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6 IN THE SUPREME COURT
7 STATE OF ARIZONA

8
9 In the Matter of:)
10 PETITION TO AMEND RULE 30,) Supreme Court No. R-18-____
11 ARIZONA RULES OF THE) **PETITION**
12 SUPREME COURT)

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14 Pursuant to Rule 28 of the Rules of the Supreme Court of Arizona, the
15 Arizona Association of Superior Court Administrators respectfully petitions this
16 Court to adopt the attached proposed amendment to Rule 30 of the Rules of the
17 Supreme Court.

18 Supreme Court Rule 30 governs verbatim recordings of judicial
19 proceedings. The rule currently recognizes that the certified transcript of a court
20 proceeding must be one either prepared by a certified reporter from the
21 reporter’s notes, or the transcription of an electronic recording of the proceeding
22 by an individual or transcription service either employed by or under contract
23 with the court. Rule 30(a)(2). In certain types of cases, Rule 30 specifically
24 requires the use of a certified court reporter to record the proceedings, unless
25 otherwise waived by the parties and the court. This includes proceedings such as
26 grand jury proceedings, capital cases, and felony jury trials. Rule 30(b)(3).

27 For all other proceedings where a certified court reporter is not required
28 by Rule 30(b)(3), the rule allows any party to an action to request that the

1 proceeding be recorded by a certified court reporter. Per the rule, such a request
2 shall be granted by the court so long as it is made at least three days prior to the
3 proceeding. Rule 30(b)(1). This petition seeks to amend Supreme Court Rule 30
4 to give courts the discretion to deny requests for certified reporters in
5 proceedings where a certified reporter is not mandatory and there is not a
6 certified reporter available.

7 Currently, in many of the Arizona Superior Courts the demand for
8 certified reporters exceeds their availability. This situation was foreseen in a
9 2014 study commissioned by the National Court Reporters Association which
10 predicted—based on trends in enrollment in court reporting programs—a
11 critical shortfall of court reporters by 2018. (“2013-2014 Court Reporting
12 Industry Outlook Report,” National Court Reporters Association.) We are aware
13 of only one court reporting training program physically located in Arizona;
14 fifteen years ago, there were five such programs.

15 As an example of the impact, there have been no new qualified applicants
16 for a certified reporter position with Cochise County Superior Court for over
17 five years. Cochise County Superior Court currently has 3 ½ certified reporters
18 employed by the court to cover six divisions. It has resorted to using certified
19 reporters linking in remotely from other locations to cover court proceedings. In
20 other counties in Arizona, Superior Courts have given up on trying to hire
21 certified reporters. Often when attorneys request certified reporters for court
22 hearings where reporters are not mandatory, it requires courts to continue the
23 proceedings to a later date when a reporter is available, thereby creating delays
24 in the case. At the same time, Superior Courts in Arizona have greatly increased
25 their ability to electronically record proceedings, investing resources in
26 increasingly evolving technology.

27 The proposed amendments to Rule 30 would allow courts the ability to
28 deny requests for a certified reporter when one is not required by statute or by

1 Rule 30(b)(3) and when the court determines there is no certified reporter
2 available. In those instances, the court can order the electronic recording of the
3 proceeding. This should not impact the parties because the proceeding can still be
4 transcribed from the electronic recording, so long as the transcriber is authorized
5 pursuant to Rule 30(a). The proposed amendment also increases the time frame
6 required to make a request for a certified reporter from three days before the
7 proceeding to five days before the proceeding. This change will give courts more
8 time to determine the availability of a certified reporter, and will assist courts in
9 accommodating those requests when it can. Overall, the proposed changes to
10 Rule 30 will give courts in Arizona greater control over the efficient management
11 of court resources.

12 For the foregoing reasons, the Arizona Association of Superior Court
13 Administrators respectfully requests this Court amend Rule 30 of the Rules of the
14 Supreme Court, as detailed in the Attachment, to give courts discretion when a
15 certified reporter is requested but is not required by statute or rule and a reporter
16 is not available.

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18 RESPECTFULLY SUBMITTED this 10th day of January, 2018.

19
20 /s/ Eric Silverberg

21 _____
22 Mr. Eric Silverberg, President
23 Arizona Association of Superior Court
24 Administrators

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26 Electronic copy filed with the
27 Clerk of the Arizona Supreme Court
28 this 10th day of January, 2018.

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ATTACHMENT

(new language is underlined and deletions are ~~struck through~~)

Rules of the Supreme Court

Rule 30. Verbatim Recordings of Judicial Proceedings.

(a) Transcripts of court proceedings; standards. A transcript is a document containing a verbatim record of the spoken words of a court proceeding prepared from either the certified reporter's notes or other verbatim record of the proceeding. Transcripts certified for use by any court shall be:

1. Prepared and certified by an authorized transcriber in accordance with the standards set forth in the Arizona Manual of Transcript Procedures. The current version of this manual is available from the Administrative Office of the Courts.

2. For purposes of this rule, an “authorized transcriber” means:

a. a certified reporter;

b. an individual or a transcription service under contract with an Arizona court; or

c. An individual employed by a court whose official duties include the preparation of transcripts.

(b) Use of Court Reporting Resources.

1. Request for certified reporter. Any party to any action in superior court may request that any proceeding in that action be recorded by a certified court reporter. The court shall grant the request if a certified court reporter is available as determined by the court and the request ~~it is~~ made at least ~~three~~ five days prior to the proceeding to be recorded unless a different time frame has been established by local rule. If the court determines a certified

1 reporter is not available, the court may authorize the use of recording by
2 electronic means.

3 2. Making the record in the absence of a timely request for a court reporter.
4 Except as provided in (3) below, in the absence of a timely request for a
5 certified court reporter the record will be made in a manner within the
6 sound discretion of the court.

7 3. Proceedings requiring a certified court reporter. The following
8 proceedings shall be recorded by a certified court reporter and not solely by
9 electronic means, unless this requirement is waived by the parties and the
10 court approves the waiver:

11 a. Grand jury proceedings;

12 b. All proceedings in a first degree murder case, pursuant to A.R.S. §
13 13-1105, once the intention to seek the death penalty notice has been
14 filed;

15 c. Felony jury trials;

16 d. Initial determinations of sexually violent person status, pursuant to
17 A.R.S. § 36-3706;

18 e. Proceedings on a request for authorization of abortion without
19 parental consent, pursuant to A.R.S. § 36-2152.

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22 4. Official record. When an Arizona-certified court reporter records a
23 proceeding in a superior court that is simultaneously recorded by electronic
24 recording equipment, the court reporter's record shall be the official record.
25 The transcript in any case certified by the reporter or other authorized
26 transcriber shall be deemed prima facie a correct statement of the testimony
27 taken and proceedings had. No transcripts of the proceedings of the court
28 shall be considered as official except those made from the records certified
by the reporter or other authorized transcriber.