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2004 APR 12 P 4: 24

AZ CORP COMMISSION
DOCUMENT CONTROL

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 11 Yucatan Resorts S.A., RHI, Inc., and RHI, S.A.

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS:

10 **MARC SPITZER, Chairman**
 11 **WILLIAM A. MUNDELL**
 12 **JEFF MATCH-MILLER**
 13 **MIKE GLEASON**
 14 **KRISTIN K. MAYES**

In the matter of:

15 **YUCATAN RESORTS, INC., d/b/a**
 16 **YUCATAN RESORTS, S.A.,**

17 **RESORT HOLDINGS INTERNATIONAL,**
 18 **INC. d/b/a**
 19 **RESORT HOLDINGS INTERNATIONAL,**
 20 **S.A.,**

21 **WORLD PHANTASY TOURS, INC.**
 22 **a/k/a MAJESTY TRAVEL**
 23 **a/k/a VIAJES MAJESTY**

MICHAEL E. KELLY,

Respondents.

DOCKET NO. S-03539A-03-0000

**RESPONDENTS' JOINT MOTION TO
 STRIKE THE SECURITIES DIVISION'S
 REPLY TO RESPONDENTS' JOINT
 MOTION TO COMPEL OR,
 ALTERNATIVELY, VACATE THE
 TEMPORARY ORDER TO CEASE AND
 DESIST**

**(ASSIGNED TO THE HONORABLE
 MARC STERN, ADMINISTRATIVE
 LAW JUDGE)**

Arizona Corporation Commission

DOCKETED

APR 12 2004

DOCKETED BY

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I.
INTRODUCTION

At the March 4, 2004, Pre-Hearing Conference, ALJ Stern provided the parties with a strict schedule within which to file briefs regarding the Respondents' Requests for Production of Documents and Information and Interrogatories.¹ Specifically, ALJ Stern ordered that the Securities Division (hereinafter "Division") file its objections to the Respondents' outstanding discovery requests by Friday, March 5, 2004. *Id.* Thereafter, the Respondents were provided with the standard ten days (plus an additional five days if the Division mailed its objections to the Respondents) to submit a response to the Division's objections. *Id.* Finally, the Division was provided five days to file its Reply. *Id.* The Securities Division acknowledged this exact briefing schedule in its April 9th Motion for Expedited Ruling.²

The Division did not timely file its "Response [Effectively Reply] to Respondents' Joint Motion to Compel or, Alternatively, to Vacate the Temporary Order to Cease and Desist" (hereinafter "Reply"). *See* Division's Reply. Therefore, the Respondents' Joint Motion to Strike the Division's Reply is appropriate, and this Tribunal should not consider the Division's Reply.

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II.
ARGUMENT

As noted above, the Division was ordered by ALJ Stern to file its objections to the Respondents' discovery requests by March 5, 2004. *Id.* Late in the afternoon on March 5th, the Respondents contacted the Division to inquire about the filing status of the objections. The Division indicated that it would be filing the objections at the end of the day and mailing the objections to the Respondents. The Respondents volunteered to pick up the objections at the

¹ *See* March 4, 2004 Pre-Hearing Conference Transcript (hereinafter "Transcript") at p. 48, lines 3-10.

² A true and accurate copy of the Securities Division's Motion for Expedited Ruling is attached hereto as Exhibit "A". In the Division's Motion, the Division quoted ALJ Stern as stating: "Then I guess if [the Division] wants to file a reply, you get another five, but that will be it, no more." (p. 3, at lines 1-4).

1 Division to expedite the resolution of the discovery disputes. Because the Respondents personally
2 received the objections, the Respondents' filing deadline for their Response was ten days after
3 receipt of the objections (the additional five days for mailing would not apply because the
4 pleading was not mailed, but rather hand-delivered).

5
6 Pursuant to Arizona's Civil Litigation Time Frames, a copy of which is attached hereto as
7 Exhibit "B," if the prescribed period for taking some action is less than eleven (11) days,
8 weekends and holidays are excluded from computation. *See* Exhibit B at p. 779. Also, in
9 computing periods, the first day, the date of filing, is generally excluded and the last day is
10 included, unless it is a weekend or holiday. *Id.* In this case, the Respondents' deadline for filing its
11 Response was, pursuant to ALJ Stern's order, ten days after the filing of the Division's objections.
12 Transcript at p. 48, lines 3-10.

13
14 The Division filed its objections on March 5th; therefore, the first day in computing the
15 Respondents' deadline was Monday, March 8, 2004. Exhibit B at p. 779. The Respondents'
16 deadline for filing the Response was Friday, March 19, 2004 (because weekends are excluded
17 from filing calculations if the prescribed period for taking action is less than eleven (11) days,
18 which is the case here). *Id.* The Respondents timely filed their response, the Respondents' Joint
19 Motion to Compel or, Alternatively, to Vacate the Temporary Order to Cease and Desist
20 (hereinafter "Joint Motion"), on Wednesday, March 17, 2004. *See* Joint Motion. Importantly, that
21 filing was served on the Division *via* hand-delivery. Because the Joint Motion was hand-delivered,
22 the Division does not receive an additional five calendar days to file its Reply – as it would if the
23 Joint Motion was served on the Division by mail.

24
25 Pursuant to ALJ Stern's order at the March 4th Pre-Hearing Conference³ and, as
26

³ Transcript at p. 48, lines 3-10.

1 acknowledged by the Division in its Motion for Expedited Ruling⁴, the Division had five days to
2 file its Reply, if any, to the Respondents' Joint Motion.

3 As described above, in computing filing deadlines, the first day (the date of opposing
4 counsel's filing) is generally excluded. Exhibit B at p. 779. Here, the Respondents filed their Joint
5 Motion on March 17th. Therefore, the first day for computing the Division's filing deadline for the
6 Reply is March 18, 2004. *Id.* Similarly, because the Division's prescribed period for taking action
7 is less than eleven (11) days, weekends and holidays are not included in the calculation of the
8 deadline. *Id.* Thus, the Division's deadline for filing its Reply was Wednesday, March 24, 2004 –
9 five days after the filing of the Respondents Joint Motion.
10

11 On April 5, 2004 the Division filed its Reply. The Reply was filed twelve (12) days after
12 the Division's deadline, as ordered by ALJ Stern at the March 4th Pre-Hearing Conference.
13 Transcript at p. 48, lines 3-10. ALJ Stern expressly and unambiguously provided the deadlines
14 for the parties to brief the discovery dispute. *Id.* The Division acknowledged the applicability of
15 ALJ Stern's order regarding the filing deadlines in its Motion for Expedited Ruling, and fully
16 understood it had five days to file its Reply.⁵ Nonetheless, the Division failed to timely file its
17 Reply. Therefore, the Respondents' Joint Motion to Strike the Division's Reply should be
18 granted.
19
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21 III. 22 CONCLUSION

23 For the foregoing reasons, the Respondents' Joint Motion to Strike the Securities
24 Division's Response [Effectively Reply] to Respondents' Joint Motion to Compel or,
25 Alternatively, to Vacate the Temporary Order to Cease and Desist, as untimely, should be granted.
26

⁴ See Motion for Expedited Ruling at p. 2, lines 23-26, and p. 3, lines 1-9.

