

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-17-0051
PETITION TO ADOPT AMENDED)
LOCAL RULES OF PRACTICE) **FILED 03/26/2018**
)
)
)
_____)

**ORDER
APPROVING THE PROPOSED ABROGATION AND REPLACEMENT OF
THE LOCAL RULES OF THE SUPERIOR COURT, PIMA COUNTY**

A petition having been filed seeking approval of the abrogation and replacement of the Local Rules of the Superior Court, Pima County (but not the current forms associated with those rules), and having considered the petition and the comments submitted in response to the petition,

IT IS ORDERED approving the abrogation and replacement of the Local Rules of the Superior Court, Pima County, as modified and set forth in Attachment A to this Order, effective July 1, 2018.

IT IS FURTHER ORDERED that the forms associated with the current local rules shall remain in effect.

DATED this 26th day of March, 2018.

_____/s/_____
SCOTT BALES
Chief Justice

TO:

Hon. Kyle Bryson
Amelia C. Cramer
John A. Daddona
Michael Fleischman
Jon R. Hultgren
Steven K. Marlowe
Jeffrey A. Marks
Terri Wooldridge
Karl E. Macomber
Trisha Lotzer
Michael Aaron
Kristy Clairmont
Reagen A. Kulseth
Ronald N. Allen
Cheryl K. Coperstone

ATTACHMENT A

Local Rules of the Superior Court, Pima County

Rule 1 - General

The Court

(1.1) Organization of the Court: The Court will be divided into as many divisions as there are judges regularly assigned thereto and each division will bear a numerical designation. Court commissioners and hearing officers will be assigned alphabetical division designations. Court commissioners and hearing officers may also be appointed as judges pro tempore as provided by law. In addition, full time judges pro tempore may be appointed as resources allow and shall be assigned alphabetical division designations. The Court will be divided into 5 benches: Civil, Criminal, Family Law, Juvenile, and Probate/Mental Health. The Presiding Judge of the Court will assign judicial officers to the various benches according to the needs of the Court. The Presiding Judge of the Court will also appoint a Presiding Bench Judge for each of the 5 benches.

(1.2) General Applications: The Rules in this Section will apply to all benches of the Court unless in conflict with a statute or a rule of procedure as adopted by the Arizona Supreme Court for that bench.

Court Hearings and Calendar

(1.3) Motions: Motions will be heard on Monday of each week or as otherwise ordered. If Monday is an official holiday, then the next official court day will be designated for the hearing of motions that week. The division to which the case is assigned will set all motions for hearing unless otherwise ordered by the Court.

(1.4) Civil Default and Ex Parte Matters: The court commissioners or hearing officers will hear default and ex parte matters unless otherwise ordered by the Court.

(1.5) Short Causes, Pretrial Conferences and Special Hearings: The division to which a case is assigned may set short causes, pretrial conferences and other matters needing a special time for hearing on Monday or at such time as may be appropriate in the discretion of the judicial officer. A short cause is any case stipulated to by all parties to take less than one hour to try to the Court.

(1.6) Court Reporters, Special Needs and Interpreters:

(A) Absent an advance request, court reporters will be available only for regularly scheduled trials or other matters as required by law. If a court reporter is needed for any other matter, including juvenile matters, counsel or a self-represented party must notify the division to which the case is assigned and the Manager of the Court Reporters by 12:00 noon of the preceding court day to have a court reporter present. No matter will be

continued for a lack of a court reporter unless such required notification has been given to the division to which the case is assigned and the Manager of the Court Reporters. Absent a timely request, the availability of a court reporter may be limited by the priorities stated in Rule 30, Rules of the Supreme Court of Arizona.

(B) Requests for special needs accommodation for any participant in a court proceeding must be made in writing to the ADA Compliance Officer (Facilities Management) of the Court, with a copy to the assigned division, together with the medical documentation necessary to determine what reasonable accommodations might be necessary. Such request and documentation must be submitted at least 10 business days in advance of the proceeding for which the accommodation is requested unless otherwise ordered by the Court for good cause shown.

(C) Requests for interpreting services must be filed with the Clerk of the Court with a copy to the assigned division and to the Director of Interpreter Services at least 10 business days in advance of the proceeding unless otherwise ordered by the Court for good cause shown.

(1.7) Changes Affecting Court Calendar: The division to which the case is assigned must approve all matters, including stipulations, that affect the Court calendar. No such matter is effective until ordered or approved by the Court.

(1.8) Attorney Calendar Conflicts:

(A) Notice to Court. Counsel and self-represented parties must call to the Court's attention any scheduling or calendar conflicts. Conflicts will be resolved in accordance with Rule 38.1(c), Arizona Rules of Civil Procedure, Rule 8.1, Arizona Rules of Criminal Procedure, or Rule 77(C)(3), Arizona Rules of Family Law Procedure, as applicable.

(B) Motion to Adjust. In resolving conflicts between divisions of the Arizona Superior Court in Pima County, counsel and self-represented parties must file a motion to adjust in all conflicting cases, with a notice of hearing to be filed only before the division with the lowest numbered case. The conflict will be resolved pursuant to the criteria set forth in subsection (c) below.

(C) Resolution of Conflicts. Upon being advised of a scheduling conflict, the judges involved will, confer, if necessary, in person or by telephone to resolve the conflict. While no division has priority in scheduling, the following factors will be considered in resolving the conflict:

- (1)** the nature of the cases as civil, criminal, family, probate or juvenile, and the presence of any speedy trial problems;
- (2)** a case that involves out-of-town witnesses, parties or counsel;
- (3)** the age of the cases;
- (4)** the matter that was set first; and

(5) any priority granted by rule or statute.

Rule 8.1, Arizona Rules of Criminal Procedure, provides that the trial of criminal cases has priority over the trial of civil cases.

(1.9) Change of Judge: Counsel and self-represented parties must file with the Clerk of the Court any “Notice of Change of Judge” when such change is as a matter of right and serve copies on all parties, the Presiding Judge, Case Management Services and the noticed judge. Upon request for a change of judge, the case will be transferred to Case Management Services or designee for reassignment. Counsel will file a Motion for Change of Judge for Cause with the Presiding Judge in accordance with the applicable rules of procedure. As used in this rule, Presiding Judge means Presiding Judge of the Juvenile Court for juvenile cases and for all other cases, Presiding Judge means Presiding Judge of the Superior Court.

(1.10) Filing Requirements for Orders, Writs, Papers, and Ex Parte Presentations:

(A) Supporting Complaint or Petition. No order or writ shall be signed by any judicial officer before a supporting complaint and/or petition is first filed in the Office of the Clerk of the Court.

(B) Preparation, Submission, and Signing of Orders and Writs. The party seeking any such orders or writs must prepare and submit the same for signature to the division to which the case is assigned. If the assigned judicial officer is unavailable, any judicial officer may sign the same.

(C) Filing Prerequisites. All matters filed in any cause or submitted for signature of the Court, except evidence offered at a trial or hearing, must clearly indicate thereon the name and address of the person, firm or attorney offering same. Printed firm or attorney designations on pleadings meet this requirement. The Clerk of the Court must not accept for filing any document that fails to comply with this subsection.

(D) Submit Proposed Orders Separately. Proposed orders submitted for signature of the Court must be prepared as a separate document containing the case title and number at the top of each page thereof, and must not be included as an integral part of stipulations, motions or other pleadings. Failure to comply with this rule may result in a continuance of the requested hearing.

(1.11) Copies to Trial Judge of Paper Documents: This provision does not apply to motions or other papers which have been e-filed through the Court’s e-filing system. For any paper filing with the Clerk of the Court, at the time of the filing of the original with the Clerk of the Court, a copy of all motions or other documents necessary for a judicial ruling or decision must be delivered to the judge of the division to which the case has been assigned or to Case Management Services if the case has not been assigned. The original and copies of all such motions and other documents must show the delivery of a copy to the division to which the case has been assigned.

(1.12) E-Filing Through the Court's E-Filing System: Motions or other documents for which a judicial ruling or decision is requested or required, or for which some judicial action is required must be properly designated in the Court's e-filing system and must be properly delivered electronically to the division from which a ruling is sought. The responsibility for proper delivery is upon the e-filing party.

(1.13) Notification:

(A) Notification. For any motion submitted and pending for 45 days, the filing party must notify the Court through e-filing indication that judicial action is required or give notice by mail, if appropriate, as to the pending status and must request a ruling.

(B) Copies. A copy of any motion that requests a judicial officer to rule without hearing must be provided to the assigned division and the other party. The Court will not consider any issues unless the assigned division receives a copy of the written request and any responsive pleadings.

(1.14) Duplicated Copies and Exhibits:

(A) Quality of Duplication. No pleading or motion will be accepted by the Clerk of the Court for filing unless it is clearly legible.

(B) Exhibits; Custody and Return. Every exhibit offered or admitted in evidence will be held in the Clerk of the Court's custody. The Court may order the return of an original exhibit provided an appropriate copy or a duplicate is substituted therefore.

(1.15) Attachments to Pleadings and Memoranda:

(A) Attachments in General. Any copy of a pleading, exhibit or minute entry that has been filed previously in a case must not be attached to the original of a subsequent pleading, motion or memorandum of points and authorities.

(B) Incorporation by Reference. If a party desires to call the Court's attention to anything contained in a previous pleading, motion or minute entry, the party shall do so by incorporation by reference, citing with particularity where the judicial officer may find the reference.

(C) Authorities Cited in Memoranda. Copies of authorities cited in memoranda must not be attached to the original, although links to citations may be provided in the body of e-filed memoranda.

(D) Attachments to Judicial Officer. Parties may attach copies of pleadings, motions, exhibits, minute entries or texts of authorities to a copy of a motion or memorandum of points and authorities delivered to the judicial officer of the division to which the case has been assigned. Any such attachments or authorities provided to the judge must also be provided to all other parties.

(E) Sanctions. For a violation of this rule, the Court may order the removal of the offending document and assess the offending party or counsel such costs and fees as may be necessary to cover the Clerk of the Court's costs of filing, and any costs of preservation and storage.

