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ARIZONA SUPREME COURT

In the Matter of:

**PETITION TO AMEND RULE
96 OF THE ARIZONA RULES
OF THE SUPREME COURT**

Supreme Court No. R-21_____
(expedited consideration
and emergency adoption
requested)

Pursuant to Rule 28 of the Rules of the Supreme Court, David K. Byers, Administrative Director, Administrative Office of the Courts, respectfully petitions this Court to amend the rule specified above as proposed in Appendix A. The rule amendment is needed to provide judicial resources to assist in resolving the current backlog of cases that have developed during the pandemic. As this is an urgent problem needing immediate attention, petitioner requests that the petition be considered on an expedited basis under Rule 28(h)(1) of the Rules of the Supreme

Court, and that the proposed rule amendment be adopted on an emergency basis under Rule 28(h)(2) of the same rules.

I. Proposal

Article VI, Section 24, of the Arizona Constitution provides, “Judges of the superior court may appoint court commissioners... in their respective counties, who shall have such powers and perform such duties as may be provided by law or by rule of the supreme court.” and who “shall receive such compensation as may be provided by law.” Rule 96 of the Rules of the Supreme Court provides powers and duties of court commissioners appointed by the presiding judge of the superior court in a county.

This proposal would authorize presiding judges to appoint former judges as Senior Commissioners as needed to perform judicial services in response to unexpected events, such as the current backlog in civil and criminal cases due to the pandemic. Former judges have the experience and capability to manage and adjudicate civil and criminal cases effectively and efficiently. Their services are needed currently to resolve the backlog of cases that has developed during the pandemic. The superior court has a backlog of 17,670 cases and hundreds of trials. Because juvenile and criminal cases take priority over civil cases, civil cases will continue to be severely delayed without use of additional judicial resources.

II. Contents of the Proposed Rule Amendment

Appendix A shows the proposed addition of paragraph (j) to Rule 96 of the Rules of the Supreme Court.

III. Conclusion

The undersigned requests that the Supreme Court consider and adopt the changes recommended below on an emergency basis at the Court's November 23, 2021 agenda with an immediate effective date and a comment period to follow.

RESPECTFULLY SUBMITTED this ____ day of _____, 2021.

By: ____/s/_____

David K. Byers

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Appendix A

Rules of the Supreme Court of Arizona

(deletions shown with ~~strikethrough~~, new language is underlined)

Rule 96. Powers and Duties of Court Commissioners

All court commissioners and juvenile court commissioners appointed in accordance with Article VI, Section 24, of the Constitution of the State of Arizona, and Sections 12-213 and 8-231 of the Arizona Revised Statutes, shall have such powers and duties as are provided by this Rule.

(a) through (i) [No change]

(j) Senior Commissioners. Presiding judges may appoint former judges with ten years or more experience as Senior Commissioners with powers and duties to hear and determine any matter governed by the Rules of Civil Procedure or the Rules of Criminal Procedure and may be compensated in the same manner as provided by law for regular commissioners.