



PINAL COUNTY JUSTICE COURTS

SMALL CLAIMS
(up to and including \$3,500.00)

**INSTRUCTIONS &
FORMS**

PINAL COUNTY
Apache Junction Justice Court
Central Pinal Justice Court
Western Pinal Justice Court



JUSTICE COURTS
Casa Grande Justice Court
Copper Corridor Justice Court
Pioneer Justice Court

INFORMATION FOR FILING SMALL CLAIMS CASES IN JUSTICE COURT

In situations where a civil dispute arises, the justice court offers grounds for a civil lawsuit within its jurisdictional limit. Jurisdiction means the types of cases a court has authority to hear. The Pinal County Justice Courts have exclusive jurisdiction over all **small claims** filing within Pinal County.

In the justice court you may file a **small claims** lawsuit claiming an amount **UP TO AND INCLUDING \$3,500.00**. You may also ask for reimbursement of court costs and/or attorney fees.

*If you wish to file a lawsuit for an amount **over \$3,500.00 up to and including \$10,000.00**, you may file a **civil** lawsuit in the justice court. If you wish to sue for an amount **greater than \$10,000.00** then you must file your lawsuit in the **Superior Court**.*

This is your case. **YOU** have a responsibility to yourself and to the court to acquire a sufficient knowledge to complete the forms properly and to follow your lawsuit to conclusion. There are certain steps you must follow to pursue your lawsuit properly. This information is provided to assist you with general procedures. You should also refer to the Arizona Revised Statutes (A.R.S.) and Arizona Rules of Court (ARCP) online or at your local library or law library at the Superior Court.

CLERKS DUTY (A.R.S. § 22-507)

The clerks in the Justice Court are not attorneys and cannot provide legal advice. The clerks' responsibility is to provide forms, take your filing and fees, and explain court procedure. It is not the clerks' responsibility to advise you if you have a legal claim. The clerks are not responsible for any error you may make in asserting or defending your claim. The court does not take sides or render an opinion regarding the merits of a claim

COURT FEES (A.R.S. §§ 22-281, 22-522)

Small Claims Filing Fee: \$25.00
Small Claims Answer Fee: \$15.00

Fees are payable at the time of filing.

JURISDICTION (A.R.S. § 22-503A)

The Plaintiff may file a small claims lawsuit for any amount up to \$3,500.00. A claim may NOT be split by filing two separate actions. The Plaintiff may ask for reimbursement of court costs in addition to the \$3,500.00 maximum. Court costs include but are not limited to filing and service fees. A prevailing defendant may also ask for reimbursement of court costs.



YOU MAY NOT FILE IF (A.R.S. § 22-503B)

- The case involves a claim over \$3,500.00 (unless the overage is waived);
- The case involves a claim of defamation by libel or slander;
- The case is for forcible entry, forcible detainer or unlawful detainer;
- The case involves a claim for specific performance;
- The case is brought or defended on behalf of a class;
- The case requests relief by or involves pre-judgment remedies;
- The case is seeking injunctive relief;
- The case involves traffic violations or criminal matters; or
- The case is against the State, its political subdivisions or is against its officers or employees acting in an official capacity.

VENUE (A.R.S. § 12-401)

Venue means the proper geographical area (precinct) in which a lawsuit may be filed. You must file the lawsuit in the precinct where the defendant resides or does business or where the cause of the lawsuit occurred. To view the Pinal County Precinct Map, please visit the court's website.

MOTION FOR CHANGE OF VENUE (A.R.S. § 12-404A)

A motion for change of venue is one of only two motions allowed in a small claims action. A motion for change of venue for improper venue must be filed prior to filing the answer, or venue is waived. If a motion is filed alleging that the lawsuit is filed in the wrong precinct and the court orders a change of venue, the case will be transferred to the proper precinct. If you oppose a motion for change of venue you must file an objection in writing within ten (10) legal working days after service of the motion.

Venue may be proper in more than one precinct. However if, after hearing, the original venue is found to be wrong, additional fees may be assessed to the Plaintiff to transfer the case to the proper precinct.

