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**IN THE SUPREME COURT  
STATE OF ARIZONA**

In the Matter of

AMENDMENTS TO THE  
ARIZONA TAX COURT  
RULES OF PRACTICE

Arizona Supreme Court No. R-23-0016

SUPPLEMENTAL PETITION

(Expedited consideration requested)

**(1) Introduction.** This Court’s June 5, 2024, Administrative Order No. 2024-87 established the Task Force on the Arizona Tax Court Rules of Practice. That Administrative Order (“A.O.”) called for the undersigned Task Force Chair to file a supplemental rule petition in this cause. This is that supplemental petition, which includes a proposed, revised set of the Arizona Tax Court Rules of Practice, with two appendices.

The rule revisions are extensive, and the set as a whole includes a fair amount of reorganization. Petitioner therefore is not submitting a version that shows the proposed changes with strikethrough and underline, because that version might be

more confusing than helpful. (Appendix 2—the Uniform Interrogatories for Use in Property Tax Disputes—is an exception; it shows proposed revisions with strikethrough and underline.) And because of the extent of the modifications to the current rules, Petitioner requests that the Court simply abrogate the current rules and adopt in their place the set of rules proposed in this supplemental petition.

Pursuant to Supreme Court Rule 28(h), Petitioner requests the Court to consider this Supplemental Petition on an expedited basis. Based on the filing date of this supplemental petition, the normal course would require consideration at the annual rules agenda, that is, in August 2025. Paragraph 2 of A.O. No. 2024-87, however, indicates that the Court will consider the petition more quickly. The conclusion of this supplemental petition includes a proposed schedule for a public comment period and a Reply to those comments, which would facilitate the Court’s consideration of this matter at its December 2024 Rules Agenda.

**(2) Background.** As noted in previous filings in this matter, Petitioner is the current presiding judge of the Arizona Tax Court. Petitioner filed rule petition number R-23-0016 and proposed stylistic revisions to many, but not all, of the current Tax Court rules. Public comments regarding the petition raised valid points, which Petitioner addressed in a reply. At its August 2023 Rules Agenda, the Court continued R-23-0016 to permit staff from the Administrative Office of the Courts (“AOC”) to review the proposed rules and to assure that the rules conformed with

established restyling conventions. After discussions with staff, the Chair filed a sur-reply with a revised version of restyled rules.

The version of proposed rules appended to the sur-reply contained two significant organizational differences from the previous version. First, two major part headings—Part I, “general provisions,” and Part II, “small claims tax procedures” —were added to delineate major subjects. (The current rules have no such headings.) And second, the sur-reply version proposed moving the uniform interrogatories from their current location (immediately after Rule 16) to the end of the rules, so that the body of the rules was not interrupted by several pages of interrogatories.

By entering A.O. No. 2024-87, this Court initiated a formal process for stakeholders to discuss the proposed restyling and to obtain additional public input. The Court’s Order directed the Task Force to make recommendations regarding restyled rules that it deemed appropriate.<sup>1</sup> It further provided that the Task Force

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<sup>1</sup> The following individuals were Task Force members: Jodi Bain (Bain Law Firm), James Busby (The Cavanaugh Law Firm), Joshua Carden (Carden Law Firm), Elena Cottam (Superior Court in Maricopa County), Jessica Fotinos (Clerk’s Office, Superior Court in Maricopa County), Hon. Brian Furuya (Court of Appeals, Div. 1), Dawn Gabel (Dickinson Wright), Edward Hermes (Snell & Wilmer), Douglas John (Frazer Ryan Goldberg & Arnold), Paul Moore (Mooney, Wright, Moore, and Wilhoit), Jack O’Connor (Maricopa County Attorney’s Office), James Susa (DeConcini, McDonald, Yetwin & Lacy), Scot Teasdale (Attorney General’s Office, Tax Section), and Benjamin Updike (Attorney General’s Office, Tax Section). The Order appointed Petitioner as the Task Force Chair. Theresa Barrett, Veronica Gonzales, Mark Meltzer, and David Tascoe served as AOC staff for the Task Force.

“may also propose additional changes to the Tax Court Rules of Practice that would improve current practices.”

