



Tucson City Court Administrative Directive

SUBJECT CIVIL TRAFFIC HEARINGS IN ABSENTIA	NUMBER 260-23	PAGE 1 of 3
	PAGE ISSUE DATE September 12, 2008	
	REVISED DATE April 10, 2012	

I. REFERENCE:

Arizona Rules of Court, Rules of Procedure in Civil Traffic and Civil Boating Violation Cases, Rule 10, Entry of Plea; Appearance of Counsel; Hearing in Absentia

II. PURPOSE

To establish a policy for processing a written request (motion) for a Hearing in Absentia (HIA) and for scheduling of hearing in absentia when the request is granted.

III. POLICY

At the time of denial of responsibility, or such other time as the court determines appropriate in the interest of justice, the defendant may file a written request for a hearing in absentia. The defendant shall provide explanation of why attending a civil traffic hearing would cause a substantial hardship. A substantial hardship is more than mere inconvenience and must be based on extraordinary circumstances. Along with the request, the defendant may tender the civil sanction listed in the court's deposit schedule for the civil traffic violation(s) at issue in the hearing.

IV. PROCEDURE

A. When a civil traffic written motion or letter processing through the motion workflow application is determined to be a request for a hearing in absentia, the Limited Special Magistrate will rule upon the motion by either granting or denying the request. If the motion is granted, motion will follow the workflow process and be routed to the judicial assistant's queue for updating/processing following the process outlined in paragraph B. A file will be made for the case since a hearing will be schedule. If the motion is denied, standard distribution/updating procedures will be followed.



Tucson City Court Administrative Directive

SUBJECT CIVIL TRAFFIC HEARINGS IN ABSENTIA	NUMBER 260-23	PAGE 2 of 3
	PAGE ISSUE DATE September 12, 2008 REVISED DATE April 10, 2012	

- B.** If the limited special magistrate determines that the motion (written request) is for a hearing in absentia their judicial assistant will send the defendant a letter to include the necessary forms, and Rule 10 of the Arizona Rules of Court, Rules of Procedure in Civil Traffic and Civil Boating Violation Cases in Appendix A, and B of this policy. The defendant's arraignment will be continued for 45 calendar days to allow for return of the forms to the court and to prevent the case from being defaulted.
- C.** Case files for a hearing in absentia will be marked in red on the front cover as *HEARING IN ABSENTIA*.
- D.** Prior to a scheduled hearing in absentia, the defendant and the State shall file a statement or statements made under the penalty of perjury, along with any physical evidence the defendant requests the court to consider. The Court may also allow the State's witness(es), to testify through written statements or in person on the date, time, and place scheduled for the hearing in absentia.
- E.** If request for a hearing in absentia is granted, the court shall set the matter for hearing and notify the defendant, the citing officer, and any counsel in the case of the date, time, and place for the hearing.
- F.** Failure to personally appear, appear through representation by an attorney, or file a statement or statements prior to the hearing in absentia, shall result in default pursuant to Rules 21 and 22 of the Arizona Rules of Court, Rules of Procedure in Civil Traffic and Civil Boating Violation Cases.
- G.** If a hearing in absentia is held, the defendant waives the following rights:
1. to personally appear and present evidence
 2. to review evidence before the hearing
 3. to compel production of any citing officer notes
 4. to testimony under oath
 5. to cross examine the State's witnesses
 6. to present rebuttal evidence



Tucson City Court Administrative Directive

SUBJECT CIVIL TRAFFIC HEARINGS IN ABSENTIA	NUMBER 260-23	PAGE 3 of 3
	PAGE ISSUE DATE September 12, 2008 REVISED DATE April 10, 2012	

- 7. to present a closing argument
- 8. to immediate delivery of written notice of appeal following judgment and imposition of civil sanction.

H. If a hearing in absentia is held, the 14-day period for filing a notice of appeal pursuant to [Rule 28](#) (a) of the Rules of Procedure in Civil Traffic and Civil Boating Violation Cases is extended by 7 calendar days. The record of a hearing in absentia for purposes of [Rule 29](#) (b)(vii), Rules of Procedure in Civil Traffic and Civil Boating Violation Cases, shall also include the statements, as well as the recording or transcript, if any, of the hearing.

- Appendices:**
- A. Letters and Forms
 - B. Arizona Rules of Court, Rules of Procedure in Civil Traffic and Civil Boating Violation Cases, Rule 10, Entry of Plea; Appearance of Counsel; Hearing in Absencia

REVIEW RESPONSIBILITY: The Court Administrator or designee will review this Court Administrative Directive for revision or deletion every two years or as needed.

