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IN THE SUPREME COURT  
STATE OF ARIZONA

PETITION TO AMEND RULE 31(d),  
ARIZONA RULES OF THE SUPREME  
COURT

Supreme Court No. R-11-0001

Petitioners' Compromise Language for  
Petition to Amend Rule 31(d), Arizona  
Rules of the Supreme Court

In December 2010, Petitioners filed a Rule 28 Petition to add an exemption to Rule 31(d), Ariz. R. Sup. Ct., that would allow designated authorized agents of a planned community association or a condominium unit owners' association (collectively referred to as "Associations"), to carry out various responsibilities on behalf of the Associations. Since that time, Petitioners have held extensive discussions with various State Bar committees, sections, and the Board of Governors regarding the scope of the petition.

Petitioners feel that the scope of the original petition would be conducive to achieving the stated goals of the petition, *i.e.*, saving association members money,

1 reducing legal costs charged financially-distressed owners, allowing Associations to  
2 be represented by individuals with first-hand knowledge regarding assessments and  
3 fees, and protecting property values. That said, in the interest of addressing concerns  
4 raised by the State Bar, Petitioners have proposed a compromise exemption that  
5 would allow Associations to “be represented in the preparation, execution, and  
6 recordation of notices of liens created pursuant to A.R.S. § 33-1256 and § 33-1807 by  
7 an officer or employee of a management company who is not an active member of the  
8 state bar if the management company has a contract with the association that gives the  
9 management company primary responsibility for the management of the association.”  
10 Attached **Appendix A** contains the original language, the compromise language, and  
11 a redline comparing the two.

12       The proposed compromise exemption would codify the analysis set forth by  
13 the UPL Committee of the State Bar in UPL Advisory Opinion 04-02, in which the  
14 Committee concluded that under Rule 31(d)(20) of the Rules of Supreme Court  
15 (formerly numbered Rule 31(c)(19)), property management companies may prepare  
16 and record liens relating to the property being managed “if the preparation and  
17 recording of such liens is incidental to the regular course of the property management  
18 company’s business.” Many property management companies relied on this opinion  
19 in developing and continuing their practice of preparing, executing, and recording  
20 notices of liens on behalf of their respective Associations.

21       Petitioners have shared Appendix A with the State Bar and informed the Board  
22 of Governors that they would be filing this proposed compromise. Petitioners  
23 understand that the State Bar may need additional time to comment on this  
24 compromise exemption. Petitioners do not oppose any extension of time and request  
25 that they be allowed ten business days to provide a response, as is allowed under the  
26

1 current comment schedule for this petition. Petitioners will provide a substantive  
2 response to other comments to the petition by the June 30, 2011 deadline.

3 RESPECTFULLY SUBMITTED this 3rd day of June, 2011.

4 Polsinelli Shughart PC

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15  
16 **Electronic copy filed** with the  
17 Clerk of the Supreme Court of Arizona  
18 this 3rd day of June, 2011.

19 And copies e-mailed to:

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1 **APPENDIX A**

2 **DRAFT OF THE PROPOSED AMENDED RULE**

3 **Rule 31. Regulation of the Practice of law**

4 [No change in existing text. The following language would be an addition of  
5 another exemption.]

6 (d) Exemptions

7 [ORIGINAL]

8 30. A condominium unit owners' association, as defined in A.R.S. § 33-  
9 1241, and a planned community association, as defined in A.R.S. § 33-1802, may be  
10 represented in small claims procedures, in communicating with condominium unit  
11 owners and homeowners regarding unpaid assessments and fees, and in the  
12 preparation, execution, and recordation of notices of liens created pursuant to A.R.S.  
13 § 33-1256 and § 33-1807, by a duly authorized corporate officer, board member,  
14 employee of the association, or employee of a management company with a contract  
15 to provide management services to the association who is not an active member of the  
16 state bar.

17 [REDLINE]

18 30. A condominium unit owners' association, as defined in A.R.S. § 33-  
19 1241, and a planned community association, as defined in A.R.S. § 33-1802, may be  
20 represented ~~in small claims procedures, in communicating with condominium unit  
21 owners and homeowners regarding unpaid assessments and fees, and~~ in the  
22 preparation, execution, and recordation of notices of liens created pursuant to A.R.S.  
23 § 33-1256 and § 33-~~1807~~,1807 by ~~a duly authorized corporate~~an officer, ~~board  
24 member, employee of the association,~~ or employee of a management company ~~with a  
25 contract to provide management services to the association~~ who is not an active  
26 member of the state bar if the management company has a contract with the  
association that gives the management company primary responsibility for the  
management of the association.

[EDITED VERSION]

30. A condominium unit owners' association, as defined in A.R.S. § 33-  
1241, and a planned community association, as defined in A.R.S. § 33-1802, may be  
represented in the preparation, execution, and recordation of notices of liens created  
pursuant to A.R.S. § 33-1256 and § 33-1807 by an officer or employee of a  
management company who is not an active member of the state bar if the  
management company has a contract with the association that gives the management  
company primary responsibility for the management of the association.