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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:

**PETITION TO AMEND RULES
44.1 AND 44.2 OF THE ARIZONA
RULES OF FAMILY LAW
PROCEDURE**

Supreme Court No. R-26-

**STATE BAR OF ARIZONA
PETITION**

Pursuant to Rule 28(a) of the Arizona Rules of Supreme Court, the State Bar of Arizona (the “State Bar”) hereby petitions the Court to amend Rules 44.1 and 44.2 of the Arizona Rules of Family Law Procedure.

These proposed amendments are necessary to address some of the challenges which result from filing a default decree in a Family Law matter.

In Family Law, Arizona’s “notice pleading” requirements result in most petitions for dissolution of marriage containing only general statements regarding the equitable distribution of assets and debts. Parties in a dissolution matter often do not know, at the time of the filing, the value of all the marital assets or debt, particularly those which may be titled only in the other party’s name, or what an equitable award of those assets would be. As a result, it is standard practice to simply

1 allege that “all community assets should be awarded equitably” and that “all
2 community debt be assigned equitably.”

3 Under the Rules, if a party does not file a response, however, the Court cannot
4 grant relief through a default process without a hearing which is “different from what
5 the petition requested, or for amounts greater than requested in the petition.” *See*
6 *Ariz. R. Fam. L. P. 44.1(a)(1)*. In Family Law, a default decree which states that
7 “community assets are awarded equitably” or “community debts are assigned
8 equitably” is meaningless and unenforceable. This forces parties to choose between:
9 a) obtaining a default decree which is neither specific nor enforceable regarding
10 assets or debts; b) re-file a more specific petition, with potentially prejudicial
11 allegations regarding the relief sought, serve that petition, and wait to see if the other
12 party defaults again; c) attend a hearing even when there are no children involved,
13 which may cost the party additional attorney’s fees or time off from work as well as
14 unnecessarily take up judicial resources and time.

15 The default rule’s language is intended to ensure that due process is satisfied.
16 Due process can be satisfied, while the justice system is made more efficient, by
17 providing an alternative procedure. In this alternative procedure, the initial
18 application for default which advises the defaulting party that a default decree will
19 be entered if they do not appear or respond within an additional ten days will now
20 be served and *accompanied by a Proposed Default Decree* which the applicant seeks

1 to have entered. The proposed default decree will set forth the specific relief which
2 will be sought by application. As a result, the defaulting party will be given notice
3 of the specific relief the Court will grant if they fail to file a response to the petition
4 within ten days and due process is satisfied. The proposed default decree allows a
5 party to include more specific relief than was included in the petition, making the
6 decree, which is later entered, enforceable and meaningful.
7

8 This change will allow defaults which do not involve children to proceed more
9 efficiently while satisfying due process requirements.
10

11 As the proposed default decree will be sent as an attachment to the application
12 for default, no extra filings or complications regarding service will result.
13

14 CONCLUSION

15 The State Bar of Arizona respectfully requests that the Court approve the
16 proposed changes to Rules 44.1 and 44.2 found in the attached Appendix.
17

18 RESPECTFULLY SUBMITTED this 12th day of January 2026.

19 *Jessica J. Fotinos*
20

21 Jessica J. Fotinos
22 General Counsel

23 Electronic copy filed with the
24 Clerk of the Supreme Court of Arizona
this 12th day of January, 2026.

25 by: PSeguin

APPENDIX A

Appendix A - redline

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

Rule 44.1. Default Decree or Judgment by Motion and Without a Hearing

(a) [No change]

(1) the court may not enter a default judgment without a hearing that is different from what the petition requested, or for amounts greater than requested in the petition, unless the parties have entered into a written separation agreement under A.R.S. § 25-317 or unless a proposed default decree setting forth the terms upon which the default is sought is sent to the defaulting party as Attachment A to the application for default;

(2) – (3) [No change]

(b) – (g) [No change]

Rule 44.2. Default Decree of Judgment by Hearing

(a) – (c) [No change]

(d) Rights of a Defaulted Party. A defaulted party is deemed to have admitted every material allegation of the petition or the proposed default decree sent as Attachment A to the application for default as set forth in Rule 44.1(1). However, if a defaulted party appears, the court must allow that party to participate in the hearing to determine what relief is appropriate or to establish the truth of any statement.

(e) – (g) [No change]

APPENDIX B

Appendix B - clean

Rule 44.1. Default Decree or Judgment by Motion and Without a Hearing

(a) [No change]

(1) the court may not enter a default judgment without a hearing that is different from what the petition requested, or for amounts greater than requested in the petition, unless the parties have entered into a written separation agreement under A.R.S. § 25-317 or unless a proposed default decree setting forth the terms upon which the default is sought is sent to the defaulting party as Attachment A to the application for default;

(2) – (3) [No change]

(b) – (g) [No change]

Rule 44.2. Default Decree of Judgment by Hearing

(a) – (c) [No change]

(d) Rights of a Defaulted Party. A defaulted party is deemed to have admitted every material allegation of the petition or the proposed default decree sent as Attachment A to the application for default as set forth in Rule 44.1(1). However, if a defaulted party appears, the court must allow that party to participate in the hearing to determine what relief is appropriate or to establish the truth of any statement.

(e) – (g) [No change]