

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-10-0001
PETITION TO AMEND RULE 26(b)(5),)
ARIZONA RULES OF CIVIL PROCEDURE)
)
) **FILED 09/02/2010**
)
_____)

ORDER
Rule 26(b)(5), Rules of Civil Procedure

A petition having been filed proposing to amend Rule 26(b)(5), Rules of Civil Procedure, and comments having been received, upon consideration,

IT IS ORDERED that Rule 26(b)(5), Rules of Civil Procedure, be amended in accordance with the attachment hereto, effective January 1, 2011.

DATED this _____ day of September, 2010.

REBECCA WHITE BERCH
Chief Justice

TO:
Rule 28 Distribution
James K Kloss

ATTACHMENT*

Rule 26(b)(5), Rules of Civil Procedure

(5) *Non-party at Fault.* Any party who alleges pursuant to A.R.S. § 12-2506(B) (as amended), that a person or entity not ~~a party to the action~~ currently or formerly named as a party was wholly or partially at fault in causing any personal injury, property damage or wrongful death for which damages are sought in the action shall provide the identity, location, and the facts supporting the claimed liability of such nonparty at the time of compliance with the requirements of Rule 38.1(b)(2) of these Rules, or within one hundred fifty (150) days after the filing of that party's answer, whichever is earlier. The trier of fact shall not be permitted to allocate or apportion any percentage of fault to any nonparty whose identity is not disclosed in accordance with the requirements of this subpart 5 except upon written agreement of the parties or upon motion establishing good cause, reasonable diligence, and lack of unfair prejudice to other parties ~~newly discovered evidence of such nonparty's liability which could not have been discovered within the time periods for compliance with the requirements of this subpart 5.~~

* Additions to text are shown by underscoring and deletions from text are shown by ~~strikeouts~~.

