

1 Lisa M. Panahi, Bar No. 023421  
2 General Counsel  
3 State Bar of Arizona  
4 4201 N. 24th Street, Suite 100  
5 Phoenix, AZ 85016-6288  
6 (602) 340-7236

7 **IN THE SUPREME COURT**  
8 **STATE OF ARIZONA**

9 In the Matter of:

10 **PETITION TO AMEND RULE**  
11 **76.1(b)(2) and (c) OF THE**  
12 **ARIZONA RULES OF FAMILY**  
13 **LAW PROCEDURE**

Supreme Court No. R-21-

14 **STATE BAR OF ARIZONA**  
15 **PETITION**

16 Pursuant to Rule 28(a) of the Arizona Rules of Supreme Court, the State Bar  
17 of Arizona (the “State Bar”) hereby petitions the Court to amend Rule 76.1(b)(2)  
18 and (c), Arizona Rules of Family Law Procedure (“Family Rule(s)"). These  
19 proposed amendments will provide an explicit process for pretrial statements and  
20 ensure protection of due process rights.

21 Family Rule 76.1(b)(2), sets forth the date a pretrial statement is due (twenty  
22 (20) days before the trial date). However, family law practitioners have reported  
23 that courts are typically ordering parties to submit these statements five (5) days  
24 before the trial date. Modifying this rule, as set forth in the Appendix attached  
25 hereto, would allow parties to have more time to settle the matter. This additional

1 settlement option will provide less expense for the parties by allowing more time for  
2 resolution of issues. In turn, it will allow more docket flexibility for the court to  
3 prioritize and hear other cases that require judicial intervention.  
4

5 Family Rule 76.1(c), contemplates joint or separate pretrial statements. The  
6 rule, however, does not currently provide a procedure for the preparation and  
7 submission of a joint pretrial statement; the only reference is that the “initiating”  
8 party must take the lead. An attorney with experience knows what this means. A  
9 *pro per*, on the other hand, may not understand what this means. Anecdotally, family  
10 law practitioners report that only a minority of the cases have attorney-  
11 representation, and even less in the smaller counties. In order to provide a level  
12 playing field for court proceedings, the rules should be as clear as possible, provide  
13 as much direction as reasonable, and protect the due process rights of the parties by  
14 addressing all issues to be contested at trial.  
15  
16

17 Requiring that parties file a “Notice of Issues” to be addressed at trial, at least  
18 twenty (20) calendar days before the trial date, would resolve opacity in the current  
19 pretrial process. This initial specificity, in conjunction with distinguishing  
20 “calendar” from “business” days, better clarifies the sequential steps for filing the  
21 pretrial statement. Clear and specific guidance facilitates better compliance with the  
22 rules and leads to overall efficiency in case adjudication.  
23  
24  
25

1 Greater clarity in the process, as proposed with this rule amendment, will help  
2 unrepresented litigants better understand the process for submitting a pretrial  
3 statement, including the nuances of date calculations. It will also provide judges with  
4 a better understanding of the contested issues to streamline the court's planning for  
5 trial.  
6

7 **CONCLUSION**

8 The State Bar of Arizona respectfully requests that the Court modify Family  
9 Rule 76.1(b)(2) and (c) as set forth in the attached Appendix.  
10

11  
12 RESPECTFULLY SUBMITTED this 10<sup>th</sup> day of January 2021.  
13

14 */s/ Lisa M. Panahi*

15 \_\_\_\_\_  
16 Lisa M. Panahi  
17 General Counsel  
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19 Electronic copy filed with the  
20 Clerk of the Supreme Court of Arizona  
21 this 10<sup>th</sup> day of January 2021.

22 by: */s/ Patricia Seguin*  
23  
24  
25

## Appendix

*(Please note: deletions are reflected by ~~strikethrough~~ and additions are reflected by underline.)*

### **Rule 76.1. Scheduling Conference; Scheduling Statement; Pretrial Statement.**

**(a) Scheduling Conference.** The court may on its own, and on request of a party must, hold a scheduling conference to formulate a plan for trial, including procedures for facilitating the admission of evidence and the filing of a pretrial statements. At least one of the attorneys who will conduct the trial for each party, and any self-represented parties, must attend this conference.

**(b) Timing.** Unless the court orders otherwise, the parties must file:

(1) a scheduling statement 20 days before the date set for a scheduling conference, if one is set; and

(2) a pretrial statement ~~20~~ 5 days before a trial.

**(c) Joint and Separate Statements.** Unless the court orders otherwise, the parties may file joint or separate statements. The party who initiated the action set for hearing must take the lead to prepare a draft joint statement and must communicate with every other party concerning the statement as outlined below:

(1) the parties will file a Notice of the Issues to be resolved at trial by the parties 20 calendar days before the trial date.

(2) the party who initiated the action set for hearing must provide their outline for the pretrial statement to the opposing party 15 calendar days prior to the trial.

(3) then, 8 business days or more before the hearing, the other party will have their portion to the initiating party so that the positions can be merged.

(4) the pretrial statement will be reviewed by both parties and filed no less than 5 business days prior to the hearing date.

Every statement must be signed by each party or counsel. However, if the parties are self-represented and there is a history of domestic violence, the parties must file separate statements.

**(d)-(h)** [No change in text.]