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7 **IN THE SUPREME COURT**  
8 **STATE OF ARIZONA**

9 In the Matter of:  
10 **PETITION TO AMEND ARIZONA**  
11 **RULES OF CIVIL APPELLATE**  
12 **PROCEDURE 4(b)(9), 13(a), AND**  
13 **13(i); ARIZONA RULES OF**  
14 **CRIMINAL PROCEDURE 31.6(d),**  
15 **31.10(a), AND 31.10(j); AND**  
16 **ARIZONA RULES OF JUVENILE**  
17 **PROCEDURE 607(b)(3) AND**  
18 **609(d)(5)**

Supreme Court No. R-23-0026  
**COMMENT**

19 The State Bar of Arizona (the “State Bar”) submits its comment on the above-  
20 captioned Petition. The Petition proposes to amend ARCAP 4(b)(9), 13(a) and 13(i),  
21 among other rules, to make tables of citations optional. After review and discussion  
22 by several State Bar committees, the State Bar supports the Petition.  
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1 **I. TABLES OF AUTHORITIES IMPOSE A MODEST BUT**  
2 **MEANINGFUL SYSTEM-WIDE COST, THE REDUCTION OF**  
3 **WHICH WOULD BE NET-BENEFICIAL TO ARIZONA LEGAL**  
4 **PRACTICE**

5 **A. There Is a Modest Cost to Tables of Authorities**

6 While the Petition does not purport to quantify the system-wide costs of the  
7 preparation of tables of authorities, it cannot be denied that requiring them imposes  
8 costs. Tables of authorities require time and effort to generate. Generally speaking,  
9 generating a table of authorities imposes a minimum of one hour per brief, with a  
10 significantly greater time burden in complex cases. Thus, the cost per brief is at least  
11 in the hundreds of dollars, assuming the client is being billed for the preparation.  
12 Some tables of authorities could run up to or over \$1,000, depending on how many  
13 people it requires to finalize the table.

14 **B. The Benefits of a Tables of Authorities Does Not Outweigh Cost**  
15 **Considerations**

16 The primary benefit of tables of authorities is to provide a centralized listing  
17 of the authority cited in the brief. Such benefit is no longer necessary. In the  
18 contemporary world, briefs are text-searched for key words. Practitioners have the  
19 capability of conducting such a search. By way of example, if a brief cites *Marbury*  
20 *v. Madison*, 5 U.S. (1 Cranch) 137 (1803), a table at the front of a brief is no longer  
21 the most useful too. Instead, typing “Marbury” into the search field of the program  
22 in which one is reading, and seeing all the hits the search yields, will commonly  
23 identify the number of uses and will often highlight each appearance of the searched  
24  
25

1 term in a sidebar for simultaneous reference. The Petition properly cites Judge  
2 Espinosa's *A Word from the Future: The Virtually Paperless Court of Appeals*, 49  
3 Judges J. 10 (2010), in which one Judge of the Arizona Court of Appeals thirteen  
4 years ago noted the utility of these ubiquitous search tools. With such capability,  
5 lawyers no longer need these tables of authorities. This Court should render them  
6 optional.  
7

8 **II. THE REFORM THE PETITION PROPOSES IS CONSISTENT WITH**  
9 **THIS COURT'S STEPS IN RECENT YEARS TO STREAMLINE AND**  
10 **MAKE MORE EFFICIENT RULES OF PRACTICE**

11 This Court has, over the last decade, consistently made rules of practice more  
12 comprehensible. The Court has also sought to eliminate archaisms while making  
13 practice under Arizona's court rules more efficient. Thus, the 2017 restyling of the  
14 Arizona Rules of Civil Procedure abolished verifications of certain pleadings and  
15 simultaneously imposed requirements of proportionality in civil discovery that the  
16 federal rules first introduced in December 2015. Similarly, the 2018 revisions to the  
17 Arizona Rules of Civil Procedure sought to assure proportionality through the  
18 creation of Ariz. R. Civ. P. 26.2.  
19

20  
21 Eliminating a formalistic requirement that is at best redundant of search  
22 features in all programs in which practitioners and judges read briefs is in keeping  
23 with the efficiencies of those modern reforms. Purging anachronistic requirements  
24 from the rules allows parties to spend their money and effort on aspects of the  
25

1 litigation process with a greater benefit, that aid communication and sharpen  
2 disputes.

3  
4 Moreover, practitioners with complex matters are able to and likely will  
5 continue to use tables of authorities as a best practice. The Petition in no way  
6 discourages or undermines that practice for those who prefer it. It does, however,  
7 save effort and money for those who wish to avoid expending the time and cost  
8 attributed to creating a table of authorities. While the saving may be modest, it will  
9 aggregate. This Court should support this further effort to modestly reduce the  
10 formality and burden of this process.  
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12 **III. THE ARGUMENTS AGAINST THE PETITION ARE**  
13 **UNPERSUASIVE**

14 This Court should also adopt the Petition's proposals because  
15 counterarguments against it are unpersuasive.

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17 First, while discussions about the proposal devolve into concerns with  
18 eliminating tables of authorities, the proposal suggests no such thing. It would  
19 merely make tables of authorities optional. The State Bar believes that practitioners  
20 in sophisticated and/or complex matters, including especially those practicing before  
21 our Supreme Court, will not abandon the practice of creating tables of authorities.  
22 Additionally, the Supreme Court could order that supplemental briefs contain tables  
23 of authorities if that is a concern for this Court.  
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