

SUPREME COURT OF ARIZONA

In the Matter of ) Arizona Supreme Court  
 ) No. R-09-0002  
PETITION TO AMEND RULE 10, CIVIL )  
TRAFFIC RULES )  
\_\_\_\_\_ )

**ORDER**

A petition having been filed proposing to adopt Rule 10.1, Rules of Procedure in Civil Traffic and Civil Boating Violation Cases, and comments having been received, upon consideration,

IT IS ORDERED that the petition to amend Rule 10.1, Rules of Procedure in Civil Traffic and Civil Boating Violation Cases, be approved 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 10.1, Rules of Procedure in Civil Traffic and Civil Boating Violation Cases**

Rule 10.1. Appearance by Audiovisual and Telephonic Means

(a) General Standards. A court may allow parties, their attorneys, and witnesses to appear by audiovisual interactive means that follow these general standards: (1) all parties, attorneys, and witnesses shall be able to be seen and heard at the same time and the audio portion shall be captured accurately on the record; (2) a facsimile, email, or other suitable means shall be available to allow the court to transmit copies of exhibits during the hearing, and, if necessary, a “Notice of Right to Appeal” to defendant; (3) the court may require any person requesting to appear under this rule to be responsible for the cost of same and such cost shall not be awarded as a recoverable cost by a prevailing party; (4) the court shall provide instructions to the participants as to how the remote appearance shall be initiated; (5) a party allowing a subpoenaed witness to appearing by remote means shall pay the cost therefor and no witness fee shall be required or allowed for such an appearance; and (6) an appearance under this rule may be referred to as a “Rule 10.1 Appearance”.

(b) Appearance Request; Deposit. Unless a different time limit is allowed by the court, a party, attorney, or witness may appear under this rule by filing a “Notice of Rule 10.1 Appearance” at least 14 calendar days prior to hearing. The Notice shall set forth the requestor’s name, mailing address, and day-time phone number. As to a defendant who wishes to appear under this rule, the court may condition the appearance upon the posting of a deposit in an amount not to exceed the total possible sanction amount of all violations at issue based on the court’s sanction schedule.

(c) Rule 10.1 Appearance Procedures. Upon receipt of a Notice of Rule 10.1 Appearance, the court shall provide instructions as to the date and time of the proceeding and designate how the appearance shall be initiated. The court may also set forth instructions as to pre-hearing deadlines to file exhibits and limitation on exhibit sizes and numbers. The hearing itself shall proceed as otherwise set forth in the rules governing civil traffic and civil boating cases. In the event defendant is found responsible at the conclusion of the hearing, a Notice of Right to Appeal may be sent to the defendant by fax or electronic means and the 14 calendar-day appeal period shall commence from that transmission date.

(d) Telephonic Appearance by Defendant; Deposit; Waiver of Identity Defense.

Notwithstanding the foregoing, a court may, upon written request at least 14 calendar days before the hearing date, permit a defendant to appear telephonically. The request shall include defendant's telephone number, mailing address, and a copy of a valid drivers license or identification card acceptable to the court. The court may condition a telephonic appearance upon the posting of a deposit in an amount not to exceed the total possible sanction amount of all violations at issue based on the court's sanction schedule. Unless otherwise permitted by the court, a defendant appearing telephonically shall be deemed to waive any defense based on failure of the state to establish an in-court identification of defendant as the cited violator. Identity shall be sufficiently established if at the hearing the state offers proof of the name of the driver as listed on a driver's license, state or government identification card, or other acceptable means of identification matching the violator to defendant.

\*Changes or additions in text are indicated by underlining and deletions from text are indicated by ~~strikeouts~~.