The Chair and AOC staff met again after entry of this Order but before the first Task Force meeting, and in light of the Order’s directives, they discussed additional changes to the previously proposed restyling. Those discussions resulted in a new version of the restyled rules dated 07.17.2024. The 07.17.2024 version superseded the versions submitted with the R-23-0016 petition, reply, and sur-reply and became the foundational document for Task Force review. The 07.17.2024 version, among other changes, included three additional major part headings: one concerning filing documents, another concerning case transfers and venue, and a third regarding further proceedings. In addition, the 07.17 version renumbered and re-sequenced certain rules to aggregate and connect rules with a similar subject. The 07.17 set also included a short new rule on appeals.

The Task Force convened on July 25, 2024, for a six-hour meeting, followed by another meeting on August 12, 2024. The first meeting agenda included a presentation by Supreme Court staff attorney John Rogers on rules restyling; materials for that meeting also include Bryan Garner’s “Guidelines for Drafting and Editing Court Rules.” Task Force members proceeded to have robust discussions of the 07.17.2024 draft, and those discussions led to scores of additional revisions. Every Tax Court rule was modified. Most of these revisions were only stylistic,

although a few changes were substantive. Some rules were further reorganized. A number of rule titles were revised, and the Task Force ensured that every section of a rule, and most, but not all, subparts, also had titles. The Task Force retained the five-part headings proposed by the 07.17.2024 version, and a table at the end of this supplemental petition compares the tables of contents for the current and proposed rules.

**(3) Task Force general recommendation.** At the conclusion of the second meeting, Task Force members considered a formal motion to approve the resulting draft, which is appended to this Supplemental Petition, and to recommend that the Court adopt this revised set of rules and the new appendices. The motion passed unanimously.

**(4) Specific recommended changes to the current rules.** The proposed rules in the Appendix include the following recommended changes.

*Prefatory comment.* The current rules contain a one-paragraph introductory comment under the heading “2003 correlation table.” The proposed rules change that heading to “prefatory comment” and added a second prefatory paragraph that elaborated on the work of this Task Force. The 2003 correlation table is no longer pertinent; it has been omitted from the proposed version.

## **Part I. General Provisions.**

**Rule 1: “Arizona Tax Court.”** The Task Force revisions to this rule were modeled on language contained in A.R.S. Title 12, Chapter 1, Article 4. A new last sentence cross-references Rule 11, which is discussed below, concerning Tax Court hearings and trials outside of Maricopa County.

**Rule 2: “Applicable Court Rules.”** Proposed Rule 2 is based on current Rule 2 (“practice and procedure), albeit with a new title and newly added section designations (a), (b), and (c). The revised rule mentions the Tax Court Rules first in this 3-section sequence (the Tax Court rules are not mentioned in current Rule 2). This is followed by a reference in section (b) to the Civil Rules, and then in section (c) to the Maricopa Local Rules. The Task Force deemed this the appropriate hierarchy of references. Sections (b) and (c), i.e., the Civil Rules and Local Rules, apply “unless inconsistent with the Tax Court rules.” This added phrase might be particularly important if future amendments to the Civil and Local Rules are incompatible with the Tax Court rules.

Please note that proposed Rule 2(b), like current Rule 2, provides that Civil Rule 42.1 (a change of judge as a matter of right) does not apply in Tax Court. But proposed Rule 2(b) also expressly excludes application of Civil Rules 72 through 77, which concern compulsory arbitration.

The proposed changes to Rule 2 include the addition of a new comment that elaborates on the application of the Civil Rules to Tax Court proceedings.

***Issue Regarding Tax Court Rule 2 and Civil Rule 68.*** A later-arising issue related to Rule 2(b) involves Civil Rule 68 (offer of judgment). As Rule 2(b) stands now, Civil Rule 68 applies in Tax Court proceedings. The issue is that Rule 68 as written might at times be impractical for Tax Court litigators.

Rule 68(b) (contents of offer) requires the offer to specify the “sum of money to be awarded.” In a Tax Court case, however, the ultimate issue can involve the full cash value of the subject property. Although Tax Court litigators are known to submit Rule 68 offers specifying an offer involving ‘full cash value,’ the offer of judgment might be deemed objectionable because it does not conform to Rule 68(b)’s requirement to specify a sum of money.

