MARICOPA COUNTY JUSTICE COURTS

If you want to file a...

SMALL CLAIMS ANSWER

MARICOPA COUNTY JUSTICE COURTS

You (the defendant) have **20** calendar days to file an Answer to the Small Claims Complaint. The answer should respond to each allegation of the Complaint.

PLEASE NOTE THAT FAILURE TO FILE AN ANSWER MAY RESULT IN A DEFAULT JUDGMENT

If you wish to file a Counterclaim you may do so at the same time that you file your Answer or it must be filed within 20 days of service of the summons. Please refer to the Counterclaim Packet.

Please STOP...

If you have not received a Small Claims Complaint, Summons and Notice
If a Default Judgment has already been issued against you
If a Default Judgment has already been signed, refer to the Motion to Vacate Judgment Packet

Please PROCEED...

If you are answering within 20 calendar days of receiving the Small Claims Complaint, Summons and Notice.
Or, if 20 calendar days have passed, but a Default Judgment has not been issued against you.

FORMS Needed:

Information for Filing Small Claims Cases in Justice Court
Small Claim Answer

INSTRUCTIONS:

1. Review the Information in this packet.
2. Complete the Answer form.
3. Deliver/Mail a copy of the completed Answer to the other party.
4. File the original completed Answer form with the court and pay the answer fee. An Application for Waiver/Deferral may be filed if applicable.

It is important that all parties keep the court informed of any changes to their contact information. A Contact Information Update form must be filed with the court.

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

Maricopa County Justice Courts

INFORMATION FOR FILING SMALL CLAIMS CASES IN JUSTICE 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 it properly. This information is provided to assist you in general procedure. You may also want to refer to the Arizona Revised Statutes (ARS), Arizona Rules of Court (ARCP), Justice Courts Rules of Civil Procedure (JCRCP), and Arizona Rules of Small Claims (ARSCP) for additional information. The statutes may be viewed online at http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp or may be found at your local library.

CLERK DUTY The clerks in the justice court are not attorneys and cannot give legal advice. The clerks' responsibility is to take your court filing and to provide forms and explain court procedures. It is not the clerks' responsibility to advise you if you have a legal claim. The clerk is not responsible for any error you may make in asserting or defending the claim. **ARS 22-507**

COURT FEES
Fees are payable at the time of the filing. Refer to the Court's posted schedule of fees. **ARS 22-281, 22-522**

JURISDICTIONAL LIMIT The plaintiff may file for any amount not to exceed $5,000.00. A larger claim may be reduced to $5,000.00 and any remaining amount waived. A claim may NOT be split by filing two separate actions. The plaintiff may ask for reimbursement of court costs in addition to the $5,000.00 maximum. Court costs include, but are not limited to filing and service fees. A prevailing defendant may also ask for reimbursement of court costs. **ARS 22-503A, ARSCP 1(a)**

YOU MAY NOT FILE IN SMALL CLAIMS IF:
The case involves a claim of defamation by libel or slander. The case is for forcible entry, eviction action 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 prejudgment remedies. The case is seeking injunctive relief. The case involves traffic violations or criminal matters. The case is against this State, its political subdivisions or is against its officers or employees, acting in an official capacity. **ARS 22-503B**

VENUE means the proper geographical area (precinct) in which a lawsuit may be filed. You must file the lawsuit where the defendant resides or does business or where the cause of the lawsuit occurred. **ARS 12-401, ARSCP 4**

MOTION TO CHANGE VENUE 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 days after service of the motion. **ARS 12-404A** 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. **ARS 12-407, ARSCP Rule 10**

TRANSFER TO REGULAR CIVIL DIVISION OF JUSTICE COURT Either party may transfer a small claims case to the court's civil division up to 10 business days before hearing. The party requesting the transfer will be assessed filing fees. **ARS 22-504A, ARSCP 11**

ATTORNEYS 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 the use of attorneys and file a Small Claims Agreement to Use of Attorneys, a form the court can provide. An agreement to use attorneys must be filed at least 24 hours before the scheduled court 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. **ARS 22-512 B,C,D,E, ARSCP 1(c)**

