

LA PAZ COUNTY  
PARKER JUSTICE COURT  
PRECINCT NUMBER #1506  
*1105 Arizona Avenue  
Parker, Arizona 85344  
Phone: 928-669-2504*

**CIVIL FILINGS**  
**INSTRUCTIONS TO PLAINTIFF**  
**(with checklist for Defendant)**

FILING FEE \$73.00            MAXIMUM LIMIT: \$9,999.99

**PLEASE DO NOT REQUEST LEGAL ADVICE FROM THE CLERKS, THESE INSTRUCTIONS WILL BE THE ONLY INFORMATION THE CLERKS CAN GIVE YOU.**

The Court will simply furnish the forms and instruct you in the procedures for filing your claim. You must keep the Court informed of any address and telephone changes at all times.

It is your responsibility to find out any addresses or information you may need to file. Find out the exact legal name and address of the person or business you want to sue. If you are suing someone, you are the **PLAINTIFF**; the person or business being sued is the **DEFENDANT**.

Your papers can be served by a Constable's office, a private process server, or the sheriff's department. There is a fee for service of process.

The defendant has twenty (20) days after he/she is served to file an answer to the complaint (thirty (30) days if served out of state, sixty (60) days if waiver is used).

If the defendant answers the complaint, you should receive a copy of the answer in the mail. After the answer is filed with the Court, you will receive a Zlaket notice in the mail with assigned dates for discovery and disclosure. After you have complied with the Zlaket notice, you must file a motion requesting the case be set for trial (in writing or forms available on line at <http://co.la-paz.az.us/>), then you will receive a trial notice by mail.

When your case comes before the Court, you must appear with witnesses and evidence to prove your claim (have all copies available for all parties and the Judge). Both parties will be given the opportunity to bring the necessary facts before the Court.

If the defendant does not answer the complaint within the specific amount of time, you may request a default judgment against them for the amount of your suit and court costs. You must file an affidavit of default and mail a copy (regular mail) to the defendant. Then, ten (10) working days later, file the motion. If you obtain either a judgment at the time of trial, or a default judgment, be advised

**THE COURT IS NOT A COLLECTION AGENCY**

The constable or sheriff's office may be able to explain the ways of collecting a judgment.

If it is necessary to check on the status of your case with the Court, please have your CASE NUMBER when you call.

## INFORMATION FOR FILING A CIVIL ACTION

**THE COURT CLERK.** Court clerks want to be helpful in serving the public, but remember the clerks are not attorneys and are not authorized or qualified to give legal advice. They can provide you with requested forms if available and respond to procedural questions. It is not the clerks' responsibility to advise you if you have a legal claim. 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.

**JURISDICTIONAL LIMIT.** Jurisdiction means the kinds of cases a court has authority to hear. You may file an action in justice court involving damages of less than \$10,000.00. A larger claim may be reduced to less than \$10,000.00 and the remaining amount waived. If you claim is for more than \$5,000.00 and less than \$10,000.00 you may file your case in either the justice court or the Superior Court. If you claim is for \$10,000.00 or more, you must file your case in Superior Court. Reimbursement of court costs and/or attorney fees may be claimed in addition to the maximum. Court costs include, but are not limited to, filing and service fees.

**VENUE.** Venue means the proper geographical area (the precinct) in which a court may hear a case. The court in which an action is to be filed is determined by where the defendant resides or does business, if you are suing a business; or, where the cause of action occurred. If you file in the incorrect Justice Court, the opposing party may file a Motion for Change of Venue. If 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 within five (5) days after service of the motion. A motion alleging improper venue must be made before the ANSWER. If the defendant fails to file a timely request for a change of venue, that right is waived. NOTE: The court clerks are NOT responsible to verify whether or not your filing venue is correct.

