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**IN THE SUPREME COURT  
STATE OF ARIZONA**

In the Matter of ) Arizona Supreme Court No. R-  
)  
ARIZONA RULES OF FAMILY )  
LAW PROCEDURE 2 ) Petition to Amend Rule 2  
) of the Arizona Rules of Family Law  
) Procedure  
\_\_\_\_\_)

Undersigned, on behalf of the Family Court Improvement Committee, petitions this Court to amend Rule 2 to the Arizona Rules of Family Law Procedure as outlined in Appendix A.

The Committee has heard comments from the bench and bar about the applicability of Rule 2, Ariz. R. Fam. L. P. Rule 2(a) provides that if timely invoked by a party, the Arizona Rules of Evidence apply at a hearing or trial. There is a debate about whether once invoked, the Rules of Evidence apply to all later proceedings, including subsequent post-decree proceedings, or whether the Rules of Evidence only apply to the present proceeding and have to be reinvoked in subsequent proceedings.

There are strong arguments on both sides of this debate. Existing caselaw provides that “a petition for post-decree relief commences a new action and sets its scope.” *Williams v. Williams*, 228 Ariz. 160, 166-67, ¶ 25 (App. 2011). Also, Rule 23(a), Ariz. R. Fam. L. Pro., provides that a “party begins an action by filing a verified petition.” In

light of the same, the Committee believes the better approach is that an invocation of the Rules of Evidence only apply until there is a judgment under Rule 78(a)(1), Ariz. R. Fam. L. Pro., entered as to the currently pending petition(s). If there are subsequent new actions filed, any party could file a Rule 2 notice, or not; however, it would be clear to all involved that the Rule 2 notice filed in the prior action – potentially many years earlier – is no longer in effect.

The Committee believes a clear rule is better for the public, bar, and bench. The Committee requests that the Court adopt the amended to Rule 2.

### **CONCLUSION**

The Committee respectfully requests that the Court consider this petition and adopt the amendment to Rule 2.

DATED this 22<sup>nd</sup> day of November 2023.

Greg Sakall  
Chair, FCIC

## APPENDIX A

### Rule 2. Applicability of the Arizona Rules of Evidence

(a) **Effect of a Rule 2(a) Notice; Time for Filing.** Any party may file a notice to require compliance with the Arizona Rules of Evidence at a hearing or trial. A party must file the notice at least 45 days before the hearing or trial, or by another date set by the court. If a hearing or trial is set fewer than 60 days in advance, the notice is deemed timely if a party files it within a reasonable time after the party is notified of the hearing or trial date. **A PARTY'S NOTICE IS ONLY EFFECTIVE UNTIL SUCH TIME AS A JUDGMENT, AS DEFINED BY RULE 78(a)(1), AS TO ALL CLAIMS, ISSUES, AND PARTIES HAS BEEN ENTERED AND NO FURTHER MATTERS REMAIN PENDING, AS DEFINED BY RULE 78(c).**

(b) through end no change.