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

10 In the Matter of:

11 **PETITION TO AMEND RULE 11,**
12 **ARIZONA RULES OF CIVIL**
13 **PROCEDURE**

Supreme Court No. R-

PETITION

14 Pursuant to Rule 28 of the Rules of the Arizona Supreme Court, the State Bar
15 of Arizona (“State Bar”) petitions the Court to amend Rule 11 of the Arizona Rules
16 of Civil Procedure (“Rule 11” or “Arizona’s Rule 11”). The proposed amendments
17 modify Rule 11 in several respects:

18 (1) Stylistic changes have been made to modernize the Rule and make it easier
19 to follow, including breaking section (a) into several subsections, along with other
20 editorial revisions.

21 (2) The proposed amendments incorporate, on a selective basis, portions of
22 Federal Rule of Civil Procedure 11 (“Federal Rule 11”).

23 (3) New section (c) (“Sanctions”) proposes procedural limitations designed to
24 curb Rule 11 abuses as reported by practitioners and judges. Those abuses include
25

1 the proliferation of unsupported Rule 11 accusations in court filings and other
2 communications between attorneys. The amendments propose to address abusive
3 Rule 11 practices by providing that: (a) requests for Rule 11 sanctions must be made
4 separately from any other motion and must describe the specific conduct that
5 allegedly violates the Rule; (b) before filing a Rule 11 motion, the moving party
6 must attempt to resolve the matter by telephonic consultation; and (c) if the matter
7 is not resolved by telephonic consultation, the moving party must serve the opposing
8 party with a ten-day advance written notice of the specific conduct allegedly
9 violating Rule 11, before filing any motion. The specific modifications proposed are
10 discussed in detail in Section II, below.

11 **Exhibit A** is a redline version of proposed amended Rule 11 (“Proposed Rule
12 11”) identifying additions and deletions. A clean version of Proposed Rule 11 is
13 attached as **Exhibit B**.

14 **I. INTRODUCTION AND BACKGROUND**

15 In 1983, the United States Supreme Court amended Federal Rule 11 in
16 significant respects, allowing courts to impose monetary and other sanctions against
17 lawyers and/or parties who engage in abusive litigation practices. In 1984, Arizona
18 adopted its version of Rule 11 with the express intent “to establish a better defined
19 and more stringent standard of conduct for the signing attorney or party, and to
20 expand the range of sanctions which a court may impose for its violation.” *See Ariz.*
21 *R. Civ. P. 11, State Bar Committee Note (1984 Amendment)*. Arizona’s Rule 11(a),
22 as adopted in 1984, was nearly identical to Federal Rule 11(a), as adopted in 1983.
23

24 The two rules deviated, however, when the United States Supreme Court
25 adopted extensive amendments to Federal Rule 11 on April 22, 1993 (effective

1 December 1, 1993). The 1993 amendments to Federal Rule 11 were the culmination
2 of a lengthy study by the Committee on the Rules of Practice and Procedure of the
3 United States Judicial Conference (“the Committee”). According to the Committee’s
4 report, the 1993 amendments to Federal Rule 11 were “intended to remedy problems
5 that have arisen in the interpretation and application of the 1983 revision of the rule.”
6 Report of Civil Rules Advisory Committee, Judicial Conference of the United States
7 (May 1, 1992) (“Advisory Committee Report”), at 34; *see generally* Georgene
8 Vairo, *Rule 11 and the Profession*, 67 Fordham L. Rev 589 (November 1998)
9 (“[T]he 1983 Advisory Committee’s invitation to use Rule 11 to attack pleadings
10 and motions triggered an avalanche of ‘satellite litigation,’” leading to the 1993
11 amendments that “toned down” the Rule); Carl Tobias, *Collision Course in Federal*
12 *Civil Discovery*, 145 F.R.D. 139, 140 (1993) (1983 Federal Rule 11 governing
13 sanctions was “the most controversial in the Federal Rules’ history,” generating
14 “considerable expensive, unnecessary satellite litigation and has discouraged
15 resource-deficient litigants, such as civil rights plaintiffs, from vigorously pursuing
16 their cases”).

