

1 John A. Furlong, Bar No. 018356
2 General Counsel
3 STATE BAR OF ARIZONA
4 4201 North 24th Street, Suite 100
5 Phoenix, Arizona 85016-6266
6 Telephone: (602) 252-4804
7 Email: John.Furlong@staff.azbar.org

8 **IN THE SUPREME COURT**
9 **STATE OF ARIZONA**

10 PETITION TO AMEND RULE 10(d),
11 ARIZONA RULES OF CIVIL
12 PROCEDURE

Supreme Court No. R-11-0018

**Comment of the State Bar of
Arizona Regarding Petition to
Amend Rule 10(d), Arizona
Rules of Civil Procedure**

13 A petition has been submitted to amend Rule 10(d) of the Arizona Rules of
14 Civil Procedure ("Rule 10(d)") to correct a perceived inconsistency in the rule that
15 has allegedly led to abuse by Arizona practitioners. The proposed change would
16 change the language "all documents shall be double spaced and shall not exceed
17 28 lines per page" to read "all documents shall be double spaced and shall not
18 exceed 22 lines per page" for all pleadings and other papers filed in any action or
19 proceeding.

20 The State Bar of Arizona opposes petitioner's proposed amendment to
21 Rule 10(d) because: (1) there is no inconsistency in Rule 10(d) in its current form;
22 (2) there is no evidence of abuse of Rule 10(d) that cannot be otherwise resolved
23 by the courts' enforcement of the rule; and (3) the proposed amendment would
24 create an unnecessary inconsistency with the federal local rule governing line
25 spacing.
26

1 **I. Proposed Amendment to Arizona Rule 10(d) Ariz. R. Civ. P.**

2 Rule 10(d) provides, in pertinent part, that:

3 [a]ll pleadings and other papers filed, other than printed forms, shall
4 be clearly handwritten or typewritten on one side of the page only.
5 The body of all documents shall be double spaced and shall not
6 exceed 28 lines per page, except for headings, quotations and
7 footnotes which may be single spaced.

8 Petitioner would change “28 lines per page” to “22 lines per page.” *See*
9 Petition at 1 and Appendix A. This modification is unnecessary and, rather than
10 curing any problem, would only serve to create inconsistency.

11 Prior to 2004, there was no requirement regarding the minimum or maximum
12 number of lines per page in pleadings. The convention at the time was for twenty-
13 six to twenty-eight lines per page. The intent of the 2004 amendment to the rule,
14 which petitioner correctly notes “delete[d] the provision that permitted the body of
15 documents to be one and one-half spaced,” *see* DANIEL J. MCAULIFFE & SHIRLEY J.
16 MCAULIFFE, ARIZONA CIVIL RULES HANDBOOK (2011 ed.) at 184, was to codify the
17 recognized practice regarding the number of lines per page. Although line spacing
18 was not the focus of the amendment, the rule now provides that “[t]he body of a
19 pleading or other paper must now be double spaced, except for headings, quotations
20 and footnotes, and cannot exceed 28 lines per page.” *Id.*

21 Petitioner erroneously concludes that the 2004 amendment created an
22 inconsistency in the rule, reasoning that if a document is “double spaced,” a
23 maximum number of twenty-two lines will fit on a page. Thus, petitioner implies
24 that by leaving in the language “shall not exceed 28 lines per page,” the amendment
25 left Rule 10(d) open to interpretation so as to continue to permit 1.5 line spacing by
26 some practitioners.

1 Petitioner's assertion is necessarily premised upon the assumed use of
2 specific typefaces and font sizes (*e.g.*, Times New Roman 13-point font, which
3 would result in a maximum of twenty-two lines per page). However, neither Rule
4 10(d) nor any other Arizona Rule of Civil Procedure specifies the typeface and/or
5 font size for filings in the superior courts, both of which can significantly impact
6 the number of lines per page. This subject is addressed, if at all, in the local rules of
7 the superior courts. For example, both Maricopa County and Yuma County have
8 established font-size requirements in their respective Local Rules of Practice.
9 Rule 2.17 of the Local Rules of Practice for Maricopa County provides that:

10 [a]ll typewritten pleadings, motions and other original papers
11 (including text, quotations and footnotes) filed with the clerk shall be
12 in a type size no smaller than ten (10) pitch (10 characters per inch).
13 Those that are printed or otherwise produced with proportional type
14 shall be in a size no smaller than thirteen point.

