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CLERK SUPREME COURT

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 JANET JOHNSON
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 7 IN THE SUPREME COURT
 8 OF THE STATE OF ARIZONA
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<p>10 JACK LEVINE, 11 Petitioner</p>	<p>No. RULE 28 (A) PETITION</p>
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14 The purpose of this petition is to require a competitive examination for all judicial
 15 applicants on the common law, the Arizona Rules of Evidence and the various Rules of
 16 Procedure by adding a new Rule 8 to the Uniform Rules of Procedure for the
 17 Commissions on Appellate and Trial Court Appointments as follows:
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19 **Rule 8. Competitive Examinations**
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21 Every applicant shall be examined on the common law, the Arizona Rules of
 22 Evidence, and the various rules of procedure through an appropriate test or
 23 examination selected by the Commission. The scores achieved by the applicant shall
 24 be numerically graded and compared to other applicants and shall be considered by
 25

1 the Commission together with all other qualifications possessed by the applicant.

2 COMMENT

3 Although our Merit Selection system has produced some exceptional judges, it has
4 failed to address the nettlesome problem of Merit Selection judges who are deficient in
5 their knowledge of the common law or the Rules of Evidence and our rules of procedure.
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7 Although, this does not frequently occur, it can be devastating to litigants and their
8 attorneys who must then spend inordinate amounts of time and financial resources
9 appealing decisions on basic legal issues.
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11 The Rules of Procedure for Appellate and Trial Court Appointments are totally
12 silent on any express standards or qualifications for possessing judicial knowledge, but,
13 instead, focuses “on the applicant's life experiences, community activities and
14 background.” Although the stated goal of the judicial nominating process “is to select
15 judges who have outstanding professional competence and reputation” there is no
16 objective criteria provided to the Commissions to determine an applicant’s knowledge of
17 the law, the rules of evidence or the rules of procedure.
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19 The problem presented by the appointment of judges without an adequate
20 knowledge of the law, is exacerbated by the trend towards increased specialization among
21 the Bar and by the practices in Maricopa and Pima County of rotating judges every two or
22 three years from one area of assignment to another. Judges appointed to the bench under
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1 Merit Selection may have previously been very competent lawyers in their particular areas
2 of specialty, however, when such a judge is assigned to an entirely new area of law after
3 being appointed to the bench, they may be at a loss to correctly decide legal or procedural
4 issues to the same extent as another judge who may have had more experience in diverse
5 areas of the law.
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7 In order to address this problem, it is submitted that all judicial applicants should
8 be required to take a competitive examination, testing their knowledge of the law, the
9 rules of evidence and the rules of procedure. Not only would such competitive
10 examinations improve the quality of judicial appointments, but it would have the added
11 advantages of lending some objectivity to the Merit Selection process, which is presently
12 viewed by many as relying too heavily on subjective assessments and political
13 considerations. The competitive examination proposed herein would be selected by the
14 Commissions and could be either the Arizona State Bar Examination or an equivalent bar
15 examination. Presumably, the Supreme Court's Committee on Examinations could
16 supervise and administer the proposed examinations.
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19 An additional benefit of identifying those who are knowledgeable in the law is that
20 judges will not have to spend as much time researching areas of the law or the rules that
21 they may be unfamiliar with. Presumably, this will permit judges to minimize backlogs
22 and handle a greater volume of cases than at present. The adoption of the Merit Selection
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1 system in 1974 was a great improvement over the old system of electing judges. The
2 adoption of this measure will improve our Merit Selection system as well as increase the
3 confidence of the Bar and the public in the quality of judicial decision making.

4 RESPECTFULLY SUBMITTED this 4th day of December 2012.
5

6 JACK LEVINE, P.C.
7

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13 ORIGINAL AND SIX COPIES of the
14 foregoing hand-delivered for filing
15 with the Clerk of the Supreme Court
this 4th day of December 2012 to:

16 The Clerk of the
17 Arizona Supreme Court
18 1501 W. Washington
Phoenix, Arizona 85007-3231

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