

Hon. Jeff Fine  
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IN THE SUPREME COURT STATE OF ARIZONA

IN THE MATTER OF PETITION TO )  
AMEND RULE 43.1 )  
OF THE RULES OF FAMILY LAW )  
PROCEDURE ) Supreme Court Rule No. R-23-\_\_\_\_  
)

**BACKGROUND AND PURPOSE OF AMENDMENT**

Pursuant to Rule 28, Rules of Supreme Court of Arizona, Jeff Fine, Clerk of the Superior Court for Maricopa County, petitions this Court to amend Rule 43.1 of the Rules of Family Law Procedure (“RFLP”) as set forth in the attached Appendix. Petitioner proposes to amend Rule 43.1 to incorporate the language set forth in Rule 80(e) General Provisions of the Rules of Civil Procedure to allow for the Clerk’s Office to distribute minute entries, notices and other court-generated documents to a party or a party’s attorney by electronic means.

The RFLP currently do not contain language similar to the language provided for in Civil Rule 80(e) with regard to electronic distribution of minute entries, notices and other court-generated documents to a party or a party’s attorney.

Absent an electronic distribution provision in the RFLP, but in accordance with Arizona Supreme Court Administrative Order No. 2009-01, the Clerk’s Office transmits minute entries, notices and other court-generated documents via electronic distribution to attorneys only in Family cases. The Clerk’s Office would like to distribute minute entries, notices and other court-generated documents in Family cases via electronic means to not only a party’s attorney,

but to a party, when the party is not represented by counsel.

Because of the limited scope of Administrative Order No. 2009-01, specific to attorneys and electronic distribution of minute entries, and the fact that the RFLP do not have any equivalent of the language set forth in Rule 80(e) of the Rules of Civil Procedure, the Clerk's Office is limited in the manner in which it transmits minute entries, notices and other court-generated documents to *pro se* or *pro per* litigants in Family cases, i.e., transmission via U.S. First Class Mail. Absent an electronic distribution option, the Clerk's Office incurs the costs associated with having to mail all documents, i.e., postage, paper and printing, labor, etc. Most importantly, the *pro se* and *pro per* litigants are having to wait to receive copies of minute entries, notices and other court-generated documents via the U.S. Postal Service rather than being able to receive them via an electronic means upon docketing, just as attorneys are receiving them. E-mail is universal and is the most common internet-based activity, and while there are some variations in usage and habits between age groups and gender, the variations are negligible. According to the U.S. Census Bureau and the National Telecommunications and Information Administration (NTIA), in 2019, 93.6% of people ages 25 to 44 used e-mail, while 90.1% of people ages 45 to 64 used e-mail, and 90% of individuals ages 15 to 24 access and use e-mail. There is very little difference among U.S. email users with all the age groups, with Gen Z, Millennials, Gen X all having above 90% usage rates. The exception is the Boomer age group (57 years old to 75 years old), but according to NTIA, as of 2019, their usage rate was still very high, at 84.1%.

#### **RECOMMENDED CHANGES TO RULE 43.1, RULES OF FAMILY LAW PROCEDURE**

The RFLP do not have a General Provisions Rule similar to Rule 80 of the Rules of Civil Procedure. If it did, Petitioner would recommend amending such rule to include the proposed

language. However, after reviewing the RFLP, Petitioner maintains that Rule 43.1 is the most appropriate existing rule within which to include its proposed amendment.<sup>1</sup>

The Petitioner merely requests that the verbiage set forth in Rule 80(e) of the Civil Rules of Procedure, both subsections (1) and (2), be incorporated as a subsection to Rule 43.1 of the RFLP. Adding the proposed language to Rule 43.1 would also create consistency among how the Clerk's Office distributes minute entries and other court generated documents in the case types of Civil, Probate and Family. And as noted above, would likely be a consequential benefit and convenience to those unrepresented litigants in family law matters and would save the Clerk's Office significant resources.

## **CONCLUSION**

Petitioner requests that the Court open this petition for public comment and that the Court consider this petition and comments in the regular course provided by Supreme Court Rule 28.

DATED this 10<sup>th</sup> day of January, 2023.

/s/ Jeff Fine  
Clerk  
Superior Court for Maricopa County

This comment has been filed via electronic filing of in accordance with deadlines set forth in Rule 28 of the Rules of Supreme Court of Arizona.

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<sup>1</sup> If the Court determines that there is a more appropriate place to incorporate the proposed amendment, whether that be through the creation of a free-standing, new rule or inclusion in another already-existing rule, Petitioner would have no objection.

## APPENDIX A

Modifications to the text are shown by underscoring in red font.

### Rule 43.1. Filings, Pleadings, and Other Documents

**(a) Filing with the Court Defined.** The filing of documents with the court is accomplished by filing them with the clerk. If a judge permits, a party may submit a document directly to a judge, who must transmit it to the clerk for filing and notify the clerk of the date of its receipt.

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**(h) Notice of Completed Adoption.** A notice of completed adoption (Juvenile Form 8), a motion to modify or terminate child support based on the adoption of a child, any response, or an associated minute entry or order terminating child support, must be treated as a confidential record.

#### **(i) Clerk's Distribution of Minute Entries and Other Court Records.**

**(1) Minute Entries.** The clerk must distribute, either by U.S. mail, electronic mail, or attorney drop box, copies of all minute entries to all parties.

**(2) Electronic Distribution.** The clerk may distribute minute entries, notices and other court-generated documents to a party or a party's attorney by electronic means. Electronic distribution of a document is complete when the clerk transmits it to the email address that the party or attorney has provided to the clerk.