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**IN THE SUPREME COURT  
STATE OF ARIZONA**

In the Matter of:

**PETITION TO AMEND RULES 79  
AND 80 OF THE ARIZONA  
RULES OF THE SUPREME  
COURT**

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 79 and 80, Arizona Rules of the Supreme Court.

**I. Background and Purpose of the Proposed Rule Amendments**

Supreme Court Rules 75 through 80, which address the unauthorized practice of law (“UPL”) in Arizona, became effective July 1, 2003, and were last amended January 1, 2022. The State Bar recommends several amendments to these Rules of the Supreme Court based on its experience investigating and prosecuting matters related to lawyer misconduct and the UPL:

- (1) Allow personal service of complaints and other documents to be made by State Bar staff examiners;

- 1 (2) Alter the court entity authorized to enter protective orders pre-  
2 complaint in UPL matters; and  
3  
4 (3) Expedite formal proceedings in UPL cases.

5 Discussion of Proposed Amendments

6 Rule 79(c) - The current rule requires service of UPL complaints as set  
7 forth in the Arizona Rules of Civil Procedure. The State Bar's personal service  
8 of UPL complaints using private process servers has resulted in the expenditure  
9 of funds that are rarely recovered following the entry of cease-and-desist orders  
10 or injunctions. The Rules of the Supreme Court presently allow State Bar staff  
11 examiners to personally serve complaints and subpoenas in lawyer discipline  
12 proceedings. *See* Rule 47(c), Ariz. R. Sup. Ct. Staff examiners should also be  
13 authorized to personally serve complaints and other documents in UPL cases.  
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16 In addition, the State Bar has concluded that non-lawyer respondents often  
17 avoid personal service. Private process servers have been forced to make  
18 numerous attempts at service in some cases. In some instances, a process server  
19 has identified the nonlawyer's vehicle in the driveway, seen lights inside the  
20 home, and heard sounds from inside, but no one answered the door. Supreme  
21 Court Rule 76(a)(4) (a UPL rule) currently states that "[e]vasion of service" is a  
22 ground for the imposition of sanctions.  
23  
24

25 The State Bar will expend fewer funds through the service of UPL

1 documents by staff examiners, which will allow the use of saved funds for other  
2 purposes. The proposed amendments will make the UPL personal service rule  
3 more consistent with the lawyer discipline service rule.  
4

5 Rule 79(e) - Due to the request to amend the rules to require expedited  
6 trials in UPL proceedings (see discussion below), the disclosure rule needs to be  
7 amended to expedite the exchange of disclosure statements. The recommended  
8 language substantially duplicates the language in Rule 58(e), Ariz. R. Sup. Ct.,  
9 which applies to lawyer discipline proceedings.  
10

11 Rule 79(f) - Due to the request to amend the rules to require expedited  
12 trials in UPL proceedings (see discussion below), the discovery rule needs to be  
13 amended to expedite discovery. The recommended language substantially  
14 duplicates the language in Rule 58(f)(1) and (2), Ariz. R. Sup. Ct., which applies  
15 to lawyer discipline proceedings.  
16

17 Rule 79(g) – UPL proceedings should be expedited because they seek  
18 equitable relief in the form of injunctive relief intended to protect the public from  
19 uneducated, untrained, and unqualified nonlawyers engaging in the practice of  
20 law. Based upon the incorporation of the Rules of Civil Procedure into the UPL  
21 rules, Rule 79(c), Ariz. R. Sup. Ct., trials may be scheduled long after a complaint  
22 has been filed. To protect the public, trials addressing UPL complaints should be  
23 held as soon as possible. In typical civil cases, hearings on requests for temporary  
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1 restraining orders without notice must be held “at the earliest possible time,  
2 taking precedence over all other matters except hearings on older matters of the  
3 same character.” Rule 65(b)(4), Ariz. R. Civ. P. That rule has created a policy of  
4 expediting legal claims in matters of serious potential harm.  
5

6 Hearings on the merits in lawyer discipline cases are typically set more  
7 quickly than those in civil cases. Rule 58(j)(1), Ariz. R. Sup. Ct., states, “The  
8 hearing panel shall hold and complete the hearing on the merits within one  
9 hundred fifty (150) days of the filing of the complaint.” That rule reflects the  
10 Supreme Court’s interest in expediting trials in matters involving the practice of  
11 law where substantial public harm may continue absent a prompt resolution to  
12 the allegations of misconduct. The substantial harm that may arise from a  
13 nonlawyer engaging in the UPL (*e.g.*, the loss of rights due to incorrect legal  
14 arguments and failure to comply with statutes of limitations) warrants a trial in  
15 UPL cases within 150 days of the date a complaint is filed.  
16  
17  
18

19 Rule 80(b)(6) - The State Bar has encountered some difficulty ensuring  
20 superior court clerk’s offices file and docket motions for protective orders in UPL  
21 proceedings prior to a complaint being filed. The protective order rule applicable  
22 in UPL proceedings should be amended to address that difficulty. At least one  
23 clerk’s office has noted that to be accepted for filing and docketing, a case-  
24 initiating pleading (*e.g.*, a complaint) needs to be filed first, and that motions for  
25

1 protective orders are not considered case-initiating pleadings.

