

Arizona Supreme Court

Rule 28 Petition

R-24-0004

RULES 101 AND 126(a), FASTAR RULES IN PIMA COUNTY

Appellate Case Information

Case Filed: 4-Jan-2024

Case Closed:

Dept/Composition

Arizona Supreme Court

Rule 28 Petition

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Side 1. RULES 101 AND 126, FASTAR RULES IN PIMA COUNTY, Other

(Litigant Group) PETITIONER: HON. JEFFREY T. BERGIN

- Mr Jeffrey T Bergin, Pima County Superior Court, Petitioner

(Litigant Group) COMMENTORS: BRIAN MARCHETTI, AMY HERNANDEZ, PILAR MENDOZA, BRYAN SCHILLER, DARREN M. CLAUSEN, TAMMY CARTER, MARC D. BLEAMAN, STEVE CORRADINI, PAUL HOFMANN, GABRIEL FERNANDEZ, DAVID KARNAS, JAMES PENNY AND LOUIS HOLLINGSWORTH

- Brian Marchetti, Commentor
AZ Bar No. brianmarchetti
[Current Member]
- Amy Hernandez, Commentor
AZ Bar No. 22892
- Pilar Mendoza, Commentor
- Bryan Schiller
- Darren M Clausen, Commentor
AZ Bar No. 19427
[Current Member]
Admitted 5/21/99
- Tammy R Carter, Commentor
AZ Bar No. 21702
[Current Member]
- Mr Marc D Bleaman, Commentor
AZ Bar No. 16378
[Current Member]
Admitted 10/21/95
- Mr Stefano D Corradini, Commentor
AZ Bar No. 13192
[Current Member]
Admitted 10/27/90
- Mr Paul G Hofmann, Commentor
AZ Bar No. 15457
[Current Member]
SOLE PRACTITIONER
Admitted 5/21/94
- Gabriel D Fernandez, Commentor
AZ Bar No. 16483
[Current Member]
Admitted 10/21/95
- M David Karnas, Commentor
AZ Bar No. 13728
[Current Member]
Admitted 7/10/91
- Mr James B Penny, Commentor
AZ Bar No. 15236
[Current Member]
SOLE PRACTITIONER
Admitted 10/23/93
- Louis Hollingsworth, Commentor
AZ Bar No. 11534
[Current Member]
Admitted 10/24/87

(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

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(Litigant Group) COMMENTOR: DAVID D. BUECHEL

- David DeWendt Buechel, Commentor
AZ Bar No. 33388
[Current Member]
Admitted 11/18/16

(Litigant Group) COMMENTOR: WILLIAM BACON

- William C Bacon, Commentor
AZ Bar No. 4895
[Current Member]
Admitted 4/30/77

(Litigant Group) COMMENTOR: PAGE CHANCELLOR MARKS

- Page Chancellor Marks, Commentor

(Litigant Group) COMMENTOR: HON. GREG SAKALL

- Hon. D Gregory Sakall, Commentor

(Litigant Group) COMMENTOR: MICHAEL J. BELL

- Mr Michael J Bell, Commentor
AZ Bar No. 9020
[Current Member]
Admitted 10/15/83

(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: RICHARD B. BIGGS

- Mr Richard B Biggs, Commentor
AZ Bar No. 11396
[Current Member]
Admitted 10/24/87

(Litigant Group) COMMENTOR: PIMA COUNTY BAR ASSOCIATION

- Pima County Bar Association, Commentor

Attorneys for: Commentor

James William Rappaport, Esq. (AZ Bar No. 31699)

CASE STATUS

Aug 22, 2024....Continued

Jan 4, 2024.....Pending

15 PROCEEDING ENTRIES

1. 4-Jan-2024 FILED: Petition to Permanently adopt Rules for the Fast Trial and Alternative Resolution Program ("FASTAR"); Appendix A (Petitioner Hon. Jeffrey T. Bergin, Presiding Judge, Superior Court of Arizona in Pima County)
2. 17-Jan-2024 Rule petitions have been filed in the above-captioned matters under Rule 28(a), Rules of the Supreme Court of Arizona. Upon consideration,

IT IS ORDERED that these petitions are opened for public comment pursuant to Rule 28(c), Rules of the Supreme Court of Arizona. Comments must be submitted by no later than Wednesday, May 1, 2024, and any reply by a petitioner must be submitted no later than Monday, June 3, 2024.

The petitions may be viewed by going to: <http://www.azcourts.gov/Rules-Forum>. This opens the "Welcome" page. Petitions are posted under the appropriate body of rules, for example, Rules of Criminal Procedure, which is found by scrolling down the page.

