

## ARIZONA JUDICIAL COUNCIL

### Request for Council Action

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<b>Date Action Requested:</b>	<b>Type of Action Requested:</b>	<b>Subject:</b>
October 24, 2007	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Proposed Rule Change Petition

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**FROM:** Honorable R. Michael Traynor, Committee on Limited Jurisdiction Courts Chair

#### **DISCUSSION:**

In keeping with the Supreme Court Strategic Agenda's Goal #1, Providing Access to Swift, Fair Justice, and charges listed in ACJA 1-106: Committee on Limited Jurisdiction Courts, this committee established the Electronic Documents Ad Hoc Subcommittee. The subcommittee was charged to study record retention and appellate issues regarding e-Citation data sets, Photo Enforcement electronic documents and Electronic Document Management System files. This effort involved redefining "original document of record" and eliminating the duplicative effort of retaining electronic and paper versions of case documents.

Along with members from the Committee on Limited Jurisdiction Courts, the subcommittee included representatives from courts in either the planning stages or implementing Electronic Document Management Systems (EDMS), Photo Enforcement and e-Citation. Additionally, Stewart Bruner, COT Staff, was invited to participate to ensure the group was moving in the same direction as other groups examining e-Filing and form automation without duplicating their efforts.

The subcommittee set out with the intent to assist limited jurisdiction courts in realizing the efficiencies inherent in technological advances. One such efficiency would be enabling courts to destroy paper documents upon the creation, verification and certification of the electronic original document of record. The subcommittee reviewed current rules and code sections with an eye to paper-document restrictive language. This was all done, with the safe-guarding requirements of ACJA § 1-504: Electronic Reproduction and Imaging of Court Records in mind.

#### **RECOMMENDED COUNCIL ACTION:**

The Committee on Limited Jurisdiction Courts requests that the Arizona Judicial Council authorize the Committee to file the draft Rule 28 petition with the Court.

IN THE SUPREME COURT  
STATE OF ARIZONA

PETITION TO AMEND RULES 1, 4,	)	
and 6 ARIZONA RULES OF	)	Supreme Court No. R-07-00__
PROCEDURE IN TRAFFIC CASES	)	
AND BOATING CASES, AND RULE 29,	)	
RULES OF THE SUPREME COURT	)	
OF ARIZONA	)	
	)	

Pursuant to Arizona Supreme Court Rule 28, the Committee on Limited Jurisdiction Courts (LJC) in the person of the Honorable R. Michael Traynor, LJC Chair, respectfully petitions this Court to adopt amendments to Rules 1, 4 and 6 of the Arizona Rules of Procedure in Traffic Cases and Boating Cases, and Rule 29 of the Rules of the Supreme Court of Arizona as set forth in Appendix A hereto and described in greater detail below. The intent of the proposed amendments is to enable limited jurisdiction courts confirming compliance with Arizona Code of Judicial Administration (ACJA) § 1-504 to recognize electronically-filed documents and the scanned images of documents filed in paper form as the original document of record and allow the destruction of any corresponding paper document.

**1. Introduction**

The first enumerated goal of the 2005-2010 Strategic Agenda for Arizona’s Courts is Providing Access to Swift and Fair Justice. Technological advances like Electronic Document Management Systems (EDMS), Photo Enforcement and e-Citation advance efficiencies in case management, document retrieval and storage, and public access. With many of Arizona’s courts in the planning stages or implementing these technologies, the Arizona Rules of Procedure for Traffic Cases and Boating Cases, and the Rules of the Supreme Court of Arizona should be

updated to clarify the acceptance of an electronic file as the official record, realize the technological efficiencies, and reflect the current definition of a record.

## **2. The Issue**

ACJA § 4-302: Records Retention and Disposition defines “Records” as:

. . . any documentary material, regardless of physical form or characteristic, such as information maintained in a case management system that may be used to reproduce a document and any other case related data, including a photographic or electronic reproduction or image substituted for the original . . .

Rules 94(g) states “[T]he requirements of this rule may be satisfied by computer-recorded or computer-generated documents or with a photographic or electronic reproduction or image of the original record, providing adequate safeguards are employed for the preservation and integrity of such documents and the public is afforded reasonable access to such documents.”

Though the records retention schedule and Rule 94(g) allow for the retention of either the hard copy or the imaged copy of the document, other rules contain language which restricts records to paper documents.

Rules 1, 4 and 6 of the Arizona Rules of Procedure in Traffic Cases and Boating Cases and Rule 29 of the Rules of the Supreme Court of Arizona were reviewed and found to contain paper-document restrictive language.

## **3. Specific Proposed Amendments**

Rule 1. Definitions – The recommended revisions amend Rule 1 to include definitions for “Complaint” to include e-Citation variations approved by the Supreme Court; “File” or “Filing” as an alternate to delivering a paper complaint; “Record” to reiterate the ACJA § 4-302 definition; and “Reproduction” to introduce the concept of electronic versions.

Rule 4. Responsibilities of Arresting Officer – The recommended revisions amend Rule 4 to remove antiquated language referring to “a deputy designated by the Judge”; change the paper connotation of “copy” to the electronic concept of “reproduction;” and differentiate between in custody, and cite and release processes by splitting the original paragraph (a) into two parts. Additionally, the recommended revisions amend Rule 4(a)(2) to require that the complaint be filed with the court not less than 5 days prior to the designated court date. This revision allows the court to adequately prepare for hearings or respond to public requests.

Rule 6. Duties of Judge – The recommended revisions amend Rule 6 to define these duties as the responsibility of the court rather than the individual judge; and remove the reference to signing, and the connotation of paper format Court Reports.

