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**IN THE SUPREME COURT STATE OF ARIZONA**

In the Matter of Petition to Amend	)	Supreme Court
Rule 5(a), Arizona Rules of	)	No. R-_____
Procedure for Enforcement of Tribal	)	
Court Involuntary Commitment	)	Petition to Amend Rule
Orders and Rule 5(b), Arizona Rules	)	5(a), Arizona Rules of Procedure for
of Procedure for the Recognition of	)	Enforcement of Tribal Court
Tribal Court Civil Judgments	)	Involuntary Commitment Orders and
_____	)	Rule 5(b), Arizona Rules
		of Procedure for the Recognition of
		Tribal Court Civil Judgments

**INTRODUCTION**

Pursuant to Rule 28 of the Rules of the Supreme Court, the Arizona Association of Superior Court Clerks (the Clerks) respectfully petitions the Arizona Supreme Court to amend Rule 5(a) of the Arizona Rules of Procedure for Enforcement of Tribal Court Involuntary Commitment Orders and Rule 5(b) of the Arizona Rules of Procedure for the Recognition of Tribal Court Civil Judgments to remove the requirement that the Clerks of superior court certify that no objections have been filed after the time for objections has passed.

Given the current availability of information and the notification process already existing in the rules, the administrative oversight for this process is not a necessary or efficient use of Clerk resources. This Court did away with a similar process in default judgments in civil cases, effective January 1, 2013. *See Supreme*

## **I. SUMMARY OF PROPOSED CHANGES**

Rules of Procedure for Enforcement of Tribal Court Involuntary Commitment Orders: These rules allow tribal courts to file their commitment orders in superior court. The rules require that, upon filing, the filing party serve notice of the filing and a copy of the tribal court commitment order on the appropriate parties and file proof of service with the Clerk. The parties then have five days to file a response. Rule 5(a) requires the Clerk to monitor the case and, if five days have passed without a responsive filing, the Clerk must complete a Certification in the format provided in rule.

The Clerks believe this administrative oversight is unnecessary, given that the appropriate parties have been served with a document advising them that they must file a responsive pleading within five days or the commitment order will be enforceable as if issued by the superior court. This process is similar to former Civil Rule 55 and Family Law Rule 44 that required the Clerk to enter a default judgment by filing a statement that the required time had passed. This Court amended those rules to simplify the process statewide, clarifying that default judgments would enter as a matter of course, absent a timely-filed objection. In addition, the tribal courts, superior court, Attorney General's office and the Clerks have an expedited process for waiver of the five-day objection period to ensure expedited services are available in involuntary commitment proceedings. The Clerks support this sensible approach to the tribal court rules in this petition.

Rules of Procedure for the Recognition of Tribal Court Civil Judgments: These rules allow a person to file a tribal judgment in superior court. As above, the rules require the filing party to serve notice of the filing and a copy of the judgment on the responding party and to file proof of service with the Clerk. Rule

3 requires that notice to the responding party follow Civil Rule 4.1. That rule requires, among other things, informing the responding party that failure to respond will result in entry of the judgment. This combination of rules and procedures eliminates the need for the Clerks to monitor the case and issue a certification that the required number of days have passed. Like default judgments, it is unnecessary for the Clerks to restate in a filing what is already provided for in the rules.

The amended language proposed here brings these rules in line with the practice in civil and family law default judgments that have been in effect statewide for two years. The Arizona Association of Superior Court Clerks, therefore, respectfully requests that the Court amend Rule 5(a) of the Arizona Rules of Procedure for Enforcement of Tribal Court Involuntary Commitment Orders and Rule 5(b) of the Arizona Rules of Procedure for the Recognition of Tribal Court Civil Judgments to remove the requirement that the Clerks certify that no objections have been filed after the time for objections has passed. Changes are reflected in mark-up where deleted language appears in ~~strikeout~~ and new language appears underlined.

DATED this 26th day of December, 2014.

/s/ Virlynn Tinnell  
Hon. Virlynn Tinnell, President  
Arizona Association of Superior Court Clerks

## II. TEXT OF PROPOSED RULE CHANGES

### Arizona Rules of Procedure for Enforcement of Tribal Court Involuntary Commitment Orders

#### Rule 5. Enforcement of Tribal Court Commitment Order

~~(a) **Certification by the Clerk of Court.** If no responses are timely filed, the next court day after the expiration of the time period to respond the clerk shall, on a form substantially similar to Form II of these rules, issue a certification that no responses were timely filed, and the tribal court order shall be enforceable in the same manner as if issued by the superior court.~~

(a) **Entry of Order.** The acceptance by the clerk of the filing of the tribal court order constitutes the entry of the order.

(b) **Effective Date of Order.** A tribal court order entered by the clerk shall be effective five (5) days after the filing of the tribal court order.

(c) **Effect of Responsive Pleading.** A tribal court order shall not become effective if the proposed patient or the patient's guardian or representative pleads or otherwise objects as provided by these Rules prior to the expiration of five (5) days from the filing of the tribal court order.

(d) **Applicability.** The provisions of this rule requiring notice prior to the entry of the tribal court order shall apply only to a tribal court order sought and entered pursuant to this rule.

~~(b) **Standard of Review Following Response.** [No change to text.]~~

~~(e) **Findings Required in the Tribal Court Order.** [No change to text.]~~

~~(d) **Other Information Required in the Tribal Court Order.** [No change to text.]~~

~~(e) **Commitment Period.** [No change to text.]~~

~~**Form II. Certification** [DELETE]~~

## **Arizona Rules of Procedure for the Recognition of Tribal Court Civil Judgments**

### **Rule 5. Recognition of Tribal Judgments**

**(a) Enforcement of Tribal Judgment.** [No change in text.]

**(b) ~~Certification by Clerk of Court~~ Entry of Order.** If no objections are timely filed, ~~the clerk shall issue a certification that no objections were timely filed, and~~ the tribal judgment shall be enforceable in the same manner as if issued by the superior court.

**(c) Mandatory Considerations Following Objection.** [No change in text.]

**(d) Discretionary Considerations Following Objection.** [No change in text.]