

# Yuma Justice Court Precinct One

250 W. 2<sup>nd</sup> St. Ste. A Yuma, AZ 85364 (928)817-4100

CASE NUMBER: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Plaintiff(s) Name / Address / Email / Phone

Defendant(s) Name / Address / Email / Phone

The Statutory Agent / Corporate Officer to be served is: \_\_\_\_\_

## SMALL CLAIMS COMPLAINT and SUMMONS

**WARNING: THERE ARE NO APPEALS IN SMALL CLAIMS CASES.** You do not have the right to appeal the decision of the Hearing Officer or the Justice of the Peace in Small Claims Division of this Court. If you wish to preserve your right to appeal, you may have your case transferred to the Civil Division of the Justice Court pursuant to ARS 22-504. If you request such a transfer, it must be made at least ten (10) judicial days before the day of the scheduled hearing.

### NOTICE AND SUMMONS

TO THE ABOVE-NAMED DEFENDANT(S): You are directed to answer this complaint within **TWENTY (20) DAYS** by filing a written ANSWER in the court named above. If you do not answer or defend, you run the risk of having a judgment entered against you for the amount of plaintiff's claim, plus court costs. A filing fee must be paid at the time your answer is filed. If you cannot afford to pay the required fee, you may request that the Court either waive or defer the fee.

Date: \_\_\_\_\_ Clerk: \_\_\_\_\_ (SEAL)

### PLAINTIFF'S CLAIM

This Justice Court has venue because

- The defendant resides in this precinct
- 

The debt, or cause of action, or the incident that resulted in this claim, occurred in this precinct at the following location:

\$ \_\_\_\_\_ is the total amount owed me by defendant because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

Plaintiff: \_\_\_\_\_

**Notice:** If you are representing a business, please attach letter of authorization.

**INFORMATION FOR FILING and DEFENDING SMALL CLAIMS CASES IN JUSTICE COURT**

YUMA JUSTICE COURT PRECINCT ONE  
250 WEST SECOND STREET, STE. A  
YUMA, ARIZONA 85364

**THIS IS YOUR CASE** You have a responsibility to yourself and to the court to acquire sufficient knowledge to complete the forms properly and to follow your lawsuit to conclusion. There are certain **steps you MUST follow to pursue it properly. This information is provided to assist you in a general procedure.** You may also want to refer to the Arizona Revised Statutes (ARS) and Arizona Rules of Court (ARCP) for additional information.

The statutes may be viewed online at <http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp>  
Or may be found at your local library.

**CLERK DUTY:** The clerks in the Justice Court are **NOT** attorneys and **CANNOT** give legal advice. The clerk's responsibility is to take your court filings and to provide forms and explain procedures. It is not the clerk's 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. **ARS 22-507**

**COURT FEES :** Fees are payable at the time of the filing. Refer to the Court's posted schedule of fees.

**PLAINTIFF FILING FEE: \$34.00**

**DEFENDANT ANSWER FEE: \$24.00**

**JURISDICTIONAL LIMIT:** The Plaintiff may file for any amount not to exceed **\$3,500.00**. A larger claim may be reduced to \$3,500.00 and any remaining amount waived. A claim may **NOT** be split by filing two separate actions. The Plaintiff may ask for reimbursement of court costs in addition to the \$3,500.00 maximum. Court costs include, but are not limited to filing and service fees. A prevailing defendant may also ask for reimbursement of court costs. **ARS 22-503A**

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

The case involves a claim of defamation by libel or slander,

The case is for forcible entry, forcible detainer or unlawful detainer.

The case involves a claim for specific performance,

The case is brought or defended on behalf of a class,

The case requests relief by or involves prejudgment remedies,

The case is seeking injunctive relief,

The case involves traffic violations or criminal matters,

The case is against this State, its political employees, acting in an official capacity. **ARS 22-503B**

**VENUE:** Means the proper geographical area (precinct) in which a lawsuit may be filed. You must file the lawsuit where the defendant resides or does business or where the cause of the lawsuit occurred.

