

**MINUTES**

*Arizona Supreme Court*  
**Tuesday, August 28, 2012**

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**R-11-0017**  
(1)

**RULE 26(b)(4), RULES OF CIVIL PROCEDURE**

WOULD CONFORM ARIZONA RULE TO RULE 26(b)(4), FED. R. CIV. P., TO PROVIDE WORK PRODUCT PROTECTION FOR MOST COMMUNICATION WITH EXPERT WITNESSES

ORDERED: Petition to Amend Arizona Rule of Civil Procedure Rule 26(b)(4) = REJECTED.

**R-11-0018**  
(2)

**RULE 10(d), RULES OF CIVIL PROCEDURE**

WOULD AMEND REQUIREMENT THAT DOCUMENTS NOT EXCEED 28 LINES PER PAGE TO 22 LINES PER PAGE TO CONFORM TO DOUBLE SPACING REQUIREMENT

ORDERED: Petition to Amend Rule 10(d), Arizona Rules of Civil Procedure = REJECTED.

**R-11-0031**  
(3)

**RULE 4.1(i), RULES OF CIVIL PROCEDURE**

WOULD PERMIT SERVICE UPON AN ADMINISTRATIVE ASSISTANT OR EMPLOYEE OF A CHIEF EXECUTIVE OFFICER, SECRETARY, CLERK, OR RECORDING OFFICER OF PUBLIC ENTITY'S GOVERNING GROUP

ORDERED: Petition to Amend Rule 4.1(i), Arizona Rules of Civil Procedure = CONTINUED and reopened for comments on staff draft. Comments due November 9, 2012.

[Click here for separate order](#)

**MINUTES**  
*Arizona Supreme Court*  
**Tuesday, August 28, 2012**

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No. 3921

**R-11-0032**  
(4)

**RULE 53(b)(3), RULES OF CIVIL PROCEDURE**

WOULD CHANGE THE REQUIREMENT THAT A PROSPECTIVE MASTER FILE A CONFLICTS AFFIDAVIT BEFORE APPOINTMENT, SO THAT THE AFFIDAVIT WOULD BE REQUIRED AFTER A COURT'S REFERRAL OF A MATTER TO THE PROSPECTIVE MASTER, BUT BEFORE HE OR SHE ACCEPTS

ORDERED: Petition to Amend Rule 53(b)(3), Arizona Rules of Civil Procedure = ADOPTED, effective January 1, 2013.

[Click here for separate order](#)

**R-11-0034**  
(5)

**RULE 56, RULES OF CIVIL PROCEDURE**

WOULD MODIFY RULE 56, SUMMARY JUDGMENT, TO CONFORM TO THE FEDERAL RULES OF CIVIL PROCEDURE IN SOME AREAS AND WOULD ADDRESS AMBIGUITIES IN RULE 56(f) RELATING TO DISCOVERY/DEPOSITION REQUESTS

ORDERED: Petition to Amend Rule 56 of Arizona Rules of Civil Procedure = ADOPTED as modified, effective January 1, 2013.

[Click here for separate order](#)

**R-11-0035**  
(6)

**RULE 8(c) RULES OF CIVIL PROCEDURE**

WOULD ELIMINATE "DISCHARGE IN BANKRUPTCY" AS AN AFFIRMATIVE DEFENSE REQUIRED TO BE PLED IN AN ANSWER OR BE WAVIED

ORDERED: Petition to Amend Rule 8(c) of the Arizona Rules of Civil Procedure = ADOPTED, effective January 1, 2013.

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**MINUTES**  
*Arizona Supreme Court*  
**Tuesday, August 28, 2012**

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No. 3921

**R-11-0037**  
(7)

**RULE 15(a)(3), RULES OF CIVIL PROCEDURE**

WOULD CONFORM THE RULE TO THE FEDERAL RULES OF CIVIL PROCEDURE

ORDERED: Petition to Amend Rule 15(a)(3) = REJECTED.

