

## **LA PAZ COUNTY JUSTICE COURT SMALL CLAIMS CASE INSTRUCTIONS AND GUIDE**

### **If you want to start or are involved in a Small Claims case. . .**

In situations where a civil dispute arises, Arizona's Justice of the Peace Courts (justice courts) offer a forum for small claims lawsuits. Justice courts have exclusive jurisdiction over small claims filings. "Jurisdiction" is the court's power to decide a case.

Exclusive of interest and costs, a small claims lawsuit cannot have a claim amount for more than \$3,500.

If you wish to file a lawsuit for an amount over \$3,500, but less than \$10,000, you may file a civil lawsuit in the justice court. If you wish to sue for more than \$10,000, you must file your lawsuit in the superior court.

The small claims division provides an expedited and less formal means to resolve civil disputes for money damages up to \$3,500. Attorney representation is not allowed in small claims, unless both parties agree, in writing, to the use of attorneys. Small claims cases do not have the right to appeal, and jury trials are not allowed. A small claims case will be heard by a small claims hearing officer or a Justice of the Peace.

### **Please STOP...**

- If you are suing for more than \$3,500.
- If you wish to reserve the right to attorney representation, to a jury trial, or to appeal.
- If this case:
  - Involves a claim of defamation by libel or slander;
  - Is for forcible entry, forcible detainer, or unlawful detainer;
  - Seeks a remedy of specific performance;
  - Is part of a class action suit;
  - Requests or involves prejudgment remedies;
  - Seeks injunctive relief; or
  - Is against the State, its political subdivisions, or its officers or employees acting in an official capacity.

### **Please PROCEED...**

- If you are suing for an amount of \$3,500 or less, not including interest and costs.
- If you DO NOT want to be represented by an attorney.
- If you DO NOT want to have a jury trial.
- If you DO NOT wish to retain the right to appeal.

### **FORMS Needed:**

- SMALL CLAIMS SUMMONS
- SMALL CLAIMS COMPLAINT
- NOTICE TO PLAINTIFF AND DEFENDANT
- PROOF OF SERVICE BY REGISTERED OR CERTIFIED MAIL

## **INSTRUCTIONS**

1. Review the "Information for Filing and Defending Small Claims Cases in Justice Court" below.
2. Check with the court clerk to ensure you are filing your claim in the proper court. You are responsible for filing your case in the correct court.

3. Complete the SUMMONS and COMPLAINT.
4. Make 3 copies of the completed SUMMONS, COMPLAINT, and NOTICE TO PLAINTIFF AND DEFENDANT if you are filing against one person or a company. Make 4 copies if you are filing against two people (such as a married couple). Make additional copies as needed for each person you are filing against.
5. Bring the original forms and copies to the courthouse, file them, and pay the filing fee.
6. Within 45 days of filing, serve a copy of the SUMMONS, COMPLAINT, and NOTICE TO PLAINTIFF AND DEFENDANT to each named defendant.

You may serve the SUMMONS, COMPLAINT, and NOTICE TO PLAINTIFF AND DEFENDANT by registered or certified mail (“return receipt requested”), or by constable, process server, or sheriff.

**IT IS IMPORTANT THAT ALL PARTIES KEEP THE COURT APPRISED OF ANY CHANGE IN ADDRESS.** A NOTICE OF CHANGE OF ADDRESS must be filed with the court when a party changes their address, as the court may use this information to communicate with you by mail, email, text message, or phone about your case.

## **INFORMATION FOR FILING AND DEFENDING SMALL CLAIMS CASES IN JUSTICE COURT**

### **THIS IS YOUR CASE**

You have a responsibility to complete the forms properly and follow your lawsuit to conclusion. There are certain steps you must follow to properly pursue it. This information is provided to assist you with general procedures. You should also refer to Title 22, Chapter 5 of the Arizona Revised Statutes (ARS) and the Arizona Rules of Small Claims Procedure (ARSCP) for additional information. The [statutes](#) and [rules](#) may be viewed online or may be found at the courthouse and in many public libraries.

### **CLERK DUTY**

The clerks in the justice court are not attorneys and cannot give legal advice, nor can they advise as to whether you have a legal claim. The clerks are responsible for taking your court filings, providing forms, and explaining court procedures. The clerk is not responsible for any error 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.  
**ARS § 22-507**

### **COURT FEES**

Fees are payable at the time of the filing. Refer to the court’s posted schedule of fees.

