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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of	)	
	)	
PETITION TO AMEND RULES 73	)	Supreme Court No. R-26_____
AND 74 OF THE ARIZONA	)	
RULES OF CIVIL PROCEDURE	)	(expedited consideration requested)
_____	)	

Pursuant to Rule 28 of the Arizona Supreme Court, Petitioner respectfully petitions this Court to amend Arizona Rule of Civil Procedure 73 to remove the county residency requirement and to clarify in Rule 74 that arbitration hearings are to be conducted remotely. This petition is being filed at the request of the Superior Court Presiding Judges. The thirteen rural counties do not have enough attorneys residing in their counties to be able to appoint arbitrators. Additionally, there is no longer a reason to limit the list of eligible arbitrators to county residents given the widespread availability of video-conferencing technology. Expedited consideration is requested to allow for consideration on the December rules agenda to allow any amendments adopted by the Court to be effective January 1, 2027.

I. Removal of County Residency Requirement

Appointment of an arbitrator from a list composed of those experienced attorneys living close to the courthouse was necessary when hearings were held in person. The list of eligible arbitrators, as far back as 1974, was to be comprised of members of the State Bar of Arizona residing in the county. *Scheehle v. Justs. of the Supreme Ct. of the State of Arizona*, 211 Ariz. 282, 286, ¶ 4 (2005) (reviewing development of legislative enactments and promulgation of court rules concerning arbitration). Attorneys willing to serve as arbitrators in the county where the action is pending could also be placed on the list. *Id.* at fn. 3.

The widespread use of video conference technology has obviated the need for the residency requirement. Almost all arbitration hearings are currently held by video conference, according to reports from the presiding judges of the counties. Many court proceedings are conducted remotely. The Court adopted presumptive standards regarding which hearing types should be held remotely and which should be held in-person. Administrative Order 2022-46. The presumptive standard is to hold remotely Compulsory Arbitration—Non-witness hearings. However, a Compulsory Arbitration—Witness hearing is presumptively to be held in-person. *Id.* at Appendix 1, page 1. If this petition is adopted, such witness hearings presumptively would be held remotely, necessitating an update to the presumptive standards.

II. Superior Court Presiding Judges Support Expansion

The Superior Court Presiding Judges considered a proposal to expand the categories of attorneys eligible to serve as arbitrators during meetings in December 2025 and March 2026. Presiding judges from rural counties expressed concern that the limited number of attorneys residing in their counties were repeatedly being called upon to serve as arbitrators, while attorneys residing outside of the county but practicing in their courts were not being assigned as arbitrators. As a group, the presiding judges expressed support to file a rule amendment that allows for expansion of the list of persons available for appointment.

The Superior Court Presiding Judges considered a draft during their June 2026 meeting. Based on their comments, the proposal was revised to make expansion of the list permissive to avoid needless changes where expansion was not necessary and to allow an arbitrator to be excused from an additional appointment while serving as an arbitrator in another action.

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CONCLUSION

Petitioner respectfully requests that the Court amend Arizona Rules of Civil Procedure Rules 73 and 74 as shown in Attachment A. Petitioner also respectfully requests that the Court consider this Petition on an expedited basis.

RESPECTFULLY SUBMITTED this 25th day of June, 2026.

By /s/ David K. Byers
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ATTACHMENT A

Rules of Civil Procedure

(new language is underlined, deleted text is ~~stricken~~)

Rule 73 Appointment of Arbitrator

(a) – (b) [No change]

(c) **List of Eligible Arbitrators.** The clerk or court administrator, under the supervision of the presiding superior court judge in the county or that judge's designee, must prepare a list of arbitrators who may be designated by their area of concentration, specialty, or expertise. The list of eligible persons ~~must~~ may include the following:

- (1) all ~~county residents who have been~~ active members of the State Bar of Arizona for at least 4 years;
- (2) all other members of the State Bar of Arizona ~~residing in other counties who have agreed to serve as arbitrators in the county where the court is located~~; and
- (3) all members of any other federal court or state bar who have agreed to serve as arbitrators ~~in the county where the court is located~~.

On written motion showing good cause, the presiding judge or that judge's designee may excuse a lawyer from the list of arbitrators.

(d) – (f) [No change]

(g) **Disqualifying or Excusing an Arbitrator.**

(1) *Disqualifying an Arbitrator.* On motion, the court may disqualify an appointed arbitrator from serving in a particular action. The motion must be in writing and establish that the arbitrator has an ethical conflict of interest or that other good cause exists under A.R.S. § 12-409 or § 21-211. The motion must be submitted to and considered by the judge assigned to the action in accordance with the procedures provided in Rule 42.2.

(2) *Excusing an Arbitrator.* The presiding superior court judge or that judge's designee may excuse an arbitrator from serving in a particular action on the arbitrator's showing that he or she is currently serving as an arbitrator in another

action or has completed contested hearings and ruled as an arbitrator under these rules in two or more actions assigned during the current calendar year.

(3) *Replacement*. If the court disqualifies or excuses an arbitrator, the clerk or court administrator must appoint a new arbitrator consistent with these rules.

Rule 74. General Proceedings and Prehearing Procedures

(a) – (b) [No change]

(c) Scheduling an Arbitration Hearing. The arbitrator must set a hearing date not earlier than 60 days nor later than 120 days after the arbitrator's appointment. If good cause exists, an arbitrator may set a hearing date that is before or after this time period, or reschedule a noticed hearing date for a date later than 120 days after the arbitrator is appointed. The arbitrator must provide at least 30 days' written notice of the hearing's time and place, unless waived by the parties. Unless the parties agree otherwise, no hearings may be held on Saturdays, Sundays, legal holidays, or evenings. An arbitration hearing is to be conducted remotely using video-conferencing technology. An arbitrator may conduct the hearing in-person only upon a determination that no participant in the proceeding will be unduly inconvenienced.

(d) – (h) [No change]