MINUTES

Arizona Supreme Court

Tuesday, August 26, 2014

FILED
SEP 02 2014
JANET JOHNSON
CLERK SUPREME COURT
BY:

No. 4650

R-13-0042
(1)

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

WOULD PROVIDE FOR COMPENSATION OF TREATING PHYSICIANS AND OTHER MEDICAL PROVIDERS AS EXPERT WITNESSES WHEN COMPELLED TO TESTIFY ABOUT A PATIENT'S MEDICAL TREATMENT

ORDERED: Petition to Amend Rule 26(b)(4)(C) of the Arizona Rules of Civil Procedure = DENIED.

R-13-0044
(2)

RULE 67, RULES OF CIVIL PROCEDURE

WOULD ELIMINATE REQUIREMENT THAT PLAINTIFFS WHO DO NOT OWN PROPERTY IN ARIZONA POST COST BONDS IN THE TRIAL COURT

ORDERED: Petition to Amend Rule 67 of the Arizona Rules of Civil Procedure = ADOPTED, effective January 1, 2015.

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Arizona Supreme Court

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R-13-0046
(3)

RULE 42, ERs 1.0 COMMENT 8, 1.10, 1.11, 1.12, 1.18

WOULD MODIFY ETHICAL RULES ON SCREENING AND IMPUTATION OF CONFLICTS OF INTEREST

ORDERED: Petition to Amend ERs 1.10, 1.11, 1.12, and 1.18, and ER 1.0 Comment = CONTINUED.

FURTHER ORDERED: Public Hearing Requested Pursuant to Rule 28(E) = DENIED.

FURTHER ORDERED: Request for Expedited/Provisional Adoption = DENIED.

R-13-0051
(4)

RULE 45(a), RULES OF THE SUPREME COURT

WOULD AUTHORIZE CLE CREDIT FOR ATTORNEYS WHO SERVE AS FEE DISPUTE ARBITRATORS

ORDERED: Petition to Amend Rule 45(a) of the Rules of the Supreme Court of Arizona = ADOPTED as modified, effective January 1, 2015.

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Arizona Supreme Court

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R-13-0060
(5)

RULE 42, ERs 1.0,1.1,1.4, et al, SUPREME CT RULES

WOULD CONFORM ARIZONA'S ETHICAL RULES TO PROPOSED AMENDMENTS TO THE ABA MODEL RULES RELATING TO TECHNOLOGY AND THE GLOBALIZATION OF THE PRACTICE OF LAW

ORDERED: Petition to Amend Rule 42, ERs 1.0, 1.1, 1.4, 1.6, 1.17, 1.18, 4.4, 5.3, 5.5, 7.1, 7.2, and 7.3, Ariz. R. Sup. Ct. = ADOPTED as modified, effective January 1, 2015.

R-14-0004
(6)

RULES 111, SUPREME CT/28, ARCAP/31.24, AZ.R.CR.P.

WOULD PERMIT CITATION FOR PERSUASIVE VALUE OF MEMORANDUM DECISIONS AND UNPUBLISHED MEMORANDUM DECISIONS FROM OTHER JURISDICATIONS

ORDERED: Petition to Amend Rule 111, Ariz. R. Sup. Ct., Rule 28, ARCAP, and Rule 31.24, Ariz. R. Crim. P. = ADOPTED as modified, effective January 1, 2015.

R-14-0009
(7)

RULES 60, 64, and 65, RULES OF THE SUPREME COURT

WOULD MAKE THE SANCTION OF DISBARMENT PERMANENT OR OFFER PERMANENT DISBARMENT AS AN ADDITIONAL SANCTION OPTION

ORDERED: Petition to Amend the Rules of the Arizona Supreme Court Regarding Disbarment = DENIED.