⁵ See Motion for Expedited Ruling at p. 2, lines 23-26, and p. 3, lines 1-9.

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Dated this 12th day of April, 2004.

GALBUT & HUNTER
A Professional Corporation

By Mart - R. Galbut

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BAKER & McKENZIE

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and

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Attorneys for Respondent
World Phantasy Tours, Inc.

1 ORIGINAL and 13 copies of the foregoing
2 hand-delivered this 12th day of April, 2004 to:

3 Docket Control
4 Arizona Corporation Commission
5 1200 West Washington Street
6 Phoenix, Arizona 85007

7 COPY of the foregoing hand-delivered
8 this 12th day of April, 2004 to:

9 Honorable Marc Stern
10 Administrative Law Judge
11 Hearing Division
12 Arizona Corporation Commission
13 1200 West Washington Street
14 Phoenix, Arizona 85007

15 Jaime Palfai, Esq.
16 Matthew J. Neubert, Esq.
17 Securities Division
18 Arizona Corporation Commission
19 1300 West Washington Street, 3rd Floor
20 Phoenix, Arizona 85007

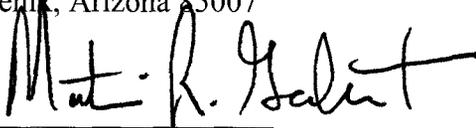
21 
22 _____
23 Martin R. Galbut, Esq.
24
25
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EXHIBIT A

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BEFORE THE ARIZONA CORPORATION COMMISSION

1
2 COMMISSIONERS

2004 APR -9 A 10: 35

3 MARC SPITZER, Chairman
4 WILLIAM A. MUNDELL
5 JEFF HATCH-MILLER
6 MIKE GLEASON
7 KRISTIN K. MAYES

AZ CORP COMMISSION
DOCUMENT CONTROL

8 In the matter of:

9 YUCATAN RESORTS, INC.,

10 3222 Mishawaka Avenue.
11 South Bend, IN 46615;
12 P.O. Box 2661
13 South Bend, IN 46680;
14 Av. Coba #82 Lote 10, 3er. Piso
15 Cancun, Q. Roo
16 Mexico C.P. 77500

DOCKET NO. S-03539A-03-0000

17 YUCATAN RESORTS, S.A.,

18 3222 Mishawaka Avenue.
19 South Bend, IN 46615;
20 P.O. Box 2661
21 South Bend, IN 46680;
22 Av. Coba #82 Lote 10, 3er. Piso
23 Cancun, Q. Roo
24 Mexico C.P. 77500

SECURITIES DIVISION'S MOTION
FOR EXPEDITED RULING ON
ADMINISTRATIVE DISCOVERY
DISPUTE

25 RESORT HOLDINGS INTERNATIONAL,
26 INC.,

3222 Mishawaka Avenue
South Bend, IN 46615;
P.O. Box 2661
South Bend, IN 46680;
Av. Coba #82 Lote 10, 3er. Piso
Cancun, Q. Roo
Mexico C.P. 77500

RESORT HOLDINGS INTERNATIONAL,
S.A.,

3222 Mishawaka Avenue
South Bend, IN 46615;
P.O. Box 2661
South Bend, IN 46680;
Av. Coba #82 Lote 10, 3er. Piso
Cancun, Q. Roo
Mexico C.P. 77500

1 **WORLD PHANTASY TOURS, INC.,**)
 a/k/a **MAJESTY TRAVEL**)
 2 a/k/a **VIAJES MAJESTY**)
 Calle Eusebio A. Morales)
 3 Edificio Atlantida, P Baja)
 APDO, 8301 Zona 7 Panama,)
 4)
AVALON RESORTS, S.A.)
 5 Av. Coba #82 Lote 10, 3er. Piso)
 Cancun, Q. Roo)
 6 Mexico C.P. 77500)
)
 7 **MICHAEL E. KELLY and LORY KELLY,**)
 husband and wife,)
 8 29294 Quinn Road)
 North Liberty, IN 46554;)
 9 3222 Mishawaka Avenue)
 South Bend, IN 46615;)
 10 P.O. Box 2661)
 South Bend, IN 46680,)
 11)
 Respondents.)
 12)

13

14 In a recent April 7, 2004 facsimile, Respondents notified the presiding administrative law
 15 judge ("ALJ") that they intend to make yet another filing in the administrative discovery dispute
 16 currently at issue. Any such action would be unwarranted and would run counter to the explicit
 17 directives of the ALJ. Indeed, the parties to this administrative action have, through ALJ-authorized
 18 briefs, already fully argued this administrative discovery matter.

19 Consequently, the Securities Division of the Arizona Corporation Commission ("Division")
 20 hereby moves that the ALJ issue, without delay and without consideration of any further unwarranted
 21 filings, a conclusive administrative ruling on this dispute.

22 ***Discussion***

23 During the course of a March 4, 2004, pre-hearing conference in this matter, the ALJ directed
 24 that the Division file an answer or objection to the various civil discovery demands of the
 25 Respondents by the close of business on Friday March 5, 2004. Respondents were then afforded ten
 26 days (plus five additional mailing days) to submit a response to these Division challenges. See

1 *Pre-hearing Conference Transcript, p. 48, lines 3-8.* In connection with this briefing schedule, the
2 ALJ subsequently stated: "Then I guess if [the Division] wants to file a reply, you get another five,
3 **but that will be it, no more.**" *Pre-hearing Conference Transcript, p. 48, lines 8-10* (emphasis
4 added).

5 In accordance with these directives, the Division filed separate objections to four separate
6 civil discovery demands on March 5, 2004, the Respondents filed a "response," and the Division
7 ultimately filed its "reply" entitled "Securities Division's Response [Effectively Reply] to
8 Respondents' Joint Motion to Compel or, Alternatively, to Vacate the Temporary Order to Cease
9 and Desist."¹

10 As evidenced by the ALJ quote referenced above, this Division "reply" was the final
11 authorized pleading on this particular discovery issue and, as a consequence, the ALJ is currently
12 in possession of all the opposing parties' arguments on this matter. It follows that Respondents'
13 recent correspondence to the administrative law judge indicating their apparent intention of
14 submitting still another brief on this civil discovery matter is unwarranted. There is neither need
15 nor grounds for any additional filings on this particular issue; this discovery dispute has been fully
16 briefed and now calls for a resolution such that this action can move forward on more substantive
17 matters.