The Task Force did not want to exclude the application of Rule 68 from the Tax Court rules because it can be a useful tool. And it is not proposing an amendment to Civil Rule 68, which would be outside its scope. Instead, the Task Force considered an amendment to proposed Tax Court Rule 2(b). This issue arose toward the conclusion of the second Task Force meeting, however, and the Task Force believed that further discussion of this issue would be beneficial. Here is the proposed change to Rule 2(b) (i.e., the addition of subpart (b)(1), as shown below

with underline), which could allow Tax Court litigators to utilize the procedure in Civil Rule 68 more meaningfully.

## **Rule 2. Applicable Court Rules**

The following rules govern all Tax Court proceedings:

- (a) these Tax Court rules;
- (b) unless inconsistent with these Tax Court rules, the Arizona Rules of Civil Procedure (referred to as the “Civil Rules”), except
  - (1) Civil Rule 42.1 that provides for a change of judge as a matter of right,
  - (2) Civil Rule 68(b)(1), under which—as applied in tax court cases—it is sufficient for purposes of specifically stating the sum of money to be awarded to use the term “full cash value,” or another appropriate phrase representing that sum; and
  - (3) Civil Rules 72 through 77 that govern compulsory arbitration cases; and
- (c) unless inconsistent with these Tax Court rules, the following Local Rules of Practice for the Superior Court in Maricopa County (“Local Rules”): Rules 1 (“administration”), 2 (“general procedure”), 3 (“civil cases”), and 8 (“tax cases”).

Although this proposed amendment is not included in the appended set of rules, the Task Force wanted to note this issue for the Court and to request public comments on it.

***Rule 3: “Tax Court clerk.”*** Proposed Rule 3 corresponds to current Rule 3.

For the rationale set out in the body of this proposed rule, the word “clerk” in the title is not capitalized.

## **Part II. Filing Documents in Tax Court.**

**Rule 4: “Caption.”** The restyling of this rule incorporated provisions from current Rules 4 (“case numbering”), 8 (“caption”), and 9 (“forms of papers”). By doing so, the Task Force consolidated in a single rule the pertinent provisions regarding the caption of case-initiating documents in Tax Court. Please note that this consolidation required the renumbering of several subsequent rules.

Accordingly, proposed Rule 4(a) (“title of the court”) is substantively similar to current Rule 8. Proposed Rule 4(b) (“other requirements”) derives from a portion of current Rule 9(b), which begins, “Below the caption, there shall be inserted. . . .” Proposed Rule 4(c) (“additional requirements for captions in small tax claims cases”) contains two subpart. The first subpart includes the substance of the last sentence of current Rule 9(b) regarding small tax claims procedure; and the second subpart includes the requirement of current Rule 9(a) concerning a party’s representative in a small tax claims case.

The Task Force concluded that current Rule 9(a)’s reference to the representative of a party means, in TX cases, an attorney. A party may have a non-attorney representative, such as a CPA or an Enrolled Agent, only in ST cases. To further guide parties on these principles, the Task Force added a new comment to Rule 4. The new comment directs readers to A.R.S. § 12-174(B) and Supreme Court Rule 31.3(d)(4). This Supreme Court rule provision does not require the party

representative to be a CPA or an EA; that rule allows anyone approved by the Tax Court to represent a party in a small tax claims case. If the representative is certified or licensed, however, the proposed rule requires inclusion of the representative's identification number in the caption.

The Task Force concluded that another requirement in current Rule 9(b), which requires the caption to specify the nature of the tax at issue, need not be duplicated in the restyled rules. It reasoned that this information is not especially useful to either judicial officers or the Tax Court clerk and might be gained from the Tax Court cover sheet or from other filings. The Task Force accordingly omitted the provision.

A caption for small tax claims cases is included in a forms packet available on the Maricopa County Superior Court website. The Task Force favored including the caption in that form—along with two other new forms—in an appendix to the restyled rules. Please see the discussion of Appendix 1 in section 5.

***Rule 5: “Required Cover Sheet.”*** This proposed rule corresponds to current Rule 10 (“filing of cover sheet”). The provision has been restyled, but it is substantively equivalent. The proposed rule clarifies that the plaintiff must submit a completed cover sheet “when commencing a proceeding . . . .”

***Rule 6: “Filing Pleadings and Other Documents.”*** This rule is the analog of current Rule 5 (“filing”). The current rule requires that “pleadings and other papers”

be filed “in the same manner as other civil cases are filed.” The restyled rule requires filing “in the same manner as pleadings and other documents are filed under Civil Rule 5.1.” The rules are otherwise comparable. During the discussion, the Task Force acknowledged Supreme Court Administrative Order No. 2024-63, which contains provisions regarding electronic filing in Tax Court cases.

