

Greg Sakall
Judge, Division 23
Pima County Superior Court
110 W Congress
Tucson, AZ 85701
Telephone: (520) 724-8301
valayan@courts.az.gov (for COFC purposes only)

**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of) Arizona Supreme Court No. R-26-0015
)
PETITION TO AMEND RULE 51)
OF THE ARIZONA RULES OF)
FAMILY LAW PROCEDURE) COMMENT OF THE
) COFC
)
_____)

The State Bar of Arizona (“State Bar”) filed the pending Petition seeking to amend Rule 51 of the Arizona Rules of Family Law Procedure (Ariz. R. Fam. L. P.), to harmonize expert discovery in civil and family courts.

The Committee on Family Court (“COFC”) reviewed and discussed the Petition at its February 19, 2026 meeting. It voted unanimously to support the Petition with one modification.

As to its proposed modification, COFC suggests that the changes to Rule 51(b)(4)(C) be limited to only those experts who are retained by a party. In family court, there are sometimes neutral or court-appointed experts. As to those experts who are not experts aligned with either party, COFC believes

that further review and discussion is necessary so that a subpart of the rule can be drafted that would cover discovery as to those court-appointed experts.

For now, COFC urges the Court to adopt the proposed amendments with COFC's proposed modifications to the State Bar's language in proposed, amended Rule 51(b)(4) in red below.

Rule 51. General Provisions Governing Discovery

(b) Discovery Scope and Limits. Unless the court orders otherwise in accordance with these rules, the scope of discovery is as follows:

(1) – (3) [No change]

(4) *Expert Discovery.*

(C) Trial-Preparation Protection for Communications Between a Party's Attorney and Expert Witnesses. Rules 51(b)(3)(A) and (B) protect communications between the party's attorney and ~~any that party's~~ expert witness regardless of the form of the communications, except to the extent that the communications:

(i) relate to compensation for the expert's study or testimony;

(ii) identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or

(iii) identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed. The dates on which the expert received facts or data from the party's attorney that the expert considered in forming the opinions to be expressed, and any portions of communications between the party's attorney and the expert that evidence those dates are discoverable.

For the foregoing reasons, COFC respectfully requests that the Court grant the Petition as modified. If the Court wishes to refer the issue of expert discovery of trial-preparation protection for communications with a court-appointed expert to COFC, COFC would further review the matter and file a rule change petition in due course.

DATED this 1st day of May, 2026.

/s/ Greg Sakall

Chair, Committee on Family Court