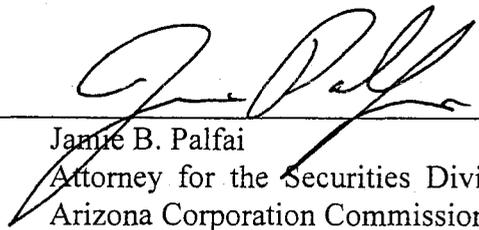
18 **Conclusion**

19 The ability or inability to implement civil discovery rules during the course an
20 administrative proceeding has, in accordance with a specific briefing schedule, been argued by
21 both parties. As such, there is no basis for additional filings, replies to replies or other forms of
22 delay. Rather, this discovery issue requires a prompt resolution such that this action can once
23

24 ¹ Although the respective pleadings filed by the Division and the Respondents in connection with this
25 discovery dispute were not "captioned" in a traditional sense (*e.g.*, the Respondents' Response was
26 captioned "Joint Motion to Compel or, Alternatively, to Vacate the Temporary Order to Cease and
Desist."), the content of these filings clearly demonstrate that these filing were in fact (four) Division
Objections, the Respondents' Response to these Objections, and the Division's subsequent Reply.

1 again move towards an adjudication on the merits. The Division therefore moves this Court for 1)
2 a procedural order prohibiting and thereby discounting any further filings on this particular
3 discovery issue; and 2) a prompt ruling on the current dispute concerning whether the rules of civil
4 discovery can be invoked in this administrative proceeding.

5 RESPECTFULLY SUBMITTED this 9th day of April, 2004.

6
7 By 
8 Jamie B. Palfai
9 Attorney for the Securities Division of the
Arizona Corporation Commission

10
11
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13
14
15
16 ORIGINAL AND THIRTEEN (13) COPIES of the foregoing
filed this 9th day of March, 2004, with

17 Docket Control
18 Arizona Corporation Commission
1200 West Washington
19 Phoenix, AZ 85007

20
21 COPY of the foregoing hand-delivered this
9th day of April, 2004, to:

22 Administrative Law Judge Marc Stern
23 Arizona Corporation Commission/Hearing Division
1200 West Washington
24 Phoenix, AZ 85007
25
26

1 COPY of the foregoing faxed & mailed
this 7th day of April, 2004, to:

2 Martin R. Galbut, Esq.
3 Jeana R. Webster, Esq.
4 GALBUT & HUNTER, P.C.
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9 Yucatan Resorts S.A., RHI, Inc.,
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Phantasy Tours, Inc.

By: 

EXHIBIT B

CIVIL LITIGATION TIME FRAMES

II. CIVIL LITIGATION TIME FRAMES

The following Table sets forth the time periods and/or deadlines for accomplishing most of the steps that may have to be taken in a civil action in the Superior Court, as established by the Arizona Rules of Civil Procedure and, in certain instances, by statute. Within this table, major topics are organized in alphabetical order; particular events or actions that fall within those major topics are generally organized in the chronological order in which they will occur or will have to be taken in the ordinary civil case. In many, but not all, cases, the time periods listed may be enlarged by the Court. See Rule 6(b), Ariz.R.Civ.P.

In computing periods, the first day is generally excluded and the last day is included, unless it is a Saturday, Sunday or legal holiday. If the applicable statute or Rule requires that an action be taken within a time period prior to a certain date or event, then it is that date or event that is excluded from the computation. If the prescribed period for taking some action is eleven (11) days or more, then intermediate Saturdays, Sundays and legal holidays are counted; if the prescribed period is less than eleven (11) days, weekends and holidays are excluded from the computation. When the time for taking some action is computed from the service of a notice, pleading or other paper, and such service is made by mail, an additional five (5) calendar days are allowed for taking the prescribed action.

AFFIDAVITS

Supporting motion for
transfer of venue

Must be filed together with
request for transfer of venue
before the time for filing an
answer. A.R.S. § 12-404.

Opposing request for
transfer of venue

Must be filed within five (5)
days after service of request
for transfer and supporting
affidavit. A.R.S. § 12-404.

Supporting motion for
summary judgment

May be filed together with motion
for summary judgment. Rule 56(a),
Ariz.R.Civ.P. Affidavits submitted
in reply to the adverse party's op-
position to the motion are to be
served within five (5) days after the
filing of the opposition. Rule 56(c),
Ariz.R.Civ.P.

Opposing motion for
summary judgment

Must be filed, unless shown to be
unavailable, with memorandum op-
posing summary judgment within
fifteen (15) days after service of a
motion for summary judgment.
Rules 56(c),(f), Ariz.R.Civ.P.

In support of motion for
new trial

Must be filed and served with mo-
tion for new trial. Rule 59(f), Ariz.
R.Civ.P.

CIVIL LITIGATION PRACTICE AIDS

In opposition to motion
for new trial

Must be filed and served within ten (10) days after service of motion for new trial supported by affidavits. This period may be extended for up to an additional twenty (20) days by stipulation or by the Court for good cause. Rule 59(f), Ariz.R.Civ.P.

ALTERNATIVE DISPUTE RESOLUTION (ADR)

ADR Conference

Must be conducted, in person or by telephone, no later than ninety (90) days following the first appearance of a defendant in the case. Rule 16(g)(2)(A), Ariz.R.Civ.P.

ADR Conference Report

Must be submitted to the court, on a form prescribed by the Supreme Court (Form 3) within thirty (30) days following the conduct of the ADR Conference. Rule 16(g)(2)(B), Ariz.R.Civ.P.

ANSWER

To complaint

Within twenty (20) days after service of the summons and complaint within the state. Rule 12(a), Ariz.R.Civ.P. Within thirty (30) days after completion of service of the summons and complaint outside the state. Rule 4.2(m), Ariz.R.Civ.P. If a defendant waives the requirement of service, an answer is due within sixty (60) days of the date of the request for waiver of service, or within ninety (90) days after that date if the request was addressed to the defendant in a foreign country. Rule 12(a), Ariz.R.Civ.P. These time periods are altered by the filing of a motion under Rule 12. Rule 12(a), Ariz.R.Civ.P.

To cross-claim

Within twenty (20) days after service of the pleading stating the cross-claim. Rule 12(a), Ariz.R.Civ.P.

To third-party complaint

Within twenty (20) days after service of the summons and third-party complaint within the state. Rules 12(a), 14(a), Ariz.R.Civ.P. Within thirty (30) days after completion of service of the summons and third-party complaint outside the state. Rules 4.2(m), 14(a), Ariz.R.Civ.P. If a third-party defendant waives the requirement of service, an answer is due within sixty (60) days of the

CIVIL LITIGATION TIME FRAMES

To complaint in
intervention

date of the request for waiver of service, or within ninety (90) days after that date if the request was addressed to the third-party defendant in a foreign country. Rules 12(a), 14(a), Ariz.R.Civ.P. These time periods will be altered where a motion under Rule 12 is made with respect to a third-party complaint. Rule 12(a), Ariz.R.Civ.P.

