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7 **IN THE SUPREME COURT**  
8 **STATE OF ARIZONA**

9 In the Matter of:

Supreme Court No. R-26-0017

10 **PETITION TO AMEND VARIOUS**  
11 **RULES OF THE ARIZONA RULES**  
12 **OF CIVIL PROCEDURE AND**  
13 **ADOPT NEW RULE 7.5**

**NOTICE OF ERRATA**

14 Pursuant to Rule 28(a) of the Arizona Rules of the Supreme Court, the State  
15 Bar of Arizona (“State Bar”) submits this Notice of Errata to fix an erroneous cross-  
16 reference in the proposed amendments.

17  
18 Amended Appendices A and B to this Notice of Errata correct cross-  
19 references to Rule 26(d), Ariz. R. Civ. P. that were inadvertently left in Rules  
20 26(e)(1) and (2). Any other remaining cross-references to Rule 26(d) were  
21 intentionally left intact, as the State Bar submits that they need not be changed to  
22 affect the changes proposed by the Petition.  
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1 RESPECTFULLY SUBMITTED this 1<sup>st</sup> day of May, 2026.

2  
3 *Jessica J. Fotinos*

4 \_\_\_\_\_  
5 Jessica J. Fotinos  
6 General Counsel

7 Electronic copy filed with the  
8 Clerk of the Supreme Court of Arizona  
9 this 1<sup>st</sup> day of May, 2026.

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by: PSequin

# APPENDIX A

## APPENDIX A - Redline

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

### **Rule 7.5. Expedited Procedure for Resolving Certain Disputes**

**(a) Joint Statement of Dispute.** If the parties have a dispute to which these expedited procedures apply, they must file with the court a joint statement of dispute. The joint statement must not exceed 3 pages of explanatory text, with each side entitled to submit one and one-half pages of that text. The parties must also attach a good faith consultation certificate complying with Rule 7.1(h) and must comply with Rule 7.4. Unless the court orders otherwise, the parties may not attach exhibits, other than any proposed amended pleading, discovery request, objection, or response directly applicable to the dispute. The purposes of the joint statement are to notify the court of the dispute, and to make a record of the relief sought. Additional briefing or other submissions on the dispute are permitted only if the court orders it.

**(b) Expedited Hearing by the Court.** The court, on its own motion or upon a request by a party to the dispute, should schedule a hearing at the earliest convenient time, unless the court determines that a hearing would not assist in the resolution of the dispute or there is otherwise good cause to rule on the dispute without a hearing.

**(c) Resolution by Minute Entry, Order.** The court must issue a written order or written ruling setting forth the dispute's resolution. After resolution, a party may file with the court materials necessary to create a record of the dispute.

### **Rule 15. Amended and Supplemental Pleadings**

#### **(a) Amendments Before Trial.**

(1) *Amending as a Matter of Course.* A party may amend its pleading once as a matter of course:

(A) no later than 21 days after serving it if the pleading is one to which no responsive pleading is permitted; or

(B) no later than 21 days after a responsive pleading is served if the pleading is one to which a responsive pleading is required or, if a motion under Rule 12(b), (e), or (f) is served, on or before the date on which a response to the motion is due, whichever is earlier.

(2) *Other Amendments.* In all other instances, a party may amend its pleading only with leave of court or with the written consent of all opposing parties who have appeared in the action. Leave to amend must be freely given when justice requires. Unless the court decides to permit full briefing, a party seeking to amend its pleadings where written consent of all opposing parties has not been obtained must use the expedited procedure for resolving disputes set forth in Rule 7.5.

(3) *Effect on Pending Motions.* After the filing of a motion under Rule 12(b), (e), or (f), amending a pleading as a matter of course does not, by itself, make moot the motion as to the adequacy of the pleading's allegations as revised in the amended pleading and does not relieve a party opposing the motion from filing a timely response.

(4) *Proposed Pleading as an Exhibit.* A party ~~seeking~~~~moving~~ ~~for~~ leave to amend a pleading must attach a copy of the proposed amended pleading as an exhibit to the joint statement of dispute or to the motion if the court decided to permit full briefing. The exhibit must show the respects in which the proposed pleading differs from the existing pleading by bracketing or striking through the text to be deleted and underlining the text to be added.

(5) *Filing and Response.* If ~~a motion for~~ leave to amend is granted, the ~~amending~~~~moving~~ party must file and serve the amended pleading within 10 days after the entry of the order granting ~~the motion~~ leave, unless the court orders otherwise. If the pleading is one to which a responsive pleading is required, an opposing party must answer or otherwise respond to an amended pleading within the time remaining for response to the original pleading or within 10 days after the amended pleading is served, whichever is later, unless the court orders otherwise.

