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IN THE SUPREME COURT STATE OF ARIZONA

In the Matter of)	
PETITION TO AMEND RULES OF THE)	
SUPREME COURT OF ARIZONA, RULE)	Supreme Court No. R-11-0012
124, ELECTRONIC FILING, DELIVERY)	AMENDED PETITION
AND SERVICE OF DOCUMENTS)	
)	

Pursuant to this court’s order of January 13, 2011, Petitioner respectfully submits this Amended Petition and requests this court adopt the revised, proposed amendments to Rule 124 of the Rules of the Supreme Court of Arizona attached as Appendix A.

**SUMMARY OF THE PROPOSED
AMENDMENTS TO RULE 124**

Based on the comments received during the initial comment period, which ended April 1, 2011, Petitioner has revised his proposal to incorporate many of the suggestions made by those who filed comments to the original petition.

The revisions set forth in Appendix A are generally made to increase clarity in language and concepts set forth in the originally proposed rule amendments. More specifically, the amendments address the following:

(a) *“/s/” Conditions* – Language now accommodates an authorized filer other than the attorney filing a document signed by the attorney. It also exempts registered judicial officers and clerks from placing signature notation on their filings submitted in AZTurboCourt.

(b) *Opting Out of Service* – Multiple paragraphs have been revised to clarify that “withdrawal of consent to electronic service” means only withdrawal of consent to be served through AZTurboCourt, not an outright waiver of service required by rule or law, and that self-represented litigants may request that the clerk exempt them from all electronic communications issued by the clerk, even though they have previously e-filed.

(c) *Sole Means of Communication* – An option has been added to permit courts to communicate “through AZTurboCourt or by other electronic means” to be consistent with Supreme Court AO 2009-43, Electronic Distribution of Court Documents.

(d) *Definition of Original* – Revised to indicate that an electronic document that resides within the clerk’s or court’s EDMS constitutes an original document of record. Removed language indicating specific means by which the electronic

document was placed in the clerk's or court's EDMS.

(e) *Courtroom Exhibits* – Section deemed not relevant to electronic filing and was removed.

(f) *Extensions of Time due to Interruption in Service* – The number of requirements for extension of time was reduced to only those items specified in AO 2010-117. AOC staff continues to feel strongly that the former provisions align with the approach taken by multiple other jurisdictions to discourage circumvention of a timely filing requirement and respectfully submits the alternate text to the court for consideration. “...the filer must file the document as soon thereafter as practicable and accompany the filing with a motion to accept the document as timely filed. The motion shall set forth the reason the deadline was not met by describing the technology failure. The document and motion shall be filed on paper at the proper courthouse no later than the second day on which the court is open for business following the deadline that was not met, unless the technology failure is alleviated and the motion and document are submitted using AZTurboCourt not later than the second day on which the court is open for business following the deadline that was not met. If the court grants the motion, the document shall be deemed timely filed nunc pro tunc, notwithstanding any rule or law to the contrary.”

Other editorial changes (shown in Appendix A) have also been made in

response to comments received.

Petitioner requests this court adopt the attached, proposed amendments to Rule 124 of the Rules of the Supreme Court of Arizona as set forth in Appendix A. Revision tracking has been employed to note changes from the original proposal.

RESPECTFULLY SUBMITTED this 6th day of May, 2011.

By _____
David K. Byers, Director