**R-11-0038**  
(8)

**RULE 55, CIVIL PROC & RULE 44, FAMILY LAW PROC**

WOULD CLARIFY RULES REGARDING ENTRY OF DEFAULT

ORDERED: Petition to Amend Rule 55 of Arizona Rules of Civil Procedure and Rule 44 of the Arizona Rules of Family Law Procedure = ADOPTED as modified, effective January 1, 2013.

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**R-11-0042**  
(9)

**RULE 16(g)(2), RULE 84, FORM 3, CIVIL PROCEDURE**

WOULD ELIMINATE REQUIREMENT OF FILING AN ALTERNATIVE DISPUTE RESOLUTION REPORT WITH THE COURT

ORDERED: Petition to Abrogate Rule 16(g)(2) and Rule 84, Form 3 of the Arizona Rules of Civil Procedure = ADOPTED, effective January 1, 2013.

[Click here for separate order](#)

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*Arizona Supreme Court*  
**Tuesday, August 28, 2012**

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No. 3921

**R-11-0044**  
(10)

**RULE 31(c), RULES OF CIVIL PROCEDURE**

WOULD DELETE REQUIREMENT THAT PARTIES FILE DEPOSITIONS UPON WRITTEN QUESTIONS

ORDERED: Petition to Amend Rule 31(c), Arizona Rules of Civil Procedure = ADOPTED, effective January 1, 2013.

[Click here for separate order](#)

**R-12-0008**  
(11)

**RULE 4.1(d), 5(c) ARCP/RULES 41(C), 41(D), RFLP**

WOULD CLARIFY RULE, INCLUDING DEFINING A "PERSON OF SUITABLE AGE AND DISCRETION"

ORDERED: Petition To Amend Arizona Rules of Civil Procedure (ARCP) Rule 4.1(d); ARCP Rule 5(c); Rules of Family Law Procedure (RFLP) RFLP Rule 41(C); RFLP Rule 41(D) = REJECTED.

**R-12-0021**  
(12)

**RULES 4(d) AND 4(e), RULES OF CIVIL PROCEDURE**

WOULD CHANGE REFERENCES TO "REGISTERED" PRIVATE PROCESS SERVER TO "CERTIFIED" PRIVATE PROCESS SERVER, AND WOULD STRIKE LANGUAGE REGARDING REQUIRED QUALIFICATIONS FOR CERTIFICATION, AS SUCH PROVISIONS ARE SPECIFIED IN ARIZONA CODE OF JUDICIAL ADMINISTRATION § 7-204

ORDERED: Petition to Amend Rules 4(d) and 4(e), Arizona.R.Civ.P. = ADOPTED, effective January 1, 2013.

[Click here for separate order](#)

**MINUTES**  
*Arizona Supreme Court*  
**Tuesday, August 28, 2012**

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No. 3921

**R-12-0022**  
(13)

**RULES 28 and 45, RULES OF CIVIL PROCEDURE**

WOULD IMPLEMENT THE UNIFORM INTERSTATE DEPOSITIONS AND DISCOVERY ACT, PROVIDING PROCEDURES FOR LITIGANTS IN ONE STATE TO DEPOSE INDIVIDUALS IN ANOTHER STATE AND TO SECURE THE PRODUCTION OF DISCOVERABLE MATERIALS LOCATED IN ANOTHER STATE

ORDERED: Petition to Amend Rules 28 and 45, Arizona Rules of Civil Procedure = ADOPTED as modified, effective January 1, 2013.

[Click here for separate order](#)

**R-11-0033**  
(14)

**ER 3.8, RULES OF PROFESSIONAL CONDUCT**

WOULD INCORPORATE THE ABA'S AMENDMENT TO MODEL RULE 3.8, WHICH PROVIDES ETHICAL GUIDANCE TO PROSECUTORS IN SITUATIONS IN WHICH AN INNOCENT PERSON MAY HAVE BEEN CONVICTED

ORDERED: Petition to Amend ER 3.8 of the Arizona Rules of Professional Conduct = CONTINUED and reopened for comments on staff draft. Comments due May 20, 2013.

