C. through E.: No change

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Rule 17. Petitions

A. No change

B. Form of Petition. A petition shall contain any statements required by statute and any other statements necessary to support the requested relief. The statements shall be set forth in simple, concise, and direct paragraphs, each of which shall be separately numbered. The petition shall contain a short and plain statement of the relief being requested. Relief in the alternative or several different types of relief may be requested. The petition shall comply with the provisions of Rules 5.2(b) and 8 through 11, Arizona Rules of Civil Procedure, applicable to complaints and claims for relief.

C. No change

D. Objection to Petition. Any interested person who opposes the relief requested in the petition shall file with the court, at least three days before the hearing, either an objection to the petition or a motion authorized by Rule 12, Arizona Rules of Civil Procedure, or the person may appear at the hearing and orally object to the petition.

1. through 2.: No change

3. A written objection to a petition shall comply with the provisions of Rules 5.2(b), and 8 through 11, Arizona Rules of Civil Procedure.

4.: No change

E. through G.: No change

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Rule 35. Civil Arrest Warrants, Orders to Show Cause, and Fiduciary Arrest Warrants

A. No change

B. Orders to Show Cause. Orders to Show Cause are governed by Rule ~~6(d)~~7.3, Arizona Rules of Civil Procedure, and may be used to address problems arising from another party's or a fiduciary's failure to discharge duties or obligations required by court order, court rule, or statute.

C. No change

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Rule 36. Renewal of Guardian's Inpatient Mental Health Authority

A. Renewal Prior to Expiration of Authority

1.: No change

2. If the ward files an objection or a request for hearing pursuant to A.R.S. § 14-5312.01(P), the court shall enter an order that complies with Rule ~~58(d)~~(a)(2), Arizona Rules of Civil Procedure, and that extends the guardian's authority to consent for the ward to receive inpatient mental health care and treatment in a level one behavioral health facility licensed by the Arizona Department of Health Services until the court has ruled on the ward's objection to or request for hearing on the continuation of the guardian's authority to consent for the ward to receive inpatient mental health care and treatment in a level one behavioral health facility licensed by the Arizona Department of Health Services.

B. No change

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RULES OF PROCEDURE FOR EVICTION ACTIONS

Rule 1. Title and Scope of Rules

These rules shall be known and cited as the Rules of Procedure for Eviction Actions (“RPEA”). These rules shall govern the procedure in the superior courts and justice courts involving forcible and special detainer actions, which are jointly referred to in these rules as “eviction actions.” For purposes of these rules, there shall be only one form of action known as an “eviction action.” The Arizona Rules of Civil Procedure apply only when incorporated by reference in these rules, except that Rule 80(i)(c) shall apply in all courts and Rules ~~42(f)~~ 42.1 and 42.2 shall apply in the superior courts.

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Rule 9. Motions

a. through h.: No change

i. All written motions shall be considered without oral argument unless ordered by the court upon request of a party or the court’s own motion. All motions requesting an order for relief filed with the superior court shall be copied to the assigned judge, accompanied by a proposed order, which shall comply with the formatting requirements of Rule 5(j) 5.1(d) of the Arizona Rules of Civil Procedure

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RULES OF PROCEDURE FOR JUSTICE COURT

Introduction to the Justice Court Rules of Civil Procedure

The Justice Court Rules of Civil Procedure (“JCRCP”) promote a goal of the Supreme Court’s Justice 2020 Strategic Agenda, to strengthen the administration of justice. The Justice 2020 Strategic Agenda noted that the legal system can be difficult for people who do not have an attorney, and that simplifying the rules for less complicated cases should make court proceedings more understandable for many people and increase their trust and confidence in the legal system.

These justice court rules are based on the Arizona Rules of Civil Procedure, which apply in superior court. In 2016, the Arizona Supreme Court adopted comprehensive amendments to the Arizona Rules of Civil Procedure (“the superior court rules”), which took effect on January 1, 2017 (the “2016 amendments”). For ease of reference, ~~any related superior court rules~~ cross-references to the Arizona Rules of Civil Procedure are shown in brackets at the end of a corresponding section of these rules, for example, **[ARCP 99]**. ~~A table in the appendix~~ A Table of Cross-References at Appendix 4 also cross-references JCRCP provisions with related rules in the Arizona Rules of Civil

Procedure. All references to the superior court rules in these rules, or in the Appendices, refer to those rules as in effect before the 2016 amendments. The wording of a justice court rule may be very different, or only slightly different, from a corresponding superior court rule. Differences in language between a justice court rule and a superior court rule are intended only to make the justice court rule simpler and easier to understand. Case law interpreting the superior court rule before the 2016 amendments is authoritative unless a justice court rule expressly adds a requirement or provides a right not found in a superior court rule. The application of case law interpreting a superior court rule as amended in 2016 will depend on the issue addressed. In general, post-2016 case law addressing aspects of a rule that were not substantively changed by the 2016 amendments should continue to be authoritative.

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Rule 101. Application and Interpretation

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d. Relationship of these rules to the Arizona Rules of Civil Procedure. These rules replace the Arizona Rules of Civil Procedure (“the superior court rules”). In 2016, the Arizona Supreme Court adopted comprehensive amendments to the Arizona Rules of Civil Procedure (“the superior court rules”), which took effect on January 1, 2017 (the “2016 amendments”). All references to the superior court rules in these rules, or in the Appendices, refer to the Arizona Rules of Civil Procedure as in effect before the 2016 amendments. Differences in language between a justice court rule and a superior court rule are intended to make the justice court rule simpler and easier to understand. Case law interpreting a superior court rule before the 2016 amendments is authoritative unless a justice court rule expressly adds a requirement or provides a right not found in a superior court rule. The application of case law interpreting a superior court rule as amended in 2016 will depend on the issue addressed. In general, post-2016 case law addressing aspects of a rule that were not substantively changed by the 2016 amendments should continue to be authoritative. For ease of reference, any related superior court rules are shown in brackets at the end of a corresponding subsection of these rules. These cross-references utilize the numbering of the superior court rules as in effect before the 2016 amendments.

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Appendix 4. Table of Cross-References (JCRC to ARCP)

This table cross-references justice court rules to their counterparts in the Arizona Rules of Civil Procedure. In 2016, the Arizona Supreme Court adopted comprehensive amendments to the Arizona Rules of Civil Procedure, which took effect on January 1, 2017 (the “2016 amendments”). This Table cross-references justice court rules to their

counterparts in the Arizona Rules of Civil Procedure as in effect before the 2016 amendments, and utilizes the numbering of the former rules. The cross-referenced rules share common subjects, but the text of a counterpart rule may be slightly or significantly different.

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RULES OF PROCEDURE FOR JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS

Rule 1. Scope of Rules

(a) through (b): No change

(c) Unless otherwise ordered by the court, the following Arizona Rules of Civil Procedure shall not apply to proceedings held pursuant to title 12, chapter 7, article 6, A.R.S.: Rules 16(b), (c) and (f), 16.1(a)-(c), (f), and (h), 26-40, and ~~42(f)(1)~~42.1, Ariz. R. Civ. Proc. In the event new or additional evidence or a trial de novo is permitted by the court, the court shall set forth the manner and method of discovery to be utilized and shall direct which pretrial rules of civil procedure shall apply.