



If you want to file a...

**CIVIL
Complaint & Summons
(\$10,000 or Under)**

Page 1-3.....Information For Filing and Defending A Civil Case In Justice Court

Page 4.....Plaintiff/Defendant Checklist

Page 5.....How To Designate and Serve a Party

Page 6.....Complaint

Page 7.....Summons

Page 8.....Notice to Defendant



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: 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/LLC:** An officer of a corporation or a managing member of an LLC who is not an active member of the state bar may represent the entity in a small claims lawsuit (Rules of Supreme Court, 31A(d)3). Letter of Authorization required.
- ~ **UNINCORPORATED BUSINESS/PARTNERSHIPS:** 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.
- ~ **CORPORATIONS:** A corporation is required to maintain a statutory agent upon who process (court papers) may be served.
- ~ **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.
- ~ **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.
- ~ Follow the case to conclusion.
- ~ Educate yourself and follow the laws and rules that apply to your case. Refer to Arizona Revised Statutes (ARS) and Justice Court Rules of Civil Procedure (JCRCP).

JUSTICE CLERK'S ROLE:

- ~ The clerks may explain court procedures but are prohibited from giving legal advice.
- ~ The clerks will provide forms (forms are available at the court and on-line).
- ~ 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: Are payable at the time of filing.

JURISDICTIONAL LIMIT: Is \$10,000.00 not including court costs and attorney fees.

VENUE: The Plaintiff may file where the Defendant resides or does business or where the incident occurred.

CHANGE OF VENUE: The defendant may object to the place where the lawsuit has been filed.

PLEADING: is a short statement explaining the factual basis for the claim.

SERVICE OF COMPLAINT AND SUMMONS: Each named defendant must be served a copy of the complaint, summons and notice to the defendant. Service may be accomplished through a constable or private process server.

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

SERVICE AFTER APPEARANCE OF ALL PARTIES: All pleadings filed after service of the summons and complaint may be served by regular first class mail.

CHANGE OF ADDRESS: Parties must notify the Court of any change of address.

DEFAULT JUDGMENT: If the defendant or counter-defendant fails to file an answer to the complaint or counterclaim within the time allowed, the plaintiff or counter-claimant may apply for entry of default.

DISMISSAL:

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 business day.
- ~ The answer should respond to each element of the complaint.

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.

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

- ~ The opposing party may file a written response with the court within ten (10) business days from the date the motion was served.
- ~ The moving party may file a Reply to the Response within five (5) business days from receiving the Response.
- ~ All motions, replies, and responses must be served on the opposing party.
- ~ The Judge will consider the motion and any objections and enter an order either granting or denying the motion. The Court may schedule a hearing before rendering an order.

HOW TO COMPUTE TIME LIMITS:

- ~ If it happened today, today does not count. Tomorrow is day 1.
- ~ Business days: less than eleven (11) days, weekends and legal holidays are not counted.
- ~ Calendar days: more than eleven (11) days, weekends and legal holidays are counted.
- ~ If a court document is served by mail or electronic means, five (5) calendar days shall be added.

DISCLOSURE: Requires each party to inform the other party of 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.

PRETRIAL CONFERENCE: A pretrial conference may be set to assist the parties in reaching a settlement or clarify the issues for trial. At the pretrial conference all disclosure must be exchanged, if it hasn't already been exchanged. 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: 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. The plaintiff has the burden of proof by a preponderance of the evidence.

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. The party requesting a jury may be assessed jury fees. If a jury is not requested the Judge will hear the case.

IF YOU ARE AWARDED JUDGMENT refer to the court's handout *COLLECTION OF A MONEY*

JUDGMENT. 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.

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.

HOW TO DESIGNATE AND SERVE A PARTY

AN INDIVIDUAL

John Jones
1234 S. Main Street
Tucson, AZ 85040

SERVE: The party must be served with a copy of the summons and complaint.

