

Arizona Supreme Court

Rule 28 Petition

**R-23-0055**

**RULES OF PROCEDURE FOR SPECIAL ACTIONS**

**Appellate Case Information**

Case Filed: 13-Dec-2023  
Case Closed: 22-Aug-2024

**Dept/Composition**

**Side 1. RULE 28 (a)(2), RULES OF PROCEDURE FOR SPECIAL ACTIONS, Other**

**(Litigant Group) PETITIONER: TASK FORCE ON RULES OF PROCEDURE FOR SPECIAL ACTIONS**

- Task Force on Rules of Procedure for Special Actions, Petitioner
- Mark E Meltzer, Task Force on Rules of Procedure for Special Actions, Petitioner

**(Litigant Group) COMMENTOR: JOEL W. NOMKIN**

- Joel W Nomkin, Commentor  
AZ Bar No. 11939  
[Current Member]  
Admitted 6/21/88

**(Litigant Group) COMMENTOR: HON. D. DOUGLAS METCALF**

- D Douglas Metcalf, Commentor  
AZ Bar No. 17377  
[Current Member]  
Admitted 10/19/96

**(Litigant Group) COMMENTOR: ARIZONA COMMISSION ON ACCESS TO JUSTICE**

- Arizona Commission on Access to Justice, Commentor
- Hon Samuel A Thumma, Arizona Commission on Access to Justice, Commentor

**(Litigant Group) COMMENTOR: PINAL COUNTY PUBLIC DEFENDER'S OFFICE**

- Pinal County Public Defender's Office, Commentor

**Attorneys for: Commentor**

Kevin D Heade, Esq. (AZ Bar No. 29909)

**(Litigant Group) COMMENTOR: EMILY WARD AND AMAND WEAVER**

- Emily Ayn Ward, Commentor  
AZ Bar No. 29963  
[Current Member]  
Admitted 1/15/13
- Amanda Z Weaver, Commentor  
AZ Bar No. 34644

**(Litigant Group) COMMENTOR: VICTORIA KATZ**

- Victoria Katz, Commentor

**(Litigant Group) COMMENTOR: HON. MICHAEL S. CATLETT**

- Hon. Michael S Catlett, Commentor

**(Litigant Group) COMMENTOR: STATE BAR OF ARIZONA**

- State Bar of Arizona, Commentor

**Attorneys for: Commentor**

Lisa M Panahi, Esq. (AZ Bar No. 23421)

**(Litigant Group) COMMENTOR: HON. JEFF FINE**

- Hon Jeff Fine, Maricopa County Superior Court, Commentor

**(Litigant Group) COMMENTOR: ARIZONA ATTORNEY GENERAL'S OFFICE**

- Arizona Attorney General's Office, Commentor

**Attorneys for: Commentor**

Kristin K Mayes, Esq. (AZ Bar No. 22584)

Joshua D Bendor, Esq. (AZ Bar No. 31908)

Clinton N Garrett, Esq. (AZ Bar No. 22457)

**(Litigant Group) COMMENTOR: SCHARF-NORTON CENTER FOR CONSTITUTIONAL LITIGATION AT THE GOLDWATER INSTITUTE**

- Scharf-Norton Center for Constitutional Litigation, Commentor

**Attorneys for: Commentor**

Parker Dee Jackson, Esq. (AZ Bar No. 37844)

Arizona Supreme Court

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RULES OF PROCEDURE FOR SPECIAL ACTIONS

CASE STATUS

Aug 22, 2024...Case Closed

Aug 22, 2024...Decision Rendered

CASE DECISION

22-Aug-2024 ORDER

\* A petition having been filed proposing to abrogate and replace the current Rules of Procedure for Special Actions with a new set of rules, and the Court having considered the petition, comments, and reply,

