

**§ 12-1842. Construction**

This article is declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations; and is to be liberally construed and administered.

**§ 12-1843. Words construed**

The word "person" wherever used in this article shall be construed to mean any person, partnership, joint stock company, unincorporated association, or society, or municipal or other corporation of any character whatsoever.

**§ 12-1844. Provisions severable**

The several sections and provisions of this article except §§ 12-1831 and 12-1832, are hereby declared independent and severable, and the invalidity, if any, of any part or feature thereof shall not affect or render the remainder of the article invalid or inoperative.

**§ 12-1845. Uniformity of interpretation**

This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it, and to harmonize, as far as possible, with federal laws and regulations on the subject of declaratory judgments and decrees.

**§ 12-1846. Short title**

This article may be cited as the uniform declaratory judgments act.

**ARTICLE 3. CERTIFICATION OF QUESTIONS OF LAW ACT**

*Article 3, Certification of Questions of Law Act, consisting of §§ 12-1861 to 12-1867, was added by Laws 1984, Ch. 111, § 1, effective Aug. 3, 1984.*

**UNIFORM CERTIFICATION OF QUESTIONS OF LAW ACT (1967)**

*Table of Jurisdictions Wherein Act Has Been Adopted*

*For text of Uniform Act, and variation notes and annotation materials for adopting jurisdictions, see Uniform Laws Annotated, Master Edition or Uniform Laws Annotated on Westlaw.*

Jurisdiction	Laws	Effective Date	Statutory Citation
Alabama			Ala. Rules of App. Proc., Rule 18.
Alaska			Alaska Rules of Appellate Procedure, Rule 407.
Arizona	1984, c. 111	8-3-1984	A.R.S. §§ 12-1861 to 12-1867.
Colorado		4-1-1970	Colo. App. Rules, Rule 21.1.
District of Columbia	P.L. 99-573	10-28-1986	D.C. Official Code, 2001 Ed. § 11-723.
Florida		3-1-1961	Rules of App. Proc., Rule 9.150.
Georgia			O.C.G.A. § 15-2-9.
Iowa	1979, S.F. 294	1-1-1980	I.C.A. §§ 684A.1 to 684A.11.
Kansas	1979, c. 181	7-1-1979	K.S.A. §§ 60-3201 to 60-3212.
Kentucky		9-1-1978	Rules of Civil Procedure, Rule 76.37.
Louisiana	1972, No. 84		LSA-R.S. 13:72.1; Sup. Ct. Rule 12.
Maine		1-1-2001	Rules of Appellate Proc., Rule 25.
Massachusetts		11-1-1971	Rules of Supreme Judicial Court, General Rule 1:03.
Mississippi		8-1-1980	Rules of Appellate Procedure, Rule 20.
New Hampshire		4-2-1968	RSA 490; Supreme Ct. Rules, Rule 34.
New Mexico	Sup. Ct. Order 9-16-1986		NMRA, Rules of Appellate Procedure, Rule 12-607.
North Dakota		2-15-1977	Rules of App. Proc., Rule 47.
Ohio		7-15-1988	Supreme Court Rules of Practice, Rule XVIII.
Oregon	1983, c. 103		ORS 28.200 to 28.255.
Rhode Island			Supreme Court Rules, Article 1, Rule 6.
South Dakota	1984, c. 154		SDCL 15-24A-1 to 15-24A-11.
Washington		4-24-1974	West's RCWA 2.60.010 to 2.60.900.
Wisconsin	Sup. Ct. Order 6-16-1982	1-1-1983	W.S.A. 821.01 to 821.12.
Wyoming	1976, c. 36		Rules of Appellate Procedure, Rules 11.01 to 11.07.

