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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of)
) Arizona Supreme Court No. R-24-0017
ARIZONA RULES OF)
EVIDENCE 107 AND 1006) **REPLY IN SUPPORT OF PETITION**
) **TO ADD ARIZONA RULE OF**
) **EVIDENCE 107 AND AMEND**
) **ARIZONA RULE OF**
) **EVIDENCE 1006**
)
)
_____)

**REPLY IN SUPPORT OF PETITION TO ADD RULE 107 TO THE
ARIZONA RULES OF EVIDENCE AND AMEND ARIZONA RULE OF
EVIDENCE 1006**

Pursuant to Rule 28, Rules of the Supreme Court, and this Court’s January 17, 2024, Order Opening the Rules for Public Comment, the Advisory Committee on Rules of Evidence, by and through its Chair, the Honorable Sara Agne (“our committee”), files this reply in support of the petition to add a new rule of evidence, designated as Rule 107, concerning illustrative aids, and to amend Rule 1006, concerning summaries of voluminous materials, effective January 1, 2025.

This rule petition seeks to adopt in Arizona the expected new federal Rule of Evidence 107, with slightly different language, and the proposed amendments to federal Rule of Evidence 1006.¹

This reply addresses the State Bar’s comment filed on May 1, 2024. The State Bar of Arizona agrees with the Petition’s proposal to add Rule of Evidence 107, and the amendments to Rule of Evidence 1006. The State Bar also agrees with the Petition’s proposal to add an abbreviated version of the federal committee note to Rule 107, which our committee entitled “Comment to 2025 Amendment.” However, the State Bar’s comment also suggests adding a comment to proposed Rule 1006, entitled “Comment to 2025 Amendment.”

The State Bar explains “that a comment explaining the modifications to Rule 1006 is necessary to provide clarity to litigants faced with a surplus of conflicting federal case law.” The State Bar also believes the comment “will inform litigants of the reasons behind the amendment” and “provide[] litigants with guidance on the differences between a Rule 107 illustrative aid—which is not substantive evidence—and a Rule 1006 summary—which is substantive evidence.” The State Bar drafted

¹ The proposed new and amended federal rules of evidence can be found here at pages 1061-1065 and 1074-1076, respectively:
https://www.uscourts.gov/sites/default/files/congressional_package_final_for_webs_ite.pdf.

and filed its proposed comment, which is much shorter than the proposed committee note to the proposed amendments to federal Rule of Evidence 1006.

This committee's petition to amend Rule 1006 recommended not including the proposed federal rule committee note because the amendments are clear on their face, the federal committee note is much too long, and practitioners and judges could always refer to the federal committee note if need be. Contrary to the concerns of the State Bar, the proposed amendments to Rule 1006 resolve the conflicting federal cases, explaining that Rule 1006 summaries are admissible as evidence and must be disclosed prior to trial. Proposed Rule 107 also says that if a summary of voluminous evidence is to be admitted, Rule 1006 applies.

CONCLUSION

Our committee, as Petitioner, respectfully requests that the Court adopt the proposed rules as presented, with an effective date of January 1, 2025.

DATED this ____2nd____ day of __June__, 2024.

_____/s/ Sara J. Agne_____
Sara J. Agne
Chair, Advisory Committee on Rules of Evidence