TRANSFER TO CIVIL DIVISION OF THE JUSTICE COURT (A.R.S. 22-504A)

Either party may transfer a small claims case to the Justice Court's Civil Division up to ten (10) legal working days before scheduled hearing date. The party requesting the transfer will be assessed a civil filing fee of \$68.00.

ATTORNEYS (A.R.S. § 22-512)

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

- He/she is representing himself or herself;
- BOTH parties agree to use attorneys and file a STIPULATION TO USE OF ATTORNEYS, a form the court can provide. A stipulation to use attorneys must be filed at least 24 hours before the scheduled hearing date.

However, any party has the right to choose to be represented by counsel and may file a request to transfer the case to the Civil Division of the Justice Court for that purpose. The case will then be transferred to the Civil Division and appropriate fees charged to the party requesting the transfer.

After entry of judgment, the prevailing party has a right to employ an attorney to pursue available rights and remedies for the purpose of collecting the judgment award.

PARTIES (A.R.S. § 22-512)

The statutes governing small claims procedures set forth who may file a small claims action nor appear or represent on behalf of such an action.

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

- An individual may represent himself or herself.
- Either spouse or both may represent a marital community.
- An active general partner or an authorized full-time employee shall represent a partnership.
- A full-time officer or authorized employee shall represent a corporation.
- An active member or an authorized employee shall represent an association.
- Any other organization or entity shall be represented by one of its active members or authorized full-time employee.

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

If you are a full-time employee representing an association or any other organization, please provide the court with a letter stating your position and authority to represent the corporation. The letter must be signed by a corporate officer.

Homeowner's Association (HOA) management companies and the individuals who work for them are usually not active members or full-time authorized employees of the HOA and therefore cannot represent the HOA. The property manager can testify as a witness but an active member (board member or otherwise) or an authorized full-time employee must be the HOA's representative in court.

PLEADINGS

Pleadings shall set forth a short and plain statement. See the court's website at or visit any Pinal County Justice Court for an acceptable copy of the pleading form.

METHODS OF SERVICE (Rule 4(i), Arizona Rules of Civil Procedure)

Regardless of any other available methods of service found in Rule 4.1(d), Arizona Rules of Civil Procedure, the Plaintiff should serve the SUMMONS and COMPLAINT on the Defendant by registered or certified mail. Service is deemed complete upon the delivery of the mailing to the Defendant and signed by the Defendant (as evidenced on the return receipt that must be filed with the court). If the Plaintiff is unable to serve the Defendant by certified or registered mail, the Plaintiff may choose to have the Defendant served by a constable or private process server. Service may be made personally upon the defendant or served on someone of reasonable age and discretion at the residence.

EACH NAMED DEFENDANT MUST BE SERVED A COPY OF THE COMPLAINT / SUMMONS. To ensure the named party signs the return receipt, restricted delivery should be used.

If the postal service does not enter a date of delivery or the date is not legible, service is deemed complete on the date the return receipt is filed with the court. The Plaintiff may file the return receipt (the green card) on the approved form in person or by first class mail.

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

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

If the claim is against a corporation, the statutory agent or an officer of the corporation must be served on behalf of the corporation named in the complaint. You may obtain the name and address of a statutory agent or corporate officer by calling the Arizona Corporation Commission at (602) 452-3026 – Phoenix, (520) 628-6560 – Tucson, or *Toll Free* 1-800-345-5819, or visit their website at www.azcc.gov.

YOU HAVE 45 DAYS TO SERVE THE SUMMONS AND COMPLAINT OR YOUR CASE IS SUBJECT TO DISMISSAL.

SERVICE AFTER APPEARANCE

A copy of all pleadings filed with the court must be mailed or delivered to the opposing party.

IT IS IMPORTANT THAT ALL PARTIES KEEP THE COURT APPRISED OF ANY CHANGE IN ADDRESS. A NOTICE of CHANGE OF ADDRESS form is provided on the court's website and at any Pinal County Justice Court and must be filed with the court when a party changes their address.

DEFAULT

If the defendant does not file an answer to the complaint within twenty (20) calendar days after service is complete, the Plaintiff may apply for an ENTRY of DEFAULT against the Defendant.

If a COUNTERCLAIM has been filed and the Plaintiff fails to file a reply to the counterclaim within twenty (20) days the counter-claimant (Defendant) may apply for an ENTRY of DEFAULT against the counter-defendant (Plaintiff) on the counterclaim.