**ARS 12-401**

**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 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 lawsuit is 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 5 days after service of the motion. **ARS 12-404A**

Venue may be proper in more than one precinct, however, if after hearing the original venue is found to be wrong additional fees may be assessed to the Plaintiff. **ARS 12-407**

**TRANSFER TO REGULAR CIVIL DIVISION OF JUSTICE COURT:** Either party may transfer a small claims case to the court's civil division up to **TEN** working days before trial. The party requesting the transfer will be assessed the civil filing fee. **ARS 22-504A**

**ATTORNEYS:** An attorney cannot appear or represent either party in the small claims division unless:

- He/She is representing himself or herself.

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 case will then be transferred to the civil division and appropriate fees changed to the party requesting the transfer.

After entry of judgment, the prevailing party has a right to employ an attorney to pursue available rights and remedies for the purpose of collecting the judgment award. **ARS 22-512B,C,D,E**

**PARTIES:** The statutes governing small claims procedures set forth who may file a small claims action or appear or represent on behalf of such an action. **ARS 512A,B**

The Plaintiff must be the original owner of a claim and may not sue on an assigned claim. However, after judgment a party may make an assignment of the judgment. **ARS 22-512**

- 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.

If you are representing a partnership, an association, or any other organization please provide the court with a letter stating your position and authority to represent an action on behalf of the partnership, association or organization.

If you are a full time employee representing a corporation please provide the court with a letter stating your position and authority to represent the corporation. The letter must be signed by a corporate officer. However, any party has the right to choose to be represented by counsel and may file a request.

**PLEADINGS:** Shall set forth a short and plain statement.

1. Upon which the court's jurisdiction depends.
2. Upon which the court's venue depends
3. Showing the pleader is entitled to relief.
4. A demand for judgment for the relief sought.

**Example**

*I am claiming damages against the defendant in the amount of \$3,500.00. (Jurisdiction)*

*The defendant resides in the South Phoenix Precinct, (or the lawsuit occurred in the South Phoenix Precinct (Venue)*

*The Defendant owes me money because..... (Legal entitlement to claim)*

*Wherefore, the plaintiff requests that the court enter judgment in his favor in the sum of \$... (Demand)*

**METHODS OF SERVICE:** In addition to any other available methods of service ARCP, Rule 4, the plaintiff may serve the summons and complaint by registered or certified mail. Service is deemed complete upon the delivery of the mailing to the defendant and **signed by the Defendant** (as evidenced on the return receipt filed with court)

Each named defendant must be served a copy of the COMPLAINT/SUMMONS. To ensure the named party defendant signs the return receipt, restricted delivery should be used.

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. The plaintiff may file the return receipt (the green card) with the court in person or by first class mail.

If the defendant refuses to accept the mailing, or a person other than the named defendant signs for the registered or certified mailing, then service has **NOT** been properly accomplished.

If the defendant cannot be served by registered or certified mail, personal service by a licensed process server must be used.

If the claim is against a corporation, the statutory agent, or an officer of the corporation must be served on behalf of the corporation named in the complaint. You may obtain the name and address of a statutory agent or corporation officer by calling the Arizona Corporation Commission-602-542-3135

**YOU HAVE 120 DAYS TO SERVE THE SUMMONS AND COMPLAINT OR YOUR CASE IS SUBJECT TO DISMISSAL ARCP4(1)**

**SERVICE AFTER APPEARANCE:** A copy of all pleadings filed with the court must be mailed or delivered to the opposing party.

**IT IS IMPORTANT THAT ALL PARTIES KEEP THE COURT APPRISED OF ANY CHANGE IN ADDRESS.** A NOTICE OF CHANGE OF ADDRESS form is available at the court and must be filed with the court when a party changes their address.

**DEFAULT:** If the defendant does not file an answer to the complaint within twenty days after service is complete, the plaintiff may apply for any entry of default against the defendant.

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.

The party seeking the default must mail a copy of the APPLICATION FOR ENTRY OF DEFAULT form to the defaulting party. If the party claimed to be in default fails to file an answer or pleading or otherwise defend in the lawsuit 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.