17
18 Among the most significant changes, the 1993 amendments to Federal Rule
19 11 added a “safe harbor” provision requiring that sanctions motions must be: (a)
20 made separately from any other motion and must describe the specific conduct that
21 allegedly violates the Rule; and (b) may not be filed or presented to the court if the
22 challenged conduct is withdrawn or appropriately corrected within 21 days after the
23 motion is served on the opposing party. Fed. R. Civ. P. 11(c)(2). The 1993
24 amendments also clarified that Federal Rule 11 “does not apply to, supplant, or affect
25 the sanctions provisions governing discovery.” Fed. R. Civ. P. 11(d). Finally, the

1 1993 amendment added new subsections, which restated “the provisions requiring
2 attorneys and pro se litigants to conduct a reasonable inquiry into the law and facts
3 before signing pleadings, written motions, and other documents.” Fed. R. Civ. P.
4 11(b)(1) through (4); Advisory Committee Report at 35–36.

5
6 In 2007, the Committee again amended Federal Rule 11 as part of the general
7 restyling of the Federal Rules of Civil Procedure, intended to make the Rules more
8 easily understood and to make style and terminology consistent throughout the rules.
9 These changes were “intended to be stylistic only.” *See* Fed. R. Civ. P. 11, Notes of
10 Advisory Committee on Rules—2007 Amendment.

11 Arizona did not adopt any amendments to Rule 11 in response to the 1993 or
12 2007 amendments to Federal Rule 11. The Petition now seeks to incorporate
13 selective portions of the 1993 and 2007 amendments to Federal Rule 11, along with
14 other proposed changes. Arizona’s current Rule 11, adopted over 30 years ago, is no
15 longer current and fails to address changes in legal practice over the past 30 years.
16 The proposed amendments are intended to modernize the Rule and to address
17 perceived abuses, including unsupported threats of Rule 11 sanctions and the
18 proliferation of satellite litigation under the Rule.

19 **II. OVERVIEW OF PROPOSED AMENDMENTS**

20 **A. Section 11(a): Signing of pleadings, motions and other papers**

21 The proposed amendments to Section 11(a) are largely stylistic. Current
22 Arizona Rule 11(a) contains the entire substance of the Rule governing sanctions,
23 with no subsections. The proposed amendment divides section (a) into several
24 subsections, adding new subheadings to guide the reader. In addition, the proposed
25 amendments delete the following language, which is outdated and unnecessary:

1 “The rule in equity that the averments of an answer under oath must be overcome by
2 the testimony of two witnesses or of one witness sustained by corroborating
3 circumstances is abolished.” The exact language appeared in Federal Rule 11 as
4 adopted in 1983, but was deleted by the 1993 amendments. *See* Proposed
5 Amendments to the Federal Rules of Civil Procedure and the Federal Rules of
6 Evidence Submitted to Standing Committee on Rules of Practice and Procedure by
7 Advisory Committee on Civil Rules (May 1992), at 31. The last sentence of
8 proposed section (a)—“If a pleading, motion or other paper is not signed, it must be
9 stricken unless it is signed promptly after the omission is called to the attention of
10 the pleader or movant”—is taken verbatim from the current Rule, but appears in a
11 different location as part of the proposed amendment.
12

13 **B. Section 11(b): Representations to the court and in other papers**

14 Proposed section (b) identifies the “certifications” that arise from a party or
15 attorneys’ signature on a pleading, motion or other paper. Arizona’s current Rule
16 11(a) provides that the signature of an attorney or party constitutes a certificate that
17 “the signer has read the pleading, motion, or other paper; that to the best of the
18 signer’s knowledge, information, and belief formed after reasonable inquiry it is well
19 grounded in fact and is warranted by existing law or a good faith argument for the
20 extension, modification, or reversal of existing law; and that it is not interposed for
21 any improper purposes, such as to harass or to cause unnecessary delay or needless
22 increase in the cost of litigation.” This language was taken almost verbatim from
23 Federal Rule 11 as enacted in 1983.

