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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of) Arizona Supreme Court No. R-22-0044
)
ARIZONA RULES OF FAMILY)
LAW PROCEDURE 30) Reply in Support of Petition to Add Rule
) 30 to Arizona Rules of Family Law
) Procedure

Undersigned, on behalf of the Family Court Improvement Committee, files this Reply in support of the Committee’s Petition.

Earlier this year, the Family Court Improvement Committee petitioned the Court to amend the Arizona Rules of Family Law Procedure (ARFLP) to include suggested timeframes to reduce delays in judicial action in family law cases. After having received some comments, the Court adopted new Rule 30 and amended Rules 43.1, 44.1, 45, 47, 47.1, 47.2, 48 and 91.5, ARFLP, on an emergency basis, allowed for additional comments, and set the matter for the December 2023 Rules Agenda.

Since that time, David K. Byers filed a Comment on October 2, 2023. As noted in Mr. Byers’ Comment, members of the bench—who are also members of the Committee—were able to provide input as to his proposed changes. The Committee is fully supported of Mr. Byer’s proposed changes, and requests the Court adopt the rules as set forth in his Comment with small edits proposed below.

As to Rule 48, the permanent rule should reflect those changes made to Rule 48 by the adoption of R-23-0001. Specifically, the proposed language in Mr. Byer's Comment regarding Time to Review under Rule 48 should be adopted as subsection (e), not (g).

As to Rules 47, 47.1, 47.2, and 48, the Court may wish to consider using the language "Acting on the Motion" in the header to parallel Mr. Byers' proposed language for Rules 44.1, and 45.

As to Rule 30, the Committee received a comment that Rule 30 is somewhat duplicious of aspirational language of Rule 1(b), ARFLP. The comment proposed alternative language as follows for Rule 30: "To help ensure that the parties in a domestic relations action have their disputes timely resolved, courts must abide by the time limits imposed by Rules 43.1, 44.1, 45, 47, 47.1, 47.2, 48, and 91.5." The Committee believes this alternative language is preferable and provides for additional clarity in the event a party challenges whether a judicial officer has acted in a timely manner.

As to Rule 91.5, the Committee request the Court to consider adopting a permanent rule with the following modified language to parallel the changes to the other rules:

(c) Hearing. Under A.R.S. § 25-414, within twenty-five days of service of the petition, the court must hold a hearing or conference before a judge, commissioner, or person appointed by the court to review noncompliance with a visitation or parenting time order. The court must rule on the petition no later than 21 days after the hearing or conference is concluded.

Also, while not previously addressed, the Committee urges the Court to consider modifying Rule 45.1 which governs summary consent decrees to include a similar requirement for a timely ruling. The Petition and the amendments adopted in August 2023 on an emergency basis addressed consent decrees under Rule 45, but not summary consent decrees under Rule 45.1. The most likely reason is that the pending Petition was filed before Rule 45.1 was permanently adopted. As such, the Court request the Court to add the following underlined language to Rule 45.1(d)(3):

Rule 45.1 Summary Consent Decree

(3) Waiting Period; Hearing. The court may not enter a final summary consent decree earlier than 60 days after the filing date of the summary consent petition and response. After 60 days, the court may enter a summary consent decree without a hearing if it has determined that the parties have met the requirements for a summary consent decree. Alternatively, the court may set a hearing on specified issues or enter other appropriate orders. The court must set the matter for hearing or rule on the lodged summary consent decree no later than 81 days after the filing date.

This proposed language tracks that language for Rule 45 contained in Mr. Byers' Comment. If the Court wishes the Committee to file a separate Petition to modify Rule 45.1, it will do so.

CONCLUSION

The Committee respectfully requests that the Court consider this Reply and adopt the rules as proposed on a permanent basis.

DATED this 26th day of October 2023.

Greg Sakall
Chair, FCIC