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**IN THE SUPREME COURT
STATE OF ARIZONA**

7 In the Matter of:

Supreme Court No. R-23-0008

8 **PETITION TO AMEND RULES**
9 **91(h) AND 92(c) OF THE**
10 **ARIZONA RULES OF FAMILY**
11 **LAW PROCEDURE**

COMMENT OF THE
STATE BAR OF ARIZONA

12 Former Maricopa County Superior Court Family Court Presiding Judge Bruce
13 R. Cohen filed the pending Petition seeking to amend Rules 91(h) and 92(c), Arizona
14 Rules of Family Law Procedure (ARFLP), to allow the Superior Court in each
15 county to have the option of issuing an Order to Appear or Notice of Hearing either
16 before or after service of process is effectuated.
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18 The original proposed amendment to Rule 91(h) and 92(c) of the Rules of
19 Family Law Procedure (RFLP) was to alter the language in these provisions
20 pertaining to Orders to Appear. The COFC comment recommended, instead, that a
21 “return hearing” be instituted with the goal of better informing the court of the status
22 of service, the need for a resolution management conference, evidentiary hearing, or
23 dismissal if appropriate.
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1 The COFC Comment notes the support for the alternative proposal by the
2 Presiding Judges for the family courts in both Maricopa and Pima Counties. The
3 State Bar counters that the alternative works to add an additional hearing (increasing
4 time and cost to the litigants), rather than the specific cure proposed by Judge Cohen
5 to ensure timely service of the petition to modify or enforce the underlying judgment
6 upon the opposing party.
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8 The State Bar supports the original proposal, with the additional
9 recommended deletion of the phrase “in accordance with the Rules” from
10 subparagraphs 91(h)(ii) and 92(c)(ii), due to no specific cross-reference.
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12 Tracked change modifications, to the initial Petition proposal, are attached as
13 an Appendix.
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15 CONCLUSION

16 The State Bar of Arizona respectfully requests adoption of the proposed
17 amendment from the original Petition, to include the additional clarification as noted
18 in this Comment and reflected in the Appendix through strikeouts and underlined
19 additions.
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21 RESPECTFULLY SUBMITTED this 1st day of October, 2025.
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23 */s/ Richard L. Palmatier, Jr.*

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Richard L. Palmatier, Jr.
25 Assistant General Counsel

1 Electronic copy filed with the
2 Clerk of the Supreme Court of Arizona
3 this 1st day of October, 2025.

4 by: PSeguin

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Appendix

Rules of Family Law Procedure

Rule 91. Modification or Enforcement of Judgment

(a) – (g) [No change]

(h) ~~Order to Appear.~~ After filing the petition, the applicant must submit to the assigned judicial officer two copies of an Order to Appear, and a copy of the petition showing the court's filing stamp. An Order to Appear must be substantially in the form set forth in Form 14, Rule 97 (“Order to Appear Post-Judgment”).

Scheduling of hearing. The court may:

- (i) set the hearing date upon the filing of the petition and require that the applicant submit to the assigned judicial officer two copies of an Order to Appear, and a copy of the petition showing the court's filing stamp. An Order to Appear must be substantially in the form set forth in Form 14, Rule 97 (“Order to Appear Post-Judgment”); or
- (ii) require the petitioning party to effectuate service of process before setting a hearing date and, upon proof of service being provided to the court, issue a Notice of Hearing that sets the hearing date and is then provided to each party. in accordance with the Rules

(i) – (p) [No change]

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

1 **(a) – (b) [No change]**

2 **(c) ~~Order to Appear.~~** ~~The order to appear must specify the date, time, and~~
3 ~~place of the hearing, and must contain the following notice using substantially~~
4 ~~the following language:~~

5 **Scheduling of hearing.** The court may:

- 6 (i) issue an order to appear that specifies the date, time, and place of the
7 hearing; or
- 8 (ii) require the petitioning party to effectuate service of process before
9 setting a hearing date and, upon proof of service being provided to the
10 court, issue a Notice of Hearing that sets the hearing date and is then
11 provided to each party. ~~in accordance with the Rules.~~

12 Whether an order to appear or notice of hearing is issued, it must substantially
13 contain the following language:

14 Failure to appear at the hearing may result in the court issuing a child
15 support or civil warrant for your arrest. If you are arrested, you may be held
16 in jail for up to 24 hours before you see a judge.

17 **(d) – (g) [No change]**

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