### **JURISDICTIONAL LIMIT**

The plaintiff is the party who files a small claims lawsuit by filing a complaint and may file for any amount that does not exceed \$3,500. A plaintiff CANNOT avoid this requirement by splitting the claim amount into several smaller claim amounts. The plaintiff may ask for interest and costs in addition to the \$3,500 maximum. Court costs include, but are not limited to, filing fees and service fees.

A defendant is the party being sued. A defendant who wins the case may ask for reimbursement of costs. A defendant can also file a COUNTERCLAIM. A COUNTERCLAIM asserts that the plaintiff owes something to the defendant. A COUNTERCLAIM can be based on the same event described in the plaintiff’s complaint or based on a different event. If the amount of the COUNTERCLAIM is more than \$3,500, the court will transfer the case out of the small claims division. **ARS § 22-517 and Rule 9, ARSCP**

## **YOU MAY NOT FILE IN SMALL CLAIMS IF:**

- The case is an action for defamation by libel or slander.
- The case is an action in forcible entry, forcible detainer, or unlawful detainer.
- The case is an action for specific performance.
- The case is brought or defended on behalf of a class.
- The case is an action requesting or involving prejudgment remedies.
- The case is an action seeking injunctive relief.
- The case is a traffic violation or criminal matter.
- The case is an action against this State, its political subdivisions, or its officers or employees acting in an official capacity. **ARS § 22-503(B)**

## **VENUE**

Venue means the proper geographical area (justice precinct) in which a lawsuit may be filed. You must file the lawsuit in the precinct where the defendant resides, except:

1. If a defendant or all of several defendants reside outside the state or when their residence is unknown, the action may be brought in the justice precinct where the plaintiff resides.
2. A married person may be sued in the justice precinct where the person's spouse resides unless the spouse is living separate and apart from the defendant.
3. Transient persons may be sued in any justice precinct in which found.
4. Persons who have contracted a debt or obligation in one justice precinct and thereafter move to another precinct may be sued in either precinct.
5. Persons who have contracted in writing to perform an obligation in one justice precinct may be sued in that precinct or where the persons reside.
6. If there are several defendants residing in different justice precincts, an action may be brought in the justice precinct where any of the defendants reside. **ARS §§ 22-202(A) and 22-505(A)**

## **MOTION FOR CHANGE OF VENUE**

A MOTION FOR CHANGE OF VENUE is one of only two motions allowed in a small claims action. A motion is an application that asks the court to make a specific ruling or order.

If the lawsuit is not filed in the correct justice court precinct, the defendant may file a motion to change the venue of the lawsuit. The plaintiff has 10 days to file a response. If the Justice of the Peace grants the motion, the court will transfer the lawsuit to the proper precinct. The parties must continue to appear at any scheduled court dates until they receive notice that the court has granted the motion. **ARS § 22-505(B) and Rules 4 & 10, ARSCP**

## **TRANSFER TO CIVIL DIVISION OF JUSTICE COURT**

Either party can file a request to transfer the lawsuit to the civil division of the justice court no later than 10 business days before the hearing. You may choose to do this for several reasons, for example, to allow attorney representation without a written agreement, to allow a counterclaim for more than \$3,500, to allow motions that are not permitted in small claims, to preserve your right to appeal, or to allow for a jury trial. The transferring party may incur a transfer fee. **ARS § 22-504(A) and Rule 11, ARSCP**

If a defendant requests a transfer but has not filed an answer or counterclaim, a plaintiff who does not want the lawsuit to proceed in the civil division has 15 days after the transfer to voluntarily dismiss the lawsuit. **Rule 11, ARSCP**

## **ATTORNEYS**

An attorney cannot appear or represent either party in the small claims division unless the parties stipulate (agree) by written agreement to the participation of attorneys. The stipulation can be filed at any time before the hearing. **ARS § 22-512(B) & (E)**

However, any party has the right to choose to be represented by counsel and may file a request to transfer the case to the civil division of the justice court for that purpose. The request to transfer the lawsuit must be made no later than 10 business days before the hearing. The transferring party may incur a transfer fee. **ARS § 22-504(A) and Rule 11, ARSCP**

After entry of judgment, either party may employ an attorney if the prevailing party chooses to pursue available rights and remedies for the purpose of collecting the judgment award. **ARS § 22-512(E) and Rule 16, ARSCP**

## **PARTIES**

The parties to a small claims lawsuit are the plaintiff and the defendant. A party can be an individual, a marital community, a corporation, a partnership, an association, or other organization. **ARS § 22-512(B) and Rule 2, ARSCP**

The plaintiff must be a real party to the original transaction (cannot sue on an assigned claim) that forms the basis of the lawsuit, unless the person is commencing a lawsuit as the personal representative duly appointed pursuant to a proceeding as provided in Title 14 of the Arizona Revised Statutes. **ARS § 22-512(A)**

