

RESPONSE TO PETITION FOR GRANDPARENT'S THIRD PARTY RIGHTS



PINAL COUNTY

For Respondent Only

INSTRUCTIONS AND FORMS

**Provided as a Public Service by
AMANDA STANFORD
Clerk of the Superior Court**

REPRESENTING YOURSELF IN FAMILY COURT

It is not easy to represent yourself in Family Court, but many people do it for financial and other reasons. This brief guide provides some very basic information to help you understand the proceedings. It does not tell you everything about family law or family court, and it is no substitute for understanding Title 25 of the Arizona Revised Statutes, the Arizona Rules of Family Law Procedure, and the Arizona Rules of Evidence. For more information, you should go to the Pinal County Superior Court website (www.pinalcountyz.gov/Departments/JudicialBranch/) or consult a lawyer.

Proceedings In Family Court

Proceedings in Family Court follow the *Arizona Rules of Family Law Procedure*.

In a divorce or paternity case, you may be referred to an Early Resolution Conference, Mediation, a Parenting Conference, or a Settlement Conference (sometimes called an Alternative Dispute Resolution or “ADR”). These proceedings are designed to help the parties reach agreement on all or some of their disputes. They generally are not conducted by your assigned Judge.

You may also have to appear before the Judge for a pretrial hearing. The most common pretrial hearings are (1) a *Resolution Management Conference*, which helps the Judge manage the case by, among other things, setting deadlines and a trial date; and (2) a *Temporary Orders Hearing*, at which the Judge may issue temporary orders to govern the case until the trial.

If you do not reach a settlement of all issues, there will be a *trial*. This is the single hearing where the Judge will hear your evidence and make final decisions on disputed issues.

Disclosure And Discovery

To help parties prepare for the trial, the Arizona Rules of Family Law Procedure have *disclosure* and *discovery* requirements.

Disclosure requirements are in Rule 49. Each party must voluntarily provide certain information to the other party. You have an obligation to disclose such information to the other party, and you have a right to insist that the other party disclose such information to you. Failure to disclose as required may result in sanctions, including being barred from offering evidence that was not timely disclosed.

If you need information that is not voluntarily disclosed, you may engage in *discovery*, such as requesting documents from a party or subpoenaing documents from non-parties. Rules 51 through 65 of the Arizona Rules of Family Court discuss the requirements for discovery.

What Is A Trial?

A trial is the time for you and for the other party to present *evidence* on disputed issues.

General Issues If Children Are Involved In Your Case:

- Legal custody (decision-making authority over major matters concerning the children).
- Parenting time (what time each parent will spend with the children).
- Child support.

Additional Issues If Your Case Involves A Divorce:

- Spousal maintenance.
- Division of community property and allocation of debts.

The Judge will decide these issues based on the evidence presented during the trial. *Only evidence you bring to the trial will be considered.*

After the trial, the Judge may issue a ruling in open court or may take the case “under advisement,” which means that the Judge will issue a written ruling at a later time.

The judge’s ruling may be a signed **decree** or **judgment**, which officially concludes the case. If the judge chooses, the judge may decide disputed issues and then require one or both of the parties to submit a decree for the judge’s signature.

Preparing For The Trial

When preparing for the trial, it is critical that you read the judge’s minute entries carefully. The minute entries typically contain the Judge’s requirements for the trial. These requirements may include: (1) Submitting a **pretrial statement** that describes the issues in the case and lists your witnesses and exhibits; and (2) Giving copies of your **exhibits** to the Clerk and to the other party before the trial.

Many Judges impose **time limits** at the trial. It is your responsibility to make sure you present all your evidence in the time allotted.

What Happens During The Trial?

The main thing that happens during the trial is the presentation of **evidence**. The Judge will make decision based on the evidence presented during the trial. Evidence is generally of two kinds: (1) Witness testimony and (2) Documents.

When you call a **witness** to testify, you must ask the witness questions. A witness may only answer questions that are asked. When the party who called a witness is done with questioning, the other party may “cross-examine” the witness by asking additional questions.

A party may testify as a witness on his or her own behalf. However, while a witness is on the stand, the parties may only ask questions. Arguing with a witness or commenting on the answers is not allowed.

Documents may be evidence at the trial, but you must follow the proper procedure. Before the trial (usually 5 days before), you must give documents that you want to use to the Clerk of the Court to be “marked” with an exhibit number. However, marking an exhibit does not mean it is evidence. Rather, during the trial, you must “offer” the exhibit by asking the judge to admit it into evidence. The judge then decides whether to admit the evidence. The judge will consider only evidence that is **admitted**.

