

**RULE 6**  
**OF THE LOCAL RULES OF PRACTICE OF THE SUPERIOR COURT,**  
**MARICOPA COUNTY**

**RULE 6. FAMILY COURT DEPARTMENT CASES**

**Rule 6.1. General Administration**

**a. Goals of the Family Court Department.** The goals of the Family Court Department (hereinafter referred to as the “Family Court”) shall include: (1) Ensuring that children are adequately supported financially and emotionally, including regular and meaningful time with both parents when possible and appropriate; (2) Preventing family violence and protecting victims of family violence; and (3) Processing cases fairly, promptly, and efficiently, using non-adversarial means to the extent possible and appropriate. The Court recognizes that persistent parental conflict is harmful to children.

**b. Assignment of Judges and Presiding Judge of the Family Court.** The Presiding Judge of the Superior Court shall designate the presiding judge of the Family Court and a sufficient number of judges and commissioners to carry out properly the responsibilities of the department under existing laws and rules. The presiding judge of the Family Court shall exercise supervisory authority over the Family Court divisions as prescribed by laws, rules, and the Presiding Judge of the Superior Court.

**c. Scope and Responsibilities of Family Court Divisions.** The Family Court divisions shall be responsible for handling all matters arising under Title 25, Arizona Revised Statutes, including all matters described in Rules 6.3 and 6.9. Additionally, the Presiding Judge of the Superior Court shall have the authority to designate Family Court judges as Juvenile Court Department judges pursuant to Title 8, Arizona Revised Statutes. Family Court judges designated as Juvenile Court Department judges shall be authorized to handle all matters arising under Title 8, Arizona Revised Statutes.

**d. Family Court Calendars and Case Numbers.** Family Court calendars and case numbers shall be assigned and maintained as prescribed by written Administrative Orders or Policies and Procedures of the department.

**Rule 6.2. General Rules Relating to Procedure**

**a. Applicability of Other Rules.** The provisions of the Arizona Rules of Civil Procedure apply to proceedings in Family Court. Rules 1 through 3 of the Superior Court Local Rules, Maricopa County, except where inconsistent with other provisions of this Rule 6, shall also apply to proceedings in Family Court.

**b. Notice of Appearance.** An attorney filing a petition, complaint, response, answer, or petition for order to appear on behalf of a party shall also file a Notice of Appearance. Once the attorney has filed a Notice of Appearance, the Clerk of the Court shall then send all minute entries to the attorney at the address stated in the Notice of Appearance.

**c. Notice of Withdrawal of Attorney of Record.** When a judgment, decree, or other appealable order in a Family Court case has become final and is not subject to appeal, and when there are no pending hearings, trials, or other proceedings before the court, an attorney of record who does not intend to continue representing a party shall file a Notice of Withdrawal of Attorney, stating that the attorney will no longer represent the party, and stating the last known address and telephone number of the party who will no longer be represented. The attorney shall provide a copy of the Notice to the party who will no longer be represented, and to all other parties or their attorneys, if they are represented by counsel. Once an attorney has appeared on behalf of a party, that attorney will be deemed attorney of record for that party until such time as the attorney or the party files a Notice of Withdrawal of Attorney of Record, and upon filing of such Notice, the attorney shall no longer be deemed attorney of record for that party.

**d. Child Support and Spousal Maintenance Payments.** All child support and spousal maintenance payments shall be made through the Support Payment Clearinghouse, except upon stipulation of the parties with approval of the court. The party ordered to make any such support or maintenance payments through the Support Payment Clearinghouse shall also be ordered to pay a fee for the handling of child support and/or spousal maintenance payments as set forth in A.R.S. § 25B510(D)).

**e. Sanctions.** Any party or attorney for a party appearing at the trial, a trial conference, or any hearing or conference held in a Family Court case who has not complied with these rules at the time of such appearance may be ordered by the court to comply immediately before proceeding. If any attorney fails to appear at and participate in good faith in any hearing or conference scheduled by the court or required by these rules, fails to prepare fully therefor, or fails to comply in good faith with the rules governing the procedures in a Family Court case, a judge or commissioner of the Family Court shall make such order as permitted by law, including a judgment of dismissal against that counsel's client; the reassignment of the case to a deferred position on the active calendar; the assignment of the case to the inactive calendar; the taxation of costs or attorneys' fees then or subsequently incurred; or the imposition upon either counsel or either party of further sanctions or penalties provided by statute, rule, or authority of the court, including contempt of court.

### **Rule 6.3. General Rules Relating to Pleading**

**a. Commencement of Action.** A party may commence an action in Family Court by filing an original verified petition, complaint, or voluntary acknowledgment of paternity with the clerk of the superior court, and pay the required filing fee. For a petition, the parties shall be denominated Petitioner and Respondent; for a complaint, the parties shall be denominated Plaintiff and Defendant. Once an action is filed, if either party files a subsequent petition in that cause of action, the parties shall be denominated as they were in the original filing.

