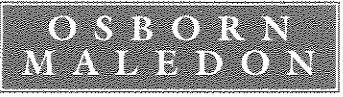


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May 6, 2008

Justices of the Arizona Supreme Court
c/o Clerk of the Court, Rachelle M. Resnick
Arizona Supreme Court
1501 West Washington
Phoenix, Arizona 85007-3231

Re: Comment on Petition to Amend Rule 111 of the Arizona Supreme Court and
Rule 28 of the Arizona Rules of Civil Appellate Procedure (Proposal 1)

Dear Justices:

I write on behalf of Osborn Maledon P.A. in support of the pending rule petition (Proposal 1) to permit citation to Arizona and non-Arizona unpublished decisions (the "Petition"). We recently discussed the Petition at a firm litigation meeting, and our litigation attorneys unanimously support the Petition. We believe that adopting it will improve judicial decision making, increase the information available to judges, and allow litigants to candidly address prior pertinent decisions – published or unpublished – *before* a decision on the merits is issued. Adopting the Petition will also make Arizona's rule more consistent with the new federal rule that permits the citation of unpublished federal court of appeals' decisions applicable to all federal appellate courts.

The lessons from the recent rule change at the federal level also demonstrate that the concerns raised by some opponents are unfounded. As a member of the Federal Judicial Conference Standing Committee on Rules of Practice and Procedure, I became very familiar with the debate that led to the adoption of the new uniform federal citation rule. Although most judges from most circuits supported the rule change, some judges (most notably from the Ninth Circuit) opposed the change to the federal rule for many of the same reasons that have been expressed in opposition to the Petition. As the federal experience has demonstrated, however, the federal rule change has not led to the dire consequences some had predicted. Indeed, before adopting the new federal rule, an extensive study was undertaken to determine the impact of such a rule change on the federal court system. The evidence correctly indicated that such change would not result in the negative consequences feared by some judges.

Thank you for your consideration of this important issue.

Very truly yours,

William J. Maledon

WJM/bw