## Rule 26. General Provisions Governing Discovery

(a) – (c) [No change]

### (d) Expedited Procedure for Resolving Discovery and Disclosure Disputes.

(1) Generally. Unless the court decides to permit full briefing or all parties stipulate to the relief sought, a party seeking relief due to a dispute between parties that could properly be addressed under Rule 26(c) or any discovery or disclosure dispute must use the expedited procedure for resolving disputes set forth in Rule 7.5.

~~(1) When Applicable.~~ Unless the court decides to permit full briefing, this procedure applies to all disputes between parties to the action that could properly be addressed in motions for protective order under Rule 26(c) or motions to compel discovery or disclosure under Rule 37(a). The filings in a Rule 26(d) proceeding are not motions.

~~(2) Joint Statement of Discovery or Disclosure Dispute.~~ When the parties have a dispute that could properly be addressed under Rule 26(c) or Rule 37(a), they must file with the court a joint statement of discovery or disclosure dispute. The joint statement must not exceed 3 pages of explanatory text, with each party entitled to submit one and one-half pages of that text. The parties must also attach a good faith consultation certificate complying with Rule 7.1(h) and may not attach exhibits. The purposes of the joint statement are to notify the court of the dispute, and to make a record of the discovery or disclosure sought. Briefing on the dispute is permitted only if ordered by the court.

~~(3) Expedited Hearing by the Court.~~ Unless the court orders otherwise, the parties may jointly contact the court by telephone to request a hearing on the joint statement of discovery dispute. The court should schedule the matter at the earliest convenient time, whether by telephone or in person.

~~(4) Resolution by Minute Entry.~~ The court must issue a minute entry setting forth the resolution of the discovery dispute. After resolution, a party may file with the court those materials necessary to create a record of the discovery or disclosure the court permitted or denied.

(5-2) *Depositions*. Nothing in Rule 26(d)(1) limits the ability of the parties to seek the intervention of the court by telephone during a deposition without the necessity of filing a written statement of discovery dispute.

**(e) Determining Whether Electronically Stored Information Is Reasonably Accessible.**

(1) *Generally*. In deciding any motion or Rule ~~26(d)~~7.5 proceeding addressing whether sources of electronically stored information are not reasonably accessible because of undue burden or expense as provided in Rule 26(b)(2)(B)(i), the court must determine:

(A) whether the information sought is within the permissible scope of discovery, considering the limits of Rule 26(b)(1) and 26(b)(2)(B)(ii);

(B) whether the party or person opposing the discovery has shown that it would incur undue burden or expense; and, if so,

(C) if good cause is shown for the requested discovery or disclosure.

(2) *Affidavit of Burden or Expense*. A party or person contending that the disclosure or discovery of electronically stored information should be disallowed or limited because of undue burden or expense must file with their joint statement under Rule ~~26(d)(2)~~7.5(a) or their motion for protective order under Rule 26(c) an affidavit describing the burden and estimating the expense that would be incurred.

(3) *Burden or Expense--Factors*. In addition to the factors in Rule 26(b)(1), in determining whether the party or person opposing the discovery or disclosure would incur undue burden or expense, the court must consider:

(A) the estimated expense of the discovery or disclosure;

(B) the anticipated disruption of the responding party or person's normal business operations if the discovery or disclosure is ordered;

(C) any efforts required to obtain data in the custody of another;

(D) the difficulty and expense of any necessary review to separate confidential or privileged material;

(E) whether the difficulty or expense of accessing the information is attributable to the good-faith routine operation of an electronic information system, or the good-faith and consistent application of a document retention policy, before a duty to preserve arose under Rule 37(g)(1);

(F) whether the difficulty or expense of accessing the requested information is attributable to any violation of Rule 37(g) or to other purposeful action by the responding party or person to shield information from discovery; and

(G) the party or person's interest in the action.

(4) *Good Cause--Factors*. In addition to the factors in Rule 26(b)(1), in determining whether good cause is shown, the court may consider:

(A) the likelihood of finding relevant, responsive information that cannot be obtained from other, more accessible sources;

(B) the extent to which the request has been narrowly tailored to discover relevant information;

(C) the importance of the information to a fair resolution on the merits.

