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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:

**PETITION TO AMEND RULE 51
OF THE ARIZONA RULES OF
FAMILY LAW PROCEDURE**

Supreme Court No. R-26-0015

**STATE BAR OF ARIZONA
REPLY**

Pursuant to Rule 28(e)(5) of the Arizona Rules of Supreme Court, the State Bar of Arizona (the “State Bar”) hereby submits its reply to the comment filed to its Petition to amend Rule 51 of the Arizona Rules of Family Law Procedure.

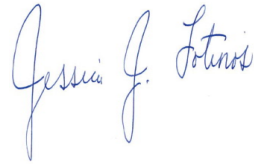
The Supreme Court’s Committee on Family Court recommends limiting the proposed trial-preparation protections to party-retained experts while the treatment of neutral and court-appointed experts undergoes further review and discussion. The State Bar concurs with the Committee on Family Court’s additional modification to Rule 51 of the Arizona Rules of Family Law Procedure.

CONCLUSION

The State Bar of Arizona respectfully requests that the Court approve the

1 modified changes to Rule 51 of the Arizona Rules of Family Law Procedure found
2 in the attached Appendix.

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4 RESPECTFULLY SUBMITTED this 30th day of June 2026.

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8 Jessica J. Fotinos
General Counsel

9 Electronic copy filed with the
10 Clerk of the Supreme Court of Arizona
11 this 30th day of June 2026.

12 by: PSeguin
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APPENDIX B - Redline

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

Rule 51. General Provisions Governing Discovery

(a) [No change]

(1) – (6) [No change]

(b) Discovery Scope and Limits. Unless the court orders otherwise in accordance with these rules, the scope of discovery is as follows:

(1) – (3) [No change]

(4) *Expert Discovery.*

(A) [No change]

~~(B) Expert Employed Only for Trial Preparation. Ordinarily, a party may not discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial. A party may discover such facts or opinions only: Trial-Preparation Protection for Draft Reports or Disclosures. Rules 51(b)(3)(A) and that party's (B) protect drafts of any report or disclosure required under Rule 49(j), regardless of the form in which the draft is recorded.~~

~~(i) as provided in Rules 63(e); or~~

~~(ii) on showing exceptional circumstances that make it impracticable for the party to obtain facts or opinions on the same subject by other means.~~

(C) Trial-Preparation Protection for Communications Between a Party's Attorney and Expert Witnesses. Rules 51(b)(3)(A) and (B) protect communications between the party's attorney and any that party's expert witness regardless of the form of the communications, except to the extent that the communications:

(i) relate to compensation for the expert's study or testimony;

(ii) identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or

(iii) identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed. The dates on which the

expert received facts or data from the party's attorney that the expert considered in forming the opinions to be expressed, and any portions of communications between the party's attorney and the expert that evidence those dates are discoverable.

(D) Expert Employed Only for Trial Preparation. Ordinarily, a party may not discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial. A party may discover such facts or opinions only:

(i) as provided in Rules 63(e); or

(ii) on showing exceptional circumstances that make it impracticable for the party to obtain facts or opinions on the same subject by other means.

(E) Payment. Unless manifest injustice would result, the court must require that the party seeking discovery:

(i) pay the expert a reasonable fee for time spent in responding to discovery under Rule 51(b)(4)(A) or (B), including the time the expert spends testifying in a deposition; and

(ii) for discovery under Rule 51(b)(4)(B), also pay the other party a fair portion of the fees and expenses it reasonably incurred in obtaining the expert's facts and opinions, including—in the court's discretion—the time the expert reasonably spends preparing for the deposition.

(5) [No change]

(c) – (f) [No change]