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

10 PETITION TO ADOPT JUSTICE
11 COURT RULES OF CIVIL
12 PROCEDURE

Supreme Court No. R-12-0006

**Comment of the State Bar of
Arizona on Petition to Adopt Justice
Court Rules of Civil Procedure**

13 The Arizona Supreme Court, by Administrative Order 2011-13, established
14 the Committee on Civil Rules of Procedure for Limited Jurisdiction Courts (the
15 “Committee”). The Committee has petitioned the Supreme Court to adopt a
16 separate set of rules for civil cases in justice courts, captioned the Justice Court
17 Rules of Civil Procedure (“Proposed Rules”). The State Bar acknowledges that the
18 members of the Committee put in a great many hours on a very complicated and
19 important task, and that the Proposed Rules are in many ways more straightforward
20 and less technical than the Arizona Rules of Civil Procedure. The State Bar
21 commends the Committee for its efforts and supports the adoption of the Proposed
22 Rules with the modifications detailed below.

23 **I. Background**

24 The Committee was created to further the Supreme Court’s Justice 20/20
25 Strategic Agenda. In setting forth that Agenda, the Supreme Court noted that the
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1 legal system can be intimidating, and its complexity can make navigation difficult
2 for victims, witnesses, and litigants not represented by counsel. It also observed
3 that simplifying the rules for less complex cases and streamlining case management
4 processes can help make court proceedings more understandable and should result
5 in greater public trust and confidence in the system. The Court's Action Plan for
6 implementing its Strategic Agenda required the development of separate, simplified
7 rules for civil cases in justice courts. Justice 20/20 Strategic Plan, Action Plan I(B).

8 In January 2011, the Court issued Administrative Order 2011-13,
9 establishing the Committee. The Court's Order directed the Committee to review
10 the Arizona Rules of Civil Procedure and determine if the Court should adopt either
11 a separate set of specialized rules for justice courts or a modification of the Rules of
12 Civil Procedure. The Committee was to determine which approach would best
13 serve the Court's Strategic Agenda of streamlining the justice court processes.
14 Administrative Order 2011-13 ¶ 2. The Court further directed the Committee to
15 deliver its report of recommendations to the Arizona Judicial Council by December
16 2011.

17 The Committee determined at its first meeting that it would propose a
18 separate set of rules for justice courts rather than amendments to the existing
19 Arizona Rules of Civil Procedure. The methodology used by the Committee was to
20 begin with a review of the Rules of Civil Procedure and determine whether each
21 rule and subpart applied to justice court civil cases. If a specific rule applied in
22 justice court, the Committee either incorporated the existing rule into the Proposed
23 Rules by reference or rewrote the existing rule using new or simpler language. As a
24 result, the Proposed Rules are a subset of the Arizona Rules of Civil Procedure,
25 some of which have been rewritten for simplicity and some of which have been
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1 cross-referenced to corresponding Arizona Rules of Civil Procedure to allow for
2 use of the case law developed under the rules used in superior court. A subset of
3 fifty of the Arizona Rules of Civil Procedure is incorporated by reference.

4 Subject to the revisions suggested and matter addressed below, the State Bar
5 supports adoption of the Proposed Rules.

6 **II. Suggested Revisions**

7 The State Bar recognizes that reasonable minds may differ regarding whether
8 the Proposed Rules fulfill the Court's directive to simplify and streamline civil
9 litigation in the justice courts. However, the State Bar submits that, in many
10 respects, the Proposed Rules are simpler than the existing Arizona Rules of Civil
11 Procedure. The State Bar believes that the Proposed Rules can be further refined so
12 as to best achieve the directive set forth in Administrative Order 2011-13. To assist
13 the Committee in this regard, the State Bar provides the suggested revisions and
14 comments contained in the attached redlined version of the Proposed Rules. *See*
15 *Appendix A.*

16 Included among the suggested revisions reflected in Appendix A are the
17 following recommendations: (A) the language of Proposed Rule 109(b) should be
18 replaced with the existing language of Rule 11, Ariz. R. Civ. P.; and (B) the
19 language of Proposed Rule 110(b)(2) should be augmented to also require
20 identification of the date of default and amount due as of the date of default in
21 complaints seeking to recover on assigned debts.

22 **III. Provisions Specific to Consumer Debt Collection Matters**

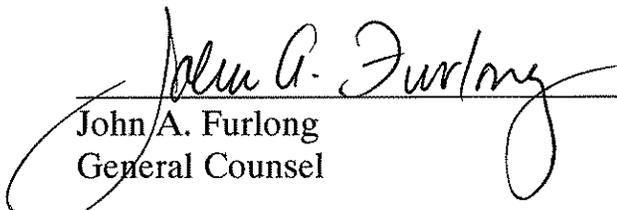
23 The State Bar further notes that the Proposed Rules contain certain
24 provisions and procedural requirements particular to matters involving the
25 collection of consumer debts. *See* Proposed Rules 109, 110 and 121. A division
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1 exists between members of the State Bar who represent consumers and those who
2 represent consumer debt holders as to whether parties suing upon consumer debts
3 should be required to meet procedural requirements beyond those required for other
4 civil matters in justice court. So that this Court may decide the consumer-debt
5 collection issues raised by the petition with the benefit of the competing views of
6 certain segments of the State Bar's membership, the State Bar attaches hereto as
7 Appendices B and C position statements on the issues prepared by representatives
8 of the creditor community and the debtor community, respectively.

9 **IV. Recommendations**

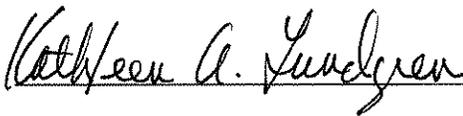
10 The State Bar supports adoption of the proposed Justice Court Rules of Civil
11 Procedure with the revisions recommended in this comment.

12 **RESPECTFULLY SUBMITTED** this 28th day of February, 2012.

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15 
16 John A. Furlong
17 General Counsel

18 Electronic copy filed with the Clerk
19 of the Supreme Court of Arizona this

20 29th day of February, 2012.

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22 By: 
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