The party seeking the default must mail a copy of the APPLICATION FOR ENTRY OF DEFAULT form to the defaulting party. If the party claimed to be in default fails to file an answer or pleading or otherwise defend in the lawsuit within ten (10) legal working days of the filing of the application, the default will take effect and a default judgment will be entered against the party or parties in default.

DISMISSAL

The Plaintiff may dismiss the claim at any time prior to the Defendant filing an answer or other pleading. Once the Defendant has filed an answer both parties must stipulate to a dismissal (agree to dismiss in writing).

FILING AN ANSWER (A.R.S. § 22-514)

An answer is the Defendant's response to the Plaintiff's allegations as stated in the complaint.

The Defendant has twenty (20) calendar days to file an answer with the court.

If the complaint is served out-of-state, the Defendant has thirty (30) calendar days to file an answer with the court.

To compute time to file an answer, the date of service is not included. If the last day falls on a Saturday, Sunday, or legal holiday the answer may be filed on the next legal workday.

The answer should respond to each allegation in the complaint. The case will then be set for hearing. Failure to file an answer may result in a default judgment.

FILING A COUNTERCLAIM (A.R.S. § 22-517)

A counterclaim is a claim made by the Defendant against the Plaintiff – a counter lawsuit within a lawsuit.

A counterclaim may be filed at the same time the answer is filed. If the Defendant files a counterclaim, the Plaintiff has twenty (20) calendar days to file an answer. A default judgment may be entered against the Plaintiff for failure to answer the counterclaim. If the Defendant files a counterclaim and the amount claimed exceeds \$3,500.00, the court will require the case be transferred to the Civil Division of the Justice Court.

If the court determines that the amount of the counterclaim in excess of the small claims jurisdiction was filed for the sole purpose of avoiding the small claims proceedings, the court may award the Plaintiff court costs plus reasonable attorney fees for defending the counterclaim.

MOTIONS (A.R.S. § 22-505)

Only two motions are allowed in the small claims court: a MOTION for CHANGE of VENUE (filed before an answer) and a MOTION to VACATE JUDGMENT (filed after a judgment).

HEARING OFFICERS (A.R.S. § 22-506)

Either a Justice of the Peace or an appointed Volunteer Hearing Officer may hear your case. Any party may object to the use of a hearing officer prior to the hearing date. The court can provide you with a form to make this objection or you can visit the court's website.

SETTING FOR HEARING (A.R.S. § 22-515A)

The trial will be set for a date within sixty (60) days after the answer has been filed with the court. All parties will be notified by mail of the date and time of the hearing.

REQUEST TO CONTINUE COURT DATE (A.R.S. § 22-515C)

If for some reason you find that you are unable to appear for trial on the date and time scheduled, you may file a REQUEST for CONTINUANCE with the court, showing good cause why you are unable to appear. The Judge will consider the merits of your request and either grant or deny it. Continuances are granted only for the most serious reasons. The request for a continuance must be in writing and should be filed timely – at least ten (10) days prior to the trial date.

HEARING (A.R.S. § 22-518)

YOU CANNOT HAVE YOUR SMALL CLAIMS CASE HEARD BEFORE A JURY.

Bring to the trial anything necessary or relevant to establish or defend the claim or counterclaim. Examples: books, papers, bills, pictures of damages or other exhibits. Both parties may also bring witnesses to testify in their behalf to substantiate your position.

You will only be allowed a limited amount of time to present your claim or your defense. Be concise. Be prepared.

If the case is settled before the scheduled trial date, be sure to notify the court. A stipulated DISMISSAL or JUDGEMENT form must be filed. Within ten (10) days after the trial a copy of the Judgment Order will be mailed to each party.



APPEAL (A.R.S. § 22-519)

YOU DO NOT HAVE THE RIGHT TO APPEAL. The decision of the Hearing Officer or Justice of the Peace is **FINAL and BINDING ON BOTH PARTIES.**

If you wish to preserve your right to appeal, you may have the case transferred to the Civil Division of the Justice Court. You may do this at any time up to ten (10) legal working days before trial.

