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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of)	Arizona Supreme Court No. R-24-0035
)	
PETITION TO AMEND RULES)	
91(m) AND 91.1(c),)	
ARIZONA RULES OF FAMILY)	COMMENT OF THE
LAW PROCEDURE)	COFC
)	
_____)	

The State Bar of Arizona filed the pending Petition seeking to amend Rules 91(m) and 91.1(c), Arizona Rules of Family Law Procedure (ARFLP), to address disclosure deadlines in post-decree family law actions under Rules 91 – 91.7, ARFLP.

This Court referred the matter to the Committee on Family Court (“COFC”) for further research and stakeholder discussion, and set a deadline July 1, 2025, for COFC’s report.

COFC has reviewed the Petition, and obtained stakeholder input. COFC agrees with the State Bar that the disclosure deadlines contained in Rules 91 and 91.1 should be modified; however, the proposed amendments do not fully address the problems. For example, actions under Rule 91.5 must be heard

within 25 days of service of the petition, but the State Bar's proposed amendment would not require disclosure until 30 days after service of the petition. Furthermore, while Rule 91(m) allows the family court to set other deadlines, the family court often does not. Also, while parties can agree otherwise under Rule 91(m), they cannot always come to agreement easily. COFC agrees with the State Bar that a default disclosure deadline is preferable.

COFC also received stakeholder input that sometimes a family law judicial officer will short set a simple post-decree matter. In those circumstances, the State Bar's proposed 30-day deadline may also not be workable.

Beyond the timing of disclosures in post-decree matters, COFC believes that Rule 91(m)'s adoption of the disclosure obligations sets forth in Rule 49 creates other problems. Rule 49 is designed for pre-decree matters and is rightly expansive in its scope. For example, Rule 49(d) requires disclosures of some information dating as far back as 10 years before the filing of the petition. Most post-decree matters are narrower in scope, and as such, the disclosure obligations should also be modified to reflect that there had been prior proceeding(s) and disclosures. For example, rather than disclosing

information going back 10 years, a disclosure should include only that additional relevant information from the date of the most recent judgment.

In light of these various issues, COFC believes that the disclosure timing and obligations in post-decree matters should be largely untethered from Rule 49. As part of its attempt to untether Rule 49, COFC has identified additional language that it believes should be modified in Rules 49, 51, and 92.

The proposed amendments below accomplish the following:

1. Disclosures in post-decree matters are untethered from Rule 49.
2. Proposed Rule 91(m) would address timing of initial and final supplemental disclosures in post decree matters under Rule 91.1 through 91.7, as well as the general categories of information, exhibits, and witnesses that must be disclosed.
3. Rules 91.1 through 91.7 would include specific disclosure obligations unique to each of those particular post-decree matters, and as appropriate, narrow the scope of disclosures from the existing Rule 49.
4. There would be a specific obligation to disclose exhibits in both Rules 49 and 91. No such provision exists in Rule 49 currently.
5. Both Rule 49, as well as Rules 91 through 91.7, would require disclosure of relevant documents and information regarding any

relevant statutory factor when the child's best interests are at issue.

No such provision exists in Rule 49 currently.

6. Both Rule 49 and 91 would require metadata to be disclosed as part of any ESI production.
7. Rule 91.1 would be updated in light of the adoption the Spousal Maintenance Guidelines and worksheets prepared by the related calculator.

At its May 15, 2025 meeting, COFC voted to approve the filing of this Comment, and believes the Court should allow additional stakeholder input before adopting the proposed amendments.

COFC respectfully believes the Court has at least two options on how to proceed with the pending Petition. First, the Court could deny the State Bar's Petition, and direct COFC to file a new Petition contain COFC's recommendations below. Second, the Court could reopen the comment period on the pending Petition to allow additional stakeholder input on COFC's recommendations. COFC will proceed in whichever direction the Court wishes.

DATED this 13th day of June, 2025.

/s/ Greg Sakall

Chair, Committee on Family Court

Proposed Amendments

Rule 91. Modification or Enforcement of Judgment

(a) – (i) No changes

(j) Manner and Timing of Service. The applicant must serve the petition, and every order, warrant, and affidavit in support of the petition, on all other parties in the manner required under Rules 40(f)(1) or 41, as applicable. The applicant must make good faith efforts to complete service promptly and within 10 days after the receipt of the issued order to appear but must complete service in no event later than 20 days before the hearing for a petition under Rule 91.5, and in no event later than 40 days before the hearing for a petition under Rules 91.1 through 91.4 and 91.6 through 91.7.