**REPRESENTATION/PARTIES.** This Court will strictly abide by the Rules of Civil Procedure for the Superior Court of Arizona governing who may represent the real part in interest in any action filed in the justice Court. If you elect 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. You will be held to the same standards and duties as an attorney admitted to the practice of law in the State of Arizona. Such a 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. Justice Court clerks are not attorneys and are not authorized to give legal advice. The clerks' responsibility is to take your court filing and to explain court processes and procedures. Refer to the HOW TO DESIGNATE A PARTY handout attached.

1. **AN INDIVIDUAL**, named in a lawsuit may represent his/her interest in court by (A) appearing in person or (B) by an attorney.

### **ONE SPOUSE CANNOT REPRESENT THE OTHER IN A CIVIL OR EVICTION ACTION.**

2. **UNINCORPORATED BUSINESSES:** Every action shall be prosecuted in the name of the real party in the interest (R.C.P. Rule 17(a)) "When filing on behalf of, or against an unincorporated business, it is necessary to obtain the true name or names of the party by calling the Secretary of State.
3. **A CORPORATION**, authorized to transact business in the State of Arizona is required to maintain a statutory agent (ARS 10-012) upon whom process can be served. When filing against a corporation, it is recommended that you contact the Arizona Corporation Commission at 602-542-3285, or on line at <http://www.cc.state.az.us/>, 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.) A corporation named in a lawsuit, may be represented by:

a. An Officer of the corporation who:

- Has been specifically authorized to represent the corporation in Justice Court, and
- Have primary duties to the corporation other than representing the corporation's interest in court

b. An Attorney

The corporation must be the original part to, or a first assignee of, a conditional sales contract, conveyance, transaction or occurrence which gave rise to the cause of the action in court, and the assignment was not made for collection purposes.

4. **ANY PARTNERSHIP** may sue and be sued in the name which it has assumed, or by which it is known. RC.P. 17 (j).

Since all partners have equal rights in the management and conduct of the partnership business, ARS 29-218.5, any one or all partners may be represented by:

- Appearing in person.
- An Attorney.

**STATUTES OF LIMITATIONS.** The 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 the list below is meant as a general guide. Also please note that NOT all of the cases listed below can be filed or heard in a Justice Court. Refer to Arizona Revised Statutes Title 12 for an outline of statutes of limitations.

- ONE YEAR – Malicious prosecution; false imprisonment; breach of employment contract; liability created by statute.
- TWO YEARS – Personal Injury; injury when death ensues; damage to property; conversion of property; product liability; forcible entry and detainer (ARS 12-542).
- THREE YEARS – Debt from oral contract; stated or open account; relief on ground of fraud or mistake (ARS 12-548).
- FOUR YEARS – Partnership account; account between merchants; judgment or instrument given or made without the state; bond of personal representative or guardian;
- SIX YEARS – Written contracts for debt (ARS 12-548).
- FOUR YEARS – Actions for which no limitations is otherwise prescribed (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***

**PLEADINGS.** Pleadings are formal written statements by which parties assert their claims or defenses. The pleadings shall set forth a short and plain statement:

1. Upon which the court's jurisdiction depends. Example: "The defendant resides in the (justice court name here) precinct or the action in question occurred in the (justice court name here) precinct.
2. Showing that the pleader is entitled to relief. Example "The defendant owes me money because....."
3. A demand for judgment for the relief the pleader seeks. Example: "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 | 73.00 |
| Subsequent filing (answer or other responsive pleading)             | 40.00 |
| Transmittal fee (to the Superior Court)                             | 28.00 |
| Issuing Writs, subpoenas  | 28.00 |
| Copies/each   | .50   |
| Miscellaneous Filings   | 28.00 |
| Transfer Fee (Small claims to Civil)                                | 48.00 |

## **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, Saturdays, 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.
- If served by mail, whenever one party has the right or is required to respond to a filing of the other party within a specific period of time, 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 formal delivery of a legal document notifying a person of legal action taken against him or her. After the filing of a complaint, it is the formal notification to a defendant that s/he has been sued and is required to answer or defend the complaint in court. You may have the papers served by the following methods:

1. By private process server. The fees for private process servers are regulated by statute. The process server may ask for payment in advance or may bill you for the cost of the serve. You are to make payment arrangements directly with the process server for the services performed.
2. By sheriff's deputy (La Paz County only 928-669-6141).
3. By a constable in the jurisdiction of service.

