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

9 In the Matter of:

Supreme Court No. R-25-0060

10 **PETITION TO AMEND RULE 111**  
11 **OF THE ARIZONA RULES OF**  
12 **SUPREME COURT**

**STATE BAR OF ARIZONA**  
**COMMENT**

13 Pursuant to Rule 28(e) of the Arizona Rules of Supreme Court, the State Bar  
14 of Arizona (the “State Bar”) hereby submits the following as its Comment to the  
15 above-captioned Petition. The State Bar supports the Petition.  
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17 As the Petition explains, Supreme Court Rule 111(g) provides that the  
18 Supreme Court may order that an *opinion certified for publication by the Court of*  
19 *Appeals* either not be published in its entirety or that a specified portion of the  
20 opinion is not published. Rule 111(c)(1)(C) provides that the parties may not cite a  
21 depublished opinion or a depublished portion of an opinion for persuasive value.  
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23 The Petition notes, however, that when the Supreme Court denies review of a  
24 petition seeking review of an *unpublished memorandum decision of the Court of*  
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1 *Appeals*, there is no rule that permits the Supreme Court to restrict the citation of the  
2 decision for persuasive value. The Petition proposes closing that gap by amending  
3 Rule 111(g) to add a subsection to provide that if the Supreme Court denies a petition  
4 for review of a memorandum decision, it may order that the decision, or portions of  
5 that decision, may not be cited for its persuasive value.  
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7         The State Bar fully agrees with closing this gap and therefore supports the  
8 Petition. To the extent that the Rules allow citation for persuasive value to Court of  
9 Appeals unpublished memorandum decisions, it makes sense to restrict or eliminate  
10 that use if the Supreme Court deems it appropriate, as is currently the case with Court  
11 of Appeals opinions certified for publication.<sup>1</sup>  
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19 <sup>1</sup> Under the Rules, there are Court of Appeals written dispositions other than  
20 opinions certified for publication and unpublished memorandum decisions. ARCAP  
21 Rule 28 identifies “Decision Orders” and “Orders,” to which Rule 111(c) does not  
22 assign any precedential or persuasive value, at least per the current version of Rule  
23 111. Because these dispositions have no precedential or persuasive value, it is not  
24 necessary to authorize the Supreme Court to restrict or eliminate their use. The State  
25 Bar is aware that the Task Force on the Rules of the Arizona Supreme Court is  
considering other Supreme Court rules changes, which may include proposed  
modifications to Rule 111. If the Task Force files a petition to modify Rule 111  
which designates precedential or persuasive value to Decision Orders or Orders, the  
State Bar will comment on that petition.

1 **CONCLUSION**

2 For the reasons stated above, the State Bar respectfully requests that the Court  
3 amend Rule 111 as set forth in the Petition.  
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5 RESPECTFULLY SUBMITTED this 1<sup>st</sup> day of May, 2026.

6 *Jessica J. Fotinos*  
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8 Jessica J. Fotinos  
9 General Counsel

10 Electronic copy filed with the  
11 Clerk of the Supreme Court of Arizona  
12 this 1<sup>st</sup> day of May, 2026.

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