(F) Dividers. No pleading, document or other submission will utilize blue pages as dividers for attachments

(1.16) Confidential and Sealed Documents:

(A) Confidential documents are maintained by the Clerk of the Court in the case file in a confidential envelope and are also maintained on the Court's Agave filing system as confidential. Only the parties to case are authorized to view these documents. Individuals must present proper identification to the Clerk or must have an Order from a judicial officer authorizing review of such documents before the documents will be released.

(B) Unless otherwise ordered by the Court, sealed documents are not maintained in the court file or on the Court's Agave filing system but rather are maintained in the Clerk of the Court's Exhibit Unit subject to retrieval and viewing only by order of the Court.

(C) The Court may treat a motion to seal documents as a motion to file confidential documents.

(1.17) Discovery Motions: The Court will not consider or schedule any discovery or disclosure motion for hearing unless the movant attaches thereto a separate "good faith consultation certificate" certifying and demonstrating the movant has tried in good faith to resolve the issue by conferring with—or attempting to confer with—the party or person against whom the motion is directed. The consultation required by this rule must be in person or by telephone, and not merely by letter or email, unless the Court orders otherwise for good cause shown.

(1.18) Attorney of Record: No attorney may appear in any action or file anything in any action without first appearing as counsel of record. Counsel of record shall be responsible for matters in which they appear as set forth in Rule 5.3(a), Arizona Rules of Civil Procedure, Rule 9, Arizona Rules of Family Law Procedure, Rules 11 and 39, Juvenile Court Procedures and Rule 6.3, Arizona Rules of Criminal Procedure, as applicable. Withdrawals and substitutions of counsel may only be made in strict adherence to the requirements and procedures set forth in the applicable procedural rules.

(1.19) Suspension of Rules: Upon application by a party or on the judicial officer's own motion, any judicial officer of this court may suspend any of these Local Rules for good cause.

Rule 2 - Civil

Motions, Proposed Orders, Oral Argument, Notice of Hearing, Telephone Conferences and Discovery

(2.1) Motions or Other Papers Submitted for Decision: The Court will not rule on motions which are not in compliance with Pima County Local Rules 1.11, 1.12 and 1.13.

(2.2) Proposed Order: In accordance with Rule 5.1(d), Arizona Rules of Civil Procedure, a proposed form of order must accompany all civil motions (except Motions for Summary Judgment), oppositions and stipulations. The original proposed order must be lodged with the assigned division at the time of the filing, but, in any event, not fewer than 2 court days before any scheduled hearing. For motions or other requests for a ruling without a hearing, the original proposed order must be lodged with the assigned division at the time of filing the motion, opposition or stipulation.

(2.3) Motions for Summary Judgment, Motions to Dismiss, Motion for Judgment on the Pleadings or other Dispositive Motions: All Motions for Summary Judgment, Motions to Dismiss, Motions for Judgment on the Pleadings and other dispositive motions must be filed not less than 90 days before trial unless the Court orders a different date for filing such motions.

(2.4) Motion for Expedited Hearing and Order: A party requesting an expedited or accelerated hearing must present a Motion for Expedited Hearing and Order to the Court and certify that it has been delivered to all other parties. The Order must provide blank spaces for the Court to set the date and time for the expedited hearing.

(2.5) Oral Argument, Notice of Hearing, Submitted Motions:

(A) Oral Argument. Any party desiring oral argument must file with any motion or response a separate Notice of Hearing that must include the following:

- (1) The motion to be heard;
- (2) The name of the judge to hear the motion;
- (3) The location of the hearing;
- (4) Blanks for the date and time for the hearing; and
- (5) The signature of the attorney or party requesting the hearing.

Upon receipt of the Notice of Hearing, the Court will set the date and time for the hearing. In setting the hearing and unless otherwise ordered, the Court will give each party sufficient time to comply with any applicable rules and give the Court at least 5 additional days before the hearing. After a hearing is set, the movant who submitted the

Notice of Hearing must serve the Notice of Hearing on the other parties as prescribed by Rule 5, Arizona Rules of Civil Procedure.

(B) Submitted Motions. Unless a movant submits a Notice of Hearing as provided in subsection 2.5(a) above, the Court will consider and decide the motion without oral argument, unless otherwise ordered by the Court.

(C) Written Memoranda. The fact that no hearing or oral argument has been set on a motion shall not in any way relieve the parties from filing written memoranda required by any applicable rule.

(D) Time Limitations. Oral arguments are presumptively limited to 10 minutes per side. The Court may extend these limitations for hearing a particular motion, either at the Court's discretion or upon a party's prior written request.

(2.6) Electronic or Telephone Argument and Conferences: The Court may, in its discretion, order or allow oral argument on any motion or other proceeding by telephone conference call or other electronic means. All requests to appear telephonically for hearings must be in writing and presented to the Court no later than noon 2 business days before the scheduled hearing. The party requesting the hearing is responsible for timely notifying all other parties and for arranging any necessary conference call. The Court may, in its discretion, permit appearance by any electronic means on any motion or other proceeding allowed by law, provided that proper technology is available to permit the appearance in a manner that permits all persons who need to participate to do so. All requests for appearances by any electronic means other than telephonic appearances for hearings must be presented in writing to the Court at least 20 days before the scheduled hearing.

(2.7) Motions to Compel Discovery; Required Statement of Deficiencies: In addition to the requirements of Rules 37(a), Arizona Rules of Civil Procedure, a party moving to compel discovery must also set forth, separately from the memorandum of law in support of their Motion to Compel, the following in separate, distinct, numbered paragraphs:

(A) The question propounded, the interrogatory submitted, the designation requested or the inspection requested;

(B) The response received; and

(C) The reason(s) why the response is deficient.

The requirement does not apply where there has been a complete and total failure to respond to the propounded discovery.

(2.8) Summary Jury Trial:

(A) Definition. A Summary Jury Trial is a jury trial that will take no longer than one day in the selection of the jury, presentation of evidence, argument by counsel and the

commencement of jury deliberations. There will be no less than four and no more than six jurors. The jury verdict is final and binding.

(B) Procedure for Summary Jury Trial. If the parties believe a summary jury trial is appropriate in their case, they must submit a Stipulation and Order to the assigned trial judge.

(C) Time to Request Summary Jury Trial. The parties must request a summary jury trial as soon as possible but no later than 2 business days before the date set for trial unless otherwise ordered.

(D) Form of Stipulation. Unless otherwise agreed in writing and approved by the Court, the stipulation for a summary jury trial must be in the form found on the Pima County Compulsory Arbitration website at <http://www.sc.pima.gov>.

(2.9) Compulsory Arbitration:

(A) Amount in Controversy. All civil cases filed with the Clerk of the Court in which the Court finds or the parties agree the amount in controversy does not exceed \$1,000.00, except those specifically excluded by Rules 72 through 77, Arizona Rules of Civil Procedure, must be submitted to and decided by an arbitrator or arbitrators in accordance with the provisions of A.R.S. § 12-133 and Rules 72 through 77, Arizona Rules of Civil Procedure.

(B) Certificate of Agreement or Controverting Certificate. In any case in which the Defendant does not file a Controverting Certificate pursuant to Rule 72(e)(2), Arizona Rules of Civil Procedure, it will be deemed that the defendant has agreed that the case is subject to compulsory arbitration.

(C) Appointment of Arbitrator. If applicable, an arbitrator will be appointed in cases with a single defendant, when the defendant files an answer. Otherwise, the Case Management Services Division will appoint an arbitrator no later than 120 days after the action is commenced. The case shall then proceed through Arbitration as provided by Rules 72 through 77, Arizona Rules of Civil Procedure.

(D) Alternative Dispute Resolution/Summary Jury Trial. As provided by Rule 72(d), Arizona Rules of Civil Procedure, the Court will waive the arbitration requirement if the parties agree to participate in a summary jury trial. If the parties stipulate to a summary jury trial, they must submit a Stipulation and Order and the Order must contain language removing the matter from compulsory arbitration.

(E) Motion to Continue on the Dismissal Calendar. In the event that a notice of decision has not been filed within 270 days after the action was commenced as prescribed by Rule 38.1(d), Arizona Rules of Civil Procedure, Case Management Services will place the matter on the Dismissal Calendar. Any motion or stipulation for an extension of time to remain on the Dismissal Calendar must establish good cause and be submitted to the assigned trial judge. The motion or stipulation must set forth when a

hearing has, or will be, conducted, and the amount of time the party or parties seek to keep the case on the Dismissal Calendar.

(F) Compensation of Arbitrator. An arbitrator assigned to a compulsory arbitration matter is entitled to receive as compensation for services a fee of \$140 per day for each day, or part thereof, necessarily expended in the hearing of the case. “Hearing” is defined by Rule 76(f), Arizona Rules of Civil Procedure.

Pretrial Statements and Trials

(2.10) Joint Pretrial Statements:

(A) All trial settings and pretrial conferences shall be in accordance with applicable rules including, but not limited to Rules 16, 38.1 and 77, Arizona Rules of Civil Procedure.

(B) If counsel have been unable to confer on such matters because of fault or claimed fault on the part of either counsel, such fact shall be brought to the attention of the Court in writing as soon as practicable following discovery of the claimed fault. The Court will consider imposing sanctions under Rule 16, Arizona Rules of Civil Procedure, on any party or counsel for any fault described in that Rule or in this Rule 2.14.

(C) A copy of the Joint Pretrial Statement shall be delivered electronically, if electronically filed, or in paper form, if not electronically filed, to the division to which the case is assigned at the time the original is filed with the Clerk of the Court.

(2.11) Trial Setting: Cases set for trial on a day certain must be tried when reached, and shall remain on the trial calendar to be tried in the order in which they are set or as otherwise ordered by the Court. The fact that a case has been set for trial on a specific day will not give it precedence over cases for a prior day. The case with the lowest case number generally has precedence over cases with higher case numbers. Nevertheless, should more than one trial be set to begin on the same day, the determination as to which trial shall take precedence is at the Court’s discretion.

(A) It shall be the duty of the attorneys or parties appearing in person to be ready for trial when their cases are called.

