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**ARIZONA SUPREME COURT**

**In Re ARCrImP, Rule 32 –** )  
 ) **R 15 - 0029**  
 )  
 ) **AMENDED COMMENT TO**  
 ) **SUBSECTION 32.13 (a)**  
 )  
 ) **Rule 28 Petition Re:**  
**Post-Conviction Relief** ) **Limited Court PCR**  
 ) **Procedure, New Subsection**  
 ) **Rule 32.13**  
 )  
\_\_\_\_\_ )

For the reasons that follow, this Amended Comment is submitted to be added to the last “Comment” paragraph at the end of subsection 32.13 (a), dealing with “issue preclusion”.

*“ ... The intent of issue preclusion as to guilty pleas is intended to require a party to move to withdraw from a plea of guilty pursuant to Rule 17.5, a method that would provide more efficient means for the trial court to correct its own error. There is another aspect of Arizona guilty plea procedure involving restitution, however, that merits this additional comment. The question presented is straightforward: what is defendant’s recourse if, as often happens, a valid plea also provides that restitution is*

*to be determined at a later hearing, and defendant wishes to challenge the restitution award. Under current practice, where the amount of restitution is contested, it appears that defendants file Rule 32 PCRs as a means to seek appellate review of the single issue of restitution, leaving intact the underlying validity of the guilty plea.*

*The issue preclusion contemplated in this subsection allows for this possibility and promotes judicial review while conserving resources and time. A defendant who wishes to challenge the separate Criminal Restitution Order connected to a guilty plea has full recourse by way of special action. The use of a special action is better suited to review of a single issue matter and such review fits the purpose of special action appellate procedure.*

**Dated: 1 June 2015**

**Hon. George T. Anagnost**