PARTIES The Arizona Rules of Small Claims Procedures (ARSCP) and Arizona Revised Statutes govern small claims procedures and set forth who may file a small claims action or appear or represent on behalf of such an action. **ARS 22-512A, B, ARSCP 2(a)**
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. **ARS 22-512B, ARSCP 2(a)(1)**

- w An individual shall represent himself. Either spouse or both may represent a marital community.
- w An active general partner or an authorized full-time employee shall represent a partnership.
- w A full-time officer or authorized employee shall represent a corporation.
- w An active member or an authorized full-time employee shall represent an association.
- w Any other organization or entity shall be represented by one of its active members or authorized full-time employees.
- w If you are representing a partnership, an association, corporation or any other organization, please provide the court with a notice stating your position and your authority to represent an action on behalf of the partnership, association, corporation or organization.
- w If you are a full time employee representing a corporation please provide the court with a letter signed by a corporate officer stating your position and authority to represent the corporation.
- w However, any party has the right to choose to be represented by counsel and may file a request to transfer to the Civil Division or both parties may stipulate to allow the use of attorneys.

COMPLAINT is a brief statement of the plaintiff's reasons for filing the claim against the defendant and should contain proper venue, proper jurisdictional limit, and a statement of relief sought.

Amended complaints are not allowed in Small Claims. **ARSCP 4(c)**

YOU HAVE 45 DAYS TO FILE PROOF OF SERVICE OF THE COMPLAINT, SUMMONS, AND NOTICE OR YOUR CASE IS SUBJECT TO DISMISSAL ARSCP 5(a)

METHODS OF SERVICE The plaintiff may serve the Complaint, Summons, and Notice by certified mail with a return receipt. The court may require service by certified mail be restricted. Service is deemed complete upon the return receipt with the court.

Each named defendant must be served a copy of the COMPLAINT, SUMMONS, and NOTICE. Restricted delivery is preferred to ensure the defendant is served.

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 must file the return receipt (the card) with the court in person or by first class mail.
If the defendant cannot be served by registered or certified mail, personal service by a licensed process server may be used.
If you need more time to serve, you may transfer the case to the courts Civil Division.
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 602-542-3026 or 1-800-345-5819.

IT IS IMPORTANT THAT ALL PARTIES KEEP THE COURT UPDATED OF ANY CHANGE IN CONTACT INFORMATION. A CONTACT INFORMATION UPDATE form is available at the court and must be filed with the court when a party changes their address.

APPLICATION FOR ENTRY OF DEFAULT If the defendant does not file an answer to the complaint within 20 calendar days after service is complete, the plaintiff may file an Application for Entry of Default against the defendant. If a counterclaim has been filed and the plaintiff fails to file a reply to the counterclaim within the time allowed, the counter-claimant (defendant) may file an Application for 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. **JCRCP 140**

REQUEST AND AFFIDAVIT FOR ENTRY DEFAULT If the party claimed to be in default fails to file an answer or pleading or otherwise defend the lawsuit within 10 judicial days of the filing of the Application for Entry of Default, the party may then file the Request and Affidavit for Entry of Default and a completed proposed Judgment form. **JCRCP 140**

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 in writing). The court may dismiss a case that is not concluded within 65 days from the service of the complaint **ARSCP 5(c), 17(a)(b)**

FILING AN ANSWER The defendant has 20 calendar days to file an answer to the complaint with the court and pay the answer fee. The answer should respond to each allegation of the complaint. The case will then be set for a hearing. Failure to file an answer may result in a default judgment. An application for waiver/deferral may be filed if applicable. **ARS 22-514, ARSCP 7**

FILING A COUNTERCLAIM A counterclaim is a claim made by the defendant against the plaintiff. A counterclaim may be filed at the same time the answer is filed or must be filed within 20 days of service of the summons. If the defendant files a counterclaim, the plaintiff has 20 calendar days to file a response. Amended counterclaims are not allowed. 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 $5,000.00, the court will transfer the case to the Civil Division. **ARS 22-517, ARSCP 9**