(k) – (l) No changes

(m) Disclosure. In any proceeding under Rule 91 or Rules 91.1 through 91.7, each party must ~~comply with Rule 49~~ disclose information in the party's possession and control, as well as information that the party can determine or acquire by reasonable inquiry and investigation.

(1) Timing of Initial Disclosure. Each party must serve an initial disclosure. The following deadlines for initial disclosures apply, unless otherwise ordered by the court or agreed upon in writing by the parties:

(A) For a petition under Rules 91.1 through 91.4 and 91.6 through 91.7, if the court sets an evidentiary hearing within 60 days of service of the petition, each party must serve its initial disclosure within the earlier of 30 days after service of the petition or 5 days before the evidentiary hearing.

(B) For a petition under Rules 91.1 through 91.4 and 91.6 through 91.7, if the court does not set an evidentiary hearing within 60 days of service of the petition, each party must serve its initial disclosure within 30 days after service of a petition.

(C) For a petition under Rule 91.5, each party must serve its initial disclosure within the earlier of 15 days after service of the petition or 5 days before the evidentiary hearing. ~~within the time established by the court at the conference or hearing or as agreed by the parties.~~

(2) Specific Disclosure Obligations. Each party must disclose the relevant documents and information provided in Rules 91.1 through 91.7, as applicable. In addition, for any petition under Rule 91 through 91.7, a party must disclose:

(A) *Disclosure of Exhibits.* Evidence, documents, or electronically stored information that the disclosing party plans to use at a hearing, including any material to be used for impeachment.

(B) *Disclosure of Witnesses.* The names, addresses, and telephone numbers of any witness whom the disclosing party expects to call at an evidentiary hearing, along with a statement fairly describing the substance of each witness's expected testimony.

(C) *Disclosure of Expert Witnesses.* The name, address and telephone number of any person the party expects to call as an expert witness at trial. The party also must disclose the subject matter on which the expert will testify, the substance of the facts and opinions on which the expert will testify, a summary of the grounds for each opinion, the expert's qualifications, and the name and address of any custodian of reports the expert prepared.

(D) *Disclosure of Electronically Stored Information.* Unless the parties agree or the court orders otherwise,

(i) *Production of Electronically Stored Information.* Within 20 days after serving its initial disclosure statement, a party must produce the electronically stored information identified under Rules 91 through 91.7. Absent good cause as found by the court, no party need produce the same electronically stored information in more than one form.

(ii) *Presumptive Form of Production.* A party must produce electronically stored information in the form requested by the receiving party. If the receiving party does not specify a form, the producing party may produce the electronically stored information in native form or in another reasonably usable form that will enable the receiving party to have the same ability as the producing party to access, search, and display the information including metadata.

(iii) *Limits on Disclosure of Electronically Stored Information.* Civil Rule 26(b)(2) applies to the disclosure of electronically stored information.

(iv) *Resolution of Disputes.* If the parties are unable to satisfactorily resolve any dispute regarding electronically stored information, the parties may present the dispute to the court in either a joint or individual motion. The motion must include the parties' positions and a good faith consultation certificate under Rule 9(c). In resolving any dispute regarding electronically stored information, the court may shift costs, if appropriate.

(3) *Proof of a party's income from all sources.* When Rules 91.1 through 91.7 require disclosure of proof of a party's income from all sources, disclosure must include the following documents and information:

(A) complete tax returns, W-2 forms, 1099 forms, and K-1 forms, for the past 3 completed calendar years, and year-end information for the most recent calendar year if tax returns are not yet due;

(B) information for the current calendar year for all income sources, including year-to-date pay stubs, salaries, wages, commissions, bonuses, self-employment income, dividends, severance pay, pensions, interest, trust income, income from businesses and properties, annuities, capital gains, social security benefits, worker's compensation benefits, unemployment insurance benefits, disability insurance benefits, recurring gifts, prizes, and spousal maintenance;

(C) proof of court-ordered child support and spousal maintenance actually being paid by the party in any case other than the one in which disclosure is being provided;

(D) proof of all medical, dental, and vision insurance premiums paid by the party for any child listed or referenced in the petition;

(E) proof of any child care expenses paid by the party for any child listed or referenced in the petition;

(F) proof of any expenses paid by the party for private or special schools or other particular education needs of a child listed or referenced in the petition; and

(G) proof of any expenses paid by the party for the special needs of a gifted child or a child with a disability who is listed or referenced in the petition.

(4) Disclosure when Attorney's Fees are Requested. If an award of attorney's fees is requested, an Affidavit of Financial Information in compliance with Rule 91(g), and proof of a party's income from all sources.

(5) No Filing of Disclosures. The disclosures described in Rule 91 or Rules 91.1 through 91.7, must be served on all parties but may not be filed with the court.

