

Judge David B. Gass
Chief Judge
Arizona Court of Appeals, Division One¹
1501 West Washington Street
Phoenix, Arizona 85007-3231

Judge Christopher P. Staring
Chief Judge
Arizona Court of Appeals, Division Two
400 West Congress Street, Suite 200
Tucson, Arizona 85701

**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of)	Arizona Supreme Court No. R-_____
)	
PETITION TO AMEND RULE 4.2(h),)	PETITION TO AMEND RULE 4.2(h),
ARIZONA RULES OF CIVIL)	ARIZONA RULES OF CIVIL
APPELLATE PROCEDURE)	APPELLATE PROCEDURE
)	
OR, IN THE ALTERNATIVE,)	OR, IN THE ALTERNATIVE,
)	
AMEND APPENDIX FORM 5)	AMEND APPENDIX FORM 5,
ARIZONA RULES OF CIVIL)	ARIZONA RULES OF CIVIL
APPELLATE PROCEDURE)	APPELLATE PROCEDURE
_____)	

PETITION

Pursuant to Rule 28, Rules of the Supreme Court, this petition asks the Court to amend Rule 4.2(h) of the Arizona Rules of Civil Appellate Procedure (ARCAP) to better facilitate electronic distribution of documents to self-represented litigants and to delete ARCAP Form 5 or, in the alternative, amend ARCAP Form 5 to make it more readable.

I. NEED FOR PROPOSED CHANGES

ARCAP 4.2(h) allows an appellate clerk to electronically distribute appellate court

¹ The courts are listed only for identification purposes. The opinions expressed in this petition are those of the individual judges and do not necessarily reflect the views of the courts.

documents to a party's or a person's attorney of record. For self-represented litigants, however, the appellate clerk may electronically distribute appellate court documents only if the party has completed and signed Appendix Form 5. Form 5 requires parties to provide their email address and contains their written consent to electronic distribution by the appellate clerk at that email address.

The body of Form 5 states:

The undersigned self-represented party to this appeal, pursuant to Rule 4.2(h) of the Arizona Rules of Civil Appellate Procedure, consents to electronic distribution of court documents by the appellate clerk. The appellate clerk may distribute court documents to the undersigned at the following electronic mailing address: _____. The undersigned is responsible for maintaining this email address, and for checking it on a regular basis.

This consent is effective when it is filed with the appellate clerk. The undersigned understands that this consent is voluntary and that it remains in effect until the undersigned files a written withdrawal of consent with the appellate clerk. This consent form does not constitute consent to electronic service on the undersigned by another party.

Although only two paragraphs, this text has a Flesch-Kincaid Grade Level of 13.5, reflecting an advanced, college education, reading level. <https://readable.com/readability/flesch-reading-ease-flesch-kincaid-grade-level/>

Many parties are self-represented in Court of Appeals cases, especially in family, workers' compensation, and unemployment benefits appeals. These parties generally prefer to receive documents by email because it is faster, and it reduces the chance that they might be lost or stolen. Email distribution is also helpful for self-represented parties who do not have a mailing address or who move frequently. Form 5, as written, likely is a daunting obstacle for many self-represented litigants.

This petition seeks to allow the court to offer a form that accomplishes the same function as Form 5 but using simplified language. Modifying the rule in this manner would make it consistent with other rules that reference Appendix forms, but do not require a party to use those exact forms. *See* ARCAP 4(a)(1) & (2) (stating that every document filed with an appellate court must have a caption that “contain[s] the information shown in” Appendix Forms 3 and 4); ARCAP 14(b) (“The first page of a brief must include a caption that is substantially the same as shown in Form 4.”); Rule 14(a)(5) (requiring every brief to be accompanied by a certificate of compliance and offering Form 4 as “a template.”); ARCAP 8(c) (listing the contents that must be included in a notice of appeal or cross-appeal and stating, “Form 1 is a form for the notice of appeal or notice of cross-appeal.”). It would also be consistent with the approach of the recently-adopted Arizona Rules of Procedure for Special Actions. *See* Ariz. R. P. Spec. Act. 14(b) (requiring a petition for special action to be accompanied by a special action cover sheet “using a form designated by the court.”).

In addition, it would give the appellate courts greater flexibility in managing the consent to electronic distribution form. Allowing the form to be updated as necessary without requiring a formal rule change would streamline the process and ensure that the form stays aligned with evolving technology and practices. Accordingly, this Petition seeks to amend ARCAP Rule 4.2(h) to better facilitate electronic distribution of documents to self-represented litigants and delete ARCAP Form 5.

Alternatively, if the Court wants to continue to prescribe the content of the consent to electronic distribution form in the appellate rules, petitioners ask that Form 5 be replaced with revised text that uses language more accessible to self-represented litigants.

II. TEXT OF PROPOSED CHANGES

It is therefore proposed that the text of ARCAP 4.2 be modified to provide as follows (with deletions in strikeout and additions underlined):

(h) Electronic Distribution by an Appellate Clerk.

An appellate clerk may electronically distribute appellate court documents to a party's or person's attorney of record. An appellate clerk also may electronically distribute documents to a self-represented party that has filed a completed and signed consent to electronic distribution form designated by the court ~~Form 5~~, which provides that party's email address and the party's written consent to electronic distribution at that email address. Electronic distribution of documents by the appellate clerk is complete when the documents are transmitted by an appellate clerk to the email address provided to the appellate clerk.

In the alternative, it is proposed that the text of ARCAP Form 5 be modified to provide as follows (with deletions in strikeout and additions underlined):

Form 5. Consent for Electronic Distribution by the Appellate Clerk

~~The undersigned self-represented party to this appeal, pursuant to Rule 4.2(h) of the Arizona Rules of Civil Appellate Procedure, consents to electronic distribution of court documents by the appellate clerk. The appellate clerk may distribute court documents to the undersigned at the following electronic mailing address: _____.~~ The undersigned is responsible for maintaining this email address, and for checking it on a regular basis.

~~This consent is effective when it is filed with the appellate clerk. The undersigned understands that this consent is voluntary and that it remains in effect until the undersigned files a written withdrawal of consent with the appellate clerk. This consent form does not constitute consent to electronic service on the undersigned by another party.~~

1. Name of party agreeing to email distribution:

2. Email address for distribution:

By signing and filing this document, I agree to let the appellate clerk send me court documents for this case by email instead of U.S. mail. I will maintain this email address and check it regularly.

I give this consent voluntarily, it starts as soon as I file it, and will stay in effect until I file a written request to cancel it with the appellate clerk.

Filing this document does not give the other party or parties permission to send me documents electronically.

This simplified text has a Flesch-Kincaid Grade Level of 10.5, reflecting an average, high school education, reading level. <https://readable.com/readability/flesch-reading-ease-flesch-kincaid-grade-level/>

III. CONCLUSION

Petitioners ask the Court to amend ARCAP 4.2(h) to better facilitate electronic distribution of documents to self-represented litigants and to delete ARCAP Form 5 or, in the alternative, amend ARCAP Form 5 to make it more readable.

DATED this 9th day of January, 2025.

_____/s/_____
David B. Gass
Chief Judge
Arizona Court of Appeals, Division One

_____/s/_____
Christopher P. Staring
Chief Judge
Arizona Court of Appeals, Division Two