For instructions on how to post comments electronically, follow the steps listed above and click on <http://www.azcourts.gov/rules/Forum-FAQ> at the top of the "Forum FAQ" page and then "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. John R. Lopez IV)

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15 PROCEEDING ENTRIES

3. 23-Apr-2024 FILED: (Comment) (Brian Marchetti, Amy Hernandez, Pilar Mendoza, Bryan Schiller, Darren M. Clausen, Tammy Carter, Marc D. Bleaman, Steve Corradini, Paul Hofmann, Gabriel Fernandez, David Karnas, James Penny and Louis Hollingsworth)
4. 29-Apr-2024 FILED: Comments of the Arizona Commission on Access to Justice in Support of the Petition (Arizona Commission on Access to Justice by Samuel A. Thumma, Chair)
5. 29-Apr-2024 FILED: (Comment) (David D. Buechel)
6. 30-Apr-2024 FILED: (Comment) (William C. Bacon)
7. 30-Apr-2024 FILED: (Comment) (Page Chancellor Marks)
8. 1-May-2024 FILED: (Comment) (Hon. Greg Sakall, Pima County Superior Court, Judge Division 23)
9. 1-May-2024 FILED: (Comment) (Michael J. Bell)
10. 1-May-2024 FILED: State Bar of Arizona Comment (State Bar of Arizona by Lisa M. Panahi, General Counsel)
11. 1-May-2024 FILED: (Comment) (Richard B. Biggs)
12. 1-May-2024 FILED: Comment of the Pima County Bar Association in Support of the Petition (Pima County Bar Association by James W. Rappaport, Rules Committee Chair)
13. 3-Jun-2024 FILED: Reply (Petitioner Hon. Jeffrey T. Bergin, Presiding Judge, Superior Court of Arizona in Pima County)
14. 20-Aug-2024 WOULD ADOPT THE FASTAR RULES IN PIMA WOULD ADOPT THE FASTAR RULES IN PIMA COUNTY ON A PERMANENT BASIS AND AMEND FASTAR RULES 101 AND 126(a)(2)

ORDERED: Petition to Permanently Adopt Rules for the Fast Trial and Alternative Resolution Program ("FASTAR") = CONTINUED until the December 2024 Rules Agenda.

FURTHER ORDERED: The proposed amendments as revised are opened for public comment, with all comments due no later than October 1, 2024 and any reply due no later than October 15, 2024.

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15 PROCEEDING ENTRIES

15. 22-Aug-2024 The Fast Trial and Alternative Resolution ("FASTAR") Program aims to provide a speedier and more economical alternative to compulsory arbitration and jury trial for plaintiffs requesting only monetary damages in an amount of \$50,000 or less. See Rule 101(a), Pima County Rules for the FASTAR Pilot Program (the "FASTAR Rules") ("The program's objective is to achieve a more efficient and inexpensive, yet fair, resolution of eligible cases.").

In 2017, this Court established a three-year FASTAR pilot program in the Superior Court of Pima County by Administrative Order No. 2017-116. In 2020, due to the program's success, then-Presiding Judge Kyle Bryson filed rule petition number R-20-0012 requesting permanent adoption of the FASTAR Rules in Pima County. Thereafter, due to disruptions caused by the pandemic, the pilot program and rules were extended by administrative order without permanent adoption until December 31, 2021. See Admin. Order No. 2020-158 (2020).

At this Court's August 2021 Rules Agenda, the Court determined that it should extend the FASTAR Pilot Program for an additional two years but only after a period of public comment on proposed FASTAR rule amendments. The Court considered and adopted the amendments on December 8, 2021 and extended the FASTAR Pilot Program in Pima County until December 31, 2023.

On December 5, 2023, this Court entered an order noting that a court-ordered progress report on the FASTAR Program in Pima County had recommended that the Court elevate FASTAR from a pilot program to a permanent program. The order also noted that Judge Jeffrey Bergin, then-Presiding Judge of the Superior Court in Pima County, would be filing a rule petition in the 2024 rules cycle seeking permanent adoption of the FASTAR Rules.

On January 4, 2024, Judge Bergin filed a petition to permanently adopt FASTAR Rules in the form approved by this Court's December 8, 2021 Order in R-20-0012, but with revisions allowing the FASTAR Rules to apply in any county that authorizes adoption of the program for cases within that county. The Court circulated Judge Bergin's petition for comment; multiple constructive comments were submitted; and Judge Bergin filed a reply agreeing with a number of the comments as additions to his proposal.

The Court has considered Judge Bergin's petition, the public comments submitted, and the reply. The Court deems it necessary to entertain an abbreviated period of public comment on the proposed revisions to the FASTAR Rules, as modified, and an associated revision to Rule 72(a), Rules of Civil Procedure. The rule revisions are shown in Attachment A. A proposed revision to Choice Certificate 103(b) is shown in Attachment B. After submission of public comment as provided below, this Court will consider at its December 2024 Rules Agenda whether to adopt the attached amendments on a permanent basis. If it decides in the affirmative, the FASTAR Rules will become effective on July 1, 2025, as an option for all Arizona counties. Upon consideration,

IT IS ORDERED that the amendments shown in Attachments A and B are opened for public comment under Rule 28(c), Rules of the Supreme Court of Arizona, with all comments due no later than October 1, 2024, and any reply due no later than October 15, 2024.

The amendments shown in Attachments A and B may be viewed by going to: <http://www.azcourts.gov/Rules-Forum>. This opens the "Welcome" page. This order and Attachments A and B are posted under the file for this rule petition, which can be found by opening the category "Rules of Civil Procedure" and 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 "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. Ann A. Scott Timmer)