(5) *Specifying Conditions*. The court may impose conditions on the discovery or disclosure that include:

(A) issuing any appropriate orders under Rule 26(c);

(B) requiring the party seeking discovery to pay some or all of the reasonable expenses that the responding party will incur in complying with the requested discovery or disclosure, which may include the reasonable fees charged by counsel, consultants, and vendors; and

(C) reimbursing the responding party or person for disruption to the responding party's or person's normal business operations, to the extent such cost is quantifiable and reimbursement is warranted by the facts and circumstances.

**(f) – (i) [No change]**

## **Rule 37. Failure to Make Disclosures or to Cooperate in Discovery; Sanctions**

### **(a) Motion for Order Compelling Disclosure or Discovery.**

(1) *Generally.* Subject to Rule ~~7.526(d)~~, a party may move for an order compelling disclosure or discovery. The party must serve the motion on all other parties and affected persons and must attach a good faith consultation certificate complying with Rule 7.1(h).

(2) *Appropriate Court.* A motion for an order to a party must be made in the court where the action is pending. A motion for an order to a nonparty must be made in the court in the county where the discovery is or will be taken.

#### *(3) Specific Motions.*

(A) *To Compel Disclosure.* If a party fails to make a disclosure required by Rule 26.1, any other party may move to compel disclosure and for appropriate sanctions.

(B) *To Compel a Discovery Response.* A party seeking discovery may move for an order compelling an answer, designation, production, or inspection if:

- (i) a deponent fails to answer a question asked under Rule 30 or 31;
- (ii) a corporation or other entity fails to make a designation under Rule 30(b)(6) or 31(b)(4);
- (iii) a party fails to answer an interrogatory served under Rule 33;
- (iv) a party fails to produce documents or fails to respond that inspection will be permitted--or fails to permit inspection--as requested under Rule 34; or
- (v) a person fails to produce materials requested in a subpoena served under Rule 45.

(C) *Related to a Deposition.* When taking an oral deposition, the party asking a question may complete or adjourn the examination before moving for an order to compel an answer.

(4) *Evasive or Incomplete Disclosure, Answer, or Response.* For purposes of this rule, the court may treat an evasive or incomplete disclosure, answer, or response as a failure to disclose, answer, or respond.

#### *(5) Payment of Expenses; Protective Orders.*

(A) If the Motion or Rule ~~7.526(d)~~ Relief Is Granted (or Disclosure or Discovery Is Provided After Filing). In this situation, the court may, after giving an opportunity to be heard, require the party or person whose conduct necessitated the motion or Rule ~~7.526(d)~~ request, the party or attorney advising that conduct, or both, to pay the movant's or requestor's reasonable expenses incurred in making the motion or request, including attorney's fees. But the court may not order this payment if:

(i) the movant or requestor sought relief before attempting in good faith to obtain the disclosure or discovery without court action;

(ii) the opposing party's nondisclosure, response, or objection was substantially justified; or

(iii) other circumstances make an award of expenses unjust.

(B) If the Motion or Rule ~~7.526(d)~~ Relief Is Denied. In this situation, the court may issue any protective order authorized under Rule 26(c) and may, after giving an opportunity to be heard, require the movant, the attorney filing the motion or Rule ~~7.526(d)~~ request, or both, to pay the party or person who opposed the motion or request its reasonable expenses incurred in opposing the motion or request, including attorney's fees. But the court may not order this payment if the motion was substantially justified or other circumstances make an award of expenses unjust.

(C) If the Motion or Rule ~~7.526(d)~~ Relief Is Granted in Part and Denied in Part. In this situation, the court may issue any protective order authorized under Rule 26(c) and may--after giving an opportunity to be heard--apportion the reasonable expenses, including attorney's fees, for the motion or Rule ~~7.526(d)~~ request.

## **Rule 45. Subpoena**

**(a) – (b) [No change]**

**(c) Subpoena to Produce Materials or to Permit Inspection; Duties; Objections.**

(1) – (5) [No change]

(6) *Objection Procedures; Duty to Confer.*

(A) – (B) [No change]

(C) *Duty to Confer.* Before bringing any motion to compel, motion to quash, or motion for protective order regarding compliance with a subpoena, the movant must attempt to resolve the dispute by good faith consultation with the opposing party or person. Any motion regarding compliance with a subpoena must be accompanied by a good faith consultation certificate under Rule 7.1(h). Absent agreement of the subpoenaed person, the expedited procedures in Rule ~~7.526(d)~~ do not apply to motions under this rule.