Rule 29. Court Records – The recommended revisions amend Rule 29 to reiterate the definition of “Records” from ACJA § 4-302 to include the concept of electronic files.

#### **4. Conclusion**

For the reasons set forth above, the undersigned petitioner respectfully petitions this Court to amend Rules 1, 4 and 6 of the Arizona Rules of Procedure in Traffic Cases and Boating Cases, and Rule 29 of the Rules of the Supreme Court of Arizona as set forth in Appendix A.

RESPECTFULLY SUBMITTED this \*\*\* day of \*\*\*\*\*, 2007.

COMMITTEE ON LIMITED JURISDICTION  
COURTS

By \_\_\_\_\_  
Judge R. Michael Traynor, Chair  
Committee on Limited Jurisdiction Courts  
Chandler Municipal Court  
200 E. Chicago St.  
Chandler, Arizona 85225-2176

## APPENDIX A

### RULES OF PROCEDURE IN TRAFFIC CASES AND BOATING CASES

#### Rule 1. Definitions

(f) “Complaint” as used in these rules means the Arizona Traffic Ticket and Complaint or a substantial variation from the form which has been approved by the Supreme Court.

(g) “File” or “Filing” means the process of submitting a document for consideration by the Court.

(h) “Record” means any documentary material, regardless of physical form or characteristic, such as information maintained in a case management system that may be used to reproduce a document and any other case related data, including a photographic or electronic reproduction, or image substituted for the original pursuant to rules of court.

(i) “Reproduction” means the process of making an identical copy from an existing document on the same or alternative media.

#### Rule 4. Responsibilities of Arresting Officer

The officer who arrests a person for a Traffic or Boating Offense shall properly complete, certify and ~~deliver~~distribute the Arizona Traffic Ticket and Complaint as follows:

**(a) ~~The Complaint and Defendant Copy.~~**

**(1) In Custody.** When the person is taken before a Judge, as provided in ~~Section A.R.S. § 13-3898, Arizona Revised Statutes, or is taken before a deputy designated by the Judge to set and collect bail, as provided in Sections A.R.S. §§ 22-112 and 22-424, Arizona Revised Statutes,~~ the officer ~~thereupon shall deliver~~ file the Complaint ~~to that Judge or deputy~~with the Court and shall ~~deliver the Defendant Copy~~provide a reproduction of the Complaint to the ~~person~~Defendant.

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**(2) Cite and Release.** When the person is released from custody, as provided in ~~Section~~A.R.S. § 13-3903, Arizona Revised Statutes, upon the person's ~~written~~ promise appear in Court on a designated date and time, the officer, shall immediately ~~deliver~~provide the Defendant Copy a reproduction of the Complaint to the ~~person~~Defendant and shall ~~prior to the designated date deliver~~file the Complaint to that with the Court not less than 5 days prior to the designated date.

**(b) Court Report.** ~~The officer shall deliver the Court Report to~~A reproduction of the Complaint shall be filed with the Court, Judge or deputy at the same time the Complaint is deliveredprovided in accordance with (a), above.

**(c) Enforcement Copy Retention.** The officer may retain ~~the Enforcement Copy a~~ reproduction of the Complaint in accordance with instructions of his or her law-enforcement agency.

### **Rule 6. Duties of JudgeCourt.**

When the Arizona Traffic Ticket and Complaint is ~~properly delivered or forwarded~~filed ~~to~~with the Court ~~or Judge~~ as provided in Rule ~~IV~~4(a) or ~~V~~5 hereof, the Court ~~or Judge~~ shall properly complete, certify (where required) and forward the Complaint and Court Report, as follows:

**(a) Complaint.** ~~The Judge or Court shall promptly file~~The Complaint and shall be entered in the ~~docket of the Court~~ docket, and shall ~~properly record the Court proceedings~~ shall be properly recorded ~~on the reverse side of the Complaint.~~

#### **(b) Court Report.**

(1) Pursuant to ~~Section~~A.R.S. § 28-1559, Arizona Revised Statutes, within 10 days after a judgment of conviction or judgment on a plea of guilty is pronounced,

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or a forfeiture of bail is declared, unless the forfeiture is sooner discharged as provided in the Rules of Criminal Procedure, or within the time prescribed by Rule VII(a) hereof, the ~~Judge~~Court shall certify the appropriate disposition information inserted on the ~~front side of the~~ Court Report or on the documented list of Court Reports or any combination thereof, ~~by placing his or her signature either by signing on the Court Report or by a single certification placed at the bottom of a documented~~ placing a single certification on a list of Court Reports. The list shall identify each case by name and complaint number. The Court Report shall be forwarded to the Department of Transportation Motor Vehicle Division.

(2) Notwithstanding the provisions of sub-paragraph (b)(1), any Court which maintains the disposition information on computer may arrange with the Department of Transportation, Motor Vehicle Division, for the electronic forwarding of such disposition information without certification by the ~~Judge~~Court.

(3) The ~~Court or Judge~~ shall maintain a record, which may be entered on the reverse side of the Complaint, of the date and manner of forwarding the Court Report.

## RULES OF THE SUPREME COURT OF ARIZONA

### Rule 29. Court Records

**(D) Justice of the Peace and Municipal Court Records.** Justice of the peace and municipal court records shall be maintained and may be destroyed in accordance with approved retention and disposition schedules, ~~as applicable.~~ These records may be stored in various forms regardless of the form or physical characteristic of the original filing

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including information maintained in a case management system that may be used to reproduce a document and any other case related data, and including a photographic or electronic reproduction or image substituted for the original.