[Click here for separate order](#)

**R-11-0041**  
(15)

**RULE 31(d), RULES OF THE SUPREME COURT**

WOULD PERMIT NON-LAWYER TO REPRESENT A LEGAL ENTITY IN STATE BAR OF ARIZONA FEE ARBITRATION PROCEEDINGS

ORDERED: Petition to Amend Rule 31(d), Arizona Rules of the Supreme Court = ADOPTED, effective January 1, 2013.

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*Arizona Supreme Court*  
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No. 3921

**R-11-0045**  
(16)

**RULES 31.19(h), CRIM P./4(a) et al, CIV. APP. P**

WOULD CORRECT OVERSIGHTS IN PREVIOUS AMENDMENTS  
RELATING TO ELECTRONIC FILING

ORDERED: Petition to Amend Rule 31.19(h), Ariz. R. Crim. P., and Rules 4(a),  
15(a), and 23(h), Ariz. R. Civ. App. P. = ADOPTED, effective January 1, 2013.

[Click here for separate order](#)

**R-11-0046**  
(17)

**ER 7.5(a), RULES OF PROFESSIONAL CONDUCT**

WOULD ELIMINATE THE PROHIBITION AGAINST TRADE NAMES FOR  
LAW FIRMS

ORDERED: Petition for Amendment of Rule 42 of the Arizona Rules of the  
Supreme Court, Rule of Professional Conduct 7.5(a) = ADOPTED as modified,  
effective January 1, 2013.

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**R-12-0003**  
(18)

**RULE 123, ARIZ.R.S.CT./RULE 2.3, ARIZ.R.CRIM.P.**

WOULD MAKE REVISIONS TO CLARIFY AND MAKE CONSISTENT  
PROVISIONS DEALING WITH ACCESS TO JUDICIAL RECORDS

ORDERED: Petition to Amend Rule 123, Rules of the Supreme Court of Arizona  
and Rule 2.3, Rules of Criminal Procedure = ADOPTED as modified, effective  
January 1, 2013.

[Click here for separate order](#)

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*Arizona Supreme Court*  
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No. 3921

**R-12-0012**  
(19)

**RULES 105-107, JUVENILE COURT PROCEDURE**

WOULD REVISE THE RULES AS NECESSARY FOR THE IMPLEMENTATION OF ELECTRONIC FILING IN ARIZONA APPELLATE COURTS

ORDERED: Petition to Amend Rule 105-107, Arizona Rules of Procedure for the Juvenile Court = ADOPTED as modified, effective January 1, 2013.

[Click here for separate order](#)

**R-12-0014**  
(20)

**RULE 11, RULES OF PROBATE PROCEDURE**

WOULD ALLOW VIDEOCONFERENCING FOR CERTAIN PROCEEDINGS IN PROBATE COURT

ORDERED: Petition to Amend Rule 11 of Arizona Rules of Probate Procedure = ADOPTED, effective January 1, 2013.

[Click here for separate order](#)

**R-12-0017**  
(21)

**RULE 123, RULES OF THE SUPREME COURT**

WOULD AUTHORIZE ELECTRONIC ACCESS TO PROBATE RECORDS

ORDERED: Petition to Amend Rule 123 of Arizona Rules of the Supreme Court = CONTINUED.

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No. 3921

**R-12-0018**  
(22)

**ER 8.4, COMMENT [3], RULES OF PROFESSIONAL CONDUCT**

WOULD CLARIFY THE PROVISION IN COMMENT [3] TO THE RULE THAT IT IS PROFESSIONAL MISCONDUCT FOR A LAWYER TO MANIFEST BY WORDS OR CONDUCT BIAS OR PREJUDICE AGAINST IDENTIFIED GROUPS, IN PART BY ELIMINATING THE LIST OF IDENTIFIED GROUPS

Petition to Amend Comment [3] to ER 8.4, Rule 42, Arizona Rules of the Supreme Court = CONTINUED, to be considered in conjunction with any proposal emanating from the State Bar Task Force established to study and make recommendations on this matter.

