MARICOPA COUNTY JUSTICE COURTS

If you want to file a...

CIVIL ANSWER

MARICOPA COUNTY JUSTICE COURTS

An answer is the defendant's response to the plaintiff's allegations as stated in the complaint. An answer must be filed within *TWENTY (20)* calendar days from the date you were served with the civil summons and complaint. If the complaint was served outside of Arizona, the time to answer time is *THIRTY (30)* calendar days.

FAILURE TO ANSWER WITHIN THE TIME ALLOWED MAY RESULT IN A DEFAULT JUDGMENT

In computing the time in which to file an answer, the date of service is not included. If the last day falls on a Saturday, Sunday or a legal holiday the answer may be filed on the NEXT IMMEDIATE BUSINESS DAY.

The answer should respond to each element of the plaintiff's claim.

A defendant who wishes to file a counterclaim against the plaintiff must do so at the same time that the answer is filed. (Please refer to the counterclaim packet)

Please **STOP:**

If you have not been served with a civil summons and complaint.
If your time limit has expired and there has already been a judgment rendered.

Please **PROCEED:**

If you have been served with a civil summons and complaint.
If you are within the prescribed time limit for filing an answer.

FORMS Needed:

1) Civil Answer Form
2) Information for Filing and Defending a Civil Case

INSTRUCTIONS:

1) Review the information for Filing and Defending a Civil Case.
2) Complete the forms and then make copies of the Answer form. The court will require the original, you may wish to have a copy and you will need a copy for each named plaintiff.
3) File all forms with the court clerk and pay the answer fee.
4) Mail the (Answer) copies to the plaintiff(s).

IT IS IMPORTANT THAT ALL PARTIES KEEP THE COURT APPRISED OF ANY CHANGE IN ADDRESS

A NOTICE OF CHANGE OF ADDRESS form must be filed with the court when a party changes their address.

Visit us at http://justicecourts.maricopa.gov/ for additional filing information and online forms.

Maricopa County Justice Courts

INFORMATION FOR FILING AND DEFENDING A CIVIL CASE IN JUSTICE COURT

PLAINTIFF: The person filing a lawsuit.

DEFENDANT: The person who the lawsuit is filed against.

ATTORNEY: Member of the State Bar of Arizona. Either party may hire an Attorney to act on their behalf.

NAMED PARTIES JCRCP 104(c): Every action shall be prosecuted in the name of the real party in interest. The Court will allow parties time to amend names if necessary.

WHO CAN REPRESENT:

- **~ INDIVIDUALS:** Can represent oneself or by an Attorney licensed in Arizona.
- **~ SPOUSES:** An attorney may represent both spouses both spouses must answer and appear. Spouses cannot represent each other. Failure to appear of either or both spouses may cause a default Judgment.
- **~ CORPORATION RSC 31A(d)3:** An Attorney or Officer or a Managing Member in Justice Court whose primary duty is not representing the Corporation in Court.
- **~ UNINCORPORATED BUSINESS/PARTNERSHIPS ARS 29-1027A:** Business owner or partner.

HOW TO DESIGNATE: Every lawsuit shall be prosecuted in the name of the real party. You must have named the correct party. Refer to the *HOW TO DESIGNATE A PARTY* handout.

- **~ INDIVIDUALS:** All individuals need to be named in the lawsuit (spelling must be correct in order for you to collect later.)
- **~ CORPORATIONS:** A corporation is required to maintain a statutory agent upon who process (court papers) may be served. The name and address of the statutory agent may be obtained by calling the Corporation Commission: 602-542-3026 or 1-800-345-5819, www.ecorp.azcc.gov
- **~ UNINCORPORATED BUSINESSES** When filing on behalf of, or against an unincorporated business, the true name or names of the party doing business under that business name be shown as the plaintiff or defendant. Information may be obtained by calling the Secretary of State.
- **~ PARTNERSHIPS** A partnership may sue, or be sued, in the name that it has assumed or by which it is known. A partner may appear and represent his own partnership interest.

IF YOU ELECT TO REPRESENT YOURSELF you have the responsibility to:

- ~ To complete the forms properly, including correct spelling of names and designating parties correctly.
- ~ Assure that you have the correct form.
- ~ Educate yourself and follow the laws and rules that apply to your case.
- ~ Follow the case to conclusion.
- ~ The Laws are called Arizona Revised Statutes (ARS) and you must also follow the (JCRCP). You can review on line: www.azleg.state.az.us/ArizonaRevisedStatutes/asp or at the public library.

