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3 (FIRM STATE BAR NO. 0003200)

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11 (STATE BAR NUMBERS 003813 AND 17215)

12 IN THE SUPREME COURT OF THE STATE OF ARIZONA

13 IN THE MATTER OF:

R-08-0015

14 PETITION TO AMEND RULE 50,
15 ARIZONA RULES OF CIVIL
16 PROCEDURE.

MARICOPA COUNTY ATTORNEY'S
COMMENT TO PETITION TO
AMEND RULE 50, ARIZONA RULES
OF CIVIL PROCEDURE

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18 The Maricopa County Attorney's Office supports the proposed amendment to Rule
19 50 of the Arizona Rules of Civil Procedure.

20 This Petition properly addresses a problem unique to Rule 50, Arizona Rules of
21 Civil Procedure, pertaining to directed verdicts, which has been corrected by the Federal
22 system's recent 2006 amendment to Rule 50, Federal Rules of Civil Procedure.
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24 Failing to make a motion for judgment after the "close of evidence," in addition to
25 a motion made at the close of the Plaintiff's case, is fraught with peril. Though this is a
26 pre-requisite to a motion for new trial, many experienced practitioners are apparently
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1 unaware of this nuance stated in Rule 50(b). Anecdotally, by virtue of this lack of
2 knowledge among litigators, many motions for new trial are responded to by opposing
3 parties and ruled upon by the Courts – without citation to this little-used provision of Rule
4 50. This Office agrees that Rule 50, in its current form, contains a trap for the unwary.
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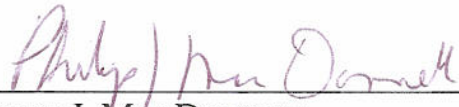
6 Further, like many firms in this state, this Office has a number of attorneys who
7 practice in both federal and state court who would benefit from this rule change. The
8 practice in Arizona, both prior to and after 2006, has evolved to be more in conformance
9 with the new Federal Rule 50, which was similarly amended to reflect the reality that
10 attorneys at trial often fail to consider renewing a previously-made motion for judgment
11 at the end of the close of evidence. Having to utilize two sets of rules on basic trial issues
12 in Arizona is unduly cumbersome, and to the extent possible, there should be uniformity
13 in the federal and state rules. Traps for the unwary that do not serve the purpose or intent
14 of the Rules should be eliminated, as in the case of current Rule 50(b). Finally, adoption
15 of this Rule would encourage more rulings on the merits of cases before the courts, rather
16 than on technicalities.
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1 For these reasons the Maricopa County Attorney's Office supports the proposed
2 amendment to Rule 50.

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4 Respectfully submitted this 19th of May, 2009.

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9 BY: 
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