

AMENDED APPENDIX 2
RESTYLED AND AMENDED RULE 31; PROPOSED
AMENDED RULES 32, 41, 46-51, 54-58, 60, 75-76; AND
PROPOSED NEW RULE 33.1
CLEAN AND MARKUP

Appendix 2A: Restyled and Amended Rule 31; Proposed Amended Rules 32, 41, 46-51, 54-58, 60, 75-76; and Proposed New Rule 33.1 (Clean)

Rule 31. Supreme Court Jurisdiction¹

(a) Jurisdiction. The Arizona Supreme Court has jurisdiction over any person or entity engaged in the authorized or unauthorized “practice of law” in Arizona, as that phrase is defined in (b). The Arizona Supreme Court also has jurisdiction over any ABS who is licensed pursuant to Rule 31.1(b) and ACJA 7-209.

(b) Definition. “Practice of law” means providing legal advice or services to or for another by:

- (1) preparing or expressing legal opinions to or for another person or entity;
- (2) representing a person or entity in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process such as arbitration or mediation;
- (3) preparing a document, in any medium, on behalf of a specific person or entity for filing in any court, administrative agency, or tribunal;
- (4) negotiating legal rights or responsibilities on behalf of a specific person or entity; or
- (5) preparing a document, in any medium, intended to affect or secure a specific person’s or entity’s legal rights.

Rule 31.1. Authorized Practice of Law.

(a) Requirement. A person may engage in the practice of law in Arizona, or represent that he or she is authorized to engage in the practice of law in Arizona, only if:

- (1) the person is an active member in good standing of the State Bar of Arizona under Rule 32; or
- (2) the person is specifically authorized to do so under Rules 31.3, 38, or 39.

(b) Alternative Business Structure (ABS). An entity that includes nonlawyers who have an economic interest or decision-making authority as defined in ACJA 7-209 may employ, associate with, or engage a lawyer or lawyers to provide legal services to third parties only if:

¹ Rules 31 through 31.3 as presented in this appendix represents the restyling of Rule 31 as discussed in the petition. Underlined content represents proposed amendments related only to the regulation of ABSs.

(1) it employs at least one person who is an active member in good standing of the State Bar of Arizona under Rule 32 who supervises the practice of law under ER 5.3;

(2) it is licensed pursuant to ACJA § 7-209; and

(3) legal services are only provided by persons authorized to do so and in compliance with the Rules of Supreme Court.

(c) Lack of Good Standing. A person who is currently suspended or has been disbarred from the State Bar of Arizona, or is currently on disability inactive status, is not a member in good standing of the State Bar of Arizona under Rule 31.1(a)(1).

Rule 31.2. Unauthorized Practice of Law. Except as provided in Rule 31.3, a person, entity, or ABS who is not authorized to practice law in Arizona under Rule 31.1(a), (b) or Rule 31.3 must not:

(a) engage in the practice of law or provide legal services in Arizona; or

(b) use the designations “lawyer,” “attorney at law,” “counselor at law,” “law,” “law office,” “J.D.,” “Esq.,” “alternative business structure (ABS)” or other equivalent words that are reasonably likely to induce others to believe that the person or entity is authorized to engage in the practice of law or provide legal services in Arizona.

Rule 31.3. Exceptions to Rule 31.2.

(a) Generally.

(1) Notwithstanding Rule 31.2, a person or entity may engage in the practice of law in a limited manner as authorized in Rule 31.3(b) through (e), but the person or entity who engages in such an activity is subject to the Arizona Supreme Court’s jurisdiction concerning that activity.

(2) A person who is currently suspended or has been disbarred from the State Bar of Arizona, or is currently on disability inactive status, may not engage in any of the activities specified in this Rule 31.3 unless this rule authorizes a specific activity.

(3) An ABS whose license has been suspended or revoked may not engage in any of the activities specified in this rule, except an ABS whose license has been suspended may engage in activities as expressly authorized by judgment or order of this court, the presiding disciplinary judge, or a hearing panel.

(b) Governmental Activities and Court Forms.

(1) ***In Furtherance of Official Duties.*** An elected official or employee of a governmental entity may perform the duties of his or her office and carry out the government entity’s regular course of business.

(2) ***Forms.*** The Supreme Court, Court of Appeals, superior court, and limited jurisdiction courts may create and distribute forms for use in Arizona courts.

(c) Legal Entities.

(1) ***Definition.*** “Legal entity” means an organization that has legal standing under Arizona law to sue or be sued in its own right, including a corporation, a limited liability company, a partnership, an association as defined in A.R.S. §§ 33-1202 or 33-1802, or a trust.

(2) ***Documents.*** A legal entity may prepare documents incidental to its regular course of business or other regular activity if they are for the entity’s use and are not made available to third parties.

(3) ***Justice and Municipal Courts.*** A person may represent a legal entity in a proceeding before a justice court or municipal court if:

(A) the person is a full-time officer, partner, member, manager, or employee of the entity;

(B) the entity has specifically authorized the person to represent it in the proceeding;

(C) such representation is not the person’s primary duty to the entity, but is secondary or incidental to other duties relating to the entity’s management or operation; and

(D) the person is not receiving separate or additional compensation for representing the entity (other than receiving reimbursement for costs).

(4) ***General Stream Adjudication Proceeding.*** A person may represent a legal entity in superior court in a general stream adjudication proceeding conducted under A.R.S. §§ 45-251 et seq. (including a proceeding before a master appointed under A.R.S. § 45-255) if:

(A) the person is a full-time officer, partner, member, manager, or employee of the entity;

(B) the entity has specifically authorized the person to represent it in the proceeding;

(C) such representation is not the person's primary duty to the entity but is secondary or incidental to other duties related to the entity's management or operation; and

(D) the person is not receiving separate or additional compensation for representing the corporation or association (other than receiving reimbursement for costs).

(5) ***Administrative Hearings and Agency Proceedings.*** A person may represent a legal entity in a proceeding before the Office of Administrative Hearings, or before an Arizona administrative agency commission, or board, if:

(A) the person is a full-time officer, partner, member, manager, or employee of the entity;

(B) the entity has specifically authorized the person to represent it in the particular proceeding;

(C) such representation is not the person's primary duty to the entity, but is secondary or incidental to other duties relating to the entity's management or operation; and

(D) the person is not receiving separate or additional compensation for representing the entity (other than receiving reimbursement for costs).

(6) ***Exception.*** Despite Rule 31.3(c)(3) through (c)(5), a court, the hearing officer, or the officer presiding at the agency or commission proceeding, may order the entity to appear only through counsel if the court or officer determines that the person representing the entity is interfering with the proceeding's orderly progress or imposing undue burdens on other parties.

(d) Tax-Related Activities and Proceedings.

(1) A person may prepare a tax return for an entity or another person.

(2) A certified public accountant or other federally authorized tax practitioner (as that term is defined in A.R.S. § 42-2069(D)(1)) may:

(A) render individual and corporate financial and tax advice to clients and prepare tax-related documents for filing with governmental agencies;

(B) represent a taxpayer in a dispute before the State Board of Tax Appeals if the amount at issue is less than \$25,000; and

(C) practice before the Internal Revenue Service or other federal agencies if authorized to do so.

(3) A property tax agent (as that term is defined in A.R.S. § 32-3651), who is registered with the Arizona State Board of Appraisal under A.R.S. § 32-3642, may practice as authorized under A.R.S. § 42-16001.

(4) A person may represent a party in a small claim proceeding in Arizona Tax Court conducted under A.R.S. §§ 12-161 et seq.