(B) All jury trials shall be calendared to start at 9:00 a.m. on the first day of trial unless the Court sets a different time. The attorneys must appear in the chambers of the trial judge 30 minutes before the start of trial on the first day unless otherwise ordered by the Court.

Assignment of Cases

(2.12) Filing of Face Sheet (Civil Cover Sheet): When filing a civil action, the Plaintiff must furnish the Clerk of the Court, on a form provided by the Clerk, a Face Sheet or Civil Cover Sheet.

(2.13) Docketing Format: Each document separately filed in a particular case must be sequentially numbered by the Clerk of the Court on the first page of the document, and must be docketed by that number.

(2.14) Case Assignment: All cases filed with the Clerk of the Court will be assigned a case number and will be assigned forthwith by the Clerk or Case Management Services to a Civil Trial Division which will thereafter process the case to conclusion unless the case is otherwise assigned by the Presiding Judge or by Case Management Services under these Pima County Local Rules 2.20, 2.21, 2.22 or 1.9. The assignment of cases may be done by automated means, but in any event, must be accomplished in a random manner so as to be unpredictable and provide an equal distribution of cases among judges in the Civil Trial Divisions.

(2.15) Refiling: Cases refiled after dismissal may upon motion of any party be reassigned to the judge to whom, or the division to which, the case was previously assigned. The Presiding Judge or a designee will hear motions for reassignment.

(2.16) Resetting Cases for Trial:

(A) In the event of a mistrial or the granting of a new trial, the trial judge will reset the case for trial.

(B) In the event the Supreme Court or Court of Appeals remands a case for a new trial, the prevailing party must furnish the trial judge with a copy of the mandate unless it appears of record that the judge has been furnished a copy of the mandate. Upon receipt of the mandate, the trial judge will reset the case for trial. In the event the trial judge is no longer serving on the Court or is no longer assigned that case, counsel must lodge the copy of the mandate with Case Management Services who will reassign the case by the same random process set forth in Pima County Local Rule 2.18.

(C) Cases remanded for a new trial by an appellate court will be granted preference on the trial calendar.

(2.17) Temporary Reassignment of Cases: Consistent with Rule 63, Arizona Rules of Civil Procedure, a case assigned to a specific judge may be temporarily reassigned to another judge if the judge to whom the case is assigned is unavailable, and an exigency exists that requires prompt action by the Court, or upon request of the assigned judge. The case will be reassigned by Case Management Services to another judge or to a visiting judge for the limited purpose of hearing or determining the matter that is the subject of the exigency or request.

(2.18) Post-Trial Motions: All post-trial motions must specify in the caption the name of the judge who tried the case, and shall, where possible, be heard by that judge.

(2.19) Transfer of Related Civil Cases; Case Consolidation; Assignment:

(A) Related Cases. Whenever two or more cases are pending before different judges and any party believes that such cases: (1) arise from substantially the same transaction or event; (2) involve substantially the same parties or property; (3) involve the same patent, trademark, or copyright; (4) call for determination of substantially the same questions of law; or (5) for any other reason would entail substantial duplication of labor if heard by different judges, any party may file a motion to transfer the case or cases involved to a single judge. The motion shall be filed in each affected case and will be heard by the judge to whom the case with the lowest number is assigned. The Court may also transfer, with notice to the parties, related cases to a single judge on the Court's own initiative.

(B) Consolidation. A motion to consolidate pursuant to Rule 42(a), Arizona Rules of Civil Procedure, shall contain the captions of all the cases sought to be consolidated, be filed in each case and be heard by the judge assigned the lowest case number. Unless the Court otherwise orders, when 2 or more cases are consolidated, the Clerk of the Court will regard the lowest case number as the controlling number of the consolidated cases, and all further pleadings and papers must be filed and docketed under that number only. Unless the Court otherwise specifies, it will be presumed that the consolidation is for all purposes.

(C) Service. Service of any motion filed under subsection (a) or (b) shall be made upon all parties and assigned judges.

(D) Assignment. In determining to which judge the case or cases will be assigned pursuant to subsection (a) or (b) above, the Court may consider the following factors: (1) whether substantive matters have been considered in a case; (2) which judge has the most familiarity with the issues involved in the cases; (3) whether a case is reasonably viewed as the lead or principal case, and (4) any other factor serving the interest of judicial economy.

(2.20) Dismissal for Failure to Prosecute/ Dismissal Calendar: The Clerk of the Court or Case Management Services will place on the Dismissal Calendar every case in which a Joint Report and Proposed Scheduling Order has not been filed within 270 days after commencement of the matter pursuant to Rule 16, Arizona Rules of Civil Procedure; or, if Rule 16 does not apply, where either: (a) a proper request for a trial has not been filed within 9 months after the commencement of the matter, or (b) a trial date has not been set.

All civil cases remaining on the Dismissal Calendar for 60 days will be dismissed without prejudice for lack of prosecution pursuant to Rule 38.1(d), Arizona Rules of Civil Procedure, and the Court will make an appropriate order as to any bond or other security filed therein, unless before the expiration of such 60-day period:

(A) A proper Joint Report and Proposed Scheduling Order has been filed; or, if Rule 16 does not apply, either: (1) a proper request for a trial has been filed, or (2) a trial date has been set; or

(B) The Court, on motion for good cause shown, orders the case to be continued on the Dismissal Calendar for a specified period of time without dismissal.

This rule shall not be construed as a limitation on the inherent power of the Court to dismiss a case for failure to prosecute in a reasonably diligent manner.

Rule 3 - Family Law Cases

(3.1) General Administration:

(A) **Application of the Arizona Rules of Family Law Procedure.** Family law cases are subject to the Arizona Rules of Family Law Procedure (“ARFLP”) in addition to this Pima County Local Rule 3. Pima County Local Rule 3 often refers to court-approved forms. Those forms approved for use by the Superior Court in Pima County may be located on the Court’s website <http://www.sc.pima.gov>, or may be located in the Self Service Center of the Law Library at the Superior Court, or at the Pima County Bar Association, and at the Arizona Supreme Court’s website, <http://www.supreme.state.az>.

(B) **Assignment of Presiding Judge and Judges of the Family Law Bench.** The Presiding Judge of the Family Law Bench will, in addition to trial duties, exercise supervisory powers over the Family Law Bench and the Conciliation Court, through the Director of Conciliation Court, as required by statute, and by the Presiding Judge of the Superior Court.

(C) **Scope and Responsibilities of Family Law Bench.** All family law matters brought pursuant to A.R.S. Title 25 and the issuance of Orders of Protection will be assigned to a judicial officer of the Family Law Bench, unless otherwise assigned by the Presiding Judge of the Family Law Bench or the Presiding Judge of the Superior Court.

(D) **Family Law Calendar.** At the time a case is filed with the Clerk of the Court, it will be assigned to a Family Law Bench judicial officer. The judicial officer will calendar all matters concerning that case. When a judicial officer’s assignment is changed, the case will be reassigned to a subsequent Family Law Bench judicial officer, unless the assigned division retains the case.

(3.2) General Rules Relating to Pleading and Practice:

(A) **Affidavit Regarding Minor Children.** In every action for Annulment, Dissolution, Legal Separation, Legal Decision-Making and Parenting Time, Legal Decision-Making or Placement or Visitation by a Third Party or Modification of Legal Decision-Making, each party filing a Petition or Response must file an original and one copy of an Affidavit Regarding Minor Children on a form approved by the Court. The Clerk of the Court will deliver a copy of all Affidavits Regarding Minor Children to the Director of the

Conciliation Court each business day. If there are no minor children, parties need not file an Affidavit Regarding Minor Children.

(B) Disclosure Statements. Disclosure required by Rules 49 and 50, ARFLP, must be provided to the opposing attorney or party, if self-represented, but must not be filed with the Court, except as specifically required by the ARFLP. If division of assets or debts is at issue, a completed Inventory of Property on a form approved by the Court and signed by the parties must be timely exchanged.

(C) Filing of Documents. All documents in family law cases must be filed with the Clerk of the Court, unless otherwise directed in these Rules. Copies must be provided to the opposing party, or if represented, to their attorney. The parties must not file with the Clerk of the Court documents containing sensitive data as proscribed by Rule 43(G), ARFLP.

(3.3) Setting Cases for Trial:

(A) Motion to Set and Certificate of Readiness. To set a case for trial, a party must file a Motion to Set and Certificate of Readiness, on a form approved by the Court. A copy must be provided to the opposing party, the assigned division, and the Case Management Services department. The Motion to Set and Certificate of Readiness must state the following:

- (1) That a response to the subject petition has been filed;
- (2) The time requested for trial;
- (3) That pre-trial procedures have been completed or that both parties shall have had a reasonable opportunity to complete pre-trial procedures 10 days prior to a trial scheduled 60 days after submission of the Motion to Set and Certificate of Readiness;
- (4) The names, addresses and telephone numbers of the individual parties or, if represented by counsel, their attorneys who will be responsible for conduct of the trial;
- (5) Whether the case is entitled to preference for trial because legal decision-making or parenting time is an issue;
- (6) Whether the parties have attended or are scheduled to attend the Domestic Relations Education on Children's Issues course pursuant to A.R.S. § 25-352, or that the requirement has been waived; and
- (7) whether the parties have attended or are scheduled to attend mediation pursuant to Pima County Local Rule 3.10 or that the requirement has been waived.

(B) Controverting Certificates. A party who opposes the scheduling of a trial requested in a Motion to Set and Certificate of Readiness may file a Controverting Certificate, with a copy to the opposing party, the assigned division, and the Case Management Services

department, within 10 days after service of the Motion to Set and Certificate of Readiness. The Controverting Certificate must state any objections to the Motion to Set and Certificate of Readiness. The Court may rule on the Controverting Certificate without hearing or it may schedule a Resolution Management Conference to address concerns raised in the Controverting Certificate and, thereafter, rule on the Motion to Set. An order setting the case for trial constitutes a ruling on the Controverting Certificate.

