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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:

**PETITION TO AMEND RULES
32.4 AND 33.4 OF THE ARIZONA
RULES OF CRIMINAL
PROCEDURE**

Supreme Court No. R-26-0005

**STATE BAR OF ARIZONA
COMMENT**

Pursuant to Rule 28(e) of the Arizona Rules of Supreme Court, the State Bar of Arizona (the “State Bar”) hereby submits the following as its Comment to the above-captioned Petition.

The Petition seeks to amend Rules 32.4 and 33.4 to impose a seven-page limit on notices of post-conviction relief. While the State Bar agrees with imposing reasonable page limits on notices of post-conviction relief, it is concerned that the petition as proposed does not consider certain situations.

First, the Petition does not take into account the time limits to file a notice of post-conviction relief. If a notice of post-conviction relief is timely filed, but struck because it exceeds the page limit, would a subsequent notice of post-conviction relief

1 be deemed timely based on the original, but now stricken filing? Or would it be
2 deemed untimely if it is filed after the time for filing set forth in the Rules? Without
3 guidance on this issue, the Petition as proposed could lead to litigation about whether
4 a notice is, in fact, timely, and could lead to incarcerated defendants losing their
5 ability to seek post-conviction relief simply because their initial notice exceeded
6 page limits.
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9 Second, the State Bar believes the Petition should clarify whether the page
10 limit includes any attachments that a defendant may wish to include with a notice.
11 Again, without this clarification, the new Rules proposed in the Petition could lead
12 to defendants losing their ability to seek post-conviction relief due to confusion
13 about the page limit, and if attachments are not excluded from the page limit.
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15 As such, the State Bar recommends that Rule 32.4(b)(2) and 33.4(b)(2) be
16 amended as follows:

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18 (2) *Content of Notice.* The notice must contain the caption of the original
19 criminal case or cases to which it pertains, and all information shown in Rule
20 41, Form 24(b). The Notice shall be no longer than seven pages, not including
21 any attachments. Any Notice shall be deemed timely filed so long it was filed
22 within the time limits provided in subsection (b)(3) of this Rule, even if it is
23 struck for failing to comply with the page limits provided in subsection.
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1 **CONCLUSION**

2 Given the lack of clarity concerning the issues discussed above, the State Bar
3 respectfully requests that this Court adopt the amendments to Rules 32.4(b)(2) and
4 33.4(b)(2) as provided in this Comment.
5

6 RESPECTFULLY SUBMITTED this 1st day of May, 2026.
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8 *Jessica J. Fotinos*
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Jessica J. Fotinos
11 General Counsel
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13 Electronic copy filed with the
14 Clerk of the Supreme Court of Arizona
15 this 1st day of May, 2026.

16 by: PSequin
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