(6) Continuing Duty to Disclose. The duty of disclosure prescribed in Rules 91 through 91.7 is a continuing duty, and each party must serve additional or amended disclosures when new or additional information is discovered or revealed. A party must serve such additional or amended disclosures in a timely manner, but in no event more than 30 days after the information is revealed to or discovered by the disclosing party. If the information is disclosed in a written discovery response or a deposition in a manner that reasonably informs all parties of the information, the information need not be presented in a supplemental disclosure statement.

(7) Deadline for final supplemental disclosure. Each party must provide its final supplemental disclosure by the applicable deadline below, unless otherwise ordered by the court or agreed upon in writing by the parties:

(A) For a petition under Rules 91.1 through 91.4 and 91.6 through 91.7, if the court sets an evidentiary hearing within 60 days of service of the petition, each party must serve its final supplemental disclosure by no later than 5 days before the evidentiary hearing.

(B) For a petition under Rules 91.1 through 91.4 and 91.6 through 91.7, if the court does not set an evidentiary hearing within 60 days of service of the petition, each party must serve its final supplemental disclosure by no later than 30 days before the evidentiary hearing.

(C) For a petition under Rule 91.5, each party must serve its final supplemental disclosure by no later than 5 days of the evidentiary hearing. A party seeking to use information, exhibit, witness, or expert witness that it first disclosed beyond the applicable deadline must obtain leave of court to extend the time for disclosure as provided in Rule 65(c).

(8) *Failure to Disclose, False or Misleading Disclosure, Untimely Disclosure.* A party prejudiced by a failure to disclose, false or misleading disclosure, or untimely disclosure, may seek the remedies identified in Rule 65.

~~(n) **Attorney Fees, Costs, and Expenses.** In any post-judgment proceeding in which an award of attorney fees, costs, and expenses is an issue, both parties must file and exchange a completed Affidavit of Financial Information at the time established by the court, but not later than in compliance with Rule 76.1(b) submittals.~~ **Discovery.** Nothing in this rule precludes a party from conducting discovery under Rule 51.

(o) – (p) No changes.

Rule 91.1. Post-Judgment Petition to Modify Spousal Maintenance or Child Support

(a) Spousal Maintenance.

(1) Petition. A petition to modify spousal maintenance must comply with Rule 91. In addition, the petition must include a statement of the facts that establish the existence of substantial and continuing changes in circumstances that support the requested modification.

(2) Disclosure. Parties must disclose:

(A) an Affidavit of Financial Information in compliance with Rule 91(g),

(B) a proposed Spousal Maintenance Calculator worksheet,

(C) proof of the party's income from all sources, and

(D) relevant documents and information regarding any relevant statutory factor.

(b) Child Support.

(1) Standard Procedure - Petition. A petition to modify child support must comply with Rule 91. In addition, the petition must include a statement of facts establishing substantial and continuing changes in circumstances that support the requested modification. The applicant must attach a copy of the most recent child support worksheet that supports the existing child support order, if available.

(2) Disclosure. Parties must disclose:

(A) an Affidavit of Financial Information in compliance with Rule 91(g),

and

(B) proof of the party's income from all sources.

(23) Simplified Procedure. A party seeking to modify child support using the simplified procedure for modification outlined in the Arizona Child Support Guidelines must follow the procedures specified in the Arizona Child Support Guidelines, Appendix to A.R.S. § 25-320.

(34) Title IV-D. In Title IV-D matters, the State must serve both parents with the petition, the issued Order to Appear, and a blank Affidavit of Financial Information, with instructions to complete, file, and serve exchange the Affidavit as required in Rule 91.1(e) within 30 days after service of the petition. Each party must also provide a copy of the completed Affidavit of Financial Information to the State.

~~(c) Affidavit of Financial Information. For a petition filed under Rule 91.1(a) or Rule 91.1(b)(1) the parties also must file and exchange current Affidavits of Financial Information not later than 20 days after service, unless a different date is set by the court.~~

Rule 91.2. Post-Judgment Petition to Enforce Spousal Maintenance or Child Support

(a) ~~Generally~~Petition. A petition to enforce an order to pay spousal maintenance, child support, or other sums that are due under a support order must comply with Rule 91. The petition also must include a current summary calculation of arrears derived from support payment clearinghouse records, if available, or if not available, a statement of all sums due. If the applicant requests reimbursement of medical, dental, or vision costs, the petition must include a statement of all sums due after application of any applicable insurance coverage.