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R-14-0011
(8)

RULE 36, RULES OF THE SUPREME COURT

WOULD MODIFY PROCEEDINGS OF THE COMMITTEE ON CHARACTER AND FITNESS

ORDERED: Petition to Amend Rule 36, Rules of the Arizona Supreme Court = CONTINUED.

R-14-0015
(9)

RULE 38, RULES OF THE SUPREME COURT

WOULD WAIVE PRO HAC VICE FEE FOR ATTORNEYS PRACTICING IN MILITARY COURT

ORDERED: Petition to Amend Rule 38, Rules of the Supreme Court = ADOPTED as modified, effective January 1, 2015.

R-14-0016
(10)

RULE 38, RULES OF THE SUPREME COURT

WOULD REQUIRE PERSONS ADMITTED TO THE PRACTICE OF LAW THROUGH SPECIAL EXCEPTIONS TO EXAMINATION UNDER RULE 38 TO TAKE A COURSE ON ARIZONA LAW PRIOR TO ADMISSION

ORDERED: Petition to Amend Rule 38, Rules of the Supreme Court = ADOPTED as modified, effective January 1, 2015.

R-13-0050
(11)

RULE 31.17(c)(1), RULES OF CRIMINAL PROCEDURE

WOULD MODIFY PROCEDURE FOR ISSUING WARRANTS OF EXECUTION IN CAPITAL CASES

ORDERED: Petition to Amend Rule 31.17(c)(1), Arizona Rules of Criminal Procedure = ADOPTED as modified, effective January 1, 2015.

R-13-0052
(12)

RULES 53(a) and 53(b), RULES OF CIVIL PROCEDURE

WOULD CLARIFY COURT'S AUTHORITY TO APPOINT A SPECIAL MASTER AND PROVIDE GUIDANCE FOR DEALING WITH OBJECTIONS

ORDERED: Petition to Amend Rules 53(a) and 53(b) of the Arizona Rules of Civil Procedure = ADOPTED as modified, effective January 1, 2015.

R-13-0053
(13)

RULE 55(b)(1), RULES OF CIVIL PROCEDURE

WOULD CLARIFY WHEN PRIOR NOTICE AND A HEARING ARE REQUIRED AFTER A DEFAULT INVOLVING A LIQUIDATED CLAIM

ORDERED: Petition to Amend Rule 55(b)(1), Arizona Rules of Civil Procedure and Adopt Explanatory Comment = ADOPTED as modified, effective January 1, 2015.

R-13-0061
(14)

RULE 23, RULES OF CIVIL PROCEDURE

WOULD REQUIRE THAT A PORTION OF RESIDUAL CLASS ACTION FUNDS BE DISTRIBUTED TO THE ARIZONA BAR FOUNDATION TO PROVIDE LEGAL SERVICES TO LOW-INCOME ARIZONA RESIDENTS

ORDERED: Petition to Amend Rule 23, Arizona Rules of Civil Procedure = DENIED.

R-14-0001
(15)

RULE 64.1, RULES OF CIVIL PROCEDURE

WOULD UPDATE PROVISIONS DEALING WITH CIVIL ARREST WARRANTS

ORDERED: Amended Rule 28 Petition RE: Rule 64.1, Arizona Rules of Civil Procedure (Civil Arrest Warrants) = ADOPTED as modified, effective January 1, 2015.

R-14-0003
(16)

RULES 5(c)(2) and 6(e), RULES OF CIVIL PROCEDURE

WOULD AUTHORIZE ELECTRONIC SERVICE OF DOCUMENTS THROUGH THE ELECTRONIC FILING SYSTEM

ORDERED: Amended Petition (Rules 5(c)(2) and 6(e) of the Arizona Rules of Civil Procedure) = ADOPTED as modified, effective January 1, 2015.

R-14-0007
(17)

RULE 32.12, RULES OF CRIMINAL PROCEDURE

WOULD PROVIDE A PROCESS FOR DNA TESTING AT THE REQUEST OF A CONVICTED FELON PURSUANT TO A.R.S. § 13-4240

ORDERED: Petition to Adopt Rule 32.12, Arizona Rules of Criminal Procedure = ADOPTED as modified, effective January 1, 2015.