PRESIDING MAGISTRATE

DATE 9/12/12

APPENDIX A

Hearing in Absentia: Letter and Forms

Page 1 of 4



TUCSON CITY COURT

103 E. Alameda St.

P.O. Box 27210

Tucson, AZ 85726-7210

(520) 791-4216

DATE

Defendant's Name and Address

Subject: **Court Case Number**

It appears from your previous correspondence that you may wish to request a hearing in absentia pursuant to Rule 10 of the Rules of Procedure in Civil Traffic and Civil Boating Violation Cases, Arizona Rules of Court. If you want to request a hearing in absentia please review the attached forms and complete, sign, and return forms 17B Form 7, 17B form 8, (completion of 17B Form 10 is optional) and return them to the Tucson City Court **prior to the CONTINUED ARRAIGNMENT DATE**. Please be sure to mark the return envelope: Attention: Hearing in Absentia.

Upon receipt of the forms, a judge will review your request for a hearing in absentia and may grant it. If your request is granted, you will be notified of when the hearing in absentia is scheduled. After the hearing in absentia you will be notified of the judge's decision.

If your request is denied, or your request is not received by the due date, a civil traffic hearing will be scheduled and you will be notified of the date and time of the civil traffic hearing. If a civil traffic hearing is scheduled, you must either: attend the hearing in person, have an attorney represent you, pay the fine on or before your hearing, or schedule attendance at a defensive driving school licensed in Arizona if you are eligible to attend. Failure to take one of the above actions prior to the scheduled civil traffic hearing date shall result in default pursuant to Rule 21 and 22 of the Rules of Procedure in Civil Traffic and Civil Boating Violation Cases, Arizona Rules of Court.

If you need additional information you may call 520-791-4216 or email courtweb@tucsonaz.gov.

Regards,

Christopher Hale
Court Administrator

APPENDIX A

Hearing in Absentia: Letter and Forms

Page 2 of 4

TUCSON CITY COURT

103 E. Alameda Street, P.O. Box 27210 Tucson, AZ 85726-7210 Phone: (520) 791-4216

STATE OF ARIZONA,
Plaintiff,

CASE NO. _____

vs.

**DEFENDANT'S REQUEST FOR A
CIVIL TRAFFIC HEARING IN ABSENTIA
AND WAIVER OF RIGHTS**

Defendant

Defendant's name: _____

State in detail why attending a civil traffic hearing would be a substantial hardship. A substantial hardship is more than mere inconvenience. Examples of substantial hardship may include residing a considerable distance from the court or having a medical or physical condition that significantly impairs the ability to participate in a hearing.

If the Court grants my request and conducts a hearing in absentia, I waive the following rights: to personally appear to present evidence; to review evidence before the hearing (Rule 13(b)); to compel production of any citing officer notes (Rule 13(c)); to testimony under oath (Rule 16(a)); to cross examine the State's witnesses (Rule 16(c)); to present rebuttal evidence Rule 19(d)); to present a closing argument Rule 19(e)); and to immediate delivery of written notice of appeal after the imposition of any civil sanction (Rule 25(a)).

I acknowledge that if the Court does not receive my declaration of the facts by the hearing date, a default judgment may be entered against me, a civil sanction may be imposed, and my driving privileges may be suspended.

Dated: _____

Defendant's signature

TUCSON CITY COURT
103 E. Alameda Street, P.O. Box 27210 Tucson, AZ 85726-7210 Phone: (520) 791-4216

STATE OF ARIZONA,
Plaintiff,

CASE NO. _____

vs.

**DEFENDANT'S DECLARATION AND
WAIVER OF RIGHTS FOR
A HEARING IN ABSENTIA**

Defendant

Declarant's name: _____

State the facts of the case in your own words. If you have any exhibits, explain their significance in the statement and attach. Please print clearly or attach a written statement.

Continued on ___ attached pages.

By having a hearing in absentia, I waive the following rights: to personally appear to present evidence; to review evidence before the hearing (Rule 13(b)); to compel production of any citing officer notes (Rule 13(c)); to testimony under oath (Rule 16(a)); to cross examine the State's witnesses (Rule 16(c)); to present rebuttal evidence Rule 19(d)); to present a closing argument Rule 19(e)); and to immediate delivery of written notice of appeal after the imposition of any civil sanction (Rule 25(a)). I acknowledge that if the Court does not receive this declaration by the hearing date, a default judgment may be entered against me, a civil sanction may be imposed, and my driving privileges may be suspended.

