

1 Lisa M. Panahi, Bar No. 023421  
2 General Counsel  
3 State Bar of Arizona  
4 4201 N. 24th Street, Suite 100  
5 Phoenix, AZ 85016-6288  
6 (602) 340-7236

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

9 In the Matter of:

Supreme Court No. R-24-

10 **PETITION TO AMEND RULE**  
11 **59(c) OF THE ARIZONA RULES**  
12 **OF SUPREME COURT**

**PETITION**

13 Pursuant to Rule 28(a) of the Arizona Rules of Supreme Court, the State Bar  
14 of Arizona (the “State Bar”) hereby petitions the Court to amend Rule 59(c) of the  
15 Arizona Rules of Supreme Court. The purpose of the amendment is to clarify the  
16 requirements of an application for stay pending appeal of a disciplinary sanction.

17  
18 **Background and Purpose of the Proposed Rule Amendment**

19 Effective January 1, 2011, the Supreme Court promulgated Rule 59(c), Ariz.  
20 R. Sup. Ct., allowing for a stay pending an appeal of a disciplinary sanction. The  
21 rule provides that a stay pending an appeal of a disciplinary sanction shall be granted  
22 subject to appropriate conditions of supervision, except when an interim suspension  
23 has been ordered or when the hearing panel, in its discretion, determines no  
24 conditions of supervision will protect the public while the appeal is pending. See,  
25

1 Rule 59(c), Ariz. R. Sup. Ct. The rule did not include any specific requirements that  
2 a petitioner would have to establish to obtain a stay pending appeal.

3  
4 On December 19, 2022, the Court issued an order in *Gagic vs. Downey, State*  
5 *Bar of Arizona, Real Party in Interest*, No. CV-22-0293-SA relating to a Petition for  
6 Special Action for Stay of Order of Suspension. The Court cited, “A party seeking  
7 a stay on appeal must establish the following elements: (1) a strong likelihood of  
8 success on the merits; (2) irreparable harm if the stay is not granted; (3) that the harm  
9 to the requesting party outweighs the harm to the party opposing the stay; and (4)  
10 that public policy favors the granting of the stay.” *Smith v. Arizona Citizens Clean*  
11 *Election Comm’n*. 212 Ariz. 407, 410-411 ¶10 (2006).<sup>1</sup> These elements must be  
12 established along with appropriate conditions of supervision as set forth in the Rule.  
13  
14

15 The Supreme Court Rules should be sufficiently clear to allow a petitioner to  
16 understand the necessary elements of a petition for stay of a disciplinary sanction.  
17 Amending the Rule to include the specific elements would provide such clarification  
18 to petitioners.  
19

## 20 CONCLUSION

21 The State Bar of Arizona respectfully requests that the Court amend Rule  
22  
23

---

24 <sup>1</sup> These requirements were repeated in a subsequent order from the court on  
25 December 22, 2022, relating to an Amended Petition for Special Action and Request  
for Stay.

1 59(c) of the Arizona Rules of Supreme Court as set forth in the attached Appendix.

2  
3 RESPECTFULLY SUBMITTED this 10<sup>th</sup> day of January, 2024.

4 

5 \_\_\_\_\_  
6 Lisa M. Panahi  
7 General Counsel

8  
9 Electronic copy filed with the  
10 Clerk of the Supreme Court of Arizona  
11 this 10<sup>th</sup> day of January, 2024.

12 by: PSeguin  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## Appendix

*(Please note: deletions are reflected by ~~strikethrough~~ and additions are reflected by underline.)*

### **Rule 59. Review by the Court**

**(a) – (b)** [No change.]

**(c) Stay Pending Appeal.** A respondent may seek a stay of the decision of the hearing panel by filing a request with the hearing panel within ten (10) days of the date the decision was filed. Within five (5) days of a respondent filing an application for stay pending appeal, the state bar may file a response with the hearing panel. A party seeking a stay pending appeal must establish the following elements: (1) a strong likelihood of success on the merits; (2) irreparable harm if the stay is not granted; (3) that the harm to the requesting party outweighs the harm to the party opposing the stay; and (4) that public policy favors the granting of the stay. The application for stay pending appeal shall be granted subject to appropriate conditions of supervision, except when an interim suspension has been ordered or when the hearing panel, in its discretion, determines no conditions of supervision will protect the public while the appeal is pending. No stay of the sanction shall be granted if the only issue on appeal is the assessment of costs and expenses.

**(d) – (k)** [No change.]