

Supreme Court Board of Legal Document Preparers

Arizona State Courts Building
1501 West Washington, Phoenix, AZ 85007

CLD1

10:00 a.m. - 1:00 p.m.

May 20, 2003

Approved Minutes

Members Present:

Judge Ronald J. Steinle, III, Chair
Carol L. Wells
Dr. Roger E. Hartley
Donald F. Steward
J. Ward Sturm
Margaret J. Kleinman
Mary Carlton
Susan C. Vasquez
Vellia M. Pina
Virlynn Tinnell
Nancy Swetnam

AOC Staff Present:

Linda Grau
Lauren Hargrave
Nina Preston

Members Absent:

Guests:

Rick Gordon
Sandra R. L. C
Fernando Car
Brenda Parson

Call to Order

The meeting was called to order by Judge Ronald J. Steinle, III at 10:02 a.m.

Review and Approval of Meeting Minutes

Regular Session Minutes of April 29, 2003

Ms. Carlton requested spelling of her name be made throughout the minutes from Carlson to Carlton.

A **motion** was made by Mary Carlton and seconded by Carol Wells to adopt the regular session minutes of April 2, 2003 as amended. Motion passed. **LDP-03-08**

Welcome and Introductions

Nancy Swetnam introduced Linda Grau and Lauren Hargrave to the Board. Linda came to the Supreme Court from the Superior Court in Maricopa County and is the Legal Document Preparers

Program Coordinator. Lauren came to the Supreme Court from the Arizona State Board of Dental Examiners and is the new Division Secretary and providing support to the Board.

Certification and Eligibility

Review and discussion of Business Certifications Requirements regarding Arizona Code of Judicial Administration §7-208, Subsections (E)(3)(c)(1) and (E)(3)(c)(3).

Linda Grau advised the Board applicants have voiced primary concern regarding the issue of business entity certification. A number of individual applicants are operating under an LLC, however these applicants are primarily sole proprietors and have only formed the LLC or Corporation designation for their business operations. The Board discussed and reviewed possible solutions. According to the Arizona Code of Judicial Administration §7-208, Subsections (E)(3)(c)(1) and (E)(3)(c)(3) a business entity has to be licensed. The Board noted that an individual who is a sole operator of an LLC or Corporation may apply for exemption from the business certification. If an exemption is granted a refund of the business certification fee would be given.

A **motion** was made by Nancy Swetnam and seconded by Judge Steinle to request Chief Justice sign an Administrative Order which would allow individuals who have a corporation, limited liability, or partnership, but are in effect a sole proprietor, to apply for Business Certification and an exemption from business entity certification. Within the exemption they would be required to list any officers, partners, shareholders and state that they have no trainees operating under them and employ no other certified legal document preparers. If exemption is granted any business certification fees paid shall be refunded. Motion passed. **LDP-03-09**

The Board directed staff to draft the Administrative Order for the June 10, 2003 meeting.

Review and discussion of Certification Process and Jurisdictional Issues as applicable to Rule 32 of the Supreme Court of Arizona, Subsections (a)(1) and (a)(2).

Ms. Swetnam stated Rule 31 of the Supreme Court of Arizona, addresses this issue as follows; nothing within rules shall prohibit the preparation of documents incidental to a regular course of business when the documents are for the use of the business and not made available to third parties. The Board stated a paralegal for a third party does not need to be a certified if working under direct supervision of an attorney. A designated principle of a business must be a certified legal document preparer and must supervise any other certified document preparers within the business. Outsourcing is an issue that needs to be addressed further. The Board questioned the intent of the rule, questioning “made available to a third party”, and feel clarity is needed by was of “made available for use by a third party”. The Board of Governors has approved an appointment to the advisory committee to take questions and act on them.

A **motion** was made by Judge Steinle and seconded by Mr. Sturm to ask the Arizona State Bar Committee for an advisory opinion regarding this issue. Motion passed. **LDP-03-10**

Linda Grau advised the Board document preparers who are exclusively preparing documents solely for Federal Courts are questioning the impact and the need for certification. The Board stated the State Supreme Courts jurisdiction only goes to state issues and Federal Bankruptcy Court have different requirements on documents being prepared for them, the same applies to Immigration and Tax (Federal) issues. The Board has no jurisdiction over federal document preparation. The Board stated the certificate letter shall stipulate; the fact that you have been licensed by the Board has no impact on your ability to practice in Bankruptcy Court or Immigration, it is beyond the jurisdiction of the State Board.

Review of Rule 31 of the Supreme Court of Arizona, Subsection (13) regarding Certified Public Accountants and the Legal Document Preparer Certification.

Linda Grau advised the Board inquires have been made by Certified Public Accountants who participates in matters other than those listed in Rule 31 of the Supreme Court of Arizona, Subsection (13) clarifies that CPA's may prepare legal documents or may represent individuals are they required to be certified legal document preparers. Non-Certified Public Accountants in the process of managing customer accounts preparing entity package or preparing a business plan, do they have to be certified as legal document preparers. The Board stated that these individuals are preparing legal documents they must be certified, however, representing in front of entities is a matter for the advisory committee.

A **motion** was made by Nancy Swetnam and seconded by Judge Steinle to refer this matter to the Arizona State Bar Advisory Committee. Motion passed. **LDP-03-11**

Review of Rule 31 of the Supreme Court of Arizona, Subsection (24) regarding Mediators.