An answer to a complaint permitted to be filed by an intervenor must be filed within a reasonable time, not to exceed twenty (20) days. The same time period will apply to the filing of a responsive pleading to any other pleading permitted to be filed by an intervenor. Rule 24(d), Ariz.R.Civ.P.

To amended pleading

Unless the Court otherwise directs, an answer to an amended complaint, cross-claim or third-party complaint must be filed within the time remaining for responding to the original pleading, or within ten (10) days after service of the amended pleading, whichever is longer. Rule 15(a)(2), Ariz.R.Civ.P. This time period may be altered by the filing of a motion under Rule 12, Ariz.R.Civ.P. directed to the amended pleading.

Where Rule 12 motion
filed

Where a motion pursuant to Rule 12, Ariz.R.Civ.P. is filed in response to a complaint, a cross-claim or a third-party complaint, an answer must be filed within ten (10) days after notice of the Court's denial, or postponement of the disposition, of the motion, or within ten (10) days after service of a more definite statement ordered by the Court. Rule 12(a), Ariz.R.Civ.P.

APPEAL

From arbitration award

A notice of appeal, entitled "Appeal from Arbitration and Motion to Set for Trial", must be filed within twenty (20) days after the filing of the arbitrator's award. Rule 76(a), Ariz.R.Civ.P.

From judgment

A notice of appeal must be filed no later than thirty (30) days after the entry of the judgment, or no later than thirty (30) days after the disposition of a timely motion made

CIVIL LITIGATION PRACTICE AIDS

pursuant to Rule 50(b), Rule 52(b), Rule 59(l), or Rule 59(a), Ariz. R.Civ.P. Rule 9, Ariz.R.Civ. App.Pr. This time period may be extended by the trial court where notice of entry of judgment was not received. Rule 6(b), Ariz.R.Civ.P.

ATTORNEYS' FEES

Claim for attorneys' fees

Must be made in the pleadings. Rule 54(g)(1), Ariz.R.Civ.P.

Motion for award of attorneys' fees

Must be filed and served within twenty (20) days after the clerk's mailing of a decision on the merits of an action. Rule 54(g)(2), Ariz. R.Civ.P.

CERTIFICATE ON COMPULSORY ARBITRATION

When required

To be filed with plaintiff's complaint. Rule 5(i), Ariz.R.Civ.P.; Rule 72(e)(1), Ariz.R.Civ.P.

Controverting certificate

To be filed with defendant's answer, if necessary and appropriate. Rule 5(i), Ariz.R.Civ.P.; Rule 72(e)(2), Ariz.R.Civ.P. In Maricopa County, if certificate is not controverted, defendant must file certificate of agreement. Rule 3.10(c), Maricopa County Superior Court Local Rules.

CERTIFICATE OF READINESS

Generally

May be filed at any time. Rule 38.1(a), Ariz.R.Civ.P. In any event, must be filed within nine (9) months after commencement of the action or the action is to be placed on the Inactive Calendar for dismissal. Rule 38.1(d), Ariz.R.Civ.P.

Controverting certificate

Must be filed and served within ten (10) days after the filing of a Motion to Set and Certificate of Readiness. Rule 38.1(b) Ariz.R.Civ.P.

CHANGE OF JUDGE

By notice

A notice of change of judge must be filed sixty (60) days or more prior to the date set for trial, or within ten (10) days after receipt of a notice which identifies the judge assigned to the case for the first time, or changes the judge assigned to the case, within sixty (60) days of trial. An otherwise timely notice

CIVIL LITIGATION TIME FRAMES

Opposition to notice of
change of judge

filed within three (3) days of a
scheduled proceeding (other than
trial) of which the parties have re-
ceived at least five (5) days' notice
is not effective. Rule 42(f)(1)(C),
Ariz.R.Civ.P.

For cause

Must be filed within ten (10) days
of service of a notice of change of
judge. Rule 7.1(a), Ariz.R.Civ.P.

Affidavit must be filed within twen-
ty (20) days after discovery that
grounds exist for change of judge
for cause. Rule 42(f)(2)(C), Ariz.
R.Civ.P.

COMPREHENSIVE PRETRIAL CONFERENCE

In general civil cases

No time specified. May be held at
any time, if requested or ordered by
the Court. Rule 16(b), Ariz.R.Civ.P.

In medical malpractice
cases

The Comprehensive Pretrial Con-
ference in medical malpractice
cases is to be conducted within six-
ty (60) days of receipt of notice
from the plaintiff that answers or
motions have been received from all
defendants who have been served.
Rule 16(c), Ariz.R.Civ.P.

CONTROVERTING CERTIFICATE

On compulsory arbitration

To be filed with defendant's an-
swer, if necessary and appropriate.
Rule 5(i), Ariz.R.Civ.P.; Rule
72(e)(2), Ariz.R.Civ.P. In Maricopa
County, if certificate is not contro-
verted, defendant must file certifi-
cate of agreement. Rule 3.10(c),
Maricopa County Superior Court
Local Rules.

Of readiness

Must be filed and served within ten
(10) days after the filing of a Mo-
tion to Set and Certificate of Read-
iness. Rule 38.1(b), Ariz.R.Civ.P.

COSTS

Statement of costs

A statement of costs is to be filed
and served within ten (10) days af-
ter judgment. Rule 54(f), Ariz.
R.Civ.P.

Objection to statement of costs

Any objection to the statement of
costs is to be filed within five (5)
days after receipt of the statement.
Rule 54(f), Ariz.R.Civ.P.

DEFAULTS

Application for entry of default

May be filed at any time after expiration of time prescribed for adverse party to appear and defend against a claim for affirmative relief. Rule 55(a), Ariz.R.Civ.P.

Entry of default

Default may be entered by Clerk upon receipt of Application for Entry of Default, but is not effective until ten (10) days after the filing of the Application, and becomes null and void if party appears and defends within such ten (10) day period. Rules 55(a)(2), (3), Ariz.R.Civ.P.

Notice of hearing on default judgment

Must be provided at least three (3) days in advance of the hearing, where party has entered an appearance after entry of default. Rule 55(b)(2), Ariz.R.Civ.P.

Motion to set aside entry of default

No time specified in Rule 55(c), Ariz.R.Civ.P. Motion should be filed promptly.

Motion to set aside default judgment

Must be filed within a reasonable time. If request for relief is based on mistake, inadvertence, surprise, excusable neglect, newly discovered evidence or fraud, must be filed within six (6) months after entry of judgment. Rule 60(c), Ariz.R.Civ.P.