**R-11-0016**  
(23)

**RULE 32.2(a) and (b), RULES OF CRIMINAL PROCEDURE**

WOULD PROVIDE THAT THE RULE OF PRECLUSION SET FORTH IN RULE 32.2(a) WOULD NOT APPLY WHEN THE GROUND FOR POST-CONVICTION RELIEF IS THE COURT'S LACK OF JURISDICTION TO RENDER JUDGMENT OR IMPOSE SENTENCE

ORDERED: Petition for Adoption, Amendment or Repeal of Rule (Rule 32.2(A) and (b)) = CONTINUED.

**R-11-0027**  
(24)

**RULES OF CRIMINAL PROCEDURE**

WOULD AMEND 7 ARIZ. LEGAL FORMS, CRIM. PROC. SEC. 12.7 FORM 2 (2D ED.)

ORDERED: Petition to Amend Rules of Criminal Procedure = REJECTED.

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*Arizona Supreme Court*  
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No. 3921

**R-11-0040**  
(25)

**RULE 18.3, RULES OF CRIMINAL PROCEDURE**

WOULD AMEND ARIZONA RULE OF CRIMINAL PROCEDURE 18.3 BY DELETING THE THIRD PARAGRAPH OF THE COMMENT TO THE RULE

ORDERED: Sua Sponte Petition to Amend the Arizona Rule of Criminal Procedure 18.3 = ADOPTED, effective January 1, 2013.

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**R-11-0043**  
(26)

**RULE 1(M), RULES OF PROTECTIVE ORDER PROCEDURE**

WOULD REQUIRE THE COURT TO MAIL TO THE PLAINTIFF A COPY OF THE PROOF OF SERVICE OF A PROTECTIVE ORDER ON THE DEFENDANT

ORDERED: Petition to Amend Arizona Rules of Protective Order Procedure Rule 1(M) = CONTINUED.

**R-12-0004**  
(27)

**VARIOUS CRIMINAL/SUPREME COURT/JUVENILE RULES**

WOULD REQUIRE THE USE OF CRIME VICTIMS' INITIALS IN LIEU OF FULL NAMES IN ANY CASE IN WHICH A VICTIM WAS EITHER A JUVENILE AT THE TIME OF THE OFFENSE OR AN ADULT VICTIM OF A SEXUAL OFFENSE

ORDERED: Amended Petition to Amend Rules 2.3, 13.2, 16.1, 26.4, 31.13 & 35.1, Rules of Criminal Procedure; Rule 111, Rules of the Supreme Court, and Rules 15, 24, 34, 106, & 107, Rules of Procedure for the Juvenile Court = CONTINUED.

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**R-12-0007**  
(28)

**RULE 6.E.4.e.2., RULES OF PROTECTIVE ORDER**

WOULD REPEAL THE RULE, WHICH PETITIONER BELIEVES UNCONSTITUTIONALLY CRIMINALIZES THE POSSESSION, PURCHASE, OR RECEIPT OF FIREARMS AND AMMUNITION BY A DEFENDANT WHO IS THE SUBJECT OF A CIVIL INJUNCTION

ORDERED: Petition to Repeal Rule 6.E.4.e.2. of the Arizona Rules of Protective Order Procedure = CONTINUED and reopened for comments on staff draft. Comments due May 20, 2013.

[Click here for separate order](#)

**R-12-0009**  
(29)

**RULE 32.5 and FORM 25, RULES OF CRIMINAL PROCEDURE**

WOULD RESOLVE AN INCONSISTENCY BETWEEN RULE 32.5 AND FORM 25 REGARDING VERIFICATION OF PETITION FOR POST-CONVICTION RELIEF

ORDERED: Sua Sponte Petition to Amend Rule 32.5 and Form 25, Arizona Rules of Criminal Procedure = ADOPTED as modified, effective January 1, 2013.

[Click here for separate order](#)

**MINUTES**  
*Arizona Supreme Court*  
**Tuesday, August 28, 2012**

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No. 3921

**R-12-0013**  
(30)

**RULES OF PROTECTIVE ORDER/FAMILY LAW PROCEDURE**

WOULD PROHIBIT A COURT FROM DISCLOSING INFORMATION ABOUT A PROTECTIVE ORDER UNTIL PROOF OF SERVICE HAS BEEN FILED WITH THE COURT, AND WOULD PROVIDE A CROSS-REFERENCE TO THE NEW PROVISION IN THE ARIZONA RULES OF FAMILY LAW PROCEDURE

ORDERED: Petition for Adoption of Amendment to the Arizona Rules of Protective Order Procedure, the Arizona Rules of Family Law Procedure and Rule 123, Rules of the Supreme Court = ADOPTED as modified, effective January 1, 2013.

