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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**
11 **47(k) OF THE ARIZONA RULES**
12 **OF FAMILY LAW PROCEDURE**

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 47(k), Arizona
15 Rules of Family Law Procedure (“Family Rule(s)"). This proposed amendment will
16 promote access to justice and prevent abuse of the Rules and the judicial process.

17 Family Rule 47(k)(1) states that temporary orders terminate and are
18 unenforceable upon dismissal of an action. However, this same Rule does not
19 indicate what happens to temporary orders when that matter is reinstated.

20 The absence of language specifying what happens to temporary orders upon
21 reinstatement creates ambiguity because a litigant could easily draw two separate,
22 but equally reasonable conclusions based on the language in Family Rule 47(k)(1):
23 either the temporary orders are reinstated along with the matter, or they are not
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1 reinstated because they were terminated and became unenforceable when the matter
2 was dismissed.

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4 Unfortunately, the latter of these two options is ripe for abuse. A party who
5 receives an unfavorable ruling at a temporary orders hearing can simply stop being
6 diligent, let the matter dismiss, and then reinstate the matter after the unfavorable
7 temporary orders terminated and became unenforceable by operation of Family Rule
8 47(k)(1). This strategy could easily be employed by a person knowledgeable in
9 family law – an attorney, for example – against a party lacking that same knowledge,
10 such as a self-represented litigant. Given the critical nature of certain temporary
11 orders (such as spousal and child support payments, supervised parenting time,
12 exclusive use and possession of a home, etc.) the ambiguity surrounding the fate of
13 temporary orders entered in a dismissed matter that is thereafter reinstated should be
14 eliminated.
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17 This amendment proposes a new rule, Family Rule 47(k)(3), which solves this
18 problem by making it clear that all temporary orders in effect at the time a matter
19 was dismissed are returned to full force and effect following reinstatement, and as
20 of the date of the reinstatement, unless the court specifically orders otherwise.
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22 Making this change to the Family Rules will eliminate ambiguity surrounding
23 the fate and enforceability of temporary orders in a reinstated matter and will prevent
24 knowledgeable parties from securing unjust results and abusing less-knowledgeable
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1 parties via the strategic dismissal of cases in which unfavorable temporary orders
2 are entered.

3
4 **CONCLUSION**

5 The State Bar of Arizona respectfully requests that the Court implements
6 Family Rule 47(k)(3) as set forth in the attached Appendix.

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8 RESPECTFULLY SUBMITTED this 10th day of January, 2025.

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11 Lisa M. Panahi
12 General Counsel

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14 Electronic copy filed with the
15 Clerk of the Supreme Court of Arizona
16 this 10th day of January, 2025.

17 by: PSequin

APPENDIX

Appendix

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

Rule 47. Motions for Temporary Orders

(a) – (j) No changes.

(k) Enforceability of Temporary Orders

(1) No changes.

(2) No changes.

(3) *Reinstatement.* If a dismissed matter is reinstated, whether on a party's motion or the court's own motion, all temporary orders in effect at the time the matter was dismissed are returned to full force and effect as of the date of the matter's reinstatement, unless the court specifies otherwise in the order reinstating the case.