**b. Case Caption.** The caption of the original petition, complaint, or voluntary acknowledgment of paternity shall describe the nature of the action or proceedings as follows: Conciliation; Legal Separation; Legal Separation in Covenant Marriage; Annulment; Dissolution of Marriage, either with or without Children; Dissolution of Covenant Marriage, either with or without Children; Paternity; Maternity; Voluntary Acknowledgment of Paternity; Child Custody by Parent; Child Custody or Visitation by Non-Parent; Enforcement of Out-of-State Custody Decree; Domestication of Foreign Judgment; Grandparent or Great-Grandparent Visitation; Establishment, Enforcement, Registration, or Modification of Support, or Application for Issuance of a Warrant to Take Physical Custody of a Child.

**c. Form of Pleading.**

1. *Petition.* A party shall commence the following actions by filing a verified Petition with the clerk of the superior court: Annulment (A.R.S. § 25B301); Dissolution (A.R.S. § 25B312); Legal Separation (A.R.S. § 25B313); Child Custody by Parent (A.R.S. § 25B401(B)(1)); Dissolution of Covenant Marriage (A.R.S. § 25B903); and Legal Separation in Covenant Marriage (A.R.S. § 25B904); except that a Petition for Conciliation (A.R.S. § 25B381.09) shall be submitted to Conciliation Services.

2. *Notice of Filing Foreign Judgment.* A party shall commence an action for Disposition of Property (A.R.S. § 25B318(A)) or Maintenance (A.R.S. § 25B319(A)) pursuant to the decree from a foreign court by filing the foreign judgment pursuant to A.R.S. §§ 12B1701 to B1708. Once the party has filed the foreign judgment, the party may file a Petition for Order to Appear specifying the relief sought.

3. *Paternity and Maternity.* A party shall commence an action for Paternity (A.R.S. § 25B806(A)) or Maternity (A.R.S. § 25B806(B)) by filing a verified Complaint with the clerk of the superior court. If paternity or maternity was established in an action or voluntary acknowledgment of paternity filed in the State of Arizona and a party seeks to establish or modify custody or visitation (A.R.S. § 25B803(C)), or to establish, enforce, register, or modify support (A.R.S. §§ 25B621 to B661), that party shall do so by filing a Petition for Order To Appear in the same action that established paternity or maternity or in which paternity was acknowledged. If paternity or maternity was established by some means other than an action or voluntary acknowledgment of paternity filed in the State of Arizona and a party seeks to establish or modify custody or visitation, or to establish, enforce, register, or modify support, that party shall do so by filing a Petition.

4. *Voluntary Acknowledgment of Paternity.* A party seeking to acknowledge paternity voluntarily may do so by filing with the clerk of the superior court any of the documents listed in A.R.S. § 25B812.

5. *Application for Issuance of a Warrant to Take Physical Custody of a Child.* A person seeking the immediate production of a child or children may seek such relief by filing a verified Application for Issuance of a Warrant to Take Physical Custody of a Child.

6. *Petition for Order to Appear.* For any pre-decree or post-decree action to establish, enforce, modify, or terminate any order of the Court not specifically listed above [or specifically provided elsewhere], a party shall commence the action by filing a Petition for Order To Appear with the clerk of the superior court.

**d. Family Court Cover Sheet.** Along with all original filings, the party shall include a Family Court Cover Sheet in the form and containing the information designated by the Presiding Judge of the Family Court.

**e. Additional Filings.**

1. *Summons and Preliminary Injunction.* Along with the original petition for Annulment, Dissolution, Legal Separation, Dissolution of Covenant Marriage, or Legal Separation in Covenant Marriage, the party shall present to the clerk of the court a Preliminary Injunction for issuance pursuant to A.R.S.  $\text{\textcircled{25B315(A)}}$ , and a Summons and a copy of the Summons so that the clerk of the court may issue the Summons and issue the copy of the Summons for service on the opposing party.

2. *Summons.* Along with the original petition for Child Custody by Parent, Paternity, or Maternity, the party shall present to the clerk of the court a Summons and a copy of the Summons so that the clerk of the court may issue the Summons and issue the copy of the Summons for service on the opposing party.

3. *Notices, Forms, and Orders.* A party filing a petition or complaint shall present to the clerk of the court for issuance the Notices, Forms, and Orders as designated by the Presiding Judge of the Family Court, including but not limited to the Child Support Information Form.

**f. Service on the Opposing Party.**

1. *Summons, Preliminary Injunction, and Petition.* In an action for Annulment, Dissolution, Legal Separation, Dissolution of Covenant Marriage, or Legal Separation in Covenant Marriage, the petitioner shall serve upon the opposing party a copy of the Petition, a copy of the Summons, the Preliminary Injunction issued pursuant to A.R.S.  $\text{\textcircled{25B315(A)}}$ , and the Notices, Forms, and Orders as designated by the Presiding Judge of the Family Court.

2. *Summons and Petition or Complaint.* In an action for Child Custody by Parent, Paternity, or Maternity, the petitioner shall serve upon the opposing party a copy of the Petition or Complaint and a copy of the Summons, and the Notices, Forms, and Orders as designated by the Presiding Judge of the Family Court.

**g. Mandatory Responsive Filings.** The opposing party in an action for Annulment, Dissolution, Legal Separation, Child Custody by Parent, Dissolution of Covenant Marriage, Legal Separation in Covenant Marriage, Paternity, or Maternity who has been served with a petition or a complaint shall respond by filing a Response to the petition or an Answer to the complaint. In the event the opposing party in one of these proceedings does not file a Response, an Answer, or an Oral Answer as permitted by A.R.S.  $\text{\textcircled{25B806(C)}}$ , the party who filed the action will have the right to file for a default and receive a default judgment under Rule 6.4.

