

TOHONO O'ODHAM RULES OF COURT

Section 2: Rules of Civil Procedure

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Rule 4.1. Filing Pleadings and Other Documents.

(a) Filing with the Court Defined. Filing documents with the Court is done by filing them with the Clerk, either directly or via fax or e-filing. If a judge permits, a party may submit a document directly to a judge during a hearing. The judge must give it to the Clerk for filing and tell the Clerk when it was received. The Clerk will stamp the document with the date and time it was accepted.

(b) Effective Date of Filing.

- (1) *Generally.* Except for documents submitted directly to a judge under Rule 4.1(a), a document is considered filed on the date and time the Clerk stamps it received. If a document is filed by fax or via e-filing, it is considered filed on the date the Clerk receives it as shown by the file stamp, unless a required filing fee is not paid or the Clerk later rejects the document. If a filing is rejected because of a deficiency or failure to pay filing fees, the Clerk must promptly provide the filing party with an explanation for the rejection.
- (2) *Documents Submitted Directly to a Judge.* If a document is submitted directly to a judge under Rule 4.1(a) and is later transmitted to the Clerk for filing, the document is considered filed on the date the judge receives it.
- (3) *Late Filing Because of an Interruption in Service.* If a person fails to meet a deadline for filing a document because of a failure in the document's electronic transmission or receipt, the person may ask the Court to accept the document as timely filed. On showing good cause, the Court may enter an order allowing the document to be considered filed on the date the person originally tried to send the documents by fax or by e-filing.
- (4) *Late Filing Because of Court Emergency.* If a person fails to meet a deadline for filing a document because the Court was closed during regular business hours, the person may ask the Court to accept the document as timely filed. On showing good cause, the Court may enter an order allowing the document to be considered filed on the date that the person originally tried to file the document.
- (5) *Incarcerated Parties.* If a party is incarcerated and another party contends that the incarcerated party did not timely file a document, the Court must treat the document as filed on the date it was delivered to corrections authorities to mail.

(c) Service with Filing and Documents Not to Be Filed.

- (1) *Filing and Service.* After a complaint's filing, if a document must be filed within a specified time, it must be both filed and served within that period.
- (2) *Documents Not to Be Filed.* These documents may not be filed separately but may be filed as attachments or exhibits to other documents only if relevant to determining an issue before the Court:
 - (A) Subpoenas. Any subpoena, and any affidavit of service of a subpoena, except for post-judgment proceedings;
 - (B) Discovery and Disclosure Documents. Notices of deposition; deposition transcripts; interrogatories and answers; disclosure statements; requests for production, inspection, or admission, and responses; requests for physical and mental examination; and notices of service of any discovery or discovery response;
 - (C) Proposed Pleadings. Any proposed pleading, unless filing is necessary to preserve the record on appeal;
 - (D) Prior Filings. Any document previously filed in the action, which may be called to the Court's attention by incorporating it by reference;
 - (E) Authorities Cited in Memoranda. Copies of authorities cited in memoranda, unless necessary to preserve the record on appeal.
- (3) *Attachments to Judge.* Except for proposed orders and proposed judgments, a party may attach copies of documents described in Rule 4.1(c)(2) to a copy of a motion, response, or reply delivered to the judge to whom the action has been assigned. Any such documents provided to the judge must also be provided to all other parties.
- (4) *Sanctions.* If this rule is violated, the Court may order removal of the offending document from the record and any other sanction.

(d) Proposed Orders; Proposed Judgments.

- (1) *Required Format.* With any motion, stipulation, or other request, a proposed order or judgment must be submitted.
 - (A) The proposed order or judgment must be submitted as a separate document and may not be included as a part of the motion, stipulation, or other document.
 - (B) The proposed order or ~~proposed~~ judgment must be prepared under this rule, and must follow Rule 4.2, except the practitioner/attorney's identification block, as discussed in 4.2(a)(1), ~~should~~ must not be placed at the top of a proposed order or judgment.
 - (C) On the signature page, there must be at least two lines of text above the judge's signature and there must be no other language below the judge's signature.
- (2) *Basic Content.* A proposed order or ~~proposed~~ judgment must include a finding of facts section and the proposed order or judgment.

- (3) *Service and Filing.* Any proposed order or proposed judgment must be served on all parties at the same time it is submitted to the Court. The certificate of service, foregoing, or form approvals must be attached on a separate page. The Clerk ~~may~~ will not conform a proposed order or ~~proposed~~ judgment. A party may file an unsigned proposed order or ~~proposed~~ judgment as an attachment or exhibit to a notice of lodging or other filing if directed by the Court, required by rule, or done to preserve the record on appeal.
- (4) *Stipulations and Motions; Proposed Forms of Order.*
 - (A) All written stipulations must have a proposed order. If the proposed order is signed and entered, the Court does not need to issue a ~~minute entry~~ separate court order.
 - (B) If a motion has a proposed order, if the judge signs and enters the order, the Court does not need to issue a ~~minute entry~~ separate court order.

Rule 4.2. Form of Documents.

