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IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of

SUPREME COURT No. R-05-0037

RULES 4(d) and 58(b), ARIZONA RULES OF CIVIL PROCEDURE, RULES 7.6, 10.1, 16.3, 26.7, 32.9, 35.5, 35.6 and 35.7, ARIZONA RULES OF CRIMINAL PROCEDURE; RULE 7, RULES OF PROCEDURE FOR SPECIAL ACTIONS; and RULE 12(c), SUPERIOR COURT RULES OF APPELLATE PROCEDURE – CIVIL

MARICOPA COUNTY ATTORNEY'S COMMENT TO PROPOSED AMENDMENTS TO RULES RELATED TO MINUTE ENTRIES

The Maricopa County Attorney hereby comments on the proposed amendments to Rules 4(d) and 58(b), Arizona Rules of Civil Procedure, Rules 7.6, 10.1, 16.3, 26.7, 32.9, 35.5, 35.6 and 35.7, Arizona Rules of Criminal Procedure; Rule 7, Rules of Procedure for Special Actions; and Rule 12(c), Superior Court Rules of Appellate Procedure – Civil, related to minute entries.

Respectfully submitted this 22 day of May, 2006.

ANDREW P. THOMAS
MARICOPA COUNTY ATTORNEY

BY: 
PHILIP J. MACDONNELL
CHIEF DEPUTY

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 As stated in our earlier comment to the proposed new Rule 125 in December 2003, the
3 Maricopa County Attorney’s Office supports efforts to eliminate unnecessary duplication of work in
4 orders and minute entries but recommends that each county be allowed some flexibility in the use of
5 minute entries to communicate court decisions and orders. New Rule 125(a)(10) allows a minute
6 entry to include “any other matter directed by the court.”
7

8 That much-needed flexibility can be accomplished by eliminating parts of rules that
9 require minute entries without prohibiting the use of minute entries. For example, the proposed
10 change to Rule 4(d), Rules of Civil Procedure, should not include the sentence: “If the proposed
11 form of order is signed, no minute entry shall issue.” Similarly, the parts of the new Rule of Civil
12 Procedure, Rule 5(j)(2)(A) and (B), that state, “[i]f the proposed form of order is signed, no minute
13 entry shall issue”, should be modified to state, “if the proposed form of order is signed, no minute
14 entry shall NEED issue”.
15

16 Certain of the proposed amendments in the new petition eliminate the responsibility for
17 recording and distributing orders and decisions in minute entries but do not adequately place that
18 responsibility elsewhere. For example, the proposed change to Rule 7.6, Rules of Criminal
19 Procedure, removes the clear direction about how parties are to be notified but fails to describe how
20 the orders are to be distributed.
21

22 Finally, some counties, like Maricopa County, have public web sites that publish minute
23 entries but not orders. In the interest of quick, effective communication, allowing for publication of
24 a decision in a minute entry rather than an order would best serve the parties and the community.
25 The court should be allowed the flexibility to use this valuable mechanism.
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1 Therefore, the Maricopa County Attorney opposes the petition's goal to strictly prohibit
2 the use of minute entries as vehicles to communicate judicial decisions made outside a court
3 proceeding. The recommendations in the new petition is so restrictive and inflexible that it will
4 create obstacles to clear, prompt communication of judicial orders and to the availability of those
5 orders.

6 Respectfully submitted this 22 day of May, 2006.

7 ANDREW P. THOMAS
8 MARICOPA COUNTY ATTORNEY

9
10 BY: Philip J. MacDonnell
11 PHILIP J. MACDONNELL
12 CHIEF DEPUTY
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16 Copies of the forgoing hand delivered
17 this 22 day of May, 2006 to:

18 Clerk of the Court
19 Arizona Supreme Court

20 Honorable Fred Newton, Presiding Judge
21 Superior Court in Coconino County and
22 Chairman of the Committee on Superior Court
23 County Courthouse
24 200 North San Francisco
25 Flagstaff, AZ 86001
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