2 To address the difficulties the State Bar has encountered, Supreme Court  
3 Rule 80(b)(6) should be amended to allow the Presiding Disciplinary Judge  
4 (PDJ) to rule on motions for protective orders in unauthorized practice of law  
5 proceedings prior to a complaint being filed. The PDJ presently rules on requests  
6 for protective orders in lawyer discipline cases. *See* Rule 70(g), Ariz. R. Sup. Ct.  
7

8 The proposed amendment will make the UPL protective order rule more  
9 consistent with the lawyer discipline protective order rule.  
10

## 11 CONCLUSION

12 For the reasons set forth above, the State Bar of Arizona respectfully  
13 requests that this Court amend Supreme Court Rules 75 through 80, as set forth  
14 above.  
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16 RESPECTFULLY SUBMITTED this 12<sup>th</sup> day of January, 2026.  
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18 *Jessica J. Fotinos*  
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20 Jessica J. Fotinos  
21 General Counsel

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

25 by: PSeguin

# APPENDIX A

## APPENDIX A - Redline

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

### Rule 79. Formal Proceedings Before the Superior Court; Appeal

(a)– (b) [No change]

(c) **Applicability of Arizona Rules of Civil Procedure.** The Arizona Rules of Civil Procedure shall apply to all aspects of the proceeding after the filing of the complaint, except as otherwise ~~designated~~ provided in these rules. Personal service of the complaint and other documents may be made by staff examiners employed by the state bar.

(d) [No change]

(e) ~~**Order.** Within thirty days after final submission of the matter, the superior court shall prepare and file with the clerk a written order containing findings of fact, conclusions of law and sanctions, and shall serve a copy of the order on respondent and unauthorized practice of law counsel. The order of the superior court is final if no motion for reconsideration or appeal is timely filed.~~  
**Initial Disclosure Statements.** Unauthorized practice of law counsel, within ten (10) days after the answer is filed, and respondent, within thirty (30) days after the answer is filed, shall each serve upon the other an initial disclosure statement. The initial disclosure statement shall comply with the requirements of Rule 26.1, Ariz. R. Civ. P.

(f) ~~**Enforcement.** An order or judgment of the superior court in unauthorized practice of law proceedings shall be enforceable like any other judgment, including through civil contempt proceedings pursuant to Rule 65(f), Ariz. R. Civ. P., or criminal contempt proceedings pursuant to Rule 35, Ariz. R. Crim. P.~~  
**Discovery.**

1. Time limits. Unless extended by agreement of the parties or otherwise ordered by the superior court, all initial discovery requests must be made within thirty (30) days of the date an initial answer is filed, except that additional discovery requests may be filed within thirty (30) days of the date an answer is filed to an amended complaint. Discovery requests based upon an amended complaint shall be limited to new allegations. Discovery shall be

governed by the Rules of Civil Procedure to the extent not inconsistent with these rules.

2. Response time. Unless extended by agreement of the parties, answers to discovery requests, including interrogatories, requests for admission, and requests for production of documents or things, shall be provided within thirty (30) days of the date of service of the discovery request.

~~(g) **Appeal.** Final orders or judgments issued by the superior court in unauthorized practice of law proceedings shall be reviewable by the court of appeals and this court pursuant to the Arizona Rules of Civil Appellate Procedure. Failure of a party to appeal timely shall constitute consent to the sanction imposed by the superior court.~~

**Trial.** The superior court must hold and complete a trial on the merits within one hundred fifty (150) days of the filing of the complaint.

(h) **Order.** Within thirty days after final submission of the matter, the superior court shall prepare and file with the clerk a written order containing findings of fact, conclusions of law and sanctions, and shall serve a copy of the order on respondent and unauthorized practice of law counsel. The order of the superior court is final if no motion for reconsideration or appeal is timely filed.

(i) **Enforcement.** An order or judgment of the superior court in unauthorized practice of law proceedings shall be enforceable like any other judgment, including through civil contempt proceedings pursuant to Rule 65(f), Ariz. R. Civ. P., or criminal contempt proceedings pursuant to Rule 35, Ariz. R. Crim. P.