(7) [No change]

## **Rule 45.2. Dispute Resolution Procedures Regarding Preservation Requests**

(a) – (c) [No change]

### **(d) Dispute Resolution Procedures--Pending Action.**

(1) *Parties.* If the parties to a pending action are unable to satisfactorily resolve any dispute regarding the preservation of electronically stored information and seek a resolution from the court, they must follow the procedures in Rule ~~7.526(d)~~.

(2) *Nonparties.* If a preservation request is made to a nonparty in connection with an action pending in superior court, the nonparty may use the procedures for resolving disputes set forth in Rule 7.5 or may move for a Rule 26(c) protective order in the action. If the nonparty moves for a Rule 26(c) protective order, tThe motion must be accompanied by a Rule 7.1(h) good faith consultation certificate.

(e) – (h) [No change]

# APPENDIX B

## APPENDIX B - Clean

### Rule 7.5. Expedited Procedure for Resolving Certain Disputes

**(a) Joint Statement of Dispute.** If the parties have a dispute to which these expedited procedures apply, they must file with the court a joint statement of dispute. The joint statement must not exceed 3 pages of explanatory text, with each side entitled to submit one and one-half pages of that text. The parties must also attach a good faith consultation certificate complying with Rule 7.1(h) and must comply with Rule 7.4. Unless the court orders otherwise, the parties may not attach exhibits, other than any proposed amended pleading, discovery request, objection, or response directly applicable to the dispute. The purposes of the joint statement are to notify the court of the dispute, and to make a record of the relief sought. Additional briefing or other submissions on the dispute are permitted only if the court orders it.

**(b) Expedited Hearing by the Court.** The court, on its own motion or upon a request by a party to the dispute, should schedule a hearing at the earliest convenient time, unless the court determines that a hearing would not assist in the resolution of the dispute or there is otherwise good cause to rule on the dispute without a hearing.

**(c) Resolution by Minute Entry, Order.** The court must issue a written order or written ruling setting forth the dispute's resolution. After resolution, a party may file with the court materials necessary to create a record of the dispute.

### Rule 15. Amended and Supplemental Pleadings

#### **(a) Amendments Before Trial.**

(1) *Amending as a Matter of Course.* A party may amend its pleading once as a matter of course:

(A) no later than 21 days after serving it if the pleading is one to which no responsive pleading is permitted; or

(B) no later than 21 days after a responsive pleading is served if the pleading is one to which a responsive pleading is required or, if a motion under Rule 12(b), (e), or (f) is served, on or before the date on which a response to the motion is due, whichever is earlier.

(2) *Other Amendments.* In all other instances, a party may amend its pleading only with leave of court or with the written consent of all opposing parties who have appeared in the action. Leave to amend must be freely given when justice requires. Unless the court decides to permit full briefing, a party seeking to amend its pleadings where written consent of all opposing parties has not been obtained must use the expedited procedure for resolving disputes set forth in Rule 7.5.

(3) *Effect on Pending Motions.* After the filing of a motion under Rule 12(b), (e), or (f), amending a pleading as a matter of course does not, by itself, make moot the motion as to the adequacy of the pleading's allegations as revised in the amended pleading and does not relieve a party opposing the motion from filing a timely response.

(4) *Proposed Pleading as an Exhibit.* A party seeking leave to amend a pleading must attach a copy of the proposed amended pleading as an exhibit to the joint statement of dispute or to the motion if the court decided to permit full briefing. The exhibit must show the respects in which the proposed pleading differs from the existing pleading by bracketing or striking through the text to be deleted and underlining the text to be added.

(5) *Filing and Response.* If leave to amend is granted, the amending party must file and serve the amended pleading within 10 days after the entry of the order granting leave, unless the court orders otherwise. If the pleading is one to which a responsive pleading is required, an opposing party must answer or otherwise respond to an amended pleading within the time remaining for response to the original pleading or within 10 days after the amended pleading is served, whichever is later, unless the court orders otherwise.

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(A) whether the information sought is within the permissible scope of discovery, considering the limits of Rule 26(b)(1) and 26(b)(2)(B)(ii);

(B) whether the party or person opposing the discovery has shown that it would incur undue burden or expense; and, if so,

(C) if good cause is shown for the requested discovery or disclosure.

(2) *Affidavit of Burden or Expense*. A party or person contending that the disclosure or discovery of electronically stored information should be disallowed or limited because of undue burden or expense must file with their joint statement under Rule 7.5(a) or their motion for protective order under Rule 26(c) an affidavit describing the burden and estimating the expense that would be incurred.