(C) Trial Date. When a Motion to Set and Certificate of Readiness has been filed and any Controverting Certificate has been ruled upon, the assigned division will schedule the case for trial or Final Pretrial Conference at which time a trial date will be set and will promptly notify the parties. Cases will be set for trial or the Final Pretrial Conference within 60 to 120 days after a Motion to Set and Certificate of Readiness is ruled upon, except in extraordinary circumstances. A case set for trial or Final Pretrial Conference is considered to be on the active calendar.

(D) Exclusion of Legal Decision-Making Modification Trials. The provisions of Pima County Local Rules 3.3(A) through (C) do not apply to trials regarding modification of legal decision-making. All requests for modification of legal decision-making will follow the requirements of A.R.S. § 25-411(L) and Rule 91(D), ARFLP.

(3.4) Settlement Conferences and Alternative Dispute Resolution:

(A) Mandatory Domestic Settlement Conference. In all cases set for trial or Final Pretrial Conference, the parties and attorneys must participate in a domestic settlement conference before the trial or the Final Pretrial Conference. The parties must personally appear at the settlement conference unless the assigned division waives the requirement of personal appearance. Personal appearance may not be made by telephone unless permission to appear by telephone is granted by the assigned division pursuant to a motion or stipulation submitted at least 30 days before the date of the settlement conference.

The domestic settlement conference will be confidential. Subject to Rule 408, Arizona Rules of Evidence, all communications, both oral and written, made by a party in the settlement conference will be confidential and not divulged to third parties. Agreements as to facts and/or stipulations made during the settlement conference must be made of record and will be binding on the parties. The settlement conference judicial officer will determine disputes regarding the accuracy of the record of the domestic settlement conference.

Participation in a mandatory settlement conference fulfills the requirements of Rule 66, ARFLP, regarding alternative dispute resolution. The requirement of participation in a mandatory domestic settlement conference does not preclude mediation, arbitration, settlement conferences, or other dispute resolution processes pursuant to Rule 67, ARFLP, but the mandatory domestic settlement conference shall not be a proceeding subject to Rule 67, ARFLP.

(B) Early Settlement Conference. At any time after disclosure statements have been exchanged any party may request that the Court schedule a settlement conference before the mandatory domestic settlement conference described above, to facilitate early resolution of a case. Participation in an early domestic settlement conference will not preclude mediation, arbitration, settlement conferences, or other dispute resolution processes pursuant to Rule 67, ARFLP. Participating in an early settlement conference does not fulfill the requirement of participating in a mandatory domestic settlement conference. Participation in an early settlement conference will fulfill the requirements of Rule 66, ARFLP, regarding alternative dispute resolution.

(C) Settlement in Alternate Dispute Resolution. Parties who agree to utilize an alternative dispute resolution method pursuant to Rules 66, 67, 67.1, and 67.2, ARFLP, may agree in writing that agreements made by them will be binding upon the parties, subject to the approval of the Court. The parties must agree on the method by which their binding agreements shall be memorialized, consistent with Rule 69, ARFLP. In the case of mediation of parenting time at Conciliation Court, the parties may waive in writing the right for their attorneys to file written objections to mediated agreements as referenced in Pima County Local Rule 3.10(D).

(3.5) Affidavits Required; Pleading and Practice:

(A) Financial Affidavits; Production of Documents.

(1) Forms of Financial Affidavits. There are 2 forms of financial affidavits as permissible alternatives to the Affidavit of Financial Information in the Appendix to Rule 97, ARFLP: (a) a child support financial affidavit; and (b) a spousal maintenance affidavit. Wherever the term financial affidavit is used in this rule, it refers to the relevant court-approved financial affidavit. In any proceeding where the establishment or modification of child support is the sole financial issue, a child support financial affidavit must be filed. In all other proceedings where spousal maintenance or a request for an award of attorney's fees or expenses is at issue, a spousal maintenance financial affidavit must be filed. In all cases a party may choose to use the Affidavit of Financial Information in the Appendix to Rule 97, ARFLP. No filing or appearance fee may be charged for the filing of the opposing party's financial affidavit, unless otherwise provided by law.

(2) Duty to Document Change in Financial Circumstances in the Financial Affidavit. In any proceeding for establishment or modification of child support or spousal maintenance, for an award of attorney fees and/or expenses, or a proceeding for failure to pay any of the foregoing, a party may not present testimony regarding any change in his or her financial circumstances between the date of the most recent financial affidavit and the date of the hearing or trial, unless an amended financial affidavit setting forth the changes has been filed or good cause is shown.

(3) Documents to Be Provided to the Other Party.

(a) When seeking establishment or modification of child support, a party must timely provide to the other party's attorney or to the party if self-represented, but not file with the Clerk of the Court, the following documents:

(i) A fully completed Affidavit of Financial Information on a form substantially in compliance with Rule 97, Form 2, or a child support financial affidavit;

(ii) Proof of income of the party from all sources, specifically including complete tax returns, W-2 forms, 1099 forms, and K-1 forms, for the past 2 completed calendar years; and year-to-date income information for the current calendar year, including, but not limited to, four most recent year-to-date pay stubs, salaries, wages, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits, worker's compensation benefits, unemployment insurance benefits, disability insurance benefits, recurring gifts, prizes, and spousal maintenance;

(iii) Proof of court-ordered child support and spousal maintenance paid by the party in any case other than the one in which disclosure is being provided;

(iv) Proof of all medical, dental, and vision insurance premiums paid by the party for any child listed or referenced in the petition;

(v) Proof of any child care expenses paid by the party for any child listed or referenced in the petition;

(vi) Proof of any expenses paid by the party for private or special schools or other specific education needs of a child listed or referenced in the petition; and

(vii) Proof of any expenses paid by the party for the special needs of a gifted or disabled child listed or referenced in the petition.

(b) When seeking establishment or modification of spousal maintenance, and/or an award of attorney's fees and costs, or expenses, a party must timely provide to the other party's attorney, or, to the party if self-represented, but not file with the Clerk of the Court, the following documents:

(i) A fully completed Affidavit of Financial Information on a form substantially in compliance with Rule 97, Form 2, or a spousal maintenance financial affidavit; and

(ii) Proof of income of the party from all sources, specifically including complete tax returns, W-2 forms, 1099 forms, and K-1 forms, for the past 2 completed calendar years; and year-to-date income information for the current calendar year, including, but not limited to, four most recent year-to-date pay stubs, salaries, wages, commissions, bonuses, dividends, severance pay,

pensions, interest, trust income, annuities, capital gains, social security benefits, worker's compensation benefits, unemployment insurance benefits, disability insurance benefits, recurring gifts, prizes, and spousal maintenance.

(c) The Order to Appear must specifically direct both parties to comply with this rule. The Order to Appear must not require the production of any additional documents, but this does not preclude the applicant from requesting additional documents through discovery procedures.

(B) Time. Whenever this rule requires a party to provide documents or the relevant financial affidavit, a copy must be provided to the other party no later than 4 court days before the date set for hearing or 2 court days after service of the Order to Appear, whichever is later.

(C) Order to Appear for Temporary Orders. When a request for an Order to Appear is made for temporary spousal maintenance, child support, or a request for an award of attorney fees and/or expenses, the party must file the original petition and the required financial affidavit with the Clerk of the Court. A copy of the petition and required financial affidavit must be provided to the assigned division at the time of the request for issuance of the Order to Appear. A copy of each must also be served upon the opposing party, along with a blank copy of the required financial affidavit and a copy of Pima County Local Rule 3.5. The opposing party must file the required financial affidavit, a copy of which must be provided to the party's attorney, or, if self-represented, to the party within the time provided by this rule.

(D) Petition for Modification of Spousal Maintenance or Child Support.

(1) Petition for Modification of Spousal Maintenance. A petition for modification of a prior order for spousal maintenance must comply with Rule 91(A) and (B), ARFLP. The applicant must file the original of the petition and the required spousal maintenance financial affidavit. A copy of the petition and the financial affidavit must be provided to the assigned division at the time of the request for issuance of the Order to Appear. A copy of each financial affidavit must be served upon the opposing party, along with blank copies of the required financial affidavit and a copy of Pima County Local Rule 3.5. The opposing party must file the required financial affidavits, and provide a copy to the applicant's attorney, or if self-represented, the applicant, within the time provided by this rule.

(2) Petition for Modification of Child Support. A petition for modification of child support must comply with Rule 91(A) and (B), ARFLP. The applicant must file the petition to modify and a child support financial affidavit, which reflects the current circumstances of the party seeking a modification. A copy of the petition and the financial affidavit must be provided to the assigned division at the time of the request for issuance of the Order to Appear. A copy of each must be served upon the opposing party, along with a blank copy of the required financial affidavit and a copy of Pima County Local Rule 3.5. The opposing party must file the required financial

affidavit, and provide a copy to the applicant's attorney, or if self-represented, the applicant, within the time provided by this rule. This provision does not apply to modifications filed pursuant to the Simplified Procedure set forth in the Arizona Child Support Guidelines, and pursuant to Rule 91(B)(2)(b), ARFLP. An agency authorized by law to request a modification of an existing Order on behalf of the State of Arizona will not be required to strictly comply with the provisions of this local rule requiring a child support financial affidavit if the information is not reasonably available to the agency prior to filing the petition.

(3) Stipulation to Modify Child Support. Should the parties reach an agreement and submit a stipulation to the Court to modify child support they must submit a proposed form of Child Support Order, Income Withholding Order and a worksheet containing detailed information supporting compliance with or a deviation from the Child Support Guidelines.

(E) Failure to Pay Child Support, Spousal Maintenance, or Attorney's Fees and Expenses. In an action for failure to pay child support, spousal maintenance, or attorney fees and expenses, the opposing party must file with the Court the required financial affidavit and provide a copy to the applicant's attorney, or if self-represented, the applicant, within the time provided by Pima County Local Rule 3.5. The documents listed below must not be filed with the Clerk of the Court or attached to any papers filed with the Clerk of the Court, but must be provided to the other party. The opposing party must also provide the applicant's attorney, or if self-represented, the applicant, copies of the following documents but must not file the documents with the Clerk of the Court:

- (1) That party's most recently filed federal and state income tax returns, with all schedules;
- (2) That party's 4 most recent consecutive wage statements from all employment;
- (3) That party's most recent W-2, 1099, and K-1 forms, as applicable; and
- (4) Where the opposing party claims sums sought by the applicant have been paid, receipts or statements supporting the opposing party's claim.