***Rule 7: “Clerk’s Stamp on Filed Documents.”*** This rule corresponds with current Rule 7 (“documents stamped by Clerk”). Whereas the current rule requires that the Clerk “shall affix . . . a stamp,” the restyled rule requires that the Clerk’s Office “must stamp” each filing. The restyled rule also uses “Clerk’s Office” rather than “Clerk” because it’s improbable that the elected Clerk of the Court will personally do the stamping.

***Rule 8: “Tax Court Numbering.”*** This restyled rule corresponds to current Rule 4, “case numbering,” and although the proposed rule is stated in the active voice, it is substantively similar. But while the current rule is a single block of text, the restyled rule is organized into two sections. The current rule requires the clerk to assign a number to every case “filed with” the Tax Court. Proposed Rule 8(a) (“assigned number”), by comparison, requires the clerk to assign a number to every case “filed with or transferred to” the Tax Court. Proposed Rule 8(b) (“prefix”) has two subparts, one dealing with small tax claims, which are numbered with an “ST”

prefix, and the other dealing with “all other cases,” which are numbered with a “TX” prefix.

***Rule 9: “No Paper Copies.”*** Current Rule 11 (“copies to judge or commissioner”) requires parties to provide a copy, impliedly a paper copy, of each filing to the assigned judicial officer. In the modern electronic environment, providing paper copies is unnecessary. Proposed Rule 9 informs readers that they are no longer required to provide paper copies to the assigned judge “unless otherwise ordered.”

### **Part III. Case Transfers; Location of Proceedings; Juries**

***Rule 10: “Cases Transferred to the Tax Court.”*** This restyled rule is substantively similar to current Rule 6 (“cases transferred to the Tax Court”). The two sections of the restyled rule, however, are organized into several subparts, each with its own title, which makes it easier for readers to find sought after provisions. The Task Force discussed the logistics of a case transfer to the Tax Court from a county other than Maricopa and agreed that the process was similar to a change of venue in a civil case. However, the restyled rule clarifies that in this circumstance, fees are not remitted to the Tax Court clerk, but rather, are remitted to the Clerk’s Office, because the Tax Court clerk does not receive fee payments. The current rule specifies that fees in that circumstance are paid by “the parties,” whereas the restyled rule provides that fees for the transfer of an out-of-Maricopa case are paid by “the

appropriate parties.” A newly added comment to the proposed rule contains a reference to A.R.S. § 12-165 and provisions relating to venue.

***Rule 11: “Tax Court Hearings and Trials Outside of Maricopa County.”***

The proposed rule is substantively similar to current Rule 12 (“hearings and trials other than in Maricopa County”). The current rule allows a party to file an application that the proceeding be held outside of Maricopa County if the party “wishes” it; the proposed rule instead says that a party “may request” an out-of-Maricopa-County proceeding. The current rule and the restyled rule both require a showing that the out-of-Maricopa-County proceeding would be “more convenient,” but neither rule elaborates on the meaning of that term. Rather, the moving party has the burden of offering case-specific reasons, and a judicial officer will determine whether those reasons warrant a transfer. The Task Force discussion of this rule resulted in the addition of a new last sentence in Rule 1, as noted in the discussion of Rule 1 above.

***Rule 12: “Juries.”*** The only notable change to this single-sentence rule was replacing the words “in the event a jury is required” with the words “if a party requests a jury.”

**Part IV. Further Proceedings**

***Rule 13: “Uniform Interrogatories” and Appendix 2.*** The current rule regarding interrogatories is Rule 16, but because of the renumbering described

earlier—and to maintain the current number for Rule 14—it has been relocated as Rule 13. The content of this one-sentence restyling differs from the current rule: It notes that the uniform interrogatories are for use in property tax disputes; the current version does not say this.

Task Force members had differing views on the utility of these uniform interrogatories. One member characterized these interrogatories as antiquated and not useful. Another member noted that a variety of items and questions in the uniform interrogatories do not apply in many cases, or request information already in the record or otherwise readily available. And they appear to be useful only to a single side, that is, a government agency serves them on a taxpayer but not the converse. Other members suggested that interrogatories in Tax Court litigation should be more balanced and customized to the needs of a particular case.