**DISMISSAL:** The plaintiff may dismiss the claim at any time prior to defendant filing and answer or other pleading. Once the defendant has filed an answer both parties must stipulate to a dismissal (agree in writing).

**FILING AN ANSWER:** The defendant has **twenty (20) calendar days** to file an answer to the complaint with the court. The answer should respond to each allegation of the complaint.

The case will then be set for a hearing and both parties will be sent notice. Failure to file an answer will result in a default judgment. **ARS 22-514**

**FILING A COUNTERCLAIM:** A counterclaim is a claim made by the defendant against the plaintiff (a counter lawsuit within a lawsuit). A counterclaim must either be served by certified mail(certified return receipt requested restricted delivery), constable or private process server. Court will need proof of service once service has been made on counterclaim .

A counterclaim may be filed at the same time the answer is filed. If the defendant files a counterclaim, the plaintiff has **twenty (20) days** to file an answer. A default judgment may be entered against the plaintiff for failure to answer the counterclaim. If the defendant files a counterclaim and the amount claimed exceeds \$3,500.00 , the court shall transfer the case to the civil division.

If the court determines that the amount of the counterclaim in excess of the small claims jurisdiction 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: a Motion for Change of Venue (filed before an Answer) and a Motion to Vacate Judgment (filed after judgment) **ARS 22-505**

**HEARING OFFICERS:** Either a Justice of the Peace or an appointed Volunteer Hearing Officer may hear your case. Any party may object to the use of a hearing officer prior to the hearing date. The court can provide you with a form to make this objection. The case will then be referred to and heard by the Justice of the Peace. **ARS 22-506**

**SETTING FOR HEARING:** The trial will be set for a date within **SIXTY (60) days** after the answer has been filed with the court. All parties will be notified by mail of the date and time of the hearing. **ARS 22-515A**

**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. Continuances are granted only for the most serious reasons. The request for continuance must be in writing and should be timely filed- **At least 10 days prior to the trial date.**

**ARS22-515C**

**THE HEARING: YOU CANNOT HAVE YOUR SMALL CLAIMS CASE HEARD BEFORE A JURY.**

**ARS 22-518**

**Bring to the trial 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 in their behalf to substantiate your position.**

**You will only 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 trial date, be sure to notify the court. A stipulated DISMISSAL form must be filed.

Within **TEN** days after the trial, a copy of the Judgment Order will be mailed to each party.

**\*\*APPEAL:** You **DO NOT** have the right to appeal. The decision of the Hearing Officer or Justice of the Peace is **FINAL AND BINDING ON BOTH PARTIES.**

If you wish to preserve your right to appeal, you may have the case transferred to the civil division of the Justice Court. You may do this at any time up to **TEN (10)** days before trial. **ARS 22-519**

**IF YOU ARE AWARDED JUDGMENT: Refer to the court's handout COLLECTING A MONEY JUDGMENT. The court DOES NOT collect money for prevailing party. This is the responsibility of Plaintiff/ Defendant to collect their judgment.**

**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 to vacate 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 served on the other party in the same manner as if serving a summons/complaint.

If you oppose a motion to vacate judgment you must file a response in writing ten days after service of the motion.

If the motion to vacate judgment is the defendant's first filing in the case the defendant must pay a filing fee. The motion must be served in the same manner as if serving a summons and complaint.

**ARCP 5(C) 2**

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

**\*\*\*PLEASE PROVIDE COURT WITH AN ORIGINAL FILING AND TWO COPIES FOR BOTH PARTIES\*\* IF COPIES ARE NOT PROVIDED, CLERK WILL CHARGE .50 CENTS PER PAGE.**

For more information:  
Visit - [www.azcourts.gov](http://www.azcourts.gov)

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250 W. 2<sup>nd</sup> St. Ste. A Yuma, AZ 85364 (928)817-4100

CASE NUMBER: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
( ) -  
Plaintiff(s) Name / Address / Phone

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
( ) -  
Defendant(s) Name / Address / Phone

## EVIDENCE OF SERVICE BY REGISTERED OR CERTIFIED MAIL - SMALL CLAIMS DIVISION

A copy of the summons and complaint in this action was served by registered or certified mail on the defendant who has signed the return receipt. The defendant's signature is evidence of service.