JUSTICE CLERK'S ROLE:

- **~ The clerks are prohibited to give legal advice.**
- **~ The clerk will provide forms (most forms are available at the court).**
- **~ Take filings and filing fees.**
- **~ Explain court procedures only.**
- **~ The clerk is NOT to advise you if you have a legal claim.**
- **~ Not responsible for any errors you make in asserting or defending your case.**
- **~ The clerk does not take sides or render opinions regarding the case.**

COURT FEES ARS 22-281A: Are payable at the time of filing. Fee lists are posted at each Justice Court.

JURISDICTIONAL LIMIT ARS 22-201: Is $10,000.00 not including court costs and attorney fees. A larger claim may be reduced to $10,000.00 or less and the remaining amount is waived. Court costs include, but not limited to filing and service fees.

VENUE ARS 22-202 & 12-401 & JCRCP 133C: Is the Geographical area (precinct) were a lawsuit may be filed. The Plaintiff may file where the Defendant lives/located or where the incident occurred.

CHANGE OF VENUE ARS 12-401, 404, and 407 & JCRCP 133C: The defendant may object to the place (venue) where the lawsuit has been filed if the Defendant does not live in that precinct or county.

PROCEDURES:

- ~ Defendant completes the Motion for Change of Venue (forms available at the Court).
- ~ Defendant serves the Plaintiff with the Motion.
- ~ Plaintiff has 10 working days to Respond.
- ~ The Court may order the case transferred to the Precinct where the Defendant lives.

PLEADINGS: is a short and plain statement that:

- ~ Gives the court jurisdiction over the case.

~ Informs that the court's venue is proper.
~ Showing the party is entitled to relief.
~ A demand for judgment for the relief sought.

EXAMPLES:

I am claiming damages against the defendant in the amount of $10,000.00. (Jurisdiction)
The defendant resides in the South Mountain Precinct, (or, the lawsuit occurred in the South Mountain Precinct). (Venue)
The defendant owes me money because... (Legal entitlement to claim)
Wherefore, the plaintiff requests that the court enter judgment in his favor in the sum of... (Demand)

SERVICE OF SUMMONS AND COMPLAINT JCRCP 113: Service is the delivery of a legal document notifying a person of legal lawsuit taken against defendant (Due Process).

~ **EACH NAMED DEFENDANT MUST BE SERVED A COPY OF THE COMPLAINT, SUMMONS AND NOTICE TO THE DEFENDANT**.
~ Most common service of the summons and complaint is by a private process server.
~ The fees of a private process server are regulated by statute.
~ You are to make payment arrangements directly with the process server for the services performed.

YOUR LAWSUIT MAY BE DISMISSED IF THE SUMMONS AND COMPLAINT HAVE NOT BEEN SERVED WITHIN 90 DAYS OF THE FILING OF THE COMPLAINT. JCRCP 113i

SERVICE AFTER APPEARANCE OF ALL PARTIES JCRCP 120: Those parties who have appeared in a lawsuit, unless otherwise ordered by the court, all pleadings AFTER the service of the summons and complaint any notices and orders may be served upon the attorney of record or the appearing parties (the plaintiff or defendant) by regular first class mail.

CHANGE OF ADDRESS JCRCP 102: It is in the party's best interest to notify the Court of any change of address. A Notice of Change of Address form is provided by the court.

DEFAULT and Default Judgment JCRCP 140: Default may apply to both the original claim as well as a counterclaim. It allows any Defendant, in either claim, additional time to file an answer prior to Judgment. In some cases the Judge may set a Default Hearing prior to the entry of Judgment.

~ If any Defendant fails to file an answer within the original time allowed, the party seeking default may apply for an Application for Entry of Default.
~ If any Defendant fails to file an answer within ten (10) judicial days from the filing of the Application for Entry of Default, the party seeking default may apply for a Request and Affidavit for Entry of Default Judgment.
~ If the defaulted party DOES files an answer within ten (10) judicial days from the filing of the Application for Entry of Default, the Default is moot (no longer exists) and Judgment will not be entered.
~ If the defaulted party files an answer after the ten (10) judicial days from the filing of the Application for Entry of Default, the acceptance of that answer and subsequent procedures will be left to judicial discretion and court policy.
~ Instructions are provided for filing both the Application for Entry of Default and the Request and Affidavit for Entry of Default Judgment .