Filed: <b>22-Aug-2024</b>	Mandate:
Decision Disposition	
<b>Adopted</b>	

IT IS ORDERED that the current Rules of Proc

Ann Timmer

17 PROCEEDING ENTRIES

- 13-Dec-2023 FILED: Motion to Suspend Rule 28(a)(2) & Request Expedited Consideration (Task Force on Rules of Procedure for Special Actions, Mark Meltzer, Staff)
- 26-Dec-2023 In August 2023, this Court established the Task Force on the Rules of Procedure for Special Actions ("the Task Force") to revise and restyle the special action rules. On December 13, 2024, Mark Meltzer, a Task Force staff member, filed a motion on the Task Force's behalf. The motion indicates that the Task Force is making progress in preparing a set of proposed rule revisions for the Court's consideration. It also says, however, that the Task Force does not anticipate that it will be able to file a rule petition with the Court by January 10, 2024, which is the deadline set forth in Rule 28(a)(2), Rules of the Supreme Court of Arizona, if the Court is to consider the petition during the August 2024 Rules Agenda.  
  
Consequently, the motion asks the Court to enter an order suspending the portion of Rule 28(a)(2) imposing a January 10, 2024, filing deadline and providing that the Court will consider the Task Force petition during the August 2024 Rules Agenda if it is filed no later than February 23, 2024. The motion also proposes that when the Court opens the petition for public comment, it imposes a deadline of May 17, 2024, for submitting public comments and a deadline of June 21, 2024, for submitting any Task Force reply.  
  
After considering the motion and finding good cause for suspending part of Rule 28(a)(2) under Rule 28(i), Rules of the Supreme Court of Arizona,  
  
IT IS ORDERED suspending Rule 28(a) of the Rules of the Supreme Court of Arizona to the extent it provides that this Court may consider a petition by the Task Force during the August 2024 Rules Agenda only if it is filed by January 10, 2024.  
  
IT IS FURTHER ORDERED that the Court will consider the Task Force's petition to revise and restyle the Rules of Procedure for Special Actions during the August 2024 Rules Agenda if it is filed no later than February 23, 2024.  
  
IT IS FURTHER ORDERED that if the Task Force's petition is filed by no later than February 23, 2024, the Court will open the petition for public comment, with all comments due no later than May 17, 2024, and any reply by the Task Force due no later than June 21, 2024. (Hon. Robert Brutinel)
- 22-Feb-2024 FILED: Petition; Appendix A; Appendix B; Appendix C (Petitioner Task Force on Rules of Procedure for Special Actions, Mark Meltzer, Staff)

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#### 17 PROCEEDING ENTRIES

4. 26-Feb-2024 In August 2023, this Court established the Task Force on the Rules of Procedure for Special Actions (“the Task Force”) to revise and restyle the special action rules. On December 26, 2023, the Court entered an order granting a motion by the Task Force to suspend Rule 28(a)(2) of the Rules of Supreme Court of Arizona, which says a rule petition must be filed by January 10 in order for it to be considered by the Court during its Rules Agenda the following August. The order further provided that if the Task Force filed its rule petition regarding the special action rules by February 23, 2024, the Court would consider the petition during its August 2024 Rule Agenda and open the petition for public comment.

On February 22, 2024, the Task Force filed its rule petition with the Court. Accordingly, consistent with the Court’s December 26, 2023 order,

IT IS ORDERED that the Court will consider the Task Force’s petition during its August 2024 Rules Agenda.

IT IS FURTHER ORDERED that this petition is opened for public comment under Rule 28(c), Rules of the Supreme Court of Arizona, with all comments due no later than May 17, 2024, and any reply by the Task Force due no later than June 21, 2024.

The petition may be viewed by going to: <http://www.azcourts.gov/Rules-Forum>. This opens the “Welcome” page. Petitions are posted under the pertinent body of rules. For example, the Task Force’s petition will be found under the category “Rules of Procedure for Special Actions,” which may be located by scrolling down the page.

For instructions on how to post comments electronically, click on <https://www.azcourts.gov/rules/Forum-FAQ> at the top of the “Forum FAQ” page and then scroll down to the question “How do I file a comment on a Rule 28 petition?”

Alternatively, commenters may submit comments by filing an original and one paper copy of the comment and one electronic copy of the written comments and supporting documents in Microsoft Word format on a CD or other compatible electronic medium with the Clerk of the Supreme Court, 1501 West Washington St., Room 402, Phoenix, AZ 85007 in an envelope marked “Rule Comment.”