**h. Optional Responsive Filings.** Unless the Court specifically orders a party to file a Response or other specific pleading, any Response to a Petition for Order to Appear is optional.

**Rule 6.4. Default and Judgment of Default**

**a. Default.** When a party has filed a petition for Annulment, Dissolution, Legal Separation, Child Custody by Parent, Dissolution of Covenant Marriage, or Legal Separation in Covenant

Marriage, or a complaint for Paternity, or Maternity, and the petition or complaint has been properly served upon the opposing party, and the opposing party fails to plead or otherwise defend as provided by these rules and the Arizona Rules of Civil Procedure, the filing party may proceed to Default in accordance with Rule 55(a) of the Arizona Rules of Civil Procedure, and the Soldiers= and Sailors= Civil Relief Act of 1940, 50 App. U.S.C. §§ 501B593, if applicable.

**b. Judgment of Default.** When Default has been entered against the opposing party, the filing party may obtain a Judgment of Default in accordance with Rule 55(b) of the Arizona Rules of Civil Procedure. All motions for entry of a Decree of dissolution without a hearing are to be submitted to the Family Court Administrator=s Office.

**c. Informing Defaulted Party.** In all Family Court cases wherein a Decree of Dissolution is entered by default, except those cases resulting from default after service by publication, the party obtaining the decree shall certify that, within 24 hours of that party's receipt of the decree, that party will mail a copy of the decree to the other party at the other party's last known address, and shall place a record of the mailing on the decree. Failure to comply with this rule shall not affect the validity of the decree entered, affect the time to appeal, or relieve a party from any obligations

## **Rule 6.5. Differentiated Case Management**

**a. Purposes.** The purpose of Differentiated Case Management (DCM) is as follows:

- (1) To provide a forum and procedure for early intervention and the fair and orderly management of appropriate cases prior to trial;
- (2) To set deadlines for steps necessary either to resolve a case or prepare it for trial; and
- (3) To facilitate the preparation of a Stipulation regarding any of the issues in the case, Position Statements, Joint Pretrial Statement, Statement of Agreement and Disagreement, or Consent Decree.

**b. Applicability and Procedure.** All cases in which a response has been filed are subject to DCM except (1) that the Presiding Judge of the Family Court may by administrative order exempt cases in which the petition and the response are filed by attorneys representing the petitioner and the respondent, respectively, or in which the Court is otherwise informed that both parties are represented by counsel, and neither party requests to participate in the DCM process; or (2) as otherwise directed by the Presiding Judge of the Family Court or the assigned judge. All parties subject to DCM are required to attend the DCM conference. The trial court may impose sanctions on any party required to comply with the DCM procedures who does not do so.

**c. The DCM Conference.** Where applicable, the DCM Case Manager shall set a DCM Conference, and shall notify the parties of the date and time and the conditions under which the conference will be held.

1. *Appearance by Telephone.* If a party is incarcerated or lives outside of Maricopa County, or for other good cause, the DCM Case Manager may allow one or both parties to appear by telephone. A party wishing to appear by telephone shall submit a written request to the DCM Case Manager at least three days prior to the scheduled conference. If the DCM

Case Manager grants the request, the party making the request shall initiate and pay for the telephone call.

2. *Interpreters.* Any party who requires an interpreter shall advise Family Court Administration at least three days prior to the scheduled conference.

3. *Conduct and Sanctions.* The DCM Case Manager will have the discretion to terminate any conference if the DCM Case Manager believes a party is not making a good faith effort to comply with the DCM procedures.

4. *Rescheduling.* Any requests for a continuance must be in writing and must be received by Family Court Administration at least two weeks prior to the scheduled conference date, and will be granted only for good cause. Requests made within two weeks of the scheduled conference will only be granted for exceptional reasons. A DCM Conference will be vacated for the following reasons: (1) A judge or commissioner has already ruled and made a final disposition of the matter; (2) the parties have submitted a stipulation to dismiss signed by both parties; or (3) the parties have submitted a Consent Decree signed by both parties.

5. *Communications.* All communications regarding the DCM Conference shall be in writing and delivered by postal service, personal delivery, or fax, and shall include the date of the request, the case number, the name of the party or attorney making the request, the name of the DCM Case Manager, and the reason for the request. No party or counsel shall communicate *ex parte* with the DCM Case Manager. All communications shall be in writing and shall certify that a copy was mailed or hand delivered to the opposing party or his or her counsel.

**d. Joint Certification.** As an alternative to the Differentiated Case Management process, the parties may proceed by Joint Certification (JCE) in accordance with the policies and procedures of the Family Court.

1. *Filing of Joint Certificate.* Within 30 days after the date the Response is filed, the parties must file a Joint Certification Notice (the JCE Notice). If the parties file the JCE Notice more than 30 days after the date the Response is filed, the case may proceed by the JCE process only with the approval of the assigned DCM Case Manager or the assigned judge.

2. *JCE Notice.* The parties shall use the Family Court JCE Notice or a substantially similar form, and shall adhere to the time limits specified in that form. The JCE Notice shall contain the uppercase letters "JCE" in the lower left-hand corner.