(5) In any tax-related proceeding before the Arizona Department of Revenue, the Office of Administrative Hearings relating to the Arizona Department of Revenue, a state or county board of equalization, the Arizona Department of Transportation, the Arizona Department of Economic Security, the Arizona Department of Child Safety, the Arizona Corporation Commission, or any county, city, or town taxing or appeals official, a person may represent a taxpayer if:

(A) the person is:

(i) a certified public accountant,

(ii) a federally authorized tax practitioner (as that term is defined in A.R.S. § 42-2069(D)(1)); or

(iii) in matters in which the amount in dispute, including tax, interest and penalties, is less than \$5,000, the taxpayer's duly appointed representative; or

(B) the taxpayer is a legal entity (including a governmental entity) and:

(i) the person is full-time officer partner, member, manager, or employee of the entity;

(ii) the entity has specifically authorized the person to represent it in the proceeding;

(iii) such representation is not the person's primary duty to the entity, but is secondary or incidental to other duties relating to the entity's management or operation; and

(v) the person is not receiving separate or additional compensation for such representation (other than receiving reimbursement for costs).

(e) Other.

(1) ***Children with Disabilities.*** In any administrative proceeding under 20 U.S.C. §§ 1415(f) or (k) regarding any matter relating to the identification, evaluation, educational placement, or the provision of a free appropriate public education for a child with a disability or suspected disability, a person may represent a party if:

(A) the hearing officer determines that the person has special knowledge or training with respect to the problems of children with disabilities; and

(B) the person is not charging a fee for representing the party (other than receiving reimbursement for costs).

Despite these provisions, the hearing officer may order the party to appear only through counsel or in some other manner if he or she determines that the person representing the party is interfering with the proceeding's orderly progress or imposing undue burdens on other parties.

(2) ***Department of Fire, Building and Life Safety.*** In any landlord/tenant dispute before the Arizona Department of Fire, Building and Life Safety, a person may represent a party if:

(A) the party has specifically authorized the person to represent the party in the proceeding; and

(B) the person is not charging a fee for the representing the party (other than receiving reimbursement for costs).

(3) ***Fiduciaries.*** A person licensed as a fiduciary under A.R.S. § 14-5651 may perform services in compliance with Arizona Code of Judicial Administration § 7-202 without acting under the supervision of an attorney authorized under Rule 31.1(a) to engage in the practice of law in Arizona. Despite this provision, a court may suspend the fiduciary's authority to act without an attorney if it determines that lay representation is interfering with the proceeding's orderly progress or imposing undue burdens on other parties.

(4) ***Legal Document Preparers and Limited License Legal Practitioners.*** Certified legal document preparers and limited license legal practitioners may perform services in compliance with the Arizona Code of Judicial Administration. Disbarred or suspended attorneys may only be certified as a legal document preparer or licensed as a limited license legal practitioner if approved by the Supreme Court.

(5) ***Mediators.***

(A) A person who is not authorized under Rule 31.1(a) to engage in the practice of law in Arizona may prepare a written agreement settling a dispute or file such an agreement with the appropriate court if:

(i) the person is employed, appointed, or referred by a court or government entity and is serving as a mediator at the direction of the court or a governmental entity; or

(ii) the person is participating without compensation in a nonprofit mediation program, a community-based organization, or a professional association.

(B) Unless specifically authorized in Rule 31.3(e)(5)(A), a mediator who is not authorized under Rule 31.1(a) to engage in the practice of law in Arizona and who prepares or provides legal documents for the parties without attorney supervision must be certified as a legal document preparer in compliance with the Arizona Code of Judicial Administration § 7-208.

(6) *Nonlawyer Assistants and Out-of-State Attorneys.*

(A) A nonlawyer assistant may act under an attorney's supervision in compliance with ER 5.3 of the Arizona Rules of Professional Conduct. This exception is not subject to the restriction in Rule 31.3(a)(2) concerning a person who is currently suspended or has been disbarred from the State Bar of Arizona or is currently on disability inactive status.

(B) An attorney licensed in another jurisdiction may engage in conduct that is permitted under ER 5.5 of the Arizona Rules of Professional Conduct.

(7) ***Personnel Boards.*** An employee may designate a person as a representative who is not necessarily an attorney to represent the employee before any board hearing or any quasi-judicial hearing dealing with personnel matters, but no fee may be charged (other than for reimbursement of costs) for any services rendered in connection with such hearing by any such designated representative who is not authorized under Rule 31.1(a) to engage in the practice of law in Arizona.

(8) ***State Bar Fee Arbitration.*** A person may represent a legal entity in a fee arbitration proceeding conducted by the State Bar of Arizona Fee Arbitration Committee, if:

(A) the person is a full-time officer, partner, member, manager, or employee of the entity;

(B) the entity has specifically authorized the person to represent it in the particular proceeding;

(C) such representation is not the person's primary duty to the entity, but is secondary or incidental to other duties relating to the entity's management or operation; and

(D) the person is not receiving separate or additional compensation for representing the entity (other than receiving reimbursement for costs).

Rule 32. Organization of State Bar of Arizona.

(a) State Bar of Arizona. The Supreme Court of Arizona maintains under its direction and control a corporate organization known as the State Bar of Arizona.

1. *Practice of law.* [[No change]]

2. *Mission.* The State Bar of Arizona exists to serve and protect the public with respect to the provision of legal services and access to justice. Consistent with these goals, the State Bar of Arizona seeks to improve the administration of justice and the competency, ethics, and professionalism of lawyers and those engaged in the authorized practice of law in Arizona. This Court empowers the State Bar of Arizona, under the Court's supervision, to:

A. organize and promote activities that fulfill the responsibilities of the legal profession and its members to the public;

B. promote access to justice for those who live, work, and do business in this state;

C. aid the courts in the administration of justice;

D. assist this Court with the regulation and discipline of persons engaged in the practice of law; assist the Court with the regulation and discipline of alternative business structures (ABS) and limited license legal practitioners (LLLP); foster on the part of those engaged in the practice of law ideals of integrity, learning, competence, public service, and high standards of conduct; serve the professional needs of its members; and encourage practices that uphold the honor and dignity of the legal profession;

E. conduct educational programs regarding substantive law, best practices, procedure, and ethics; provide forums for the discussion of subjects pertaining to the administration of justice, the practice of law, and the science of jurisprudence; and report its recommendations to this Court concerning these subjects.

(b) Definitions. Unless the context otherwise requires, the following definitions shall apply to the interpretation of these rules relating to admission, discipline, disability and reinstatement of lawyers, ABSs, and LLLPs:

1. “Board” [[No change]]

2. “Court”[[No change]]

3. “Discipline” means those sanctions and limitations on members and others and the practice of law provided in these rules. Discipline is distinct from diversion or disability inactive status, but the term may include that status where the context so

requires. Discipline includes sanctions and limitations on ABSs as provided in these rules and ACJA 7-209 and LLLPs as provided in these rules and ACJA 7-210.

4. “Discipline proceeding” and “disability proceeding” [[No change]]

5. “Member” [[No change]]

6. “Non-member” [[No change]]

7. “Respondent” means any person, ABS, or LLLP subject to the jurisdiction of the court against whom a charge is received for violation of these rules or ACJA 7-209 or ACJA 7-210.

8. “State bar” [[No change]]

(c) Membership.

1. *Classes of Members.* Members of the state bar shall be divided into ~~five~~ six classes: active, inactive, retired, suspended, judicial, and affiliate. Disbarred or resigned persons are not members of the bar.

2. *Active Members.* Every person licensed to practice law in this state is an active member except for persons who are inactive, retired, suspended, ~~or~~ judicial, or affiliate members.

3. *Affiliate Members.* Limited license legal practitioners (LLLPs) are affiliate members for purposes of regulation and discipline under these rules.

4. *Admission, Licensure and Fees.* Upon admission to the state bar or licensure as an LLLP, a person:

(i) shall pay a fee as required by the supreme court, which shall include the annual membership fee for members of the state bar. If a person is admitted or licensed on or after July 1 in any year, the annual membership fee shall be reduced by one half.

(ii) Upon admission to the state bar, a lawyer applicant shall also, in open court, take and subscribe an oath to support the constitution of the United States and the constitution and laws of the State of Arizona in the form provided by the supreme court.