[Click here for separate order](#)

**R-12-0015**  
(31)

**RULE 12.9(b), RULES OF CRIMINAL PROCEDURE**

WOULD ADD A DEADLINE FOR FILING A MOTION FOR A NEW FINDING OF PROBABLE CAUSE FOLLOWING AN APPELLATE REMAND OF A CASE FOR A NEW TRIAL

ORDERED: Sua Sponte Petition to Amend Rule 12.9(b), Arizona Rules of Criminal Procedure = REJECTED.

**R-12-0016**  
(32)

**RULES 38.1 and 38.2, RULES OF CRIMINAL PROCEDURE**

WOULD AMEND THE RULES AND COMMENTS THERETO TO ELIMINATE SUPERIOR COURT INVOLVEMENT IN DEFERRED PROSECUTIONS IN JUSTICE COURT WHEN SUCH INVOLVEMENT IS UNNECESSARY

ORDERED: Sua Sponte Petition to Amend Rules 38.1 and 38.2, ARIZ. R. CRIM. PROC. = ADOPTED as modified, effective January 1, 2013.

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No. 3921

*Arizona Supreme Court*  
Tuesday, August 28, 2012

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**R-12-0023**  
(33)

**RULE 1.D.4., RULES OF PROTECTIVE ORDER PROCEDURE**

WOULD PREVENT PERCEIVED UNCONSTITUTIONAL FOURTH AMENDMENT SEIZURE BY JUDICIAL OFFICERS

ORDERED: Petition to Amend Rule 1.D.4., Arizona Rules of Protective Order Procedure = REJECTED.

**R-11-0036**  
(34)

**RULE 42, ER 5.5(d), RULES OF THE SUPREME COURT**

WOULD CORRECT A DRAFTING ERROR RELATING TO PRACTICE OF LAW BY LAWYERS ENGAGING EXCLUSIVELY IN FEDERAL PRACTICE

ORDERED: Petition to Amend Rule 42, ER 5.5(d), Arizona Rules of the Supreme Court = ADOPTED as modified, effective January 1, 2013.

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**R-11-0039**  
(35)

**RULES 608, 609, 803, 804, RULES OF EVIDENCE**

WOULD AMEND THE PREFATORY COMMENT TO 2012 AMENDMENTS, AND RULES 608, 609, 803 AND 804, ARIZONA RULES OF EVIDENCE

ORDERED: Sua Sponte Petition to Amend the Arizona Rules of Evidence = ADOPTED as modified, effective January 1, 2013; CONTINUED in part as to Rule 608.

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**MINUTES**  
*Arizona Supreme Court*  
**Tuesday, August 28, 2012**

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No. 3921

**R-12-0001**  
(36)

**RULES 23 AND 27, COMMISSION ON JUDICIAL CONDUCT**

WOULD CLARIFY AVAILABLE ALTERNATIVES FOR REVIEW OF  
INFORMAL SANCTIONS

ORDERED: Petition to Amend Rules 23 and 27 Rules of the Commission on  
Judicial Conduct = ADOPTED as modified, effective January 1, 2013.

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**R-12-0002**  
(37)

**RULE 34, RULES OF THE SUPREME COURT**

WOULD ALLOW LAW STUDENTS TO TAKE THE UNIFORM ARIZONA  
BAR EXAMINATION IN FEBRUARY OF THEIR THIRD YEAR OF LAW  
SCHOOL

ORDERED: Petition to Amend Rule 34, Rules of the Supreme Court =  
CONTINUED.

**R-12-0005**  
(38)

**RULE 34(f)(1)(A), RULES OF THE SUPREME COURT**

WOULD PERMIT AN APPLICANT WHO HAS ACTIVELY PRACTICED  
LAW IN A RECIPROCAL JURISDICTION TO QUALIFY FOR ADMISSION  
ON MOTION

ORDERED: Petition to Amend Rule 34(f)(1)(A), Rules of the Arizona Supreme  
Court = CONTINUED.