Because of the Task Force timetable, however, and the length of these uniform interrogatories, a full review was not feasible at this time; a rewrite of the interrogatories also might be outside the scope of A.O. No. 2024-87. The Task Force nonetheless proposed that the Court adopt the following “preliminary fixes,” in any event.

First, by statute, the valuation year is the year before the tax year. (See A.R.S. § 42-11001.) The Assessor uses information for the valuation year to determine a full cash value for that year. Several of the uniform interrogatories, however,

confound this important distinction by soliciting information regarding values during the tax year. Rather than referring to the tax year, these interrogatories should generally and for the most part refer to the valuation year. The Task Force accordingly recommends replacing “tax year” with “valuation year” in uniform interrogatories 1, 4a, 4c, 4d, 10, 10c, 10e, 10f, 12, and 14. For further clarity, the Task Force recommends adding to the body of the uniform interrogatories, before the first interrogatory, this new sentence: “For definitions of the terms ‘tax year’ and ‘valuation year’ as used in these interrogatories, see A.R.S. § 42-11001.”

Second, certain column headings for the income and expense summaries that are contained in the uniform interrogatories show years like this: “19\_\_.” Those column headings are severely out-of-date. They should be changed to “20\_\_.”

These recommendations are shown with strikethrough and underline in Appendix 2. The Task Force also requests that the Court consider whether it would be beneficial to initiate another project for a deeper review of these uniform interrogatories.

***Rule 14: was “Pending Appeals Calendar,” and now “Pending Appeals Calendar; Stayed Cases.”*** This rule is similar to current Rule 14 (“pending appeals calendar”), with three notable exceptions. First, the current rule includes a sentence that appears before the start of section (a). The restyling includes that sentence as a new section (a). Subsequent sections were re-lettered accordingly. Second, the

multiple sections in the current rule have no titles; the restyled version adds a title to each section. The Task Force discussed whether (b)(2) (“remaining issues”) should continue to require the consent of all parties, but it made no substantive change to that provision.

The third exception involved the addition of a new substantive procedure, which the Task Force codified in Rule 14(f) (“stayed cases”). Rule 14 currently applies when a dispositive case is pending on appeal. However, there are also circumstances where another case is pending in the Tax Court, and a disposition in that case could influence or even determine the disposition of other pending Tax Court cases. Accordingly, the new provision provides:

(f) **Stayed Cases.** On a party’s motion, the Tax Court may stay cases that may be fully or partially resolved by the outcome in another Tax Court case.

By requiring a motion as a predicate to the stay, other parties would have an opportunity to respond and oppose the motion if they wish.

***Rule 15: “Appeals.”*** This new rule fills a gap in the current rules about appeals from a Tax Court decision. The rule simply provides, “Any party aggrieved by a judgment of the Tax Court may appeal as provided by law and by the Arizona Rules of Civil Appellate Procedure (‘ARCAP’).” This rule is not intended as any substantive expansion of existing appellate rights.

***Rule 16: “Publication of Tax Court Decisions.”*** Current Rule 15 (“publication”) allows the Tax Court to designate a decision for publication “upon

its own motion or upon the motion of either party.” The Task Force revised this phrase to state, “on the request of any party, judge, or commissioner.” There are no other changes to this short rule.

***Rule 17: “Posting of Tax Decisions.”*** This restyled rule is, for the most part, substantively similar to current Rule 15.1 (“distribution of Tax decisions”). Rule 17(a), however, aligns more closely with Rule 17(b) by allowing the Tax Court, “on the request of any party, judge, or commissioner,” to post an unpublished decision. The Task Force made other stylistic changes to the body of the rule.

The Task Force also made changes to the current comment. The comment no longer begins, “The addition of this new rule, . . . .” because this rule was adopted in 2007 and it is no longer new. The concluding sentence of the current comment was deleted as unhelpful. (The last sentence says, “It is intended that unpublished decisions as referred to in this rule include superior court tax decisions not issued by the Tax Court, Tax Court small claims cases, and any other type of tax decision.”) Note that this restyled rule has a whole number; unlike the current rules, there are no restyled rules in this proposed set with a number to the right of a decimal point.