(j) **Appeal.** Final orders or judgments issued by the superior court in unauthorized practice of law proceedings shall be reviewable by the court of appeals and this court pursuant to the Arizona Rules of Civil Appellate Procedure. Failure of a party to appeal timely shall constitute consent to the sanction imposed by the superior court.

## **Rule 80. Rules of Construction and Access to Information**

### **(a) Rules of Construction.**

### **(b) Public Access to Information.**

1. – 5. [No change]

6. *Sealing the Record/Protective Orders.* Upon motion by a party or by a person from whom the information or evidence was obtained, and for good cause shown, the presiding disciplinary judge in pre-complaint proceedings, the superior court or this court in post-complaint ~~matters~~ proceedings, may issue an order that sealing a portion of the record and/or state bar file ~~be sealed~~ and takeing other measures to assure the confidentiality of the sealed information. Material sealed shall remain confidential notwithstanding the remaining record in the matter is made public. Sealed material shall be opened and viewed only by an order of a the issuing court for use by such body and the parties in pending proceedings ~~then pending before it~~, and otherwise only upon notice to and an opportunity to be heard by the parties and the witness or other person furnishing who is the subject of the information. A party aggrieved by an order relating to a motion for protective order may seek review by filing a petition for special action with this court.

7. [No change]

### **(c) [No change]**

# APPENDIX B

## APPENDIX B - Clean

### Rule 79. Formal Proceedings Before the Superior Court; Appeal

(a) – (b) [No change]

**(c) Applicability of Arizona Rules of Civil Procedure.** The Arizona Rules of Civil Procedure shall apply to all aspects of the proceeding after the filing of the complaint, except as otherwise provided in these rules. Personal service of the complaint and other documents may be made by staff examiners employed by the state bar.

(d) [No change]

**(e) Initial Disclosure Statements.** Unauthorized practice of law counsel, within ten (10) days after the answer is filed, and respondent, within thirty (30) days after the answer is filed, shall each serve upon the other an initial disclosure statement. The initial disclosure statement shall comply with the requirements of Rule 26.1, Ariz. R. Civ. P.

**(f) Discovery.**

1. *Time limits.* Unless extended by agreement of the parties or otherwise ordered by the superior court, all initial discovery requests must be made within thirty (30) days of the date an initial answer is filed, except that additional discovery requests may be filed within thirty (30) days of the date an answer is filed to an amended complaint. Discovery requests based upon an amended complaint shall be limited to new allegations. Discovery shall be governed by the Rules of Civil Procedure to the extent not inconsistent with these rules.

2. *Response time.* Unless extended by agreement of the parties, answers to discovery requests, including interrogatories, requests for admission, and requests for production of documents or things, shall be provided within thirty (30) days of the date of service of the discovery request.

**(g) Trial.** The superior court must hold and complete a trial on the merits within one hundred fifty (150) days of the filing of the complaint.

**(h) Order.** Within thirty days after final submission of the matter, the superior court shall prepare and file with the clerk a written order containing findings of fact,

conclusions of law and sanctions, and shall serve a copy of the order on respondent and unauthorized practice of law counsel. The order of the superior court is final if no motion for reconsideration or appeal is timely filed.

**(i) Enforcement.** An order or judgment of the superior court in unauthorized practice of law proceedings shall be enforceable like any other judgment, including through civil contempt proceedings pursuant to Rule 65(f), Ariz. R. Civ. P., or criminal contempt proceedings pursuant to Rule 35, Ariz. R. Crim. P.

**(j) Appeal.** Final orders or judgments issued by the superior court in unauthorized practice of law proceedings shall be reviewable by the court of appeals and this court pursuant to the Arizona Rules of Civil Appellate Procedure. Failure of a party to appeal timely shall constitute consent to the sanction imposed by the superior court.

## **Rule 80. Rules of Construction and Access to Information**

**(a)** [No change]

**(b) Public Access to Information.**

1. – 5. [No change]

6. *Sealing the Record/Protective Orders.* Upon motion by a party or by a person from whom the information or evidence was obtained, and for good cause shown, the presiding disciplinary judge in pre-complaint proceedings, the superior court or this court in post-complaint proceedings, may issue an order sealing a portion of the record and/or state bar file and taking other measures to assure the confidentiality of the sealed information. Material sealed shall remain confidential notwithstanding the remaining record in the matter is made public. Sealed material shall be opened and viewed only by an order of the issuing court for use by such body and the parties in pending proceedings, and otherwise only upon notice to and an opportunity to be heard by the parties and the witness or other person who is the subject of the information. A party aggrieved by an order relating to a motion for protective order may seek review by filing a petition for special action with this court.

7. [No change]

**(c)** [No change]