(iii) All members shall provide to the state bar office a current street address, e-mail address, telephone number, any other post office address the member may use, and the name of the bar of any other jurisdiction to which the member may be admitted. Any change in this information shall be reported to the state bar within thirty days of its effective date. The state bar office shall forward to the court, on a quarterly basis, a current list of membership of the bar.

5. *Inactive Members.* [[No change to text]]

6. *Retired Members.* [[No change to text]]

7. *Judicial Members.* [[No change to text]]

8. *Membership Fees.* An annual membership fee for active members, inactive members, retired members, ~~and~~ judicial members, and affiliate members shall be established by the board with the consent of this court and shall be payable on or before February 1 of each year. No annual fee shall be established for, or assessed to, active members who have been admitted to practice in Arizona before January 1, 2009, and have attained the age of 70 before that date. The annual fee shall be waived for members on disability inactive status pursuant to Rule 63. Upon application, the Chief Executive Officer/Executive Director may waive all or part of the dues of any other member for reasons of personal hardship. Both the grant or denial of an application shall be reported to the board. Denial of a personal hardship waiver shall be reviewed by the board. The board should take all steps necessary to protect private information relating to the application.

9. *Computation of Fee.* The annual membership fee shall be composed of an amount for the operation of the activities of the State Bar and an amount for funding the Client Protection Fund, each of which amounts shall be stated and accounted for separately. Each active and inactive member, who is not exempt, and each affiliate member shall pay the annual Fund assessment set by the Court, to the State Bar together with the annual membership fee, and the State Bar shall transfer the fund assessment to the trust established for the administration of the Client Protection Fund. The State Bar shall conduct any lobbying activities in compliance with *Keller v. State Bar of California*, 496 U.S. 1 (1990). Additionally, a member who objects to particular State Bar lobbying activities may request a refund of the portion of the annual fee allocable to those activities at the end of the membership year.

10. *Allocation of fee.* Upon payment of the membership fee, each individual lawyer member shall receive a bar card and each LLLP shall receive a certificate of licensure, issued by the board evidencing payment. All fees shall be paid into the treasury of the state bar and, when so paid, shall become part of its funds, except that portion of the fees representing the amount for the funding of the Client Protection Fund shall be paid into the trust established for the administration of the Client Protection Fund.

11. *Delinquent Fees.* A fee not paid by the time it becomes due shall be deemed delinquent. An annual delinquency fee for active members, inactive members, retired members, ~~and~~ judicial members, and affiliate members shall be established by the board with the consent of this court and shall be paid in addition to the

annual membership fee if such fee is not paid on or before February 1. A member who fails to pay a fee within two months after written notice of delinquency shall be summarily suspended by the board from membership to the state bar, upon motion of the state bar pursuant to Rule 62, but may be reinstated in accordance with these rules.

12. *Resignation.* [[No change to text]]

13. *Insurance Disclosure.*

A. Each active and affiliate member of the State Bar of Arizona shall certify to the State Bar on the annual dues statement or in such other form as may be prescribed by the State Bar on or before February 1 of each year: (1) whether the lawyer or limited license legal practitioner is engaged in the private practice of law; and (2) if engaged in the private practice of law, whether the lawyer or limited license legal practitioner is currently covered by professional liability insurance. Each member who reports being covered by professional liability insurance shall notify the State Bar of Arizona in writing within 30 days if the insurance policy providing coverage lapses, is no longer in effect, or terminates for any reason. A member who acquires insurance after filing the annual dues statement or such other prescribed disclosure document with the State Bar of Arizona may advise the Bar as to the change of this status in coverage.

B. The State Bar of Arizona shall make the information submitted by active members pursuant to this rule available to the public on its website as soon as practicable after receiving the information.

C. Any active or affiliate member of the State Bar of Arizona who fails to comply with this rule in a timely fashion may, on motion of the State Bar pursuant to Rule 62, be summarily suspended from the practice of law until such time as the lawyer or limited license legal practitioner complies. Supplying false information in complying with the requirements of this rule shall subject the lawyer or limited license legal practitioner to appropriate disciplinary action.

(d) Powers of Board. [[Only change is to subpart 2. As reflected below]]

2. Promote and aid in the advancement of the science of jurisprudence, the education of legal professionals and the improvement of the administration of justice.

(e) – (g) [[No change]]

(h) Administration of rules. Examination and admission of lawyer members shall be administered by the committee on examinations and the committee on character and fitness, as provided in these rules. Examination and licensure of limited license legal practitioners shall be administered by the Administrative Office of Courts as provided in ACJA 7-210. Licensure of alternative business structures shall be by the Committee on Alternative Business Structures, as provided in these rules and ACJA 7-209. Discipline, disability, and reinstatement matters shall be administered by the presiding disciplinary judge, as provided in these rules. All matters not otherwise specifically provided for shall be administered by the board.

(i) – (k) [[No change]]

(l) Expenses of Administration and Enforcement. The state bar shall pay all expenses incident to the administration and enforcement of these rules relating to membership, mandatory continuing legal education, discipline, disability, and reinstatement of lawyers, including the membership, mandatory continuing legal education and disability of limited license legal practitioners, except that costs and expenses shall be taxed against a respondent lawyer or applicant for readmission, as provided in these rules. The administrative office of the courts shall pay all expenses incident to administration and enforcement of these rules relating to application for admission to the practice of law, examinations and admission, including expenses related to application for licensure and examination of limited license legal practitioners. The State Bar and Administrative Office of Courts may recoup extraordinary costs beyond the schedule of fees adopted by the Court relating to an alternative business structure application for licensure or administration and enforcement of these rules against an alternative business structure.

(m) [[No change]]

Proposed New Rule 33.1. Committee; Entity Regulation

(a) Committee.

1. *Creation of the Committee.* The examination of applications and recommendations to grant or deny licensure of alternative business structures shall conform to this rule and ACJA 7-209. For such purposes, there shall be a Committee on Alternative Business Structures. The Committee on Alternative Business Structures shall consist of eleven members.

2. *Appointment of Members.* Members of the Committee shall be appointed by the Court, considering geographical, gender, and ethnic diversity. Members shall serve at the pleasure of the Court and may be removed from the Committee at any time by order of the Court. A member of the Committee may resign at any time. The Chief Justice shall appoint the Committee chair.

3. *Terms of Office.* Members of the Committee will serve three-year terms, which will be staggered among members as designated by the Chief Justice. Members may be reappointed to successive terms. If a vacancy exists due to resignation or inability of a board member to serve, the Court shall appoint another person to serve the unexpired term.

4. *Powers and Duties of the Committee.* The Committee on Alternative Business Structures shall examine applications for licensure and recommend to the Court those applicants who are deemed by the Committee to be qualified and not qualified pursuant to ACJA § 7-209. The Court will then consider the recommendations and either grant or deny licensure.

5. *Review by Court.* The Committee's recommendation regarding an application for licensure will be transmitted to the Court for review as provided in 7-209(E). Upon receipt of the recommendation, the Court may decline review or issue an order approving, denying, or approving with modification the recommendation. Upon receipt of the Court's order, the Committee shall either grant or deny the application as directed.

6. Response to Recommendation to Deny.

A. An applicant affected by any recommendation of the Committee on Alternative Business Structures may, within twenty (20) days after such a recommendation has been filed with the Court file a response with the Court. The response should state the facts that form the basis for the response, and applicant's reasons for believing this Court should approve, deny, or modify the recommendation of the Committee.

B. A copy of the response must be promptly served upon the Committee. The

Committee will have thirty (30) days after service to transmit the applicant's file, including all findings and reports prepared by or for the Committee, and a reply to the response fully advising the Court as to the Committee's reason for its recommendation. Thereafter, the Court may hold any hearings or request additional information as necessary to decide whether to approve or deny the application or approve it with modification.

C. Any document filed under Rule 33.1(a)(6) is open to the public except that, upon request by an applicant, the Clerk will seal medical or psychological reports and records. An applicant may request the Court to seal a portion of any other materials submitted.