## **Part V. Small Tax Claims Procedures**

***Rule 18: “Application of Small Tax Claims Rules.”*** This short rule, which is analogous to current Rule 17 (“small claims procedures”) informs readers that Rules

1 through 17 apply to all Tax Court cases, and Rules 19 through 26 apply only to small claims cases.

***Rule 19: “Election of Small Claims Procedures.”*** This rule corresponds with current Rule 18 (“election”), and similarly requires a taxpayer to “elect” the use of the small claims procedure. But unlike the single block paragraph of the current rule, the proposed rule has several sections, including section (a) (“Election by Plaintiff”), section (b) (“Election by Taxpayer Defendant”), and (c) (“Controverting a Defendant’s Election”). By statute, the election to use a small claims procedure waives a right to appeal, and to inform readers of this important point, the Task Force added section (d), which provides:

**No Right to Appeal.** Pursuant to A.R.S. § 12-174, there is no right to appeal judgments in Small Tax Claims cases.

***Rule 20: “Reclassification of a Small Tax Claims Case After a Defendant’s Election.”*** This rule corresponds with current Rule 19 (“reclassification when defendant taxpayer elects”), although the restyled rule is stated in the active voice and changed “clerk” to “Clerk’s Office” (now, “the Clerk’s Office must assign the case a new number . . . .”). The Task Force considered replacing the word “controverted,” which appears twice in Rule 20, with a simpler word, such as “opposed.” It observed, however, that “controverted” is used in the Civil Rules on compulsory arbitration, and that “controverted” has not been problematic in either

those rules or the Tax Court rules. Accordingly, it declined to substitute a different word.

***Rule 21: “Reclassification When Small Tax Claims Requirements Not Met.”*** This rule corresponds with current Rule 20 (“reclassification when requirements not met”), although the restyled rule is in two sections rather than a single paragraph. In two instances, one in section (a) (“reclassification generally”) and the other in section (b) (“fees”), the Task Force again changed “clerk” to “Clerk’s Office.” And in a phrase in section (a) that begins “must then assign the case a new number as provided in Rule 4,” the Task Force changed the rule reference to Rule 8, which is the correct reference under the proposed revisions.

***Rule 22: “Clerk’s Office Service of Small Tax Claim Complaint.”*** This rule is based on current Rule 21 (“clerk to serve small tax complaint”). For consistency with other rules, and for the same rationale, the Task Force changed the word “Clerk” in the title of this rule to “Clerk’s Office,” and “Clerk of the Tax Court” in the first sentence of the current rule to “Clerk’s Office” in the proposed version.

***Rule 23: “Representation in Small Tax Claims Cases.”*** A.R.S. § 12-174(B) permits a party in a small claims case to be self-represented, represented by an attorney, or represented by “any other person the court allows to participate in the hearing.” Current Rule 22 (“non-lawyer representation in small tax claims”) provides that the Tax Court “shall establish a procedure consistent with the Statute

and Rules of Court” for permitting non-lawyer representation. The Task Force discussed the current procedure, which includes an online posting of an application for non-lawyer representation, and the maintenance by court staff of a list of approved applications with assigned “TXR” numbers. Several individuals on that list are CPAs, and no new applications have been submitted during the Chair’s term as presiding Tax Court judge.

To align the rule with the procedure, members modified the second sentence of this proposed rule to provide, “The Tax Court must provide and post on its website a written application for this purpose.” The Task Force also concluded that the word “non-lawyer” in the rule’s title was unnecessary and deleted it.

***Rule 24: “Dismissal of Small Tax Claims Cases.”*** The title of the corresponding current rule, Rule 23, is “dismissal before judgment.” In the first sentence of the proposed rule, which pertains to the filing of a notice of dismissal, the Task Force changed “Tax Court clerk” to “Clerk’s Office.” The proposed rule, like the current rule, permits the filing of a notice “before an opposing party serves either an answer or a motion for summary judgment.” Members discussed changing “motion for summary judgment” to “other response,” but they concluded that “motion for summary judgment” was appropriate because it’s used in a similar manner in corresponding Civil Rule 41(a)(1)(A)(i). A subsequent sentence of proposed Rule 24 concerns the signing of a dismissal order, which members

modified to provide that it may be signed by the Tax Court clerk (with a small “c” rather than a capital “C”). Like the current rule, the proposed rule provides that the dismissal is “with prejudice,” but unlike the current rule, the proposed rule explains the meaning of that term (“meaning a taxpayer is barred from bringing a later case on the same claim for the same tax period”).

