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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of)
) Arizona Supreme Court No. R-20-0029
)
PETITION TO CREATE A RULE)
TO ENFORCE THE PERJURY)
STATUTES) COMMENT OF THE ADVISORY
) COMMITTEE ON THE ARIZONA
) RULES OF EVIDENCE
)
_____)

**COMMENT OF THE ADVISORY COMMITTEE ON THE ARIZONA
RULES OF EVIDENCE TO DENY PETITION R-20-0029**

The Advisory Committee on the Rules of Evidence opposes the proposal set forth in Petition R-20-0029. Foremost, the proposal is unclear in its language, scope, and application. The Petition does not offer suggested language, and the subject

matter is not proper for the Rules of Evidence. Moreover, the proposed process—to suspend a matter whenever an allegation of perjury is made and await criminal proceedings—is impractical. Court cases, by their very nature, generally involve competing versions of the facts. Judicial officers are capable of assessing witness credibility and evaluating statements in the context of evidence and prior statements. *See, e.g.*, Hon. Frank J. Conti, ARIZ. ATT’Y MAGAZINE 68 (July/Aug. 2019) (“Lying to the court can be an expensive proposition.”). And when the circumstances justify criminal proceedings, judicial officers can make the proper referrals. *See, e.g., In re Varbel*, 182 Ariz. 451, 459 (1995) (“A perjury charge is within the jurisdiction of the Attorney General or a county attorney—and this is a matter they should earnestly review.”) (Corcoran, J., dissenting). Because the proposal is unclear and unnecessary, the Committee opposes its adoption.

DATED this 25th day of April, 2020.

_____/s/ Sara J. Agne_____

Sara J. Agne

Co-Chair, Advisory Committee on Rules of Evidence

_____/s/ Maria Elena Cruz w/ permission_____

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