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JANET JOHNSON  
CLERK SUPREME COURT  
BY:

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**IN THE SUPREME COURT  
STATE OF ARIZONA**

In the Matter of:	)	
	)	Supreme Court No. R-16-0023
PETITION TO AMEND	)	
RULES 46(e), 58(d), 63(b),	)	<b>Request to Amend Rule Petition</b>
64(f)(1) and 65	)	<b>to Include a Rule 57 Amendment</b>
Rules of the Supreme Court	)	<b>for Transcripts in Rule 58 Appeals</b>
	)	
_____	)	

Pursuant to Rule 28, Rules of the Supreme Court, Hon. Lawrence F. Winthrop respectfully petitions this Court, on behalf of the Attorney Regulation Advisory Committee, to amend Petition R-16-0023 to include a rule amendment providing for the mandatory filing of transcripts in Rule 58 appeals.

**I. Background and Purpose of the Proposed Additional Rule Amendment**

Because the Attorney Regulation Advisory Committee is charged with reviewing all aspects of the attorney regulation system, the Committee by Petition R-16-0023 proposed changes to expedite the discipline process. Due to reported experience with the Court review of electronic recordings of the record in Rule 58 appeals, the Committee requests the Court permit an amendment to this Petition to further expedite the discipline process. The Committee seeks an amendment to Rule

57(e) to require the mandatory filing of Rule 30 compliant transcripts in Rule 58 appeals.

Included among the significant changes to the disciplinary process implemented in 2011, was an amendment to Rule 47(g) authorizing the use of verbatim recordings of hearings by electronic means. Previously, the record was kept by certified Court Reporters with transcripts provided to the Disciplinary Commission. The cost of the transcription of the record before the hearing officer and the Disciplinary Commission was borne by the Respondent.

While the change from hearing officers and a Disciplinary Commission to the use of a Presiding Disciplinary Judge and hearing panels with verbatim electronic recordings reduced the cost of proceedings, there was an unintended consequence. The experience with the Court review of verbatim electronic recordings on Rule 58 appeals is difficult and burdensome. The review of the electronic recordings citations can only be done manually and through listening. Such a review is time consuming and labor intensive. This unduly burdens the review of the record by the Court, and resolution of the matter.

It is recommended the rule be amended so the party filing the appeal is required to pay for and timely file a Rule 30 compliant certified transcript in Rule 58 appeals. This would reduce the time of resolution and increase the ease of reviewing the record for both the Court and for the parties.

## II. Contents of the Proposed Rule Amendment

### Rule 59. Review by the court.

\* \* \*

(e) *Notice of transcripts.* A party appealing a decision arising from a Rule 58 decision of the hearing panel shall arrange for transcription of the hearing on the merits. The costs of the services of a certified reporter and transcripts shall be at the expense of the party appealing. Within thirty (30) days of filing a notice of appeal, the party appealing shall file with the clerk of the court the original certified transcript of the hearing prepared in accordance with Rule 30 and serve a copy on the opposing party. In all other appeals, within ten (10) days of the notice of the transmittal of the record, a party requesting transcripts for purposes of appeal shall serve the clerk of the court with a notice designating the transcripts requested. A party requesting transcripts for the purpose of appeal shall arrange for transcription at the party's expense. Within thirty (30) days of the notice designating the requested transcripts, or as otherwise ordered by the clerk of the court, the party shall file the certified transcript with the clerk of the court and serve a copy on the opposing party.

\* \* \*

RESPECTFULLY SUBMITTED this 9 day of August, 2016.

By



Hon. William J. O'Neil, Vice-Chair for  
Hon. Lawrence F. Winthrop  
Chair, Attorney Regulation Advisory  
Committee