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**IN THE SUPREME COURT OF ARIZONA**

In the Matter of	)	
	)	Arizona Supreme Court No. R-16-0033
PETITION TO PROMULGATE	)	
RULE 28.1, RULES OF THE	)	<b>AMENDED PETITION</b>
SUPREME COURT, AND TO	)	TO PROMULGATE RULE 28.1,
ABROGATE RULE 83, ARIZONA	)	RULES OF THE SUPREME COURT,
RULES OF CIVIL PROCEDURE,	)	AND TO ABROGATE CERTAIN
RULE 36, ARIZONA RULES OF	)	OTHER RULES
CRIMINAL PROCEDURE, RULE	)	
5, RULES OF PROCEDURE FOR	)	
THE JUVENILE COURT, AND	)	
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 Amended 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.

This Amended Petition came about after discussion with the superior court presiding judges, who believed the initial language proposed for Rule 28.1(d) was vague and hard to follow. It proposes modifications to the presubmission comment requirement. The modified procedure would require the presiding judge to post the local rule proposal on the court's website for at least thirty days, along with an invitation for the submission of comments. The presiding judge must concurrently request the Clerk of the Supreme Court to circulate the proposal to the distribution list in Supreme Court Rule 28(C), along with an invitation for the submission of comments. If there are no comments, the presiding judge's request for approval would have to specify that the proposal was posted but no comments were received.

Changes to Rule 28.1(f) conform the requirements for the request for approval to the new presubmission comment procedure.

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

DATED this 29<sup>th</sup> day of March, 2016.

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Ellen M. Crowley  
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## 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.~~

**(d) Presubmission Comments.** Before submitting a proposed new or amended local rule for Supreme Court approval, the presiding judge must post the proposal for at least 30 days on the website for the judge's court along with an invitation for the submission of comments. When the proposal is posted, the presiding judge must concurrently request the Supreme Court clerk to circulate the proposal to

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

the distribution list in Supreme Court Rule 28(C) along with an invitation for the submission of comments on the website for the presiding judge's court.

- (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.
- (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 during the period in which the proposal was posted on the lower court's website, as set forth in ~~from interested persons or organizations~~ under Rule 28.1(d)<sub>2</sub>, or a statement that the proposal was ~~circulated~~ posted 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.