

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-18-0002
RULE 28, RULES OF THE SUPREME)
COURT) **FILED 09/18/2018**
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_____)

ORDER AMENDING RULE 28, RULES OF THE SUPREME COURT OF ARIZONA

A petition having been filed proposing to amend Rule 28, Rules of the Supreme Court of Arizona, and comments having been received, upon consideration,

IT IS ORDERED that the current provisions of Rule 28, Rules of the Supreme Court of Arizona, and associated comments to the rule, are hereby abrogated, effective January 1, 2019.

IT IS FURTHER ORDERED that Rule 28, Rules of the Supreme Court of Arizona, be amended in accordance with Attachment A to this order, effective January 1, 2019.

DATED this 18th day of September, 2018.

_____/s/_____
SCOTT BALES
Chief Justice

TO:

Rule 28 Distribution

Advay Mengle

Lisa M Panahi

ATTACHMENT A

RULES OF THE SUPREME COURT OF ARIZONA

Rule 28. Procedures 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 documents from the Court and from others who submit public comments concerning the petition.

(B) *Paper Filing with the Clerk of the Supreme Court.* A paper petition and any attachments must be filed with the Clerk for inclusion on the Court Rules Forum. The petition must include an original and one copy, plus an electronic copy of the petition and supporting documentation in Microsoft Word format on a CD or other compatible electronic medium.

(4) *Petition Requirements.*

(A) *Form and Contents.* A rule petition may be accompanied by supporting documentation, and the petition must:

(i) explain why the Court should adopt, amend, or abrogate rules;

(ii) include a draft of the proposed rule changes;

(iii) show proposed changes to any existing rule by underlining the text to be added and striking through the text to be deleted;

(iv) disclose whether a similar petition has been filed by anyone within the previous 5 years; and

(v) substantially conform, as far as practicable, to the requirements of Rules 4(a) and (b) of the Arizona Rules of Civil Appellate Procedure.

(B) Length. The petition and supporting documentation, excluding the text of proposed rules, may not exceed 20 pages unless the Court orders otherwise.

(5) Initial Review and Notice to Petitioners. The Court will initially determine whether to open the petition for public comment; to refer it to a committee, commission, or task force for further study; or to deny it for lack of need or merit. The Clerk must notify petitioners, electronically or by mail, of the Court's action. If the Court refers the petition for further study, the Clerk must also provide the Petitioner contact information for the chairperson of the committee, commission, or task force. The Petitioner may submit a written comment, either electronically or on paper, to the committee, commission, or task force and appear before it to discuss the petition and related issues.

(b) Rule Changes Proposed by the Supreme Court. The Court may, on its own petition, propose the adoption, amendment, or abrogation of a court rule at any time. Such proposals must be included on the Court Rules Forum and opened for public comment.

(c) Opening the Rule Petition for Public Comment. The Court will open a rule for public comment by filing an order requesting written comments and identifying the deadline for filing such comments.

(d) Distribution of Petitions and Requests for Comments. The Court Rules Forum moderator must post the petition, any attachments, and the Court order requesting public comments on the Court Rules Forum. The Clerk must promptly send electronic copies of a petition, any attachments, and the request for public comment to the following:

- Governor, State of Arizona
- Speaker, Arizona House of Representatives
- President, Arizona State Senate
- Attorney General of Arizona
- Director of the Arizona Legislative Council
- Deans of each ABA-approved Arizona law school
- Administrative Director of the Courts
- Clerk, Court of Appeals, Division One
- Clerk, Court of Appeals, Division Two
- Each Superior Court Presiding Judge

Each Chief Judge of the Court of Appeals
Executive Director of the State Bar of Arizona
General Counsel of the State Bar of Arizona
President of the Justice of the Peace Association
President of the Municipal Judges Association
President of the Arizona Attorneys for Criminal Justice
Executive Director of the Arizona Prosecuting Attorneys Advisory Council
Executive Director of the Victim's Services Division, Office of the Attorney General of Arizona
Chairperson of the Arizona Coalition for Victim Services
Executive Director of the Arizona Association of Chiefs of Police
President of the Law Enforcement Legal Advisors Association
Presidents or Executive Directors of all Local and County Bar Associations
President of the Superior Court Clerks' Association
Executive Director of the Arizona Association for Justice/Arizona Trial Lawyers Association
Executive Director of the Phoenix Association of Defense Counsel
President of the Tucson Defense Bar Association
Editor, Arizona Attorney (State Bar)
Editor, Maricopa Lawyer
Editor, The Writ (Pima Bar Association)
County Law Libraries
Any additional person or organization the Court designates
Members of the news media, upon request

(e) Written Comments on Rule Petitions.