(3) *Burden or Expense--Factors*. In addition to the factors in Rule 26(b)(1), in determining whether the party or person opposing the discovery or disclosure would incur undue burden or expense, the court must consider:

(A) the estimated expense of the discovery or disclosure;

(B) the anticipated disruption of the responding party or person's normal business operations if the discovery or disclosure is ordered;

(C) any efforts required to obtain data in the custody of another;

(D) the difficulty and expense of any necessary review to separate confidential or privileged material;

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(B) requiring the party seeking discovery to pay some or all of the reasonable expenses that the responding party will incur in complying with the requested discovery or disclosure, which may include the reasonable fees charged by counsel, consultants, and vendors; and

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(2) *Appropriate Court.* A motion for an order to a party must be made in the court where the action is pending. A motion for an order to a nonparty must be made in the court in the county where the discovery is or will be taken.

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- (i) a deponent fails to answer a question asked under Rule 30 or 31;
- (ii) a corporation or other entity fails to make a designation under Rule 30(b)(6) or 31(b)(4);
- (iii) a party fails to answer an interrogatory served under Rule 33;
- (iv) a party fails to produce documents or fails to respond that inspection will be permitted--or fails to permit inspection--as requested under Rule 34; or
- (v) a person fails to produce materials requested in a subpoena served under Rule 45.

(C) *Related to a Deposition.* When taking an oral deposition, the party asking a question may complete or adjourn the examination before moving for an order to compel an answer.

(4) *Evasive or Incomplete Disclosure, Answer, or Response.* For purposes of this rule, the court may treat an evasive or incomplete disclosure, answer, or response as a failure to disclose, answer, or respond.

*(5) Payment of Expenses; Protective Orders.*

(A) If the Motion or Rule 7.5 Relief Is Granted (or Disclosure or Discovery Is Provided After Filing). In this situation, the court may, after giving an opportunity to be heard, require the party or person whose conduct necessitated the motion or Rule 7.5 request, the party or attorney advising that conduct, or both, to pay the movant's or requestor's reasonable expenses incurred in making the motion or request, including attorney's fees. But the court may not order this payment if:

(i) the movant or requestor sought relief before attempting in good faith to obtain the disclosure or discovery without court action;

(ii) the opposing party's nondisclosure, response, or objection was substantially justified; or

(iii) other circumstances make an award of expenses unjust.

(B) If the Motion or Rule 7.5 Relief Is Denied. In this situation, the court may issue any protective order authorized under Rule 26(c) and may, after giving an opportunity to be heard, require the movant, the attorney filing the motion or Rule 7.5 request, or both, to pay the party or person who opposed the motion or request its reasonable expenses incurred in opposing the motion or request, including attorney's fees. But the court may not order this payment if the motion was substantially justified or other circumstances make an award of expenses unjust.

(C) If the Motion or Rule 7.5 Relief Is Granted in Part and Denied in Part. In this situation, the court may issue any protective order authorized under Rule 26(c) and may--after giving an opportunity to be heard--apportion the reasonable expenses, including attorney's fees, for the motion or Rule 7.5 request.

**Rule 45. Subpoena**

**(a) – (b) [No change]**

**(c) Subpoena to Produce Materials or to Permit Inspection; Duties; Objections.**

**(1)– (5) [No change]**

(6) *Objection Procedures; Duty to Confer.*

(A) – (B) [No change]

(C) *Duty to Confer.* Before bringing any motion to compel, motion to quash, or motion for protective order regarding compliance with a subpoena, the movant must attempt to resolve the dispute by good faith consultation with the opposing party or person. Any motion regarding compliance with a subpoena must be accompanied by a good faith consultation certificate under Rule 7.1(h). Absent agreement of the subpoenaed person, the expedited procedures in Rule 7.5 do not apply to motions under this rule.

(7) [No change]

## **45.2. Dispute Resolution Procedures Regarding Preservation Requests**

(a) – (c) [No change]

### **(d) Dispute Resolution Procedures--Pending Action.**

(1) *Parties.* If the parties to a pending action are unable to satisfactorily resolve any dispute regarding the preservation of electronically stored information and seek a resolution from the court, they must follow the procedures in Rule 7.5.

(2) *Nonparties.* If a preservation request is made to a nonparty in connection with an action pending in superior court, the nonparty may use the procedures for resolving disputes set forth in Rule 7.5 or may move for a Rule 26(c) protective order in the action. If the nonparty moves for a Rule 26(c) protective order, the motion must be accompanied by a Rule 7.1(h) good faith consultation certificate.

(e) – (h) [No change]