***YOUR ACTION WILL BE DISMISSED IF THE SUMMONS AND COMPLAINT HAVE NOT BEEN SERVED WITHIN 120 DAYS OF THE FILING OF THE COMPLAINT*** or you have not provided proof of service to the court within that period of time.

**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. File the original with the court.

**IT IS IMPORTANT THAT EACH PARTY TO AN ACTION  
KEEP THE COURT APPRIZED OF ANY ADDRESS CHANGE.**

**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.

1. If the defendant is **served in the state of Arizona**, the defendant has **twenty (20) calendar days** from the date of service in which to file an answer (in writing) the complaint. In computing the time in which to file and answer, the date of service is not included. If the last filing day falls on a Saturday, a Sunday, or legal holiday, the answer may be filed on the next immediate judicial (business) day.
2. If the complaint is **served out-of-state**, the party served has **thirty (30) calendar days** in which to file an answer.
3. If you are served by publication, other time limits apply.

**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 (Rule 12(a) R.C.P.). There is no fee for filing a reply to a counterclaim. The Counterclaim Form is available from the court.

If the counter claim is \$10,000.00 or more 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 \$250.00.

**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.** If a 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. A judgment by default is one that is obtained without trial due to the defendant's failure to plead or otherwise defend in the action. The court may request that the plaintiff furnish proof of the allegations contained in the complaint to substantiate the 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.

A copy of the application for Entry of Default or Affidavit of Default must be mailed to the defaulting party and attorney, if known. [Rule 60(c)R.C.P.].

**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 [Rule 26.1(b)(1), R.C.P.].

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 (i.e. what they will be saying in court).
- A list of documents or evidence which supports your claims. If the other party asks for copies of those documents, you should provide them. If the requesting party has made a written request for copies and the other party has filed to provide such copies, a Motion to Compel may be filed with the Court.

- **FAILURE TO COMPLY WITH DISCLOSURE MAY RESULT IN A DISMISSAL OR ENTRY OF DEFAULT 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 made, you must file your objections in writing within ten (10) 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.

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 court to determine that court's procedure.

**THE TRIAL.** If your action comes to trial, you should educate yourself on court procedures 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.

Motions to continue a trial must be in writing and filed with the court at least twenty (20) days prior to trial. Continuances will not be granted for violation of rules regarding discovery. No continuances will be granted except upon a finding of good cause.

#### **FAILURES TO APPEAR.**

- If the plaintiff fails to appear at the scheduled trial date his/her claim may be dismissed with prejudice, which means the case cannot be re-filed at a later time. The court may award the defendant his/his costs and/or attorney fees necessarily incurred to defend the action.
- 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.

**JURY TRIALS.** Either party can request a jury trial. Both parties will be required to exchange disclosure and submit 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 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.

**APPEALS.** If you are not satisfied with the trial decision, you may file an Appeal to the Superior Court. The Notice of Appeal must be filed within 14 calendar days after the entry of the order, ruling, or judgment appealed from. A Notice of Cross-appeal shall be filed with the trial court within 28 calendar days after the entry of the order, ruling, or judgment appealed from. Within the 14 calendar day deadline to file the notice of appeal, the appellant shall also pay the applicable record fees of \$28.00. Within the 28 calendar day deadline to file a cross-appeal, the cross-appellant shall pay the applicable record transmittal fee of \$28.00. You must also post a cost bond of \$150.00. Posting a bond for cost just allows you to proceed with the appeal. The other side can try to collect the judgment

while you are appealing. To stay execution of the judgment (stop the other side from collections) until the appeal is decided, you must post a supersedeas bond in an amount equal to the judgment, including cost and attorney fees. If you lose the appeal, the supersedeas bond is used to pay the judgment. Refer to the Notice of Right to Appeal for further information. The appeal will be heard on the record made at the Justice Court level.