DEMAND FOR JURY TRIAL

Generally

May be made up until the date of setting the case for trial, or within ten (10) days after a motion to set the case for trial, whichever is earlier. Rule 38(b), Ariz.R.Civ.P. See "CERTIFICATE OF READINESS", *supra*, and "Motion to Set and Certificate of Readiness" under "MOTIONS", *infra*.

DEPOSITIONS ON ORAL EXAMINATION

When permitted

May be conducted by any party at any time after commencement of the action, except that the plaintiff may not conduct depositions, without a stipulation or leave of Court, until thirty (30) days after service of the summons and complaint upon any defendant, unless a defendant commences discovery during that period or the witness to be examined is about to leave the

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To perpetuate testimony
prior to action

State of Arizona. Rules 30(a), 30(b)(2), Ariz.R.Civ.P. See also "To perpetuate testimony prior to action", *infra*.

Petition and notice of hearing must be served at least twenty (20) days prior to hearing on petition. Rule 27(a)(2), Ariz.R.Civ.P.

Notice of deposition

A written notice of taking deposition must be served upon all other parties to the action at least ten (10) days prior to the date of the deposition. Rule 30(b)(1), Ariz.R.Civ.P.

Commencement of deposition

A deposition must commence within thirty (30) minutes of the time for which it is noticed to begin. Rule 30(c), Ariz.R.Civ.P.

Presumptive length of
deposition

Unless the parties otherwise agree, or the Court otherwise directs for good cause shown, depositions are not to exceed four (4) hours in length. Rule 30(d), Ariz.R.Civ.P.

DEPOSITIONS UPON WRITTEN QUESTIONS

When permitted

May be taken by any party at any time after commencement of the action. Rule 31(a), Ariz.R.Civ.P.

Service of questions

The written questions to be propounded to the witness are to be served on all other parties with the notice of the taking of the deposition. Rule 31(a), Ariz.R.Civ.P.

Service of cross
questions

Any party may serve cross questions to be propounded within thirty (30) days after service of a notice for the taking of a deposition upon written questions. Rule 30(a), Ariz.R.Civ.P.

Service of redirect
questions

The party who noticed the deposition upon written questions may serve redirect questions within ten (10) days after service of any cross questions. Rule 31(a), Ariz.R.Civ.P.

Service of recross
questions

Any party may serve recross questions to be propounded to the witness within ten (10) days after service of any redirect questions. Rule 31(a), Ariz.R.Civ.P.

DISCLOSURE STATEMENTS

Initial disclosures

The initial disclosure of the information specified in Rule 26.1, Ariz. R.Civ.P. is to be made by the parties, as fully as then possible, within forty (40) days after the filing of a responsive pleading to the complaint, counterclaim, crossclaim or third-party complaint, unless the parties otherwise agree or the Court establishes a different time. Rule 26.1(b)(1), Ariz.R.Civ.P.

Supplemental disclosures

New information, and information that is different than that in the initial disclosures, is to be disclosed "seasonably", but in no event more than thirty (30) days after the information is discovered, and in no event later than sixty (60) days before trial, except with leave of Court. Rules 26.1(b)(2), 37(c)(2), (3) Ariz.R.Civ.P.

DISMISSALS

For failure to accomplish service

An action is to be dismissed without prejudice as to any defendant not served within one hundred and twenty days (120) days after the filing of the complaint, unless good cause is shown for the failure to accomplish service. Rule 4(i), Ariz. R.Civ.P.

Voluntary dismissal of complaint

May be accomplished once by the filing of a notice of voluntary dismissal before service of an answer or a motion for summary judgment. Rule 41(a)(1), Ariz.R.Civ.P.

Voluntary dismissal of counterclaim, cross-claim or third-party claim

May be done by filing notice of voluntary dismissal before service of responsive pleading or, if there is none required, before the introduction of evidence at trial or hearing. Rule 41(c), Ariz.R.Civ.P.

For failure to prosecute

Actions remaining on the Inactive Calendar, without a Motion to Set and Certificate of Readiness being filed, are to be dismissed without prejudice for lack of prosecution, unless the Court allows the action to continue on the Inactive Calendar without dismissal. Rule 38.1(d), Ariz.R.Civ.P.

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

When to be requested;
When required

Specific findings of fact and conclusions of law, in trials to the Court, must be requested prior to trial. Rule 52(a), Ariz.R.Civ.P. Findings of fact and conclusions of law must be entered, whether requested or not, where the Court grants or refuses a preliminary injunction. Id.

Objections to findings of master

Objections to findings of fact made by a master may be made within ten (10) days after service of the notice of the filing of the master's report. Rule 53(h), Ariz.R.Civ.P.

Motion to alter or amend findings

A motion to amend findings, or for the Court to make additional findings, must be filed no later than fifteen (15) days after the entry of judgment. Rule 52(b), Ariz.R.Civ.P.

GOOD FAITH SETTLEMENTS

Petition

A petition for a determination that a settlement was made in good faith may be filed at any time after the settlement is reached. Rule 16.2(a), Ariz.R.Civ.P.

Objection to Petition

Any objections to a petition for determination that a settlement was made in good faith must be filed within ten (10) days after the filing of the petition. Rule 16.2(b), Ariz.R.Civ.P.

Reply to Objection to Petition

Replies to an objection to a petition for a determination that a settlement was made in good faith must be filed within ten (10) days of service of the objection. Rule 16.2(b), Ariz.R.Civ.P.

INTERROGATORIES

When permitted

Interrogatories may be served upon the plaintiff at any time after commencement of the action, and upon any other party with or after service of the summons and complaint upon that party. Rule 33(a), Ariz.R.Civ.P.

Answers and/or objections

Answers and/or objections to interrogatories must be served within forty (40) days after service of the interrogatories, unless they are served with or shortly after the

complaint, in which event the defendant may serve answers and/or objections within sixty (60) days after service of the summons and complaint, or within sixty (60) days of execution of a waiver of service by that defendant. Rule 33(a), Ariz. R.Civ.P.

INTERVENTION

Application for intervention

A motion to intervene must be made in a timely manner. Rules 24(a), (b), Ariz.R.Civ.P.

Responsive pleadings

Existing parties are to be allowed a reasonable time, not to exceed twenty (20) days, to answer any pleading which an intervenor is permitted to file. Rule 24(d), Ariz. R.Civ.P.

JUDGMENTS

Clerical errors

May be corrected in Superior Court at any time. May be corrected during pendency of appeal before appeal is docketed or, thereafter, with leave of the appellate court. Rule 60(a), Ariz.R.Civ.P.

Offer of judgment

See "OFFER OF JUDGMENT", *infra*.

Motion for judgment as a matter of law

May be made at any time after a party has been fully heard on an issue and before submission of the case to the jury. Rule 50(a), Ariz. R.Civ.P.

Renewal of motion for judgment as a matter of law

A motion for judgment as a matter of law made at the close of all the evidence which is not granted must be renewed no later than fifteen (15) days after entry of judgment. Rule 50(b), Ariz.R.Civ.P.