IF YOU ARE AWARDED JUDGMENT

Refer to the court's handout COLLECTING A MONEY JUDGMENT.

MOTION to VACATE JUDGMENT (Rule 5(c)(2), Arizona Rules of Civil Procedure)

A motion to vacate a judgment is one of only two motions allowed in a small claims action. A MOTION to VACATE JUDGMENT can be filed by either party to vacate a default judgment or a judgment of the court following a hearing. The motion must be served on the other party in the same manner as if serving a summons and complaint.

If you oppose a motion to vacate the judgment you must file a response in writing ten (10) legal working days after service of the motion.

If the motion to vacate judgment is the defendant's first filing, he or she must pay a filing fee.

SATISFACTION OF JUDGMENT

When you are paid in full you must file a SATISFACTION OF JUDGMENT with the court. You can obtain a copy of this form at the court's website or at any Pinal County Justice Court.

RESOURCES:

Pinal County Justice Courts website:

<http://pinalcountyaz.gov/Departments/JudicialBranch/JusticeCourts/Pages/Home.aspx>

Arizona Revised Statutes website:

<http://www.azleg.gov/ArizonaRevisedStatutes.asp>

Arizona Rules of Court website:

<http://government.westlaw.com/linkedslice/default.asp?SP=AZR-1000>

Pinal County Justice Courts, State of Arizona

SMALL CLAIMS COMPLAINT

Case Number: _____

Plaintiff(s) Name / Address / Phone

Defendant(s) Name / Address / Phone

PLAINTIFF'S CLAIM

This Justice Court has venue because:

- The defendant resides in this precinct, **OR**
 The debt, or action, or incident that resulted in this claim occurred in this precinct.

The total amount owed me by the defendant is \$ _____ for the following reason(s):

Date: _____

Plaintiff: _____

CERTIFICATE OF SERVICE BY PLAINTIFF

I certify that I will mail (certified or registered) or serve a copy of this complaint and summons to the Defendant at the above listed address.

Date: _____

Plaintiff: _____

NOTICE AND SUMMONS

THE STATE OF ARIZONA TO THE ABOVE NAMED DEFENDANT(S):

You are directed to answer this complaint within **TWENTY (20) DAYS** by filing a written ANSWER in the court named above. If you do not answer or defend, a default judgment will likely be entered against you in the amount of plaintiff's claim, plus court costs.

ANSWER FEE: \$15.00

You MUST pay a filing fee when you file your WRITTEN answer with the court.

Date: _____

Judge/Clerk: _____

WARNING:

There are NO APPEALS in small claims cases. You DO NOT have the right to appeal the decision of the hearing officer or the justice of the peace in small claims court. If you wish to preserve your right to appeal, you may have your case transferred to the justice court pursuant to A.R.S. §22-504(A). If you request a transfer you MUST do so at least ten (10) days prior to the scheduled hearing.

SPECIAL NOTICE:

Request for reasonable accommodations for persons with disabilities must be made to the court at least three (3) legal working days in advance of any scheduled hearing.

Pinal County Justice Courts, State of Arizona

EVIDENCE OF SERVICE BY REGISTERED OR CERTIFIED MAIL – SMALL CLAIMS DIVISION

Case Number: _____

_____ _____ _____	_____ _____ _____
Plaintiff(s) Name / Address / Phone	Defendant(s) Name / Address / Phone

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

The date of service is:

_____ the date of delivery to, and signature of, the defendant, as shown below; **OR**

_____ the date the return receipt is filed with the court (*because the date of delivery is not entered, or the date entered is illegible*).

Attached is the Return Receipt (green card):

Date: _____ Plaintiff : _____

**PLACE
GREEN CARD
HERE**

Pinal County Justice Courts, State of Arizona

DEFENDANT'S ANSWER – SMALL CLAIMS

Case Number: _____

_____ _____ _____	_____ _____ _____
Plaintiff(s) Name / Address / Phone	Defendant(s) Name / Address / Phone

The Defendant answers Plaintiff's complaint on behalf of:

- Myself **Marital Community** Other: _____
(requires signature of both husband and wife)

I admit the following portion(s) of the complaint:

Plaintiff is not entitled to judgment because:

Date

Defendant

SPECIAL NOTICE:

The Plaintiff or Defendant must advise the court if the proceedings are to be recorded for appeal purposes. A *trial de novo* shall not be granted when a party has the opportunity to request a transcript of the proceedings but fails to do so. The cost of the recording shall be the court's responsibility. The cost of preparing the transcript upon appeal shall be the responsibility of the party appealing the case.