3. *Final Documents.* At the Completion of the JCE process, the parties shall submit either (1) a Consent Decree, (2) a Motion To Set and Joint Pretrial Statement pursuant to Rule 38.1, Arizona Rules of Civil Procedure, or (3) a Statement of Disagreement and a Statement of Binding Agreement.

After the parties have filed the JCE Notice, the DCM Case Manager will not set the case for a conference unless any party, the DCM Case Manager, or the judge requests that a conference be held. If the parties do not comply with discovery requests or fail to file a Motion To Set and Certificate of Readiness, a Joint Pre-Trial Statement, or a Statement of Disagreement and Statement of Binding Agreements, the DCM Case Manager will set a DCM Conference, which the parties and attorneys must attend.

## **Rule 6.6. Consent Decree**

**a. General.** Whenever the petitioner and respondent agree to the terms of a legal separation, annulment, dissolution, paternity, or maternity action, the parties may elect to proceed by consent Decree, Order, or Judgment upon a showing that the required appearance fees have been paid or deferred. Additionally, for an annulment, dissolution, and legal separation, 60 days must have passed since the service of process or acceptance of service prior to the submission of the consent decree. To proceed, the parties shall jointly submit a Stipulation to Proceed by Consent Decree and a Consent Decree, Order, or Judgment that states the terms upon which the parties have agreed. The judge, commissioner, or family court officer assigned to the case shall determine whether the parties have met the requirements for a Decree, Order, or Judgment by consent.

**b. Stipulation.** The Stipulation shall include all terms to comply with current Family Court policy and shall state (1) that the parties agree to proceed by consent, (2) that each party believes no duress or coercion is involved, and (3) that, for any dissolution or legal separation, each party believes that any division of property is fair and equitable. The Stipulation shall also state that each party understands (1) that each party (a) may retain legal counsel of his or her choice and (b) is waiving the right to trial, and (2) that the judicial officer has the discretion to reject the Consent Decree, Order, or Judgment if it fails to comply with these Rules or Arizona law. If children are involved and the parties are requesting joint custody, the parties shall indicate whether domestic violence has occurred, and the extent of any such violence, and for a paternity or maternity action, the parties must identify the natural mother and father. If children are involved, each party shall complete a Parent Information Program and shall include proof of attendance. The Stipulation shall be dated, and if a party is represented by counsel, counsel shall sign the stipulation, and if a party is not represented by counsel, the party shall sign the stipulation and have that signature acknowledged by a notary public.

**c. Decree, Order, or Judgment.** The Decree, Order, or Judgment shall comply with the following requirements:

1. If a party is represented by counsel, counsel shall sign the Decree, Order, or Judgment, and if a party is not represented by counsel, the party shall sign the Decree, Order, or Judgment.

2. If any party is receiving benefits under Temporary Assistance for Needy Families (TANF) (formerly AFDC) or the Title IV-D program, the parties shall obtain the written approval of the Attorney General for any specified child support amount.

3. In any action for dissolution, annulment, or legal separation, the parties shall indicate the following:

- a. Whether the marriage is or was a covenant marriage;
- b. Whether there are children common to the parties; and
- c. Whether the wife is pregnant with a child common to the parties.

**d. When Children Are Involved.** When there are children common to the parties, the parties shall include the following:

1. A separate Parenting Plan, or else provide custody and access provisions in their Decree, Order, or Judgment. The parenting plan shall be signed by both parents, and each joint custody plan shall comport with all requirements of A.R.S. § 25B403(F).

2. A Parent=s Worksheet for Child Support Amount, signed by at least one party or that party=s counsel.

3. Copies of each parent=s Parent Information Program Certification of Completion.

4. A completed Order of Assignment including current employer information sheet.

5. A completed Judgment Data Sheet.

### **Rule 6.7. Temporary Orders**

**a. Petitions for Temporary Orders.** A party seeking temporary orders under A.R.S. §§ 25B315, 25B404, or 25B817 shall do so by filing with the Clerk of the Court a verified petition setting forth with specificity all relief requested. If a party is requesting financial relief, that party must file a completed Affidavit of Financial Information with the Petition. The party must submit to the assigned Judicial Officer the original and three copies of an Order To Appear, and three copies of the Petition, and three copies of any Affidavit of Financial Information that was included with the Petition. The Clerk of the Court shall file in the Court file the original Petition, Affidavit of Financial Information and Order to Appear, signed by the assigned judicial officer.

**b. Order To Appear.** Upon the delivery of the Petition for Temporary Orders and Order To Appear, and completed Affidavit of Financial Information if required, the Court may either set the matter for a 15-minute Return Conference or an Evidentiary Hearing.

**c. Service.** The moving party shall serve all parties with the required documents indicated in section (a) in accordance with the Arizona Rules of Civil Procedure. Service shall be completed at least 3 judicial days prior to the date of the Return Conference or the Evidentiary Hearing, unless otherwise ordered by the Court.

**d. Requirements Prior to Return Conference.** If the Court has set the matter for a 15 minute Return Conference and if one or both parties are represented by counsel, counsel or counsel and the other party shall meet and confer before the Return Conference and attempt to resolve as many issues as possible. If the parties are not represented by counsel, and if there are no orders of protection or other orders of the court prohibiting contact, the parties shall meet and confer before the Return Conference and attempt to resolve as many issues as possible. If the moving party is requesting financial relief and has filed a completed Affidavit of Financial Information, the other party must file a completed Affidavit of Financial Information and provide a copy of that Affidavit to the moving party at least three judicial days before the Return Conference. If the other party fails to file a completed Affidavit of Financial Information, the Court may impose sanctions.