(1) Comments. Any person may file comments about rule petitions.

(2) Due Date. Comments must be filed by May 1 unless the order opening the rule for public comment specifies a different date. The Court will consider comments at its annual rules agenda.

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

(A) Electronically Filing on the Court Rules Forum.

(i) Registration. A person must register on the Court Rules Forum, <https://www.azcourts.gov/Rules-Forum>. Any person filing a comment electronically is deemed to have consented to receive court-generated documents electronically.

(ii) Comments in Attached Documents. A person may submit comments on the Court Rules Forum by attaching a document containing the comment and any supporting documents as attachments in both PDF and Microsoft Word format. The PDF version

is the Court's official record. The Court Rules Forum moderator may reject non-compliant comments.

(iii) Comments Directly on the Rules Forum. If a person cannot provide the material in (ii), comments may be typed directly on the Court Rules Forum.

(B) Paper Filing with the Clerk of the Supreme Court. Paper comments must be filed with the Clerk for inclusion on the Court Rules Forum and must include an original and one copy, plus an electronic copy of the comment in Microsoft Word format on a CD or other compatible electronic medium.

(C) Form and Length. Comments may not exceed 20 pages unless the Court orders otherwise. Comments must substantially conform, as far as practicable, to the requirements of Rules 4(a) and (b) of the Arizona Rules of Civil Appellate Procedure.

(4) Other Written Comments about Petitions Received by the Clerk or the Court. Any other writing received by the Clerk or the Court from an identified source that comments on a rule petition will be filed electronically on the Court Rules Forum and will identify the source and the date of receipt.

(5) Replies to Comments. The petitioner may file a reply to any comment electronically or on paper by June 1. If the public comment period expires on a date other than May 1, replies are due 30 days after the expiration date. If a comment is made electronically on the Court Rules Forum after June 1, the petitioner may file a reply within 14 days.

(f) Oral Comments and Public Hearings about Rule Petitions.

(1) Oral Comments. Comments should be submitted as provided in Rule 28(e). If the Court receives oral comments at public meetings or otherwise about proposed rule reforms, the Court may, in its sole discretion, memorialize such comments on the Court Rules Forum. The Court may also request that commenters repeat their oral comments on the Court Rules Forum.

(2) Oral Argument or Hearings. Rule petitions are considered without oral argument or public hearing unless the Court, for good cause, orders otherwise.

(g) Court Consideration of Rule Petitions; Effective Date of Rules; Notice.

(1) Annual Rules Agenda. In August or September of each year, the Court will consider each timely filed rule petition. The Court may approve the rule changes as proposed in the petition, approve different changes, deny the petition, or continue the petition for later consideration.

(2) Effective Date of Rules. Unless the Court's order provides otherwise, the adoption, amendment, or abrogation of rules will become effective January 1 of the following year.

(3) Notice. The Clerk must send electronic or mail notice of the action taken on a petition to the petitioner, persons and organizations listed in Rule 28(d) and all persons who submitted comments on the Court Rules Forum to that petition.

(h) Expedited Consideration and Emergency Adoption of Rules.

(1) *Request for Expedited Consideration.* If a rule petition presents compelling circumstances requiring the Court's consideration before the annual rules agenda, the petition must include a request for expedited consideration identifying its reasons.

(2) *Emergency Action.* If the Court decides that expedited action on a petition is necessary, the Court may adopt, amend, or abrogate a rule on an emergency basis. Rule changes resulting from emergency actions must be opened for public comment.

(i) *Suspension of This Rule.* For good cause, the Court may suspend a provision of this rule as provided in Rule 26.

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