

The Honorable Jeff Fine  
Clerk of the Superior Court in and for Maricopa County  
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IN THE SUPREME COURT STATE OF ARIZONA

In the Matter of:

	)	Supreme Court No. R-22-0044
PETITION TO ADD RULE 30	)	
TO ARIZONA RULES OF	)	COMMENT
FAMILY LAW PROCEDURE	)	
_____	)	

The Clerk of the Superior Court in and for Maricopa County (“Clerk of the Maricopa County Superior Court” or “the Clerk”) files the following Comment pursuant to Rule 28, Arizona Rules of the Supreme Court, in response to the Petition to Add Rule 30 to the Arizona Rules of Family Law Procedure.

The Clerk takes no position with regard to the Family Court Improvement Committee’s investigation and subsequent findings that there are several areas where judicial officers failed to issue prompt rulings on stipulated or uncontested actions or matters. The Clerk also takes no position on whether there is a need for Rule 30; if the goals of Rule 30 can be achieved by modifying existing rules; or whether time requirements for rulings on stipulated or uncontested actions should be set forth in rule. These are issues outside the purview of the duties and obligations of the Clerk, as set forth in A.R.S. § 12-283 and Rule 94, Rules of the Supreme Court.

However, as the elected official whose office is responsible for taking in filings, docketing those filings, and ensuring that they are routed to the assigned judicial officer for a ruling, the Clerk opposes proposed Rule 30(a)(4) for the following reasons.

The phrase “upon delivery” is problematic, in that it is vague, and lacks the precision and clarity that is needed for consistent interpretation and understanding. For example, one could read proposed Rule 30(a)(4) and assume that the stipulated motion merely needs to be delivered to an assigned judicial officer’s division or to Family Court Administration, and need not be provided to the Clerk for filing into the case file. The Clerk does not believe that interpretation is what is intended by the drafters of proposed Rule 30(a). The Clerk maintains that the word “delivery” should not be used as a substitute word for “filing.” The word “filing” is a legal term of art and is significant when reviewing other rules of procedure, as it is the filing date that triggers other actions and deadlines in a case.<sup>1</sup>

Second, even if the words “upon delivery” were struck and the word “filing” inserted in proposed Rule 30(a)(4), the Clerk cannot guarantee the filing would be processed allowing sufficient time for the Court to rule upon the stipulated motion and/or stipulation within seven (7) court days.

Family court filings come to the Clerk in a variety of ways, i.e., eFile, in person filing at file counters, via depository boxes and U.S. Mail. With each method of filing, there are different steps the Clerk must take to file in the document. Among other things the Clerk must do when taking in a document, irrespective as to the manner in which the document or filing is presented, is review the filing and determine if it meets minimum filing requirements, i.e., is the filing

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<sup>1</sup> Rule 43.1 *Filings Pleadings, and Other Documents* provides, in part, the following:

- (a) *Filing with the Court Defined.* The filing of a 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.
- (b) *Effective Date of Filing.*
  - i. Except for documents submitted directly to a judge under Rule 43.1(a), a document is deemed filed on the date the clerk receives and accepts it. . . .

properly captioned, assess and collect the appropriate filing fee, etc. Once these determinations and actions have been made and taken, the Clerk can officially file in the document. Then depending on the manner by which the document is filed, the document needs to be routed to the assigned judicial officer's electronic document queue or the filing party may have to hand-deliver a paper copy of the filing to the assigned judicial officer's division or Family Court Administration.

Clerk staff strive to meet internally set goals for processing filings. It is the intent of Clerk staff to process documents within 48 to 72 business hours from the date of submission by the filing party. However, there are times when Clerk staff are unable to meet these processing goals and timeframes, and it can take longer for processing. More often than not, delays in document processing are due to staffing shortages.

Clerk's Office leadership attended meetings with Maricopa County Superior Court judicial officers and administrative staff to discuss this Petition and the role Clerk staff play in processing court documents, and all agreed that for a judicial officer to render a ruling on a filing within seven (7) days of the Clerk receiving it would require almost instantaneous processing and docketing of the filing. Instantaneous filing is unrealistic and not feasible given current technology and staffing; the various means by which parties may file documents in cases; and the large volume of filings the Clerk receives. Even if the Clerk meets its internal processing goals as set forth above, a seven (7) days timeframe for issuing ruling, would leave the judicial officer with a very small window of time to issue a ruling or determination.

The Clerk has reviewed the Comment filed by the Maricopa County Superior Court in response to the Petition and is confident that it can accommodate either the 21-day option or the

14-day option as proposed by the Superior Court.<sup>2</sup>

The Clerk also acknowledges the ambiguity created by the requirements of Rules 43.1 and 45 in that the majority of consent decrees are not “filed” as is contemplated in Rule 43.1, just as proposed orders and judgments are not filed. *See* Rule 43.1(e)(2). The Clerk maintains that the proposed amendments to Rule 45(a) as set forth in the Maricopa County Superior Court’s Comment are warranted, and that the preferred method for the Clerk to receive consent decrees would be through a lodging process.

Based upon the information set forth above, the Clerk opposes proposed Rule 30(a)(4) as drafted and requests that if a timeframe is set forth in Rule for a judicial officer to rule on stipulated motions that the Supreme Court adopt the proposed timeframe options set forth by the Maricopa County Superior Court in its Comment.

DATED this 1<sup>st</sup> day of May, 2023.

/s/ Jeff Fine  
Hon. Jeff Fine, Clerk  
Superior Court in and for Maricopa County

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<sup>2</sup> In its April 19, 2023 Comment, the Maricopa County Superior Court proposes the following two options to account for processing delays:

**21-Day Option:** All written stipulations must be accompanied by a proposed order. Except as otherwise provided in these rules, the court must rule on any written stipulation within twenty-one days of the stipulation being filed with an accompanying proposed order. If the proposed order is signed and entered, no minute entry need issue.

**14-Day Option:** All written stipulations must be accompanied by a proposed order, with a courtesy copy of the stipulation and proposed order emailed or hand-delivered to the assigned judge. Except as otherwise provided in these rules, the court must rule on any written stipulation within fourteen days of the stipulation being filed with an accompany proposed order and delivered to the assigned judge. If the proposed order is signed and entered, no minute entry need issue.

This Comment has been filed via electronic filing of in accordance with deadlines set forth in the Supreme Court's January 17, 2023 Order.

A copy of this Comment has been emailed to the Petitioner at the following:

Susan Pickard on behalf of the Honorable Paul J. McMurdie  
Judge, Arizona Court of Appeals, Division One  
Chair, Family Court Improvement Committee  
State Courts Building  
1501 West Washington Street  
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