The Order to Appear must specifically direct the respondent to comply with Pima County Local Rule 3.5. The Order to Appear must not require the production of any additional documents, but this does not preclude the applicant from requesting additional documents through discovery procedures.

(F) Failure to Comply with Pima County Local Rule 3.5. If either party fails to comply with any part of Pima County Local Rule 3.5, upon the complying party's request or the Court's own motion and in the absence of good cause, the Court may enter orders that include the following:

- (1) Vacate or continue the hearing;

- (2) Enter an interim award of relief in favor of a complying party and against a non-complying party based on the complying party's financial affidavit;
- (3) Award a complying party his or her attorney fees and expenses incurred in preparing for and attending the hearing; or
- (4) Enter other appropriate relief, including any sanction permitted under Rule 71, ARFLP.

For purposes of making an interim award the Court may, on its own motion, examine either party if it deems such examination necessary. The non-complying party may be precluded from introducing any evidence and/or conducting cross-examination for purposes of making an interim award.

(G) Hearings. Matters set for hearing on motions will proceed by oral argument only, without testimony or other evidence, unless notice has been given that testimony or other evidence will be presented. Matters set before the Court pursuant to Pima County Local Rules 3.5(C), (D), or (E) will be presumed to be evidentiary hearings.

(3.6) Simultaneous Juvenile Proceedings and Legal Decision-Making, and Parenting Time, and Child Support Proceedings:

(A) When a pending family law proceeding and a pending dependency, guardianship or private severance proceeding involve the same parties, any party may move to consolidate the proceedings by written or oral motion. The Family Court judge may consult with the Juvenile Court judge concerning consolidation, or the Juvenile Court judge may consolidate the proceedings on its own motion. Written motions for consolidation must be filed in the juvenile case and copied to the family law case. The assigned juvenile division will rule on any such motion to consolidate. A copy of the ruling must be filed in the juvenile case and copied to the family law case file.

Legal decision-making, parenting time and child support issues, other than in Title IV-D cases, may be litigated in the juvenile division once the matters are consolidated in the Juvenile Court.

(B) Upon an adjudication of dependency, the Juvenile Court will consolidate any family law matter concerning the same parties with the juvenile matter to prevent conflicting orders in the family and juvenile cases and to allow the Juvenile Court, if appropriate, to determine legal decision-making and parenting-time issues necessary to protect a child. Title IV-D child support matters, however, are excluded from the provisions of this rule and will be addressed only by the assigned Title IV-D judicial officer. Any such orders must be made before the dismissal of the dependency matter and before unconsolidating the juvenile matter from the family law case.

(C) During any dependency/guardianship proceeding in the juvenile division and following the consolidation of the family law matter, the assigned juvenile division may suspend, modify or terminate a child support order for current support if the parent

entitled to receive the child support is no longer entitled to child support as a result of a change in the legal and/or physical custody of the child. The assigned juvenile division will direct that the income withholding order be quashed or modified. The juvenile judge may also affirm previous orders for past due support or child support arrears or make other appropriate orders. Title IV-D child support matters, however, are excluded and will be addressed only by the assigned Title IV-D judicial officer.

(D) The assigned juvenile division may unconsolidate the family law matter or certain proceedings thereof temporarily and return it to the assigned family law division to allow that division to conduct proceedings during a dependency or guardianship matter.

(3.7) Pretrial Statement:

(A) Preparation, Signing, and Filing of Pretrial Statements. In every family law case set for trial or Final Pretrial Conference, including any bifurcated portion of such trial, a pretrial statement must be filed. Counsel who will try the case and who are authorized to make binding stipulations on behalf of the parties, or the parties themselves, if self-represented, must confer and prepare the pretrial statement, signed by each party or counsel. Pretrial statements required by Rule 76(C), ARFLP, must be filed no later than 30 days prior to the date set for trial or the Final Pretrial Conference, or on the date ordered in the family law trial notice. The original must be filed with the Clerk of the Court and a copy must be provided to the Case Management Services department and the assigned trial division. Failure to comply with Pima County Local Rule 3.7(A) may result in the imposition of interim relief and/or sanctions as set forth in Pima County Local Rules 3.5(F) and 3.7, or any other sanctions provided by Rule 76, ARFLP.

(B) Contents of Statements. The pretrial statement in family law cases must comply with Rule 76(C), ARFLP, and shall be in a form substantially similar to the court-approved form.

(C) Accompanying Documents. The parties or, if represented, their counsel must each file with the joint or separate pretrial statement the following:

(1) In a pre-decree action for dissolution, legal separation or annulment, a detailed itemized Inventory of Property and Debt in a form substantially similar to the court-approved form or Rule 97, ARFLP;

(2) In any matter set for trial, if child support, spousal maintenance or attorney fees have been identified as an issue that will be tried, the required financial affidavit pursuant to Pima County Local Rule 3.5;

(3) Copies of all documents required by Pima County Local Rule 3.5(A)(3) and the ARFLP must be exchanged with the opposing party but shall not be filed with the Court, and must be brought to the trial or hearing for use as evidence; and

(4) If parenting time or legal decision-making are not resolved, a Proposed Legal Decision-Making or Parenting Time Plan.

(D) Restrictions on Exhibits and Witnesses. No exhibits or witnesses may be offered or presented during the trial other than those listed on the pretrial statement, and timely exchanged, unless otherwise permitted by the Court.

(E) Sanctions. If there has been a failure by either or both counsel, or the parties if not represented by counsel, to prepare the pretrial statement, the Court may impose any of the sanctions or penalties allowed by the ARFLP or any statute or the Court's inherent authority. At the request of a party the Court may continue the trial, enter an interim award for relief to the requesting party, and award the requesting party attorney's fees and expenses incurred in preparing for and attending the domestic settlement conference or trial. For purposes of entering an interim award, the Court may, on its own motion, examine a party as may be necessary. A non-compliant party may be precluded from introducing evidence and from conducting cross-examination regarding the interim award.

(3.8) Responding Party's Appearance Fee: A final order for joint legal decision-making, including a decree of dissolution of marriage or legal separation containing such order, may not be entered unless the responding party's appearance fee has been paid. If the decree or order is to be entered by default and the responding party has appeared in the action only by payment of an appearance fee to allow an award of joint legal decision-making, notice to the responding party pursuant to Rule 44(B)(2), ARFLP, is not required.

(3.9) Parent Education Course:

(A) Both parties must attend the Domestic Relations Education on Children's Issues course as required by A.R.S. §25-352.

(B) The original Notice of Program Completion—Parent Education Course must be filed with the Clerk of the Court by the Conciliation Court. Each party must promptly provide a copy of the Notice of Program Completion to the opposing party or attorney, unless otherwise ordered by the Court.

(C) If, with the Court's prior permission, a party takes a parent education course outside of Pima County or the State of Arizona in order to comply with A.R.S. § 25-351 *et seq.*, that party must file the original documentation of completion with the Clerk of the Court and provide a copy to the opposing attorney or party if self-represented.

(D) Unless otherwise ordered by the Court, all parties must attend a parent education course before participating in mediation.

(3.10) Conciliation Court Services—Mediation of Legal Decision-Making and Parenting Time Disputes:

(A) Mediation Requirement. All issues of legal decision-making and/or parenting time with minor children are subject to mediation as set forth in this rule. A party may request a waiver of this provision by filing a written request with the Court, and after a hearing,

upon a finding of good cause, the Court may waive the requirement for mediation. This rule requiring mediation does not apply to actions to enforce legal decision-making or parenting time orders. In the event one or both of the parties do not reside in Pima County, mediation is required (unless waived as above), and may be conducted telephonically, unless: (a) the out of county party is willing to personally appear for mediation; or (b) as otherwise ordered by the Court for good cause. The Conciliation Court will conduct mediation unless the parties stipulate to private mediation with a mediator agreed upon pursuant to the provisions of subsection H of this rule or stipulate to other alternative dispute resolution methods under Rules 67.1 and 67.2, ARFLP.

(B) Commencement of Mediation.

(1) By the Court:

(a) Temporary Orders. Mediation is not required before filing a petition to establish temporary legal decision-making and/or parenting time unless the parties stipulate to attend or the Court orders otherwise. Upon the entry of temporary orders, unless entered by a stipulation of the parties, the Court will enter an order that the parties attend mediation.

(b) Trial Date Requested. If a Motion to Set or a Controverting Certificate indicates that legal decision-making and/or parenting time is an issue and the parties have not previously attended mediation, the Court shall enter an order that the parties attend mediation prior to trial.

(c) Post-Decree. The parties must attend mediation if the Court has entered an order granting a hearing on a request to modify legal decision-making or if there is a hearing scheduled to modify parenting time, unless otherwise ordered by the Court. If required by this Pima County Local Rule 3.10(A), a Request for Mediation must be submitted to the Court when a post-decree petition to modify parenting time is filed. Except in an emergency, the Court may not conduct a hearing on a post-decree petition to modify parenting time until the required mediation has been completed.

(2) At the Request of a Party:

(a) When a Request for a Hearing Has Been Filed. If a party files a pre-trial or post-trial request for hearing that raises an issue of legal decision-making and/or parenting time, a party, or a legal representative of a child, may file a written request for mediation at any time. The original request for mediation must be filed with the Clerk of the Court with copies provided to the Conciliation Court and the assigned judge.

(b) When No Request for a Hearing Has Been Filed. A party may request mediation at any time under any of the following circumstances, and by following the procedure described in paragraph (c) below:

(i) The parties previously agreed in writing to use mediation, or there is an order requiring the parties to use mediation to resolve any legal decision-making or parenting time disputes prior to requesting a court hearing.

(ii) An order establishing paternity has been entered and there is no legal decision-making or parenting time order.