R-14-0010
(18)

RULES 31.2, 31.4, 31.13, 32.4, 32.6, & 32.9, ARCRP

WOULD REQUIRE POST-CONVICTION PROCEEDINGS TO PRECEDE DIRECT APPEAL IN CAPITAL CASES

ORDERED: Amended Petition to Amend Rules 31.2(a), 31.4(a), 31.13(f), 32.4, 32.6 and 32.9, Arizona Rules of Criminal Procedure = CONTINUED.

Separate order to follow.

R-14-0012
(19)

RULE 32.4, RULES OF CRIMINAL PROCEDURE

WOULD ALLOW THE COURT TO PROVIDE ELECTRONIC RECORDINGS, RATHER THAN WRITTEN TRANSCRIPTS, IN POST-CONVICTION RELIEF PROCEEDINGS

ORDERED: Petition to Amend Rule 32.4, Arizona Rules of Criminal Procedure = DENIED.

R-14-0017
(20)

PETITION TO AMEND RULES OF CIVIL APPELLATE PROC

WOULD COMPREHENSIVELY AMEND ARCAP, INCLUDING STYLISTIC AND SUBSTANTIVE REVISIONS

ORDERED: Amended Petition (Rules of Civil Appellate Procedure) = ADOPTED as modified, effective January 1, 2015.

R-13-0004
(21)

RULE 15.8, RULES OF CRIMINAL PROCEDURE

WOULD AUTHORIZE SANCTIONS FOR PROSECUTOR'S FAILURE TO DISCLOSE MATERIAL INFORMATION TO DEFENDANT PRIOR TO WITHDRAWAL OF A PLEA OFFER

ORDERED: Petition to Amend Rule 15.8, Ariz. R. Crim. P. = CONTINUED.

R-13-0031
(22)

RULE 12.10, RULES OF CRIMINAL PROCEDURE

WOULD REQUIRE THAT, IN THE COUNTIES WHERE AN ARRAIGNMENT IS NOT HELD, THE DEFENDANT BE BROUGHT BEFORE A MAGISTRATE WITHIN TEN DAYS AFTER THE INDICTMENT IS FILED

ORDERED: Petition to Amend Arizona Rule of Criminal Procedure 12.10 = ADOPTED as modified, effective January 1, 2015.

R-13-0033
(23)

RULES 47, 48, 51, et al, SUPREME COURT RULES

WOULD MAKE CLARIFYING AND OTHER AMENDMENTS TO THE ATTORNEY DISCIPLINE RULES

ORDERED: Amended Petition to Amend the Rules of the Supreme Court of Arizona (Rules 47, 48, 51, 56, 57, 58, 59, 60, 61, 63, and 72) = ADOPTED as modified, effective January 1, 2015.

R-13-0047
(24)

RULE 9.1, RULES OF PROCEDURE FOR EVICTION ACTIONS

WOULD ADD A CHANGE OF JUDGE PROVISION

ORDERED: Petition to Adopt Rule 9.1, Rules of Procedure for Eviction Actions = DENIED.

R-13-0048
(25)

RULES OF THE COMMISSION ON JUDICIAL CONDUCT

WOULD INCREASE THE TRANSPARENCY AND EFFICIENCY OF COMMISSION PROCEDURES

ORDERED: Petition to Amend the Rules of the Commission on Judicial Conduct = ADOPTED as modified, effective January 1, 2015.

R-13-0049
(26)

RULES 9, 17, & 18, COMMISSION ON JUDICIAL CONDUCT

WOULD CREATE A CONFIDENTIAL, INFORMAL ADMONITION SANCTION IN JUDICIAL CONDUCT PROCEEDINGS

ORDERED: Petition to Amend Rules 9, 17, and 18 of the Rules of the Commission on Judicial Conduct = DENIED.

