



MARICOPA COUNTY JUSTICE COURTS

INFORMATION FOR FILING A CIVIL ACTION IN JUSTICE COURT

JURISDICTIONAL LIMIT. Jurisdiction means the kinds of cases a court has authority to hear. In Justice Court you may file an action involving damages up to and including \$9,999.99. A larger claim may be reduced to less than \$10,000.00 and the remaining amount waived. Reimbursement of court costs and/or attorneys fees may be claimed in addition to the \$9,999.99 maximum. Court costs include, but are not limited to filing and service fees.

VENUE. Venue means the proper geographical area (the precinct) in which an action may be filed. The precinct in which an action is filed is determined by where the defendant resides or does business, if you are suing a person or business; or, where the cause of action occurred.

MOTION FOR CHANGE OF VENUE. A motion for change of venue for improper venue must be filed prior to filing the answer, or venue is waived. If a motion is filed alleging that the action was filed in the wrong precinct and the court orders a change of venue, the case will be transferred to the proper precinct. If you oppose a motion for change of venue you must file an objection in writing within ten days after service of the motion.

Additional fees may be assessed to the plaintiff (if the original venue was improper) or to a party applying for a change of venue for cause (change of judge).

ATTORNEYS. An Attorney may represent either party. Also, with few exceptions, Rules of Civil Procedure for the Superior Courts of Arizona are followed in the Justice Courts.

NOTICE TO PERSONS REPRESENTING THEMSELVES

A person acting on his or her own behalf is, under the law, held to the same standards and duties as an attorney admitted to the practice of law in the State of Arizona. Such person is expected to know what the law requires and how to accomplish his or her purposes in accordance with the applicable statutes and court rules. If you need advice, please see an attorney. If you do not have an attorney and do not know who to contact, you can be referred to an attorney through:

MARICOPA COUNTY LAWYER REFERRAL SERVICE or the
VOLUNTEER LAWYERS PROGRAM
(602)257-4434

Monday through Friday, 8:30 A.M. to 5:00 P.M.

If you do not have the funds to pay for an attorney, you may seek assistance from the following:

COMMUNITY LEGAL SERVICE
PHOENIX(602)258-3434
1818 S 16th St
Phoenix AZ 85004

The Arizona Revised Statutes and Arizona Rules of Court can be reviewed at www.alis.com and at the Public Library or at the Maricopa County Superior Court Law Library located at:

PHOENIX	MESA
101 W Jefferson	222 E Javelina
Phoenix AZ 85003	Mesa AZ 85210

As you study and learn you will be better informed about the law, your rights, and local legal services available to you.

You have a responsibility to yourself and to the court to acquire a sufficient knowledge to complete the forms properly and to follow your action to conclusion. You may want to refer to the Arizona Revised Statutes and Arizona Rules of Court.

VISIT US AT OUR WEBSITE: www.justicecourts.maricopa.gov

The clerks in the Justice Court are not attorneys and cannot give legal advice. The clerks' responsibility is to take your court filing and to explain court processes and procedures.



MARICOPA COUNTY JUSTICE COURTS

Statutes of Limitations

Time limits in civil actions accrue from the date the events that gave rise to the action occurred.* The time limits apply to both civil suits and small claims. **Please note, this list is meant as a general guide. Not all of the cases listed below can be filed or heard in Justice Court.**

- **One year** – Malicious prosecution; false imprisonment; libel or slander; breach of employment contract; wrongful termination; liability created by statute (ARS 12-541)
- **Two years** – Personal injury; injury when death ensues; damage to property; conversion of property; product liability; forcible entry and forcible detainer (ARS 12-542)
- **Three years** – Debt from oral contract; stated or open account; relief on ground of fraud or mistake (ARS 12-542)
- **Four years** – Bond to convey realty; partnership account; account between merchants; judgment of instrument given or made without the state; bond of personal representative or guardian; specific performance of contract to convey realty (ARS 12-544, 545, 546)
- **Six years** – Written contracts for debt (ARS 12-548)
- **Four years** – Actions for which no limitation is otherwise prescribed (other than for recovery of real property) (ARS 12-550)

*Under some special circumstances, time limits can be extended or deferred. Please consult an attorney to determine if these circumstances apply to your case.

PARTIES. Every action shall be prosecuted in the name of the real party in interest. Be sure that you have named the correct party to be sued. Refer to the HOW TO DESIGNATE A PARTY handout attached.

INDIVIDUALS. An individual named in a lawsuit may represent him/herself. One spouse cannot represent the other.

CORPORATIONS. A corporation authorized to transact business in the State of Arizona is required to maintain a statutory agent upon whom process (court papers) may be served. The name and address of the statutory agent may be obtained by calling the Corporation Commission at 602-542-3285.