(iii) More than one year has passed since the entry of the last legal decision-making or parenting time order, and there has been a significant change in the circumstances of the parties or children, and there is no agreement for mediation.

(c) Procedure.

(i) The original Request for Mediation must be filed with the Clerk of the Court and copies of the Request must be provided to the Conciliation Court and the assigned judge.

(ii) A copy of the written Request for Mediation must be served on the other party pursuant to Rule 41 or 42 (as appropriate), ARFLP.

(iii) The party served with the Request for Mediation may file a written response to the Request for Mediation within 20 days of the date of service. A copy of the written response must be provided to the other party and the assigned division.

(iv) A party requesting mediation must provide to the assigned division 5 days after the expiration of the response period, a Request for Order Granting or Denying a Request for Mediation, and a separate form of Order Granting or Denying Request for Mediation.

(v) The Court may grant or deny the Request for Mediation within its discretion. If the Request for Mediation is granted, the Court will order the parties to attend mediation at the Conciliation Court.

(d) By Agreement of the Parties. The parties may agree to attend mediation through the Conciliation Court by completing and signing a Stipulation to Mediate Legal Decision-Making and/or Parenting Time on a form approved by the Court. The Conciliation Court will set a time and date for mediation upon receipt of a properly completed stipulation.

(C) Mediation Conference. Each party must attend all appointments scheduled by the Conciliation Court. Mediation conferences are governed by Rule 68(B)(4), ARFLP. If a party fails to appear at a mediation conference, the mediator will report to the Court the failure to appear, and the Court may impose such sanctions as may be appropriate.

(D) Mediation Agreement. Any agreement reached through mediation must be signed by the parties. If neither party is represented by an attorney, the agreement will be forwarded to the Court for approval. If any party is represented by an attorney, any

agreement reached through mediation must be signed by the parties and submitted to the attorneys for review. An attorney must file a notice of objection within 30 days after the date of the signing of the agreement, but in no event less than 3 court days prior to any hearing or trial set for legal decision-making or parenting time, and provide a copy of the notice of objection to the Conciliation Court. The notice of objection must state nothing more than a party objects to the agreement, without elaboration. At the same time the objecting party files a notice of objection, that party must submit to the opposing attorney, or to the party if self-represented, a statement setting forth the specific objections to the agreement and a proposal for resolution, as set forth in Rule 68(B)(6)(b), ARFLP. The statement and proposal for resolution must not be filed with the Court. If a notice of objection is filed, the parties will not return to mediation to resolve their dispute unless both parties and their attorneys stipulate to return to mediation. If no objection is filed, the Conciliation Court will submit the agreement to the Court for approval. Agreements reached through mediation may not be enforced until an Order has been entered by the Court approving the agreement. If the agreement is not approved, or if the Court modifies the agreement, and the parties do not accept the modification, then the agreement is nullified, and will not be admissible in evidence.

(E) Confidentiality of Mediation Process. Mediation proceedings must be held in private. All communications, verbal or written, by any person connected with the proceedings must not be disclosed in any Court proceeding even upon waiver by the parties. The only exception to this confidentiality provision is the reporting requirement of A.R.S. § 13-3620.

(F) Conclusion of Mediation. The mediator must notify the Court in writing when an agreement has been reached or the mediator concludes that further mediation is not warranted. Upon the issuance of this notice, mediation is concluded.

(G) Subsequent Legal Decision-Making or Parenting Time Evaluation. The Conciliation Court mediator or private mediator who conducts mediation pursuant to Pima County Local Rule 3.10 shall not subsequently serve as legal decision-making or parenting time evaluator for the same parties.

(H) Private Mediation. The parties may agree to mediate legal decision-making or parenting time disputes through a private mediator selected and paid for by the parties as an alternative to mediation through the Conciliation Court only by complying with the following:

The agreement to proceed with private mediation must be in writing, signed by all parties, filed with the Court, and a copy provided to the Conciliation Court. The name, address and telephone number of the private mediator and the date of the first mediation session must be contained in the agreement. The parties must also acknowledge in the written agreement that the private mediator has received a copy of Pima County Local Rule 3.10.

All the provisions of Pima County Local Rule 3.10 apply to private mediation, and any references to the Conciliation Court are deemed to include private mediators.

(3.11) Conciliation Court Services—Petitions for Conciliation:

(A) Filing of Pleadings. All petitions and other pleadings filed pursuant to A.R.S. § 25-381.09 must be filed with the Clerk of the Court and served upon the opposing party. Conciliation proceedings shall be assigned file numbers with the letter “X” as a prefix. Conciliation petitions may also be submitted at the Conciliation Court. The Conciliation Court will review all petitions for compliance with the statute before filing by the Clerk of the Court.

(B) Statements of Pending Proceedings. Petitions for Conciliation must state, in addition to the requirements of A.R.S. § 25-381.11, whether there is a pending legal proceeding between the parties.

(C) Minute Entry Concerning Pending Action. If an action for annulment, dissolution of marriage, or legal separation is pending, upon the filing of a conciliation petition, the Presiding Family Law Bench Judge, who is designated as the presiding judge of the Conciliation Court will transfer the case to the Conciliation Court.

(D) Hearings; Notices, Mailings and Response. After the filing of a conciliation petition, or after the transfer of a pending family law case by order of the Court, as provided in A.R.S. § 25-381.19, a judicial officer will direct the Conciliation Court to schedule a time and place for a conciliation hearing. The Conciliation Court must mail notice of the date and time of the hearing to each of the parties at least 5 days prior to the conciliation hearing. Hearings will be conducted by a professional staff member of the Conciliation Court unless otherwise ordered by a judicial officer. A conciliation hearing may be recessed to a later time or rescheduled before the Presiding Judge of the Conciliation Court or assigned Superior Court Judicial Officer from the Family Law Bench. Unless the parties agree otherwise, the conciliation proceedings must be terminated 60 days after the filing of the petition.

Failure to attend the conciliation hearing without good cause may be deemed a contempt of court.

(E) Confidentiality. All communications in the Conciliation Court, both oral and written, must be confidential and must not be disclosed without the consent of the party making such communication, except as otherwise required by law.

(3.12) Conciliation Court Services—Assessments and Evaluations:

(A) Referrals for Assessments and Evaluations. The Court, on its own motion or on the parties’ stipulation, may order that legal decision-making and/or parenting time issues be referred to the Conciliation Court to screen and determine if it is appropriate for an assessment or evaluation. The Conciliation Court will review and determine whether the matter is appropriate for an assessment or evaluation according to the criteria adopted by

the Conciliation Court. The Conciliation Court may consider the finances of the parties and the issues involved in the matter in determining whether an evaluation or assessment will occur. If appropriate, an assessment or evaluation may be conducted, in accordance with Rule 68(C), ARFLP. The parties must appear at all conferences scheduled and must furnish all information requested by the evaluator. The parties must complete the Domestic Relations Education on Children's Issues course and mediation before an evaluation being commenced unless otherwise ordered by the Court.

(B) Reports to the Court. At the completion of an assessment or evaluation, the Conciliation Court will submit a report with recommendations to the Court, with copies to the attorneys, or the parties if self-represented. The report must be filed with the Court and an order will be entered sealing the report, to be opened or viewed only by Court order. The Court will consider the report and recommendations in determining legal decision-making and/or parenting time.

Should the parties reach an agreement regarding legal decision-making and/or parenting time during the evaluation, the evaluator will submit a written report to the Court. The report must summarize the parents' participation, and must include the agreement reached by the parents, the recommendations of the evaluator, if any, and a statement of the evaluator's opinion whether the agreement is in the best interests of the minor children.

(3.13) Parenting Coordinator—Private Appointments and Conciliation Court Appointments: The Court may appoint a parenting coordinator pursuant to Rule 74, ARFLP. The appointed parenting coordinator is not subject to subpoena and may not be called as a witness in the case, except as permitted by the Court.

Rule 4 - Probate Matters

General Administration

(4.1) Cases: Probate matters include those matters set forth in Rule 1 of the Arizona Rules of Probate Procedure, Adult Adoptions, and Title 36 mental health cases. Sections 3-301, *et seq.* of the Arizona Code of Judicial Administration are also applicable in probate matters. The Code of Judicial Administration is available at <https://www.azcourts.gov/AZ-Supreme-Court/Code-of-Judicial-Administration>.

(4.2) Presiding Probate Judge: The Presiding Judge of the Probate Division is charged with all cases specified in Pima County Local Rule 4.1. All such matters are active cases until an order is entered closing the file or the Probate Registrar issues a closing certificate.

(4.3) Administrative Directives; Approval of Forms; Informational Guides:

(A) Administrative Directives. The Presiding Judge of the Probate Division may adopt administrative directives for the probate division not in conflict with rules or policies adopted by the Arizona Supreme Court, Court Administrator, and Clerk of the Court, which provide for the orderly processing of probate cases. A copy of the administrative directives shall be available to the public at the clerk's office of the Pima County Superior Court, and the Pima County Law Library.

(B) Forms; Guides. Forms approved by the Arizona Supreme Court and informational guides are available at <http://www.azcourts.gov>. Additional forms from the Arizona Superior Court in Pima County website are available at <http://www.sc.pima.gov> under the Self-Service Forms tab for Probate/Guardianship.

(4.4) Caption of Pleadings; Consolidation:

(A) Caption of Pleadings. In addition to the requirements of Rule 5, Arizona Rules of Probate Procedure, the caption of pleadings must contain the date of birth of the decedent, minor, protected person, or incapacitated person.

(B) Consolidation. When there are two or more petitions relating to the estate of the same decedent or the guardianship or conservatorship of the same ward, all the petitions must, except for good cause shown, be consolidated in the file bearing the lowest file number.

(4.5) Fiduciary Information; Change of Address:

(A) Fiduciary Information. Form for Notice of Change of Address can be found at the Arizona Superior Court in Pima County website at <http://www.sc.pima.gov/> under the Self-Service Forms tab for Probate/Guardianship.