DISMISSAL JCRCP 144:

Voluntary: The plaintiff may dismiss the claim at any time before the defendant files an answer or other pleading.
Stipulated: Once the defendant has filed an answer or other pleading, both parties must sign the agreement of dismissal.

FILING AN ANSWER An answer is the defendant's response to the plaintiff's allegations as stated in a complaint.

~ The defendant has twenty (20) calendar days from the date of service to file a written answer with the Court and mail copy to plaintiff.
~ If the complaint is served out-of-state the party served has thirty (30) calendar days to file an answer.
~ If served by publication, or other means approved by the Court, or if service is waived, other time limits apply.
~ If the last day falls on a Saturday, a Sunday, or a legal holiday, the answer may be filed on the next judicial day.
~ The answer should respond to each element of the complaint. ARS 22-216

FILING A COUNTERCLAIM A counterclaim is a claim made by the defendant against the plaintiff within the same lawsuit.

~ A counterclaim is filed at the time of filing the answer.
~ The plaintiff (counter-defendant) has twenty (20) days from the date of service in which to file a written reply. Note: no fee.
~ If the counterclaim exceeds $10,000, the case will be transferred to the Superior Court and filing fees will be assessed by Superior Court before processing can continue.
~ The party causing the transfer shall pay a transmittal fee to the Justice court.

MOTIONS JCRCP 128: A motion is a request made by a party asking the court to issue a ruling or an order.

~ A party may file a motion with the court, however the court may schedule an oral argument before ruling on the motion.
~ The party must serve the opposing party with the Motion.
~ The opposing party may file written objections (Response) with the court within ten (10) judicial days from the date motion was served and mailing a copy to the moving party.
~ The moving party may file Reply to the Response within five (5) judicial days from receiving the Response.
~ The Judge will consider the motion and any objections thereto and enter an order either granting or denying the motion. Or, on request of either party or on its own, the court may schedule an oral argument before rendering an order.

HOW TO COMPUTE TIME LIMITS JCRCP 115:

~ If it happened today, today does not count.
~ Less than eleven (11) days, weekends and legal holidays are not counted.
~ More the eleven (11) days, weekends and legal holidays are counted.
~ Mailed or sent electronically.
~ If a court document is served by mail or electronic means, five (5) calendar days shall be added.

DISCLOSURE JCRCP 121: is the pretrial process requiring each party to inform to the other party(s) the evidence and witness testimony that will be presented at trial. If any evidence or witness is omitted the Court may not allow witness to testify or evidence to be presented. No surprises by either side.

~ Disclosure statements must be sent to all parties within forty (40) days of the filing of the Answer or when the Court orders.
~ Failure to comply with disclosure may result in sanctions, dismissal or a default judgment.
~ Disclosure includes:
  - The factual basis for each claim/defense.
  - A description of the damage(s) and copies of any exhibits substantiating the dollar value of the damages.
  - The legal theory upon which each claim is based.
  - The names, addresses and telephone numbers of all witnesses and a brief summary of the expected testimony.
  - A list of documents or other evidence that supports the claim.

PRETRIAL CONFERENCE JCRCP 131: A pretrial conference may be set to clarify the issues for trial,

~ To assist the parties in reaching a settlement.
~ At the pretrial conference all disclosure must be exchanged, if it hasn't already been exchanged.
~ If a settlement agreement cannot be reached, the case may be set for mediation or trial.
~ A failure to appear at the scheduled pretrial conference date may result in dismissal or a judgment may be entered in favor of the party that appears.

THE TRIAL ARS 22-221: If your lawsuit is set for trial you should educate yourself regarding court procedures and the rules regarding what evidence is admissible. The plaintiff has a responsibility to prove by the greater weight of evidence (preponderance of evidence) that they have a legal right to the claim for damages. Motions to continue a trial date must be in writing and filed with the court at least twenty (20) days prior to the trial.

FAILURE TO APPEAR AT THE TRIAL:

Plaintiff: may result in dismissal and the defendant may be awarded costs and/or attorney fees.
Defendant: may result in judgment and the plaintiff may be awarded his/her costs and/or attorney fees.