R-14-0005
(27)

RULE 24.2, RULES OF CRIMINAL PROCEDURE

WOULD IMPLEMENT A PROCEDURAL MECHANISM FOR PROSECUTORS TO COMPLY WITH ER 3.8(G) WHEN EVIDENCE SHOWS A CONVICTED DEFENDANT IS LIKELY INNOCENT

ORDERED: Petition to Modify Rule 24.2, Arizona Rules of Criminal Procedure = ADOPTED as modified, effective January 1, 2015.

R-14-0006
(28)

RULE 12.5, RULES OF CRIMINAL PROCEDURE

WOULD ALLOW THE PRESENCE OF A LAW ENFORCEMENT OR DETENTION OFFICER DURING GRAND JURY SESSIONS FOR SECURITY PURPOSES WHEN A GRAND JURY WITNESS IS IN CUSTODY

ORDERED: Petition to Modify Rule 12.5, Arizona Rules of Criminal Procedure = ADOPTED as modified, effective January 1, 2015.

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R-14-0008
(29)

RULE 23.5, RULES OF CRIMINAL PROCEDURE

WOULD PROTECT TRIAL JURORS' PRIVACY BY LIMITING POST-VERDICT CONTACT BY A PARTY TO THE CASE

ORDERED: Petition to Adopt Rule 23.5, Arizona Rules of Criminal Procedure = DENIED.

R-14-0014
(30)

RULE 2.3, RULES OF CRIMINAL PROCEDURE

WOULD ENABLE ELECTRONIC FILING OF COMPLAINTS

ORDERED: Petition to Amend Rule 2.3, Arizona Rules of Criminal Procedure = ADOPTED as modified, effective January 1, 2015.

R-13-0054
(31)

RULE 12, RULES OF FAMILY LAW PROCEDURE

WOULD MAKE CHANGES TO PROCEDURES FOR CONFIDENTIAL COURT INTERVIEWS OF CHILDREN IN DISPUTED CUSTODY CASES

ORDERED: Petition to Amend Rule 12, Arizona Rules of Family Law Procedure = ADOPTED as modified, effective January 1, 2015.

R-13-0055
(32)

RULES 35(D), 82(B), 83, & 84, FAMILY LAW PROCEDURE

WOULD CLARIFY THE PROCEDURE FOR MOTIONS CHALLENGING FAMILY LAW COURT RULINGS AND MAKE THE RULES CONSISTENT WITH EXISTING PRACTICE

ORDERED: Petition to Amend Rules 35(D), 82(B), 83, and 84, Arizona Rules of Family Law Procedure = ADOPTED as modified, effective January 1, 2015.

R-13-0056
(33)

RULE 47, RULES OF FAMILY LAW PROCEDURE

WOULD CONFORM THE RULE TO STATUTORY AMENDMENTS, INCLUDING REQUIRING AN EVIDENTIARY HEARING WITHIN 60 DAYS AFTER THE FILING OF A PRE-DECREE MOTION FOR TEMPORARY ORDERS IN A LEGAL DECISION-MAKING OR PARENTING TIME ACTION

ORDERED: Petition to Amend Rule 47, Arizona Rules of Family Law Procedure = ADOPTED as modified, effective January 1, 2015.

R-13-0057
(34)

RULE 67, RULES OF FAMILY LAW PROCEDURE

WOULD CORRECT ERRONEOUSLY REFERENCED SUBSECTIONS OF THE RULE

ORDERED: Petition to Amend Rule 67, Arizona Rules of Family Law Procedure = ADOPTED, effective January 1, 2015.

R-13-0058
(35)

RULE 74, RULES OF FAMILY LAW PROCEDURE

WOULD ADD "CHOICE OF SCHOOLS" TO THE LIST OF ISSUES ON WHICH A PARENTING COORDINATOR MAY MAKE RECOMMENDATIONS TO THE COURT

ORDERED: Petition to Amend Rule 74, Arizona Rules of Family Law Procedure = ADOPTED as modified, effective January 1, 2015.

