

1 Lisa M. Panahi, Bar No. 023421
2 General Counsel
3 State Bar of Arizona
4 4201 N. 24th Street, Suite 100
5 Phoenix, AZ 85016-6288
6 (602) 340-7236

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

9 In the Matter of:

Supreme Court No. R-18-

10 **PETITION TO AMEND RULE**
11 **65(A)(2)(b), ARIZONA RULES OF**
12 **FAMILY LAW PROCEDURE**

PETITION

13 Pursuant to Rule 28, Ariz. R. Sup. Ct., the State Bar of Arizona (“State Bar”)
14 petitions the Court to amend Rule 65(A)(2)(B), Ariz. R. Fam. L. P. This proposed
15 amendment is necessary to make the process for seeking compliance and sanctions
16 available apply to all discovery mechanisms contained in the Arizona Rules of
17 Family Law Procedure.
18
19

20 **DISCUSSION**

21 Rule 65, Ariz. R. Fam. L. P., governs the failure to make discovery or
22 disclosure, the procedure to seek compliance, and the sanctions available. Currently,
23 Rule 65 allows a litigant to seek compliance with 1) disclosure requirements found
24 in Rules 49 and 50; 2) propounded questions pursuant to Rules 57 and 58; 3)
25

1 interrogatories submitted under Rule 60; and 4) requests for inspection pursuant to
2 Rule 61.

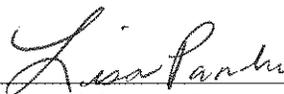
3
4 The current rule does not address when a deponent fails to appear in person
5 for a properly noticed deposition pursuant to Rule 57 or fails to respond to a Request
6 for Production of Documents, pursuant to Rule 62. No other rule address the
7 enforcement of these failures to comply with discovery requests.

8
9 This Petition proposes to apply the sanctions available for other discovery and
10 disclosure deficiencies to the failure to appear for a properly noticed deposition and
11 a failure to respond to a Request for Production of Documents.

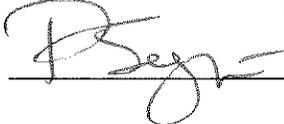
12 **CONCLUSION**

13
14 The State Bar of Arizona respectfully requests amendment of Rule
15 65(A)(2)(b), Ariz. R. Fam. L. P., as stated herein.

16 RESPECTFULLY SUBMITTED this 10th day of January, 2018.

17
18
19 
20 _____
21 Lisa M. Panahi
22 General Counsel

23 Electronic copy filed with the
24 Clerk of the Arizona Supreme Court
25 this 10th day of January, 2018.

by:  _____

Appendix

(Please note: deletions are reflected by ~~strikethrough~~ and additions are reflected by underline.)

Rule 65. Failure to Make Disclosure or Discovery; Sanctions

A. Motion for Order Compelling Disclosure or Discovery.

1. [No change in text]

2. *Motion.*

a. [No change in text]

b. If a deponent fails to appear for a properly noticed deposition, or fails to answer a question propounded or submitted under Rule 57 or 58, or a corporation or other entity fails to make a designation under Rule 57(B)(6) or 58(A), or a party fail to answer an interrogatory submitted under Rule 60, or if a party, in response to a request for inspection submitted under Rule 61 or Rule 62, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested, the discovering party may move for an order compelling an answer, or a designation, or an order compelling inspection in accordance with the request. When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before applying for an order.