

# Civil Courtroom Policies and Procedures:

## Appearances

- A. **Procedural or other hearings during which evidence will not be taken, except settlement conferences:** Unless otherwise ordered by this Court, participants may appear:
1. Personally at the Mohave County Superior Court, Courtroom 301, located at 415 Spring Street, Kingman, AZ 86401, or
  2. Remotely by joining the Zoom video courtroom with meeting ID 899-614-070-81 and passcode 2141912; or telephonically by calling (877) 853-5247 with meeting ID 899-614-070-81. *Video is preferred when possible, and ensuring a quality connection is the responsibility of any participant choosing to remotely appear.*
- B. **Settlement conferences:** All settlement conferences will occur in person unless a remote appearance is specifically authorized via this Court's order. All parties and counsel will consent to ex parte communications during the settlement conference authorizing the Court to communicate with the adverse party off the record and outside the presence of the other party. Each party shall prepare an ex parte settlement conference memorandum which shall not be filed with the Clerk but shall be delivered to this Court's judicial assistant at least one week prior to the conference via email.
- C. **Evidentiary Hearings:** All persons (counsel, parties, and witnesses) must appear in person before this Court, unless otherwise permitted by written order.

No remote appearances are permitted at evidentiary hearings unless:

1. A motion is filed seeking leave to appear remotely at least 30 days in advance of hearing or as otherwise ordered by this Court.
2. All persons appearing remotely have adequate hardware, software and are in a location that facilitates an uninterrupted remote appearance. It is the responsibility of the litigant to ensure that anyone appearing remotely on that party's behalf is capable of a quality remote appearance.

*The Court liberally allows remote appearances via Zoom, provided the conditions set forth above have been met.*

## **Evidence / Exhibits**

- A. All exhibits should be uploaded to the Digital Evidence Portal at least 30 days in advance of trial or other evidentiary hearing, unless otherwise ordered by this Court. No physical exhibits will be accepted for admission into evidence, unless a motion is filed at least 60 days in advance of hearing seeking the use of physical exhibits, supported by sworn affidavit demonstrating good cause, unless otherwise ordered by this Court.
- B. Training on the Digital Evidence Portal is offered through the Court's IT department. It is recommended that counsel and self-represented litigants complete this training at least 60-90 days in advance of an evidentiary hearing or trial. Failure to obtain timely training alone will not normally be considered grounds for a continuance.
- C. The information required to upload exhibits to the Digital Evidence Portal can be acquired from the Clerk's office at [MohaveDE@courts.az.gov](mailto:MohaveDE@courts.az.gov).

## **Case Processing and Dismissal**

- A. As each case is filed, the Court's judicial assistant calendars all relevant procedural dates (including but not necessarily limited to, abatement for lack of service, time for default if no answer is filed, failure to timely file a proposed joint report and scheduling order).
- B. **Service**. At or around the time of filing, a written notice issued notifying the parties that service must be accomplished within 90 days of filing the complaint or the case is subject to dismissal. See, Rule 4(i), Ariz. R. Civ. P. If proof of service is not filed with the Court by the 97th day, the case may be dismissed without prejudice either in its entirety or as to the unserved defendants without further notice due to abatement. Reinstatement will only occur as allowed by rule (i.e., the filing of a written motion supported by verified facts demonstrating good cause).
- C. **Extending time for service**. After the initial 90-day service period lapses, the Court may only extend the time allowed for service if a written motion is filed supported by verified facts documenting good cause. The good cause should be specific and non-conclusory and should demonstrate reasonable and diligent efforts to effect timely service which were unsuccessful. Litigants are encouraged to utilize electronic databases (such as, but not limited to, LexisNexis Accurint), skip traces, searching public records (such as, but not limited to, Department of Motor Vehicles, voter registration, recorder, assessor, and other public records), speaking to neighbors, etc. . . . to locate unserved parties and to demonstrate that an extension of time has a reasonable possibility of accomplishing service of process within the time requested.

If an extension is granted, and proof of service is not filed within seven days of the extension granted, the case may be dismissed without prejudice, either in its entirety or as

to the unserved defendants, without further notice due to abatement.

