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6 ASB #9312; PCC#54852
7 Petitioner

8 SUPREME COURT OF THE STATE OF ARIZONA

9 In the matter of the Petition to:)
10 ESTABLISH A RULE SETTING)
11 GUIDELINES FOR JURY SERVICE)
12 BY COURT EMPLOYEES)
_____)

No. R- _____

13 Pursuant to Rule 28, Rules of the Supreme Court, Petitioner asks the Court to consider
14 the following new rule:

15 **I. SUMMARY OF PROPOSED NEW RULE**

16 The proposed rule would prohibit a person who is an employee of a specific Arizona
17 court from serving as a juror in any trial before any division of that same court. Rather, the
18 person can only serve as a juror in a different court in their jurisdiction.
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20 **II. PROPOSED TEXT**

21 “Any person who is an employee of a court (whether paid or unpaid) may not
22 serve as a juror in any matter before any division of that same court. In such
23 case, when the person is selected for jury service, the Jury Commissioner shall
24 direct them to serve as a juror in a different court within that jurisdiction.”
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1 **III. GROUNDS FOR PROPOSED NEW RULE**

2 This Petition arises out of an experience had by undersigned Petitioner several years
3 ago. In brief outline, the facts are as follows:

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5 1. Petitioner (and another attorney as co-counsel) were approached by a Party regarding
6 a substantial adverse civil jury verdict and judgment that had been rendered against
7 the Party a short time before in the Superior Court.

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9 2. Petitioner and co-counsel agreed to take Party's case. It was quickly determined that
10 the best approach was to make a Motion for New Trial.

11 3. One of the issues raised by Party concerned the qualifications of one of the jurors
12 (hereinafter, "Juror"). Party claimed that it was only after the trial concluded that he
13 remembered that he knew Juror, and felt that she might have been biased against him.

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15 4. Party knew Juror as follows. Juror was employed as the Judicial Administrative
16 Assistant in another division of the same Superior Court. A few years earlier, Party
17 had been a litigant in a case before that other division, and had contact with Juror in
18 their professional capacity during that case. Party claimed that case did not go well
19 for him, and thought the judge of that division and staff (including Juror) did not have
20 a good impression of him.
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23 5. In the more recent case (on which Petitioner was later retained), during selection,
24 Juror was asked the customary questions regarding her qualifications, including her
25 employment. At the time she stated only that she "worked for the Superior Court".
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1 She did not specify her position or the division in which she worked. She was not
2 questioned further on that point. She did not say that she knew Party from the
3 previous case before the division where she worked.
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5 6. As a follow up to this set of circumstances, in preparation for the hearing on the
6 upcoming Motion for New Trial, Juror was deposed and questioned on her recall of
7 Party from his earlier case in the other division, etc. This testimony was presented in
8 support of the motion; however, it was not deemed a sufficient reason to grant a new
9 trial.
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11 7. Meanwhile, undersigned Petitioner had another case before the other division in
12 which Juror was the Judicial Administrative Assistant. Petitioner had dealings with
13 the other division, including Juror, during the same time period that the Motion for
14 New Trial was being litigated. Petitioner remembers being uncomfortable with this
15 circumstance.
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18 8. Fortunately, no adverse effects upon the other case were observed.

19 **DISCUSSION:**

20 As the foregoing factual circumstance shows, the present policy which allows a court
21 employee to serve as a juror in a trial before that same court gives rise to two potential types
22 of problems. First, a person's contact with a court employee in their employee capacity may
23 give rise to questions of impartiality if that employee also later serves as a juror in a case
24 involving that person. Second, a litigant's counsel in one case may have other dealings with
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1 the same court on another case, which dealings may bring the counsel in contact with a court
2 employee who is also ends up serving as a juror in a case before that court . This may affect,
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4 or give the appearance of affecting, either of the cases in which counsel is appearing.

5 Jury duty is an important obligation for all citizens. The mere fact that a person works
6 for a court should not excuse them from being called upon to perform such service.
7 However, the impartiality of the jury trial system is of paramount importance. So, the
8 obligation of individual court employees to share in the jury duty burden ought not be
9 enforced at the expense of the actual or apparent integrity of the courts. It is believed that
10 the proposed rule provides a solution to the potential conflict between these objectives.
11 Although, under the rule, a court employee would be prohibited from serving as a juror in
12 the court in which they are employed, there usually are other courts in which they can still
13 serve to fulfill their duty. So, for example, a Superior Court employee can still be asked to
14 serve in the Justice or a Municipal Court, depending on their residence.
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18 Lastly, it is not known where in the rule books such a rule should specifically appear,
19 or whether it should be duplicated in all of the sets of rules for each court where juries are
20 used.

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22 RESPECTFULLY SUBMITTED this 11th day of February, 2009.

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25 ETHAN STEELE
26 Petitioner