

Arizona Supreme Court

Rule 28 Petition

R-24-0047

RULE 82, RULES OF THE SUPREME COURT

Appellate Case Information

Case Filed: 3-Jun-2024

Case Closed:

Dept/Composition

Side 1. RULE 82, RULES OF THE SUPREME COURT, Other

(Litigant Group) PETITIONER: DAVID K. BYERS

• David K Byers, Administrative Office of the Courts, Petitioner

(Litigant Group) COMMENTOR: ARIZONA JUDICIAL ETHICS ADVISORY COMMITTEE

• Judicial Ethics Advisory Committee, Commentor

• April Phillips Elliott, Judicial Ethics Advisory Committee, Commentor

CASE STATUS

Aug 22, 2024....Continued

Jun 3, 2024.....Pending

6 PROCEEDING ENTRIES

1. 3-Jun-2024 FILED: Petition to Amend Rule 82, Rules of the Arizona Supreme Court, Judicial Ethics Advisory Committee (Expedited consideration and emergency adoption requested) (Petitioner David K. Byers, Administrative Office of the Courts, Administrative Director)

2. 4-Jun-2024 On June 3, 2024, David K. Byers, Administrative Director of the Administrative Office of the Courts ("AOC"), filed a rule petition on AOC's behalf to amend Rule 82 of the Rules of the Supreme Court of Arizona, which governs the Judicial Ethics Advisory Committee ("JEAC"). The proposed amendments would: (a) require JEAC to solicit comments before issuing a formal advisory opinion; and (b) provide for Supreme Court review before a JEAC opinion becomes final.

Petitioner further requests that the petition be given expedited consideration under Rule 28(h)(1), Rules of the Supreme Court of Arizona, and be considered during the Court's August 2024 Rules Agenda. He also requests that the amendments be adopted on an emergency basis under Rule 28(h)(2) of the same rules. He further proposes that the Court open the petition for public comment for a limited time period before considering whether to adopt the amendments on an emergency basis and, if it does decide to adopt the amendments, reopen the comment period before considering whether to adopt the amendments on a permanent basis.

Upon consideration,

IT IS ORDERED granting the request to consider this petition on an expedited basis.

IT IS FURTHER ORDERED that the Court will consider the petition during its August 2024 Rules Agenda and decide whether to adopt the proposed amendments on an emergency basis. If it does, the Court will reopen the public comment period and consider whether to adopt the rule amendments on a permanent basis during its December 2024 Rules Agenda.

IT IS FURTHER ORDERED that this petition is opened for public comment under Rule 28(c), Rules of the Supreme Court of Arizona, with all comments due no later than June 28, 2024, and any reply due no later than July 12, 2024.

The petition may be viewed by going to: <http://www.azcourts.gov/Rules-Forum>. This opens the "Welcome" page. Petitions are posted under the appropriate body of rules (such as the "Rules of the Supreme Court"), which can be found by scrolling down the page.

For instructions on how to post comments electronically, click on <https://www.azcourts.gov/rules/Forum-FAQ> at the top of the "Forum FAQ" page and then "How do I file a comment on a Rule 28 petition?"

Alternatively, commenters may submit comments by filing an original and one paper copy of the comment and one electronic copy of the written comments and supporting documents in Microsoft Word format on a CD or other compatible electronic medium with the Clerk of the Supreme Court, 1501 West Washington St., Room 402, Phoenix, AZ 85007 in an envelope marked "Rule Comment."

Any person filing a comment must send a copy of the comment to the Petitioner electronically or by ordinary mail. (Hon. Robert Brutinel)

3. 27-Jun-2024 FILED: Comment of the Arizona Judicial Ethics Advisory Committee (Arizona Judicial Ethics Advisory Committee, April P. Elliott, Staff Director)

4. 9-Jul-2024 FILED: Reply (Petitioner David K. Byers, Administrative Office of the Courts, Administrative Director)

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6 PROCEEDING ENTRIES

5. 20-Aug-2024 WOULD AMEND RULE 82 OF THE RULES OF THE SUPREME COURT OF ARIZONA TO REQUIRE THE JUDICIAL ETHICS ADVISORY COMMITTEE TO SEEK COMMENT BEFORE ISSUING A FORMAL ADVISORY OPINION AND PROVIDE FOR SUPREME COURT REVIEW BEFORE AN OPINION BECOMES FINAL
- ORDERED: Petition to Amend Rule 82, Rules of the Arizona Supreme Court, Judicial Ethics Advisory Committee = ADOPTED as modified on an emergency basis, effective immediately.
- FURTHER ORDERED: The amendments as revised are opened for public comment, with all comments due no later than October 1, 2024 and any reply due no later than October 15, 2024.
- FURTHER ORDERED: The Court will decide whether to adopt the rule amendments on a permanent basis during its December 2024 Rules Agenda.
6. 22-Aug-2024 On June 3, 2024, David K. Byers, Administrative Director of the Administrative Office of the Courts, filed a petition proposing to amend, on an emergency basis, Rule 82 of the Rules of the Supreme Court of Arizona. Having considered the petition and the comments,
- IT IS ORDERED that under Rule 28(h)(2) of the Rules of the Supreme Court of Arizona, Rule 82 of the Rules of the Supreme Court of Arizona is amended on an emergency basis in accordance with the attachment to this order, effective immediately.
- IT IS FURTHER ORDERED that, consistent with this Court's order of June 4, 2024, the Court will consider whether to adopt this rule amendments on a permanent basis during its December 2024 Rules Agenda.
- IT IS FURTHER ORDERED that this petition is reopened for public comment as to whether the amendments should be adopted on a permanent basis, with all comments due no later than October 1, 2024, and any reply due no later than October 15, 2024.
- The petition may be viewed by going to: <http://www.azcourts.gov/Rules-Forum>. This opens the "Welcome" page. Petitions are posted under the appropriate body of rules (such as the "Rules of the Supreme Court"), which can be found by scrolling down the page.
- For instructions on how to post comments electronically, click on <https://www.azcourts.gov/rules/Forum-FAQ> at the top of the "Forum FAQ" page and then "How do I file a comment on a Rule 28 petition?"
- Alternatively, commenters may submit comments by filing an original and one paper copy of the comment and one electronic copy of the written comments and supporting documents in Microsoft Word format on a CD or other compatible electronic medium with the Clerk of the Supreme Court, 1501 West Washington St., Room 402, Phoenix, AZ 85007 in an envelope marked "Rule Comment."
- Any person filing a comment must send a copy of the comment to the Petitioner electronically or by ordinary mail. (Hon. Ann A. Scott Timmer)