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**BEFORE THE SUPREME COURT OF  
THE STATE OF ARIZONA**

PETITION TO AMEND THE RULES  
OF THE SUPREME COURT,  
SECTION V.  
REGULATION OF THE PRACTICE  
OF LAW, RULE 45

Supreme Court No. R-08-0003

**Comments of the Pima County Bar  
Association Regarding Petition to Amend the  
Rules of the Supreme Court, Section V,  
Regulation of the Practice of Law, Rule 45**

The Pima County Bar Association, pursuant to Rule 28, Ariz.R.Sup.Ct., hereby files its comment to the Rule 28 Petition to Amend the Rules of the Supreme Court, Section V, Regulation of the Practice of Law, Rule 45 filed on January 9, 2008 as submitted by the *ad hoc* Committee on Compulsory Arbitration in the Superior Court. The Pima County Bar Association supports the proposed amendment. The proposed amendment, if adopted, would recognize the educational value to members of the State Bar of Arizona of serving as arbitrator in Superior Court compulsory arbitration cases.

Arbitrators serving the Superior Court under the rules governing compulsory arbitrations typically spend more than four hours per case. The time is spent not only in presiding over the hearing but also in reviewing pretrial statements, pre-hearing and post-hearing memoranda, legal research, and deliberation. When the legal issues involved in the arbitration are not squarely within the practice area or expertise of the lawyer/arbitrator, the time expended in legal research may be considerable and

educational. The legal research required by a competent and conscientious arbitrator to render a decision based on legal principles should be recognized and, when possible, rewarded.

All arbitrators gain additional insight into the practice of law by observing other lawyers present their cases from opening statement to closing argument. As trier of fact, the arbitrator reviews trial notebooks, observes direct and cross-examination of witnesses (both lay and expert) and the handling of exhibits. In cases involving personal injury, the arbitrator will be called upon to thoroughly study and understand sometimes complex medical issues through testimony, reports, depositions, or affidavits from medical experts and/or treatises.

The educational experience gained by one who serves as an arbitrator in the compulsory arbitration system is bound to be as valuable as many of the continuing legal education courses or classes offered to members of The State Bar of Arizona. The proposed rule change limits the credit for continuing legal education for arbitrators to two hours per year. The credit would be received in lieu of statutory financial compensation.

Adoption of the rule change appropriately acknowledges that lawyers do learn from this service and would reward them in a small way (assuming they choose the credit hours over the statutory compensation) for serving the Courts in this necessary public service capacity. It would encourage lawyers to serve as arbitrators and benefit them for this learning experience. This Rule gives recognition of the value of arbitration and the time spent by arbitrators and the resulting knowledge gained. Continuing Legal Education credit is given for self-study and it is submitted that sitting as an arbitrator is more educational than self study. It is also submitted that the language of the “self study” rule does not allow arbitrators to obtain credit at the present time.

Terms such as “opening the flood gates” is not applicable in this case. This would be a specific rule and does not apply to other endeavors. The arbitrators’ value to the public, the court system and the legal profession and the knowledge gained legitimately puts this in a different category from other volunteer efforts. The limitation of credit to only 2 hours in spite of the number of hours spent by the arbitrator is reasonable and logical. The Pima County Bar Association respectfully requests that the Court grant the petitioner’s proposed rule change.

Respectfully submitted this \_\_\_\_ day of May, 2008.

**PIMA COUNTY BAR ASSOCIATION**

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Dee-Dee Samet, President  
Pima County Bar Association