**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 counter claim (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 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 bank account or other income property.
- A Writ of Execution empowers the Constable or Sheriff 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 for 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 A.R.S. § 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.

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

|  |   |
|--|---|
| <p><b>X <u>PLAINTIFF'S CHECKLIST</u></b></p> <p><input type="checkbox"/> Complaint filed and filing fee paid</p> <p><input type="checkbox"/> Complaint given to process server for service<br/>On defendant</p> <p><input type="checkbox"/> Complaint served on _____</p> <p><input type="checkbox"/> Time to answer expires on _____<br/>(20 days after defendant served)</p> <p><b>IF ANSWER IS RECEIVED:</b></p> <p><input type="checkbox"/> Answer received</p> <p><input type="checkbox"/> Time to file disclosure _____<br/>(40 days after filing of Answer)</p> <p><input type="checkbox"/> Motion to Set filed with court and copy<br/>Mailed to defendant.</p> <p><b>IF NO ANSWER IS RECEIVED:</b></p> <p><input type="checkbox"/> File Affidavit of Default and Application for<br/>Entry of Default and mail copy to defendant.</p> | <p><b>X <u>DEENDANT'S CHECKLIST</u></b></p> <p><input type="checkbox"/> Date complaint received _____</p> <p><input type="checkbox"/> Answer filed and filing fee paid</p> <p><input type="checkbox"/> Time to file disclosure _____<br/>(40 days after filing of answer)</p> <p><b>IF COUNTERCLAIM FILED:</b><br/>(must be filed with answer)</p> <p><input type="checkbox"/> Counterclaim filed and copy mailed to<br/>Plaintiff on _____</p> <p><input type="checkbox"/> Time to reply expires on _____<br/>(20 days after counter-defendant is served)</p> <p><b>IF REPLY IS RECEIVED:</b></p> <p><input type="checkbox"/> Reply to counter claim received.</p> <p><b>IF NO REPLY IS RECEIVED:</b></p> <p><input type="checkbox"/> File Affidavit of Default and Application for<br/>Entry of Default and mail copy to<br/>Counter-defendant.</p> |
|--|---|

**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 \_\_\_\_\_
  - o 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 the court if settled before answer. If settled out of court after answer is filed, the dismissal must be stipulated (agreed in writing signed by both parties).



**HOW TO DESIGNATE PARTIES**

**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 St.  
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, d.b.a.  
Jones' Delicious Candy Shoppe  
1234 S. Main St.  
Mesa, AZ 85201

**HUSBAND AND WIFE**

|   |   |
|---|---|
| John and Mary Jones, husband and wife<br>1234 S. Main Street<br>Mesa, AZ 85201<br>SERVE: John Jones | John and Mary Jones, husband and wife<br>1234 S. Main Street<br>Mesa, AZ 85201<br>SERVE: Mary Jones |
|---|---|

**TWO OR MORE DEFENDANTS**

|   |  |
|---|--|
| John Smith<br>1234 S. Main Street<br>Mesa, AZ 85201 | Mary Jones<br>1000 E. First Street<br>Mesa, AZ 85201 |
|---|--|

**PARTNERSHIP**

|  |   |
|--|---|
| John Smith and Joe Jones, Partners<br>d.b.a. JJ's Cafe`<br>1000 E. First Street<br>Mesa, AZ 85201<br>SERVE: John Smith | John Smith and Joe Jones, Partners<br>d.b.a. JJ's Cafe`<br>1000 E. First Street<br>Mesa, AZ 85201<br>SERVE: Joe Jones |
|--|---|

**WHEN THE NAME OF THE DEFENDANT IS UNKNOWN\***

|   |   |
|---|---|
| John Doe Schwarzenegger<br>1000 E. First Street<br>Mesa, AZ 85201 | Matilda DOE<br>Jane Doe Taylor<br>XYZ Corporation<br>1000 E. First Street<br>Mesa, AZ 85201 |
|---|---|

\*When the defendant's true name is discovered, the pleading may be amended to reflect the true name.