

JUSTICE COURT #2
GRAHAM COUNTY STATE OF ARIZONA
P.O. BOX 1159, 136 WEST CENTER, PIMA AZ 85543 PHONE (928) 485-2771 FAX (928) 485-9961

CIVIL CLAIMS INSTRUCTIONS FOR FILING

THIS IS YOUR CASE. YOU ARE SOLELY RESPONSIBLE FOR PROSECUTING OR DEFENDING THE CLAIM. THERE ARE CERTAIN STEPS YOU MUST FOLLOW TO PURSUE IT PROPERLY. THIS INFORMATION IS PROVIDED TO ASSIST YOU IN GENERAL PROCEDURE IN PROCESSING YOUR CASE THROUGH THE COURT. FOR YOUR CONVENIENCE, THE COURT PROVIDES CERTAIN BASIC FORMS FOR YOUR USE.

CLERK DUTY

Clerks are not attorneys and cannot give legal advice. They are charged with the duty of providing forms and requested assistance to all parties regarding jurisdiction, venue or procedures. It is not the court clerk's responsibility to advise you if you have a legal claim. The clerk is not responsible for any errors you may make in asserting or defending the claim. The court does not take sides or render an opinion regarding the merits of a claim.

COURT FEES	COMPLAINT FILING FEE	\$78.00
	SUBSEQUENT FILING (ANSWER) FEE	\$37.00

JURISDICTIONAL LIMITS

The plaintiff may file for any amount not to exceed \$10,000.00. Cases involving amounts greater than \$10,000 must be filed in Superior Court. A claim may NOT be split by filing two separate actions. The plaintiff may ask for reimbursement of court costs in addition to the \$10,000 maximum. Court costs include, but are not limited to filing and service fees. A prevailing defendant may also ask for reimbursement of court costs.

ATTORNEYS

In a regular civil proceeding either party may be represented by an attorney. The justice court rules are based on the Arizona Rules of Civil Procedure, which apply in the superior court.

IF YOU CHOOSE TO REPRESENT YOURSELF

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 through to conclusion. The clerk's responsibility is to take your court filing and explain court procedures. Clerk's are not attorneys and cannot give legal advice.

STATUES OF LIMITATIONS.

Time limits in civil actions accrue from the date the events that gave rise to the action occurred.* 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 12-543)
- **FOUR YEARS** Bond to convey realty; partnership account; account between merchants; judgment or 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.

VENUE

Venue means the proper geographical area (precinct) in which a court may hear a case. If the defendant files a motion alleging that the action was filed in the wrong precinct and the court orders a change of venue, the case shall be transferred to the proper precinct and the plaintiff shall pay all fees. If you oppose a motion for change of venue you must file an objection in writing five (5) days after service of the motion. A motion alleging improper venue must be made before filing the ANSWER. If the defendant fails to file a timely request for a change of venue, that right is waived.

PARTIES

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 [A.R.S. 10-012] upon whom process be served. When filing against a corporation, it is recommended that you contact the Arizona Corporation Commission at (602) 542-3285 and obtain the correct corporate name and the name and address of its statutory agent. (CAUTION: the statutory agent is not the defendant. The statutory agent is the party to whom service may be made on behalf of a corporation.)

Unincorporated Businesses

"Every action shall be prosecuted in the name of the real party in interest [Rule 104 JCRCP.]" 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 plaintiff or defendant. This information may be obtained by calling the Secretary of State.

Partnerships

Partnerships may sue, or be sued, in the name that it has assumed or by which it is known.

Pleadings

Pleadings are formal written statements by which parties assert their claims or defenses.

The pleadings (the complaint) shall name the party(s) you are bringing suit against (the party you deem to be responsible for the damages you are claiming) and shall set forth a short and plain statement:

(1) upon which the court's jurisdiction depends. For example, The defendant resides in the Graham County Precinct Two or The action in question occurred in the Graham County Precinct Two.

(2) showing that the pleader is entitled to relief..For example, The defendant owes me money because...

The accompanying summons shall also name each responsible party as is named in the complaint and shall name the person to be served on behalf of the defendant(s). The clerk will sign and seal the summons presented and issue it for service.

How to Compute Time Limits

When 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, Saturdays, Sundays and holidays are not counted (only judicial days of business days are counted)
- When any period of time allowed is eleven days or more, all days are counted (straight days - meaning weekends and holidays are counted. The last day of the period of time is included in the count, and if it falls on a weekend or holiday, will be the following working day.
- If served by mail, whenever one party has the right or is required to respond to a filing of the other party within a specified period of time, five calendar days (straight days) are added to the period of time if the notice or paper was served by mail. This does not apply to the mailing of a Notice of Entry of Default.

METHODS OF SERVICE

In addition to any other available methods, service of the summons and complaint shall be by a private process server [Rule 112-113 JCRCP. The Complaint/Summons is available by the clerk of the court. You designate the server you wish to employ to perform the service for you. 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 service, and you are to make payment directly to 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 YOUR COMPLAINT.**

EACH NAMED DEFENDANT MUST BE SERVED A COPY OF THE COMPLAINT AND SUMMONS.

DISMISSAL

The plaintiff may dismiss the claim at any time PRIOR to the defendant filing an answer or other responsive pleading. Once the defendant has filed an answer or other responsive pleading, BOTH parties must stipulate, or agree, in writing to a dismissal. The defendant may ask the court for reimbursement of court costs and/or attorney fees incurred defending the action. The court can provide a STIPULATION FOR DISMISSAL form for your use.

