

1 Judge (ret.) Lawrence F. Winthrop, Chair
Attorney Discipline Probable Cause Committee
2 Arizona Supreme Court
1501 W. Washington St., Ste. 104
3 Phoenix, AZ 85007 Bar No. 005049
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4 Petitioner

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6 **IN THE SUPREME COURT
STATE OF ARIZONA**

7 In the Matter of:

Supreme Court No. R-__-____

8 **PETITION TO AMEND RULE
55(b)(2)(C), RULES OF THE
9 SUPREME COURT OF ARIZONA**

**Petition to Amend Rule 55 (b)(2)(C),
Rules of the Supreme Court of
Arizona**

10 **INTRODUCTION**

11 Pursuant to Rule 28, Rules of the Supreme Court of Arizona, the Attorney
12 Discipline Probable Cause Committee (ADPCC) respectfully petitions this Court to
13 adopt an amendment to Rule 55(b)(2)(C), Rules of the Supreme Court of Arizona. ¹

14 After receipt and investigation of an ethics complaint, the State Bar may
15 dismiss the complaint, or recommend other dispositions, including diversion, stay,
16 probation, restitution, admonition, assessment of costs and expenses, or proceeding
17 with formal proceedings before the Presiding Disciplinary Court Judge. For those
18 recommendations other than dismissal, Rule 55(b)(2)(C) directs that a complainant
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¹ Under Rule 28(a)(4)(A)(iv), Petitioner notes that Rule Petition R-18-0014 resulted in a modification to Rule 55,
but the changes were not similar to those proposed in this petition.

1 and the respondent lawyer be provided with the State Bar’s written summary – a
2 “Report of Investigation” (ROI) – identifying the ethical rules allegedly violated and
3 explaining its recommended disposition of those charges. Upon receipt of the ROI,
4 the current language of the Rule allows a complainant to submit a written objection
5 and the respondent lawyer to submit a written response to the Bar’s analysis and
6 proposed disposition. The current language of the Rule limits any such submission
7 to five pages; in practice, however, the State Bar forwards to ADPCC all written
8 objections and all responses to the ROI, including attachments or exhibits. In turn,
9 ADPCC reviews and considers all such submissions in their entirety. In short, the
10 five-page limitation appears to be arbitrary, and has not been proactively enforced
11 by either the State Bar or ADPCC.

12 The proposed change seeks to amend the Rule to remove the five (5) page
13 limitation for complainant’s written objection to the Bar’s recommendation and the
14 respondent lawyer’s written response to the ROI. Removing this page limitation will
15 ensure the participants’ right to be heard and conform the rule to current practice.

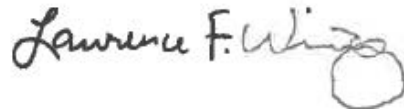
16 Finally, Petitioner notes that in his recent report concerning the
17 implementation of the 2011 regulatory changes to Arizona’s attorney discipline
18 system, John Gleason recommended that the Court consider removing this page
19 limitation. Petitioner has discussed deleting the page limit with the State Bar and it
20 has no objection to the proposed amendment.

1 **CONCLUSION**

2 For the reasons stated in this petition, the Attorney Discipline Probable Cause
3 Committee respectfully requests that this Court amend Rule 55(b)(2)(C), Rules of
4 the Supreme Court of Arizona, as set forth in the Appendix.

5 Changes in the accompanying Appendix are reflected in legislative mark-up
6 where deleted language appears in ~~strikeout~~.

7 RESPECTFULLY SUBMITTED this 12 day of November 2021.

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10 Judge (ret.) Lawrence F. Winthrop, Chair
11 Attorney Discipline Probable Cause Committee
12 Supreme Court of Arizona
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