

Hon. Patti Noland, President
Arizona Association of Superior Court Clerks
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IN THE ARIZONA SUPREME COURT

In the matter of)	R- 07-0012
)	
PETITION FOR ADOPTION OF)	COMMENT TO PROPOSED RULES
THE ARIZONA RULES OF)	RELATED TO ARIZONA RULES OF
PROBATE PROCEDURE)	PROBATE PROCEDURE, RULE 7
_____)	

The Arizona Association of Superior Court Clerks (AASCC) supports improving the Rules of Probate Procedure and in protecting sensitive information. The AASCC submits the following comments as they relate to redaction, confidential documents and access to records:

Rule 7. *Confidential Documents and Information*. Section (B) of the proposed rules presents the concern of returning to a paper-centric process when all courts in the state are moving toward more electronic methods of doing business. Proposed section (B) requires placing an original paper document of each confidential filing into an envelope that would be maintained in paper by the clerk. This creates processing difficulties in those counties that are scanning the image of paper documents into an electronic court record. In those counties that maintain an electronic court record, judicial officers and staff have immediate access to documents through computers. The requirements of the

petition will eliminate years of electronic progress made in clerk's offices by requiring the clerks to maintain and deliver paper documents in probate cases.

Most clerk's offices in the state will be transitioning to a new case management system in the near future. The clerks are hopeful that technology will allow the clerks to maintain an electronic court record that will protect sensitive data and at the same time allow necessary parties to view and/or print sensitive data as needed. Proposed Rule 7 would return clerk's offices to a labor-intensive paper process until all case management systems allow for scanning and segregating documents by confidential and non confidential status.

Section (D) of Rule 7 poses similar technical concerns for the clerks in terms of redacting information. Once a party files a document with the clerk it becomes increasingly difficult for the clerk to assume the responsibility for locating and redacting every incidence of confidential information in that document. The level of complexity for redacting documents increases with electronically filed documents and where the volume of confidential documents is substantial.

Section (F) of Rule 7 defines those persons to whom confidential probate documents may be disclosed. The Supreme Court's Rule 123 Committee is currently addressing the many faces of access to court records and the differences, if any, between view-only access and the ability to receive copies of documents. Section (F) would benefit from further review of these access issues, particularly in light of the need of court personnel who need to issue fiduciary warrants and who will need access to confidential sensitive data elements without having to first obtain court-ordered access.

The implementation of new case management systems and the negative consequences of returning to a labor-intensive paper process for most probate documents indicate a better way for protecting sensitive information will be possible in the near future. While the AASCC supports the probate committee's vision, more review of the impact of the probate rules is recommended.

DATED this 16th day of May, 2008.

/s/ Patti Noland
Hon. Patti Noland, President
Arizona Association of Superior Court Clerks

A copy of this comment has been mailed or delivered this 16th day of May, 2008, to:

Vice Chief Justice Rebecca White Berch, Chair
Probate Rules Committee
1501 W. Washington St., Phoenix, Az. 85007
Via electronic filing of comment

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