Proposed form of judgment

No time for submission specified in the Rules. Must be served upon all parties and counsel. Rule 58(a), Ariz.R.Civ.P. See "Entry of judgment", *infra*.

Objection to proposed form of judgment

Must be made within five (5) days after service of the proposed form of judgment. Rule 58(d), Ariz. R.Civ.P.

Response to objections to proposed form of judgment

Must be submitted within five (5) days after service of objections to

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Entry of judgment

proposed form of judgment. Rule 58(d)(2), Ariz.R.Civ.P.

Judgments for money, for costs, or denying all relief may be entered upon presentation. All other judgments may not be signed or entered until five (5) days after service of the proposed form of judgment upon counsel for the party against whom judgment is to be entered, unless the approval of that counsel is endorsed on the proposed form of judgment. Rule 58(d)(1), Ariz. R.Civ.P.

Date of entry

The date of entry of a judgment is the date it is file-stamped by the Clerk of the Court.

Notice of entry of judgment

To be mailed by the Clerk of the Court to all parties immediately upon the entry of judgment. Parties may also serve notice of the entry of judgment. Rule 58(e), Ariz. R.Civ.P.

Motion to set aside default judgment

Must be filed within a reasonable time. If request for relief is based on mistake, inadvertence, surprise, excusable neglect, newly discovered evidence or fraud, must be filed within six (6) months after entry of judgment. Rule 60(c), Ariz.R.Civ.P.

Motion to alter or amend judgment

Must be filed no later than fifteen (15) days after the entry of judgment. Rule 59(l), Ariz.R.Civ.P.

Motion for relief from final judgment or order

Must be filed within a reasonable time. If request for relief is based on mistake, inadvertence, surprise, excusable neglect, newly discovered evidence or fraud, motion must be filed within six (6) months after entry of judgment. Rule 60(c), Ariz. R.Civ.P.

Execution on judgments

May proceed immediately upon entry of the judgment, unless stayed by the Court pending the disposition of post-trial motions or by the filing of a supersedeas bond. Rules 62(a), (b), Ariz.R.Civ.P.; Rules 7(a), (b), Ariz. R.Civ.App.Pr.

Effective period

A judgment is effective for five (5) years from the date of its entry, but may be renewed for additional five

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(5) year periods. A.R.S. §§ 12-1551(B), 12-1611, 12-1612.

Renewal of judgment by affidavit

An affidavit for renewal of a judgment must be filed within ninety (90) days prior to the expiration of the judgment or any period of renewal of the judgment. A.R.S. § 12-1612.

JURY INSTRUCTIONS

Submission of proposed instructions

The original and one copy of any proposed jury instructions or interrogatories to the jury are to be submitted prior to the commencement of trial, unless a different time is specified in the pretrial order. Rule 51(a), Ariz.R.Civ.P.

Objections to instructions

Objections to jury instructions, stating the precise ground for objection, must be made before the jury retires for its deliberations. Rule 51(a), Ariz.R.Civ.P.

MORE DEFINITE STATEMENT

Motion for more definite statement

Must be made within time for filing pleading responsive to pleading to which it is directed, and before such pleading is made. Rule 12(e), Ariz.R.Civ.P.

Filing and service

Must be furnished within ten (10) days after notice of order requiring it, or within such other time as is fixed by the Court. Rule 12(e), Ariz.R.Civ.P.

MOTIONS

Memorandum of points and authorities in support of motion

Must be filed together with motion. Rule 7.1(a), Ariz.R.Civ.P.

Memorandum of points and authorities in opposition to motion

An answering memorandum must be filed and served within ten (10) days after service of motion and supporting memorandum. Rule 7.1(a), Ariz.R.Civ.P. But see, "Memorandum in opposition to motion for summary judgment", *infra*.

Reply memorandum of points and authorities in support of motion

A memorandum in reply may be filed and served by the moving party within five (5) days after service of the answering memorandum. Rule 7.1(a), Ariz.R.Civ.P.

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Motions to dismiss

Where the initial response to a complaint, cross-claim, counter-claim, or third-party complaint is a motion authorized by Rule 12, Ariz. R.Civ.P., the motion must be made within the time period prescribed for responding to such a pleading. See "ANSWER", *supra*.

Motion for more definite statement

Must be made within time for filing pleading responsive to pleading to which it is directed. Rule 12(e), Ariz.R.Civ.P.

Motion to strike

Must be made before responding to the pleading to which it is directed or, if no responsive pleading is required to that pleading, within twenty (20) days after service. Rule 12(g), Ariz.R.Civ.P.

Motion to set aside entry of default

No time specified in Rule 55(c), Ariz.R.Civ.P. Motion should be filed promptly.

Motion to set aside default judgment

Must be filed within reasonable time. If request for relief is based on mistake, inadvertence, surprise, excusable neglect, newly discovered evidence or fraud, must be filed within six (6) months after entry of judgment. Rule 60(c), Ariz.R.Civ.P.

Motion for judgment on the pleadings

May not be made until after the pleadings are closed. Rule 12(c), Ariz.R.Civ.P.

Discovery motions

No time for filing established. May not be scheduled or considered unless accompanied by a separate statement of moving counsel that, after personal consultation and good faith efforts, counsel have been unable to resolve the discovery dispute. Rule 37(a)(2)(C), Ariz. R.Civ.P.

Motions for reconsideration

No time period for filing established. Are submitted for decision without response or reply, unless the Court otherwise directs. Rule 7.1(e), Ariz.R.Civ.P.

Motion for substitution of parties

Where a party dies, and the claim is not thereby extinguished, a motion for substitution of parties must be made no later than ninety (90) days after the death is suggested on the record. Rule 25(a)(1), Ariz.R.Civ.P.

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Motion for summary judgment

May be brought by a party pursuing a claim, counterclaim or cross-claim at any time following twenty (20) days after service of the claim upon the adverse party, or at any time after the adverse party serves a motion for summary judgment, but no sooner than the date on which the adverse party's answer is due. May be brought at any time by a party defending a claim. Rule 56(a), Ariz.R.Civ.P. In medical malpractice cases, a motion for summary judgment based on lack of expert testimony to support a claim or defense may not be brought prior to the date set by the Court for the disclosure of expert witnesses on liability issues. Rule 16(c), Ariz. R.Civ.P.

Memorandum in opposition to motion for summary judgment

Must be filed, together with affidavits, within fifteen (15) days after service of the motion for summary judgment. Rule 56(c), Ariz.R.Civ.P.

Reply memorandum in support of motion for summary judgment

Must be filed, together with any reply affidavits, within five (5) days after filing and service of memorandum in opposition. Rule 56(c), Ariz. R.Civ.P.

