

1 The Law Office of Denise M. Quinterri, PLLC  
2 161 E. Inverness Dr.  
3 Tucson, AZ 85737  
4 Telephone: 480-239-9807  
5 dmq@azethicslaw.com  
6 Denise M. Quinterri, State Bar No. 020637

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

9 In the Matter of:

Supreme Court No. \_\_\_\_\_

10  
11 **PETITION TO AMEND RULE 36,**  
12 **ARIZONA RULES OF THE**  
13 **SUPREME COURT**  
14

**PETITION**

15 Pursuant to Rule 28, Arizona Rules of the Supreme Court, undersigned  
16 counsel (“Petitioner”) petitions the Supreme Court to amend Rule 36(g)(6), Ariz. R.  
17 Sup. Ct., to allow a hearing on an alleged violation of a term of conditional admission  
18 to be heard by a panel of 5 members of the Committee of Character and Fitness,  
19 instead of requiring a majority of the committee members to attend. This would  
20 align the rule with the current requirements for formal hearings under Rule  
21 36(f)(2)(A), Ariz. R. Sup. Ct., and would be preferable for the reasons discussed  
22 below. In addition, Petitioner suggests the rule be changed slightly to allow a  
23 consent agreement between the State Bar and the Applicant, rather than requiring a  
24 hearing by the Committee. The consent agreement could be proffered to the  
25  
26  
27  
28

1 Committee for its approval in a similar fashion to a consent agreement between a  
2 Respondent and the State Bar in the disciplinary context (*see, e.g.*, Rule 57, Ariz. R.  
3 Sup. Ct.). The text of the proposed amendments is set forth in Appendix A (attached).

## 4 DISCUSSION

### 5 A. The Number of Committee Members Required at Hearing Should Be Reduced.

6 The number of Committee members required to attend a hearing regarding a  
7 possible violation of an Order of Conditional Admission should be reduced to 5  
8 members, just like the requirement for formal hearings.

9 Prior to 2015, formal hearings required a majority of the Committee to attend.  
10 On January 1, 2015, it was reduced to 5 members. (*See* Petition R-14-0011 and  
11 resulting Supreme Court Order filed 10/14/2014.) I do not recall being involved in  
12 the discussions leading to those changes, likely because I moved to Texas in 2014 (I  
13 returned to Arizona full-time in 2020). I assume the reasoning was that it had always  
14 been difficult to schedule formal hearings with a majority of the Committee in  
15 attendance. There are currently 19 members of the Committee. It seems to me that  
16 there were less in the past, but even if there were 17, a majority would be 9, and that  
17 is a significant number of volunteers to coordinate—not to mention the Applicant  
18 and the Applicant’s counsel and witnesses, if any. With a 19-member Committee,  
19 that means 10 members would have to be in attendance. The reduction to 5 members  
20 made sense and has worked out satisfactorily.

1 I have represented well over 200 character and fitness Applicants since  
2 approximately 2008. However, although I have represented Applicants in numerous  
3 informal inquiries and formal hearings, I had not, until recently, had occasion to  
4 represent a Conditional Admittee pertaining to an alleged violation of Order of  
5 Conditional Admission. Consequently, I only recently noticed that a majority of the  
6 Committee is required for a hearing under Rule 36(f)(6), in contrast to the 5-member  
7 requirement for formal hearings. It is not clear why there is a difference.  
8  
9  
10

11 Recently, a hearing for a Conditional Admittee was vacated the evening  
12 before, due to an inability to have a majority of the Committee members present. If  
13 only 5 members had to attend out of 19, the likelihood of something like that  
14 occurring drastically declines. This would be beneficial for all concerned. The  
15 Conditional Admittee would still have the opportunity to appeal any adverse  
16 decision to this Court, so I see no concern about giving up any rights.  
17  
18

19 B. The State Bar and the Conditional Admittee Should Be Allowed to Submit a  
20 Proposed Consent Agreement.  
21

22 Currently, the rule provides that the Committee “must” hold a hearing to  
23 determine if there has been a violation of an Order of Conditional Admission.  
24

25 6. Violation of Order of Conditional Admission. Upon  
26 determining that the conditional admittee has materially violated the  
27 terms of the conditional admission, bar counsel must file a notice of  
28 violation with the Committee and serve a copy on the conditional  
admittee. The filing of a notice of violation will automatically extend  
the conditional admission until the matter is resolved by the Committee.