***Rule 24: “Repealed.”*** The next rule in the sequence, which corresponds with current Rule 24, has the full title, “Repealed by Supreme Court order filed August 28, 2013, effective January 1, 2014.” There is no associated text, and the Task Force concluded that it was not necessary to keep this rule in the proposed set. The rule would therefore be deleted, and the two remaining rules would be renumbered accordingly.

***Rule 25: “Hearings and Trials in Small Tax Claims Cases.”*** The proposed rule corresponds with current Rule 25 (“small claims hearings and trials”) and although restyled, it is substantively similar. Task Force members agreed that a provision that “the court is not required to make an audio or video recording of the hearing or trial” is appropriate because there is no right to appeal a small tax claims judgment, hence there is no need for a verbatim recording.

***Rule 26: “Introduction of Evidence in Small Tax Claims Trials.”*** This proposed rule differs in part from current Rule 26 (“introduction in evidence”). The current rule provides, “Subject to the foregoing, the Arizona Rules of Evidence shall

govern the taking of evidence, except that . . . .” The phrases “subject to the foregoing” and “except that,” coupled with the application of the Rules of Evidence, make the current rule unnecessarily complex for a simplified proceeding. The proposed rule is more straightforward and omits the reference to the Rules of Evidence.

**(5) Appendix 1: Forms.** Proposed Appendix 1 is new. It would include three new forms: Form 1, a caption for a TX case; Form 2, a caption for an ST case; and Form 3, which is titled “Defendant’s Election of Small Tax Claims Procedure.” Proposed Forms 1 and 2 are based on a form of caption contained in a packet of materials on the Tax Court webpage for preparing a small claims complaint, but the proposed forms have notable differences.

In Form 1, the dualities of “plaintiff/petitioner,” “defendant/respondent,” and “complaint/petition” were reduced to single words (“plaintiff,” “defendant,” and “complaint”), which the Task Force believed was consistent with applicable statutes (including A.R.S. § 12-173, as well as Title 42 statutes).

Form 2 is similar to Form 1, except the caption of Form 2 includes the words “(SMALL TAX CLAIMS PROCEDURE)”.

Form 3 is intended solely for use by a defendant. The case number was changed from “ST” to “TX” because this form, although requesting an ST designation, would be filed in a TX case. To ensure that the defendant’s election has

a proper basis, Form 3 includes a single sentence of text that says, “Defendant taxpayer certifies that this case meets the requirements of A.R.S. § 12-172 and elects to use the Small Tax Claims procedure.” After concluding their discussion of Form 3, members added text in Rule 19(b) that referred to the form in the Appendix.

**(6) Conclusion.** Petitioner requests the Court open this Supplemental Petition for public comment—as provided in A.O. No. 2024-87, paragraph 2—and to thereafter permit the Task Force sufficient time to review and reply to any comments. Petitioner proposes the following: that this Supplemental Petition be open for public comments for 60 days from the filing date, i.e., until October 18, 2024; and that Petitioner have until November 4, 2024, to file a Reply to the comments.

Petitioner further requests the Court to consider this Supplement Petition, and any comments and Reply, at its December 2024 Rules Agenda, if feasible, or in due course as the Court determines.

DATED this 19th day of August 2024.

/s/ Sara J. Agne \_\_\_\_\_  
Sara J. Agne  
Presiding Judge, Arizona Tax Court

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| 21 Clerk to Serve Small Tax Complain  | 22 Clerk's Office Service of Small Tax Claim Complaint                                    |
| 22 Non-Lawyer Representation in Small Tax Claims                                    | 23 Representation in Small Tax Claims Cases   |
| 23 Dismissal Before Judgment  | 24 Dismissal of Small Tax Claims Cases  |
| 24 Repealed by Supreme Court Order Filed August 28, 2013, Effective January 1, 2014 | --  |
| 25 Small Claims Hearings and Trials   | 25 Hearings and Trials in Small Tax Claims Cases  |
| 26 Introduction of Evidence   | 26 Introduction of Evidence in Small Tax Claims Trials                                    |
| --  | Appendix 1: Forms<br>Appendix 2: Uniform Interrogatories for Use in Property Tax Disputes |