

## Rule 72 Family Law Master

**A. Appointment and Compensation** Upon stipulation and application by the parties, or on the court's own motion, the court may appoint a family law master who is an attorney or other professional with education, experience, and special expertise regarding the particular issues to be referred to the master. The compensation to be allowed to a master shall be fixed by the court. The parties may stipulate to a particular family law master and the amount of compensation, but the court must approve the family law master and compensation, and the court shall review the qualifications of the family law master prior to appointment. Compensation of the family law master shall be allocated by the court and shall be treated as a taxable cost.

**B. Powers** The order of reference appointing a family law master shall specify the particular issues referred to the family law master and shall fix the time and place for beginning and closing the hearings and for filing the master's report. The master may deal with any issues pursuant to Title 25, A.R.S., that could be presented to the assigned judge including post-decree matters. Subject to any limitations in the order, the master shall exercise the power to regulate all proceedings in every hearing before the master and to do all acts and take all measures necessary or proper for the efficient performance of the master's duties under the order. The master may require the production of evidence upon all matters embraced in the reference. The master may rule upon the admissibility of evidence, unless otherwise directed by the order of reference, and has the authority to place witnesses under oath and may examine the parties and witnesses. When a party requests, the master shall cause a record to be made of the evidence offered and excluded in the same manner and subject to the same limitations as provided in Rule 104, Arizona Rules of Evidence, for a court sitting without a jury. The cost of the record shall be paid by the parties as allocated by the court and shall be treated as a taxable cost.

**C. Meetings** Upon receipt of an order of reference, the master shall set a time and place for the first meeting of the parties or their attorneys, to be held within twenty (20) days after the date of the order of reference, and shall notify the parties. It is the duty of the master to proceed with all reasonable diligence. Unless stipulated otherwise, Rule 2(B) and these rules shall apply to all proceedings before the master. If a party fails to appear at the time and place appointed, the master may proceed *ex parte* or, in the master's discretion adjourn the proceedings to a future day, giving notice to the absent party of the adjournment.

**D. Witnesses** The parties may procure the attendance of witnesses before the master by the issuance and service of subpoenas as provided in Rule 52. If without adequate excuse a witness fails to appear or give evidence, the witness may be punished as for contempt and be subjected to the consequences, penalties, and remedies provided in Rules 65 and 52.

**E. Report** The master shall prepare a report on the matters submitted to the master by the order of reference that includes requested findings of fact and conclusions of law concerning the disputed issues referred. Before filing the master's report, a master may submit a draft thereof to counsel for all parties for the purpose of receiving their suggestions. The master shall file the final report with the clerk of the court. Unless otherwise ordered by the order of reference, the master shall file with the clerk of the court any transcript of the proceedings prepared and with the evidence and original exhibits presented. The master shall mail a copy of the report to the parties on the same date the original report is filed with the clerk.

**F. Objections** A party may object to the master's report by filing with the court a motion to modify or reject the master's report, as prescribed in Rule 35, no later than fifteen (15) days from the date of mailing of the master's report. Each objection shall be stated with specificity and

shall reference the exhibits or portions of the record supporting the objection. Any response to an objection shall be filed no later than ten (10) days from the date the objection is mailed. No further pleadings shall be permitted without prior court order.

**G. Court Actions** If no objection is filed by either party pursuant to this rule, the master's report shall become an order of the court, unless the court on its own motion sets a hearing upon a particular issue in the report within ten (10) days after the time for filing an objection has passed. If the master's report covers all issues in the case, and no objection is filed and the court does not set a hearing, the court shall enter judgment on the master's report. In the event any objection(s) are filed, the court may set oral argument on the objection(s), adopt the report, modify it, reject it in whole or in part or may receive further evidence. The court shall hold a hearing or enter an order in connection with any objection to the master's report within thirty (30) days of the filing of the response or other ordered pleading to such objection.

**H. Stipulation as to Findings** At the time the master is appointed, the parties may stipulate that a master's findings of fact shall be final. When so stipulated, the court shall consider only questions of law arising from the master's report. Absent such a stipulation, the court shall not reverse the special master's findings of fact unless clearly erroneous and shall review conclusions of law *de novo*.

**I. Sanctions** The court may impose sanctions upon any party or counsel for conduct occurring before the master or in conjunction with the master's proceedings or objections to the master's report that is done to harass, or to cause unnecessary delay, or needlessly increase the cost of litigation. The master may also make recommendations for imposition of sanctions under these rules, case law, or statute.

**J. Immunity** The family law master has immunity in accordance with Arizona law as to all acts undertaken pursuant to and consistent with the order of reference.

**K. Applicability** No county is required to employ or utilize family law masters; however, in the event a county elects to use family law masters, these rules shall apply.

**L. Retirement, Benefits, Stock Options, and other Employment Related Compensation** If an order of the court requires the division of retirement benefits, stock options or other employment related benefits, the court may appoint an attorney or other professional with the appropriate expertise to carry out the division of retirement benefits, stock options or other employment related benefits. The court shall identify the specific assets to be so divided, whether a determination is to be made as to the community's interest in such assets and any other special determinations to be made. The court shall in addition to the powers specifically listed in this rule, provide that a family law master under this paragraph shall have the power to require the production of documents, answers to interrogatories and to issue subpoenas to obtain any needed records and to take into account the availability of records and the cooperativeness of the parties in determining the parties' relative interests in such retirement benefits, stock options or other employment related benefits. The family law master under this section shall have the power to order the appearance of each party using the most recent address of a party that is available and can proceed to determine the parties' relative interests even if a party does not appear or present to the court a position on the merits of the parties' claims or the terms of division of retirement benefits, stock options or other employment related benefits.

Research References

West's Key Number Digest, Alternative Dispute Resolution &key;100

Added Oct. 19, 2005, effective Jan. 1, 2006. Amended Sept. 16, 2008, effective Jan. 1,

## 2009.COMMITTEE COMMENT

This rule is based on Rule 53, Arizona Rules of Civil Procedure and is to be used for the same purposes as Rule 53. Depending on the issues, the master could be an attorney or a person with specialized knowledge on the issues referred to the family law master. A family law master may also be appointed to hear a pre-decree/pre-judgment or post-decree case in the same manner that a judge or arbitrator would hear a case, except that the trial court judge would have the final decision after receiving the master's report and ruling on any objections. Where the issues are ongoing enforcement of custody or parenting time orders or related issues, a Parenting Coordinator should be appointed instead of a family law master, pursuant to Rule 74. AUTHORS' COMMENTS