D. **Alternative Service.** Publication may only be authorized as permitted by rule. If alternative service is authorized, the means used to give notice should be reasonably calculated to provide practical notice to otherwise unserved litigants. By way of a non-exhaustive example only, each of the following might be ordered as alternative service:

1. Mailing a copy of the Summons, Complaint, and Order Authorizing Alternative Method of Service of Process via First Class Mail to Defendant to their last known (as may be confirmed via a supporting affidavit setting forth the basis for that determination);
2. Mailing a copy of the Summons, Complaint, and Order Authorizing Alternative Method of Service of Process via Certified Mail (Restricted Delivery) to Defendant to their last known address (as may be confirmed via a supporting affidavit setting forth the basis for that determination);
3. Posting a copy of the respective Summons, Complaint and Order Authorizing Alternative Method of Service on the front door of the property identified as the Defendant's last known address (as may be confirmed via a supporting affidavit setting forth the basis for that determination); and,
4. Emailing a copy of the respective Summons, Complaint and Order Authorizing Alternative Method of Service to any known email addresses of the Defendant (provided that the known email addresses are confirmed via an affidavit setting forth the basis for that determination).

If an order authorizing alternative service is granted, and proof of service is not filed within seven days of the date alternative service was required to be completed, the case may be dismissed without prejudice, either in its entirety or as to the unserved defendants, without further notice due to abatement.

E. **No answer or other response filed, dismissal for lack of prosecution.** If no answer is filed within 20 days for in-state defendants and 30 days for out-of-state defendants, those defendants are subject to being defaulted, unless a waiver was obtained. If an application for default and other associated documents are not filed within 15 days following the answer due date, the case is subject to being placed, in whole or in part, on the dismissal calendar of a period of 30 days.

If the application for default is filed, but no request to set a hearing is filed within 15 days of the effective default date, the case is subject to being placed, in whole or in part, on the dismissal calendar of a period of 30 days.

If the default documents, or other filing designed to advance this matter, are not filed within the 30 days the case is on the dismissal calendar, the case may be dismissed

without prejudice, either in whole or in part, without further notice due to lack of prosecution.

- F. **Joint report and proposed scheduling order.** If an answer or other response is filed, the joint report and proposed scheduling order must be filed within 44 days of filing the answer or response and in no event later than 134 days of filing the complaint. See, Rule 16, Ariz. R. Civ. P. The joint report and proposed scheduling order should contain the tier designation of the case. All disclosure and discovery must be concluded within the time allowed for that tier (120 days for Tier 1, 180 days for Tier 2, and 240 days for Tier 3), unless accompanied by a motion supported by specific, verified facts showing good cause for some other disclosure and/or discovery time frame.

If the joint report and proposed scheduling order is not timely filed, the case may be placed on the dismissal calendar for a period of 30 days. If the joint report and proposed scheduling order is not filed within that 30-day period the case is on the dismissal calendar, the case may be dismissed without prejudice and without further notice due to lack of prosecution.

If the joint report and proposed scheduling order allows for discovery and/or disclosure outside the time allowed by rule, and that time frame is not supported by an appropriate motion seeking a different period, the joint report and proposed scheduling order may be denied. The parties will then be required to submit a revised joint report and proposed scheduling order which complies the applicable time frames. Pending the filing of the revised joint report and proposed order, the case may be placed on the dismissal calendar and may be subject to dismissal without prejudice and without further notice for lack of prosecution, if the required revised joint report and proposed scheduling order is not timely submitted.

The parties may obtain a trial setting conference date to include within the joint report and proposed scheduling order by emailing the Court's judicial assistant.

When completing the joint report and proposed scheduling order, the parties should include a motion *in limine* deadline that corresponds to the dispositive motion deadline.

- G. **Motions.** All motions, responses, and replies, together with supporting documentation, must be filed with the Clerk, copied to all persons that have made an appearance (with proof of such being documented by a mailing certificate) and an additional copy should be provided to the Court's judicial assistant.

All motions should be accompanied by a proposed form of order.

If a party has not received an order ruling on the motion or setting oral argument within 45 days of the concluding briefing document (motion, response, or reply, depending) being filed, please contact the Court's judicial assistant and inquire as to the status of the Court's review.