15 Using a proportional typeface such as Times New Roman 13-point font, the
16 maximum number of double-spaced lines per page is twenty-two, as petitioner
17 contends. Rule 5 of the Local Rules of Practice for Yuma County, however, states
18 that "[a]ll typewritten pleadings and other original papers filed with the Clerk of the
19 Court shall be in a type size no smaller than 12 point font." Using the same
20 typeface, Times New Roman, but in the 12-point font permitted by the Local Rules
21 of Practice for Yuma County, will result in a maximum of twenty-three double-
22 spaced lines per page.

23 In sum, the phrase "shall not exceed 28 lines per page" in Rule 10(d)
24 accounts for the variances produced by use of different typefaces and fonts and
25 establishes an outer boundary of twenty-eight lines that cannot be exceeded.
26 Amending the rule in the manner suggested by petitioner would inadvertently and
unnecessarily regulate the typefaces and fonts which have, up until now, been left

1 to the discretion of the superior courts on a county-by-county basis; and it would
2 turn the 2004 amendment, which was intended to codify the convention of using
3 from twenty-six to twenty-eight lines per page, on its head.

4 To the extent petitioner contends that Rule 10(d) must be amended to prevent
5 practitioners from use 1.5 spacing rather than double spacing, the petition would
6 appear to be a solution in search of a problem. Rule 10(d) is designed to maintain
7 consistency and uniformity for the benefit of the courts. If a court perceives any
8 abuse of line spacing, the judge is more than capable of identifying and remedying
9 such abuses through discretionary rejection of pleadings. Moreover, petitioner has
10 failed to present any evidence, even anecdotally, of any widespread abuse of
11 Rule 10(d).

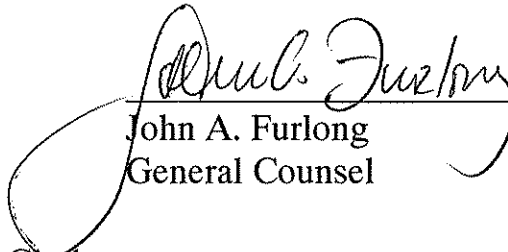
12 Equally as important, amending Rule 10(d) would create an unnecessary
13 inconsistency with the federal local rule. Rules 10(a), (b), and (c) of the Arizona
14 Rules of Civil Procedure are identical to Rules 10(a), (b), and (c) of the Federal
15 Rules of Civil Procedure. While the federal rules have no counterpart to
16 Rule 10(d), the Rules of Practice of the United States District Court for the District
17 of Arizona similarly provide that “[t]he body of all documents shall be typed
18 double-spaced and shall not exceed 28 lines per page; they shall not be single-
19 spaced except for footnotes and indented quotations.” LRCiv 7.1(b)(1). Adopting
20 petitioner’s proposed revision would therefore create a discrepancy between
21 Arizona’s superior court requirements and those of the United States District Court
22 for the District of Arizona. It would require practitioners to comply with differing
23 line-spacing standards depending on the court in which they are appearing, likely
24 necessitating the development of entirely new templates by nearly every law firm in
25 the state for no compelling reason.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

II. Conclusion

The State Bar of Arizona therefore respectfully requests that the Court reject the petitioner's proposed rule amendment.

RESPECTFULLY SUBMITTED this 2nd day of April, 2012.



John A. Furlong
General Counsel

Electronic copy filed with the Clerk
of the Supreme Court of Arizona this
3rd day of April, 2012,

By: Kathleen A. Lundgren