Motion to set and certificate of readiness

May be filed at any time. Rule 38.1(a), Ariz.R.Civ.P. In any event, must be filed within nine (9) months after commencement of the action or the action will be placed on the Inactive Calendar for dismissal. Rule 38.1(d), Ariz.R.Civ.P.

Motion for judgment as a matter of law

May be made at any time after a party has been fully heard on an issue, and before submission of the case to the jury. Rule 50(a), Ariz. R.Civ.P.

Renewal of motion for judgment as a matter of law

A motion for judgment as a matter of law made at the close of all the evidence which is not granted must be renewed no later than fifteen (15) days after entry of judgment. Rule 50(b), Ariz.R.Civ.P.

Motion for new trial

Generally, a motion for new trial must be made by no later than fifteen (15) days after the entry of judgment. Rule 59(d), Ariz.R.Civ.P. Where a default judgment has been entered, and service was secured by publication, the defendant may ap-

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Motion to alter or amend judgment

ply for a new trial within one (1) year after rendition of judgment. Rule 59(j)(1), Ariz.R.Civ.P. Where a renewed motion for judgment as a matter of law has been granted, the party whose verdict has been set aside may file a motion for new trial by no later than ten (10) days after entry of the judgment notwithstanding the verdict. Rule 50(c)(2), Ariz.R.Civ.P.

Must be filed not later than fifteen (15) days after the entry of judgment. Rule 59(l), Ariz.R.Civ.P.

Motion to alter or amend findings of fact

A motion to amend findings, or for the Court to make additional findings, must be made no later than fifteen (15) days after the entry of judgment. Rule 52 (b), Ariz.R.Civ.P.

Motion for relief from final judgment or order

Must be filed within a reasonable time. If request for relief is based on mistake, inadvertence, surprise, excusable neglect, newly discovered evidence or fraud, motion must be filed within six (6) months after entry of judgment or order. Rule 60(c), Ariz.R.Civ.P.

Motion for award of attorneys' fees

Must be filed and served within twenty (20) days after the clerk's mailing of a decision on the merits of an action. Rule 54(g)(2), Ariz.R.Civ.P.

NONPARTY AT FAULT

Notice of claim

Disclosure of a claim that a person or entity not a party to the action was wholly or partially at fault must be made within one hundred and fifty (150) days after the filing of the answer of the party making the claim, or at the time of compliance with the requirements of Rule 38.1(b)(2), Ariz.R.Civ.P., whichever is earlier. Rule 26(b)(5), Ariz.R.Civ.P. Any such claim must also be disclosed in the Motion to Set and Certificate of Readiness. Rule 38.1(a), Ariz.R.Civ.P.

NOTICE OF CHANGE OF JUDGE

See "CHANGE OF JUDGE", *supra*.

NOTICE OF APPEARANCES

In medical malpractice cases

Plaintiff must notify the Court within five (5) days that answers or

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NOTICE OF CLAIM AGAINST GOVERNMENTAL ENTITY

motions have been received from all defendants who have been served. Rule 16(c), Ariz.R.Civ.P.

A person with a claim against a public entity or employee must submit the claim to an authorized public official within one hundred and eighty (180) days after the cause of action accrues. A.R.S. § 12-821.01.

NOTICE OF CLAIM OF NONPARTY AT FAULT

Disclosure of a claim that a person or entity not a party to the action was wholly or partially at fault must be made within one hundred and fifty (150) days after the filing of the answer of the party making the claim, or at the time of compliance with the requirements of Rule 38.1(b)(2), Ariz.R.Civ.P., whichever is earlier. Rule 26(b)(5), Ariz. R.Civ.P. Any such claim must also be disclosed in the Motion to Set and Certificate of Readiness. Rule 38.1(a), Ariz.R.Civ.P.

NOTICE OF SERVICE

Of uniform
interrogatories

A Notice of Service of Uniform Interrogatories is to be served on all other parties to the action, at the time such interrogatories are propounded, identifying the party and attorney to whom the interrogatories are directed and specifying the number of each uniform interrogatory that is being propounded. Rule 33.1(f), Ariz.R.Civ.P.

Of non-uniform
interrogatories

If employed, should be served at the time such interrogatories are propounded.

Of answers and/or
objections to
interrogatories

If employed, should be served at the time answers and/or objections are served.

Of discovery requests
other than
interrogatories

If employed, should be served at the time such discovery requests are served.

Of answers and/or
objections to discovery
requests other than
interrogatories

If employed, should be served at the time of service of the answers and/ or objections.

OFFER OF JUDGMENT

When permitted

An offer of judgment may be made by any party at any time more than

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Effective period of offer

thirty (30) days before the commencement of trial. Rule 68(a), Ariz.R.Civ.P.

An offer of judgment remains effective for thirty (30) days, except where the offer is made within sixty (60) days after service of the summons and complaint, in which case the offer remains effective for sixty (60) days after such service. Rule 68(e), Ariz.R.Civ.P.

Acceptance of offer

A written acceptance of an offer of judgment must be served while the offer remains effective. Rule 68(b), Ariz.R.Civ.P.

ORDER TO SHOW CAUSE

Generally

Must be served in accordance with the requirements of Rules 4, 4.1, 4.2 or 5, Ariz.R.Civ.P., as applicable, within such time as the Court directs. Rule 6(d), Ariz.R.Civ.P.

PHYSICAL OR MENTAL EXAMINATION

On notice

When the parties agree that a physical or mental examination is appropriate but do not agree as to the examiner, a notice of a desired examination must be provided at least thirty(30) days in advance of the examination. Rule 35(c)(1), Ariz.R.Civ.P.

PLEADINGS

Complaint

Filing of complaint commences action. Must be served together with summons within one hundred and twenty (120) days of filing. Rules 3, 4(i), Ariz.R.Civ.P.

Counterclaim

A compulsory counterclaim must be stated in the pleading filed by the party asserting it which is responsive to the pleading of the adverse party against whom it is asserted. Rule 13(a), Ariz.R.Civ.P. A permissive counterclaim may be stated at that time. Rule 13(b), Ariz.R.Civ.P. A counterclaim that later matures, or is later acquired, may be asserted at a later time, with leave of Court, in a supplemental pleading. Rule 13(e), Ariz.R.Civ.P.

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Cross-Claims

May be stated against a co-party in any pleading filed by the party asserting it. Rule 13(g), Ariz.R.Civ.P.

Third-Party complaint

May be filed without leave of Court at any time within ten (10) days after serving the original answer or reply to a counterclaim. Thereafter, may only be filed with leave of Court. Rule 14(a), Ariz.R.Civ.P.

Amendments to pleadings

A pleading may be amended once as a matter of right before a responsive pleading is served. A pleading to which no responsive pleading is required may be amended without leave of Court within twenty (20) days after it is served, if the action has not been placed on the trial calendar. In other circumstances, leave of Court or written agreement of the parties is required. Rule 15(a), Ariz.R.Civ.P.