(b) Decision Regarding Licensure. The Committee shall recommend approval of applications if the requirements in this rule and in ACJA are met by the applicant. The Committee's recommendation shall state the factors in favor of approval.

(1) Decisions of the Committee must take into consideration the following regulatory objectives:

- (A) protecting and promoting the public interest;
- (B) promoting access to legal services
- (C) advancing the administration of justice and the rule of law;
- (D) encouraging an independent, strong, diverse, and effective legal profession; and
- (E) promoting and maintaining adherence to professional principles.

(2) The Committee shall examine whether an applicant has adequate governance structures and policies in place to ensure:

- (A) lawyers providing legal services to consumers act with independence consistent with the lawyers' professional responsibilities;
- (B) the alternative business structure maintains proper standards of work;
- (C) the lawyer makes decisions in the best interest of clients;
- (D) confidentiality consistent with Arizona Rule of Supreme Court 42 is maintained; and
- (E) any other business policies or procedures that do not interfere with a lawyers' duties and responsibilities to clients.

(c) Power of Court to Revoke or Suspend License. Nothing contained in this rule shall be considered as a limitation upon the power and authority of this Court upon petition of the Committee on Alternative Business Structures, probable cause

committee, bar counsel, or on its own motion, to file a petition with the presiding disciplinary judge to revoke or suspend, after due notice and hearing, the license of an alternative business structure in this state for fraud or material misrepresentation in the procurement the ABS's license.

(d) Practice in Courts. No alternative business structure shall employ any person to provide legal services in the State of Arizona unless the person is licensed to practice law or otherwise authorized to provide legal services under Rule 31.1 or 31.3

(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, 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 Board concerning an application for licensure in connection with any proceeding before the Court. In addition, the Board or designated staff may disclose their respective records pertaining to an applicant for licensure to:

1. any licensing authority in another 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.

(f) Immunity from Civil Suit.

1. The Court, the Committee, and the members, staff, employees, and agents thereof, are immune from all civil liability for conduct and communications occurring in the performance of their official duties relating to the licensing of applicants seeking to be licensed to practice law.

2. Records, statements of opinions and other information regarding an applicant for licensure communicated by any person, firm, or institution, without malice, to the Court or the Board, and the members, staff, employees, and agents thereof, are privileged, and civil suits predicated thereon may not be instituted.

Rule 41. Duties and Obligations of Members²

(a) Definition.

“Unprofessional conduct” means substantial or repeated violations of the oath of Admission to the State Bar or the Lawyer’s Creed of Professionalism of the State Bar of Arizona.

(b) Duties and Obligations. The duties and obligations of members shall be:

(1) Those prescribed by the Arizona Rules of Professional Conduct adopted as Rule 42 of these Rules.

(2) To support the constitution and the laws of the United States and the State of Arizona.

(3) To maintain the respect due to courts of justice and judicial officers.

(4) To counsel or maintain no other action, proceeding or defense than those which appear to him legal and just, excepting the defense of a person charged with a public offense.

(5) To be honest in dealings with others and not make false or misleading statements of fact or law.

(6) To fulfill the duty of confidentiality to a client and not accept compensation for representing a client from anyone other than the client without the client’s knowledge and approval.

(7) To avoid engaging in unprofessional conduct and to advance no fact prejudicial to the honor or reputation of a party or a witness unless required by the duties to a client or the tribunal.

(8) To support the fair administration of justice, professionalism among lawyers, and legal representation for those unable to afford counsel.

(9) To protect the interests of current and former clients by planning for the lawyer’s termination of or inability to continue a law practice, either temporarily or permanently.

(c) Oath and Creed. The Oath of Admission to the Bar and Lawyer’s Creed of Professionalism of the State Bar of Arizona are as follows.

² Definition of “unprofessional conduct”, Oath of Admission, and Lawyers Creed of Professionalism are inserted, without substantive changes, into Rule 41 due to their deletion in restyled Rule 31. The only amendment to Rule 41 is to change the subsection numbering.

Oath of Admission to the Bar

I, (state your name), do solemnly swear (or affirm) that I will support the constitution and laws of the United States and the State of Arizona;

I will treat the courts of justice and judicial officers with respect;

I will not counsel or maintain an action, proceeding, or defense that lacks a reasonable basis in fact or law;

I will be honest in my dealings with others and not make false or misleading statements of fact or law;

I will fulfill my duty of confidentiality to my client; I will not accept compensation for representing my client from anyone other than my client without my client's knowledge and approval;

I will avoid engaging in unprofessional conduct; I will not advance any fact prejudicial to the honor or reputation of a party or witness, unless required by my duties to my client or the tribunal;

I will at all times faithfully and diligently adhere to the rules of professional responsibility and A Lawyer's Creed of Professionalism of the State Bar of Arizona.

A Lawyer's Creed of Professionalism of the State Bar of Arizona

Preamble

As a lawyer, I must strive to make our system of justice work fairly and efficiently. To carry out that responsibility, I will comply with the letter and spirit of the disciplinary standards applicable to all lawyers and I will conduct myself in accordance with the following Code of Professionalism when dealing with my client, opposing parties, their counsel, tribunals and the general public.

A. With respect to my client:

1. I will be loyal and committed to my client's cause, but I will not permit that loyalty and commitment to interfere with my ability to provide my client with objective and independent advice;
2. I will endeavor to achieve my client's lawful objectives in business transactions and in litigation as expeditiously and economically as possible;

3. In appropriate cases, I will counsel my client with respect to alternative methods of resolving disputes;
4. I will advise my client against pursuing litigation (or any other course of action) that is without merit and I will not engage in tactics that are intended to delay the resolution of a matter or to harass or drain the financial resources of the opposing party;
5. I will advise my client that civility and courtesy are not to be equated with weakness;
6. While I must abide by my client's decision concerning the objectives of the representation, I nevertheless will counsel my client that a willingness to initiate or engage in settlement discussions is consistent with effective and honorable representation.

B. With respect to opposing parties and their counsel:

1. I will be courteous and civil, both in oral and written communication;
2. I will not knowingly make statements of fact or law that are untrue;
3. In litigation proceedings, I will agree to reasonable requests for extensions of time or for waiver of procedural formalities when the substantive interests of my client will not be adversely affected;
4. I will endeavor to consult with opposing counsel before scheduling depositions and meetings and before rescheduling hearings, and I will cooperate with opposing counsel when scheduling changes are requested;
5. I will not utilize litigation or any other course of conduct to harass the opposing party;
6. I will not engage in excessive and abusive discovery; and I will advise my client to comply with all reasonable discovery requests;
7. I will not threaten to seek sanctions against any party or lawyer unless I believe that they have a reasonable basis in fact and law;
8. I will not delay resolution of a matter, unless the delay is incidental to an action reasonably necessary to ensure the fair and efficient resolution of that matter;
9. In depositions and other proceedings, and in negotiations, I will conduct myself with dignity, avoid making groundless objections and not be rude or disrespectful;
10. I will not serve motions and pleadings on the other party or the party's counsel at such a time or in such a manner as will unfairly limit the other party's opportunity to respond;

11. In business transactions I will not quarrel over matters of form or style but will concentrate on matters of substance and content;

12. I will identify clearly, for other counsel or parties, all changes that I have made in the documents submitted to me for review.