When filing against a corporation, it is recommended that you contact the Corporation Commission and obtain the correct corporate name of the corporation and the name and address of its statutory agent. CAUTION: The statutory agent is not the defendant. The statutory agent is the party upon whom service may be made on behalf of the corporation).

UNINCORPORATED BUSINESSES. When filing on behalf of, or against an unincorporated business, it is necessary that the true name or names of the party doing business under that business name be shown as the plaintiff or defendant. This information may be obtained by calling the Secretary of State.

PARTNERSHIPS. A partnership may sue, or be sued, in the name which it has assumed or by which it is known. A partner may appear and represent his own partnership interest, but cannot represent the partnership or the interest of other partners unless he/she is an attorney.

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PLEADINGS. The pleading shall set forth a short and plain statement

EXAMPLE

- 1) Upon which the court's jurisdiction depends: *The defendant resides in the South Mesa/Gilbert Precinct or
The action occurred in the South Mesa/Gilbert Precinct*
- 2) Showing that the pleader is entitled to relief: *The defendant owes me money because . . .*
- 3) A demand for judgment for the relief the pleader seeks: *Wherefore, the plaintiff requests that the court enter judgment in his favor in the sum of . . .*

FILING FEES

Complaint filing fees are payable at the time of the initial filing	\$ 55.00
Subsequent filing (answer or other responsive pleading)	34.00
Transmittal fee (to Superior Court), if required	17.00
Issuing Writs, subpoenas	17.00
Copies /each	.50

HOW TO COMPUTE TIME LIMITS. In computing any period of time, the day of the act is not included (day 1 is the day following the date of the act or event). When any period of time allowed is less than 11 days Saturday, Sundays or holidays are not counted (only *judicial days* or working days are counted). When any period of time allowed is eleven days or more, all days are counted (*straight days*). The last day of the period of time is included in the count – but does not end until 12:00 midnight of that day.

Whenever one party has the right or is required to respond to a filing of the other party within a specified period of time, and the notice or paper is served by mail, five calendar days (straight days) are added to the period of time. This does not apply to the mailing of a Notice of Entry of Default.

SERVICE OF SUMMONS AND COMPLAINT. Service is the delivery of a legal document notifying a person of legal action taken against him or her. In addition to any other available methods as provided by RCPV Rule 4.1, service of the summons and complaint may be by a private process server. The fees of a private process server are regulated by statute. The process server may ask for payment in advance or may bill you for the cost of the service. You are to make payment arrangements directly with the process server for the services performed.

YOUR ACTION WILL BE DISMISSED IF THE SUMMONS AND COMPLAINT HAVE NOT BEEN SERVED WITHIN 120 DAYS OF THE FILING OF THE COMPLAINT.

SERVICE AFTER APPEARANCE. After a party has filed an appearance in an action, unless otherwise ordered by the court, all subsequent pleadings, notices and orders may be served upon the attorney of record or the appearing parties (the plaintiff or defendant) by regular first class mail.

IT IS IMPORTANT THAT ALL PARTIES KEEP THE COURT APPRISED OF ANY CHANGE IN ADDRESS

DISMISSAL. The plaintiff may dismiss the claim at any time prior to defendant filing an answer or other responsive pleading. Once the defendant has filed an answer or other responsive pleading, both parties must stipulate to a dismissal (agree in writing). The defendant may ask the court for reimbursement of court costs and/or attorney fees expended to defend the action.

FILING AN ANSWER. An answer is the defendant's response to the plaintiff's allegations as stated in a complaint. The defendant has twenty (20) calendar days from the date of service in which to file an answer (in writing) to the complaint. In computing the time in which to file an answer, the date of service is not included. If the last filing day falls on a Saturday, a Sunday, or a legal holiday, the answer may be filed on the next immediate judicial day.

If the complaint is served out-of-state the party served has thirty (30) calendar days in which to file an answer. If served by registered mail or by publication other time limits apply.

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FILING A COUNTERCLAIM. A counterclaim is a claim made by the defendant in a civil lawsuit against the plaintiff – a counter lawsuit within a lawsuit. If the defendant files a counterclaim in the action, the plaintiff (counter-defendant) has twenty (20) days from the date of service in which to file a reply (in writing) to the counterclaim. There is no fee for filing a reply to a counterclaim. A counterclaim, if asserted, is filed at the time of filing the answer.

If the counterclaim exceeds \$10,000, the case will be immediately transferred to the Superior Court and appropriate filing fees will be assessed by Superior Court before processing can continue. Also, the party causing the transfer shall pay a transmittal fee to this court of \$17.00.

DEFAULT. A party defaults when that party fails to respond to a lawsuit within the specified time allowed. If the defendant fails to file an answer to the complaint within the time allowed, the plaintiff may apply for an entry of default against the defendant for the purpose of obtaining a judgment by default.

