

SUPREME COURT OF ARIZONA

In the Matter of ) Arizona Supreme Court  
 ) No. R-09-0025  
SUA SPONTE PETITION TO AMEND )  
RULES 6(e) and 35(c) (2), )  
RULES OF CIVIL PROCEDURE )  
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 )  
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\_\_\_\_\_ )

**ORDER**

A sua sponte petition having been filed by the staff of the Arizona Supreme Court proposing to correct certain erroneous cross-references in Rules 6(e) and 35(c) (2), Rules of Civil Procedure, upon consideration,

IT IS ORDERED that Rules 5(c) (2) (C), 6(e), and 35(c) (2), Rules of Civil Procedure, and Rule 1.3, Rules of Criminal Procedure, be amended in accordance with the attachment hereto, effective January 1, 2010.

DATED this \_\_\_\_\_ day of September, 2009.

\_\_\_\_\_  
REBECCA WHITE BERCH  
Chief Justice

TO:  
Rule 28 Distribution

**ATTACHMENT\***

**Rule 5(c), Rules of Civil Procedure**

**Rule 5(c). Service After Appearance; Service After Judgment; How Made**

(1) [No change]

(2) *Service in General.* A paper is served under this rule by:

(A) [No change]

(B) [No change]

(C) Mailing it via U.S. mail to the person's last known address – in which event service is complete upon mailing; or

(D) [No change]

(3) – (4) [No change]

**Rule 6(e), Rules of Civil Procedure**

**Rule 6(e). Additional time after service under Rule 5(c)(2)(C), or (D) ~~or (E)~~**

Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served by a method authorized by Rule 5(c)(2)(C), or (D), ~~or (E)~~, five calendar days shall be added to the prescribed period. This rule has no application to the distribution of notice of entry of judgment required by Rule 58(e).

**Rule 1.3, Rules of Criminal Procedure**

**Rule 1.3. Computation of Time**

**a.General Time Computation.** In computing any period of time of more than 24 hours, prescribed by these rules, by order of court, or by an applicable statute, the day of the act or event from which the designated period of time begins to run is not to be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal

holiday, in which case the period shall run until the end of the next day which is neither a Saturday, Sunday nor a legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays\_ and legal holidays shall be excluded in the computation. Whenever a party has the right or is required to take some action within a prescribed period after service of a notice or other paper and the notice or paper is served by a method authorized by Rule 5(c)(2)(C), or (D) ~~, or (E)~~, Arizona Rules of Civil Procedure, five calendar days shall be added to the prescribed period. Mailing pursuant to Arizona Rule of Civil Procedure 5(c)(2)(C) includes every type of service except same day hand delivery.

### **Rule 35(c)(2), Rules of Civil Procedure**

(2) Upon motion by a party or by the person to be examined, and for good cause shown, the court in which the action is pending may, in addition to other orders appropriate under subdivision (a) of this rule, make an order that the examination be made by a physician or psychologist other than the one specified in the notice. If a party after being served with a proper notice under this subdivision does not make a motion under this rule, and fails to appear for the examination or to produce for the examination the person in the party's custody or legal control, the court in which the action is pending may on motion make such orders in regard to the failure as are just, such as those specified in Rule 37~~(d)~~ (f).

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\*Additions to text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.