(b) ~~Medical, Dental, or Vision Costs~~Disclosure. ~~If the applicant requests reimbursement of medical, dental, or vision costs, the petition must include a statement of all sums due. In addition, within 30 days after filing the petition, the applicant must disclose to the other party any documentation supporting the claim, including proof of payment. A party must disclose any relevant documents and information supporting the claim, including proof of payments from all sources.~~

Rule 91.3. Post-Judgment Petition to Modify Legal Decision Making; Parenting Time; or Education Order

(a) Generally Petition. A petition for modification of legal decision-making or parenting time:

(1) must comply with Rule 91;

(2) must contain detailed facts supporting the modification;

(3) must be verified by the applicant or supported by affidavit(s) as required by A.R.S. § 25-411; and

(4) in actions in which the legal decision-making order or decree was not entered by an Arizona court, must include an affidavit required under A.R.S. § 25-1039.

(b) Service. In addition to complying with Rule 91(j), the applicant must comply with A.R.S. § 25-1035.

(c) Disclosure. Parties must disclose:

(1) a copy of any current protective orders and underlying petitions involving a party or member of the party's household, or prior order or petition filed since the last decree or judgment addressing legal decision-making or parenting time;

(2) for each parent and child, the name and address of each treatment provider and period of treatment involving any party for psychiatric or psychological issues, anger management, substance abuse, or domestic violence, occurring since the last decree or judgment addressing legal decision-making or parenting time;

(3) the date, description, location, and documentation of any criminal charge against or conviction of any party or member of the party's household occurring since the last decree or judgment addressing legal decision-making or parenting time;

(4) the date, description, location, and documentation of any Department of Child Safety investigation or proceeding involving any party or member of the party's household occurring since the last decree or judgment addressing legal decision-making or parenting time; and

(5) relevant documents and information regarding any relevant statutory factor.

(ed) Education Order. If the court finds that it is in the children's best interests for an Education Order to be issued, any order granting modification issued under this rule must include an "Education Order" substantially in conformity with Rule 97, Form 19 or Form 20, as appropriate. If an Education

Order had been previously issued, the court may vacate or modify it if it finds it is in the children's best interests.

Rule 91.4. Post-Judgment Petition to Relocate or Prevent Relocation

(a) Relocation - Petition. A petition to relocate a minor child must comply with A.R.S. § 25-408 and Rule 91.3.

(b) Preventing Relocation - Petition. A petition to prevent the relocation of a minor child must comply with A.R.S. § 25-408 and Rule 91.

(c) Disclosure. Parties must disclose:

(1) a copy of any current protective orders and underlying petitions involving a party or member of the party's household, or prior order or petition filed since the last Rule 78 judgment;

(2) for each parent and child, the name and address of each treatment provider and period of treatment involving any party for psychiatric or psychological issues, anger management, substance abuse, or domestic violence, occurring since the last decree or judgment addressing legal decision-making or parenting time;

(3) the date, description, location, and documentation of any criminal charge against or conviction of any party or member of the party's household occurring since the last decree or judgment addressing legal decision-making or parenting time;

(4) the date, description, location, and documentation of any Department of Child Safety investigation or proceeding involving any party or member of the party's household occurring since the last decree or judgment addressing legal decision-making or parenting time; and

(5) relevant documents and information regarding any relevant statutory factors including those set forth in A.R.S. § 25-408(I).

Rule 91.5. Post-Judgment Petition for Enforcement of Legal Decision-Making or Parenting Time; Warrant to Take Physical Custody

(a) Enforcement - Petition. A petition for enforcement of legal decision-making, parenting time, or visitation order must comply with Rule 91, and

(1) must meet all legal requirements, including A.R.S. § 25-1058, if applicable, (2) must include detailed facts supporting a violation of the order or enforcement action and the specific remedy or remedies sought.

(b) Warrant. A petition seeking a warrant to take physical custody of a child must comply with Rule 91 and with A.R.S. § 25-1061

(c) Disclosure. Parties must disclose:

(1) a copy of any past or current protective orders and underlying petitions involving a party or member of the party's household, or prior order or petition filed since the last decree or judgment addressing legal decision-making or parenting time;

(2) for each parent and child, the name and address of each treatment provider and period of treatment involving any party for psychiatric or psychological issues, anger management, substance abuse, or domestic violence, occurring since the last decree or judgment addressing legal decision-making or parenting time;

(3) the date, description, location, and documentation of any criminal charge against or conviction of any party or member of the party's household occurring since the last decree or judgment addressing legal decision-making or parenting time;

(4) the date, description, location, and documentation of any Department of Child Safety investigation or proceeding involving any party or member of the party's household occurring since the last decree or judgment addressing legal decision-making or parenting time; and

(5) relevant documents and information regarding any relevant statutory factor.