Proper Court Behavior

Although family cases are often emotional, it is important that everyone act in an orderly and respectful way in court. Here are some “Do’s and Don’ts:”

- Do dress appropriately. Don’t wear hats, sunglasses, or ragged clothes.
- Do wait your turn to speak. Don’t interrupt or bicker while someone else is talking.
- Do treat others with respect. Don’t curse, make faces, or engage in confrontational behavior.
- Do be honest and candid with the judge. Don’t lie or try to hide things.
- Do make sure that friends and family who accompany you sit quietly. They are not allowed to speak unless called as a witness, and then only when they are testifying.

For Additional Information

This guide presents very basic information. For additional information, read the applicable statutes and rules, visit the Pinal County Superior Court website (www.pinalcountyz.gov/Departments/Judicial Branch) and if necessary, consult a lawyer.

Name of Person Filing: _____
 Street Address: _____
 City, State, Zip Code: _____
 Telephone Number: _____
 Email Address: _____
 ATLAS Number (if applicable) _____
 Representing Self (No Attorney) or Represented by Attorney
 If Attorney, Bar Number: _____

**SUPERIOR COURT OF ARIZONA
 PINAL COUNTY**

In the Matter of:

 Name of Grandparent(s) Requesting Third Party Rights

CASE NUMBER: DO2

 Name(s) of Mother, and/or Father

**RESPONSE TO PETITION FOR
 GRANDPARENT'S THIRD PARTY RIGHTS**

 Name of Other Parent or Legal Guardian (if any)

HONORABLE: _____

GENERAL INFORMATION:

1. Information about me, the person filing this response:

Name: _____
 Address: _____
 County of Residence: _____
 Date of Birth: _____
 Occupations(s): _____

Relationship to child(ren) for whom THIRD PARTY RIGHTS order is requested: (explain) _____

2. Information about the petitioner(s):

Name: _____
 Address: _____
 County of Residence: _____
 Date of Birth: _____
 Occupations(s): _____

Relationship to child(ren) for whom THIRD PARTY RIGHTS Order is requested: (Check one box)

- Parent of Mother of child(ren)
 - Parent of Father child(ren)
 - Grandparent of Mother of child(ren)
 - Grandparent of Father child(ren)
 - Other: (explain): _____
-

3. Information about the mother of child(ren)

Name: _____
Address: _____
County of Residence: _____
Date of Birth: _____
Occupations(s): _____

4. Information about the father of child(ren)

Name: _____
Address: _____
County of Residence: _____
Date of Birth: _____
Occupations(s): _____

5. Information about other legal guardians of child(ren), if any:

Name: _____
Address: _____
County of Residence: _____
Date of Birth: _____
Occupations(s): _____

6. Information about child(ren) for whom I or we want Third Party Rights order:

Name: _____
Birth Date: _____
Current Address: _____

Name: _____
Birth Date: _____
Current Address: _____

County of Residence: _____
Father: _____
Mother: _____

County of Residence: _____
Father: _____
Mother: _____

Name: _____
Birth Date: _____
Current Address: _____

Name: _____
Birth Date: _____
Current Address: _____

County of Residence: _____
Father: _____
Mother: _____

County of Residence: _____
Father: _____
Mother: _____

7. Petitioners do not have a right to Third Party Rights under Arizona law (A.R.S. § 25-409) because:
(Check box(es) for statements that apply and write-in requested information if applicable)

A. Parents of child(ren) **HAVE NOT BEEN DIVORCED** for at least 3 months:
If Divorced:
Date of Divorce: _____
Court case number: _____
Name of court: _____
Court Location/address: _____

B. Mother OR Father of child(ren) **HAS NOT BEEN DEAD** for at least 3 months:
Date of Death: _____

C. Mother OR Father of child(ren) **HAS NOT BEEN MISSING** for at least 3 months:
Date parent discovered to be missing: _____
Date reported to Law enforcement agency: _____
Name, location of agency: _____

D. Child(ren) NOT BORN OUT OF WEDLOCK:

E. Petitioner's are asking for Third Party Rights rights as grandparents on the father's side, complete information below:

1. Date of paternity order, if one exists: _____
Court case number: _____
Name of Court: _____
Location, address of court: _____

2. If no paternity order, explain why you think the Petitioner's son is not the father of child(ren):

8. Statements about Petitioner's relationship with the child(ren) for the last 6 months, and why you think it is NOT best for the child(ren) for Third Party Rights to be ordered, or limitation on Third Party Rights that should be set:

9. Your plan for Third Party Rights for the good of the child(ren): (be specific)

TRANSPORTATION will be provided by (name): _____
as follows: (explain)

During WEEKENDS (explain specifically)

During the SUMMER MONTHS OR SCHOOL BREAKS: (explain specifically)

FOR HOLIDAYS AND BIRTHDAYS: (explain specifically)

FOR TELEPHONE CALLS: (explain specifically)

OTHER: (explain specifically)

OTHER INFORMATION ABOUT THE CHILD(REN):

10. Where the child(ren) who is/are under 18 years old have lived for the last 5 years. (Attach extra pages if necessary.)