24 As noted, however, this portion of Federal Rule 11 was amended in 1993.
25 Among other things, the 1993 amendments to Federal Rule 11 subdivided the

1 “certification” provision into four discrete parts, *see* Federal Rule 11(b)(1) through
2 (4). The Committee intended this restructuring to clarify the responsibilities of the
3 an attorney who has signed pleadings, making clear that nonfrivolous arguments for
4 extensions, modifications or reversals of existing law or for the creation of new law
5 do not violate the Rule. Advisory Committee Report at 35. New subdivisions (b)(3)
6 and (4) of Federal Rule 11 were intended to “equalize the burden of the rule upon
7 plaintiffs and defendants,” with respect to factual contentions and denials: Denials
8 must be warranted on the evidence or, if so identified, reasonably based on belief or
9 a lack of information, and factual contentions must have “evidentiary support” or, if
10 so identified, likely to have “evidentiary support after a reasonable opportunity for
11 further investigation or discovery.” Advisory Committee Report at 36.

12
13 The State Bar believes that the certification provisions of Federal Rule
14 11(b)(1) through (4) should now be incorporated in Arizona’s Rule 11. The
15 expanded provisions provide useful guidance both for practitioners and courts, by
16 identifying the four different categories of certifications (and conduct) that may give
17 rise to Rule 11 violations. The proposed modifications also ensure that the standard
18 for imposing Rule 11 sanctions in Arizona continues to be aligned with the federal
19 standard. *See, e.g., Boone v. Superior Court*, 145 Ariz. 235, 239 (1985) (using
20 Federal Practice and Procedure to explain the responsibilities of counsel under Rule
21 11); *Hunter Contracting Co., Inc. v. Superior Court*, 190 Ariz. 318, 322 (Ct. App.
22 1997) (citing post-1993 Federal Rule amendment to establish the standards
23 established by Arizona Rule 11).

1 The proposed amendment adopts the language of Federal Rule 11(b)(1)
2 through (4) verbatim, providing that the party or attorneys' signature on a motion,
3 pleading or other paper certifies that:

4 (1) "it is not being presented for any improper purpose, such as to harass,
5 cause unnecessary delay or needlessly increase the cost of litigation." *See* Exhibit A,
6 Rule 11(b)(1) (reflecting proposed change). This language is nearly identical to the
7 language of Arizona's current Rule 11.
8

9 (2) "the claims, defenses, and other legal contentions are warranted by
10 existing law or by a nonfrivolous argument for extending, modifying, or reversing
11 existing law or for establishing new law." *See* Exhibit A, Rule 11(b)(2) (reflecting
12 proposed change). This language replaces the phrase "good faith argument" with the
13 term "nonfrivolous" and adds the phrase "establishing new law." It is not intended
14 to change the substance of current Rule 11, which Arizona courts have interpreted
15 to impose an objective standard. *See, e.g., Standage v. Jaburg & Wilk, P.C.*, 177
16 *Ariz.* 221, 229-30 (App. 1993) (sanctions against defendant were appropriate
17 because claims were "unsubstantiated and frivolous"); *see also* Advisory Committee
18 Report at 36 (corresponding change to Federal Rule 11 was intended to clarify that
19 the standard is objective, and to eliminate any "empty-head pure-heart" defense to
20 "patently frivolous arguments").

21 (3) "the factual contentions have evidentiary support or, if specifically so
22 identified, will likely have evidentiary support after a reasonable opportunity for
23 further investigation or discovery." *See* Exhibit A, Rule 11(b)(3) (reflecting
24 proposed change). This language expands on the language of Arizona's current rule,
25 which provides that the paper must be "well grounded in fact," but provides more

1 specific guidance to practitioners and courts. As noted by the Advisory Committee
2 for the corresponding Federal Rule 11 amendments, subsections (b)(3) and (b)(4)
3 were intended to “equalize the burden of the rule upon plaintiffs and defendants,”
4 who may deny allegations based on lack of information obtained from their initial
5 investigation of the facts under Federal Rule 8(b). *See* Advisory Committee Report
6 at 36. The intent of the Committee was to avoid sanctions for honest mistakes while
7 maintaining the litigant’s obligation to conduct an appropriate investigation in to the
8 facts. *See id.* at 35. This standard does not change but rather complements the earlier
9 “well grounded in fact” standard. *Id.*

10
11 (4) “the denials of factual contentions are warranted on the evidence or, if
12 specifically so identified, are reasonably based on belief or a lack of information.”
13 Again, this language expands on the language of Arizona’s current rule, which
14 provides that the paper must be “well grounded in fact,” providing more specific
15 guidance to practitioners and courts.