C. With respect to the courts and other tribunals:

1. I will be an honorable advocate on behalf of my client, recognizing, as an officer of the court, that unprofessional conduct is detrimental to the proper functioning of our system of justice;

2. Where consistent with my client's interests, I will communicate with opposing counsel in an effort to avoid litigation and to resolve litigation that has actually commenced;

3. I will voluntarily withdraw claims or defenses when it becomes apparent that they do not have merit;

4. I will not file frivolous motions;

5. I will make every effort to agree with other counsel, as early as possible, on a voluntary exchange of information and on a plan for discovery;

6. I will attempt to resolve, by agreement, my objections to matters contained in my opponent's pleadings and discovery requests;

7. When scheduled hearings or depositions have to be canceled, I will notify opposing counsel and, if appropriate, the court (or other tribunal) as early as possible;

8. Before dates for hearings or trial are set – or, if that is not feasible, immediately after such dates have been set – I will attempt to verify the availability of key participants and witnesses that I can promptly notify the court (or other tribunal) and opposing counsel of any likely problem in that regard;

9. In civil matters, I will stipulate to facts as to which there is no genuine dispute;

10. I will endeavor to be punctual in attending court hearings, conferences, and dispositions;

11. I will at all times be candid with, and respectful to, the tribunal.

D. With respect to the public and our system of justice:

1. I will remember that, in addition to commitment to my client's cause, my responsibilities as a lawyer include a devotion to the public good;

2. I will keep current in the areas in which I practice and, when necessary, will associate with, or refer my client to, counsel knowledgeable in another field or practice;
3. As a member of a self-regulating profession, I will be mindful of my obligations under the Rules of Professional Conduct to report violations of those Rules;
4. I will be mindful of the need to protect the integrity of the legal profession and will be so guided when considering methods and contents of advertising;
5. I will be mindful that the law is a learned profession and that among its desirable goals are devotion to public service, improvement or administration of justice, and the contribution of uncompensated time and civic influence on behalf of those persons who cannot afford adequate legal assistance.

Rule 46. Jurisdiction in Discipline and Disability Matters; Definitions

(a) [[No change]]

(b) Licensed Alternative Business Structures. Any entity licensed as an alternative business structure and its members are subject to the disciplinary jurisdiction of this court. Any false statement or misrepresentation made by an applicant for licensure which is not discovered until after the applicant is licensed may serve as an independent ground for the imposition of discipline under these rules and ACJA § 7-209 and an aggravating factor in any disciplinary proceeding based on other conduct. Any fraudulent misstatement or material misrepresentation made by an applicant for licensure may result in revocation of the alternative business structure's license.

(c) Limited License Legal Practitioners. Any person licensed as a limited license legal practitioner is subject to the disciplinary jurisdiction of this court and the authority delegated in these rules to the board of governors of the state bar. Any false statement or misrepresentation made by an applicant for licensure which is not discovered until after the applicant is licensed may serve as an independent ground for the imposition of discipline under these rules and ACJA § 7-210 and an aggravating factor in any disciplinary proceeding based on other conduct. Any fraudulent misstatement or material misrepresentation made by an applicant may result in revocation of the limited license legal practitioner's license.

(d) Non-members. [[No change to text]]

(e) Former Judges. [[No change to text]]

(f) Incumbent Judges. [[No change to text]]

(g) Disbarred Lawyers. [[No change to text]]

(h) Definitions. When the context so requires, the following definitions shall apply to the interpretation of these rules relating to discipline, disability and reinstatement of lawyers, limited license legal practitioners, and alternative business structures:

1. "Acting presiding disciplinary judge" -- 4. "Charge" [[No change]]
5. "Committee" means the Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona unless stated otherwise.
6. "Complainant" means a person who initiates a charge against a lawyer, alternative business structure, or limited license legal practitioner or later joins in a charge to the state bar regarding the conduct of a lawyer, alternative business structure, or limited license legal practitioner. The complainant will be provided

information as set forth in Rule 53, unless specifically waived by the complainant. The state bar or any bar counsel may be complainant.

7. “Complaint” -- 9. “Court” [[No change]]

10. “Discipline” means those sanctions and limitations on members and the practice of law provided in these rules, including those sanctions and limitations provided in these rules and ACJA 7-209 for alternative business structures and ACJA 7-210 for limited license legal practitioners. Discipline is distinct from diversion or disability inactive status, but the term may include that status where the context so requires.

11. “Disciplinary clerk” -- 16. “Member” [[No change]]

17. “Misconduct” means any conduct by an individual sanctionable under these rules, including unprofessional conduct as defined in Rule 41(a) or conduct that is eligible for diversion, any conduct by an alternative business structure actionable under these rules or ACJA 7-209, or any conduct by a limited license legal practitioner actionable under these rules or ACJA 7-210.

18. “Non-member” -- 20. “Record,” [[No change]]

21. “Respondent” means a member, limited license legal practitioner, or an alternative business structure or its nonlawyer members, against whom a discipline or disability proceeding has been commenced.

22. “Settlement officer” -- 24. “State bar file” [[No change]]

Rule 47. General Procedural Matters

(a) - (b) [[No change]]

(c) Service. Service of the complaint, pleadings and subpoenas shall be effectuated as provided in the Rules of Civil Procedure, except as otherwise provided herein. Personal service of complaints and subpoenas may be made by staff examiners employed by the state bar.

1. *Service of Complaint.*

(A) *Individual Respondents.* Service of the complaint in any discipline or disability proceeding may be made on respondent or respondent's counsel, if any, by certified mail/delivery restricted to addressee in addition to regular first class mail, sent to the last address provided by counsel or respondent to the state bar's membership records department pursuant to Rule 32(c)(4)(iii). When service of the complaint is made by mail, bar counsel shall file a notice of service with the disciplinary clerk, indicating the date and manner of mailing, and service shall be deemed complete five (5) days after the date of mailing.

(B) *ABS Respondents.* Service of the complaint in any discipline proceeding against a licensed ABS or its members may be made on the designated agent for service per ACJA 7-209 or the respondent's counsel, if any, by certified mail/delivery restricted to addressee in addition to regular first class mail, sent to the last address provided by respondent, respondent's counsel, or the designated agent for service pursuant to ACJA 7-209. When service of the complaint is made by mail, bar counsel shall file a notice of service with the disciplinary clerk, indicating the date and manner of mailing, and service shall be deemed complete five (5) days after the date of mailing.

2. *Service of Subpoena.* [[No change]]

(d) - (l) [[No change]]

Rule 48. Rules of Construction

(a) – (c) [[No change]]

(d) Standard of Proof.

1. *Lawyers.* Allegations in a complaint, applications for reinstatement, petitions for transfer to and from disability inactive status and competency determinations shall be established by clear and convincing evidence. In discipline proceedings that include allegations of trust account violations, there shall be a rebuttable presumption that any lawyer who fails to maintain trust account records as required by ER 1.15 or-Rule 43, Ariz. R. S. Ct, or who fails to provide trust account records to the state bar upon request or as ordered by the committee, the presiding disciplinary judge, or the court, has failed to properly safeguard client or third-party funds or property, as required by the provisions of ER 1.15 or Rule 43, Ariz. R. S. Ct.

2. *ABS.* Allegations in a complaint or applications for reinstatement, shall be established by a clear and convincing evidence. In discipline proceedings that include allegations of trust account violations, there shall be a rebuttable presumption that any ABS that fails to maintain trust account records as required by ER 1.15 or Rule 43, Ariz. R. S. Ct, or that fails to provide trust account records to the state bar upon request or as ordered by the committee, the presiding disciplinary judge, or the court, has failed to properly safeguard client or third-party funds or property, as required by the provisions of ER 1.15 or Rule 43, Ariz. R. S. Ct.

(e) Burden of Proof. The burden of proof in proceedings seeking discipline is on the state bar. That burden is on the petitioning party in proceedings seeking transfer to disability inactive status. That burden in proceedings seeking reinstatement and transfer from disability inactive status is on respondent or applicant. The burden on an ABS seeking licensure after a period of revocation or suspension is on respondent ABS.

(f) – (i) [[No change]]

Rule 49. Bar Counsel

(a) - (b) [[No change]]

(c) Powers and Duties of Chief Bar Counsel. Acting under the authority granted by this Court and under the direction of the executive director, chief bar counsel shall have the following powers and duties:

1. *Prosecutorial Oversight.* Chief bar counsel shall maintain and supervise a central office for the filing of requests for investigation relating to conduct by a member, including limited license legal practitioners, or non-member and for the coordination of such investigations; supervise staff needed for the performance of all discipline functions within the responsibility of the state bar, overseeing and directing the investigation and prosecution of discipline cases and the administration of disability, reinstatement matters, and contempt proceedings, and compiling statistics regarding the processing of cases by the state bar.