FILING AN ANSWER

An answer is the defendant's response to the plaintiff's allegations as stated in a complaint. The Answer form is available at the court. If you are the defendant, you have twenty (20) calendar days from the date you are served with the complaint to file an answer (in writing). In computing the time by 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 judicial business day. Failure to file an answer may result in a default judgment.

FILING A COUNTERCLAIM

If the defendant files a counterclaim against the plaintiff, the plaintiff (the counter defendant) has twenty (20) days to file an answer to the defendant's counterclaim or a default judgment may be entered against the plaintiff for failure to answer the counterclaim. There is no fee for filing a reply to a counterclaim. The court can provide a Counterclaim form.

If the defendant files a counterclaim and the amount claimed exceed \$10,000, the case will be immediately transferred to 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. ALL COUNTERCLAIMS are filed at the time of filing the answer. If not, the defendant must seek permission of the court by filing a motion to file a counterclaim.

DEFAULT JUDGMENTS

If a defendant fails to submit an answer to the complaint within the time allowed, the plaintiff may apply for an entry of default against the defendant. A judgment by default is one that is obtained without trial due to proof of the allegations contained in the complaint to substantiate plaintiff's demand.

If a counterclaim has been filed and the plaintiff fails to reply to the counterclaim within the allowed time, then the counter claimant (defendant) may obtain a default judgment against the counter defendant (plaintiff). Defendants seek default judgments on the counterclaim in the same way the plaintiffs may obtain them against the defendant on a complaint.

SERVICE AFTER APPEARANCE

All subsequent pleadings, notices and orders may be served upon the attorney of record of the appearing parties by regular mail. IT IS IMPERATIVE that each party to an action keep the court apprised of his/her current mailing address.

DISCLOSURE

Disclosure is the pretrial process through which each party discloses to the other the evidence and witness testimony that will be presented at trial.

- A disclosure statement MUST be filed with the court and a copy sent to all parties within 40 days of the filing of the answer unless otherwise ordered by the court. [Rule 121-122 JCRCP].
- 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 damage.
 - ★ The legal theory upon which each claims is based.
 - ★ The names, addresses and telephone number of all witnesses and a brief summary of their expected testimony.
 - ★ A list of documents or evidence which supports your claims.

Failure to comply with disclosure may result in a dismissal or entry of default judgment against you

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, you should file your objections in writing ten (10) judicial calendar days of the filing of the motion to which you are objecting.

The judge will review the written pleadings and enter an order either granting or denying the motion made OR on request of either party, or by order of the court, the Judge may set the matter at issue for an oral argument before rendering any order.

PRETRIAL CONFERENCE

A pretrial conference may be held to clarify the issues for trial, and exchange information to allow the parties to meet and possibly reach a settlement. When you are ready to go to trial you must file a Motion to Set with the court requesting that a trial date be set. In some cases, if neither party files a motion within ten (10) days, the court will set a trial date. Please check with the staff at the court in which your case is being heard to determine that court's procedure.

PREPARING FOR TRIAL

If your action comes to trial, you should educate yourself on court procedure and rules on admissible evidence. As the person who brought the suit, it is the plaintiff's responsibility to prove by the greater weight of evidence that they have a legal right to the amount they are claiming. Trial notices must be submitted in writing and filed with the court. No trial continuances shall be granted except upon a finding of good cause.

FAILURES TO APPEAR

If the plaintiff fails to appear the complaint will be dismissed without prejudice. The court may award the defendant his/her costs, including attorney fees. If the defendant fails to appear, the court may enter judgment against him/her. If both parties fail to appear, the case will be dismissed without prejudice.

It is your responsibility to keep the court informed of any address change. Be sure to come on the right day and time. If you fail to appear at the trial, your claim may be dismissed or a judgment entered against you.

JURY TRIALS

Either party can request a jury trial. Both parties will be required to 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.

BASIC TRIAL PROCEDURE

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(s) will 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.

APPEALS

To appeal a judgment you must file a NOTICE OF APPEAL with the trial court within fourteen (14) calendar days from the date of the judgment. IF YOU DO NOT file a NOTICE OF APPEAL within the time allowed by law, you lose the right to appeal. The time to file cannot be extended. It is required that you designate the specific judgment or order you are appealing in the NOTICE OF APPEAL. The court will provide you with the Notice of Appeal form and procedures.

REQUEST TO CONTINUE COURT DATE

If for some reason you find that you are unable to appear for trial on the date and time scheduled, you may file a REQUEST FOR CONTINUANCE with the court, showing good cause why you are unable to appear. The Judge will consider the merits of your request and either grant or deny it. The request for continuance must be in writing and should be timely filed - at least ten (10) days prior to the trial date. If the case is settled before the scheduled trial date, be sure to notify the court. A STIPULATED DISMISSAL form must be filed.

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.

COLLECTING THE JUDGMENT

To obtain information about the Judgment Debtor's employment, bank accounts or other assets, you may ask the Court for an order for debtor's examination. This may be done immediately following the trial or at any other time after judgment. 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 garnishment or execution 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 and you notify the court, the clerk will report the non-payment to the Arizona Department of Transportation, Motor Vehicle Division, pursuant to ARS 28-4071. MVD will suspend the judgment debtors' driver's license, registration and non-resident operating privilege.

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