16 **C. Section 11(c): Sanctions**

17 **1. Section 11(c)(1)**

18 Section 11(c)(1) simply moves language that previously appeared as part of
19 Rule 11(a) to new section (c). The language has been maintained verbatim, with one
20 minor change: the word “shall” is changed to “must.”¹ This portion of Arizona’s rule
21 departs from Federal Rule 11, which was amended in 1993 to replace the word
22 “must” with “may.” The State Bar does not favor using the permissive term “may,”
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24 ¹ The Court’s recent amendments to the Arizona Rules of Civil Appellate Procedure
25 also eliminated the word “shall” and replaced it with “must,” “may,” “should,” or
“will,” depending on the context.

1 as the heightened procedural requirements proposed in the amendments allow ample
2 opportunity for a party or attorney in violation of the Rule to take corrective
3 measures.

4 **2. Section 11(c)(2)**

5 Section 11(c)(2) is new, providing as follows: “A motion for sanctions must
6 be made separately from any other motion and must describe the specific conduct
7 that allegedly violates Rule 11(b). A request for sanctions shall not be made in any
8 other pleading, motion or other paper filed with the court.”

9 The new language, which tracks the first sentence of Federal Rule 11(c)(2), is
10 intended to address concerns by practitioners and judges about Rule 11 abuses,
11 including that: (a) Rule 11 allegations are frequently embedded in other filings,
12 without providing sufficient information to enable the court to evaluate the merits of
13 the request; (b) Rule 11 sanctions requests, and communications among lawyers
14 threatening Rule 11 sanctions, often are used as a litigation tactic and may, in some
15 instances, reflect a lack of professionalism. The “separate motion” requirement is
16 intended to facilitate the court’s consideration of meritorious Rule 11 sanctions
17 requests through a defined separate motion procedure, while discouraging litigants
18 from making idle accusations in other court filings.

19 **3. Section 11(c)(3)**

20 New section (c)(3) proposes a two-step procedure that must be followed as a
21 prerequisite to filing a separate motion under Rule 11. The proposed procedures
22 depart from Federal Rule 11, which was amended in 1993 to require a party to serve,
23 but not file, its Rule 11 motion, and allow a 21-day “safe harbor” after service of the
24 motion for an opposing party to address the conduct at issue. The State Bar does not
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1 recommend wholesale adoption of the federal rule “safe harbor” provisions for two
2 reasons: (a) *first*, those provisions place an unfair burden and expense on parties
3 seeking to obtain Rule 11 sanctions—expense that is wholly unrecoverable if an
4 offending party elects to cure within the 21 day period allowed by the federal rule;
5 and (b) *second*, imposing such a high burden may chill meritorious Rule 11 motions,
6 as parties may be reluctant to incur the expense of preparing a full-scale motion
7 except in the most egregious circumstances.

8
9 Accordingly, the State Bar proposes a modified procedure that it believes
10 achieves the same end—allowing an opportunity for cure and reducing satellite Rule
11 11 litigation—without imposing unfair burden and expense on the party seeking to
12 enforce Rule 11. Under the proposed amendments:

13 (1) The moving party must “attempt to resolve the matter by telephonic
14 consultation with the opposing party,” *see* Exhibit A, Rule 11(c)(3)(A) (as
15 proposed); and

16 (2) “[I]f the matter is not satisfactorily resolved by telephonic consultation,
17 the moving party must “serve the opposing party with written notice of the specific
18 conduct that allegedly violates Rule 11(b). If the opposing party does not withdraw
19 or appropriately correct the alleged violation(s) within 10 days after being served
20 with the written notice, the moving party may file a motion under Rule 11(c)(2).”
21 *See* Exhibit A, Rule 11(c)(3)(B) (as proposed).

