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CLERK SUPREME COURT

Hon. William J. O'Neil
Presiding Disciplinary Judge
501 W. Washington St., Ste. 102
Phoenix, AZ 85007
(602) 452-3436

FILED
DEC 01 2017
JANET JOHNSON
CLERK SUPREME COURT
BY:

IN THE SUPREME COURT
STATE OF ARIZONA

PETITION TO AMEND RULES 47, 48)
AND 58, RULES OF THE ARIZONA)
SUPREME COURT)
)
)
_____)

No. **R-17-0055**
Request for Expedited
Adoption

Pursuant to Rule 51(c)(7) of the Rules of the Arizona Supreme Court, William J. O'Neil, Presiding Disciplinary Judge, respectfully petitions this Court to amend Rules 47, 48, and 58 of the Rules of the Arizona Supreme Court. The proposed changes are solely to bring the Supreme Court Rules into conformity with the amendments made by R-17-0010.

I. Background of the Proposed Amendments. The Supreme Court's Committee on Civil Justice Reform ("the Committee") filed rule petition number R-17-0010 in January 2017. That petition proposed to amend, abrogate, or newly adopt about twenty Rules of Civil Procedure, resulting in a cascade of renumbered civil rules and subparts. Because of this extensive renumbering of the civil rules, the Committee proposed in an Appendix D of its Reply conforming changes to other

sets of rules, among them Supreme Court Rules 47, 48, and 58. These three rules are included in Part V of the Supreme Court Rules, which is titled “Regulation of the Practice of Law.” Rules 47 and 48 are in Section E of Part V; Section E concerns “general provisions” for attorney “discipline and disability administration.” Rule 58 is in Section H of Part V and concerns disciplinary “proceedings.”

The Court adopted R-17-0010 by an Order entered on August 31, 2017, (“Order”). Petitioner now identifies and proposes those conforming changes that are needed concerning Rules 48(b) made by R-17-0010, as further explained below.

III. Proposed Changes to Supreme Court Rule 48(b). Rule 48 is titled, “Rules of Construction.” Rule 48(b) is titled, “Rules of Civil Procedure.” R-17-0010 made one conforming amendment to Section (b) by Attachment B to the Order. Civil Rule 8(b)-(e) is amended to 8(c)-(f). Petitioner now requests additional conforming amendments that were omitted. Rule 48(b), as amended by R-17-0010, now states,

(b) Rules of Civil Procedure. Only the following Arizona Rules of Civil Procedure are applicable to discipline and disability proceedings before the presiding disciplinary judge or the hearing panel, as specifically set forth in these rules: Rules 4, 4.1, 4.2, 5, 5.1(e), 5.2(b), 5.3, 6(a), 6(c), 7.1(a), 7.1(b), 8(c)-(f), 10(b)-(c), 11(a)-(d), 12(b), 12(c), 12(d), 12(e), 12(f), 16(a), 16(g)(2)(A-E) and (J), 16(i), 26(a)-(f), 29-36, 38.1(b), 42(a), 43-45, 56, 60(b)-(d), 80(a), 80(c), and 80(d).

Petitioner proposes modifying this list of rules as follows:

- (1) Renumbering 16(g)(2)(A-E) to 16(f)(2)(A-E), as 16(e) was deleted by R-17-0010 affecting the sequence of the rule. The amendment will conform to the language of the prior applicable rule;
- (2) Renumbering 16(g)(2)(J) to 16(f)(2)(K), as the 2017 amendments renumbered that section and this subsection was inadvertently not amended. The amendment will conform to the language of the preexisting prior applicable rule;
- (3) Renumbering 16(i), to 16(h), for the reason stated in (2) above;
- (4) Renumbering 26(a)-(f), to 26(a)-(c) and (f)-(h), as new (d) and (e) have been added by R-17-0010 affecting the sequence of the rule. The amendment will conform to the applicable language of the prior applicable rule;


A revised Rule 48(b) is shown in the Appendix.

V. Preliminary Comments. The changes proposed are not substantive but rather conform Supreme Court Rule 48(b) to the applicable language of the intended prior Civil Rules.

VI. Request for Expedited Adoption. The Court's Order in R-17-0010 made the applicable rule changes effective on July 1, 2018. Under Supreme Court Rule 28(F), the amendments proposed in this petition would not become effective until January 1, 2019. Petitioner requests that these proposed amendments be

adopted on an expedited basis, i.e., that they become effective on July 1, 2018,
concurrently with the changes in R-17-0010.

RESPECTFULLY SUBMITTED this 30th day of November 2017

By 
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Appendix

Additions are shown by underline; deletions are shown by ~~strikethrough~~.

Rule 48. Rules of Construction

(a) [No change]

(b) Rules of Civil Procedure. Only the following Arizona Rules of Civil Procedure are applicable to discipline and disability proceedings before the presiding disciplinary judge or the hearing panel, as specifically set forth in these rules: Rules 4, 4.1, 4.2, 5, 5.1(e), 5.2(b), 5.3, 6(a), 6(c), 7.1(a), 7.1(b), ~~8(b)-(e)(c)-(f)~~, 10(b)-(c), 11(a)-(d), 12(b), 12(c), 12(d), 12(e), 12(f), 16(a), 16~~(f)(g)~~(2)(A-E) and ~~(J)(K)~~, 16~~(h)(j)~~, 26~~(a)-(f)(a)-(c)~~ and ~~(f)-(h)~~, 29-36, 38.1(b), 42(a), 43-45, 56, 60(b)-(d), 80(a), 80(c), and 80(d).

(c) through (m) [No change]