

1 John A. Furlong, Bar No. 018356
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 John.Furlong@staff.azbar.org

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

10 In the Matter of:

11 Supreme Court No. R-16-0006

12 **PETITION TO AMEND RULES 41**
13 **AND 42 OF THE RULES OF**
14 **FAMILY LAW PROCEDURE**

15 **COMMENT OF**
16 **THE STATE BAR OF ARIZONA**

17 Pursuant to Rule 28, Rules of the Supreme Court, the State Bar of Arizona,
18 submits its official comment on the Petition filed by Judge McMurdie regarding
19 ARFLP 41 and 42, and supports said Petition.

20 The Petition filed by Judge McMurdie requests a modification of Rules 41
21 and 42 of the Arizona Rules of Family Law Procedure and seeks to modify these
22 Rules as follows:

23 This petition seeks to allow the signature of a jail or prison
24 official on a return receipt or signature confirmation to
25 constitute sufficient evidence of service of process when
the party to be served is incarcerated.

And specifically, the requested wording of the proposed change is as follows:

1 **G. Service of Summons Upon Incarcerated Persons.**

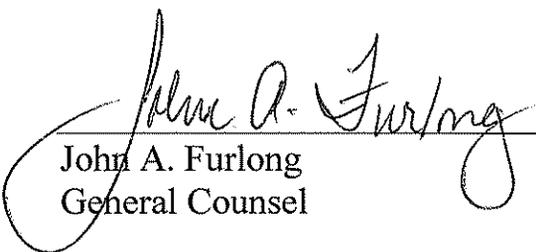
2 Service upon a person who is incarcerated in a jail or
3 prison of this state or political subdivision of this state or
4 a correctional facility located in this state shall be effected
5 by service in the manner set forth in paragraph C, except
6 that if service is by mail or national courier service, the
7 return or confirmation of service may be made by an
8 official of the jail, prison or correctional facility, and the
9 signature of an official of the jail, prison or correctional
10 facility on the return receipt or signature confirmation is
11 sufficient proof of service on the party being served.

12 The State Bar of Arizona concurs with the logic of the Petition, and further
13 adds that this change helps promote the access to justice initiative of the Court, by
14 allowing individuals to utilize a more cost effective method of service on
15 incarcerated individuals. The State Bar does however propose that a provision
16 similar to that of Rule 6(e), Ariz. R. Civ. P., allowing for five calendar days to be
17 added to the proscribed period, be included if service is made on the party by way
18 of this rule. These additional days will accommodate for the period of time between
19 acceptance of service by the jail or prison and delivery to the inmate. The State Bar
20 also believes that the log process by prison facilities is as reliable, if not more
21 reliable, than the process followed by private process servers. These logs would be
22 available to prove service if contested, which satisfies the standards for proof of
23 service.

1 Conclusion

2 The State Bar requests that this Court adopt the proposed changes to Rules
3 41 and 42 as stated in the Petition.
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6 RESPECTFULLY SUBMITTED this 13th day of May, 2016.
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11 John A. Furlong
General Counsel

12 Electronic copy filed with the
13 Clerk of the Arizona Supreme Court
14 this 16th day of May, 2016.

15 by: 
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