The date of service is:

- \_\_\_\_\_ The date of delivery to, and signature of, the defendant, as shown.
- \_\_\_\_\_ The date the return receipt is filed with the court (*because the date of delivery is not entered, or the date entered is illegible*).

Attached is the Return Receipt (green card).

Date: \_\_\_\_\_  
Plaintiff

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"><li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li><li>Print your name and address on the reverse so that we can return the card to you.</li><li>Attach this card to the back of the mailpiece, or on the front if space permits.</li></ul>		A. Signature <b>X</b>	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
1. Article Addressed to		B. Received by (Printed Name)	C. Date of Delivery
		Item 1? low:	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<b>ATTACH GREEN CARD HERE</b>	
2. Article Number (Transfer from service label)		Mail Receipt for Merchandise <input type="checkbox"/> Yes	
PS Form 3811, February 2004		Domestic Return Receipt 102595-02-M-1540	

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CASE NUMBER: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
( ) -  
Plaintiff(s) Name / Address / Phone

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
( ) -  
Defendant(s) Name / Address / Phone

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
( ) -  
Attorney for Plaintiff(s) Name / Address / Phone

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
( ) -  
Attorney for Defendant(s) Name / Address / Phone

## APPLICATION FOR ENTRY OF DEFAULT

JCRCP Rule 140

I am the  Plaintiff  Counterclaimant  3rd Party Plaintiff  Attorney

### THE FOLLOWING WERE SERVED THE SUMMONS AND COMPLAINT:

Defendant(s): \_\_\_\_\_

#### NOTICE to Defendant(s):

If you do not answer or file a responsive pleading with the court within ten (10) judicial days of the filing of this Application, the Default will be effective and the Party may request a Judgment to be entered against you.

I am applying for an Entry of Default against the above named party who has failed to timely file a response to the lawsuit.

The Defendant was served the Summons and Complaint by:

- Process Server  Alternative Service  
 Publication  Certified Mail (Small Claims)

The Defendant  is  is not on active duty in the United States Military.

Date: \_\_\_\_\_ Signature \_\_\_\_\_  
 Plaintiff  Counterclaimant  3rd Party Plaintiff  Attorney

#### NOTICE to PARTY filing for Default:

Any time after ten (10) judicial days have passed since the filing of this Application, it is your responsibility to file a Request for Entry of Default Judgment or request a hearing. A Statement of Costs and proof of the claim (receipts, contract, etc.) must also be served upon all the parties in this lawsuit.

I CERTIFY that a copy of this document has been or will be mailed on \_\_\_\_\_ to:

- Plaintiff at the above address  Plaintiff's attorney  Defendant at the above address  Defendant's attorney

Date: \_\_\_\_\_ By \_\_\_\_\_  
Signature



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## Default Judgment Defined.

If a Plaintiff has filed a lawsuit and the Defendant has not responded within the required time, then the Plaintiff may request that a default judgment be entered. A default judgment can be entered against any party who was served a complaint, counterclaim, cross-claim, or third-party complaint if that party either did not file an answer or file any type of response with the Court within the time allowed by the rules. Obtaining a default judgment is a two step process. JCRCP Rule 140.

## Time Standards for Serving the Other Side.

If the party is served with a summons and complaint (or with a counterclaim or with a cross-claim) within the State of Arizona, then they have twenty (20) days after receiving it to file either an answer or a response. If the party is served outside of the State of Arizona, then they have thirty (30) days to respond. JCRCP Rule 114.

## Step One: Application for Entry of Default

*Complete, file with the Court, and serve an Application For Entry of Default.* The Court form contains the information required by JCRCP Rule 140(b). It must be provided to everyone else according to the requirements of JCRCP Rule 140(c). After this application is filed with the Court, and after ten (10) judicial days have passed without a response, then the entry of default becomes effective. However, that is not the same thing as having a default judgment. The legal effect of an entry of default is that a party in default loses the right to litigate the merits of the claims against them; however, they may still participate in any proceedings concerning how much, if any, money should be awarded.