(ed) Hearing. Under A.R.S. § 25-414, within 25 days of service of the petition, the court must hold a hearing or conference before a judge, commissioner, or person appointed by the court to review noncompliance with a visitation or parenting time order. The court must rule on the petition no later than 21 days after the hearing or conference is concluded.

Rule 91.6. Orders that Affect Parenting Orders

(a) Petition. If a limited jurisdiction court issues a harassment injunction and the order affects a party's parenting rights in a legal decision-making or parenting time order issued by a court of this state, the affected party may petition for relief from the order under this rule in the family court cause number. The petition must comply with Rule 91, must state that relief is requested under this rule, and must state the details demonstrating that the injunction affects the party's parenting rights.

(b) Disclosure. Unless otherwise specifically ordered by the court, no disclosures are required before hearing.

(c) Hearing. If the superior court finds that the harassment injunction is affecting the party's parenting rights in a legal decision-making or parenting time order, the superior court may:

(a1) direct the limited jurisdiction court to transfer the order to the superior court under a superior court cause number;

(b2) join any third party who is a party to the injunction to the proceeding in the superior court but only in a newly assigned cause number and not as a party in the family court case;

(c3) schedule a concurrent proceeding between the matters;

(d4) direct that notice be provided to the third party of any hearing related to the harassment injunction;

(e5) conduct such proceedings as necessary to reconcile the orders; or

(f6) modify the orders as deemed appropriate.

Rule 91.7. Other Post-Judgment Petitions

(a) Petition. A party seeking any other post-judgment relief not specifically addressed in Rule 91 or Rules 91.1 through 91.6 must file a petition in compliance with Rule 91 that states detailed facts supporting the requested relief; and the specific legal authority that permits the court to grant the relief requested.

(b) Disclosure. The court—on motion or on its own—may impose additional disclosure obligations of relevant information, witnesses, and exhibits.

Rule 49. Disclosure

(a) Generally.

(1) **No change.**

(2) *Scope.* This rule applies to all actions other than those addressed by Rules 91 through 92. A party must disclose information in the party's possession and control, as well as information that the party can determine or acquire by reasonable inquiry and investigation.

(3) **No change.**

(b) – (c) No change.

(d) Legal Decision-Making or Parenting Time. In a case in which legal decision-making or parenting time is an issue, the following documents and information must be served on the other party with the initial disclosure:

(1) – (4) **No change.**

(5) relevant documents and information regarding any relevant statutory factor.

(e) – (j) No change.

(k) Disclosure of Electronically Stored Information.

(1) **No change.**

(2) *Presumptive Form of Production.* Unless the parties agree or the court orders otherwise, a party must produce electronically stored information in the form requested by the receiving party. If the receiving party does not specify a form, the producing party may produce the electronically stored information in native form or in another reasonably usable form that will enable the receiving party to have the same ability as the producing party to access, search, and display the information including metadata as the producing party.

(3) – (4) **No change.**

~~**(l) No Filing of Disclosures.** The disclosures described in sections (d) through (k) must be served on all parties but may not be filed with the court.~~

Disclosure of Exhibits. Evidence, documents, or electronically stored information that the disclosing party plans to use at a hearing, including any material to be used for impeachment.

(m) ~~Additional Discovery.~~ ~~Nothing in this rule precludes a party from conducting additional discovery under Rule 51.~~ **No Filing of Disclosures.** The disclosures described in sections (d) through (k) must be served on all parties but may not be filed with the court.

(n) Additional Discovery. Nothing in this rule precludes a party from conducting additional discovery under Rule 51.

Rule 51. General Provisions Governing Discovery

(a) No change.

(b) Discovery Scope and Limits. Unless the court orders otherwise in accordance with these rules, the scope of discovery is as follows:

(1) *Generally.*

(A) Scope. Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable. Written discovery to a party may not request information that party is required to disclose under Rules 49 or 91 through 92. Disputes concerning the adequacy of disclosure must be presented as required by Rule 65.

(B) No change.

(2) – (3) No change.

(4) *Expert Discovery.*

(A) Deposition of an Expert Who May Testify. A party may depose any person who has been disclosed as an expert witness under Rule 49, 91, or 92.

(B)-(C) No change.

(5) No change.

(c) – (f) No change.

Rule 92. Civil Contempt and Sanctions for Non-Compliance with a Court Order

(a) No change.

(b) Petition, Service, and Notice, and Disclosure.

(1) –(3) No change.

(4) Disclosure. The court—on motion or on its own—may impose disclosure obligations of relevant information, witnesses, and exhibits.

(c) – (g) No change.