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

Dated: _____

Declarant's signature

APPENDIX A

Hearing in Absentia: Letter and Forms

Page 4 of 4

TUCSON CITY COURT

103 E. Alameda Street, P.O. Box 27210 Tucson, AZ 85726-7210 Phone: (520) 791-4216

STATE OF ARIZONA,
Plaintiff,

CASE NO. _____

vs.

**WITNESS'S DECLARATION
FOR A HEARING IN ABSENTIA**

Defendant

Declarant's name: _____

State what you saw and heard in your own words. Please print clearly or attach a written statement.

Continued on ___ attached pages.

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

Dated: _____

Declarant's signature



Welcome to the online source for the Arizona Court Rules

17C A.R.S. Traffic Violation Cases Civ.Proc.Rules, Rule 10 Rule 10. Entry of Plea; Appearance of Counsel; Hearing in Absentia

17C A.R.S. Traffic Violation Cases Civ.Proc.Rules, Rule 10

Arizona Revised Statutes Annotated [Currentness](#)

Rules of Procedure in Civil Traffic and Civil Boating Violation Cases

➔**Rule 10. Entry of Plea; Appearance of Counsel; Hearing in Absentia**

(a) The defendant may admit responsibility by appearing in person, or by submitting a form or a statement signed by the defendant admitting the allegations of the complaint. The defendant shall, at the same time, tender the civil sanction listed in the court's deposit schedule for the civil traffic violation(s).

(b) The defendant may deny responsibility by appearing in person or by notifying the court in writing. The defendant may, at the same time, tender the civil sanction listed in the court's deposit schedule for civil traffic violations to insure that no driver's license suspension will result from failure to appear. Upon receipt of said notice, the court shall set the matter for hearing and notify the defendant, citing officer, and any counsel of the date, time, and place for the hearing.

(c) At the time of denial of responsibility, or such other time as the court determines appropriate in the interest of justice, the defendant may file a written request for a hearing in absentia. The defendant shall show why attending a civil traffic hearing would cause a substantial hardship. A substantial hardship is more than mere inconvenience and must be based on extraordinary circumstances. Along with the request, the defendant may tender the civil sanction listed in the court's deposit schedule for the civil traffic violation(s) at issue in the hearing.

(d) If the court grants the request for a hearing in absentia, the court shall set the matter for hearing and notify the defendant, the citing officer, and any counsel in the case of the date, time, and place for the hearing.

(e) Prior to a scheduled hearing in absentia, the defendant shall file a statement or statements made under the penalty of perjury, along with any physical evidence the defendant requests the court to consider. The Court may also allow the State's witness, or witnesses, to testify through written statements or in person on the date, time, and place scheduled for the hearing in absentia. The State shall file any statement or statements, made under penalty of perjury, along with any physical evidence the State requests the court to consider, prior to the hearing.

(f) Failure to personally appear, or file a statement or statements prior to the hearing in absentia, shall result in default pursuant to Rules 21 and 22.

(g) If a hearing in absentia is held, the defendant waives the following rights: to personally appear to present evidence; to review evidence before the hearing ([Rule 13](#) (b)); to compel production of any citing officer notes ([Rule 13](#) (c)); to testimony under oath ([Rule 16\(a\)](#)); to cross examine the State's witnesses ([Rule 16\(c\)](#)); to present rebuttal evidence ([Rule 19\(d\)](#)); to present a closing argument ([Rule 19\(e\)](#)); and to immediate delivery of written notice of appeal following judgment and imposition of civil sanction ([Rule 25\(a\)](#)).

(h) If a hearing in absentia is held, the 14-day period for filing a notice of appeal pursuant to [Rule 28](#) (a) is extended by 7 calendar days. The record of a hearing in absentia for purposes of [Rule 29\(b\)\(vii\)](#) shall also include the statements, as well as the recording or transcript, if any, of the hearing.

CREDIT(S)

Added as Rule 11 Nov. 9, 1983, effective Jan. 1, 1984. Redesignated Rule 10 and amended Oct. 11, 2002, effective Dec. 1, 2002. Amended Sept. 5, 2007, effective Jan. 1, 2008.

HISTORICAL NOTES

Former Rule 10, added Nov. 9, 1983, effective Jan. 1, 1984, was deleted Oct. 11, 2002, effective Dec. 1, 2002.

17C A. R. S. Traffic Violation Cases Civ. Proc. Rules, Rule 10, AZ ST CIV TRAF Rule 10

Current with amendments received through 2/1/12

(C) 2012 Thomson Reuters. No Claim to Orig. US Gov. Works.

END OF DOCUMENT

© 2012 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.

[Docs In Sequence](#)

Westlaw, part of Thomson Reuters
[© 2012 West](#) | [Privacy](#) | [Accessibility](#)



THOMSON REUTERS®