Any person filing a comment must send a copy of the comment to the Petitioner electronically or by ordinary mail. (Hon. Robert Brutinel)

5. 18-Mar-2024 FILED: Comment of Joel Nomkin On Petition to Amend the Rules of Procedure for Special Actions (Joel W. Nomkin, Perkins Coie LLP)
6. 3-Apr-2024 FILED: Comment to Petition to Amend Rules of Procedure for Special Actions (Hon. D. Douglas Metcalf, Judge of the Superior Court in and for Pima County)
7. 29-Apr-2024 FILED: Comments of the Arizona Commission on Access to Justice Supporting the Petition (Arizona Commission on Access to Justice by Samuel A. Thumma, Chair)
8. 30-Apr-2024 FILED: Pinal County Public Defender Comment Re: Petition to Abrogate and Replace the Rules of Procedure for Special Actions (Pinal County Public Defender’s Office by Kevin D. Heade, Defender Attorney)
9. 3-May-2024 FILED: Comment to Petition to Amend the Rules of procedure for Special Actions; Exhibit 1; Exhibit 2; Exhibit 3 (Emily Ward and Amanda Weaver)
10. 16-May-2024 FILED: (Comment) (Victoria Katz)
11. 17-May-2024 FILED: Comment to Petition to Amend the Rules of Procedure for Special Actions (Hon. Michael S. Catlett, Arizona Court of Appeals Division One)
12. 17-May-2024 FILED: Comment of the State Bar of Arizona (State Bar of Arizona by Lisa Panahi, General Counsel)
13. 17-May-2024 FILED: (Comment) (Hon. Jeff Fine, Clerk of the Superior Court for Maricopa County)
14. 17-May-2024 FILED: Comment on Petition to Amend the Rules of Procedure for Special Actions (Arizona Attorney General’s Office by Kristin Mayes, Arizona Attorney General, Joshua D. Bendor and Clinten N. Garrett , Assistant Attorney General)
15. 17-May-2024 FILED: Comment on Petition R-23-0055 Rules of Procedure for Special Actions (Scharf-Norton Center for Constitutional Litigation at the Goldwater Institute by Parker Jackson, Staff Attorney)
16. 20-Aug-2024 WOULD ABROGATE THE CURRENT RULES OF PROCEDURE FOR SPECIAL ACTIONS AND REPLACE THEM WITH A REVISED AND RESTYLED SET OF SPECIAL ACTION RULES

ORDERED: Petition to Amend the Rules of Procedure for Special Actions = ADOPTED as modified, effective January 1, 2025.

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17 PROCEEDING ENTRIES

17. 22-Aug-2024 A petition having been filed proposing to abrogate and replace the current Rules of Procedure for Special Actions with a new set of rules, and the Court having considered the petition, comments, and reply,

IT IS ORDERED that the current Rules of Procedure for Special Actions and their associated comments are hereby abrogated, effective January 1, 2025.

IT IS FURTHER ORDERED that the Rules of Procedure for Special Actions and their associated comments and forms, as shown in Attachment A, are hereby adopted, effective January 1, 2025.

IT IS FURTHER ORDERED that the newly adopted rules shall apply:

(1) in all special actions filed on or after January 1, 2025; and

(2) in all other special actions pending on January 1, 2025, except to the extent that the court in an affected special action determines that applying a newly adopted rule would be infeasible or work an injustice, in which event the former rule of procedure applies.

IT IS FURTHER ORDERED that the Table of Contents and Correlation Table shown in Attachment B are hereby approved for publication and shall appear before the beginning of the newly adopted rules shown in Attachment A, with the Correlation Table following the Table of Contents.

IT IS FURTHER ORDERED that Rule 1.9(v)(2) of the Rules of Criminal Procedure and the comment following Rule 10 of the Arizona Rules of Civil Appellate Procedure are hereby amended as is shown in Attachment C to this order, effective January 1, 2025. (Hon. Ann A. Scott Timmer)

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