



April 21, 2017

Mr. Don Bivens
Committee on Civil Justice Reform
1501 West Washington Street, Ste. 410
Phoenix, Arizona 85007

Re: R-17-0010 Petition to Amend Arizona Rules of Civil Procedure OFC 5-22-17

Dear Mr. Bivens,

We reviewed the petition to amend the Arizona Rules of Civil Procedure, out for comment until May 22, 2017, and write to request that Rules 8(h) be amended further to clarify the deadline to meet and confer therein.

As proposed, Rule 8(h)(1) says, "At the earliest practicable time, but no later than 15 days after a party answers or files a motion directed at the complaint, that party and the plaintiff must meet and confer about the anticipated course of their case, including the tier to which it should be assigned under Rule 26.2(b)(3)." [Emphasis added.]

It is unclear whether the 15-day deadline to meet and confer is intended to be triggered from the date of the filing of the answer, the date of service of the answer, or the date of the answer itself. Although in practice, these three dates may be identical, it is not necessarily the case. To promote consistency and avoid confusion amongst practitioners, we respectfully request that the proposed rule be further amended to clarify the triggering event for the 15-day deadline.

For example, the Rule might be rewritten to say, "At the earliest practicable time, but no later than 15 days after a party files an answer or files a motion directed at the complaint, that party and the plaintiff must meet and confer about the anticipated course of their case, including the tier to which it should be assigned under Rule 26.2(b)(3)." [Emphasis added.]

Thank you for your time and consideration of this matter.

Sincerely,

Victoria Katz, Esq.
Rules Attorney