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

10 PETITION TO AMEND RULE  
11 43(D)(2) OF THE ARIZONA RULES  
12 OF FAMILY LAW PROCEDURE

Supreme Court No. R-12-\_\_\_\_\_  
**Petition to Amend Rule 43(D)(2), Ariz.  
R. Family Law P.**

13 Pursuant to Rule 28 of the Rules of the Arizona Supreme Court, the State Bar  
14 of Arizona hereby petitions the Court to amend Rule 43(D)(2) of the Arizona Rules  
15 of Family Law Procedure.

16 Family Law Rule 43(D)(2) currently itemizes documents that a family law  
17 litigant should not file and is modeled on Rule 5(g)(2) of the Arizona Rules of Civil  
18 Procedure, which sets forth a parallel provision for civil court litigants. It  
19 encompasses discovery papers and related notices that attorneys once habitually  
20 filed – and at times still do. As explained in the *Court Note to 1993 Amendment*  
21 regarding Civil Rule 5(g), the proscription of filing certain documents is intended to  
22 “have a positive impact on the Superior Court clerks’ offices, making their  
23 operations both more efficient and less costly.”

However, as with civil court practitioners, parties appearing in family court  
must also exchange a wealth of personal and financial documents irrespective of  
any written discovery demand. *See* Ariz. R. Fam. L. P. 49 and 50. Those seeking  
modification of an earlier decree must obey a comparable provision in Ariz. R.  
Fam. L. P. 91(P). While existing Rule 43(D)(2) shields superior court clerks from

1 the filing of voluminous discovery papers and related notices of compliance or  
2 notices of service concerning that discovery, it offers no similar protection from  
3 mandatory disclosure materials.

4 The proposed amendment simply adds mandatory Family Law Rules 49, 50  
5 and 91(P) disclosure materials and related notices to the list of papers that are more  
6 properly directed to an opposing party rather than deposited in the clerk's office,  
7 where they serve no legitimate purpose. The suggested revision (underlined below)  
8 reads as follows:

9 **Rule 43. Service and Filing of Pleadings and Other  
10 Papers; Sensitive Data Form**

11 \* \* \*

12 **D. Filing; Attachments; Public Access.**

13 \* \* \*

14 2. *Papers Not to be Filed.* The following papers shall  
15 not be filed separately and may be filed as attachments or  
16 exhibits to other documents only when relevant to the  
17 determination of an issue before the court:

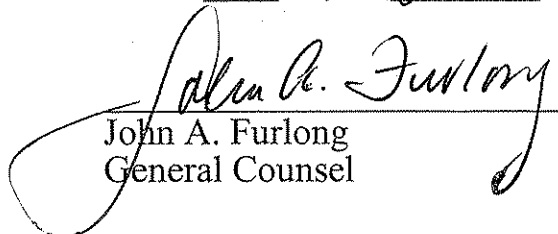
18 \* \* \*

19 f. Documents Provided in Disclosure. Notices of  
20 compliance with the provisions of Rule 49, 50 or 91(P) or  
21 any disclosure material provided to an opposing party  
22 pursuant to the requirements for disclosure contained in  
23 Rule 49, 50 or 91(P).

The State Bar of Arizona respectfully requests that the Court adopt the proposed amendment of Ariz. R. Fam. L. P. 43(D)(2) as set forth above.

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RESPECTFULLY SUBMITTED this 19<sup>th</sup> day of December, 2012.

  
\_\_\_\_\_  
John A. Furlong  
General Counsel

Electronic copy filed with the Clerk  
of the Supreme Court of Arizona this  
20<sup>th</sup> day of December, 2012.

By: Kathleen A. Lundgren