(B) Change of Address. During the term of the appointment, every fiduciary must immediately notify the Court in writing of a change of mailing address. An attorney representing a fiduciary must inform the client of this requirement. The Notice of Change of Address notice must be either:

(1) Delivered personally to the Probate Division of the Clerk of the Court; or

(2) Sent by first class mail, postage prepaid, to the following address: Clerk of the Superior Court, Probate Division, Pima County Court, 110 W. Congress, Tucson, Arizona 85701.

A separate notice shall be filed for each case in which the fiduciary holds appointment.

(C) Sanctions for Failure to Notify of Change of Address. Failure to notify the Court of the fiduciary's change of address may result in sanctions which may include any of the following:

(1) An order requiring payment of all costs to the Court or the estate which result from the failure to notify the Court;

(2) Removal of a fiduciary; or

(3) Issuance of an arrest warrant for the fiduciary if the fiduciary cannot be readily located.

(4.6) Assignment of Cases: All probate matters will be assigned by the Clerk of the Court, Probate Division, to the Probate Court Commissioners, except the following which are to be assigned to the Probate Presiding Judge:

(A) Emergency or temporary petitions relating to adults;

(B) Contested matters unless otherwise ordered by the Presiding Probate Judge;

(C) Request for injunctive relief; and

(D) Any matter referred by the Probate Commissioners or the Presiding Probate Judge for reassignment.

(4.7) Uncontested Matters and Matters Becoming Contested: Unless a different time is set by the Court, uncontested probate matters will be heard Mondays, Tuesdays, Wednesday, and Thursdays at 9:00 a.m., 9:30 a.m., 10:00 a.m., and 10:30 a.m. Order to Show Cause hearings will be heard at 11:00 a.m. Upon the matter becoming contested, as defined in Pima County Local Rule 4.8, the Court Commissioner will assign the matter to the Presiding Probate Judge for all further proceedings.

(4.8) Contested Matters: In addition to those matters in Rule 27, Arizona Rules of Probate Procedure, a contested probate matter includes any of the following:

(A) A request for injunction;

(B) An Order to Show Cause arising under Title 14, Arizona Revised Statutes; or

(C) A civil complaint filed in a probate proceeding.

(4.9) Reference and Assignment of Contested Matters: All contested matters referred to in Pima County Local Rule 4.8 will be assigned for trial before the Presiding Probate Judge. In the Presiding Probate Judge's discretion, such matters may be reassigned to a probate commissioner or judge pro tempore.

(4.10) Form, Content and Captions: All pleadings and motions in contested probate matters, including but not limited to petitions, objections, oppositions, complaints and answers, must conform to the Arizona Rules of Probate Procedure and the Arizona Rules of Civil Procedure. In a contested probate matter, a separate caption showing the parties to the dispute must be set forth beneath the original caption and must be filed under the assigned probate case number.

(4.11) Hearings and Oral Argument:

(A) Notice of Hearing; Oral Argument; Evidentiary Hearing; M Book or Submitted Motions. The requirements for a Notice of Hearing are set forth in Rule 9, Arizona Rules of Probate Procedure. The following requirements are in addition to those set forth in Rule 9:

(1) If oral argument or an evidentiary hearing is desired, the parties are required to follow the dictates of Pima County Local Rule 2.9 entitled “Oral Argument, Notice of Hearing, Submitted Motions”;

(2) If the party submitting the Notice of Hearing is requesting oral argument and/or an evidentiary hearing, the Notice of Hearing must so state;

(3) Any Notice of Hearing for an appearance hearing must provide the Court with an estimated amount of time necessary for the hearing. Otherwise, the Court will set the hearing for as few as 5 minutes; and

(4) Failure to submit a Notice of Hearing to the assigned Division at the time of filing a Petition or moving paper or any document in opposition thereto or failure to request oral argument and/or an evidentiary hearing within the Notice of Hearing will result in the matter being placed on the Court’s “M Book” Calendar and will be decided by the Court had as proscribed in (B) below without oral argument/evidentiary hearing unless the Court orders otherwise.

(B) M Book Calendar; Submitted Motions. Matters placed on the Court’s M Book Calendar will be decided on the papers submitted unless otherwise ordered by the Court.

(C) Non-Appearance Calendar.

(1) Each Probate Court Commissioner and Probate Judge will maintain a non-appearance calendar. Any uncontested matter except the appointment of a guardian or conservator may be heard on the non-appearance calendar unless the Court notifies the filing party that an appearance is required.

(2) A proposed form of order or judgment must be submitted with the documents relating to the non-appearance hearing.

(3) Non-appearance hearings are set for 8:55 a.m. on the appointed date unless otherwise ordered by the Court.

(D) Setting Dates. Each Probate Court Commissioner and Probate Judge will set the date and time for hearings on matters assigned to their Division. Except for emergencies, requests for injunctive relief, or as otherwise provided for under the Arizona Rules of Civil Procedure, the hearing date shall not be fewer than 21 days from the filing date of the applicable pleading absent good cause.

(E) Continuances. Requests for continuances may be made as follows:

- (1) Filing a motion to continue, a proposed order, notice of hearing, and proof of notice to all interested persons entitled to notice by statute, rule, or court order;
- (2) Filing a written stipulation of all necessary parties and persons requesting notice, and a proposed order; or
- (3) Making an oral request at the hearing.

(F) Form and Proof of Notice.

- (1) Proof of Notice of any document or item filed with or provided to the Court is required.
- (2) If the form of Proof of Notice is set forth by statute or court rule, that form must be followed. The rules applicable to captions and other matters of form of pleadings apply to all proofs of notice provided by this rule.
- (3) If the form of proof of notice is not set forth by statute or court rule then proof of notice must be made by one of the following methods and must be signed by the person effectuating service:
 - (a) By filing a separate document in the matter entitled “Proof of Notice” which contains a description of the documents or things filed and served, the time and manner of service, and the name and service address of every noticed person; or
 - (b) By certification of service/notice as set forth in Rule 5, Arizona Rules of Civil Procedure, which includes the time and manner of service, and the name and address of every noticed person.

The proof of notice or certification must identify any noticed person who is known by the party to be a minor or a person under disability and, as to such person, state whether notice was given to the guardian, conservator, or court-appointed attorney of the person.

(G) Waivers of Notice. In addition to the requirements of Rule 14, Arizona Rules of Probate Procedure, matters in which notice has been waived may be presented for approval to the Presiding Probate Judge or a Probate Court Commissioner who will set the matter for hearing without the requirement of notice. Such matters will be set and considered as time permits. If a matter is time sensitive, the petition or motion must identify the time constraint. If all required waivers of notice, stipulations, and consents are filed with the petition or motion, the Court may grant the requested relief without further delay. In such cases, the party seeking relief must mail or deliver a copy of the order to all interested persons upon receipt and file proof of notice thereof, within a reasonable time not to exceed 14 days.

(H) Compensation of Attorneys and Fiduciaries. In all matters filed in court related to compensation of fiduciaries, attorneys, and court-appointed investigators, the party requesting compensation or approval of compensation must file a verified, detailed statement of the services rendered and the time involved as required by statute, rule and applicable case law. This Rule does not apply to claims against Pima County for a Pay Order; such claims must adhere to Pima County's billing requirements.

(4.12) Motions to Withdraw as Counsel: In addition to Rule 5.3, Arizona Rules of Civil Procedure, and Rule 10(D)(2), Arizona Rules of Probate Procedure, regarding withdrawal of counsel, no attorney will be permitted to withdraw as attorney of record after an action has been set for trial, an evidentiary hearing or oral argument, unless either of the following is satisfied:

(A) There is endorsed upon the application therefore either the signature of a substituting attorney stating that such attorney is advised of the date of the hearing or trial and will be prepared for same or the signature of the client stating that the client is advised of the date of the hearing or trial and has made suitable arrangements to be prepared for same; or

(B) The Court is satisfied for good cause shown that the attorney should be permitted to withdraw.

Guardianships and Conservatorships

(4.13) Guardian of Minor, Fingerprints: Where the proposed guardian of a minor is required to be fingerprinted pursuant to Arizona Revised Statutes § 14-5206, the proposed guardian must be fingerprinted promptly after filing the petition for appointment of guardian of a minor. Information about the fees and the procedure for fingerprinting may be obtained by contacting the Clerk of the Court. Rule 21, Arizona Rules of Probate Procedure, contains further requirements.

(4.14) Court Order Appointing Attorney, Medical Examiner, and Investigator: In addition to the requirements of Rule 19, Arizona Rules of Probate Procedure, in any

proceeding in which a court-appointed attorney, medical examiner, or investigator is requested:

(A) The petitioner must submit a form of order with the name and address for the attorney and investigator left blank for completion by the Court or Probate Registrar.

(B) The petitioner must include in the form of order the name and address of the medical examiner.

(C) The party seeking the order of appointment must:

(1) Immediately inform the court-appointed attorney, medical examiner and investigator of their appointment; and

(2) Also mail or deliver a copy of the order of appointment to the court-appointed attorneys, medical examiner and investigator within 2 days after the order is signed.

(D) The Presiding Probate Judge will maintain a rotating list of court-appointed attorneys and court-appointed investigators for Title 14 and Title 36 matters. For good cause shown, the Court may appoint an attorney or investigator other than those on the rotating list.

(4.15) Temporary Appointment of Guardian or Conservator: When petitioning for an emergency appointment of temporary guardian of an adult or conservator of a minor or adult, the petitioner must submit conformed copies of the petition and all required pleadings to the Presiding Probate Judge, or in the absence of the Presiding Probate Judge, to the Probate Registrar, unless otherwise ordered or directed.

(4.16) Appointment of Attorney: If the rights of an unrepresented minor may be compromised because the minor is unrepresented, the Court may appoint an attorney to represent the minor.

(4.17) Settlement Conferences:

(A) Settlement conferences are not mandatory in probate matters and are governed by Rule 29, Arizona Rules of Probate Procedure.

(B) The Probate Presiding Judge will compile a list of attorneys qualified and willing to serve as judges pro tempore for purposes of presiding over and facilitating settlement conferences.