**§ 12-1861. Supreme court; questions of law certified by other courts**

The supreme court may answer questions of law certified to it by the supreme court of the United States, a court of appeals of the United States, a United States district court or a tribal court when requested by the certifying court if there are involved in any proceedings before the certifying court questions of law of this state which may be determinative of the cause then pending in the certifying court and as to which it appears to the certifying court there is no controlling precedent in the decisions of the supreme court and the intermediate appellate courts of this state.  
Added by Laws 1984, Ch. 111, § 1. Amended by Laws 1993, Ch. 225, § 1.

**§ 12-1862. Invocation of proceedings**

This article may be invoked by an order of any of the courts referred to in § 12-1861 on the court's own motion.  
Added by Laws 1984, Ch. 111, § 1.

**§ 12-1863. Certification order; contents**

A certification order shall set forth both of the following:

1. The questions of law to be answered.

2. A statement of all facts relevant to the questions certified and showing fully the nature of the controversy in which the questions arose.

Added by Laws 1984, Ch. 111, § 1.

**§ 12-1864. Preparation and transmission of certification order**

A. The certification order shall be prepared by the certifying court, signed by the judge presiding at the hearing and forwarded to the supreme court by the clerk of the certifying court under its official seal.

B. The supreme court may require the original or copies of all or of any portion of the record before the certifying court to be filed with the certification order, if, in the opinion of the supreme court, the record or portion of the record may be necessary in answering the questions.

Added by Laws 1984, Ch. 111, § 1.

**§ 12-1865. Fees and costs**

Fees and costs shall be the same as in civil appeals docketed before the supreme court and shall be equally divided between the parties unless otherwise ordered by the certifying court in its order of certification.

Added by Laws 1984, Ch. 111, § 1.

**§ 12-1866. Proceedings in the supreme court**

Proceedings in the supreme court shall be those provided in rules adopted by it and statutes governing briefs and arguments.

Added by Laws 1984, Ch. 111, § 1.

**§ 12-1867. Opinion of supreme court**

The written opinion of the supreme court stating the law governing the questions certified shall be sent by the clerk under the seal of the supreme court to the certifying court and to the parties.

Added by Laws 1984, Ch. 111, § 1.

**ARTICLE 4. CLASS ACTIONS**

*Article 4, Class Actions, consisting of §§ 12-1871 to 12-1873, was added by Laws 2013, Ch. 241, § 1, effective Sept. 13, 2013.*

**§ 12-1871. Determination of maintainability**

A. After the commencement of an action that is brought as a class action and after a hearing, the court shall determine by order whether the action is to be maintained as a class action. The court may condition, alter, amend or withdraw its order at any time before the decision on the merits.

B. If the court finds that an action should be maintained as a class action, the court shall certify the action in writing, shall set forth its reasons as to why the action should be maintained as a class action and shall describe all evidence in support of its determination.

Added by Laws 2013, Ch. 241, § 1.

**§ 12-1872. Court orders**

In the conduct of class actions, the court may make orders that:

1. Determine the course of the proceedings or that prescribe measures to prevent undue repetition or complication in the presentation of evidence or argument.

2. For the protection of the class members or for the fair conduct of the action, require that notice be given in any manner the court directs to some or all of the members of any step in the action, of the proposed entry of judgment or of the opportunity of members to signify whether they consider the representation to be fair and adequate, to intervene and present claims and defenses or otherwise to come into the action.

3. Impose conditions on the representative parties or on intervenors.

4. Require that the pleadings be amended to eliminate allegations as to representation of absent persons and that the action proceed accordingly.

5. Deal with similar procedural matters.

6. Combine with any other appropriate pretrial order.

Added by Laws 2013, Ch. 241, § 1.

**§ 12-1873. Appeals; stay**

A. The court's certification or refusal to certify a class action is appealable in the same manner as a final order or judgment.

B. If an appeal is filed pursuant to this section, all discovery and other proceedings shall be stayed except that on motion of a party, the court may permit discovery proceedings to continue during the pendency of the appeal.