Linda Grau stated mediators who are in the practice of providing services to individuals with legal situation and are/are not preparing legal documents are making inquiries, questioning the need for certification. The Board stated Rule 31 of the Supreme Court of Arizona, Subsection (24), states "nothing in these rules shall prohibit a mediator as defined in these rules from facilitating a mediation between the parties, provided that a mediator who is not a member of the State Bar and who prepares or provides legal documents for the parties without supervision of an attorney must be certified as a legal document preparer. Having these individuals certified as legal document preparers makes them responsible.

Database System Presentation

Introduction of and information on AOC Legal Document Preparer program database.

Linda Grau introduced the storage of data and tracking devices within the database system. Fields coordinate individuals with business entities they are associated with, as well as identifying principle for business entities, individually as well as the businesses. There is a note section to delineate action taken and issues addressed. The program design is user friendly and has the ability to run multiple reports. Some information contained within the database is confidential and will be marked as such.

Executive Session

A **motion** was made by Nancy Swetnam and seconded by Mary Carlton to go into Executive Session to discuss records exempt by law or rule from public inspection or for advice of counsel. Motion passed. **LDP-03-12**

Executive Session ended.

Review of Applications

Information on applications pending for the Legal Document Preparer Program.

The following legal document preparer requested she be granted Initial Certification. Linda Grau informed the Board the legal document preparer has met all requirements of education/experience, background check being conducted through admission database, discipline database, UPL, and public access for cases within Arizona.

Carol Wells - Tucson, Arizona

A **motion** was made by Mr. Sturm and seconded by Mary Carlton to grant Initial Certification of Carol Wells. Motion passed. Ms. Wells recused. **LDP-03-13**

(During Executive Session the Board reviewed the confidential record of each legal document preparer and for purposes of the public session will identify the businesses as #1, #2 and the individuals as #3,#4,#5)

Business #1

A **motion** was made by Nancy Swetnam and seconded by Virlynn Tinnell to defer the application of applicant #1 as discussed in Executive Session for the purposes of receiving further information. Motion passed. **LDP-03-14**

Business #2

A **motion** was made by Nancy Swetnam and seconded by Margaret Kleinman to defer the application of applicant #2 as discussed in Executive Session for the purposes of receiving further information. Motion passed. **LDP-03-15**

Individual #3

A **motion** was made by Nancy Swetnam and seconded by Susan Vasquez to defer the application of applicant #3 as discussed in Executive Session for the purposes of receiving further information. Motion passed. **LDP-03-16**

Individual #4

A **motion** was made by Nancy Swetnam and seconded by Mary Carlton to defer the application of applicant #4 as discussed in Executive Session for the purposes of receiving

further information. Motion passed. **LDP-03-17**

Individual #5

A **motion** was made by Nancy Swetnam and seconded by Mary Carlton to defer the application of applicant #5 as discussed in Executive Session for the purposes of receiving further information. Motion passed. **LDP-03-18**

The following legal document preparers requested they be granted Initial Certification. Linda Grau informed the Board the legal document preparers listed below have met all requirements of education/experience, background checks being conducted through admission database, discipline database, UPL, and public access for cases within Arizona.

Business Certification:

AAA Legal Services, Inc. dba The Divorce Store-Phoenix, Arizona
Langston-Hancock Legal Documents - Tucson, Arizona
Oxford Retirement and Estate Planning, Inc. - Sun City, Arizona

Individual Certification:

Steven Basehore- Phoenix, Arizona	Karen Cooley - Sun City, Arizona
William Foy - Scottsdale, Arizona	Neal Rick Gordon - Phoenix, Arizona
Frances Lanston-Hancock - Tucson, Arizona	Ronald Lawson - Lakeside, Arizona
Maria Lungo - Phoenix, Arizona	Maria Rodriguez - Glendale, Arizona
E. Lynn Riordan - Cottonwood, Arizona	Oliver Ross - Scottsdale, Arizona
Armando Saenz - Tucson, Arizona	Maria Saenz - Tucson, Arizona

A **motion** was made by Mr. Sturm and seconded by Mary Carlton to grant Initial Certification Certification of all applicants listed above. Motion passed. **LDP-03-19**

Certification and Eligibility - Continued

Review of Rule 31 of the Supreme Court of Arizona and §7-208 regarding Certification.

Procedures for Hearing Reviews of §7-208 regarding Hearings for Certification.

Nancy Swetnam addressed the Board with regards to the review of Rule 31 of the Supreme Court of Arizona, Arizona Code of Judicial Administration §7-208 (E)(5). The section lays out why the Board may deny certification or renewal, and the applicant being able to request a hearing regarding the denial within 15 days. The applicant can request a hearing or the Board can appoint a hearing officer to hold a hearing regarding the initial or renewal of certification, or complaint against the applicant. Hearing requests must specify the provision of the code section that entitles the person to a hearing, the factual basis supporting the request for hearing and the relief demanded. The hearing officer will render recommendations to the Board, the Board makes final decision. The Board agreed they would review requests for hearings before appointing a hearing officer.

Call to the Public

There was no response.

Next meeting is Tuesday, June 10, 2003 at 10:00 a.m..

Judge Steinle stated that public comments will be allowed if the parties wish to appear at future meetings.

Adjournment

A **motion** was made by Mary Carlton and seconded by Mr. Sturm to adjourn. Motion passed.
LDP-03-20

The meeting of the Board of Legal Document Preparers adjourned at 12:55 p.m.