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8
9 **IN THE SUPREME COURT**
10 **STATE OF ARIZONA**

11 In the Matter of:

12 Supreme Court No. R-22-

13 **PETITION TO AMEND RULE**
14 **10(h) OF THE ARIZONA RULES**
15 **OF PROCEDURE FOR SPECIAL**
16 **ACTIONS**

17 **PETITION**

18 Pursuant to Rule 28(a) of the Arizona Rules of Supreme Court, Brian I.
19 Clymer, a member of the State Bar of Arizona who is a Board Certified Specialist in
20 Workers' Compensation, hereby petitions the Court to amend Rule 10(h) of the
21 Arizona Rules of Procedure for Special Actions ("Rule 10(h)").

22 Rule 10(h) provides that a party petitioning for review of a decision of the
23 Industrial Commission of Arizona must serve and file an opening brief "within 30
24 days" from the return date of the writ of review. My proposed change would change
25 the number "30" with the number "60" in the first sentence of Rule 10(h).
Accordingly the new first sentence of Rule 10(h) would read, "The opening brief of

1 the petitioner shall be served and filed within **60** days from the return date of the writ
2 of review.” (Change in bold).

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4 **I. Reason for Proposed Change to Rule 10(h).**


5 In 2015 the Arizona Rules of Civil Appellate Procedure, Rule 15(a)(1) was
6 changed to give the appellant 60 days to file the opening brief. For some reason
7 Rule 10(h) of the Special Action Rules of Procedure was not changed as well. This
8 makes no sense because Rule 10(h) uses the deadlines in the Arizona Rules of
9 Civil Appellate Procedure for when answering and reply briefs are due,
10 “Answering briefs and reply briefs shall be served and filed as provided in the
11 Arizona Rules of Civil Appellate Procedure.” In my experience this difference in
12 the opening brief due dates in Rule 10(h) and in Rule 15(a)(1) of the Ariz. R. Civ.
13 App. P. creates confusion regarding when the opening brief is due in workers’
14 compensation cases. Furthermore, it is very difficult to have an opening brief
15 prepared in 30 days, so currently petitioners in workers’ compensation cases must
16 request additional time to file their opening brief. This creates unnecessary work
17 for both the petitioner’s attorney and the courts. A 60-day due date for an opening
18 brief is more appropriate and reasonable and would make Rule 10(h) consistent
19 with Rule 15(a)(1) of the Ariz. R. Civ. App. P.
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CONCLUSION

For the foregoing reasons, Brian I. Clymer respectfully petition this Court to amend Rule 10(h) by deleting the number “30” in the first sentence and replacing it with the number “60”.

RESPECTFULLY SUBMITTED this 11th day of March, 2022.



Brian I. Clymer

Electronic copy filed with the Clerk of the Supreme Court of Arizona this 11th day of March, 2022.

by: 