If a counterclaim has been filed and the plaintiff fails to file a reply to the counterclaim within the time allowed, the counter-claimant (defendant) may apply for an entry of default against the counter-defendant (plaintiff) on the counterclaim for the purpose of obtaining a judgment on the counterclaim by default.

The party seeking the default must mail a copy of the application to the defaulting party. If the party claimed to be in default fails to file a responsive pleading or otherwise defend in the action within ten (10) judicial days of the filing of the application, the default will take effect and a default judgment will be entered against the party or parties in default. The court will accept the filing of an answer or other responsive pleading at any time prior to judgment.

Judgment by default may be entered by motion or by hearing. If the claim is for a specified monetary sum, the party seeking the default judgment may file an affidavit stating the amount due and a motion requesting that the court enter judgment for that amount and for costs. In other cases the court will set the matter for hearing to determine the amount of damages and to enter judgment as evidenced at the hearing.

DISCLOSURE. Disclosure is the pretrial process requiring each party to disclose to the other the evidence and witness testimony that will be presented in trial. Disclosure statements must be filed with the court and a copy sent to all parties within forty (40) days of the filing of the Answer. Failure to comply with disclosure may result in sanctions, dismissal or a default judgment.

Disclosure includes:

- The factual basis for each claim/defense.
- A description of the damage(s) and copies of any exhibits substantiating the dollar value of the damages.
- The legal theory upon which each claim is based.
- The names, addresses and telephone numbers of all witnesses and a brief summary of their expected testimony.
- A list of documents or evidence which supports your claim.

MOTIONS. A motion is a request made by a party asking the court to issue a ruling or an order. If the opposing party files a motion of any kind with the court and you have objections to the motion made, you must file your objections in writing within ten judicial days of the filing of the motion. The Judge will consider the request of the motion and any objections thereto and enter an order either granting or denying the motion made. Or, on request of either party, the court may set the matter at issue for an oral argument before rendering an order.

PRETRIAL CONFERENCE. A pretrial conference may be set to clarify the issues for trial, and if possible, assist the parties in reaching a settlement. At the pretrial all disclosure must be exchanged. If a settlement agreement cannot be reached, the matter will be set for trial.

If you fail to appear at the scheduled pretrial date your claim may be dismissed and the defendant may be awarded his/her costs and/or attorney fees necessarily incurred to defend the action.

THE TRIAL. If your action is set for trial you should educate yourself as to court procedure and what is admissible evidence. The plaintiff has a responsibility to prove by the greater weight of evidence that they have a legal right to the claim for damages.

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Motions to continue a trial date must be in writing and filed with the court at least twenty (20) days prior to the trial. Continuances will not be granted for violation of rules regarding discovery.

If you fail to appear at the scheduled trial date your claim may be dismissed and the defendant may be awarded his/her costs and/or attorney fees necessarily incurred to defend the action.

Either party can request a jury trial. Both parties will be required to exchange disclosure and submit prepared jury instructions to the court before trial. The requesting party will be assessed jury fees and costs if the jury does not find in their favor. If a jury is not requested the Judge will hear the case. If you are representing yourself (acting as your own attorney) you will be held to the same standard as an attorney.

The plaintiff will proceed first and may call witnesses and/or introduce exhibits. The defendant may cross-examine any witnesses or object to the admission of any exhibit. After the plaintiff rests, the defendant will then present their case and may call witnesses and/or introduce exhibits that may prove or defend their position. The plaintiff may cross-examine any witnesses or object to the admission of any exhibit.

APPEAL. If you are not satisfied with the trial decision, you may file an Appeal to the Superior Court. A NOTICE OF APPEAL must be filed with the trial court (the justice court) within fourteen (14) days of the entry of judgment and must be accompanied by an appeal fee of \$51.00 (for a copy of the taped proceedings, the certification and transmittal) and a cost bond of \$150.00. Execution of the judgment may be stayed by also filing a supersedeas bond in an amount equal to the judgment and accrued costs. A supersedeas bond may be filed with, before, or after the filing of the NOTICE OF APPEAL. The stay is effective when the supersedeas bond is filed. Ask the clerk for information regarding bonds and costs of appeal.

IF YOU ARE AWARDED JUDGMENT. The plaintiff may be awarded a judgment on the claim against the defendant or the defendant may be awarded a judgment on a counterclaim (if one was filed) against the plaintiff. The party awarded judgment is known as the Judgment Creditor and the party who the judgment is against is known as the Judgment Debtor.

To obtain information about the Judgment Debtor's employment, bank accounts or other assets you may ask the Court for an order for a debtor's examination. Additional fees and costs are required for issuing and serving an order for a debtor's examination (called an Order for Supplemental Proceedings).