## Step Two: Request a Default Judgment

*Complete, file with the Court, and serve a Request and Affidavit For Entry of Default Judgment along with a proposed judgment form and supporting documentation.* The Court form contains the information required by JCRCP Rule 140(e). Even though the other side has not responded, the party requesting a default judgment must still provide documents that substantiate the amount claimed (e.g. promissory note, loan agreement, contract, repair estimates, receipts, etc.). **A party who files a proposed default judgment must also provide the Court with stamped envelopes addressed to each party.** JCRCP 140(g). Once a default judgment is final, it has the same legal impact as if there had been a trial on the merits of the case.

## Default Hearings

Most default judgments are granted without a hearing. However, if the other side was served by publication, then a default hearing will be held. JCRCP 140(j). A default hearing may also be held if the judge has some additional questions about the case or if it is requested by a party. JCRCP 140(f).

# Yuma Justice Court Precinct One

250 W. 2<sup>nd</sup> St. Ste. A Yuma, AZ 85364 (928)817-4100

CASE NUMBER: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 (        ) - \_\_\_\_\_  
 Plaintiff(s) Name / Address / Phone  
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 (        ) - \_\_\_\_\_  
 Attorney for Plaintiff(s) Name / Address / Phone

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 (        ) - \_\_\_\_\_  
 Defendant(s) Name / Address / Phone  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 (        ) - \_\_\_\_\_  
 Attorney for Defendant(s) Name / Address / Phone

**REQUEST and AFFIDAVIT FOR ENTRY OF DEFAULT JUDGMENT**  
 With Hearing     Without Hearing    JCRCP Rule 140

I request that the Court enter a default judgment.  
 If I am the Plaintiff, then I state that the Summons, Complaint and the Notice to Defendant were served on the Defendant.  
 No response has been received within the time allowed by law. At least ten (10) judicial days have passed since the Entry of Default.  
 The Defendant  is  is not on active duty in the United States Military.

Principal \$ \_\_\_\_\_  
 Costs \$ \_\_\_\_\_  
 Attorney fees \$ \_\_\_\_\_  
 Interest \$ \_\_\_\_\_  
 Total \$ \_\_\_\_\_

Attached are the:  Proposed Judgment  
 Supporting documents / proof of debt  
 Statement of cost

I state under penalty of perjury that the forgoing is true and correct.

Date: \_\_\_\_\_ Signature \_\_\_\_\_  
 Plaintiff     Counterclaimant     3rd Party Plaintiff     Attorney

**Note: A party who files a proposed default judgment must also provide the court with stamped envelopes addressed to each party.**

I CERTIFY that a copy of this document has been or will be mailed on \_\_\_\_\_ to:

Plaintiff at the above address     Plaintiff's attorney     Defendant at the above address     Defendant's attorney

Date: \_\_\_\_\_ By \_\_\_\_\_  
Signature

**Yuma Justice Court Precinct One**

250 W. 2<sup>nd</sup> St. Ste. A Yuma, AZ 85364 (928)817-4100

CASE NUMBER: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Plaintiff(s) Name / Address / Email / Phone

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attorney for Plaintiff(s) Name / Address / Email / Phone

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant(s) Name / Address / Email / Phone

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attorney for Defendant(s) Name / Address / Email / Phone

**SATISFACTION OF JUDGMENT ARS33-964C**

**PLEASE TAKE NOTICE THAT:**

I am the  Plaintiff  Counterclaimant  3rd Party Plaintiff

- I am the Judgment Creditor in this action.
- I have received full payment.
- The Judgment has been satisfied.

As signed below.

Date: \_\_\_\_\_  
Signature

I CERTIFY that a copy of this document has been or will be mailed on \_\_\_\_\_ to:

- Plaintiff at the above address     Plaintiff's attorney     Defendant at the above address     Defendant's attorney

Date: \_\_\_\_\_ By \_\_\_\_\_  
Signature