MOTIONS Only two motions are allowed in the Small Claims Division: a Motion for Change of Venue (filed before an Answer) and a Motion to Vacate Judgment (filed after a judgment). **ARS 22-505, ARSCP 10,16**

HEARING OFFICERS 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 at least 15 calendar days prior to the hearing date in writing. The court can provide you with a form to make this objection. The case will then be referred to and heard by the Justice of the Peace. **ARS 22-506, ARSCP 12(a)**

SETTING FOR HEARING A hearing date will be set within 60 calendar days after the answer has been filed with the court. All parties will be notified of the date and time of the hearing. **ARS 22-515A, ARSCP 8**

REQUEST TO CONTINUE COURT DATE If for some reason you find that you are unable to appear for your hearing 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. The request for continuance must be in writing and should be timely filed, at least 15 calendar days prior to the hearing date. **ARS 22-515C, ARSCP 12(b)**

THE HEARING You cannot have your Small Claims case heard before a jury.
Bring to the hearing 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 on their behalf to substantiate your position. You will only be allowed a limited amount of time to present your claim or your defense. **ARS 22-518, ARSCP 1(d)**

If the case is settled before the scheduled hearing date, be sure to notify the court. A Stipulated Dismissal, Settlement, or Judgment must be filed. Within five calendar days after the decision, a copy of the Judgment or Order will be mailed/delivered to each party. **ARSCP 15(b)**

APPEAL Parties 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 10 business days before hearing. **ARS 22-519, ARSCP 11(a)**

JUDGMENT AWARDED If you are awarded the Judgment, it is valid for 10 years from the date it is entered, if you choose to renew the Judgment, the renewal must be filed within 90 calendar days from the expiration. Refer to the court's handout Collecting a Money Judgment.

VACATE JUDGMENT A motion can be filed by either party to remove a Judgment and must be filed within six months from date of judgment. The Motion must be delivered on the other party. If you oppose a motion to vacate the judgment, file a response in writing 15 calendar days after receiving the motion. If the motion to vacate judgment is the defendant's first filing, the defendant must pay a filing fee. **ARSCP 16**

SATISFACTION OF JUDGMENT When the Judgment is paid in full, a Satisfaction of Judgment must be filed with the court. This form is available from the court. Visit us at justicecourts.maricopa.gov for additional filing information and online forms.

SMALL CLAIMS CHECKLIST FOR PARTIES

The following checklist may assist you in processing your case.

PLAINTIFF CHECKLIST	DEFENDANT CHECKLIST
_____ Date Complaint filed and filing fee paid Serve the complaint upon each defendant. If service by certified mail is not accomplished, you may use a process server. _____ Proof of service filed with court. (Within 45 days of filing complaint) _____ 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. _____ IF Answer is received: Date defendant files an Answer (Hearing must be held within 60 days ARSCP 8). _____ IF NO Answer is received: Date Application for Entry of Default can be filed with the court and mailed to the defendant. _____ IF still no response from the defendant: Date the Request and Affidavit for Entry of Default with a completed proposed form of Judgment can be filed with the court and mailed to the defendant. (May be dismissed 65 days from date of service ARSCP 5). _____ Date to Reply to Counterclaim expires: If the defendant files a Counterclaim, 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.	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 20 calendar days of the date you were served) *If you fail to file an Answer, the plaintiff may obtain a Default Judgment against you.* _____ Date Counterclaim filed and copy mailed to plaintiff. If you intend to file a Counterclaim you must do so within 20 days of service of the summons. You must use the proper form and deliver a copy to the plaintiff. _____ Date time to Reply expires. _____ Date plaintiff files a Reply. _____ IF NO Reply is filed: Date Application for Entry of Default can be filed with the court and mailed to the plaintiff. _____ IF still no Reply to the counterclaim: Date the Request and Affidavit for Entry of Default with a completed proposed Judgment form can be filed with the court and mailed to the plaintiff.

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. Default is a two-part process, you may obtain both sets of forms from the court.