- A Writ of Garnishment of earnings can be issued after you make a formal written demand for payment of the judgment amount.
- A Writ of Garnishment of non-earnings can be issued to garnish other assets, such as a bank account or other income property.
- A Writ of Execution empowers the Constable to levy on non-exempt personal property of value. You must provide a description and the location of the property.

The court clerk can provide you with the necessary writ forms. Additional fees and costs are required for issuing and serving Writs of Garnishment and Writs of Execution.

- If your judgment is the result of an automobile accident and remains unpaid 60 days after the judgment has been entered, upon request, the clerk will report the non-payment to the Arizona Department of Transportation, Motor Vehicle Division, pursuant to ARS 28-4071.

When you are paid in full you must file a SATISFACTION OF JUDGMENT with the court. This form is available from the court.

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The following checklist has been prepared to assist you in processing your case. Check off each action when it has been completed.

✓ PLAINTIFF'S CHECKLIST	✓ DEFENDANT'S CHECKLIST
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- _____ Complaint filed and filing fee paid
- _____ Complaint given to process server for service on defendant
- _____ Complaint served on _____
- _____ Time to answer expires on _____
(20 days after defendant served)

IF ANSWER IS RECEIVED:

- _____ Answer received
- _____ Time to file disclosure _____
(40 days after filing of Answer)
- _____ Motion to Set filed with court and copy mailed to defendant

IF NO ANSWER IS RECEIVED:

- _____ File Affidavit of Default and Application for Entry of Default and mail copy to defendant

- _____ Date complaint received
- _____ Answer filed and filing fee paid
- _____ Time to file disclosure _____
(40 days after filing of Answer)

IF COUNTERCLAIM FILED:

- _____ Counterclaim filed and copy mailed to plaintiff on _____
- _____ Time to reply expires on _____
(20 days after counter-defendant is served)

IF REPLY IS RECEIVED

- _____ Reply to counterclaim received

IF NO REPLY IS RECEIVED:

- _____ File Affidavit of Default and Application for Entry of Default and mail copy to counter defendant

FOR PLAINTIFF and DEFENDANT

- _____ Disclosure Statement due (40 days after filing of Answer)
- _____ Comprehensive Pretrial Conference set for _____
Share with other party and this court ALL INFORMATION known or available concerning this matter.
- _____ Trial date set for _____
Bring all evidence and witnesses necessary to prove your case.
- _____ File Satisfaction of Judgment when paid in full.

If case is settled out of court:

- _____ File Voluntary Dismissal with court (if an answer was filed with the court, dismissal must be stipulated)

Collecting the Judgment award:

If you are not able to make arrangements with the losing party to collect your judgment, you may seek a Writ of Execution, a Writ of Garnishment, or an Order for Supplemental Proceedings (debtor's examination). You may ask the court clerk for the necessary form. Please refer to your instructions.

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HOW TO DESIGNATE DEFENDANT(S)

INDIVIDUAL

John Jones
1234 S. Main Street
Mesa, AZ 85201

PARENTS OF A MINOR

John and Mary Jones, husband and wife
Parents of Johnny Jones, a minor
1234 S. Main Street
Mesa, AZ 85201

CORPORATION

ABC Candy Store, Inc.
1234 S. Main Street
Mesa, AZ 85201
SERVE: John Jones, Statutory Agent *
5678 N. Notsoezee St.
Mesa, AZ 85201

- Service may also be effected upon an officer of the corporation – President, Vice-President, Secretary, Treasurer

SOLE OWNERSHIP

John Jones, dba
Jones' Delicious Candy Shoppe
1234 S. Main Street
Mesa, AZ 85201

HUSBAND AND WIFE

John and Mary Jones, husband and wife
1234 S. Main Street
Mesa, AZ 85201
SERVE: John Jones

John and Mary Jones, husband and wife
1234 S. Main Street
Mesa, AZ 85201
SERVE: Mary Jones

TWO OR MORE DEFENDANTS

JOHN SMITH
1234 S. Main Street
Mesa, AZ 85201

MARY JONES
1000 E. First Street
Mesa, AZ 85201

PARTNERSHIP

JOHN SMITH and JOE JONES, Partners
Db J's Café
1000 E. First Street
Mesa, AZ 85201
SERVE: John Smith

John Smith and Joe Jones, Partners
Db J's Café
1000 E. First Street
Mesa, AZ 85201
SERVE: Joe Jones

WHEN THE NAME OF THE DEFENDANT IS UNKNOWN

JOHN DOE Schwarzenegger
1000 E. First Street
Mesa, AZ 85201

Matilda DOE
JANE DOE Taylor
XYZ Corporation

When the defendant's true name is discovered the pleadings may be amended to reflect the true name.