## Partial Abrogation

*Abrogated insofar as applicable to civil appeals by November 1, 1977 Supreme Court order, effective January 1, 1978. See, now, Civil Appellate Proc. Rules, Rule 3. For abrogation order and cross-reference table to new rules relating to similar provisions, see "Order Promulgating the Arizona Rules of Civil Appellate Procedure" preceding Rule 1 of Arizona Rules of Civil Appellate Procedure.*

### Rule 27. Certification of Questions of Law from Federal and Tribal Courts

#### (a) Filing; form; number of copies; additional record.

(1) A certification proceeding may be commenced in this court by filing with the clerk of this court a certification order from a federal court or the court of last resort of a federally recognized Indian tribe within the boundaries of the State of Arizona.

(2) The certification order shall be filed in this court only by the clerk of the certifying court.

(3) The certification order shall set forth:

(A) The questions of law to be answered;

(B) A statement of all facts relevant to the questions certified;

(C) A list of the counsel (or pro se parties) appearing in the matter, together with their addresses and telephone numbers;

(D) The proportions in which the parties shall share the required filing fees, if such proportions are not to be equal;

(E) Any other matters that the certifying court deems relevant to a determination of the questions certified.

(4) An original and six copies of the certification order shall be filed.

(5) Upon request of this court, the clerk of the certifying court shall transmit to the clerk of this court the original or copies of such other portions of the certifying court's record as this court deems necessary to a determination of the certified questions.

#### (b) Acceptance of jurisdiction; notice; motion for reconsideration.

(1) Upon the filing of the certification order and any additional record requested by this court, this court will determine whether it will accept jurisdiction or decline to accept jurisdiction to answer the certified questions.

(2) The clerk of this court will promptly notify the certifying court and the parties of this court's decision to accept jurisdiction or to decline to accept jurisdiction.

(3) No motion for reconsideration of an order declining to accept jurisdiction of a certification order shall be filed.

(c) **Filing fees.** Upon receipt of notice that the court has accepted jurisdiction of a certification order and notice of the amount of the required filing fees, the parties shall promptly remit such amount to the clerk of this court.

#### (d) Briefing; oral argument.

(1) Within twenty (20) days after entry of an order accepting jurisdiction of the certification order, each of the parties may file a brief addressing the questions to be answered. No further briefs may be filed without leave of court.

(2) Oral argument may be had only upon order of the court. Any party may request oral argument within the time provided for filing a brief.

(e) **Costs and attorneys' fees.** There shall be no application for costs or attorneys' fees made to this court in connection with a certification proceeding.

(f) **Motions; other procedures.** Except as otherwise provided herein, the Arizona Rules of Civil Appellate Procedure shall apply to motions and other procedures under this rule. Added Jan. 10, 1985, effective Feb. 1, 1985. Amended March 18, 1994, effective June 1, 1994.

## Comment

This Rule [27(a)] implements the provisions of A.R.S. § 12-1861 *et seq.*

Under A.R.S. § 12-1861, the decision whether or not to answer the questions certified is discretionary.

This section [27(c)] provides for the payment of the fees provided for by A.R.S. § 12-1865. Such fees are to be shared equally unless otherwise ordered by the certifying court in its certification order. See Rule 27(a)(3)(D), above.

This section [27(d)] contemplates that the parties may file simultaneous briefs. Further briefing will be permitted only upon order of the court. The rule also contemplates that there be no oral argument with respect to whether the court should accept jurisdiction.

This rule [27(e)] contemplates that fees, costs, and attorneys' fees be awarded by the certifying court at the conclusion of its proceedings. The Supreme Court of Arizona will not make such awards.

### Rule 28. Procedure for Adoption, Amendment, and Abrogation of Court Rules

#### (a) Rule Petitions.

(1) **Petitions.** Any person may petition the Arizona Supreme Court to adopt, amend, or abrogate a court rule that has statewide application. Petitions about local court rules are governed by Rule 28.1.

(2) **Due Date.** Petitions filed by January 10 will be considered at the Court's annual rules agenda the following August or September.