1        As soon as practicable, the Committee must hold a hearing to determine  
2        if the order has been violated. The Committee chair, by order, shall  
3        establish the procedures associated with such hearing. The hearing  
4        panel for the violation hearing will consist of at least a majority of the  
5        current members of the Committee. The Chair or his or her designee  
6        will preside over the hearing. Bar counsel must prove a material  
7        violation by a preponderance of the evidence. The Committee's  
8        decision will require a concurrence of a majority of the panel members.  
9        If the Committee determines that a material violation has been proved,  
10       the Committee may revoke, extend, or modify the Order of Conditional  
11       Admission. The Committee's decision is final subject to the filing of a  
12       petition for review pursuant to paragraph (h). If the Committee  
13       determines that there was a material violation of the terms based on a  
14       violation of the ethical rules but did not revoke the Order of Conditional  
15       Admission, the Committee may refer the matter to the State Bar for  
16       discipline proceedings pursuant to Rule 55.

17 Rule 36(g)(6), Ariz. R. Sup. Ct. (emphasis added).

18        This seems unnecessary in some situations. For example, where the State Bar  
19        and the Conditional Admittee could agree on an extension and/or modification of  
20        the Terms of Conditional Admission, they could present a consent agreement to the  
21        Committee for approval. This would save time for the Committee members, the  
22        State Bar, the Court staff, and the Conditional Admittee. This is what happens in  
23        the disciplinary context. *See* Rule 57(a), Ariz. R. Sup. Ct. The Presiding  
24        Disciplinary Judge (“PDJ”) has the ability to accept or reject the consent agreement.  
25        *See id.* at sub (a)(4). The PDJ also has the ability to make suggested changes to the  
26        agreement. *Id.* The same could apply in the character and fitness context—the State  
27        Bar and Conditional Admittee could submit a proposed consent agreement and the  
28        Committee could determine whether to accept it, reject it, or propose modifications

1 to it. Thus, if there was any reason the Committee felt that it really needed to see  
2 the Conditional Admittee in person, that avenue would still be available. Proposed  
3 language will be included in the accompanying Appendix A.  
4

5 **CONCLUSION**

6  
7 Petitioner respectfully requests amendment of Rule 36(f), Ariz. R. Sup. Ct.,  
8 for the reasons stated above and as proposed in Appendix A submitted with this  
9 petition.  
10

11 Respectfully submitted this \_\_16th\_\_ day of October, 2023.

12  
13 

14  
15  
16 \_\_\_\_\_  
17 Denise M. Quinterri

18 **ELECTRONICALLY** filed  
19 on the Court Rules Forum of the Arizona Supreme Court  
20 this \_\_16th\_\_ day of October, 2023.  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

APPENDIX A

ARIZONA RULES OF THE SUPREME COURT

**Rule 36. Procedure Before the Committee on Character and Fitness**

[. . .]

**(g) Conditional Admission.**

[. . .]

6. *Violation of Order of Conditional Admission.* Upon determining that the conditional admittee has materially violated the terms of the conditional admission, bar counsel must file a notice of violation with the Committee and serve a copy on the conditional admittee. The filing of a notice of violation will automatically extend the conditional admission until the matter is resolved by the Committee, by way of hearing or accepted consent agreement. Within 30 days of the filing of the notice of violation, the conditional admittee and the State Bar may submit a proposed consent agreement to the Committee. The Committee may accept, reject, or recommend modification of the proposed agreement. If the Committee rejects the proposed agreement and/or the conditional admittee rejects the Committee's proposed modifications and/or refuses to enter a consent agreement with the State Bar, the Committee must hold a hearing to determine if the order has been violated. The Committee chair, by order, shall establish the procedures associated with such hearing. The hearing panel for the violation hearing will consist of at least a majority of the current members of the Committee. must consist of five members, including Committee chair or his or her designee, at least two attorney members of the Committee, and at least one public member of the Committee. The Chair or his or her designee will preside over the hearing. Bar counsel must prove a material violation by a preponderance of the evidence. The Committee's decision will require a concurrence of a majority of the panel members. If the Committee determines that a material violation has been proved, the Committee may revoke, extend, or modify the Order of Conditional Admission. The Committee's decision is final subject to the filing of a petition for review pursuant to paragraph (h). If the Committee determines that there was a

1 material violation of the terms based on a violation of the ethical rules but did  
2 not revoke the Order of Conditional Admission, the Committee may refer the  
3 matter to the State Bar for discipline proceedings pursuant to Rule 55.

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28