- (a) **Caption.** Documents filed with the Court must have the following information as single-spaced text, typed or printed, on the first page of the document:
 - (1) To the left of the center of the page starting at line 1:
 - (A) the filing counsel's (or self-represented litigant's) name, office name if applicable, address, telephone number, and email address; and
 - (B) identification of the party being represented by the counsel (*e.g.*, plaintiff, defendant, third-party plaintiff);
 - (2) centered on or below line 6 of the page, the title of the court;
 - (3) below the title of the court and to the left of the center of the page, the title of the proceeding;
 - (4) opposite the title, in the space to the right of the center of the page, the case number of the proceeding;
 - (5) immediately below the case number, a brief description of the document; and
 - (6) below the document description, the judge to whom the case is assigned (if known).
- (b) **Document Format.** Unless the Court orders otherwise, all filed documents—other than a document submitted as an exhibit or attachment to a filing—must follow this rule:
 - (1) *Text and Background.* The text of every document must be black on a plain white background. All documents filed must be single-sided and should have line numbers at double-spaced intervals along the left side of the page.

- (2) *Type Size and Font.* Every typed document must use at least a 12-point type size. The Court prefers proportionally spaced serif fonts, such as Times New Roman, Bookman, Century, Garamond, or Book Antiqua, and discourages monospaced or sans serif fonts such as Arial, Helvetica, Courier, Calibri, or Comic. Footnotes must be in at least 12-point type size and must not appear in the space required for the bottom margin.
 - (3) *Page Size.* Each page of a document must be 8 1/2 by 11 inches.
 - (A) Exhibits, attachments to documents, or documents from other jurisdictions larger than the specified size must be folded to the specified size or folded and fastened to pages of the specified size.
 - (B) Exhibits or attachments to documents smaller than the specified size must be fastened to pages of the specified size.
 - (C) An exhibit, attachment to a document, or document from a different jurisdiction that does not follow these provisions may be filed only if compliance is not reasonably practicable.
 - (D) Margins and Page Numbers. Margins must be set: at the top of the first page of not less than 2 inches; at the top of each subsequent page of not less than 1 1/2 inches; a left-hand margin of not less than 1 inch; a right-hand margin of not less than 1/2 inch. Except for the first page, the bottom margin must include a page number.
 - (E) Handwritten Documents. Handwritten documents are discouraged, but if a document is handwritten, the text must be legibly printed and not include cursive writing or script.
 - (F) Line Spacing. Text must be double-spaced and may not exceed 28 lines per page, but headings, quotations, and footnotes may be single-spaced. A single-spaced quotation must be indented on the left and right sides.
 - (G) Headings and Emphasis. Headings must be underlined, or be in italics or bold type. Underlining, italics, or bold type may also be used for emphasis.
 - (H) Citations. Case names and citation signals must be in italics or underlined.
 - (I) Originals. Only originals may be filed. If it is necessary to file more than one copy of a document, the additional copies may be photocopies or computer generated duplicates.
 - (J) Court Forms. Printed court forms may be single-spaced, but those requiring a judge's signature must be double-spaced. Printed court forms must be single-sided. All printed court forms must be on paper of sufficient quality and weight to assure legibility upon duplication, microfilming, or imaging.
 - (K) Signatures: All documents must be signed in blue or black ink. A person who is in custody is exempted from this requirement.
- (c) **Faxed or E-filed Documents.** A party filing a document by fax or e-filing does not have to file an original signature document.
- (d) **Electronic Filing.** Except as otherwise provided in the Court Rules, any pleading, document, or other paper filed with the Court may be filed by electronic mail (email) under this section.

- (1) Parties filing by email will physically sign the document and submit it, along with any attachments or exhibits, in a .PDF format. Submissions are to be sent to TONJudicialCourt@tonation-nsn.gov with the case number and submitting party in the subject line.
 - (A) The email must be from a valid email address identified in the document as the filing party's email address of record.
 - (B) The filing party must maintain a transmission record of the submission in their records.
 - (C) The PDF file is to be named in the following way: casename–document being filed–case number. For example, Tohono O'odham Nation v. Smith–Motion to Continue–CR2022-0000-1.
 - (D) Only one document should be saved to each PDF file. For example, if a party is filing a Response, a Motion, and a Notice of Appearance, there will be three separate PDFs attached to the email.
 - (E) Service on other parties remains as required by the Nation's laws and rules. A courtesy copy may be sent to opposing parties; however, an email does not provide proof of service which must be done under the Rules.
- (2) The Clerk will deliver written confirmation of the date and time the email was received to the filing party, and record the filing date as the date stamped by the Clerk of Court. If necessary, the Clerk will deliver written confirmation that the Court is still waiting for payment of the filing fee.
- (3) Electronic filings may be submitted at any time; however, they will be recorded as received only during the hours of 8 a.m. to 3:30 p.m., Monday through Friday, except Court holidays. Electronic filings received after 3:30 p.m. will be considered received as of the next business day.
- (4) Applicable filing fees for documents filed electronically must be paid in full to the Court within three business days of the Clerk's written confirmation. Failure to submit a filing fee will result in the filing being rejected by the Clerk.
- (5) Pleadings, including exhibits and attachments, must be electronically sent as PDFs. Defective pleadings will not be considered filed and will be rejected like a defective pleading delivered directly to the Court.
- (6) In the event of an equipment malfunction or transmission failure, the pleading will be considered to have been transmitted as of the date represented by the filing party only if that party produces evidence generated by the sending program showing that the electronic transmission occurred on the date and time presented by the filing party.