

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-25-0008
)	
PETITION TO)	
)	
ADOPT RULE 13.2, ARIZONA RULES)	
OF CIVIL APPELLATE PROCEDURE)	
)	
ADOPT RULE 31.10(a), ARIZONA)	REPLY TO COMMENTS
RULES OF CRIMINAL PROCEDURE,)	
)	
AND)	
)	
AMEND RULE 607, ARIZONA RULES)	
OF PROCEDURE FOR THE JUVENILE)	
COURT)	
_____)	

Under Rule 28(e)(5), Rules of the Supreme Court of Arizona, petitioners reply to the comments filed on this petition.

The Arizona Committee on Family Courts filed a comment in support of the petition. In addition, the Committee on the Superior Court, the Commission on Diversity Equality, and

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

Justice in the Judiciary, and the Commission on Victims in the Courts voted to support the petition. Two additional comments were filed in response to the petition: (1) a neutral comment from the Arizona Commission on Access to Justice and (2) an objection to the petition from the Arizona Attorney General's Office. This reply addresses those two comments.

Background of the Petition

The petition asks the Supreme Court to adopt rules allowing self-represented litigants to file an “informal” appellate brief instead of a formal brief. The reason for the petition is self-represented litigants rarely fully comply with the rule requirements for appellate briefing and often struggle to present their arguments on appeal cohesively, hindering the court’s ability to resolve appeals on their merits. The informal appellate brief would make it easier for self-represented litigants to give the court the information it needs to understand their case and make a reasoned decision, enhancing access to justice. The informal brief also will make it easier for the court to identify frivolous and harassing appeals, enhancing justice to those facing such challenges.

Reply to Arizona Commission on Access to Justice Comment

The Arizona Commission on Access to Justice agrees that allowing self-represented parties to file an informal brief is conceptually a good idea. It, however, expresses concern about a “potential risk that self-represented litigants will abuse an easier process through increased baseless litigation and claims against other self-represented litigants.”

No doubt, wholly baseless claims brought solely for the purpose of harassment occur in Arizona courts. Indeed, some parties will pursue groundless appeals no matter what. Rules

for all parties should not be shaped primarily by the desire to avoid or minimize that behavior, and the Supreme Court should not allow speculative fears of potential abuse to impede innovative solutions to widely recognized problems.

In addition, this concern appears to arise from a mistaken belief: that the proposed change would simplify the appellate process for self-represented litigants to such an extent it would encourage them to file appeals they otherwise would not pursue. That is not the case. The informal brief still requires appellants to provide a comprehensive brief, outlining the case's factual and procedural history, identifying the legal issues for appeal, citing relevant legal authority, and explaining how the law supports their position. Instead of making it easier to submit meritless appeals, it will help the court distinguish between appeals that truly lack merit and those in which a self-represented party does not have the skills to present a meritorious appeal in the manner expected of an attorney.

The Commission also asks the Supreme Court to standardize informal brief forms across the state. Petitioners agree. Indeed, Division One and Division Two intend to adopt the same informal brief forms.² If the Supreme Court wishes, petitioners have no objection to the Supreme Court requiring the two divisions to maintain identical forms.

Reply to Arizona Attorney General's Office Comment

The Arizona Attorney General's Office admits self-represented litigants do not comply with the current briefing rules, causing problems for the courts and opposing parties. But it

² The proposed changes would not apply to the Supreme Court because the petition is not directed to the rules governing petitions for review, responses, and replies filed in the Supreme Court.

argues the proposed rules will not help solve that problem and could make the quality of self-represented litigant briefs worse.

The attorneys from that office contend that in their experience, the Ninth Circuit's informal brief has not improved the quality of self-represented litigant briefs, though they offer no specific examples. Assuming the truth of their contention, petitioners' proposed informal briefs represent an improvement over the Ninth Circuit's version. And since filing the petition, petitioners have revised those forms to make them more comprehensive. Updated versions are attached. The proposed briefs ask simple questions, making it clear to self-represented litigants what information is required.

For example, current rules opaquely require a "statement of issues" in an appellate brief. Though "statement of issues" may not seem opaque to those who have graduated from an accredited law school, the same is not true of the general public. For that reason, the proposed informal brief uses plain English, asking: "What issues are you asking the Court of Appeals to review in this appeal? What do you think the superior court or administrative agency did wrong? Why do you think it is wrong?" Another section asks, "What do you want the Court of Appeals to do?"

This question-based format allows individuals without legal training to present the substance of their case more effectively. Petitioners' goal is to enable self-represented litigants to share relevant information and meaningful arguments, rather than continuing to insist they present briefs resembling those written by attorneys. As mentioned above, the informal brief process does not relieve a self-represented party of the burden of properly presenting their case, but it makes that task more manageable.

The Attorney General's Office also complains the sample informal briefs accompanying the petition are inconsistent with Arizona law, which requires self-represented litigants to meet the same standard as an attorney. For that reason, they take issue with the sample forms prompting self-represented litigants to provide documents, transcripts, and legal support for their claims "if possible." The language in the sample forms was not meant to suggest self-represented litigants could choose whether to provide supporting materials based on personal preference, but rather the language was intended to tell them they should include any documents, transcripts, or legal grounds they have that support their position. Even so, petitioners recognize this language is ambiguous. It would be clearer to remove the phrase "if possible." Accordingly, this language has been removed in the attached updated sample informal briefs.

As a final point, the Arizona Attorney General's Office argues government attorneys have an "unwritten understanding with the courts" to compensate for deficiencies in self-represented litigant filings, effectively "fill[ing] in the blanks" and "helping the court do its job." They argue allowing informal briefing will degrade the quality of self-represented litigant briefs, increasing their burden. As discussed above, the proposed informal briefs are expected to improve, not diminish, the quality of self-represented litigant filings. Further, with respect, it generally is inappropriate for government attorneys to speak on behalf of opposing self-represented litigants or attempt to explain their appeals. Indeed, from the court's perspective, any attorney (government or private) who is answering self-represented briefs is not doing the court's work, but instead is doing that attorney's job of answering the claims raised to the best of that attorney's ability. Enabling self-represented litigants to present their own arguments

more effectively supports the integrity of the adversarial process. And it would reduce, not increase, any perceived obligation by government attorneys to do other parties' work for them. Moreover, preserving the appropriate roles of all participants in the legal process helps ensure fairness and reinforces confidence in the judicial system.

Conclusion

The petition proposes a solution allowing the appellate court to receive better information and encourage greater participation by self-represented parties, enhancing access to justice. Though the Arizona Commission on Access to Justice and the Attorney General's Office acknowledge the problem of self-represented litigants who are unable to comply with the current rules and effectively present their appellate issues, they question petitioners' proposed solution without offering an alternative—essentially urging the Supreme Court to maintain the status quo. Rather than continuing to hold self-represented litigants to standards they are unlikely to meet, petitioners ask the Supreme Court to grant the petition to allow self-represented litigants to file an informal appellate brief instead of a formal brief.

DATED this 19th day of May, 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