



Supreme Court

STATE OF ARIZONA

402 ARIZONA STATE COURTS BUILDING
1501 WEST WASHINGTON STREET
PHOENIX, ARIZONA 85007-3231
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NOËL K. DESSAINT
CLERK OF THE COURT

KATHLEEN E. KEMPLEY
CHIEF DEPUTY CLERK

September 18, 2006

RE: RULES 28 & 124(a), AZ RULES OF THE SUPREME CT etc.
Arizona Supreme Court No. R-06-0003

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on September 11, 2006, in regard to the above-referenced cause:

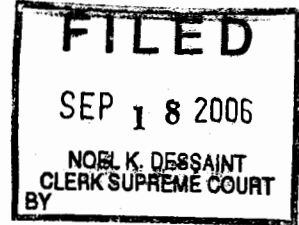
ORDERED: [Sua Sponte Petition to Amend Rules 28 and 124, Rules of the Supreme Court; Rule 83, Arizona Rules of Civil Procedure; and Rule 36, Arizona Rules of Criminal Procedure] = ADOPTED as modified, effective as of the date of signing.

Noel K Dessaint, Clerk

TO:
Final Rule Distribution List
cf

IN THE SUPREME COURT OF THE STATE OF ARIZONA

Supreme Court No. R-06-0003



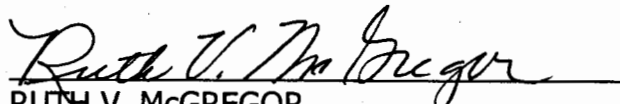
**ORDER AMENDING
RULES 28 and 124(a), RULES OF THE SUPREME COURT**

The Court adopted amendments to Rules 28 and 124(a), Rules of the Supreme Court, on an emergency basis, effective May 3, 2006, and ordered the matter opened for comment. Upon consideration,

IT IS ORDERED approving in final form the amendments previously adopted, with the modifications set forth in the attachment hereto,* effective as of the date of signing.

DATED in the City of Phoenix, Arizona at the Arizona Courts Building, this 18th day of September, 2006.

For the Court:


RUTH V. MCGREGOR
Chief Justice

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

ATTACHMENT

RULES OF THE SUPREME COURT

* * *

Rule 28. Procedure for Adoption, Amendment or Repeal of Rules

Preamble

[No change in text.]

(A) Petition for Adoption, Amendment, or Repeal of Rule; Deadline for Filing.

(1) Deadline for and Method of Filing. Any person, association or public agency interested in the adoption, amendment, or repeal of a court rule may file a petition to adopt, amend, or repeal a rule. Such petition shall be filed on or before November 1 in any given year in order to be considered and acted upon by the court at its annual rules conference the following September.

(a) Paper Filing. A written paper petition shall be filed with the Clerk of the Supreme Court and shall consist of an original and six (6) copies, in addition to one copy of the petition and supporting documentation in Microsoft Word format on a CD, disk, or other compatible electronic medium.

(b) Electronic Filing. A petition may also be filed electronically by registering at the Court Rules Forum website, accessible at <http://www.supreme.state.az.us>, and submitting the petition as attachments in both PDF and Microsoft Word format on the Court Rules Forum website, as provided by Administrative Order No. 2006-37. The PDF version of the electronically filed petition shall be considered the official record. The electronic petition shall comply with the length and formatting requirements of Rule 28(A)(2), and with the requirements of Rule 124, Rules of the Supreme Court. An electronically filed petition constitutes the filing of the original written and signed paper under the rules governing practice and procedure in the courts of this state. Any person filing a petition electronically shall be deemed to have consented to receive electronic service from another party and also to have consented to receive minute entries, orders, and notices from the court electronically.

(2) Form and Contents of Petition. The petition shall state the grounds for the adoption, amendment or repeal of the rule, include a draft of the proposed new or amended rule, and may be accompanied by supporting documentation. The petition and supporting documentation shall not exceed 20 pages, exclusive of pages containing a draft of the proposed new or amended rule. The form, method of preparation, and filing of the petition and supporting documentation shall substantially conform, insofar as practicable, to the requirements of Rule 6(c), ARCAP.

(2)(3) Court Review of Petition. After the filing of a petition, the court shall review the petition and any supporting documentation and determine whether to open the matter for public comment in the manner provided in Rule 28(c), refer it to an appropriate committee for further study and report, or reject it for lack of need, merit, or substance.

