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

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13 PETITION TO AMEND RULE 1.6,
14 ARCrP TO PROVIDE FOR
15 APPEARANCES BY DEFENDANTS
16 VIA VIDEOCONFERENCING FOR
17 INTIAL APPEARANCES AND
18 ARRAIGNMENTS AND SOME
19 OTHER HEARINGS.

Supreme Court No. R-06-0016

**Comments of the State Bar of
Arizona Regarding Petition to
Amend the Arizona Rules of
Criminal Procedure for
Interactive audio and audiovisual
devices**

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21 Pursuant to Rule 28, Arizona Rules of the Supreme Court the State Bar of
22 Arizona files the following comment in limited support of the petition R-06-
23 0016, regarding amendments to Rule 1.6, Arizona Rules of Criminal Procedure
24 currently before you.
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The Bar recommends that proposed Rule 1.6 petition be amended to provide for appearances by defendants via videoconferencing for initial appearances and arraignments only.

The Bar proposes that Rule 1.6, Arizona Rules of Criminal Procedure be amended as shown in exhibit "A".

CONCLUSION

The State Bar of Arizona respectfully requests that the Court adopt Petitioner's Proposed Rule Changes with the modifications suggested in this comment.

RESPECTFULLY SUBMITTED this 21st day of _____, 2007.

Robert B. Van Wyck
Chief Bar Counsel
STATE BAR OF ARIZONA

EXHIBIT A

State Bar's Suggested Amendments to Rules 1.6

RULE 1.6 INTERACTIVE AUDIO AND AUDIOVISUAL DEVICES

- a. **General Provisions.** When the appearance of a defendant or counsel is required in any court, subject to the provisions of this rule, the appearance may be made by the use of an interactive audiovisual device, including video conferencing equipment. An interactive audiovisual device shall at a minimum operate so as to enable the court and all parties to view and converse with each other simultaneously.
- b. **Requirements.** In utilizing an interactive audiovisual device the following are required:
- (1) A full record of the proceedings shall be made as provided in applicable statutes and rules; and
 - (2) Except for initial appearances and arraignments ~~the~~ court shall determine that the defendant knowingly, intelligently and voluntarily agrees to appear at the proceeding by an interactive audiovisual device; and

1 (3) Provisions shall be made to allow for confidential communications
2 between the defendant and counsel prior to and during the
3 proceeding; and

4 (4) Provisions shall be made to allow a victim a means to view the
5 proceedings; and

6 (5) Provisions shall be made to ensure compliance with all victims'
7 rights laws.
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10 c. **Proceedings.** Appearance by interactive audiovisual device, including video
11 conferencing, shall be permitted at any hearing, including initial
12 appearance, arraignment, shall be permitted in the discretion of the
13 court and at any other court proceeding except that:

14 (1) Written stipulation of the parties is required in all proceedings
15 prior to the commencement of the proceeding, except in initial
16 appearances and not guilty arraignments; and
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18 (2) This Rule 1.6 shall not apply to any trial, evidentiary hearing or
19 probation violation hearing; and
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21 (3) This Rule 1.6 shall not apply to any felony sentencing.
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