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*Arizona Supreme Court*  
Tuesday, August 28, 2012

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**R-12-0006**  
(39)

**NEW JUSTICE COURT RULES OF CIVIL PROCEDURE**

WOULD ENACT NEW RULES OF PROCEDURE FOR CIVIL LAWSUITS IN JUSTICE COURT

ORDERED: Amended Rule (Petition to Adopt Justice Court Rules of Civil Procedure) = ADOPTED as modified, effective January 1, 2013.

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**R-12-0010**  
(40)

**RULES 32, 46-48 et al, RULES OF THE SUPREME COURT**

WOULD MAKE TECHNICAL AND CLARIFYING REVISIONS TO THE NEW RULES GOVERNING LAWYER DISCIPLINE

ORDERED: Petition to Amend Rules 32, 46-48, 50, 52-65, 70-72, and 74 Rules of the Supreme Court = ADOPTED as modified, effective January 1, 2013.

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**R-12-0011**  
(41)

**RULES 33, 34, 35 et al, RULES OF THE SUPREME COURT**

WOULD CONFORM RULES TO RECENT AMENDMENTS AND MAKE ADDITIONAL CHANGES TO STRENGTHEN THE COURT'S OVERSIGHT OF ATTORNEY ADMISSIONS

ORDERED: Amended Petition to Amend Rules 33, 34, 35, 36 and 37 = ADOPTED as modified, effective January 1, 2013.

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**MINUTES**  
*Arizona Supreme Court*  
**Tuesday, August 28, 2012**

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No. 3921

**R-12-0019**  
(42)

**RULE 61, RULES OF THE SUPREME COURT**

WOULD OFFER CLARITY, GREATER CONSISTENCY, AND PROCEDURAL GUIDANCE FOR INTERIM SUSPENSION IN LAWYER DISCIPLINE

ORDERED: First Amended Petition to Amend Rule 61, Rules of the Arizona Supreme Court = ADOPTED as modified, effective January 1, 2013.

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**R-12-0020**  
(43)

**NEW RULE 38(j), RULES OF THE SUPREME COURT**

WOULD PERMIT SPOUSES OF MILITARY SERVICE MEMBERS TEMPORARILY STATIONED IN ARIZONA WHO MEET SPECIFIED REQUIREMENTS TO APPLY FOR ADMISSION TO THE PRACTICE OF LAW IN THIS STATE

ORDERED: Petition to Add Rule 38(j), Regarding Admission to the State Bar of Arizona = CONTINUED and reopened for comments on staff draft. Comments due November 9, 2012.

[Click here for separate order](#)

**R-12-0030**  
(44)

**RULES OF PROCEDURE FOR REVIEW OF ADMIN DECISIONS**

WOULD CONFORM RULES WITH STATUTORY AMENDMENTS TO TERMINOLOGY RELATING TO JUDICIAL REVIEW OF AN ADMINISTRATIVE DECISION

ORDERED: Petition to Amend the Rules of Procedure for Judicial Review of Administrative Decisions = ADOPTED, effective July 1, 2013. Petition shall be opened for comment. Comments due November 9, 2012.

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**MINUTES**  
*Arizona Supreme Court*  
**Tuesday, August 28, 2012**

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No. 3921

**R-12-0031**  
(45)

**VARIOUS RULES, RULES OF FAMILY LAW PROCEDURE**

WOULD AMEND RULES TO CONFORM TO STATUTORY CHANGES  
RELATING TO TERMINOLOGY CONCERNING CUSTODY AND  
VISITATION

ORDERED: Petition to Amend the Rules of Family Procedure = ADOPTED,  
effective January 1, 2013. Petition shall be opened for comment. Comments due  
November 9, 2012

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**The foregoing action was taken by the Arizona Supreme Court on Tuesday,  
August 28, 2012.**

\_\_\_\_\_ **Date:** \_\_\_\_\_  
**Scott Bales, Vice Chief Justice**