In a small claims action:

- An individual shall represent himself.
- Either spouse or both may represent a marital community.
- An active general partner or an authorized full-time employee shall represent a partnership.
- A full-time officer or authorized employee shall represent a corporation.
- An active member or an authorized full-time employee shall represent an association.
- Any other organization or entity shall be represented by one of its active members or authorized full-time employees. **ARS § 22-512(B) and Rule 2, ARSCP**

A corporation, partnership, association, or any other business or organization must file a notice stating the name of an authorized person who will file and appear in court on its behalf. **Rule 1(c), ARSCP**

## **COMPLAINT REQUIREMENTS**

1. Must be legible.
2. Must briefly state the plaintiff's reasons for the claims against the defendant.
3. Must state the claim amount.
4. Must contain the correct legal name for the plaintiff and defendant.
5. Must contain the following language in no smaller than ten-point bold-faced font:  
"Warning - you do not have the right to appeal the decision of the hearing officer or the justice of the peace in a small claims court. If you wish to preserve your right to appeal, you may have your case transferred to the justice court pursuant to section 22-504, subsection A, Arizona Revised Statutes, if you request such transfer at least ten days prior to the day of the scheduled hearing."

## ARS § 22-504(B) and Rules 2 & 4, ARSCP

Forms can be obtained from [https://www.azcourts.gov/selfservicecenter/Small\\_Claims/Forms](https://www.azcourts.gov/selfservicecenter/Small_Claims/Forms) or from the courthouse.

**No amended complaints are allowed.** You must pay a filing fee to the court to file a complaint, although you may request a deferral or waiver as provided by ARS § 12-302 and the Arizona Code of Judicial Administration § 5-206. **Rule 4, ARSCP**

### METHODS OF SERVICE

The plaintiff must serve the SUMMONS, COMPLAINT, and NOTICE TO PLAINTIFF AND DEFENDANT. Service is usually done by certified or registered mail with a return receipt requested. The return receipt (“green card”) will be returned to you by the postal service to confirm that your SUMMONS, COMPLAINT, and NOTICE TO PLAINTIFF AND DEFENDANT have been delivered. The return receipt can also be the delivery receipt printed from the delivery service’s website. **ARS § 22-513 and Rule 5, ARSCP**

If the postal service does not enter a date of delivery or the date is not legible, service is deemed complete on the date the return receipt is filed with the court. **ARS § 22-513(A)**

If there are multiple defendants, **each named defendant must be served with a copy of the SUMMONS, COMPLAINT, and NOTICE TO PLAINTIFF AND DEFENDANT.** To ensure the named defendant signs the return receipt, restricted delivery should be used. **Rule 5, ARSCP**

If the claim is against a corporation, partnership, association, or other organization, there may be a statutory agent that must be served on behalf of the corporation, partnership, association, or other organization.

The plaintiff may file the return receipt (“green card”) with the court in person or by first class mail. Use the PROOF OF SERVICE BY REGISTERED OR CERTIFIED MAIL to file your proof that service has been completed. The form can be obtained from the courthouse or online at: [https://www.azcourts.gov/selfservicecenter/Small\\_Claims/Forms](https://www.azcourts.gov/selfservicecenter/Small_Claims/Forms)

You can also arrange personal service by a licensed process server, constable, or sheriff.

**IMPORTANT: YOU MUST FILE PROOF OF SERVICE OF THE SUMMONS, COMPLAINT, AND NOTICE TO PLAINTIFF AND DEFENDANT WITHIN 45 DAYS OF THE COMPLAINT FILING DATE OR YOUR CASE WILL BE DISMISSED.**

### PROVIDING ADDITIONAL DOCUMENTS TO THE OTHER PARTY

A complete and exact copy of every document filed with the court must be provided to all other parties in the lawsuit before or promptly after it is filed. **Rule 6, ARSCP**

**IT IS IMPORTANT THAT ALL PARTIES KEEP THE COURT APPRISED OF ANY CHANGE IN ADDRESS.** A NOTICE OF CHANGE OF ADDRESS form must be filed with the court when a party changes their address, as the court may use this information to communicate with you by mail, email, text message, or phone about your case.

