WHAT'S NEW RE: THE 2027 EDITION

For 2027, highlights of the Arizona Rules of Civil Procedure the Arizona Supreme Court either adopted or amended are set forth below as follows:

- Adopted new Rule 7.5 to establish an expedited dispute resolution procedure that governs how 'certain disputes' between parties are resolved, supplanting formal motion procedures where it applies.
- Amended Rule 15(a) in two important ways as follows:
  (1) Rule 15(a)(2) was amended to incorporate Rule 7.5's expedited dispute resolution procedure, where the party seeking to amend its pleading has not obtained written consent from all parties; and
  (2) Rule 15(a)(4) was amended to require the party seeking leave to amend to:
    - attach a copy of the proposed amended pleading as an exhibit to the joint statement of dispute, or
    - attach a copy of the proposed amended pleading to the motion to amend, if the court has allowed full briefing.
- Amended Rule 25 to add a subdivision to Rule 25(a). The new subdivision, Rule 25(a)(2), addresses the issue of what happens if a party dies while acting in a representative capacity for a person that is unable to represent themselves. In short, "a successor representative may move to substitute themselves, and the court may order their substitution."
- Amended Rule 26(c)(5) to make clear that any Rule 26(c) requests for a Rule 5.4 order to seal a document must comply with Rule 5.4 requirements and such request is not subject to the expedited dispute resolution procedure set forth in Rule 7.5.
- Amended Rule 26(d) in three important respects as follows:
  (1) expanded the types of disputes subject to the mandatory expedited dispute resolution procedure set forth in Rule 7.5 (Jan. 1, 2027). Specifically, unless the court permits full briefing, Rule 26(d) states that the Rule 7.5 procedure applies to:
    - "a dispute that could properly be addressed under Rule 26(c)" [protective, confidentiality and sealing orders]; and
    - "**any discovery or disclosure dispute**."
  (2) deleted Rule 26(d)(2) to (4) (pre-Jan. 1, 2027). The substance of those former provisions is now contained

in new Rule 7.5. *See* Ariz. R. Civ. P. 7.5(a) to (c) ["Expedited Procedure for Resolving Discovery and Disclosure Disputes"].

(3) relocated now former Rule 26(d)(5) to Rule 26(d)(2) (2027), which is essentially identical to the text of now former Rule 26(d)(5).

- Amended Rule 26(e) to make technical corrections in light of the adoption of Rule 7.5.
- Amended Rule 37(a) such that Rule 37(a) disputes are now subject to Rule 7.5, which rule, among other things, requires the submission of a joint statement in the event the dispute is a discovery or disclosure disputes. Rule 37(b) to (g) was not similarly amended.
- Amended Rule 45(c)(6)(C) was amended to provide that, unless the subpoenaed nonparty agrees otherwise, the expedited dispute resolution procedure set forth in Rule 7.5 does not apply to motions filed under Rule 45(c)(6)(C). Rule 45(c)(6)(C) also was amended to reference Rule 7.5. instead of Rule 26(d).
- Amended Rule 45.2 to allow a nonparty to opt in to Rule 7.5's expedited dispute resolution procedures if it so chooses. As amended, Rule 45.2(d)(2) provides that a nonparty to a discovery dispute "may use the procedures for resolving disputes set forth in Rule 7.5 or may move for a Rule 26(c) protective order in the action." *See* Ariz. R. Civ. P. 45.2(d)(2) (Jan. 1, 2027).

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