

David K. Byers
Administrative Director
Administrative Office of the Courts
1501 W. Washington, Suite 411
Phoenix, AZ 85007
(602) 452-3301

IN THE SUPREME COURT

STATE OF ARIZONA

In the Matter of:)
)
PETITION TO AMEND RULE 31)
RULES OF THE SUPREME COURT) Supreme Court No. R-13-_____
) (expedited consideration requested)
_____)

Pursuant to Rule 28 of the Rules of the Arizona Supreme Court, David K. Byers, Administrative Director, Administrative Office of the Courts, respectfully petitions this Court to consider adoption of the attached proposed amendments to Rule 31 of the Rules of the Supreme Court, on an expedited basis in response to recent amendments to A.R.S. § 22-512 enacted through Senate Bill 1454, Section 15 (Laws 2013, Chapter 254). The text of the proposed amendments is set out in the accompanying Appendix A. This petition does not address the constitutionality of the amendments to A.R.S. § 22-512.

I. Background and Purpose of the Proposed Rule Amendment. Senate Bill 1454 was passed and signed into law in the First Regular Session of the Fifty-first Legislature (Ch. 254)(2013). The bill's effective date is September 13, 2013.

SB 1454, Section 15 allows an authorized employee of an association as defined in A.R.S. § 33-1202 or 33-1802 or an authorized officer or an employee of a management company to appear on behalf of the association in a small claims action. SB 1454, Section 15 requires that: (1) the association provides the required authorization in writing, (2) the appearance in small claims court is a secondary or incidental duty rather than the primary duty of the officer or employee, and (3) the association is an original party in the action.

A related existing inconsistency between statute and court rule was noted in the course of the work on this petition. Rule 31 does not authorize active members of associations to appear in small claims court as provided in A.R.S. § 22-512 (B) (5). This inconsistency is addressed by the adding active members of associations to the persons authorized to appear in small claims court in the language proposed in Appendix A to implement SB 1454.

II. Pre-Petition Comments. The petition has not been circulated for pre-petition comments.

III. Effective Date of the Proposed Rule Amendment. The changes made by the underlying statutory amendments will become effective on September 13,

2013. The expedited adoption of the proposed amended rules is necessary to conform Rule 31 to the amended statutory provisions prior to their effective date.

Petitioner therefore requests consideration of expedited adoption of the proposed amended rules with an effective date of September 13, 2013 and with a formal comment period to follow, as permitted by Supreme Court Rule 28(G).

RESPECTFULLY SUBMITTED this _____ day of _____ 2013.

By _____
David K. Byers, Administrative Director
Administrative Office the Courts
1501 W. Washington, Suite 411
Phoenix, AZ 85007
(602) 452-3301

APPENDIX A

(language to be removed is shown in ~~strike through~~, new language is underlined)

Rule 31. Regulation of the Practice of Law

A. [No Change]

B. [No Change]

C. [No Change]

D. Exemptions

1. to 30. [No Change]

31. Nothing in these rules shall prohibit an active member or an employee of an association as defined in A.R.S. § 33-1202 or 33-1802 or an officer or employee of a management company from appearing in a small claims action, so long as:

(A) the officer, employee, or member is specifically authorized in writing by the association to appear on behalf of the association,

(B) appearing in small claims actions is not the primary duty of the officer or employee with respect to the association, and it is a secondary or incidental duty to the association, and

(C) the association is an original party to the small claims action.