CERTIFICATE OF SERVICE

I hereby CERTIFY that I mailed a copy of this ANSWER to the Plaintiff (or Plaintiff's attorney).

Date

Defendant

SMALL CLAIMS CHECKLIST FOR PARTIES

The following checklist may assist you in processing your case. Check off each action as it occurs or has been completed.

☑/☐ PLAINTIFF CHECKLIST	☑/☐ DEFENDANT CHECKLIST
<p><input type="checkbox"/> Date COMPLAINT filed and filing fee paid _____</p> <p><input type="checkbox"/> Date COMPLAINT served _____ Serve the complaint upon each defendant. If the defendant refuses to accept the mailing or a person other than the named defendant signs for the mailing, then service has not been effected. You may try the mailing again or use a process server to effect proper service.</p> <p><input type="checkbox"/> Date return receipt or affidavit of service filed with the court _____</p> <p><input type="checkbox"/> Date time to ANSWER expires _____ Service by mail: 20 calendar days from the date the return receipt is signed, or if there is no date or if the date is illegible, then 20 calendar days from the date the return receipt is filed with the court. Service by process server: 20 calendar days from the date of service.</p> <p>IF ANSWER IS RECEIVED:</p> <p><input type="checkbox"/> Date Defendant files an ANSWER _____</p> <p>IF NO ANSWER IS RECEIVED:</p> <p><input type="checkbox"/> Date APPLICATION and ENTRY OF DEFAULT filed with the court and copy mailed to the Defendant _____</p> <p>IF COUNTERCLAIM IS RECEIVED:</p> <p><input type="checkbox"/> Date time to REPLY TO COUNTERCLAIM expires _____</p> <p>_____</p> <p>If the Defendant files a counterclaim, YOU must file a reply to the counterclaim within 20 calendar days. If you fail to file a reply the Defendant may obtain a default judgment against you.</p>	<p><input type="checkbox"/> If you object to the venue (the precinct in which the complaint was filed) you must file a MOTION for CHANGE OF VENUE before your answer is filed.</p> <p><input type="checkbox"/> Date answer filed and filing fee paid _____ Within 20 calendar days of the date you were served/ 30 days if served out-of-state. <i>If you fail to file an answer the Plaintiff may obtain a default judgment against you.</i></p> <p><input type="checkbox"/> Date COUNTERCLAIM filed and copy mailed to the Plaintiff _____ If you intend to file a counterclaim you must do so at the same time the Answer is filed. You must use the proper form and mail a copy to the Plaintiff.</p> <p><input type="checkbox"/> Date time to REPLY expires _____</p> <p><input type="checkbox"/> Date Plaintiff files a REPLY _____</p> <p>IF NO REPLY IS RECEIVED:</p> <p><input type="checkbox"/> Date APPLICATION and ENTRY of DEFAULT is filed with the court and a copy mailed to the Plaintiff _____</p>

NOTICE TO ALL PARTIES

DEFAULT: If the time to answer expires and the Defendant fails to answer the complaint, or if the time to reply to a counterclaim expires and the Plaintiff fails to reply to the counterclaim, you should get information and forms from the court for obtaining a default judgment.

It is required that a DISMISSAL / SATISFACTION of JUDGMENT be filed if the case is settled out of court.

Date of Hearing: _____ When an answer is filed the court will set a hearing date within 60 days of the filing of the answer and notify both parties of the time and date by mail. Bring all evidence, documents and witnesses you need to present your case or establish your defense.

Notice of Address Change: All parties are responsible for informing the court of a current address to ensure the party can receive all notices mailed from the court.

Collecting the Judgment Award: If you are not able to make arrangements with the losing party to collect your judgment, you may seek a Writ of Execution, a Writ of Garnishment, or an Order for Supplemental Proceedings (debtor's examination). You may visit the court's website or any Pinal County Justice Court to obtain the necessary form. Please refer to the Small Claims Instructions packet.