

Arizona Association of Superior Court Clerks  
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IN THE ARIZONA SUPREME COURT

In the matter of PETITION TO AMEND )  
VARIOUS RULES OF PROCEDURE )  
RELATING TO VERBATIM )  
RECORDINGS OF JUDICIAL )  
PROCEEDINGS ) R-05-0037  
)  
) COMMENT ON PETITION  
)  
\_\_\_\_\_ )

The Arizona Association of Superior Court Clerks respectfully submits the following comments on the Petition to Amend Various Rules of Procedure Relating to Verbatim Recordings of Judicial Proceedings:

The Association supports the effort to use the best and most appropriate method of keeping the record.

Regarding the record of proceedings in a judgment when service is by publication as reflected in Rule of Civil Procedure 55(f), these comments are limited to the clerks' experiences and the intent of the proposed changes. Proposed rule 55(f) is drafted to match new Family Rule of Procedure 44(f). As written, default judgments will require filing a record of the proceedings in a "retrievable, perceivable form." Currently, filing a compact disk, cassette tape, video tape or disk severely impedes the clerk's ability to meet mandates for access and preservation of the record. Further, the feasibility of storage space and equipment for retention and viewing multiple formats in these instances jeopardizes the public's ability to access the court record. The eFiling process and electronic court record as a standard is a more viable and universal approach to meeting the intent of proposed 55(f).

Regarding the appellate record in proposed Rule of Criminal Procedure 31.8(d)(3), a technical change is recommended to reflect the status of transcripts "submitted to" the clerk for the defendant, rather than "filed with" the clerk for the defendant. The clerk does not file-in the transcript copies that are temporarily retained for the sole purpose of release to the defendant.

At 31.8(d)(3)(ii), it is recommended to clarify the original certified electronic transcript be filed with the clerk to prevent the appearance of duplicate originals in the

electronic court record and comport with the verbiage in Rule of Criminal Procedure 31.8(d)(3)(i).

The addition of a Criminal Rule of Procedure 31.8(d)(3)(iii) is recommended to establish a 90-day timeframe that the clerk retains a defendant's copy of the certified transcript, allowing the defendant ample opportunity to obtain his or her copy of the certified transcript without requiring the clerk to retain the copy indefinitely.

Regarding transcripts in general in proposed Supreme Court Rule 91, it is recommended to clarify paper from electronic transcripts. A paper transcript may not always be required or requested. The attachment reflects this possibility in the proposed rule. This change will comport with the newly proposed Rule of Criminal Procedure 31.8(d)(3)(ii).

The Association also wishes to bring to the Supreme Court's attention the need for rewrite of several rules relating to roles, responsibilities, and protocol for storage of court reporter notes or other electronic verbatim recordings of proceedings. Our goal is for the rules to be coordinated in direction and not overly limiting in scope. Accordingly, we have not provided any specific detail in this Comment, but point out that the Records Retention and Disposition Schedule Workgroup had various discussions about implementation of the new Schedule for the 'official court record' (section 2 of the new Schedule). At the time these issues came to light, the rules corresponding to the new Schedule had already been rewritten (R-05-0007) and were effective December 1, 2005. It is recommended that a subcommittee be assembled to review and draft verbiage resulting in consistency and definition, as needed, between Criminal Rules 5.7, 28.1(c), Civil Rule 43(k) and the now outdated Maricopa County Local Rule 1.10. There has been discussion in Maricopa County between the Clerk's Office and the Court regarding an appropriate rewrite of the local rule to now incorporate specific protocol for the various electronic storage opportunities. This rewritten rule could offer greater benefit to compliment the work of the KTR committee if written as a new statewide rule. The Association is anxious to be an active participant in this initiative.

Proposals to the above-referenced rules are attached to this comment.

DATED this 22 day of May, 2006.

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Juanita Mann, President  
Arizona Association of Superior Court Clerks

A copy of this comment has been mailed or delivered this  
22 day of May, 2006, to:

Hon. Chief Justice Ruth V. McGregor  
1501 West Washington Street  
Phoenix, Arizona 85007

Cc: Hon. Barbara R. Mundell, Presiding Judge  
Superior Court Clerks