(3)(4) Notice to Petitioner. If the court denies the petition for lack of need, merit, or substance, the clerk shall promptly notify the petitioner of the decision of the court. If the court

refers the petition to a committee for study and report, the clerk shall notify the petitioner of the referral and shall include the name and address of the chairperson of the committee. The petitioner shall be entitled to submit written comment, either on paper or electronically, and appear before the committee. Notices shall be mailed or sent electronically, in accordance with ~~Administrative Order No. 2006-37~~ Rule 28(A)(1)(b) and Rule 124 of these rules.

(B) Proposed Rule Changes by the Supreme Court. [No change in text.]

(C) Opening the Rule Change Petition for Comment. Whenever a petition for a rule change is required by the court or by these rules to be opened for comment, the clerk shall prepare a request for comment stating that the court invites written comment on the merits of the petition and indicating the place for filing such comments and the expiration date for filing such comments. Such comments may be filed on paper with the clerk, or may be filed electronically, as specified in ~~paragraph Rule 28(D) of this rule~~. Copies of the petition and the request for comment shall be sent by the clerk, on or before December 20 of each year, by mail or electronically, or as otherwise directed by the court, to the following:

[No change in remainder of text in this paragraph.]

(D) Comment on Proposed Rule Changes; ~~Reply to Comments; Deadlines.~~

(1) *Deadline for and Method of Filing; Form.* The form and method of preparation of written paper comments concerning the merits of a petition for rule change shall substantially conform, insofar as practicable, to the requirements of Rule 6(c), ARCAP, and shall not exceed 20 pages. Comments shall be filed, in either traditional paper format or electronic format, as ~~provided by Administrative Order No. 2006-37~~, on or before May 20 of each year, unless a different date is specified in the request for comments.

(a) *Paper Filing.* A paper comment shall be filed with the clerk and shall consist of an original and six copies, in addition to one copy of the written comments and any supporting documentation in Microsoft Word format on a CD, disk, or other compatible electronic media medium.

(b) *Electronic Filing.* A comment may ~~also~~ be filed electronically by registering at the Court Rules Forum website, accessible at <http://www.supreme.state.az.us>. The PDF version, if any, of an electronically filed comment shall be considered the official record. An electronically filed comment constitutes the filing of the original written and signed paper under the rules governing practice and procedure in the courts of this state. Any person filing a comment electronically shall be deemed to have consented to receive minute entries, orders, and notices from the court electronically.

(i) *Formal Comment.* A comment may be submitted as attachments ~~submitting the comment~~ in both PDF and Microsoft Word format on the Court Rules Forum website. If so submitted, the comment shall comply with the length and formatting requirements of Rule 28(D)(1), and with the requirements of Rule 124, Rules of the Supreme Court.

(ii) *Informal Comment.* ~~or a~~ Alternatively, ~~by submitting an informal comment~~ may be submitted by inserting the text of the comment directly into the appropriate box at the comment site, as indicated on the Court Rules Forum Instructions page, with or without PDF and Microsoft Word attachments. An informal comment need not comply with the

~~requirement in Rule 124(f) regarding paragraph numbering. in the manner indicated on the Court Rules Forum website, as provided by Administrative Order No. 2006-37. If filed, the PDF version shall be considered the official record.~~

(2) Service of Comment on Petitioner; Deadline for Reply. A copy of the comment shall be served upon the petitioner, which service may be made by electronic means if the petition was filed electronically. The petitioner shall have until June 30, or if an expiration date other than May 20 is specified, 30 days after the expiration of the comment period, to reply to any comments. After the expiration of the time allowed for comment and reply, the clerk shall submit to the court the comments and replies that have been filed.

(E) Request for Public Hearing. [No change in text.]

(F) Consideration of Rule Change by the Court; Effective Date of Rules; Notice.

(1)-(2) [No change in text.]

(3) The clerk shall notify the petitioner, those persons and organizations listed in Rule 28(C), and those persons and organizations who submitted comment on the petition for rule change of the action taken by the court. Notices shall be mailed or sent electronically, in accordance with ~~the Administrative Order No. 2006-37~~ this rule and Rule 124, Rules of the Supreme Court of these rules.

(G) Emergency or Expedited Adoption of Rule. [No change in text.]

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