**e. Return Conference for the Evidentiary Hearing.** All parties and, if represented, counsel must be present at any Return Conference set by the Court. The Court upon written motion may allow a party or counsel to appear by telephone upon a finding of good cause. The parties shall identify for the Court any issues they have been able to resolve and the contested issues the



Court will have to resolve. If the Court determines there remain issues of fact to be resolved in order to grant the relief requested, the Court may set the matter for an Evidentiary Hearing or may make other appropriate orders.

**f. Failure to Appear at a Return Conference.** If a party fails to appear at a Return Conference after service, the Court may make such orders as are just, including granting the relief requested by the party who appears.

**g. Requirements Prior to an Evidentiary Hearing.** If one or both parties are represented by counsel, counsel or counsel and the other party shall meet in person or by telephone no less than 3 judicial days prior to the date set for the Evidentiary Hearing and attempt to resolve as many issues as possible. If the parties are not represented by counsel, and if there are no orders of protection or other orders of the court prohibiting contact, the parties shall meet in person or by telephone no less than three judicial days prior to the date set for the Evidentiary Hearing and attempt to resolve as many issues as possible. At least three days prior to the hearing, the parties shall exchange any exhibits to be offered at the hearing, a list of the names and addresses of all witnesses who may testify, and if child support is at issue, the Parent=s Worksheet for Child Support Amount.

#### **Rule 6.8. Pre-Trial and Pre-Hearing Procedures**

**a. Motions To Set and Certificates of Readiness.** Any party desiring to have a Family Court case placed upon the active calendar and set for trial shall follow the procedures set forth in Rule 38.1, Arizona Rules of Civil Procedure. All Motions To Set and Certificates of Readiness shall certify that the parties have completed, or have had a reasonable opportunity to complete, all procedures under Rules 26 to 37 of the Arizona Rules of Civil Procedure at the time of filing of the Certificate of Readiness.

**b. Joint Pre-trial or Pre-hearing Statement.** In every Family Court case set for trial, including any bifurcated portion of such trial and all post-decree hearings for modification of child custody, counsel who will try the case for the parties and who are authorized to make binding stipulations on behalf of the parties shall meet personally and prepare a written joint pre-trial or joint pre-hearing statement signed by each counsel, and shall file that joint pre-trial or joint pre-hearing statement with the court no later than five days prior to the date set for trial or hearing. If there has been a failure by either or both counsel to meet and prepare the joint pre-trial or joint pre-hearing statement, the court as a sanction may do any of the following: impose any of the sanctions or penalties provided by Rule 6.2(e) of these rules or any other rule, statute, or authority of the court; continue the trial or hearing; enter an interim award of relief to the requesting party based on that party=s spouse=s affidavit; award the requesting party the attorneys' fees incurred in preparing for and attending the hearing, trial, or conference scheduled by the court. For purposes of making an interim award, the court, on its own motion, may examine the party requesting such interim relief if it deems such examination necessary. The court may preclude the opposing party from introducing any evidence and from cross-examining the requesting party for purposes of making an interim award.

**c. Contents of the Joint Pre-trial or Pre-hearing Statement.** The pre-trial or pre-hearing statement in Family Court cases shall contain the following:

(1) A statement of the contested and uncontested issues of fact or law to be presented to the court. With respect to contested issues, each party shall set forth a brief statement of that party's proposal how the court should resolve it.

(2) A detailed itemized inventory of the community, joint tenancy, and other property held in common by the parties, and the separate property of each party. This inventory shall set forth the date the property was acquired, by what title the parties hold the property, the amount of encumbrance thereon, and each party's evaluation of the fair market value of the property. The parties shall use the court approved form, "Inventory of Property in Family Court Action," for the information required under this rule.

(3) A list of the names and addresses of all witnesses expected to be called at the time of trial, either for direct examination or impeachment.

(4) A list of all exhibits each party expects to offer at the time of trial together with a description sufficient to identify each exhibit. The parties shall indicate which exhibits they have agreed will be admissible at trial and if there is objection, the specific objection that will be made if the exhibit is offered.

(5) A statement that the parties have completed all pre-trial discovery procedures under Rules 26 to 37, Arizona Rules of Civil Procedure, and that all answers and supplemental answers to interrogatories under Rules 33 and 33.1, Arizona Rules of Civil Procedure, reflect facts known to the date of the pre-trial or pre-hearing statement.

(6) A statement that counsel have discussed settlement in good faith.

(7) A statement of the parties' estimate of the time necessary for trial.

(8) A statement that each party has received a copy of the joint pre-trial or pre-hearing statement and that each party has exchanged true and correct copies of all exhibits, and any written reports of experts who have been listed on the list of witnesses.

**d. Restrictions on Exhibits and Witnesses.** Unless ordered otherwise by the assigned Judicial Officer, no party may call any witness or offer any exhibit not listed in the joint pre-trial or pre-hearing statement.

