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IN THE ARIZONA SUPREME COURT

PETITION TO AMEND RULE 4,)	Supreme Court No.
UNIFORM RULES OF PROCEDURE)	R. 07-_____
FOR COMMISSIONS ON APPELLATE)	
AND TRIAL COURT APPOINTMENTS)	
_____)	

Pursuant to Rule 28 of the Rules of the Supreme Court, the Commissions on Appellate and Trial Court Appointments respectfully petition this Court to amend Rule 4 of the Uniform Rules of Procedure for Commissions on Appellate and Trial Court Appointments as set forth in the attached Appendix A.

In November 2007 the commissions convened an annual joint meeting to discuss issues of common interest. Questions and concerns were raised by commissioners as to the meaning and scope of the current language in Rule 4 regarding a commissioner’s participation in the nominating process when a member of the commissioner’s family applies for judicial office. The rule currently provides that a commissioner may not vote on the application of “a family member within the third degree of consanguinity.” The commissions believe it would benefit commissioners, applicants and the public to be more specific in describing the particular relationships that disqualify a commissioner from voting on a family member’s application. Commissioners further expressed

discomfort with participating in the nominating process in any way when a close family member applies. Commissioners in attendance at the annual meeting voted to propose rule amendments to clarify the relationships that disqualify a commissioner from voting on an application and to prohibit a commissioner from participating in any aspect of the nominating process so long as an immediate family member is being considered for nomination.

For the foregoing reasons, the Commissions respectfully request that the Court amend Rule 4, Uniform Rules of Procedure for Commissions on Appellate and Trial Court Appointments, as set forth in the attached Appendix A.

Respectfully submitted this 27th day of December, 2007.

Commissions on Appellate and Trial Court Appointments

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Electronic copy filed with the
Clerk of the Supreme Court of Arizona
this 27th day of December, 2007.

by: _____

APPENDIX A

(new language is underlined, deletions are ~~stricken~~)

RULE 4. COMMISSIONER IMPARTIALITY

a. A Commissioner shall consider each applicant for a judicial office in an impartial, objective manner.

b. A Commissioner shall disclose to the Commission any relationship with an applicant (business, financial, personal, fiduciary, or attorney-client) or any other possible cause for conflict of interest, bias or prejudice. A Commissioner shall also disclose efforts to recruit an applicant. A Commissioner is disqualified from voting on the application of a family member within the third degree of ~~consanguinity~~ relationship or a present co-worker in the same company or firm as the Commissioner. A family member within the third degree of relationship is defined as:

- the Commissioner's spouse, child, parent, sibling, half-sibling, or step-relative in the same relationship;
- the spouse of the Commissioner's child, parent, sibling, half-sibling or step-relative;
- the Commissioner's in-laws, aunt, uncle, niece, nephew, grandparent, grandchild, or first cousin.

A Commissioner ~~shall disqualify himself or herself~~ is also disqualified from voting on an application if voting on that application would present a conflict of interest. At the commencement of any Commission meeting where qualifications of any applicant are to be considered, the Chair shall inquire as to any basis of disqualification or disclosure pursuant to this rule.

c. If an applicant is a member of a Commissioner's immediate family (spouse, child, parent, sibling or step-relative in the same relationship) that Commissioner shall promptly notify the Chair of his/her relationship to the applicant and is disqualified from participating in the nominating process so long as the immediate family member is being considered for nomination for the judicial vacancy which is the subject matter of the application.

e.d. A Commissioner shall not be influenced other than by facts or opinion which are relevant to the judicial qualifications of the applicants. A Commissioner shall promptly report to the Chair any such attempt by any person or organization to influence a Commissioner other than by fact or opinion.

d.e. A Commissioner shall not individually communicate verbally or in writing with an applicant, from the time the application is submitted until the Commission conducts its final vote on the nominations and is dismissed, about the application, the contents of the application, the judicial position, the Commission, the nomination process or any other matters related to the judicial vacancy which is the subject matter of the application.