(3) **How to File.** Petitions may be filed either electronically or on paper by:

(A) Electronically Filing on the Court Rules Forum.

(i) **Registration.** Petitioners must register on the Court Rules Forum, <https://www.azcourts.gov/Rules-Forum>.

(ii) **Filing a Petition.** A petitioner must file the petition and any attachments on the Court Rules Forum in both PDF and Microsoft Word formats. The PDF version is the Court's official record. The Court Rules Forum moderator may reject non-compliant petitions.

(iii) **Effect of Electronic Filing.** An electronically filed petition constitutes the filing of the original document under the rules governing practice and procedure in Arizona state courts. By filing a petition electronically, the petitioner consents to receiving electronic delivery of

counsel, incompetent or ineffective counsel, or violations of other rights based on the United States or Arizona constitutions.

**Rule 32.1(d).** This provision is intended to include claims such as miscalculation of sentence or computation of sentence credits that result in the defendant remaining in custody when he or she should be free. It is not intended to include challenges to the conditions of imprisonment or correctional practices.

**Rule 32.1(h).** This claim is independent of a claim under Rule 32.1(e) concerning newly discovered evidence. A defendant who establishes a claim of newly discovered evidence need not comply with the requirements of Rule 32.1(h).

#### Applicability Provision

*The rules put forth by Order No. R-19-0012, effective January 1, 2020, apply to all actions filed on or after January 1, 2020, and in all other actions pending on January 1, 2020, except to the extent that the court in an affected action determines that applying the rule or amendment would be infeasible or work an injustice, in which event the former rule or procedure applies.*

### Rule 32.2. Preclusion of Remedy

**(a) Preclusion.** A defendant is precluded from relief under Rule 32.1(a) based on any ground:

- (1) still raiseable on direct appeal under Rule 31 or in a post-trial motion under Rule 24;
- (2) finally adjudicated on the merits in an appeal or in any previous post-conviction proceeding; or
- (3) waived at trial or on appeal, or in any previous post-conviction proceeding, except when the claim raises a violation of a constitutional right that can only be waived knowingly, voluntarily, and personally by the defendant.

**(b) Claims Not Precluded.** Claims for relief based on Rule 32.1(b) through (h) are not subject to preclusion under Rule 32.2(a)(3), but they are subject to preclusion under Rule 32.2(a)(2). However, when a defendant raises a claim that falls under Rule 32.1(b) through (h) in a successive or untimely post-conviction notice, the defendant must explain the reasons for not raising the claim in a previous notice or petition, or for not raising the claim in a timely manner. If the notice does not provide sufficient reasons why the defendant did not raise the claim in a previous notice or petition, or in a timely manner, the court may summarily dismiss the notice. At any time, a court may determine by a preponderance of the evidence that an issue is precluded, even if the State does not raise preclusion. Added Aug. 29, 2019, effective Jan. 1, 2020. Amended on an emergency basis Dec. 12, 2019, effective Jan. 1, 2020, adopted on a permanent basis Feb. 5, 2020.

#### Applicability Provision

*The rules put forth by Order No. R-19-0012, effective January 1, 2020, apply to all actions filed on or after January 1, 2020, and in all other actions pending on January 1, 2020, except to the extent that the court in an affected action determines that applying the rule or amendment would be infeasible or work an injustice, in which event the former rule or procedure applies.*

### Rule 32.3. Nature of a Post-Conviction Proceeding and Relation to Other Remedies

**(a) Generally.** A post-conviction proceeding is part of the original criminal action and is not a separate action. It

displaces and incorporates all trial court post-trial remedies except those obtainable by Rule 24 motions and habeas corpus.

**(b) Other Applications or Requests for Relief.** If a court receives any type of application or request for relief—however titled—that challenges the validity of the defendant's conviction or sentence following a trial, it must treat the application as a petition for post-conviction relief. If that court is not the court that convicted or sentenced the defendant, it must transfer the application or request for relief to the court where the defendant was convicted or sentenced.