VOLUNTARY DISMISSAL is required to be filed if the case is settled out of court prior to answer. If an answer has been filed in the case, you must file a **STIPULATED DISMISSAL**.

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.

The parties should resolve their case within 65 days from date of service. Otherwise, the court may dismiss the case. ARSCP 5(c).

CONTACT INFORMATION UPDATE 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 (debtor's examination). 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

SMALL CLAIMS ANSWER

ARSCP 7

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 Division of this court. If you wish to preserve your right to appeal, you may have your case transferred to the Civil Division of the Justice Court. If you request such a transfer, it must be filed at least 10 business days prior to the day of the scheduled hearing. ARS 22-504, ARSCP 11(a)

DEFENDANT'S ANSWER

A defendant must file a written answer within 20 calendar days of service. If you do not file an answer, judgment may be entered against you**.** A filing fee must be paid at the time your answer is filed and you may request that the court either waive or defer the fee. The court will set a hearing date and hold a hearing within 60 calendar days after you file your answer.

I am answering on behalf of ☐ Myself ☐ Marital Community ☐ Other: _____

I do not owe the plaintiff because:

Date: _____ _____ _____

Defendant Defendant

Notice: If you are representing a partnership, association or any other organization, provide the court with a notice stating your position and authority to represent this action.

Please inform court staff if interpreter services are required.

☐ Yes, I need interpreter services. Language: _____

I CERTIFY that I delivered / mailed a copy of this document to:

☐ Plaintiff ☐ Plaintiff's attorney ☐ Defendant ☐ Defendant's attorney

Date: _____ By _____

Signature

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

NOTICE of CHANGE OF ADDRESS

If your address is protected by Court Order, DO NOT use this form

I am the ☐ Plaintiff ☐ Defendant in this action.
I hereby notify the court and all parties to this action that my address has changed.

Please Print Legibly

My **PREVIOUS** address is:

Street _____

City, State Zip _____

Phone ( ) -

E-Mail _____

My **NEW** address is or will be:

Street _____

City, State Zip _____

Phone ( ) -

E-Mail _____

Date: _____ _____
☐ Plaintiff ☐ Defendant

I CERTIFY that a copy of this document will be provided on _____ to:

☐ The Plaintiff ☐ The Defendant

☐ By Hand ☐ By Email ☐ By US mail

Date: _____ By: _____
Signature

Maricopa County Justice Courts

INFORMATION REGARDING SMALL CLAIMS AUTHORIZATION / NOTICE TO REPRESENT
ARSCP 1(C), ARS 22-512

Please submit to the court a written authorization regarding who is to file and appear in court for you or your organization. The lawsuit will not go forward without the written authorization.

If you are a repeat plaintiff, please attach your authorization with each lawsuit to avoid further notices and delays of your case.

ARSCP 1(c) Representation:

"Attorneys may not represent a party in a small claims lawsuit unless all the parties agree in writing. A corporation, partnership, association, or any other business or organization must file a notice stating the name of an authorized person who will file and appear in court on its behalf."

**A collection agency may not file a small claims lawsuit.*

Who can represent you in a Small Claims case *(please note that this does not apply to civil cases)***:**

ARS 22-512B states who can represent a plaintiff or defendant in a small claims action:

1. A person: An individual can represent himself.
2. Married couples: Either spouse or both may represent a marital community.
3. Partnership: An active general partner or an authorized full-time employee can represent a partnership.
4. Corporation: A full-time officer or authorized employee can represent a corporation.
5. Association: An active member or an authorized full-time employee can represent an association.
6. Other organization or entity: Active member or authorized full-time employee.
7. HOA: Employee ARS 22-512C2: Appearing on behalf of the association in a small claims action if all of the following apply:
   (a) The employee of the association or the management company is specifically authorized in writing by the association to appear on behalf of the association.
   (b) The association is an original party to the small claims action.

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. This letter must be signed by someone who has authority to appoint, such as the president of your organization.

If you are representing a corporation, **please provide the court with a notice** stating your position and authority to represent the corporation. The notice must be signed by a corporate officer.

Failure to comply may result in a refusal to permit a person to appear for an organization.