**e. Exhibits.** Unless ordered otherwise by the assigned Judicial Officer, all exhibits for any hearing or trial shall be presented for marking to the Clerk of the division of the assigned Judicial Officer no later than noon on the day before the hearing or trial. The Clerk shall retain the exhibits for the hearing or trial, and shall mark an exhibit as received at such time as the Court admits the exhibit in evidence.

**f. Continuances.** No continuances shall be granted after a case has been set for trial except on written motion setting forth grounds recognized by statute or rule, or for good cause shown. Stipulations for continuances shall be regarded as a joint motion to continue and must set forth grounds recognized by statute or rule, or for good cause shown. No trial setting shall be vacated or continued except by formal order of the court.

**g. Inactive Calendar.** All Family Court cases in which a Motion to Set and Certificate of Readiness has not been filed within six months after the commencement of the proceedings shall be placed on the inactive calendar by the court administrator. All Family Court cases remaining

on the inactive calendar for two months shall be dismissed without prejudice for lack of prosecution in accordance with Rule 38.1, Arizona Rules of Civil Procedure.

### **Rule 6.9 Post-Decree and Post-Judgment Procedure**

**a. Commencement of Action.** A party seeking post-decree or post-judgment relief may do so by filing a Petition for Order To Appear as provided below, a request for the Expedited Process as provided below, or a request for the Simplified Modification Process as provided below. The parties shall be denominated Petitioner and Respondent as they were in the Decree of Dissolution of Marriage or Judgment.

**b. Petition for Order to Appear.** A party proceeding by means of a Petition for Order To Appear shall file with the Clerk of the Court a verified petition setting forth with specificity all relief requested, and pay the required filing fee. In all petitions for contempt, or for relief in reference to a prior order of the court, or for modification of a prior order of the court, the petition shall set forth the pertinent portion of the prior order, the date the order was entered, and the name of the judge or commissioner who entered the order, if known. In the event the prior order is so voluminous that it makes it impractical to include it in the petition verbatim and the order is contained in the official court file of the case, the order may be incorporated into the petition by reference. If the party is seeking a change in the amount of child support, the party must include with the Petition a proposed Parent=s Worksheet for Child Support Amount. If the party is seeking a change in the amount of spousal maintenance, the party shall include with the Petition a current Affidavit of Financial Information. The party must submit to the assigned Judicial Officer the original and three copies of an Order To Appear, and three copies of the Petition, and three copies of any Parent=s Worksheet for Child Support Amount or Affidavit of Financial Information that was included with the Petition.

**c. Expedited Process.** A party seeking to establish support, modify support, or enforce support, medical insurance coverage, medical or dental cost reimbursement, spousal maintenance, custody, or visitation and proceeding by means of the Expedited Process shall file with the Clerk of the Court a request in the form prescribed by the Arizona Supreme Court, or a substantially similar form, accompanied by an Order To Appear, and pay the required filing fee. The parties shall then follow the applicable Administrative Order for the Expedited Process.

**d. Simplified Modification Process.** A party seeking to modify support and proceeding by means of the Simplified Modification Process shall file with the Clerk of the Court a request for Simplified Modification, accompanied by a Parent=s Worksheet for Child Support Amount, and pay the required filing fee. The parties shall then follow the procedure specified in Section 22(b) of the Arizona Child Support Guidelines, Appendix to A.R.S. 25B320.

**e. Procedure Prescribed by A.R.S. 25B502 through 25B504.** A party seeking to modify support pursuant to A.R.S. 25-327, 25B502 through 25B504, and Section 22(a) of the Arizona Child Support Guidelines, Appendix to A.R.S. 25B320, shall follow the procedure set forth by those sections.

**f. Alternative Procedure by the Court.** If a party seeks to establish support, modify support, or enforce support, medical insurance coverage, medical or dental cost reimbursement,

spousal maintenance, custody, or visitation by filing with the Court a Petition for Order To Appear, the Court may treat that petition as a filing under the procedure for the Expedited Process and forward that petition to the appropriate Administrative agency for processing pursuant to the Expedited Process.

**g. Order To Appear.** If a party has filed a Petition for Order To Appear and the Court has not treated that petition pursuant to the Expedited Process as provided in Subsection (c) above, the Court shall either set the matter for a 15-minute Return Conference or an Evidentiary Hearing.

**h. Service.** The moving party shall serve all parties with the required documents indicated in section (b) in accordance with the Arizona Rules of Civil Procedure. Service shall be completed at least three judicial days prior to the date of the Return Conference or the Evidentiary Hearing, unless otherwise ordered by the Court.

**i. Requirements Prior to Return Conference.** Unless otherwise ordered by the Court, the parties shall comply with the following. If the Court has set the matter for a 15-minute Return Conference and if one or both parties are represented by counsel, counsel or counsel and the other party shall meet and confer before the Return Conference and attempt to resolve as many issues as possible. If the parties are not represented by counsel, and if there are no orders of protection or other orders of the court prohibiting contact, the parties shall meet and confer before the Return Conference and attempt to resolve as many issues as possible. If the moving party is requesting financial relief and has filed a completed Affidavit of Financial Information, the other party must file a completed Affidavit of Financial Information and provide a copy of that Affidavit to the moving party at least three judicial days before the Return Conference.