22 The telephonic consultation requirement mirrors a similar requirement in
23 Arizona Rules of Civil Procedure 26(g) and 37(a)(2)(C), which require “personal”
24 consultation and filing of a separate certificate as a predicate for bringing “any
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1 discovery motion,” or any Rule 37 motion for an order compelling disclosure or
2 discovery. The word “telephonic” is used in the proposed amendments to clarify that
3 consultation by telephone will satisfy the Rule’s requirements. These amendments
4 are intended to align Rule 11’s procedural requirements with those required to obtain
5 relief for discovery abuses under Rules 26 or 37.

6 **4. Section 11(c)(4)**

7 New section (11)(c)(4) requires that the moving party file a separate statement
8 “certifying that, after telephonic consultation and good faith efforts to do so, the
9 parties have been unable to satisfactorily resolve the matter, and attaching a copy of
10 the written notice provided under subpart (B).” This requirement also is taken from
11 the similar certification requirement of Rules 26 and 37. In addition, the requirement
12 that the “written notice” be provided to the court should both encourage
13 professionalism and facilitate the court’s review of the motion on its merits.

14 **D. Section 11(d): Assisting Filing by Self-Represented Person**

15 Section 11(d) maintains the language of the current Rule 11, unique to
16 Arizona, with respect to assisting an unrepresented litigant. This portion of
17 Arizona’s Rule 11, adopted by the Arizona Supreme Court in 2013 as part of several
18 amendments addressing limited scope representation, makes clear that an attorney is
19 not required to sign a motion, pleading or other paper falling within the scope of this
20 exception.

21 **E. Sections 11(e) and 11(f)**

22 The State Bar proposes no changes to the language of current sections (b) and
23 (c) of Rule 11, addressing “verification of pleadings” and “verification of pleading
24 when equitable relief demanded.” With the addition of the other new subsections
25 proposed by the amendment, the new section references are (e) and (f).

1 **III. CONCLUSION**

2 For the foregoing reasons, the State Bar respectfully petitions this Court to
3 amend Rule 11 of the Arizona Rules of Civil Procedure.

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5 RESPECTFULLY SUBMITTED this 10th day of January, 2015.

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8 
9 _____
10 John Furlong
11 General Counsel

12 Electronic copy filed with the
13 Clerk of the Arizona Supreme Court
14 this 10th day of January, 2015.

15 by: Begun
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EXHIBIT A

ARIZONA RULES OF CIVIL PROCEDURE *(Petitioner's proposed additions are show
by underscoring and proposed deletions are show by ~~strikethrough~~)*

Proposed Amendments to Arizona's Rule 11

Rule 11(a). Signing of pleadings, motions and other papers; ~~sanctions~~

Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated. A party who is not represented by an attorney shall sign the party's pleading, motion, or other paper and state the party's address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. ~~The rule in equity that the averments of an answer under oath must be overcome by the testimony of two witnesses or of one witness sustained by corroborating circumstances is abolished.~~ If a pleading, motion, or other paper is not signed, it must be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant.

Rule 11(b). Representations to the court and in other papers

The signature of an attorney or party constitutes a certificate by the signer that the signer has read the pleading, motion, or other paper; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry ~~it is well-grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and that it is not interposed.~~

(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay, or needlessly increase in the cost of litigation;

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;

(3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so

identified, are reasonably based on a belief or a lack of information. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant.

Rule 11(c). Sanctions

(1) If a pleading, motion or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall must impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, including a reasonable attorney's fee.

(2) A motion for sanctions must be made separately from any other motion and must describe the specific conduct that allegedly violates Rule 11(b). A request for sanctions shall not be made in any other pleading, motion or other paper filed with the court.

(3) Before filing a motion for sanctions under this Rule, the moving party must:

(A) Attempt to resolve the matter by telephonic consultation with the opposing party; and

(B) If the matter is not satisfactorily resolved by telephonic consultation, serve the opposing party with written notice of the specific conduct that allegedly violates Rule 11(b). If the opposing party does not withdraw or appropriately correct the alleged violation(s) within 10 days after being served with the written notice, the moving party may file a motion under Rule 11(c)(2).

