

1 Arizona State Board of Accountancy
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9 **IN THE SUPREME COURT**
10 **STATE OF ARIZONA**

11 In the Matter of:

12 PETITION TO AMEND RULE 31,
13 RULES OF THE SUPREME COURT

14 Arizona Supreme Court
15 No. R4-_____

16 PETITION TO AMEND RULE 31, RULES
17 OF THE SUPREME COURT

18 **PETITION TO AMEND THE RULES OF THE SUPREME COURT**

19 Pursuant to Rule 28, Rules of the Supreme Court, the Arizona State Board of
20 Accountancy petitions the Court to adopt an amendment to Rule 31, Rules of the Supreme
21 Court, as proposed in Appendix A.

22 **I. INTRODUCTION AND BACKGROUND**

23 The Arizona State Board of Accountancy (“Board”) is a regulatory state agency
24 charged by the Arizona Legislature to protect the public from unlawful, incompetent,
25 unqualified or unprofessional certified public accountants (“CPAs”) through certification,
26 regulation and rehabilitation (Arizona Revised Statutes (“A.R.S”) § 32-703(A)). The
Board’s statutes and rules (A.R.S. §§ 32-701, *et seq.* and Arizona Administrative Code
 (“A.A.C.”) R4-1-101, *et seq.*) authorize the Board to regulate the profession of CPAs in the

1 State of Arizona, which includes business organizations¹, sole proprietorships, and
2 individuals registered with the Board as a firm (“CPA firm”). There are currently 1,460
3 active CPA firms registered with the Board that range from large international accounting
4 firms to small, local sole proprietorships.

5 Rule 31, Rules of the Supreme Court (“Rule 31”) outlines the Supreme Court’s
6 jurisdiction over the practice of law, who is permitted to practice law, restrictions on
7 disbarred attorneys’ and members’ right to practice law, and exemptions.

8 As the Board regulates CPA firms, it is not uncommon for a situation to arise
9 wherein a CPA firm, or a representative thereof, would like to appear before the Board to
10 provide information or engage in a discussion with the Board, or one of its advisory
11 committees appointed pursuant to A.R.S. § 32-703(B)(10), regarding an agenda item or
12 investigation. Rule 31, section (b) enumerates that except as provided in section (d), no
13 person shall practice law in this state or represent in anyway that he or she may practice
14 law in this state unless the person is an active member of the state bar. Rule 31, section
15 (a)(2)(A)(2) provides that the practice of law includes, “... *representing another in a*
16 *judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution*
17 *process such as arbitration and mediation...*”. In combination with legal advice provided
18 by the Office of the Arizona Attorney General, it has been the Board’s understanding that
19 a representative of a CPA firm is unable appear on behalf of the CPA firm before the Board,
20 as such appearance can be construed as the unauthorized practice of law, in violation of
21 Rule 31.

22 While the Board respects and understands the importance of Rule 31 in forbidding
23 the unauthorized practice of law, the current language of the rule presents three primary
24 concerns:

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26 ¹ Pursuant to A.R.S. § 32-701(5), “Business organization” means a partnership, professional corporation,
professional limited liability company, limited liability company or limited liability partnership or any other entity
that is recognized by the board and that is established under the laws of any state or foreign country.

1 the Board.

2 3. Operational Inefficiency on Board Operations – Limitations on how
3 the Board can interact with a CPA firm can also produce operational inefficiencies
4 while the Board attempts to address an issue. For example, a matter may be delayed
5 and deferred to a future Board meeting should a partner-in-charge of a CPA firm
6 appear to address a matter before the Board and learn that they must retain an
7 attorney first. Adopting the proposed amendment to Rule 31 simplifies the process
8 for CPA firms and allows the Board to deliberate and decide on issues in a timely
9 manner.

10 These situations and the frustration that has developed as a result of them, have
11 encouraged the Board to seek a resolution through petitioning to the Supreme Court to
12 amend Rule 31 to allow authorized officers, or full-time, permanent employees of a CPA
13 firm to appear before the Board to represent their CPA firm, as they are permitted to do in
14 other state agencies, such as OAH.

15 **II. SUMMARY OF THE PROPOSED AMENDMENT TO RULE 31**

16 The proposed amendment contained in Appendix A seeks to add subsection 32, to
17 section (d) of Rule 31. This amendment would permit an owner, officer or full-time,
18 permanent employee of a legal entity or sole proprietorship to represent the legal entity or
19 sole proprietorship before the Arizona State Board of Accountancy, provided that they meet
20 certain criteria. The language of the proposed amendment is substantially similar to other
21 exemptions currently outlined in section (d). No other changes are requested by the Board.

22 **III. CONCLUSION**

23 Petitioner respectfully requests that the Court adopt the proposed rule amendment
24 as reflected in Appendix A.

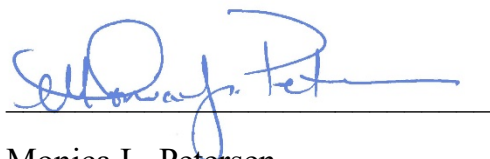
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1 Dated this 16th day of November, 2018

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Monica L. Petersen
Executive Director


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8 Electronic copy filed with the
9 Clerk of the Arizona Supreme Court
this 16th day of November, 2018.

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11 By: 

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