## **Trial Preparation**

A. **Joint Pretrial Statement**. In preparing for a jury trial, counsel or self-represented litigants should:

1. File a joint pretrial statement in conformity with Rule 16(f), Ariz. R. Civ. P., at least seven days in advance of the trial management conference. At a minimum, Plaintiff's counsel should provide the first draft to Defendant's counsel at least 21 days prior to the trial management conference, and Defendant's counsel should make additions and revisions thereto and return it to Plaintiff's counsel via email at least 14 days prior to the trial management conference. If counsel and/or parties refuse to cooperate, or a joint pretrial statement is not filed, the parties should submit a unilateral pretrial statement and the Court may, in its discretion, impose sanctions for any lack of good faith cooperation as allowed by rule.
2. The joint pretrial statement should include a brief statement of the case (as required by Rule 16(f)(G), Ariz. R. Civ. P.) which shall not exceed a total of two paragraphs or one-half page, whichever is less.
3. Proposed verdict forms should be attached to the joint pretrial statement. The proposed verdict forms shall be proofread and updated to reflect the facts of the particular case and a copy shall be submitted in Word to the Court's judicial assistant.
4. Proposed preliminary and final jury instructions should be attached to the joint pretrial statement. The proposed preliminary and final jury instructions shall be proofread and updated to reflect the facts of the particular case and a copy shall be submitted in Word to the Court's judicial assistant.
5. Include a time estimate that each party will use for voir dire, opening and closing statements, and direct, cross and redirect examination of each witness.
6. Document any disputes within the joint pretrial statement. Concurrent with filing the joint pretrial statement, each party should file a separate brief arguing their position on each dispute, including any factual and legal basis in support of their position.

B. **Voir Dire and Jury Questionnaires**. The Court uses an online juror questionnaire as a method of initial voir dire. The online voir dire does not supplant in person voir dire but is instead used to prepare the parties for in person voir dire and allows the Court to efficiently manage the venire.

Unless otherwise ordered, the online jury questionnaire:

1. Shall be limited to a maximum of 40 questions;

2. Shall allow for direct responses (Yes, No, Unsure, or, where appropriate, space for a brief narrative);
  3. May otherwise include any relevant and appropriate question desired by a party, provided that it includes the first 11 questions from the model questionnaire;
  4. Shall be attached to the joint pretrial statement and finalized at the trial management conference;
  5. Responses shall be reviewed by the Court and counsel at the final pretrial conference for purposes of managing the venire.
- C. **Trial Management Conference.** The Court will attempt to calendar the trial management conference about 12 weeks in advance of the trial date. In addition to pending matters, the Court and counsel will review the joint pretrial statement, the online juror questionnaire, counsel's time estimates, proposed verdict forms, proposed preliminary and final jury instructions, and the brief statement to be read to the jury as part of the jury instructions, the online questionnaire, or as otherwise might be read or communicated to the venire or jury.
- D. **Final Pretrial Conference.** The Court will attempt to calendar the final pretrial conference at least two weeks before the start of trial. The Court and counsel will address any unresolved trial issues. The potential jurors' answers to the online jury questionnaire will also be reviewed. Potential jurors may be excused at the time of the final pretrial conference due to disqualification, conflict, hardship, preplanned vacations, care providing, or medical/health issues. Potential jurors will not be excused at the time of the final pretrial conference for bias or other reason, unless both parties' consent. Bias or other reasons for potentially excusing a juror as documented within the answers to the online questionnaire will be grounds for follow up during the in-person portion of voir dire.
- E. **Jury Trial.** Unless otherwise ordered by the Court:
1. The place of the jury trial shall be Courtroom 301 at 415 Spring Street, Kingman.
  2. Each day of jury trial shall run from 8:00 a.m. to 5:00 p.m., with a mid-morning break and a mid-afternoon break of about 15 minutes duration. Lunch shall run from noon to 1:15 p.m., with the case being recalled, calendar permitting, at 1:30 p.m.
  3. All exhibits shall be presented via the Digital Evidence Portal, as outlined above.
  4. Remote appearances of parties and witnesses are allowed, subject to the above requirements. Any difficulty with arranging the clear and coherent remote appearance of a party or witness shall not serve to extend time for trial and will instead be deducted from the time allocated to the party calling the witness.

## **Judgment and Orders**

- A. Orders should be lodged with the Court ten days after trial or ruling on dispositive motion, unless otherwise ordered. Objections to proposed orders must be filed within the time allowed under Rule 58, Ariz. R. Civ. P.

All final judgment and orders should include either Rule 54(b) or Rule 54(c), Ariz. R.Civ. P., language, as may be appropriate.

Any judgment or order involving real property should include a complete legal description.

Any judgment or order containing a monetary award should include the specific interest rate, including the commencement date. Simply referencing interest as allowed by law is not sufficient.

If attorney fees and costs are sought, the statement of costs, and the application for fees and supporting affidavit, should be filed concurrently with the form of judgment or order. Appropriate language either awarding or denying fees and costs should be included within the form of judgment or order.

Questions: Any questions should be directed to the Court's judicial assistant, The Court's judicial assistant is not empowered to waive or amend these policies and procedures, or the effect of a judgment or order of this Court. If an attorney or party is seeking clarification or relief from an order or these policies and procedures, the appropriate motion should be filed.