**j. Return Conference for the Evidentiary Hearing.** All parties and, if represented, counsel must be present at any Return Conference set by the Court. The Court upon written motion may allow a party or counsel to appear by telephone upon a finding of good cause. The parties shall identify for the Court any issues they have been able to resolve and the contested issues the Court will have to resolve. If the Court determines there remain issues of fact to be resolved in order to grant the relief requested, the Court may set the matter for an Evidentiary Hearing or may make other appropriate orders.

**k. Failure to Appear at a Return Conference.** If a party fails to appear at a Return Conference after service, the Court may make such orders as are just, including granting the relief requested by the party who appears.

## **Rule 6.10. Mediation, Open Negotiation, Arbitration, and Settlement**

**a. Purpose.** The intent of this rule is to encourage the resolution of family-related cases using non-adversarial means to the extent possible. Mediation independent of the court is encouraged.

**b. Mandatory Mediation or Open Negotiation.** All Family Court cases that involve a controversy over child custody or parenting time (also called visitation or parent-child access) shall be subject to mediation or open negotiation regarding those issues. The court or

Conciliation Services shall determine whether mediation, open negotiation, or other services are appropriate in a particular case, unless the parties agree to mediation independent of the court.

**(1) Mediation.** Mediation is defined in A.R.S. § 12B2238(F). Mediation may be conducted by a Conciliation Services mediator or an independent mediator agreed upon by the parties. Mediation proceedings shall be held in private, and all communications, verbal or written, shall be confidential except as provided in A.R.S. § 12B2238(B). The mediator may not conduct any subsequent family assessment or evaluation in the same case unless the parties file a written notice consenting thereto signed by both parties and counsel, if any.

**(2) Open Negotiation.** Open negotiation is a process of negotiations between the parties conducted by a Conciliation Services negotiator. All information presented or gathered is not confidential, and may be used by Conciliation Services, or any court-appointed evaluator, for any subsequent family assessment or evaluation.

**(3) Commencement.**

*(A) Commencement of Mediation or Open Negotiation by the Court.* When it appears on the face of a pleading that either child custody or parenting time of a minor child is contested, the court shall refer the matter to an independent mediator, or to Conciliation Services for mediation or open negotiation, prior to or concurrently with the setting of the matter for hearing or trial. The court may order mediation or open negotiation at any other time after filing of the petition.

*(B) Commencement of Mediation or Open Negotiation by Petition of Parent.* If there is a disagreement between the parents concerning child custody or parenting time, either or both parents may file with the court and serve upon the other parent, or counsel if represented, a Petition for Mediation or Open Negotiation. The court will then refer the parents to Conciliation Services for mediation or open negotiation in accordance with these rules, or the parents may agree to independent mediation pursuant to this rule unless otherwise ordered by the court.

**(4) Scheduling.** When a matter has been ordered for mediation or open negotiation by Conciliation Services, either on the court's motion or at the petition of one or both parents, Conciliation Services will schedule a conference or conferences that both parties must attend. Mediation or open negotiation of the child custody or parenting time dispute, either by Conciliation Services or an independent mediator pursuant to this rule, must take place and be completed before the trial or hearing on child custody or parenting time.

**(5) Mediation Conference.** The mediator will conduct a conference or conferences in an effort to carry out the purpose of this rule. Counsel for the parties shall be provided an opportunity to confer with the mediator prior to the first conference and shall be excluded thereafter, when, in the discretion of the mediator, exclusion of counsel by the mediator is deemed to be appropriate. The mediator shall be entitled to interview the child or children and all persons having any relation to the controversy when deemed appropriate by the mediator.

**(6) Open Negotiation Conference.** The negotiator will conduct a conference or conferences in an effort to carry out the purpose of this rule. Counsel for the parties shall be entitled to attend all open negotiation conferences. The negotiator shall be entitled to interview the child or children and all persons having any relation to the controversy when deemed appropriate by the negotiator.

**(7) Agreements.** Any agreements reached as a result of mediation or open negotiation must be placed in writing, signed by both parties and presented to the court. Agreements may include agreed upon areas of disagreement. The court shall retain final authority to accept, modify, or reject the agreement. Upon the court's entry of a written order to that effect, the mediation agreement shall be considered binding. In the event that no agreement is reached, the mediation or open negotiation shall be considered unsuccessful. In any event, the mediator or negotiator shall notify the court in writing when mediation or open negotiation has been concluded.

**(8) Disagreements.** After mediation, Conciliation Services shall report to the Court any unresolved issues or areas of disagreement without attributing the positions of the parties on such unresolved issues or areas of disagreement.

**(9) Subsequent Proceedings.** In the event all issues of child custody and parenting time are not resolved by mediation or open negotiation, Conciliation Services may proceed to conduct any other services deemed appropriate without further court order. Conciliation Services shall notify the court in writing of all other services initiated and the approximate amount of time required for completion of each service.

**(10) Failure to Appear.** The parties are required to appear at all scheduled mediation and open negotiation conferences. If one or both parties fail to appear, the mediator or negotiator may report to the court the identity of each person who failed to appear and the court may take such action as it deems appropriate.

**c. Independent Mediation.**

**(1) Selection.** In lieu of Conciliation Services and unless otherwise ordered by the court, the parties may select by agreement an independent mediator who is not a family counselor with Conciliation Services. The parties shall contract directly with the independent mediator and be responsible for payment of the fee for such mediation.

