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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:

Supreme Court No. R-17-0024

**PETITION TO AMEND RULES
32.4, 32.5, 32.6 AND 32.8 OF THE
ARIZONA RULES OF CRIMINAL
PROCEDURE**

**COMMENT OF
THE STATE BAR OF ARIZONA**

I. Background:

A Petition was filed by the Honorable Sam Myers, Criminal Department Presiding Judge of the Superior Court of Arizona in Maricopa County, to amend certain portions of Rule 32, Ariz. Rules of Crim. P. The rule governs post-conviction relief procedures.

The Arizona Supreme Court created a Committee led by Judge Welty to restyle the Arizona Rules of Criminal Procedure. That Committee convened and worked through 2016, restyling the Rules of Criminal Procedure. The final product of that effort remains a work in progress, and is believed to be slated for completion

1 in 2017 or early 2018.

2 Judge Welty's Committee has so far made minimal changes to Rule 32. The
3 Committee, however, agreed that a separate committee should be established to
4 completely review and revise Rule 32 and all of its many sub-parts. That is
5 expected to occur in the near future.
6

7 **II. Discussion and Analysis:**

8 Rule 32 and its subsections govern the procedures to be used in the filing and
9 litigation of Petitions for Post-Conviction Relief. These petitions are filed either
10 after a direct appeal has been decided by Arizona's appellate courts, or after a
11 criminal defendant has pled guilty and been sentenced in superior court (for which
12 a direct appeal is waived). Rule 32 is critical to the constitutionality of Arizona's
13 post-conviction process in both capital and non-capital cases; for example, it is the
14 first opportunity for a defendant to claim that he received ineffective assistance of
15 counsel under the Arizona and federal constitutions.
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18 Rule 32 and all of its subsections require review and revision/updating. A
19 few changes have been made to date, and Petition R-17-0024 seeks to make other
20 changes, absent recognition of the changes made thus far by Judge Welty's
21 Committee.
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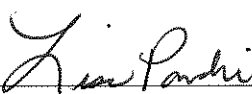
1 The State Bar of Arizona is of the view that Rule 32 should not be modified
2 by piecemeal petitions for rule changes. Rather, the best and most effective
3 approach to revision of the rule is a comprehensive one, spearheaded by a yet-to-be
4 established Committee created for that specific purpose.
5

6 Petition for Rule Amendment, R-17-0024 **should be held in abeyance**
7 pending the Arizona Supreme Court's establishment of a Committee convened for
8 the sole purpose of making necessary amendments to Rule 32 and all of its
9 subsections. This will ensure that all amendments work together in streamlining
10 the rules governing the process.
11

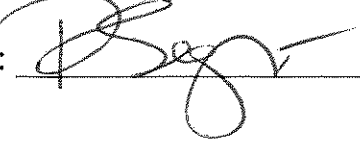
12 **CONCLUSION**

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14 The State Bar of Arizona respectfully requests that Petition, R-17-0024,
15 should be held in abeyance pending the Arizona Supreme Court's establishment of
16 a committee convened for the sole purpose of making necessary amendments to
17 Rule 32 and all of its subsections.
18

19 RESPECTFULLY SUBMITTED this 22nd day of May, 2017.
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22 _____
23 Lisa M. Panahi
24 General Counsel
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1 Electronic copy filed with the
2 Clerk of the Arizona Supreme Court
3 this 22nd day of May, 2017.

4 by: 

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