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

9 In the Matter of:

Supreme Court No. R-25-

10 **PETITION TO AMEND RULE 45**  
11 **OF THE ARIZONA RULES OF**  
12 **SUPREME COURT**

**PETITION**

13 Pursuant to Rule 28 of the Arizona Rules of Supreme Court, the State Bar of  
14 Arizona (“State Bar”) petitions the Court to amend Rule 45, of the Arizona Rules of  
15 Supreme Court. The purpose of the amendment is to increase the amount of  
16 Continuing Legal Education (CLE) credit awarded to arbitrators who complete a  
17 hearing for the State Bar Fee Arbitration Program, (Program). Currently, arbitrators  
18 are eligible for one (1) hour of CLE for each hearing conducted with a maximum of  
19 two (2) hours in an educational year. The provision permitting this CLE award is  
20 less than the amount of CLE awarded to Rule 73, Ariz. R. Civ. P. arbitrators and  
21 does not differentiate the allocation of credit awarded for the service provided by a  
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1 panel chair.<sup>1</sup> This petition seeks to increase the amount of CLE awarded to two (2)  
2 hours of CLE for each hearing completed, unless the arbitrator serves as panel chair.  
3 The panel chair would be eligible to receive four (4) hours of CLE credit for each  
4 hearing completed. All Program arbitrators could receive a maximum of eight (8)  
5 hours of CLE in each educational year; up to two (2) hours would be eligible to be  
6 professional responsibility credit. The proposed amended Rule is provided in  
7 Exhibit 1.  
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### 10 **Background and Purpose of the Proposed Rule Amendment**

11 The Program began in 1971. Since its inception it has served as a cost-  
12 effective, fair forum for the prompt resolution of fee disputes between lawyers and  
13 clients, or among lawyers. The Program also serves as an alternative to discipline  
14 where a bar charge is based solely on the alleged unreasonableness of the fees. *See*  
15 *In re Connelly*, 203 Ariz. 413, 55 P.3d 756, 757 (2002) (“We hold than when a  
16 lawyer and client have agreed to binding fee arbitration and the disciplinary  
17 complaint involves no allegations of other misconduct, the State Bar should await  
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22 <sup>1</sup> In disputes where the amount at issue is greater than \$25,000, the State Bar of  
23 Arizona Fee Arbitration Program Rules of Arbitration of Fee Disputes permits either  
24 party to request the hearing be conducted by a panel of three: two (2) attorney  
25 arbitrators and one (1) public member. If a panel is requested, the Program  
Coordinator assigns one attorney arbitrator as the panel chair. The panel chair rules  
on preliminary issues and takes the lead on preparing the written fee award.

1 the conclusion of fee arbitration proceedings before initiating formal disciplinary  
2 proceedings.”).

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4 The Program averages approximately 150 cases per year. Arbitrators are  
5 eligible to serve only after attending a mandatory training conducted by the Program.  
6 Arbitrators must take at least one (1) CLE every three (3) years regarding Arizona  
7 Rules of Supreme Court, Rule 42, ER 1.5. Eligible fee arbitrators serve as single  
8 arbitrators in disputes where the amount at issue is less than \$25,000. Or three (3)  
9 arbitrators comprise a panel, which is appointed at the request of a party to a matter  
10 where the disputed amount is greater than \$25,000. Panel hearings require more  
11 time and more work, particularly by the panel chair. The panel chair is responsible  
12 for overseeing compliance with the Rules, scheduling, communication with both  
13 parties, ruling on preliminary issues and takes the lead on drafting the fee arbitration  
14 award in matters involving greater amounts of evidence than in disputes where less  
15 than \$25,000 is at issue.  
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19 Rule 45, Ariz. R. Sup. Ct. currently includes specific provisions for the award  
20 of CLE credit for several activities including: (1) serving as an appointed arbitrator  
21 in civil compulsory arbitration under Rule 73, Ariz. R. Civ. P.<sup>2</sup>, (2) provision of pro  
22 bono services through an approved legal services organization under Rule 38, Ariz.  
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25 <sup>2</sup> See Ariz. R. Sup. Ct., Rule 45(a)(3), awarding up to two (2) hours of CLE.

1 R. Sup. Ct.<sup>3</sup> and (3) completing the State Bar Mentor Program.<sup>4</sup>

2 Currently, Program arbitrators receive less credit for completing arbitrations  
3 than do those appointed to serve in Rule 73, Ariz. R. Civ. P. civil compulsory  
4 arbitrations. This petition asks the Court to increase the amount of CLE credits  
5 Program arbitrators earn to be on par with that earned by civil compulsory  
6 arbitrators, and to differentiate between panel chairs and other arbitrators. The  
7 greater award of CLE for panel chairs would acknowledge the amount of work they  
8 do, the service provided to the public and would further incentivize volunteer  
9 arbitrators to serve as panel chairs.  
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12 The success of Program is dependent on volunteer arbitrators. The Program  
13 has benefited the public and attorneys for over fifty years. The proposed amendment  
14 would recognize the value of Program arbitrators by raising the amount of CLE they  
15 are eligible for to that consistent with Rule 73, Ariz. R. Civ P. arbitrators, and would  
16 further recognize and incentivize attorneys to serve as panel chair in more time  
17 intensive, complex fee arbitrations.  
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22 <sup>3</sup> See Ariz. R. Sup. Ct., Rule 45(a)(4), awarding one (1) hour of CLE for every five  
23 (5) hours of pro bono service provided, up to a maximum of (5) five hours per  
educational year.