### DEFAULT

If the defendant does not file an ANSWER to the COMPLAINT within 20 days of service, the plaintiff must initiate default proceedings. **Rule 7, ARSCP and Rule 140, Justice Court Rules of Civil Procedure**

The plaintiff must file an APPLICATION FOR ENTRY OF DEFAULT, then mail it to the defaulting party. If the defendant files an ANSWER within 10 business days of the filing date of the APPLICATION FOR ENTRY OF DEFAULT, the default will not become effective and the case will proceed as if an answer had been timely filed. **Rule 140, Justice Court Rules of Civil Procedure**

If the defendant **DOES NOT** file an ANSWER within 10 business days of the APPLICATION FOR ENTRY OF DEFAULT filing date, the default becomes effective. The plaintiff must then file a REQUEST AND AFFIDAVIT FOR ENTRY OF DEFAULT JUDGMENT to ask the court to enter a default judgment. A copy of this form must be mailed to all parties in the case. **Rule 140, Justice Court Rules of Civil Procedure**

## **DISMISSAL**

The plaintiff may dismiss the complaint at any time before the defendant files an ANSWER or COUNTERCLAIM by filing a NOTICE OF VOLUNTARY DISMISSAL. If the defendant has filed an ANSWER or COUNTERCLAIM and the plaintiff wants to dismiss the complaint, both parties must agree in writing to a dismissal. **Rule 17, ARSCP**

## **FILING AN ANSWER**

The defendant has 20 calendar days to file an ANSWER to the COMPLAINT. The ANSWER should respond to each allegation of the COMPLAINT. The case will then be set for a hearing which will be held within 60 days of the ANSWER filing date. Failure to file an ANSWER will result in a default judgment. You must pay a filing fee to the court to file an ANSWER, although you may request a deferral or waiver as provided by ARS § 12-302 and the Arizona Code of Judicial Administration § 5-206. **ARS § 22-514 and Rule 7, ARSCP**

## **FILING A COUNTERCLAIM**

A COUNTERCLAIM is a claim made by the defendant against the plaintiff (a counter lawsuit within a lawsuit).

A COUNTERCLAIM may be filed at the same time the answer is filed. If the defendant files a COUNTERCLAIM and the amount claimed exceeds \$3,500, the court will transfer the case out of the small claims division. **Amended COUNTERCLAIMS are not allowed.**

If the court determines that a COUNTERCLAIM filed in excess of \$3,500 was filed for the sole purpose of avoiding the small claims proceedings, the court may award the plaintiff court costs, plus reasonable attorney fees for defending the COUNTERCLAIM. **ARS § 22-517**

## **MOTIONS**

Only two motions are allowed in the small claims division: MOTION FOR CHANGE OF VENUE and MOTION TO VACATE A JUDGMENT. **ARS § 22-505**

## **HEARING OFFICERS**

A Justice of the Peace or a hearing officer will hear your case. Either party may request that a Justice of the Peace, rather than a hearing officer, decide the lawsuit. The request must be made in writing at least 15 days before the hearing, and the case will be referred to and heard by the Justice of the Peace. **ARS § 22-506 and Rule 12, ARSCP**

## **SETTING FOR HEARING**

The hearing will be set for a date within 60 days of the ANSWER filing date. All parties will be notified of the date and time of the hearing. **ARS § 22-515(A) and Rule 8, ARSCP**

### **REQUEST TO CONTINUE HEARING DATE**

If for some reason you find that you are unable to appear for the hearing 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. Continuances are granted only for the most serious reasons. The REQUEST FOR CONTINUANCE must be in writing and should be made as soon as possible and at least 15 days before the hearing date. **ARS § 22-515(C) and Rule 12, ARSCP**

### **THE HEARING**

Bring to the hearing anything necessary or relevant to establish or defend the claim or counterclaim. Examples: books, papers, bills, pictures of damages, or other exhibits. Both parties may also bring witnesses to testify on their behalf to substantiate their position.

You will be allowed a limited amount of time to present your claim or your defense. Be concise. Be prepared.

If the case is settled before the scheduled hearing date, be sure to notify the court. The plaintiff must file a NOTICE OF SETTLEMENT. **Rule 4, ARSCP**

In most cases, the judgment is announced at the hearing; however, the judge or hearing officer has 10 days to consider the facts in the case, conduct necessary research, make a decision, and notify the parties by mail. **ARS § 22-520 and Rule 15, ARSCP**

**JURY TRIALS ARE NOT PERMITTED IN SMALL CLAIMS CASES. ARS § 22-518 and Rule 1, ARSCP**

### **APPEAL**

**You DO NOT have the right to appeal in small claims. The decision of the Justice of the Peace or hearing officer is FINAL AND BINDING ON BOTH PARTIES.**

If you wish to preserve your right to appeal, you must have the case transferred to the civil division of the justice court. You may do this at any time up to 10 days before trial. **ARS §§ 22-504(A) & 22-519, and Rules 1 & 11, ARSCP**

