

Patience T. Huntwork
Staff Attorneys' Office
Arizona Supreme Court
1501 West Washington Street, Suite 445
Phoenix AZ 85007-3231
(602) 452-3385
State Bar No. 005252

**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of	)	
	)	Arizona Supreme Court No. R-_____
	)	
PETITION TO ADOPT RULE 13,	)	
RULES OF PROCEDURE FOR	)	
JUDICIAL REVIEW OF	)	
ADMINISTRATIVE DECISIONS	)	
	)	PETITION TO ADOPT RULE 13,
	)	RULES OF PROCEDURE FOR JUDICIAL
	)	REVIEW OF ADMINISTRATIVE DECISION
_____	)	

I. SUMMARY OF PROPOSED CHANGES

Petitioner is a staff attorney at the Arizona Supreme Court. During the 2017-2018 term, it became apparent (see order attached as Exhibit A) that neither the applicable Arizona statutes, A.R.S. §§ 12-901 to -914, nor the applicable rules, the Rules of Procedure for Judicial Review of Administrative Decisions, expressly provide that an appeal from a decision of the Superior Court in an administrative appeal should be to the Arizona Court of Appeals in the first instance rather than to the Arizona Supreme Court. See A.R.S. § § 12-913 (“The final decision, order, judgment or decree of the superior court entered in an action to review a decision of an administrative agency may be appealed to the supreme court.”) and 12-914(A) (“Where applicable, the rules of procedure for judicial review of administrative decisions in superior courts, including rules

relating to appeals to the supreme court, shall apply to all proceedings except as otherwise provided in this article. . . .”).

For many years, the above statutory references to the “supreme court” have been construed as also allowing an appeal to the court of appeals, which was created after § 12-913 was enacted. *Svendsen v. Arizona Dept. of Transportation, Motor Vehicle Division*, 234 Ariz. 528, 533 ¶ 13 (App. 2014). *See also*, Arizona Appellate Handbook, § 31.3.4.13 (2014 revision) (“Although A.R.S. § 12-913 states the appeal is to the supreme court, this statute has been superseded by A.R.S. § § 12-120 et seq., creating the court of appeals and establishing its jurisdiction. *Ariz. Podiatry Ass’n v. Dir. of Ins.*, 101 Ariz. 544, 422 P. 2d 108 (1966). *See* Civil Appeals § 3.2.3. Such appeals will be governed by RCAP.”). However, no rule informs the public or litigants that an appeal from the Superior Court’s decision in an administrative appeal should be to the Court of Appeals.

In addition, no statute or rule specifies the deadline for filing an appeal to the appellate court from the decision of the Superior Court, since the 35-day time limit established under A.R.S. § 12-904(A) expressly applies only to administrative appeals to superior court. This rule change makes it explicit that a party seeking to appeal to the appellate courts from a Superior Court decision in an administrative appeal should proceed by filing an appeal to the Court of Appeals in the first instance and, if further review is desired, by Petition for Review to the Arizona Supreme Court.

II. TEXT OF PROPOSED CHANGES

It is therefore proposed that Rule 13, Rules of Procedure for Judicial Review of Administrative Decisions, be adopted, providing as follows:

Rule 13. Appeal from a Superior Court Decision

The Arizona Rules of Civil Appellate Procedure apply to appeals from the final decision of the superior court in an action to review a final administrative decision. Such appeals must be to the court of appeals in the first instance.

DATED this 10th day of January, 2018.

Patience T. Huntwork
Staff Attorney

EXHIBIT A

SUPREME COURT OF ARIZONA

IV-D ATLAS NO. 000310104201	)	Arizona Supreme Court
STATE OF ARIZONA, ex rel., DES,	)	No. CV-17-0274-AP
RAQUEL AMARO	)	
	)	Maricopa County
Petitioners,	)	Superior Court
	)	No. DR1994-093656
v.	)	
	)	
MICHAEL AGUILAR,	)	
	)	
Respondent.	)	FILED 12/11/2017
_____	)	

Order Transferring Appeal to Court of Appeals

Respondent Michael Aguilar filed a "Petition for Review" in this Court seeking to appeal a Superior Court ruling in an administrative appeal. Because authority to seek appellate review of superior court rulings in appeals from agency decisions is found in A.R.S. §12-913, and because that statute has been construed as "allowing an appeal to the court of appeals, which was created after § 12-913 was enacted," *Svensden v. Arizona Department of Transportation, Motor Vehicle Division*, 234 Ariz. 528, 533 ¶ 13 (App. 2014), such appeals should be filed in the Court of Appeals and not directly in the Arizona Supreme Court. See also, *Arizona Podiatry Ass'n v. Director of Insurance*, 101 Ariz. 544, 549 (1966). Therefore, after consideration,

IT IS ORDERED transferring this case to the Court of Appeals.

DATED this 11th day of December, 2017.

_____/s/_____
Scott Bales
Chief Justice

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TO:
Stacy Scheff
Carol A Salvati
Raquel Amaro
Janet W Sell
Amy W Wood