**(c) Defendant Sentenced to Death.** A defendant sentenced to death in a capital case must proceed under Rule 32 rather than Rule 33 for all post-conviction issues, even if the defendant pled guilty to first-degree murder or other crimes.

Added Aug. 29, 2019, effective Jan. 1, 2020.

#### COMMENT

This rule provides that all Rule 32 proceedings are to be treated as criminal actions. The characterization of the proceeding as criminal assures compensation for appointed counsel, and the applicability of criminal standards for admissibility of evidence at an evidentiary hearing, except as otherwise provided.

Rule 32 does not restrict the scope of the writ of habeas corpus under Ariz. Const. art. 2, § 14. See A.R.S. §§ 13-4121 et seq., which provides a remedy for individuals who are unlawfully committed, detained, confined, or restrained. But if a convicted defendant files a petition for a writ of habeas corpus (or an application with a different title) that seeks relief available under Rule 32, the petition or application will be treated as a petition for post-conviction relief.

This rule does not limit remedies that are available under Rule 24.

#### Applicability Provision

*The rules put forth by Order No. R-19-0012, effective January 1, 2020, apply to all actions filed on or after January 1, 2020, and in all other actions pending on January 1, 2020, except to the extent that the court in an affected action determines that applying the rule or amendment would be infeasible or work an injustice, in which event the former rule or procedure applies.*

### Rule 32.4. Filing a Notice Requesting Post-Conviction Relief

**(a) Generally.** A defendant starts a Rule 32 proceeding by filing a Notice Requesting Post-Conviction Relief.

**(b) Notice Requesting Post-Conviction Relief.**

**(1) Where to File; Forms.** A defendant must file a notice requesting post-conviction relief under Rule 32 in the court where the defendant was sentenced. The court must make "notice" forms available for defendants.

**(2) Content of the Notice.** The notice must contain the caption of the original criminal case or cases to which it pertains, and all information shown in Rule 41, Form 24(b).

**(3) Time for Filing.**

**(A) Claims under Rule 32.1(a).** A defendant must file the notice for a claim under Rule 32.1(a) within 90 days after the oral pronouncement of sentence or within 30 days after the

C. An appeal filed pursuant to subsection A of this section shall be entitled to preference.

Added by Laws 2013, Ch. 241, § 1.

## CHAPTER 11

### EXTRAORDINARY LEGAL REMEDIES

#### ARTICLE 1. CERTIORARI

##### Section

- 12-2001. Granting of writ.
- 12-2002. Application for writ; grant of writ.
- 12-2003. Contents of writ.
- 12-2004. Stay of proceedings.
- 12-2005. Service of writ.
- 12-2006. Extent of review.
- 12-2007. Denial of return to writ; hearing; transmittal of judgment; appeal.

#### ARTICLE 2. MANDAMUS

- 12-2021. Issuance of writ.
- 12-2022. Alternative or peremptory writ.
- 12-2023. Application for writ; notice; hearing on default.
- 12-2024. Answer and reply.
- 12-2025. Trial; order; jury; place of trial; procedure.
- 12-2026. Motion for new trial; retrial.
- 12-2027. Determination of questions of law.
- 12-2028. Writ of mandamus; service.
- 12-2029. Disobedience of writ; classification.
- 12-2030. Mandamus action; award of fees and other expenses against the state or political subdivision; definition.

#### ARTICLE 3. QUO WARRANTO

- 12-2041. Action by attorney general; venue.
- 12-2042. Action by county attorney.
- 12-2043. Failure of attorney general or county attorney to bring action for claimant of office.
- 12-2044. Adjudication of office; damages; several claimants.
- 12-2045. Judgment of usurpation; classification.

#### ARTICLE 1. CERTIORARI

##### § 12-2001. Granting of writ

The writ of certiorari may be granted by the supreme and superior courts or by any judge thereof, in all cases when an inferior tribunal, board or officer, exercising judicial functions, has exceeded its jurisdiction and there is no appeal, nor, in the judgment of the court, a plain, speedy and adequate remedy.