HUSBAND AND WIFE

John and Mary Jones, husband and wife
1234 S. Main Street
Tucson, AZ 85040

SERVE: Each spouse must be served a copy of the summons and complaint. One spouse may be served with the other spouse's copies if they reside at the same residence.

TWO OR MORE DEFENDANTS

JOHN SMITH
1234 S. Main Street
Tucson, AZ 85040

MARY JONES
1000 E. First Street
Tucson, AZ 85040

SERVE: Each named defendant must be served a copy of the summons and complaint.

WHEN THE NAME OF THE DEFENDANT IS UNKNOWN

Matilda DOE
JOHN DOE Taylor
XYZ Corporation

Upon service, when the defendant's true name is discovered, the pleadings may be amended to reflect the true name.

SOLE OWNERSHIP

John Jones, Dba
Jones' Delicious Candy Shoppe
1234 S. Main Street
Tucson, AZ 85040

SERVE: The Owner

PARTNERSHIP

JOHN SMITH and JOE JONES, Partners
Dba JJ's Cafe
1000 E. First Street
Tucson, AZ 85040

SERVE either:

1. A Partner
2. A Managing or general agent
3. An Agent authorized by appointment

CORPORATION LLC COMPANY UNINCORPORATED ASSOCIATION

ABC Candy Store, Inc.
1234 S. Main Street
Tucson, AZ 85040

SERVE: Statutory Agent, as follows:

John Jones, Statutory Agent
5678 N. Eezee St.
Tucson, AZ 85040

If serving a statutory agent, you must mail a copy to the party on whose behalf the agent received service.

Service may also be effected upon:

1. An Officer of the corporation - President, Vice-President, Secretary, Treasurer
2. A Managing or general agent
3. An Agent authorized by appointment or law

CORPORATION COMMISSION: To determine Statutory Agent for a business or corporation contact: State of Arizona Corporation Commission 400 W. Congress, Tucson, AZ 85701 Phone: (520) 628-6560

PARENTS OF A MINOR

If the minor is under 16 years of age,
SERVE: The Minor and the parent or guardian

John and Mary Jones, husband and wife
Parents of Johnny Jones, a minor
1234 S. Main Street
Tucson, AZ 85040

If the minor is 16 years of age or more,
SERVE: The Minor

SERVING THE DIRECTOR OF INSURANCE

SERVE: The Statutory Agent

If the statutory agent is the DIRECTOR OF INSURANCE
SERVE: The DIRECTOR OF INSURANCE
400 W. Congress #152
Tucson, AZ 85701

SERVING THE REGISTRAR OF CONTRACTORS

SERVE: Registrar's Legal Officer and the Bonding company must be named as a defendant and served.



Pima County Justice Courts, Arizona

240 N. Stone Ave., Tucson, AZ 85701 (520) 724-3171

CASE NUMBER: _____

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

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

COMPLAINT

Amended Complaint

Plaintiff alleges that this Court has jurisdiction over this matter.

I am suing the defendant because:

I am asking the court to award me judgment against the defendant(s) in the sum of \$ _____ ,
(state claimed damages)
with interest until paid, plus all costs of this suit.

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

Date _____
Plaintiff(s) Signature _____

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

Interpreter: Yes, I need interpreter services. Language: _____



Pima County Justice Courts, Arizona

240 N. Stone Ave., Tucson, AZ 85701 (520) 724-3171

CASE NUMBER: _____

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

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

Serve on: Statutory Agent Address

CIVIL SUMMONS

Replacement Summons

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

1. YOU ARE SUMMONED to respond to this complaint by filing a written ANSWER with this Court and by paying the required fee. If you cannot afford to pay the required fee, you may request that the Court either waive or defer the fee.
2. If you were served with this summons in the State of Arizona, the Court must receive your answer within twenty (20) calendar days from the date you were served. If you were served outside the State of Arizona, the Court must receive your answer within thirty (30) calendar days from the date you were served. If the last day is a Saturday, Sunday, or legal holiday, you will have until the next working day to file your answer. When calculating time, do not count the day you were served.
3. Your answer must be in writing.
 - (a) You may obtain an answer form from this Court.
 - (b) You may also obtain an answer form from the Form section of the Pima County Justice Courts website at <http://www.jp.pima.gov/Forms/Forms.html#civil>
4. Provide a copy of your answer to the Plaintiff(s) or to the Plaintiff's attorney.
5. If you fail to file a written answer with this court within the time indicated above, a default judgment may be entered against you.

