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**IN THE SUPREME COURT OF ARIZONA**

In the Matter of	)	
	)	Arizona Supreme Court No. R-16-00__
PETITION TO PROMULGATE	)	
RULE 28.1, RULES OF THE	)	PETITION TO PROMULGATE RULE
SUPREME COURT, AND TO	)	28.1, RULES OF THE SUPREME
ABROGATE RULE 83, ARIZONA	)	COURT, AND TO ABROGATE
RULES OF CIVIL PROCEDURE,	)	CERTAIN OTHER RULES
RULE 36, ARIZONA RULES OF	)	
CRIMINAL PROCEDURE, RULE	)	REQUEST FOR PERMISSION TO
5, RULES OF PROCEDURE FOR	)	FILE THE PETITION OUTSIDE THE
THE JUVENILE COURT, AND	)	RULE 28 TIMELINE
RULE 21, RULES OF FAMILY	)	
LAW PROCEDURE	)	
	)	
_____	)	

Pursuant to Rule 28(B), Rules of the Supreme Court, the Arizona Supreme Court Staff Attorneys' Office submits this petition to promulgate Rule 28.1, Rules of the Supreme Court, and to abrogate Rule 83, Arizona Rules of Civil Procedure, Rule 36, Arizona Rules of Criminal Procedure, Rule 5, Rules of Procedure for the Juvenile Court, and Rule 21, Arizona Rules of Family Law Procedure, as proposed

in Petitioner's Attachment hereto. Petitioner requests permission to file the petition outside the Rule 28 timelines to allow the Court to consider this proposal at the August 2016 Rules Agenda.

The rules to be abrogated all pertain to superior court local rules, but they vary in their provisions, and none provides a specific procedure for seeking the Supreme Court's approval of a local rule. Rule 28.1 would provide a unified approach for both superior and limited jurisdiction courts, and would clarify the process for seeking the Court's approval. It would also assist the Court in determining whether to approve the proposal, as each matter would be opened for comment at two different stages.

The new procedure would require the presiding judge of a court to obtain approval of a majority of the affected judges for a new local rule or amendment. It would also require that the new or amended local rule be circulated to interested persons and organizations for comment before the proposal is filed with the Supreme Court. Under the proposal, the request for approval would have to state the grounds for the new rule or amendment and include any comments received from interested persons or organizations before the proposal is filed with the Court. If there are no comments, the request would have to specify that no comments were received. Once filed, proposals would be open for comment for a period of 60 days before being considered by the Court. Local rules would not be subject to the Rule 28 schedule

for statewide rules, but would be considered after the comment period closes in each matter.

Petitioner respectfully requests that the Court adopt the proposed amendments, as reflected in the Attachment to this Petition.

DATED this 29th day of February, 2016.

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Ellen M. Crowley  
Chief Staff Attorney, Arizona Supreme Court

## ATTACHMENT\*

### RULES OF THE SUPREME COURT

#### **Rule 28.1. Procedure for Requesting Approval of Local Rules**

**(a) Applicability.** This rule governs requests for approval of new or amended local rules for the superior court and courts of limited jurisdiction.

**(b) Promulgation.**

(1) Generally. The presiding judge of a county superior court, the presiding judge of a justice court, and the presiding judge of a municipal court may promulgate local rules for his or her respective court.

(2) Superior Court. For local rules promulgated by a superior court presiding judge, the rules must be approved by a majority of the superior court judges in the applicable county.

(3) Justice Court. For local rules promulgated by a presiding justice court judge, the rules must be approved by a majority of the justice court judges who would be affected by the proposed rule or amendment.

(4) Municipal Court. For local rules promulgated by a presiding municipal court judge, the rules must be approved by a majority of the judges on the municipal court's bench.

**(c) Approval.** Local rules and amendments must be consistent with rules of statewide application and must be approved by the Supreme Court.

**(d) Circulation to Interested Persons and Organizations.** Before submitting a proposed new or amended local rule for Supreme Court approval, the presiding judge must circulate the proposal to interested persons and organizations, allowing reasonable time for submission of comments.

**(e) Method of Filing Request for Approval.** A presiding judge may submit a request for approval of a new or amended local rule either by filing a paper copy of the request with the Supreme Court clerk or by filing the request electronically through the Court Rules Forum on the Supreme Court's website. If filed electronically, the request must be submitted according to the instructions found on the Frequently Asked Questions (FAQ) page of the Court Rules Forum.

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\* Additions in rule text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

**(f) Form and Contents of Request for Approval.** The request must state the grounds for adopting the new or amended local rule, and include a draft of the proposed rule or amendment (showing additions and deletions to an existing rule by underscoring and strikeouts). The request also must include any comments received from interested persons or organizations under Rule 28.1(d) or a statement that the proposal was circulated but no comments were received. The request may include supporting documentation and be in letter form.

**(g) Comment on a Request for Approval.** The Supreme Court may enter an order opening a request for public comment for a period of 60 days or as the Court otherwise directs. The Supreme Court clerk will send the order to the distribution list set forth in Supreme Court Rule 28(C) and to any other persons or organizations as may be designated by the Supreme Court. Comments may be filed with the Supreme Court in paper form or electronically. If filed electronically, the comment must be submitted according to the instructions found on the FAQ page of the Court Rules Forum on the Supreme Court's website. A copy of the comment also must be sent to the presiding judge who submitted the request.

**(h) Court Consideration.** After the comment period expires, the Supreme Court will consider and act on a proposed local rule or amendment. A new local rule or amendment's effective date will be the date on which the order approving the rule or amendment is filed, unless the Court orders otherwise.

**(i) Publication.** Local rules must be published.