Child's Name: _____ Dates: From _____ To _____
Lived with: _____ Relationship to child: _____
Street Address: _____ City, State, Zip: _____

Child's Name: _____ Dates: From _____ To _____
Lived with: _____ Relationship to child: _____
Street Address: _____ City, State, Zip: _____

Child's Name: _____ Dates: From _____ To _____
Lived with: _____ Relationship to child: _____
Street Address: _____ City, State, Zip: _____

11. COURT CASES NOT INVOLVING LEGAL DECISION-MAKING OR THIRD PARTY RIGHTS RELATED TO THE CHILD(REN) UNDER 18 YEARS OLD: (check one box) I HAVE I HAVE NOT been a party or a witness in court in this state or in any other state regarding the Legal Decision-Making or Third Party Rights of any of the children named above (If so, explain below, using extra pages if necessary. IF NOT, GO ON.)

Name of each child: _____

Court State: _____ Court Location: _____
Court Case Number: _____ Current Status: _____

How the child is involved: _____

Summary of any Court Order: _____

12. LEGAL DECISION-MAKING OR THIRD PARTY RIGHTS CASES RELATED TO CHILDREN UNDER 18 YEARS OLD:

(check one box) I DO HAVE I DO NOT HAVE information about a Legal Decision-Making or Third Party Rights court case relating to any of the children named above that is pending in this state or in any other state (If so, explain below, using extra pages if necessary. IF NOT, GO ON).

Name of each child: _____

Court State: _____ Court Location: _____

Court Case Number: _____ Current Status: _____

How the child is involved: _____

Summary of any Court Order: _____

13. LEGAL DECISION-MAKING OR THIRD PARTY RIGHTS CLAIMS OF ANY PERSON: (check one box)

I DO KNOW I DO NOT KNOW a person other than the Petitioner or the Respondent who has physical Legal Decision-Making or who claims Legal Decision-Making or Third Party Rights rights to any of the children named above. (If so, explain below, using extra pages if necessary. IF NOT, GO ON).

Name of each child: _____

Name of person with the claim: _____

Address of person with the claim: _____

Nature of the claim: _____

14. SUMMARY OF WHAT I SAY ABOUT THE CHILDREN THAT IS DIFFERENT FROM WHAT THE OTHER PERSON ASKED FOR: (Here summarize what is different between what you say about the child(ren), and what the other party said) _____

OTHER STATEMENTS TO THE COURT:

15. VENUE: This is the proper court to bring this lawsuit under Arizona law because it is the county of residence of the petitioner, or the respondent, or the child(ren).

16. GENERAL DENIAL: I deny anything stated in the complaint that I have not specifically admitted, qualified, or denied.

REQUESTS TO THE COURT: (check which number applies to your request)

- 1. ORDER THIRD PARTY RIGHTS as described above.
- 2. ORDER **NO** THIRD PARTY RIGHTS to the Grandparent Petitioner(s).

(Check and complete "3" only if you believe Third Party Rights should be supervised)

- 3. **SUPERVISED THIRD PARTY RIGHTS** is in the best interests of the child(ren), pursuant to A.R.S. § 25-410, because (explain reasons Third Party Rights should be supervised):

Therefore supervised Third Party Rights to (name) _____
only in the presence of another person, who is named by the court or as suggested below, upon a finding that supervised access is in the best interest of the child(ren),

Name of Person to Supervise: _____

Requested restrictions on Third Party Rights: (explain here)

The cost of supervised Third Party Rights shall be paid by:

- the person being supervised;
- the parent having Legal Decision-Making;
- shared equally by the parties.

- 4. **OTHER ORDERS. Write in other orders you are requesting from the Court:**

OATH OR AFFIRMATION AND VERIFICATION:

I swear or affirm that the information on this document is true and correct under penalty of perjury.

Date

Signature

State of Arizona)

)

County of _____)

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20 _____

by _____
Name of Signer

Commission Expires

Notary Public