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*Petitioners*

**IN THE SUPREME COURT  
STATE OF ARIZONA**

In the Matter of:

PETITION FOR  
AMENDMENTS TO ARIZONA  
RULES OF CIVIL  
PROCEDURE 11 AND 26

Supreme Court No. R-\_\_ - \_\_\_\_

**Rule 28(G) Request for Expedited  
Consideration of Petition to  
Further Amend the Arizona Rules  
of Civil Procedure to Modify Rule  
11 and Add Rule 26(b)(2)(D)**

Pursuant to Rule 28(G), Rules of the Arizona Supreme Court, the undersigned respectfully request that this Court consider and adopt certain necessary amendments to the Arizona Rules of Civil Procedure on an expedited basis, consistent with this Request. As set forth in the Petition that this Request accompanies, the particular amendments at

issue were unanimously recommended by this Court's Committee on Civil Justice Reform (CCJR), unanimously supported by the Arizona Judicial Council, and did not face widespread opposition in the Rule 28 public comment process. They were, however, left out of the Court's Order on the petition filed by the CCJR. Petitioners respectfully request that this be remedied on an expedited basis, so the amendments might take effect on July 1, 2018, with the rule changes representing much of the rest of the CCJR's work.

I. **THE PETITION PRESENTS AN URGENT MATTER, AND COMPELLING CIRCUMSTANCES RENDER THE ANNUAL RULE PROCESSING CYCLE INADEQUATE.**

Rule 28(G)(1) of this Court's rules provides that if "a rule change petition presents an urgent matter for which compelling circumstances render the annual rule processing cycle inadequate, a request to consider a rule change petition on an expedited basis may be filed with the petition." This is one such request, accompanying just such a Petition. Here, if the Petition this Request accompanies were considered in the annual rule processing cycle, it would most likely not be heard by the Court until August 2018, and the rule changes could take effect sometime in 2019. *See* Rule 28(A)(1), Ariz. R. Supreme Ct. By then, the

rest of the CCJR's work will have taken effect, and the bench, bar, and parties will still be acclimating to the considered changes of the past few years. In the interest of efficiency and forestalling 'rules fatigue,' the amendments presented by the Petition should be considered now or at least during the Court's December 2017 Rules Agenda.

Considering the amendments proposed for Rules 11 and 26 by the Petition now, on an expedited basis, and perhaps at the Court's December 11, 2017, Rules Agenda, is the only manner in which these crucial amendments might take effect with their CCJR-proposed brethren. With a landmark restyling of the Arizona civil rules taking effect the first of this year and with major civil justice reform amendments becoming operative imminently throughout 2018, the Court should not wait to hear these small but important amendments for Rules 11 and 26. Doing so is also unnecessary—as the proposed amendments have already been vetted for nearly a year after proposal by the CCJR and have already undergone the normal-length Rule 28 processing cycle.

**II. THE PETITION'S PROPOSED CHANGES HAVE ALREADY UNDERGONE THE NORMAL RULE 28 CYCLE, AND ONLY A SINGLE COMMENT WAS FILED IN OPPOSITION.**

This Petition's proposed changes have already gone through a full Rule 28, Ariz. R. Supreme Ct., processing cycle—and more. The CCJR was officially appointed by this Court on December 23, 2015—nearly two years ago. Admin. Order 2015-126. Nearly a year ago, on October 1, 2016, the CCJR had already submitted its report, “A Call to Reform,” to the Arizona Judicial Council, as this Court directed the CCJR to do in its appointing order. *Id.* The report included the changes to Rules 11 and 26 that are proposed in the Petition that this Request accompanies.

Shortly later, after due consideration and a presentation by CCJR members, the Arizona Judicial Council unanimously approved all of the CCJR's recommendations. Those recommendations included the filing of the CCJR petition, which became R-17-0010, and which also contained the changes to Rules 11 and 26 that are proposed in the Petition that this Request accompanies. The particular changes to those rules that Petitioners propose in their Petition were not adopted, but should have been. Only one comment was filed opposing these proposed amendments to Rules 11 and 26, and, as the Petition elucidates, that comment did not necessarily represent grave concerns about or

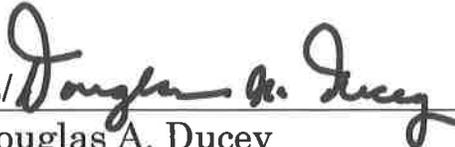
widespread opposition to these two particular sets of rule amendments. Immediate action by this Court is necessary to remedy their omission from the Court's order on the CCJR petition, R-17-0010, so that these rule amendments might be adopted and made effective timely. *See* Rule 28(G)(2), Ariz. R. Supreme Ct. ("If the court determines that immediate action is necessary for the adoption or amendment of a rule, the court shall take the action required by the circumstances.").

### **III. CONCLUSION**

For the foregoing reasons, Petitioners urge this Court to determine that immediate action is necessary and to take that action before or during its December 11, 2017, Rules Conference and adopt the proposed rule amendments on an expedited basis as submitted, to take effect on July 1, 2018.

RESPECTFULLY SUBMITTED this 19th day of October, 2017.

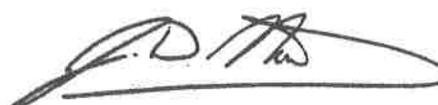
OFFICE OF THE ARIZONA GOVERNOR

By /s/  \_\_\_\_\_  
Douglas A. Ducey

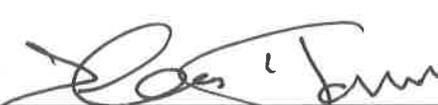
PRESIDENT OF THE ARIZONA SENATE

By /s/  \_\_\_\_\_  
Steve Yarbrough

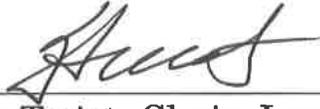
SPEAKER OF THE ARIZONA HOUSE

By /s/  \_\_\_\_\_  
J.D. Mesnard

ARIZONA CHAMBER OF  
COMMERCE & INDUSTRY

By /s/  \_\_\_\_\_  
Glenn Hamer, President &  
Chief Executive Officer

ARIZONA CHAMBER OF  
COMMERCE & INDUSTRY

By /s/  \_\_\_\_\_  
Steven Twist, Chair, Legal,  
Regulatory, & Financial  
Services Committee