Supplemental pleadings

May only be filed with leave of Court to set forth transactions, occurrences or events which have taken place since the date the original pleading was filed. Rule 15(d), Ariz.R.Civ.P. Cf. also, Rule 13(f), Ariz.R.Civ.P.

PRETRIAL STATEMENT

When to be filed

Must be filed not less than five (5) judicial days prior to the date set for trial, unless a different time is specified by the Court or by applicable Local Rule. Rule 16(d), Ariz.R.Civ.P.

PRODUCTION OF DOCUMENTS

Voluntary production

Absent a showing of good cause, copies of documents in a party's possession, which may be relevant to the subject matter of the action or which appear reasonably calculated to lead to the discovery of admissible evidence, should be produced with the initial disclosure of information under Rule 26.1, Ariz.R.Civ.P., and with any amended or supplemental disclosures. Rule 26.1(a)(9), Ariz.R.Civ.P. See "DISCLOSURE STATEMENTS", *supra*.

Request for production of documents

May be served on the plaintiff at any time after commencement of

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Response to request for production

the action. May be served upon any other party with or after service of the summons and complaint on that party. Rule 34(b), Ariz.R.Civ.P.

Must be served within forty (40) days after service of the request, unless the request is served with or shortly after the complaint, in which event the defendant may serve a response within sixty (60) days after service of the summons and complaint, or within sixty (60) days after execution by that defendant of a waiver of service. Rule 34(b), Ariz.R.Civ.P.

REPLY

To counterclaim

Must be filed within twenty (20) days after service of an answer stating a counterclaim, or within twenty (20) days after service of an order of the Court directing that a reply be made. Rule 12(a), Ariz.R.Civ.P. These time periods are altered by the filing of a motion under Rule 12, Ariz.R.Civ.P.

To amended counterclaim

A reply to an amended counterclaim must be made within the time remaining for responding to the original counterclaim, or within ten (10) days after service of the amended counterclaim, whichever is longer. Rule 15(a)(2), Ariz.R.Civ.P. This time period may be altered by the filing of a Rule 12 motion directed to the amended counterclaim.

Where Rule 12 motion filed

Where a motion pursuant to Rule 12, Ariz.R.Civ.P. is made in response to a counterclaim, the reply to the counterclaim must be filed within ten (10) days of notice of the Court's denial, or postponement of the disposition, of the motion, or within ten (10) days after service of a more definite statement ordered by the Court. Rule 12(a), Ariz.R.Civ.P.

REQUEST FOR ADMISSIONS

When permitted

May be served on the plaintiff at any time after commencement of the action. May be served on any other party with or after service of the summons and complaint on that party. Rule 36(a), Ariz.R.Civ.P.

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Response to requested admissions

Answers and/or objections to requests for admissions must be served within forty (40) days after service of the requests, except that a defendant served with requests for admissions with or shortly after service of the complaint may serve answers and/or objections within sixty (60) days after service of the summons and complaint, or within sixty (60) days after execution by that defendant of a waiver of service. Rule 36(a), Ariz.R.Civ.P.

RETURN OF SERVICE

Generally

Must be made within the time during which the person served must respond. Rule 4(g), Ariz.R.Civ.P.

SERVICE OF PROCESS

Generally

Service of the summons and complaint domestically is to be accomplished within one hundred and twenty (120) days after the filing of the complaint, or the action is to be dismissed without prejudice as to any unserved defendant, unless the party on whose behalf service was to be made demonstrates good cause for not securing service. This time limit does not apply to service in a foreign country. Rule 4(i), Ariz.R.Civ.P.

Return of service

Must be made within the time during which the person served must respond. Rule 4(g), Ariz.R.Civ.P.

Waiver of service

A request for waiver of service, addressed to a defendant anywhere in the United States, must be signed and returned within thirty (30) days of the date of mailing of the request. Rules 4.1(c), 4.2(d), Ariz.R.Civ.P. A request for waiver of service addressed to a defendant in a foreign country must be signed and returned within sixty (60) days of its mailing. Rule 4.2(d), Ariz.R.Civ.P.

SERVICE OF PLEADINGS AND OTHER PAPERS

By mail

Service of pleadings and other papers filed after the complaint is complete upon mailing. Where ser-

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vice is made by mail, any prescribed period for responding to the papers served is extended by five (5) calendar days. Rule 6(e), Ariz.R.Civ.P.

SETTLEMENT CONFERENCE

In general civil cases

Must be requested no later than sixty (60) days prior to trial. Rule 16.1(a), Ariz.R.Civ.P.

In medical malpractice cases

Must be conducted at least thirty (30) days prior to the date set for the commencement of trial, but at least four (4) months after the date of the Comprehensive Pretrial Conference. Rule 16.1(a), Ariz.R.Civ.P.

SUBPOENAS

Service generally

Subpoenas, whether for trial or deposition, and whether *ad testificandum* or *duces tecum*, should be secured and served promptly.

Subpoenas for medical records

A notice and a copy of any subpoena *duces tecum* issued to a health care provider for the production of medical records must be provided to the patient involved, or that patient's attorney, at least ten (10) days prior to the date for the production of records. The patient has until five (5) days prior to the scheduled production date to object. A.R.S. § 12-2282.

Relief from subpoena *ad testificandum* for deposition

Relief from a subpoena *ad testificandum* for a deposition must be sought and secured at or before the time specified in the subpoena for appearance. Rule 45, Ariz.R.Civ.P.

Relief from subpoena *duces tecum* for deposition

An objection to the production of documents and other materials sought by a subpoena *duces tecum* must be served within fourteen (14) days after service of the subpoena, or prior to the return date specified in the subpoena, whichever date is earlier. Rule 45(c)(2)(B), Ariz.R.Civ.P.

Relief from trial subpoena

Relief from a trial subpoena, whether *ad testificandum* or *duces tecum*, must be sought and secured at or before the time specified in the subpoena for compliance therewith. Rule 45, Ariz.R.Civ.P.

SUBSTITUTION OF PARTIES

On death of party

Where a party dies, and the claim is thereby extinguished, a motion for substitution of parties must be made no later than ninety (90) days after the death is suggested on the record. Rule 25(a)(1), Ariz.R.Civ.P.

WITNESSES AND EXHIBITS

Disclosure

The identities of any anticipated trial witnesses, and an identification of any tangible evidence or documents that a party intends to use at trial, must be furnished as part of the initial disclosure of information under Rule 26.1, Ariz. R.Civ.P., and as part of any amended or supplemental disclosures. Rules 26.1(a)(3), (8), Ariz.R.Civ.P. See "DISCLOSURE STATEMENTS", *supra*.

Final identification

All lay and expert witnesses must be identified at least sixty (60) days prior to trial. Rule 26(e), Ariz. R.Civ.P. But see, "Disclosure", *supra*, and "List of witnesses and exhibits", *infra*.