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

9 In the Matter of:

Supreme Court No. R-20-

10 **PETITION TO AMEND RULE**
11 **37(b) OF THE ARIZONA RULES**
12 **OF FAMILY LAW PROCEDURE**

PETITION

13 Pursuant to Rule 28(a) of the Arizona Rules of Supreme Court, the State Bar
14 of Arizona (the "State Bar") hereby petitions the Court to amend Rule 37(b), Ariz.
15 R. Fam. L. P. This proposed amendment is necessary to make the current rule
16 conform to the Arizona Rules of Probate Procedure.

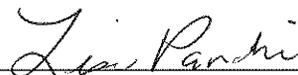
17
18 Rule 37 (b), Ariz. R. Fam. L. P., allows the court to permit a proceeding to
19 continue if a party becomes incompetent. The Rule currently allows the
20 representative to be treated as a party in a proceeding under Title 25 of the Arizona
21 Revised Statutes. However, the Rule does not currently allow a party's representative
22 to continue with the proceeding if the person is determined to be *incapacitated*
23 pursuant to A.R.S. §§ 14-5401 to 5433. The proposed change to Rule 37(b)
24 incorporates consideration if a party is deemed incapacitated. This will make this
25

1 this rule conform to both the Rules of Criminal Procedure and to the Arizona Rules
2 of Probate Procedure. This will benefit and protect all parties' interests in actions
3 under Title 25 of the Arizona Revised Statutes.
4

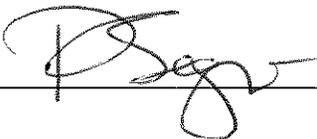
5 **CONCLUSION**

6 The State Bar of Arizona respectfully requests that this Court modify Rule
7 37(b) as set forth in the Appendix.
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10 RESPECTFULLY SUBMITTED this 9th day of January, 2020.

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12 
13 _____
14 Lisa M. Panahi
15 General Counsel

16 Electronic copy filed with the
17 Clerk of the Supreme Court of Arizona
18 this 10th day of January, 2020.

19 by: 
20 _____
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Appendix

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

Rule 37. Substitution of Parties: Death, Incompetency, Incapacity, and Transfer of Interest

(a) [No change in text.]

(b) **Incompetency or Incapacity**. If a party becomes incompetent or incapacitated, the court may—on motion or on stipulation of the parties and the incompetent or incapacitated party’s representative—permit the action to be continued by or against the party’s representative. Anyone filing such a motion must serve the motion on the parties as provided in Rule 43 and on the incompetent or incapacitated party’s representative in the same manner that a summons and pleading are served under Rule 40(f)(1) or 41, as applicable.

(c) [No change in text.]