##### § 12-2002. Application for writ; grant of writ

A. An application for a writ of certiorari shall be made on affidavit by the party beneficially interested, and the court may grant the writ with or without notice to the adverse party, or may enter

an order to show cause why it should not be granted.

B. The writ may be directed to the inferior tribunal, board or officer, or to any other person having the custody of the record or proceedings to be certified.

C. When the writ is directed to a tribunal, the clerk, if there is one, shall return the writ with the transcript required.

##### § 12-2003. Contents of writ

The writ of certiorari shall command the party to whom it is directed to certify fully to the court issuing the writ, at a specified time and place, and to annex to the writ a transcript of the record and proceedings named in the writ, and requiring the party in the meantime to desist from further proceedings in the matter to be reviewed.

##### § 12-2004. Stay of proceedings

If a stay of proceedings is not intended, the words requiring the stay shall be omitted from the writ. The words may be inserted or omitted in the discretion of the court. If the words are omitted, the power of the inferior court or officer shall not be suspended nor the proceedings stayed.

##### § 12-2005. Service of writ

A writ of certiorari shall be served in the same manner as a summons in a civil action, except when otherwise directed by the court.

##### § 12-2006. Extent of review

The review upon writ of certiorari shall not be extended further than to determine whether the inferior tribunal, board or officer has regularly pursued its authority.

##### § 12-2007. Denial of return to writ; hearing; transmittal of judgment; appeal

A. If the return to a writ of certiorari is defective, the court may order a further return made. When a full return has been made, the court or judge shall hear the matter and give judgment

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VIRLYNN TIMMELL  
SUPERIOR COURT CLERK

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MOHAVE

HONORABLE BILLY K. SIPE, JR.  
COURT COMMISSIONER/JUDGE PRO TEMPORE  
DATE: AUGUST 7, 2017

\*KL

COURT NOTICE/ORDER/RULING

STATE OF ARIZONA,  
Plaintiff,

NO. CR-2014-00716

vs.

STEVEN GUARDADO,  
Defendant.

On October 31, 2016, the defendant filed a Notice of Post-Conviction Relief and on May 19, 2017, filed a Petition for Post-Conviction Relief. The State failed to file a Response to Petition for Post-Conviction Relief and the time has now passed to do so. The Court, therefore, will make its determinations based solely on the defendant's Petition for Post-Conviction Relief.

The defendant alleges that trial counsel, Mohave County Deputy Public Defender Alex Bolobonoff, rendered ineffective assistance of counsel for not providing the Court with sufficient information for the Court to properly determine the admissibility of the testifying informant's criminal convictions for impeachment purposes, and rendered



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VIRLYNN TIRNELL  
SUPERIOR COURT CLERK

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MOHAVE

HONORABLE BILLY K. SIPE, JR.  
COURT COMMISSIONER/JUDGE PRO TEMPORE  
DATE: JANUARY 2, 2018.

\*KL

COURT NOTICE/ORDER/RULING

STATE OF ARIZONA,  
Plaintiff,

NO. CR-2014-00716

vs.

STEVEN GUARDADO,  
Defendant.

The Petitioner has filed a Motion for Rehearing requesting the Court to reconsider its decision in finding that the defendant would not have been allowed to impeach the informant with a misdemeanor conviction for Issuing a Bad Check. The factual basis for the conviction is the informant passed a check with insufficient funds in the bank. The Petitioner cited State v. Fimbres, 222 Ariz. 293, 213 P.3d 1020 (App. 2009) for the proposition that issuing a bad check is a misrepresentation or false pretense. Fimbres involved the sufficiency of evidence to support a criminal conviction not the admissibility of misdemeanor convictions pursuant to Rule 609, Arizona Rules of Evidence. Accordingly, the Court does not find Fimbres persuasive or controlling. For the reasons previously stated, the



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