24 <sup>4</sup> See Ariz. R. Sup. Ct., Rule 45(a)(6), awarding mentors or mentees up to eight (8)  
25 hours of CLE, two (2) of which may qualify as professional responsibility credits up  
to a maximum of eight (8) hours of CLE per educational year.

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## CONCLUSION

The State Bar of Arizona respectfully requests an amendment of Rule 45, Ariz. R. Sup. Ct. as detailed in Exhibit 1, increasing the amount of CLE awarded to two (2) hours of CLE for each hearing completed, unless the arbitrator serves as panel chair. The panel chair would be eligible to receive four (4) hours of CLE credit for each hearing completed. All Program arbitrators could receive a maximum of eight (8) hours each educational year and up to two (2) hours are eligible to be professional responsibility credit. These changes permit the Program to ensure its arbitrators are awarded CLE for their service, and to incentivize attorneys to participate in the Program as a panel chair.

RESPECTFULLY SUBMITTED this 10<sup>th</sup> day of January, 2025.



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Lisa M. Panahi  
General Counsel

Electronic copy filed with the  
Clerk of the Supreme Court of Arizona  
this 10<sup>th</sup> day of January, 2025.

by: PSequin

# EXHIBIT

## **EXHIBIT 1**

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

### **Rule 45. Mandatory Continuing Legal Education**

#### **(a) Continuing Legal Education Requirements.**

1. Every active member of the bar, not exempted, shall complete a minimum of fifteen hours of continuing legal education activity in each educational year. An educational year shall begin on July 1 and end on the following June 30.

2. A minimum of three hours of continuing legal education activity each educational year shall be in the area of professional responsibility. Professional responsibility includes instruction in legal and judicial ethics, professionalism, and malpractice prevention, and may include such topics as substance abuse, including causes, prevention, detection and treatment alternatives, attorneys' fees, client development, law office economics and practice, alternatives to litigation for managing conflict and resolving disputes, stress management, and the particular responsibilities of public lawyers, judges, and in-house counsel, to the extent that professional responsibility is directly addressed in connection with these topics. Lawyers elected, appointed or employed as government lawyers must have at least one hour on rules that are specifically applicable to government lawyers by July 1, 2025, or if not a government lawyer on the effective date of this amendment to this rule, within one year after being appointed or employed as a government lawyer.

3. An active member of the bar, not exempted, who serves as an arbitrator under Rule 73, Arizona Rules of Civil Procedure, is eligible for two hours of continuing legal education activity credit in lieu of financial compensation otherwise available under A.R.S. § 12-133(g) or local rule for service as an arbitrator. Such credit shall be included in the maximum number of hours allowed for self-study and shall be awarded under procedures approved by the Board of Governors.

4. An active member of the bar, not exempted, who provides pro bono service to the poor or near poor through an approved legal services organization, as defined

in Rule 38(d), is eligible for one hour of continuing legal education credit for every five hours of pro bono service provided, up to a maximum of five hours per educational year of continuing legal education credit. Such credit shall be included in the maximum number of hours allowed for self-study and shall be reported in the attorney's annual affidavit of compliance.

5. An active member of the bar, not exempted, who serves as an arbitrator for a fee dispute resolution under the auspices of the State Bar Fee Arbitration Program Committee is eligible for ~~one~~ two (2) hours of continuing legal education activity credit for each hearing actually conducted. Those appointed to serve as panel chair are eligible for four (4) hours of continuing legal education activity credit for each hearing actually conducted. The maximum hours any arbitrator is eligible for in one educational year shall not exceed eight (8) hours. Up to two (2) hours are eligible to be professional responsibility credit. up to a maximum of two hours credit in any one educational year. This credit shall be applied to the required three hours of activity in the area of professional responsibility mandated for that educational year.

6. An active member of the bar, not exempted, who successfully completes a mentor program as a mentor or mentee under the auspices of the State Bar Mentor Program is eligible for up to eight (8) hours of continuing legal education activity credit, of which up to two (2) credit hours may qualify as professional responsibility credits, up to a maximum of eight (8) hours of continuing legal education credit per educational year. All credits are applied in the year the program is completed.

7. An active member of the bar, not exempted, who attends a continuing education program to satisfy a state agency license renewal requirement is eligible to claim one hour of continuing legal education credit for every qualifying hour of credit earned in satisfaction of the member's state agency license renewal requirement. To be eligible to qualify as continuing legal education credit, credit earned in satisfaction of the member's state agency license renewal requirement must derive from a continuing education program that: consists of an organized program of learning, deals with matters directly related to the law, will increase the participant's professional competence as a lawyer, follows an agenda, is accompanied by substantive or practical written materials or exercises, and

substantially conforms, as far as practicable, to the regulations established by the board. Notwithstanding the foregoing, credits earned in satisfaction of a member's state agency license renewal requirement cannot be counted toward the professional responsibility activity required under section (a)(2). "State agency license renewal requirement" has the meaning provided in A.R.S. § 12-112.01.