



## Supreme Court

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1501 WEST WASHINGTON  
PHOENIX, ARIZONA 85007-3329

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October 22, 2001

**RE: RULE 16(g), ARIZONA RULES OF CIVIL PROCEDURE**  
Arizona Supreme Court No. R-01-0006

**GREETINGS:**

The following action was taken by the Supreme Court of the State of Arizona on October 09, 2001, in regard to the above-referenced cause:

**ORDERED: [Petition Re] Amended Proposed Adoption of an Amendment to Rule 16(g), Arizona Rules of Civil Procedure = ADOPTED, effective December 1, 2001.**

Noel K. Dessaint, Clerk

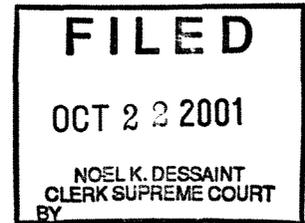
TO:

Raymond W. Weaver Jr., Chairperson, Alternative Dispute Resolution  
Advisory Committee

Shirley J. Wahl, State Bar of Arizona, Civil Practice and Procedure  
Committee

Final Rules List

sls



IN THE SUPREME COURT OF THE STATE OF ARIZONA

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Supreme Court No. R-01-0006

ORDER AMENDING  
RULE 16(g), ARIZONA RULES OF CIVIL PROCEDURE,  
AND ADOPTING FORM 3

IT IS ORDERED amending Rule 16(g), Arizona Rules of Civil Procedure,  
and adopting Form 3, as set forth in the attachment hereto,\* effective December 1, 2001.

The amended rule shall be applicable to all cases filed after December 1, 2001.

DATED in the City of Phoenix, Arizona at the Arizona  
Courts Building, this 22nd day of October, 2001.

For the Court:

A handwritten signature in cursive script, appearing to read "Charles E. Jones".

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CHARLES E. JONES

Vice Chief Justice

\* Changes or additions in text are indicated by underlining and deletions from text are indicated by ~~strikeouts~~.

## **RULE 16 (g), RULES OF CIVIL PROCEDURE**

### **Rule 16(g) Alternative Dispute Resolution**

(1) Upon motion of any party, or upon its own initiative after consultation with the parties, the court may direct the parties in any action to submit the dispute which is the subject matter of the action to an alternative dispute resolution program created or authorized by appropriate local court rules.

#### **(2) The Parties' Duty to Consider ADR, and to Confer and Report.**

(A) No later than 90 days following the first appearance of a defendant, the parties shall confer, either in person or by telephone, about:

(1) the possibilities for a prompt settlement or resolution of the case; and

(2) whether they might benefit from participating in some alternative dispute resolution ("ADR") process, the type of process that would be most appropriate in their case, the selection of an ADR service provider and the scheduling of the proceedings:

(B) The attorneys of record and all unrepresented parties who have appeared in the case are jointly responsible for attempting in good faith to settle the case or agree on an ADR process and for reporting the outcome of their conference to the court. Within 30 days after their conference, the parties shall inform the court by means of a text prescribed in an official form promulgated pursuant to Rule 84 of the following:

(1) if the parties have agreed to use a specific ADR process, the type of ADR process to be used, the name and address of the ADR service provider they will use and the date by which the ADR proceedings will be completed;

(2) if the parties have not agreed to use a specific ADR process, the position of each party as to the type of ADR process that is appropriate for their circumstances or, in the alternative, why ADR is not appropriate; and

(3) whether any party requests that the court conduct a conference to consider ADR.

(C) Unless the parties have agreed to use a specific ADR process, the court may direct the parties, the attorneys for the parties and, if appropriate, representatives of the parties having authority to settle, to discuss with a court-appointed ADR specialist, either in person or by telephone, whether ADR is appropriate and the types of ADR processes that might benefit their case.

#### Comment to 2001 Amendment to Rule 16(g)

Parties are cautioned that the 2001 amendment to Rule 16(g) must be read in light of *Martinez v. Binsfield*, 196 Ariz. 466 (2000), which held that Uniform Rule V(e) [now Rule 38.1(d)] applies to cases assigned to mandatory arbitration, and repeated

continuances granted by the arbitrator in connection with mandatory arbitration did not provide good cause for continuing the case on the Inactive Calendar.

Name:  
Address:  
City:  
State:  
Phone:

**FORM 3**

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF \_\_\_\_\_**

\_\_\_\_\_) )  
Plaintiff vs ) )  
\_\_\_\_\_) )  
Defendant

Case No.:  
**Joint Alternative Dispute Resolution  
Statement to the Court**

Pursuant to the Arizona Rules of Civil Procedure, I hereby state the following, under penalty of perjury:

1. The parties have conferred as required by Rule 16(g)(2).  Yes  No
2. Is this case subject to compulsory arbitration under Rule 72(b)?  Yes  No  
[Note: Pursuant to Rule 72(d), the court shall waive the compulsory arbitration requirement if the parties agree to participate in a different ADR process approved by the court.]
3. If the case is subject to compulsory arbitration have the parties agreed to participate in an ADR process other than compulsory arbitration?  Yes  No
4. If the case is not subject to compulsory arbitration have the parties agreed to participate in an ADR process?   
Yes  No
5. If the answer to three or four is yes, the parties agree to participate in the following ADR process:  
A.  mediation  binding arbitration  early neutral evaluation  
 short trial  summary jury trial  judge pro tem  
 other \_\_\_\_\_  
B.  The parties will use a private provider  
 The parties request a program provided through the court [Note: not all programs are available through the court.]  
C. If known, the name and address of the person or company providing the ADR service is:  
D. The parties expect to complete the ADR process by: \_\_\_\_ / \_\_\_\_ / \_\_\_\_
6. The parties have been unable to agree on an ADR process. The  plaintiff /  defendant believes that the following ADR process would be appropriate: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. The  plaintiff /  defendant requests a conference to discuss ADR.
8. The  plaintiff /  defendant believes that an ADR process would not be appropriate for the following reason: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Plaintiff

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defendant