### **MOTION TO VACATE THE JUDGMENT**

A MOTION TO VACATE A JUDGMENT is one of only two motions allowed in a small claims action. A motion is an application that asks the court to make a specific ruling or order. A MOTION TO VACATE A JUDGMENT can be filed by either party to vacate a default judgment or a judgment of the court following a hearing. The motion must be delivered to the other party on the date of filing. **ARS § 22-505(B)**

The motion does not affect the finality of the judgment or suspend operation of the judgment. The court may relieve a party from a judgment for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) fraud, misrepresentation, or other misconduct of an opposing party;
- (3) the judgment is void;
- (4) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or

(5) any other reason justifying relief.

A MOTION TO VACATE A JUDGMENT must be filed within a reasonable time. For reasons (1) and (2), the motion must be filed no more than 6 months after the entry of the judgment or date of the proceeding, whichever is later.

If you oppose the MOTION TO VACATE A JUDGMENT, you must file a response in writing within 15 days and deliver a copy to the other party on the date the response is filed. **Rule 16, ARSCP**

### COLLECTING A MONEY JUDGMENT

The judgment is due and payable immediately after the judgment is rendered by the Justice of the Peace or hearing officer. The prevailing party may collect the judgment in accordance with ARS Title 12, Chapter 9 and ARS §§ 22-243 through 22-246. An attorney may represent you for post-judgment proceedings. **ARS § 22-520 and Rule 18, ARSCP**

Within 30 days of being paid in full, you must file a SATISFACTION OF JUDGMENT. This form is available from the court. **ARS § 22-525**

### SMALL CLAIMS CHECKLIST FOR PARTIES

The following checklist may assist you in processing your case. Check off each action as it occurs or has been completed.

#### ✓ PLAINTIFF CHECKLIST

☐ Date complaint filed and filing fee paid.  
\_\_\_\_\_

☐ Date of delivery of the summons, complaint, and Notice to Plaintiff and Defendant as shown on the return receipt. If there are multiple defendants, each named defendant must be served with a copy of the summons, complaint, and Notice to Plaintiff and Defendant. \_\_\_\_\_

Service of the summons, complaint, and Notice to Plaintiff and Defendant in a small claims case is usually done by certified or registered mail with a return receipt requested. The return receipt (“green card”) will be returned to you by the postal service to confirm that your summons, complaint, and Notice to Plaintiff and Defendant have been delivered. The return receipt can also be the delivery receipt printed from the delivery service’s website.

If the postal service does not enter a date of delivery or the date is not legible, service is deemed complete on the date the return receipt is filed with the court.

#### ✓ DEFENDANT CHECKLIST

☐ Date the summons, complaint, and Notice to Plaintiff and Defendant were served.  
\_\_\_\_\_

☐ Date that your time to file an answer will expire. You have 20 days from the date of service to file an answer. If you fail to file an answer, the plaintiff may obtain a default judgment against you. \_\_\_\_\_

☐ Date complaint filed and filing fee paid.  
\_\_\_\_\_

☐ Date that a motion for change of venue, if applicable, was filed. \_\_\_\_\_

#### **If a counterclaim is filed:**

☐ Date that your counterclaim was filed and a copy was mailed to the plaintiff. \_\_\_\_\_

#### **Hearing:**

☐ Date of hearing. Bring all evidence, exhibits, and witnesses you will need to present your claim or your defense. Bring extra copies of documents for all parties and the court. \_\_\_\_\_



[ ] Date *Proof of Service by Registered or Certified Mail* filed. \_\_\_\_\_

Proof of service must be filed within 45 days of the complaint filing date, otherwise, the court will dismiss your case.

[ ] Date that the defendant's time to file an answer will expire. The defendant has 20 days from the date of service to file an answer.  
\_\_\_\_\_

**If an answer is not filed:**

[ ] Date that the *Application for Entry of Default* was filed with the court, with copies mailed to all parties in the case. \_\_\_\_\_

[ ] Date that the *Request and Affidavit for Entry of Default Judgment* was filed with the court, with copies mailed to all parties in the case.  
\_\_\_\_\_

**If an answer/counterclaim is filed:**

[ ] Date the defendant filed an answer or counterclaim. The court will set a hearing date and hold a hearing within 60 days of the answer filing date. \_\_\_\_\_

**Hearing:**

[ ] Date of hearing. Bring all evidence, exhibits, and witnesses you will need to present your claim or your defense. Bring extra copies of documents for all parties and the court. \_\_\_\_\_

## SMALL CLAIMS PROCESS

