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ARIZONA SUPREME COURT

In the Matter of:

PETITION TO AMEND RULE 111 OF
THE RULES OF THE SUPREME
COURT OF ARIZONA

Supreme Court No. R-26-_____

**Petition to Amend Rule 111 of the
Rules of the Supreme Court of
Arizona**

Pursuant to Rule 28(b) of the Rules of the Supreme Court of Arizona, the Supreme Court Staff Attorneys' Office ("Petitioner") petitions this Court to amend Rule 111 of the Rules of the Supreme Court of Arizona. Petitioner specifically proposes amending Rule 111 to provide that when the Supreme Court denies review of a petition seeking review of an unpublished memorandum decision of the Arizona Court of Appeals, it may also indicate that the decision may not be cited for its persuasive value. It also proposes a minor change to Rule 111's title to conform to this amendment.

The proposed amendments are set forth in Appendix A of this petition.

A. Reason for this Petition

Rule 111 concerns the publication of opinions of the Supreme Court and Court of Appeals. Rule 111(g) provides that the Supreme Court may order that an opinion certified for publication by the Court of Appeals not be published. When an opinion is depublished, Rule 111(c)(1)(C) states that it may not be cited by parties for persuasive value.

However, there is no corresponding means by which the Supreme Court may designate that a *memorandum decision* of the Court of Appeals may not be cited as persuasive authority. Rule 111(c)(1) specifies that memorandum decisions of Arizona state courts are not precedential, and sets forth the purposes for which such decisions may be cited. Currently, memorandum decisions issued by the Court of Appeals on or after January 1, 2015, generally can be cited by parties in other cases for their persuasive value.

Situations may arise where the Supreme Court agrees with the result of a Court of Appeals memorandum decision, but disagrees with some aspect of the language or analysis such that simply denying review is not sufficient. While depublishment of a published opinion prevents parties from citing that decision for its persuasive value, there is currently no equivalent means by which the Supreme Court can prevent parties from citing a memorandum decision as persuasive authority. Petitioner proposes amending Rule 111 to close that gap and enable the

Supreme Court to order that certain memorandum decisions cannot be cited as persuasive authority.

B. Proposed Amendments

Petitioner proposes amending Rule 111(g) as set forth below:

(g) ~~Depublication.~~ Court-Ordered Citation Limitations.

(1) *Depublication.* Notwithstanding Rule 111(b), the Supreme Court may order that an opinion certified for publication by the Court of Appeals either not be published in its entirety or that a specified portion of the opinion not be published.

(2) *Memorandum Decisions.* Notwithstanding Rule 111(c)(1)(C), if the Supreme Court denies a petition for review of a Court of Appeals memorandum decision, it may order that the decision, or portions of that decision, may not be cited for its persuasive value.

Consistent with this change, Petitioner also proposes amending Rule 111's title to replace "Depublication" with "Citation Limitations."

In conclusion, for the reasons stated in this petition, the Staff Attorneys' Office asks the Court to adopt the proposed amendments set forth in Appendix A.

Dated this 30th day of December, 2025.

ARIZONA SUPREME COURT
STAFF ATTORNEYS' OFFICE

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APPENDIX A¹

RULES OF THE SUPREME COURT OF ARIZONA

Rule 111. Publication of Opinions of the Supreme Court and Court of Appeals; ~~Depublication~~ Citation Limitations

(a) – (f) [No change]

(g) ~~Depublication.~~ Court-Ordered Citation Limitations.

(1) Depublication. Notwithstanding Rule 111(b), the Supreme Court may order that an opinion certified for publication by the Court of Appeals either not be published in its entirety or that a specified portion of the opinion not be published.

(2) Memorandum Decisions. Notwithstanding Rule 111(c)(1)(C), if the Supreme Court denies a petition for review of a Court of Appeals memorandum decision, it may order that the decision, or portions of that decision, may not be cited for its persuasive value.

(h) – (j) [No change]

¹ Additions to the text of a rule are shown by underscoring and deletions are shown by ~~strike through~~.