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ARIZONA SUPREME COURT

In the matter of:)
)
PETITION TO AMEND) Supreme Court No. 20-_____
SUPREME COURT RULE 33.1(e)) (expedited consideration
) requested)
_____)

Pursuant to Rule 28 of the Rules of the Supreme Court, David K. Byers, Administrative Director, Administrative Office of the Courts, respectfully petitions this Court to amend Supreme Court Rule 33.1(e) as shown below.

I. Purpose of the Proposed Rule Amendment.

Rule 33.1 was adopted by this Court in R-20-0034 as part of a comprehensive package of new and amended rules designed, in part, to implement the recommendations of the Court’s Task Force on Delivery of Legal Services. Rule 33.1 governs the new Committee on Alternative Business Structures that will recommend licensure of alternative business structures (ABS’s) to the Court. The rule borrows from an existing rule governing the Committee on Character and Fitness. The Character and Fitness Committee’s work is largely confidential, however, the Committee on Alternative Business Structures is intended to perform

its work in an open and public manner, and applications for ABS licensure are not intended to be confidential documents. Rule 33.1(e), as adopted, is also internally inconsistent with subsection 33.1(a)(6)(C), accordingly, the following amendment to subsection (e) is needed:

(e) Retention and Confidentiality of Records of Applicants. The records of applicants for licensure pursuant to ACJA § 7-209 shall be maintained and may be destroyed in accordance with approved retention and disposition schedules pursuant to administrative order of the Court, pursuant to Rule 29, Rules of Supreme Court. The records and the proceedings concerning an application for licensure shall ~~remain confidential~~ be governed by the provisions of Supreme Court Rule 123, except as otherwise provided in these rules. Bar counsel shall be allowed access to the records of applicants for licensure and the proceedings of the Committee concerning an application for licensure in connection with any proceeding before the Court. In addition, the Committee or designated staff may disclose their respective records pertaining to an applicant for licensure to:

1. any licensing authority in any other state the applicant seeks similar licensure;
2. bar counsel for discipline enforcement purposes; and
3. a law enforcement agency, upon subpoena or good cause shown.

II. Preliminary Comments.

This petition has not been sent to the court community for pre-filing comments because of the short period of time since the enactment of Rule 33.1.

III. Request for Expedited Consideration.

Pursuant to this Court's Order in R-20-0034, filed August 27, 2020, Rule 33.1 will become effective January 1, 2021. Therefore, as permitted by Supreme Court Rule 28(h), petitioner requests expedited consideration of this petition at the

December, 2020 rules agenda, expedited adoption of the proposed amendment to coincide with the January 1, 2021 effective date of the rule, and a comment period to run for 30 days prior to the Court's December 2020 rules agenda,

Respectfully submitted this 22nd day of October, 2020.

By /S/ _____
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