Notice: Requests for reasonable accommodations for persons with disabilities should be made to the court as soon as possible. If an interpreter is needed, please contact the court listed above to request an interpreter be provided.

Date _____
Justice of the Peace

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



**NOTICE TO THE DEFENDANT:
A LAWSUIT HAS BEEN FILED AGAINST YOU IN JUSTICE COURTS**

You have rights and responsibilities in this lawsuit. Read this notice carefully.

1. In a justice court lawsuit, individuals have a right to represent themselves, or they may hire an attorney to represent them. A family member or a friend may not represent someone in justice court unless the family member or friend is an attorney. A corporation has a right to be represented by an officer of the corporation, and a limited liability company (“LLC”) may be represented by a managing member. A corporation or an LLC may also be represented by an attorney.

If you represent yourself, you have the responsibility to properly complete your court papers and to file them when they are due. The clerks and staff at the court are not allowed to give you legal advice. If you would like legal advice, you may ask the court for the name and phone number of a local lawyer referral service, the local bar association, or a legal aid organization.

2. You have a responsibility to follow the Justice Court Rules of Civil Procedure (“JCRCP”) that apply in your lawsuit. The rules are available in many public libraries, at the courthouse, and online at the Court Rules page of the Arizona Judicial Branch website, at <http://www.azcourts.gov/>, under the “AZ Supreme Court” tab.
3. A “plaintiff” is someone who files a lawsuit against a “defendant.” You must file an answer or other response to the plaintiff’s complaint in writing and within twenty (20) days from the date you were served with the summons and complaint (or thirty (30) days if you were served out-of-state.) If you do not file an answer within this time, the plaintiff may ask the court to enter a “default” and a “default judgment” against you. Your answer must state your defenses to the lawsuit. Answer forms are available at the courthouse, on the Maricopa County Justice Court website at <http://justicecourts.maricopa.gov/>, and on the Self-Service Center of the Arizona Judicial Branch website at <http://www.azcourts.gov/> under the “Public Services” tab. You may also prepare your answer on a plain sheet of paper, but your answer must include the court location, the case number and the names of the parties. You must provide to the plaintiff a copy of any document that you file with the court, including your answer.
4. You may bring a claim against the plaintiff if you have one. When you file your answer or written response with the court, you may also file your “counterclaim” against the plaintiff.
5. You must pay a filing fee to the court when you file your answer. If you cannot afford to pay a filing fee, you may apply to the court for a fee waiver or deferral, but you must still file your answer on time.
6. You may contact the plaintiff or the plaintiff’s attorney and try to reach an agreement to settle the lawsuit. However, until an agreement is reached you must still file your answer and participate in the lawsuit. During the lawsuit, the court may require the parties to discuss settlement.
7. Within forty (40) days after your answer has been filed, you and the plaintiff are required to provide a disclosure statement to each other. The disclosure statement provides information about witnesses and exhibits that will be used in the lawsuit. A party may also learn more about the other side’s case through discovery. Read the Justice Court Rules of Civil Procedure for more information about disclosure statements and discovery.
8. The court will notify you of all hearing dates and trial dates. You must appear at the time and place specified in each notice. If you fail to appear at a trial or a hearing, the court may enter a judgment against you. To assure that you receive these notices, you must keep the court informed, in writing, of your current address and telephone number until the lawsuit is over.