2. *Dissemination of Discipline and Disability Information.*

A. Notice to Disciplinary Agencies. [[No change]]

B. Disclosure to National Discipline Data Bank. [[No change]]

C. Public Notice of Discipline Imposed. Chief bar counsel shall cause notices of orders or judgments of reprimand, suspension, disbarment, transfers to and from disability status and reinstatement as well as all sanctions against alternative business structures to be published in the Arizona Attorney or another usual periodic publication of the state bar, and shall send such notices to a newspaper of general circulation in each county where the lawyer maintained an office for the practice of law. Notices of sanctions or orders shall be posted on the state bar's website as follows:

(i) Disbarment, suspension, interim suspension, reprimand, and reinstatement shall be posted for an indefinite period of time.

(ii) Probation (including admonition with probation), restitution and costs shall be posted for two (2) years from the effective date of the sanction or until completion, whichever is later; the posting shall indicate whether or not the terms of the order have been satisfied.

(iii) A finding of contempt of a supreme court order shall be posted for five (5) years from the effective date of the order or until the contempt is purged, whichever is later; the posting shall indicate whether or not the terms of the order have been satisfied.

(iv) A transfer to disability inactive status shall be posted while the order is in effect.

(v) An administrative or summary suspension shall be posted while the suspension is in effect.

(vi) Revocation, suspension, reprimand, and licensing after a period of revocation involving an alternative business structure shall be posted for an indefinite period of time.

D. Notice to Courts. [[No change]]

3. *Report*. [[No change]]

(d) [[No change]]

Rule 50. Attorney Discipline Probable Cause Committee

(a) – (d) [[No change]]

(e) Powers and Duties of the Committee. Unless otherwise provided in these rules, the committee shall be authorized and empowered to act in accordance with Rule 55 and as otherwise provided in these rules, including ACJA 7-209 and 7-210, and to:

1. meet and take action, as deemed appropriate by the chair, in no less than three-person panels, each of which shall include a public member and a lawyer member (all members of the panel must participate in the vote and a majority of the votes shall decide the matter, a member of the panel may participate by remote access, and the quorum requirements of paragraph (f) do not apply to panels under this paragraph);
2. periodically report to the court on the operation of the committee;
3. recommend to the court proposed changes or additions to the rules of procedure for discipline and disability proceedings; and
4. adopt such procedures as may from time to time become necessary to govern the internal operation of the committee, as approved by the court.

(f) – (h) [[No change]]

Rule 51. Presiding Disciplinary Judge

(a) – (b) [[No change]]

(c) Powers and Duties of the Presiding Disciplinary Judge. The presiding disciplinary judge shall be authorized to act in accordance with these rules and to:

1. appoint a staff in accordance with an approved budget as necessary to assist the presiding disciplinary judge in the administration of the judge's office and in the performance of the judge's duties;
2. order the parties in disciplinary proceedings to attend a settlement conference;
3. impose discipline on an attorney, alternative business structure, or limited license legal practitioner; transfer an attorney to disability inactive status; and serve as a member of a hearing panel in discipline and disability proceedings, as provided in these rules;
4. shorten or expand time limits set forth in these rules, as the presiding disciplinary judge, in the exercise of discretion, determines necessary;
5. enlist the assistance of members of the bar to conduct investigations in conflict cases;
6. periodically report to the court on the operation of the office of the presiding disciplinary judge;
7. recommend to the court proposed changes or additions to the rules of procedure for attorney discipline and disability proceedings, including rules and ACJA 7-209 and 7-210 governing discipline of alternative business structures and limited license legal practitioners; and
8. adopt such practices as may from time to time become necessary to govern the internal operation of the office of the presiding disciplinary judge, as approved by the supreme court.

(d) [[No change]]

Rule 54. Grounds for Discipline

Grounds for discipline of members, including limited license legal practitioners, non-members, and alternative business structures include the following:

(a) – (h) [[No change]]

(i) Unprofessional conduct as defined in Rule ~~31(a)(2)(E)~~ 41(a).

(j) Violations of ACJA 7-209.

(k) Violations of ACJA 7-210.

Rule 55. Initiation of Proceedings; Investigation

(a) Commencement; Determination to Proceed. Bar counsel shall evaluate all information coming to its attention, in any form, by charge or otherwise, alleging unprofessional conduct, misconduct or incapacity. This shall include any allegation involving a violation of these rules or ACJA 7-209 or ACJA 7-210 by alternative business structures and limited license legal practitioners.

1. If bar counsel determines the lawyer, alternative business structure, or a limited license legal practitioner is not subject to the disciplinary jurisdiction of the supreme court, bar counsel shall refer the information to the appropriate entity.

2. If bar counsel determines the lawyer, alternative business structure, or limited license legal practitioner is subject to the disciplinary jurisdiction of the court, bar counsel shall, in the exercise of bar counsel's discretion, resolve the matter in one of the following ways:

A. dismiss the matter with or without comment; or

B. enter into a diversion agreement or take other appropriate action without conducting a full screening investigation where warranted; or

C. refer the matter for a screening investigation as provided in Rule 55(b) if the alleged conduct may warrant the imposition of a sanction.

(b) Screening Investigation and Recommendation by Bar Counsel. When a determination is made to proceed with a screening investigation, the investigation shall be conducted or supervised by bar counsel. Bar counsel shall give the respondent written notice that respondent is under investigation and of the nature of the allegations. No disposition adverse to the respondent shall be recommended by bar counsel until the respondent has been afforded an opportunity to respond in writing to the charge.

1. *Response to Allegations.* [[No change]]

2. *Action Taken by Bar Counsel.* [[No change]]

(c) [[No change]]

Rule 56. Diversion

(a) [[No change]]

(b) Referral to Diversion. Bar counsel, the committee, the presiding disciplinary judge, a hearing panel, or the court may offer diversion to an attorney, alternative business structure, or limited license legal practitioner based upon the Diversion Guidelines recommended by the board and approved by the court. The Diversion Guidelines shall be posted on the state bar and supreme court websites. Where the conduct so warrants, diversion may be offered if:

1. the lawyer, alternative business structure, or limited license legal practitioner committed professional misconduct, the lawyer is incapacitated, or the lawyer, alternative business structure, or limited license legal practitioner does not wish to contest the evidence of misconduct and bar counsel and the respondent agree that diversion will be appropriate;
2. the conduct could not be the basis of a motion for transfer to disability inactive status pursuant to Rule 63 of these rules;
3. the cause or basis of the professional misconduct by an individual lawyer, alternative business structure, or limited license legal practitioner or incapacity of an individual lawyer is subject to remediation or resolution through alternative programs or mechanisms, including:
 - A. medical, psychological, or other professional treatment, counseling or assistance,
 - B. appropriate educational courses or programs,
 - C. mentoring or practice monitoring services,
 - D. dispute resolution programs, or
 - E. any other program or corrective course of action agreed upon by bar counsel and respondent to address respondent's misconduct;
4. the public interest and the welfare of the respondent's clients and prospective clients will not be harmed if, instead of the matter proceeding immediately to a disciplinary or disability proceeding, the lawyer agrees to and complies with specific measures that, if pursued, will remedy the immediate problem and likely prevent any recurrence of it; and
5. the terms and conditions of the diversion plan can be adequately supervised.

(c) Diversion agreement or order. If diversion is offered and accepted prior to an investigation pursuant to Rule 55(b), the agreement shall be between the attorney, alternative business structure, or limited license legal practitioner and bar

counsel. If bar counsel recommends diversion after an investigation pursuant to Rule 55(b) but before authorization to file a complaint, the recommendation for an order of diversion shall be submitted to the committee for consideration. If the committee rejects the recommendation, the matter shall proceed as otherwise provided in these rules. If diversion is offered and accepted after authorization to file a complaint, the matter shall proceed pursuant to Rule 57. If the presiding disciplinary judge rejects the diversion agreement, the matter shall proceed as provided in these rules.

