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

9 In the Matter of:

10 **PETITION TO AMEND RULE 7.2**
11 **OF THE ARIZONA RULES OF**
12 **CIVIL PROCEDURE**

Supreme Court No. R-23-0045

13 **COMMENT OF**
14 **THE STATE BAR OF ARIZONA**

15 Pursuant to Rule 28(e) of the Arizona Rules of Supreme Court, the State Bar
16 of Arizona (the “State Bar”) hereby submits the following as its comment to the
17 above-captioned Petition.

18 The State Bar supports the Amended Petition to Amend Arizona Rule of Civil
19 Procedure 7.2 governing motions in limine. The proposed amendment will clarify
20 the “obligation to confer” currently imposed by Rule 7.2(a) requires the parties to
21 “consult in good faith” before a motion in limine is filed. Accordingly, it reminds
22 movants of the obligation to attach to any motion in limine what has become known
23 as a “good faith consultation certificate” under Rule 7.1(h).
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1 Rule 7.1(h) requires a good faith consultation certificate to be attached to any
2 motion when required by rule, or when a rule requires the parties to “otherwise
3 consult in good faith.” Rule 7.2 currently requires parties to “confer to identify any
4 disputed issue they anticipate will be the subject of a motion in limine.” Rule 7.2
5 does not explicitly (nor arguably implicitly) require the parties to comply with Rule
6 7.1(h).
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8 When Rule 7.2 was adopted, Rule 7.1(h) did not exist, and the Rules of Civil
9 Procedure did not have many good faith consultation requirements. Over the years,
10 more rules required parties to consult in good faith. Eventually, Rule 7.1(h) was
11 adopted to ensure parties complied with that obligation. It makes sense to modernize
12 Rule 7.2 so that it is consistent with other rules that now require Rule 7.1(h)
13 certifications in advance of filing a motion, like Rules 11(c)(3)(C), 12(j), 26(i) and
14 37(a)(1).
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17 The State Bar believes parties should seek to identify and resolve any dispute
18 before involving the court. Evidentiary disputes are no exception. Incorporating
19 Rule 7.1(h) into Rule 7.2 ensures the parties have reasonably attempted to resolve
20 such disputes before filing motions in limine and that the court is appropriately
21 apprised of those efforts.
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The State Bar believes the Supreme Court should adopt the amendments as proposed in the Amended Petition.

RESPECTFULLY SUBMITTED this 1st day of May 2024.

Lisa Pandi

Lisa M. Panahi
General Counsel

Electronic copy filed with the
Clerk of the Supreme Court of Arizona
this 1st day of May 2024.

by: PSequin