(C) Any attorney included on the list of judges pro tempore for the probate settlement conferences may, upon the attorney's request, be deleted from the Court's list of persons subject to appointment as arbitrators pursuant to Rule 73, Arizona Rules of Civil Procedure.

Decedents' Estates

(4.18) Review of Pending Decedents' Estates; Status Report:

(A) Completion; Verification. At the time a personal representative or special administrator is appointed, the Court will order the fiduciary to file a status report between 60 and 30 days before the second anniversary of the appointment and set a review hearing on the non-appearance calendar to review any status report filed by the fiduciary or the fiduciary's counsel.

(B) Status Report. The status report must include the following:

- (1) Reasons why the estate has not been closed;
- (2) Tasks remaining to be completed;
- (3) Distributions to beneficiaries;
- (4) Inventory of assets remaining;
- (5) Status of insurance and taxes on assets, if applicable;
- (6) Name and address of unpaid creditors including amounts owed; and
- (7) Estimated time for completion of the estate administration.

The personal representative must mail a copy of the status report to all interested persons no later than 30 days before the review hearing and must file proof of notice with the Court.

(C) Early Completion. The procedure described in Pima County Local Rule 4.19 must be followed on each subsequent anniversary of the appointment until the estate is closed unless otherwise ordered by the Court. If the estate is closed before any status date, the status and compliance hearing dates shall be vacated.

(D) Noncompliance. For failure of the fiduciary or the fiduciary's counsel to comply with this rule, a judge or commissioner of the probate division may make such order as permitted by law, including, but not limited to, the following: (1) removal of the fiduciary (2) taxation of costs and/or attorneys' fees then or subsequently incurred; or (3) imposition upon either counsel or the fiduciary of further sanction or penalty provided by statute, rule or authority of the Court, including contempt of court.

Adult Mental Health

(4.19) Mental Health Hearing Calendar: Hearings pursuant to Chapter 5, of Title 36, Arizona Revised Statutes, entitled "Mental Health Services," will be conducted at such times and places as may be designated by the Presiding Judge of the Probate Division. Such hearings will be conducted by Probate Court Commissioners unless otherwise directed by the Presiding Probate Court Judge.

(4.20) Hearings:

(A) Length of Hearing. Hearings on petitions for court ordered treatment or continued court ordered treatment will not exceed one hour unless otherwise ordered by the Court on its own motion or for good cause upon a party's request. Any request by a party for an extended hearing must be submitted not later than 2 days before the hearing.

(B) Hearings Open to Public. Hearings on petitions for court ordered treatment will be open to the public, unless otherwise ordered by the judicial officer presiding over the hearing, and must conclude by 5:00 p.m., except as otherwise ordered.

(C) Stipulations to Continue or Expedite Hearing. Any stipulation of the parties to continue a hearing on a petition for court ordered treatment, or any request to expedite the hearing, must be filed not later than noon on the day before the hearing.

(D) Motions. Any motion hearings related to mental health cases must be scheduled at the earliest available hearing date. If the hearing on the motion cannot be set by the Court within 2 business days after filing of the motion, the Court may conduct a telephonic hearing with counsel to expedite scheduling the hearing on the motion or, alternatively, to hear the arguments on the motion telephonically. Unless otherwise ordered by the Court, no motion hearing may exceed 30 minutes.

(E) Changes Affecting Court Calendar. All matters, including stipulations, which affect the court calendar must be approved by the division to which the case is assigned and must be submitted not later than noon on the day before the hearing, unless the Court approves otherwise.

(F) Written Testimony. By stipulation of the parties, witness testimony at hearings may be presented by written testimony in lieu of oral testimony.

(G) Telephonic Testimony. The judicial officer assigned to the hearing, for good cause, may allow telephonic testimony of a witness at a hearing on a petition for court ordered treatment. Any such request by either party must be promptly presented to the judicial officer presiding over the hearing and opposing counsel.

(4.21) Disclosure of Witnesses and Exhibits: Each party must comply with the following disclosure requirements:

(A) Each party must promptly exchange a list of all witnesses, including their names and telephone numbers;

(B) Each party must promptly exchange a list of all exhibits;

(C) Such disclosure must be made not later than 2 days prior to the time of the hearing; and

(D) Each party shall promptly supplement the witness and exhibit list whenever a new witness or exhibit is discovered.

(4.22) Confidentiality of Files:

(A) Pursuant to A.R.S. § 36-509, the Clerk of the Court or court staff must limit access to mental health files and must disclose only the following information:

(1) That a mental health file exists for any named individual;

(2) The number of that file;

(3) Any scheduled hearing date; and

(4) The time and place of the hearing and the name of the judicial officer assigned to preside at that hearing.

(B) The court docket shall list the docket number only, which must remain public.

(C) Access to the contents of a mental health file must not be allowed except in compliance with A.R.S. § 36-509.

(D) If the Clerk of the Court or court staff is uncertain whether a person requesting information or access is entitled to the same under A.R.S. § 36-509, the person must be referred to the Presiding Judge of the Probate Division.

(E) Transfer to the State Hospital. If the Department of Health Services does not admit a person court ordered to the Arizona State Hospital within 20 days after the entry of the court order for transfer, the county attorney's office must file written notice thereof with the Court with a copy to the judicial officer who presided over the hearing. The judicial officer may set a hearing to determine the status of the patient's admission to the Arizona State Hospital and whether alternatives to admission to the Arizona State Hospital exist at that time. The Court may designate the hearing as either evidentiary or non-evidentiary.

Rule 5 - Criminal

(5.1) Appointed Counsel; Compensation: When a defendant is entitled to appointed counsel pursuant to Rule 6.1(b), Arizona Rules of Criminal Procedure, the Court will appoint the Public Defender. If it is determined that the Public Defender cannot be appointed, the Court will appoint the Legal Defender. If neither the Public Defender nor the Legal Defender can be appointed, the Court will appoint the Legal Advocate or any other available public defense agency. If no public defense agency can be appointed, the Court will appoint private counsel under contract with the county to provide indigent defense legal services. The rate of compensation for court-appointed private counsel and related professional support services will be established by the Court pursuant to A.R.S. § 13-4013(A) and administered by the county through its indigent defense contract. The Court will not review claims for compensation by appointed private counsel or claims for related expenses except as provided in the county contract.

(5.2) Pretrial Release of Persons Charged with Misdemeanors:

(A) Authority to Grant Release and Establish Conditions. The Presiding Judge of the Court and the Chief Magistrate of the City of Tucson may appoint one or more staff members of the Pretrial Release Program of the Court to authorize the release of, and establish the conditions of release for, persons charged with misdemeanors who meet criteria for release established by the Presiding Judge.

(B) Promise to Appear. If release is authorized, the person charged with a misdemeanor will, before release, sign a promise to appear specifying the date, time and place of his appearance.

(C) Failure to Appear. If such person fails to keep the promise to appear, a warrant may issue for such person's arrest.

(5.3) Criminal Arraignments: All criminal arraignments shall be heard by the Hearing Officer at a time designated by the Presiding Judge on every Court business day.

(5.4) Setting of Trial—Status Conference, Pleas and Continuances: At arraignment, the Court will fix a date and time at least four weeks later for the defendant and counsel to appear at a case management conference for the purpose of taking a change of plea or setting of a trial date pursuant to Rule 8.2, Arizona Rules of Criminal Procedure. The Court will also set a status conference 30 days before trial, and such other orders necessary to facilitate completion of discovery and the orderly progress of the case to disposition. All requests for continuance of a trial shall be governed by Rule 8.5, Arizona Rules of Criminal Procedure.

Rule 6 - Juvenile

(6.1) Juvenile and Adoption Proceedings and Habeas Corpus Proceedings Related to Custody: All juvenile and adoption matters will be set for hearing by the Juvenile Court. All habeas corpus proceedings relating to custody of minors will be heard by a judge or judge pro tem of the Juvenile Court.

(6.2) Simultaneous Juvenile Proceedings and Legal Decision-Making, Parenting Time and Child Support Proceedings:

(A) When a pending family law proceeding and a pending dependency, guardianship or private severance proceeding involve the same parties, any party may move to consolidate the proceedings in the Juvenile Court by written or oral motion. The Juvenile Court judge may consult with the Family Court judge concerning consolidation, or the Juvenile Court judge may consolidate the proceedings on its own motion. Written motions for consolidation shall be filed in the juvenile case and copied to the family law case. The assigned juvenile division shall rule on any such motion to consolidate. Legal decision-making, parenting time and child support issues, other than in Title IV-D cases,

may be litigated in the juvenile division once the matters are consolidated in the Juvenile Court.

(B) Upon an adjudication of dependency, the Juvenile Court will consolidate any family law matter concerning the same parties with the juvenile matter to prevent conflicting orders in the family and juvenile cases and to allow the Juvenile Court, if appropriate, to determine legal decision-making and parenting time issues necessary to protect a child. Title IV-D child support matters, however, are excluded from the provisions of this rule and should be addressed only by the assigned Title IV-D judicial officer. Any such orders must be made prior to the dismissal of the dependency matter and prior to unconsolidating the juvenile matter from the family law matter.

(C) To protect the confidentiality of the Juvenile Court matter, a separate minute entry will be filed in the family law matter showing whether the Court ordered the family law matter consolidated with the juvenile court matter. The minute entry from the juvenile matter will likewise reflect whether the Court ordered a family law matter consolidated with the juvenile court matter.

(D) During any dependency/guardianship proceeding in the Juvenile Court and following the consolidation of the family law matter, the assigned juvenile division may suspend, modify or terminate a child support order for current support if the parent entitled to receive the child support is no longer entitled to child support as a result of a change in the legal and/or physical custody of the child. The assigned juvenile division will direct that the wage assignment be quashed or modified. The assigned juvenile division may also affirm previous orders for past due support or child support arrears or make other appropriate orders. Title IV-D child support matters, however, are excluded and will be addressed only by the assigned Title IV-D judicial officer.

(E) The assigned juvenile division may temporarily unconsolidate the family law matter or certain proceedings thereof and return it to the assigned family law division to allow that division to conduct proceedings during a dependency or guardianship matter.