Rule 57. Special Discipline Proceedings

(a) Discipline by Consent.

1. *Consent to Discipline.* [[No change]]

2. *Form of Agreement.* An agreement for discipline by consent shall be signed by respondent, respondent's counsel, if any, and bar counsel. An agreement shall include the following:

A. *Violations.* Each count alleged in the charge or complaint shall be addressed in the agreement, including a statement as to the specific disciplinary rule or ACJA section that was violated, or conditionally admitted to having been violated, and the facts necessary to support the alleged violation, conditional admission, or decision to dismiss a count.

B. *Forms of Discipline.* -- F. *Use of Standardized Documents.* [[No change]]

3. *Procedure.* [[No change]]

4. *Presiding Disciplinary Judge Decision.* [[No change]]

5. *Disbarment by Consent.* [[No Change]]

(b) [[No Change]]

Rule 58. Formal Proceedings

(a) Complaint. Formal discipline proceedings shall be instituted by bar counsel filing a complaint or agreement for discipline by consent with the disciplinary clerk. The complaint shall be sufficiently clear and specific to inform a respondent of the alleged misconduct. The existence of prior sanctions or a prior course of conduct may be stated in the complaint if the existence of the prior sanction or course of conduct is necessary to prove the conduct alleged in the complaint.

1. *Form.* The complaint against any respondent and all subsequent pleadings filed before the presiding disciplinary judge should be captioned to identify the type of respondent: member of the State Bar of Arizona, licensed alternative business structure, or limited license legal practitioner.

2. *Service of Complaint.* Bar counsel shall serve the complaint upon the respondent within five (5) days of filing and in the manner set forth in Rule 47(c). Upon receipt of the complaint and notice that bar counsel has served the complaint upon the respondent, the disciplinary clerk shall assign the matter to the presiding disciplinary judge and advise the respondent in writing of respondent's right to retain counsel.

(b) – (j) [[No change]]

(k) Decision. Within thirty (30) days after completion of the formal hearing proceedings or receipt of the transcript, whichever is later, the hearing panel shall prepare and file with the disciplinary clerk a written decision containing findings of fact, conclusions of law and an order regarding discipline, together with a record of the proceedings. Sanctions imposed against individual lawyers shall be determined in accordance with the American Bar Association *Standards for Imposing Lawyer Sanctions* and, if appropriate, a proportionality analysis. Sanctions imposed against an ABS shall be determined in accordance ACJA 7-209 and to the extent applicable, with the American Bar Association *Standards for Imposing Lawyer Sanctions*. The decision shall be signed by each member of the hearing panel. Two members are required to make a decision. A member of the hearing panel who dissents shall also sign the decision and indicate the basis of the dissent in the decision. The disciplinary clerk shall serve a copy of the decision on respondent and on bar counsel of record. The hearing panel shall notify the parties when the decision will be filed outside the time limits of this rule and shall state the reason for the delay. The decision of the hearing panel is final, subject to the parties' appeal rights as set forth in Rule 59.

Rule 60. Sanctions

(a) Types and Forms of Sanctions, lawyers. Misconduct by an attorney, individually or in concert with others, shall be grounds for imposition of one or more of the following sanctions:

1. *Disbarment.* [[No change]]
2. *Suspension.* [[No change]]
3. *Reprimand.* [[No change]]
4. *Admonition.* [[No change]]
5. *Probation.* [[No change]]
6. *Restitution.* [[No change]]

(b) Types and Forms of Sanctions, ABS. Misconduct by an ABS shall be grounds for imposition of one or more of the sanctions provided for in these rules and ACJA 7-209.

(c) Types and Forms of Sanctions, LLLP. Misconduct by an LLLP shall be grounds for imposition of one or more of the sanctions provided for in these rules and ACJA 7-210.

(d) Assessment of the Costs and Expenses. [[No change to text]]

(e) Enforcement. [[No change to text]]

VI. UNAUTHORIZED PRACTICE OF LAW

Rule 75. Jurisdiction

(a) Jurisdiction. This court has jurisdiction over any person engaged in the unauthorized practice of law pursuant to Rule 31(b) of these rules or any entity providing legal services contrary to the requirements of Rule 31.1(b). Proceedings against non-members or entities may also be instituted pursuant to Rules 47 through 60, and such proceedings may be concurrent with proceedings under this rule and Rules 76 through 80, Ariz.R.S.Ct.

(b) Definitions. The following definitions shall apply in unauthorized practice of law proceedings.

1. All definitions in Rules 31(b), (c); 31.1; and 41(a) shall apply.
2. “Bar counsel” [[No change]]
3. “Charge” means any allegation of misconduct or incapacity of a lawyer or entity or misconduct or incident of unauthorized practice of law brought to the attention of the state bar.
4. “Committee” [[No change]]
5. “Complainant” means a person who initiates a charge or later joins in a charge to the state bar against a non-lawyer or entity regarding the unauthorized practice of law. The state bar or any bar counsel may be a complainant.
6. “Complaint” through 11. “Record” [[No change]]
12. “Respondent” is any person or entity subject to the jurisdiction of the court against whom a charge is received for violation of these rules.
13. “State bar” through 16. “Unauthorized practice of law proceeding” [[No change]]

Rule 76. Grounds for Sanctions, Sanctions and Implementation

(a) Grounds for Sanctions. Grounds for sanctions include the following:

1. Any act found to constitute the unauthorized practice of law pursuant to Rule 31.2.

2. Willful disobedience or violation of a court ruling or order requiring the individual or entity to do or forbear to do an act connected with the unauthorized practice of law.

3. [[No change]]

(b) Sanctions and Dispositions.

1. *Agreement to Cease And Desist.* [[No change]]

2. *Cease and Desist Order.* [[No change]]

3. *Injunction.* [[No change]]

4. *Civil Contempt.* [[No change]]

6. *Civil Penalty.* The superior court may order a civil penalty up to \$25,000 against every respondent upon whom another sanction is imposed.

7. *Costs and Expenses.* [[No change to text]]

(c) Implementation of Cease and Desist Sanction. [[No change]]

Amended Appendix 2B: Restyled and Amended Rule 31; Proposed Amended Rules 32, 41, 46-51, 54-58, 60, 75-76; and Proposed New Rule 33.1 (Additional Amendments are identified in bold)

Rule 31. Supreme Court Jurisdiction³

(a) Jurisdiction. The Arizona Supreme Court has jurisdiction over any person or entity engaged in the authorized or unauthorized “practice of law” in Arizona, as that phrase is defined in (b). The Arizona Supreme Court also has jurisdiction over any ABS who is licensed pursuant to Rule 31.1(b) and ACJA 7-209.

(b) Definition. “Practice of law” means providing legal advice or services to or for another by:

- (1) preparing or expressing legal opinions to or for another person or entity;
- (2) representing a person or entity in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process such as arbitration or mediation;
- (3) preparing a document, in any medium, on behalf of a specific person or entity for filing in any court, administrative agency, or tribunal;
- (4) negotiating legal rights or responsibilities on behalf of a specific person or entity; or
- (5) preparing a document, in any medium, intended to affect or secure a specific person’s or entity’s legal rights.

Rule 31.1. Authorized Practice of Law.

(a) Requirement. A person may engage in the practice of law in Arizona, or represent that he or she is authorized to engage in the practice of law in Arizona, only if:

- (1) the person is an active member in good standing of the State Bar of Arizona under Rule 32; or
- (2) the person is specifically authorized to do so under Rules 31.3, 38, or 39.

(b) Alternative Business Structure (ABS). An entity that includes nonlawyers who have an economic interest or decision-making authority as defined in ACJA

³ Rules 31 through 31.3 as presented in this appendix represents the restyling of Rule 31 as discussed in the petition. Underlined content represents proposed amendments related only to the regulation of ABSs or LLLPs.