(4) A motion for sanctions under this Rule will not be considered unless it is accompanied by a separate statement of moving counsel certifying that, after telephonic consultation and good faith efforts to do so, the parties have been unable to satisfactorily resolve the matter, and attaching a copy of the written notice provided under subpart (B).

Rule 11(d). Assisting filing by self-represented person

An attorney may help to draft a pleading, motion or document filed by an otherwise self-represented person, and the attorney need not sign that pleading, motion, or document. In

providing such drafting assistance, the attorney may rely on the otherwise self-represented person's representation of facts, unless the attorney has reason to believe that such representations are false or materially insufficient, in which instance the attorney shall make an independent reasonable inquiry into the facts.

Rule 11(b). Verification of pleading generally

When in a civil action a pleading is required to be verified by the affidavit of the party, or when in a civil action an affidavit is required or permitted to be filed, the pleading may be verified, or the affidavit made, by the party or by a person acquainted with the facts, for and on behalf of such party.

Rule 11(e). Verification of pleading when equitable relief demanded

When equitable relief is demanded, and the party demanding such relief makes oath that the allegations of the complaint, counterclaim, cross-claim, or third-party claim are true in substance and in fact, the responsive pleading of the opposite party shall be under oath, unless the oath is waived in the pleading to which the responsive pleading is filed, and each material allegation not denied under oath shall be taken as confessed.

EXHIBIT B

Proposed Amendments to Arizona's Rule 11

Rule 11. Signing of pleadings, motions and other papers; sanctions

Rule 11(a). Signing of pleadings, motions and other papers

Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated. A party who is not represented by an attorney shall sign the party's pleading, motion, or other paper and state the party's address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. If a pleading, motion or other paper is not signed, it must be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant.

Rule 11(b). Representations to the court and in other papers

The signature of an attorney or party constitutes a certificate by the signer that the signer has read the pleading, motion, or other paper; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry:

(1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;

(3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a belief or a lack of information.

Rule 11(c). Sanctions

(1) If a pleading, motion or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, must impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, including a reasonable attorney's fee.

(2) A motion for sanctions must be made separately from any other motion and must describe the specific conduct that allegedly violates Rule 11(b). A request for sanctions shall not be made in any other pleading, motion or other paper filed with the court.

(3) Before filing a motion for sanctions under this Rule, the moving party must:

(A) Attempt to resolve the matter by telephonic consultation with the opposing party; and

(B) If the matter is not satisfactorily resolved by telephonic consultation, serve the opposing party with written notice of the specific conduct that allegedly violates Rule 11(b). If the opposing party does not withdraw or appropriately correct the alleged violation(s) within 10 days after being served with the written notice, the moving party may file a motion under Rule 11(c)(2).

(4) A motion for sanctions under this Rule will not be considered unless it is accompanied by a separate statement of moving counsel certifying that, after telephonic consultation and good faith efforts to do so, the parties have been unable to satisfactorily resolve the matter, and attaching a copy of the written notice provided under subpart (B).

Rule 11(d). Assisting filing by self-represented person

An attorney may help to draft a pleading, motion or document filed by an otherwise self-represented person, and the attorney need not sign that pleading, motion, or document. In providing such drafting assistance, the attorney may rely on the otherwise self-represented person's representation of facts, unless the attorney has reason to believe that such representations are false or materially insufficient, in which instance the attorney shall make an independent reasonable inquiry into the facts.

Rule 11(e). Verification of pleading generally

When in a civil action a pleading is required to be verified by the affidavit of the party, or when in a civil action an affidavit is required or permitted to be filed, the pleading may be verified, or the affidavit made, by the party or by a person acquainted with the facts, for and on behalf of such party.

Rule 11(f). Verification of pleading when equitable relief demanded

When equitable relief is demanded, and the party demanding such relief makes oath that the allegations of the complaint, counterclaim, cross-claim, or third-party claim are true in substance and in fact, the responsive pleading of the opposite party shall be under oath, unless the oath is waived in the pleading to which the responsive pleading is filed, and each material allegation not denied under oath shall be taken as confessed.