R-13-0059
(36)

RULE 97, RULES OF FAMILY LAW PROCEDURE

WOULD AMEND INTERROGATORIES IN FORM 7 DEALING WITH EMPLOYMEMNT, LEGAL DECISION-MAKING, AND SPOUSAL AFFIDAVITS AND INVENTORIES

ORDERED: Petition to Amend Rule 97, Arizona Rules of Family Law Procedure = ADOPTED, effective January 1, 2015.

R-14-0002
(37)

RULES 801(d)(1)(B) and 803(6)-(8), EVIDENCE RULES

WOULD CONFORM THE ARIZONA RULES TO PENDING AMENDMENTS TO THE FEDERAL RULES OF EVIDENCE

ORDERED: Petition to Amend Arizona Rules of Evidence 801(d)(1)(B) and 803(6)-(8) = ADOPTED as modified, effective January 1, 2015.

R-14-0013
(38)

RULE 64.1(c), ARCP/RULE 94, RULES OF FAMILY LAW

WOULD CLARIFY THE ISSUANCE OF ARREST WARRANTS AND CONFORM THE LANGUAGE IN THESE RULES WITH LANGUAGE USED IN OTHER ARIZONA COURT RULES

ORDERED: Petition to Amend Rule 94, Rules of Family Law Procedure, and Rule 64.1(C), Rules of Civil Procedure = ADOPTED, effective January 1, 2015.

R-14-0021
(39)

RULES 26.9 and 31.3, RULES OF CRIMINAL PROCEDURE

WOULD CLARIFY WHEN APPEAL TIME BEGINS TO RUN IN CRIMINAL CASES

ORDERED: Petition to Amend Rules 26.9 and 31.3, Arizona Rules of Criminal Procedure = ADOPTED as modified, effective January 1, 2015.

R-14-0024
(40)

RULE 21, RULES OF PROCEDURE FOR THE JUVENILE COURT

WOULD CONFORM RULES WITH RECENT AMENDMENTS TO A.R.S. § 8-381 RELATING TO VICTIMS' RIGHTS IN JUVENILE PROCEEDINGS

ORDERED: Petition to Amend Rule 21, Rules of Procedure for the Juvenile Court (Emergency or Expedited Adoption Requested) = ADOPTED as modified on an expedited basis, effective September 1, 2014, with a comment period to follow. Comments shall be due October 31, 2014.

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R-14-0025
(41)

VARIOUS RULES RELATING TO DEPT OF CHILD SAFETY

WOULD CONFORM NOMENCLATURE IN RULES WITH LEGISLATION CREATING THE DEPARTMENT OF CHILD SAFETY

ORDERED: Petition to Amend Various Rules Due to Creation of Department of Child Safety (Emergency or Expedited Adoption Requested) = ADOPTED as modified on an expedited basis, effective September 1, 2014, with a comment period to follow. Comments shall be due October 31, 2014.

R-14-0026
(42)

RULE 22, RULES OF PROBATE PROCEDURE

WOULD IMPLEMENT RECENT LEGISLATION REQUIRING SPECIFIC FINDING IN ORDERS APPOINTING A GUARDIAN AS TO WHETHER APPOINTMENT IS DUE SOLELY TO WARD'S PHYSICAL INCAPACITY

ORDERED: Petition to Amend Rule 22, Rules of Probate Procedure (Emergency or Expedited Adoption Requested) = ADOPTED as modified on an expedited basis, effective December 31, 2014, with a comment period. Comments shall be due October 31, 2014.

The foregoing action was taken by the Arizona Supreme Court on Tuesday, August 26, 2014.

_____ **Date:** _____

Scott Bales, Chief Justice