JURY: Either party can request a jury trial. Both parties will be required to exchange and submit prepared jury instructions to the court before trial. The party requesting a jury will be assessed jury fees, if judgment is not found in favor of the requesting party. If a jury is not requested the Judge will hear the case.

TRIAL/ SELF PRESENTED PERSON:

~ A person representing self (acting as their own attorney) will be held to the same standard as an attorney.
~ At trial the plaintiff will proceed first and may call witnesses and/or introduce exhibits. The defendant may cross-examine any witnesses or object to the admission of any exhibit. After the plaintiff rests, the defendant will then present his case and may call witnesses and/or introduce exhibits that may prove or defend their position. The plaintiff may cross-examine any witnesses or object to the admission of any exhibit. After all evidence is presented, the judge or jury will decide the case.

IF YOU ARE AWARDED JUDGMENT refer to the court's handout *COLLECTING A MONEY JUDGMENT.*

Ask the clerk for information regarding bonds and cost of the appeal.

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

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

PLAINTIFF CHECKLIST

☐ Date COMPLAINT filed and filing fee paid _____

☐ Date SUMMONS and COMPLAINT given to process server for service on defendant(s) _____

☐ Date COMPLAINT served _____

☐ Date time to ANSWER expires _____
(twenty (20) days after defendant served / thirty (30) days if served out-of-state)

IF ANSWER IS RECEIVED:

☐ Date defendant files an ANSWER _____

☐ Date time to file DISCLOSURE STATEMENT
(forty (40) days after filing of Answer) _____

IF NO ANSWER IS RECEIVED:

☐ APPLICATION FOR ENTRY OF DEFAULT filed with court and copy mailed to defendant _____

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

☐ Date time to REPLY TO COUNTERCLAIM expires _____

If the defendant files a counterclaim YOU must file a reply to the counterclaim within twenty (20) calendar days. If you fail to file a reply, the defendant may obtain a default judgment against you.

DEFENDANT CHECKLIST

☐ If you object to the venue *(the precinct in which the complaint was filed)* you must file a Motion for Change of Venue for Improper Venue before the answer is filed.

☐ Date answer filed and filing fee paid _____
(*Within twenty (20) calendar days of the date you were served / thirty (30) days if served out-of-state)*

If you fail to file an answer, the plaintiff may obtain a default judgment against you.

☐ Date time to file DISCLOSURE STATEMENT
(forty (40) days after filing of Answer) _____

☐ Date COUNTERCLAIM filed and copy mailed to 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.

☐ Date time to REPLY expires _____

☐ Date plaintiff files a REPLY _____

IF NO REPLY TO COUNTERCLAIM IS RECEIVED:

☐ APPLICATION FOR ENTRY OF DEFAULT filed with court and copy mailed to plaintiff _____

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

NOTICE TO ALL PARTIES

Default If the time to answer passes and the defendant fails to answer the complaint, or if the time to reply to a counterclaim passes and the plaintiff fails to reply to the counterclaim, you may get information and forms from the court for obtaining a default judgment.

It is required that a **VOLUNTARY DISMISSAL** be filed if the case is settled out of court.

Pretrial Conference scheduled for_____ You are required to exchange with the opposing party ALL INFORMATION (copies of exhibits, list of witnesses, law supporting your claim, etc.) known or available concerning this matter.

TRIAL scheduled for_____ 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 that 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 (JDE). You may ask the court clerk for the necessary form. Please refer to your instructions.

Maricopa County Justice Courts, Arizona

Please select court from the drop down list --------

CASE NUMBER: _____

Plaintiff(s) Name / Address / Email / Phone

Defendant(s) Name / Address / Email / Phone

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

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

CIVIL ANSWER

JCRCP Rule 116a (1)

I am answering on behalf of: ☐ Myself ☐ Marital Community (Civil cases require signature of both husband and wife)
☐ Partnership ☐ Other: _____

The Defendant should admit an allegation, deny it, or state that you do not have enough information either to admit or deny.

1. I admit the following portion(s) of the Plaintiff's complaint:

2. I deny the following portion(s) of the Plaintiff's complaint:

3. Additional information:

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

Date: _____ _____ _____
Defendant Defendant

Please inform court staff if interpreter services are required.
☐ Yes, I need interpreter services. Language: _____

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

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

Date: _____ By _____
Signature

You are required to keep the court advised of your current address and contact phone number.
The clerk can provide you with a Notice of Change of Address form.