

1 **ERIC L. JEFFERY**
2 **ASSISTANT PRESIDING JUDGE**
3 **PHOENIX MUNICIPAL COURT**
4 **300 W. WASHINGTON ST.**
5 **PHOENIX, ARIZONA 85003**
6 **TELEPHONE: (602)-534-3864**

7 **ARIZONA SUPREME COURT**

8
9 **IN RE:**
10 **PETITION R-17-0034 TO AMEND**
11 **THE ARIZONA TRAFFIC TICKET**
12 **AND COMPLAINT**

R-17-0034

PHOENIX MUNICIPAL COURT COMMENT IN
PARTIAL OPPOSITION TO PETITION TO
AMEND RULE 37, FORM 11 OF THE
ARIZONA RULES OF CIVIL TRAFFIC AND
CIVIL BOATING VIOLATIONS

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15 Pursuant to Rule 28 of the Rules of the Supreme Court, Eric L. Jeffery, Assistant
16 Presiding Judge, on behalf of the Phoenix Municipal Court respectfully offer the
17 following comments in partial opposition to the Petition to Amend Rules of Procedure,
18 Form 11, Arizona Traffic Ticket and Complaint (ATTC). Respondent asks this Court
19 to deny that portion of the request substituting the words “At or before the date and
20 time indicated” and leave the current language “At the date and time indicated” on
21 Form 11. Respondent supports all of the other changes to the ATTC that have been
22 submitted in the petition.
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26 **HISTORY**

27 The Administrative Office of Courts (AOC) petitioned this Court to amend Rule 37,
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1 Form 11, on an expedited basis. The specific request to add language allowing a
2 defendant can sign an ATTC to appear “at or before” the date has not had sufficient
3 time to be reviewed and evaluated by the impacted courts and committees specifically
4 designed to review proposed changes. The LJC committee has not reviewed this
5 proposed language change to the ATTC and has not offered any opinion as a group.
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7 Conversely, there has been no presentation describing the benefits or purpose for this
8 amendment. The other changes to the ATTC were presented to the LJC and were
9 supported by the LJC committee. The requested change has significant impact on the
10 daily operations of the limited jurisdiction courts.
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13 14 **Discussion**

15 16 **I**

17 There has been no explanation as to the purpose of this change that was added
18 at the last minute. Without an explanation, the obvious question is, what is the
19 issue that is being corrected? I am unaware of any problem or concern with the
20 current language on the ATTC that directs a person to appear on a certain date
21 and time. The language has worked for decades and allows for proper court
22 procedure once filed. Without any explanation in the petition to describe a
23 problem, this is essentially a solution in search of an unknown problem.
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1 **II**

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3 The suggested language complicates Victim Rights notification issues. A
4 victim is entitled to appear at any setting where the defendant appears before
5 the court under Ariz. Const. Art. II, § 2.1. Allowing a charged criminal
6 defendant to appear at any time up to the date listed on the ATTC would negate
7 the ability for the victim to be notified and appear. The court could reschedule
8 any case involving a victim and allow additional notification, but this adds
9 additional unnecessary court settings and additional notifications required. It
10 does not appear wise to add work effort to a system that currently runs
11 smoothly.
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16 **III**

17 Inviting people to appear “at or before” a listed date would result in hundreds
18 of discussions with those charged each month that appear early regarding the
19 reasons we cannot resolve their case and they must return. With an appearance
20 at any time “at or before” a court date the ATTC would, very likely, not have
21 been filed with the court when people are appearing. A.R.S. § 28-1593 (B)
22 specifically provides for an officer to file a complaint “within ten court days of
23 the time the complaint was issued.” The current language regarding
24 appearance on the court date listed contemplates a system where the
25 officer is aware of the scheduled court date and can ensure the ATTC is filed in
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1 sufficient time. The proposed language would disrupt a process that is
2 currently very efficient. In the limited number of cases where a defendant is
3 leaving the state or would like to request an earlier court date, it is much easier
4 to discuss such issues with these limited cases than to hold a discussion with
5 hundreds of people appearing each month. Similarly, many people charged
6 with offenses are taking a day off to appear. It seems inherently inapposite of
7 the goals of the fair justice task force to have people take a day off work, often
8 unpaid, to be told to return another day. Certainty in scheduling is a helpful
9 to all parties and cornerstone to effective case management.

10 Any suggested “work arounds” such as rescheduling court dates and having
11 continuous conversations about returning to court would be acknowledging the
12 proposed language on the ATTC that someone could appear “at or before” a
13 scheduled date is, in fact, not a correct statement.
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18 19 IV

20 Many small jurisdictions have dedicated days of the week for initial
21 appearances and arraignments. These days have dedicated prosecutors and
22 public defenders scheduled for those days. They are not present on the other
23 days of the week. The proposed language would again require these courts to
24 be constantly rescheduling people who appear early.
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1 Changing the ATTC language to appear “at or before” a specified date will
2 result in continual arguments about the filing of a new charge of a violation of
3 a promise to appear. It is nearly impossible to prove someone didn’t appear as
4 they promised when they could have appeared at any date earlier and been
5 given a verbal alternative or rescheduled dates. Once someone is given an
6 alternative date to appear they are no longer operating under the provision for
7 a signed ATTC promise to appear. If they failed to appear at a rescheduled
8 date, a violation of the promise to appear would not be appropriate. This
9 would substantially effect the Justice Courts and the accounting of charges and
10 productivity credits.
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15 VI

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17 In summary, I urge the Court to approve the changes to the ATTC that were
18 presented and supported, specifically adding an email and cell phone field.

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20 Further, I urge the Court to deny the portion of the petition to change the
21 ATTC to indicate a person can appear “at or before” a listed date, the current
22 language and processes work very well.
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26 Respectfully submitted this 5th day of July 2017.
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By /s/ Eric L. Jeffery

JUDGE ERIC L. JEFFERY
ASSISTANT PRESIDING JUDGE
PHOENIX MUNICIPAL COURT