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11 (STATE BAR NUMBERS 003813 AND 16990)

12 IN THE SUPREME COURT OF THE STATE OF ARIZONA

13 IN THE MATTER OF:

R-08-0027

14 PETITION TO ADD RULES 57.1 AND
15 57.2 OF THE ARIZONA RULES OF
16 CIVIL PROCEDURE

MARICOPA COUNTY ATTORNEY'S
COMMENT TO PETITION TO ADD
RULES 57.1 AND 57.2 OF THE
ARIZONA RULES OF CIVIL
PROCEDURE

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18 The Maricopa County Attorney hereby supports, with an amendment, to the
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20 Petition to Add Rules 57.1 and 57.2 of the Arizona Rules of Civil Procedure.

21 Respectfully submitted this 19th day of May, 2009.

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23 ANDREW P. THOMAS
24 MARICOPA COUNTY ATTORNEY

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26 BY: Philip J. MacDonnell
27 PHILIP J. MACDONNELL
28 CHIEF DEPUTY

1 takes advantage of a finding of guilt in the criminal matter where the defendant has either
2 knowingly and voluntarily entered a guilty plea or been found guilty of the offense by
3 proof beyond a reasonable doubt and allows for a contemporaneous finding of the
4 victim's factual innocence of the offense for which the defendant has been found guilty.
5 The proposed language ensures that the petitioner or the prosecuting agency on behalf of
6 the petitioner is afforded the opportunity for a judicial determination at a stage in the
7 criminal proceeding in which the defendant has already been adjudicated and held to a
8 standard of proof higher than the standard of clear and convincing as required in a
9 determination of factual innocence. A contemporaneous finding of the victim's factual
10 innocence of the charged offense upon the determination of defendant's guilt in that same
11 offense spares over-taxed judicial resources and promotes judicial economy.
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16 For these reasons, the MCAO supports, with amendment, the changes set forth in
17 the Petition.

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19 Respectfully submitted this 19th of May, 2009.

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23 MARICOPA COUNTY ATTORNEY

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EXHIBIT A

Rule 57.1. Declaration of Factual Innocence

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G. Hearing and Determination.

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4. Upon a determination of the defendant's guilt in the criminal matter, the criminal court may contemporaneously enter a determination of a victim's factual innocence without a hearing or submission of proof by affidavit. A determination of the defendant's guilt is deemed entered upon the defendant's change of plea or guilty verdict.