**(2) Commencement.** If an independent mediator is selected, the parties or counsel, if any, shall sign and file with the court a written notice that independent mediation will take place. The notice shall set forth the name of the mediator and date set for the first mediation conference. If independent mediation is not concluded by the time set for trial or hearing, the parties may be ordered to Conciliation Services for mediation or open negotiation.

**d. Arbitration.** The parties may agree to arbitrate any and all issues in accordance with the Arizona Arbitration Act, A.R.S. §§ 12B1501 to B1518.

**e. Settlement Conferences.** The court shall develop policies and procedures for the conduct of settlement conferences in family-related cases. To the extent possible, settlement conferences shall be conducted by family law attorneys acting as judges pro tem.

**Rule 6.11 Conciliation Services**

**a. Conciliation Counseling.**

1. *Petition for Conciliation.* As provided in A.R.S. § 25.381.09, a petition for conciliation shall be submitted to Conciliation Services by either or both spouses with or without a marital dissolution or separation action pending in court. When a petition for conciliation is filed

directly with the clerk of court, the clerk of court shall deliver the original petition to Conciliation Services.

*2. Period of Jurisdiction; Stay of Proceedings.* When such a petition is accepted, a period of jurisdiction of up to 60 days is established to allow the counseling process to be conducted and completed. During this time neither spouse may file for separation or dissolution or, if such an action has already been filed, it may not be advanced.

**b. Mediation and Open Negotiation.** Mediation and Open Negotiation shall be conducted pursuant to Rule 6.10.

**c. Assessment and Evaluation.**

*1. Referral by the Court.* The court may refer cases to Conciliation Services for assessment and/or evaluation regarding child custody, parenting time, or visitation issues.

*2. Report to the Court.* Upon completion of the assessment or evaluation services, or upon the parties reaching an agreement regarding the child custody, parenting time or visitation issues in dispute, Conciliation Services will notify the court of completion of the assessment or evaluation and will provide the court with a written report. The parties and counsel, if any, will be provided copies of the report. The report may include recommendations to the court regarding child custody, parenting time or visitation plans consistent with the best interests of the children.

**Rule 6.12. Family Court Advisor**

a. **Appointment.** In any proceeding under Title 25, A.R.S., involving children, the court may appoint a Family Court Advisor if it finds any of the following:

1. The parents are persistently in conflict with one another;
2. There is a history of parental alienation, substance abuse by either parent, or family violence;
3. There are serious concerns about the mental health or behavior of either parent;
4. The children include infants or toddlers;
5. A child has special needs; or
6. It would otherwise be in the children's best interests to do so.

b. **Scope and Duration of Appointment.** The court order appointing the Family Court Advisor shall specify the duration and scope of the appointment, which may include but shall not be limited to: Assisting with implementation of court orders; making limited decisions as specified by the court; and making recommendations to the court regarding implementation, clarification, modification and enforcement of any temporary or permanent custody or parenting time orders. The Family Court Advisor shall not have authority to make any decision that changes legal custody or substantially changes physical custody. The court shall order the costs and fees of the Family Court Advisor apportioned between the parties as may be appropriate.

c. **Additional Authority of Family Court Advisor.** The Family Court Advisor may interview all members of the immediate and extended family or household of both parties. The Family

Court Advisor may interview and request information from any persons who the Family Court Advisor deems to have relevant information. The Family Court Advisor may request that the court order the parties and/or children to participate in ancillary services, to be provided by the court or third parties, including but not limited to physical or psychological examinations or assessments, counseling, and alcohol and/or drug monitoring and testing. The court shall allocate between the parties the cost of any ancillary services ordered.

d. **Immunity.** The Family Court Advisor has immunity in accordance with Arizona case law as to all acts undertaken pursuant to and consistent with the appointment order of the court.

e. **Persons Who May Serve as Family Court Advisor.** A Family Court Advisor may be an attorney who is licensed to practice law in Arizona; a psychiatrist who is licensed to practice medicine or osteopathy in Arizona pursuant to Title 32, Chapter 13 or Chapter 17, and who is board certified or board eligible in psychiatry; a psychologist who is licensed to practice psychology in Arizona pursuant to Title 32, Chapter 19.1; a person who is certified by the State of Arizona pursuant to Title 32, Chapter 33, as a social worker, counselor, marriage and family therapist, or substance abuse counselor; or such other class of persons as approved by the court. The court may prescribe additional requirements for service as Family Court Advisor.

### **Rule 6.13. Guardian ad litem**

a. In any proceeding under these rules involving children, the court may appoint a guardian ad litem to protect a child's best interests if it finds any of the following:

1. There is an allegation of abuse or neglect of a child;
2. The parents are persistently in conflict with one another;
3. There is a history of parental alienation, substance abuse by either parent, or family violence;
4. There are serious concerns about the mental health or behavior of either parent;
5. The children include infants or toddlers; or
6. A child has special needs.

The guardian ad litem may be an attorney or a court appointed special advocate.

b. The court may appoint a guardian ad litem through a volunteer program or through the Office of Court Appointed Counsel, except the court shall not appoint a guardian ad litem through the Office of Court Appointed Counsel unless the court believes that a child may be the victim of child abuse or neglect as defined in A.R.S. § 8-201.