7-209 may employ, associate with, or engage a lawyer or lawyers to provide legal services to third parties only if:

(1) it employs at least one person who is an active member in good standing of the State Bar of Arizona under Rule 32 who supervises the practice of law under ER 5.3;

(2) it is licensed pursuant to ACJA § 7-209; and

(3) legal services are only provided by persons authorized to do so and in compliance with the Rules of Supreme Court.

(c) Lack of Good Standing. A person who is currently suspended or has been disbarred from the State Bar of Arizona, or is currently on disability inactive status, is not a member in good standing of the State Bar of Arizona under Rule 31.1(a)(1).

Rule 31.2. Unauthorized Practice of Law. Except as provided in Rule 31.3, a person, entity, or ABS who is not authorized to practice law in Arizona under Rule 31.1(a), (b) or Rule 31.3 must not:

(a) engage in the practice of law or provide legal services in Arizona; or

(b) use the designations “lawyer,” “attorney at law,” “counselor at law,” “law,” “law office,” “J.D.,” “Esq.,” “alternative business structure (ABS)” or other equivalent words that are reasonably likely to induce others to believe that the person or entity is authorized to engage in the practice of law or provide legal services in Arizona.

Rule 31.3. Exceptions to Rule 31.2.

(a) Generally.

(1) Notwithstanding Rule 31.2, a person or entity may engage in the practice of law in a limited manner as authorized in Rule 31.3(b) through (e), but the person or entity who engages in such an activity is subject to the Arizona Supreme Court’s jurisdiction concerning that activity.

(2) A person who is currently suspended or has been disbarred from the State Bar of Arizona, or is currently on disability inactive status, may not engage in any of the activities specified in this Rule 31.3 unless this rule authorizes a specific activity.

(3) An ABS whose license has been suspended or revoked may not engage in any of the activities specified in this rule, except an ABS whose license has been

suspended may engage in activities as expressly authorized by judgment or order of this court, the presiding disciplinary judge, or a hearing panel.

(b) Governmental Activities and Court Forms.

(1) *In Furtherance of Official Duties.* An elected official or employee of a governmental entity may perform the duties of his or her office and carry out the government entity's regular course of business.

(2) *Forms.* The Supreme Court, Court of Appeals, superior court, and limited jurisdiction courts may create and distribute forms for use in Arizona courts.

(c) Legal Entities.

(1) *Definition.* "Legal entity" means an organization that has legal standing under Arizona law to sue or be sued in its own right, including a corporation, a limited liability company, a partnership, an association as defined in A.R.S. §§ 33-1202 or 33-1802, or a trust.

(2) *Documents.* A legal entity may prepare documents incidental to its regular course of business or other regular activity if they are for the entity's use and are not made available to third parties.

(3) *Justice and Municipal Courts.* A person may represent a legal entity in a proceeding before a justice court or municipal court if:

(A) the person is a full-time officer, partner, member, manager, or employee of the entity;

(B) the entity has specifically authorized the person to represent it in the proceeding;

(C) such representation is not the person's primary duty to the entity, but is secondary or incidental to other duties relating to the entity's management or operation; and

(D) the person is not receiving separate or additional compensation for representing the entity (other than receiving reimbursement for costs).

(4) *General Stream Adjudication Proceeding.* A person may represent a legal entity in superior court in a general stream adjudication proceeding conducted under A.R.S. §§ 45-251 et seq. (including a proceeding before a master appointed under A.R.S. § 45-255) if:

(A) the person is a full-time officer, partner, member, manager, or employee of the entity;

(B) the entity has specifically authorized the person to represent it in the proceeding;

(C) such representation is not the person's primary duty to the entity but is secondary or incidental to other duties related to the entity's management or operation; and

(D) the person is not receiving separate or additional compensation for representing the corporation or association (other than receiving reimbursement for costs).

(5) ***Administrative Hearings and Agency Proceedings.*** A person may represent a legal entity in a proceeding before the Office of Administrative Hearings, or before an Arizona administrative agency commission, or board, if:

(A) the person is a full-time officer, partner, member, manager, or employee of the entity;

(B) the entity has specifically authorized the person to represent it in the particular proceeding;

(C) such representation is not the person's primary duty to the entity, but is secondary or incidental to other duties relating to the entity's management or operation; and

(D) the person is not receiving separate or additional compensation for representing the entity (other than receiving reimbursement for costs).

(6) ***Exception.*** Despite Rule 31.3(c)(3) through (c)(5), a court, the hearing officer, or the officer presiding at the agency or commission proceeding, may order the entity to appear only through counsel if the court or officer determines that the person representing the entity is interfering with the proceeding's orderly progress or imposing undue burdens on other parties.

(d) Tax-Related Activities and Proceedings.

(1) A person may prepare a tax return for an entity or another person.

(2) A certified public accountant or other federally authorized tax practitioner (as that term is defined in A.R.S. § 42-2069(D)(1)) may:

(A) render individual and corporate financial and tax advice to clients and prepare tax-related documents for filing with governmental agencies;

(B) represent a taxpayer in a dispute before the State Board of Tax Appeals if the amount at issue is less than \$25,000; and

(C) practice before the Internal Revenue Service or other federal agencies if authorized to do so.

(3) A property tax agent (as that term is defined in A.R.S. § 32-3651), who is registered with the Arizona State Board of Appraisal under A.R.S. § 32-3642, may practice as authorized under A.R.S. § 42-16001.

(4) A person may represent a party in a small claim proceeding in Arizona Tax Court conducted under A.R.S. §§ 12-161 et seq.

(5) In any tax-related proceeding before the Arizona Department of Revenue, the Office of Administrative Hearings relating to the Arizona Department of Revenue, a state or county board of equalization, the Arizona Department of Transportation, the Arizona Department of Economic Security, the Arizona Department of Child Safety, the Arizona Corporation Commission, or any county, city, or town taxing or appeals official, a person may represent a taxpayer if:

(A) the person is:

(i) a certified public accountant,

(ii) a federally authorized tax practitioner (as that term is defined in A.R.S. § 42-2069(D)(1)); or

(iii) in matters in which the amount in dispute, including tax, interest and penalties, is less than \$5,000, the taxpayer's duly appointed representative; or

(B) the taxpayer is a legal entity (including a governmental entity) and:

(i) the person is full-time officer partner, member, manager, or employee of the entity;

(ii) the entity has specifically authorized the person to represent it in the proceeding;

(iii) such representation is not the person's primary duty to the entity, but is secondary or incidental to other duties relating to the entity's management or operation; and

(v) the person is not receiving separate or additional compensation for such representation (other than receiving reimbursement for costs).

(e) Other.

(1) ***Children with Disabilities.*** In any administrative proceeding under 20 U.S.C. §§ 1415(f) or (k) regarding any matter relating to the identification, evaluation, educational placement, or the provision of a free appropriate public education for a child with a disability or suspected disability, a person may represent a party if:

(A) the hearing officer determines that the person has special knowledge or training with respect to the problems of children with disabilities; and

(B) the person is not charging a fee for representing the party (other than receiving reimbursement for costs).

Despite these provisions, the hearing officer may order the party to appear only through counsel or in some other manner if he or she determines that the person representing the party is interfering with the proceeding's orderly progress or imposing undue burdens on other parties.

(2) ***Department of Fire, Building and Life Safety.*** In any landlord/tenant dispute before the Arizona Department of Fire, Building and Life Safety, a person may represent a party if:

(A) the party has specifically authorized the person to represent the party in the proceeding; and

(B) the person is not charging a fee for the representing the party (other than receiving reimbursement for costs).

(3) ***Fiduciaries.*** A person licensed as a fiduciary under A.R.S. § 14-5651 may perform services in compliance with Arizona Code of Judicial Administration § 7-202 without acting under the supervision of an attorney authorized under Rule 31.1(a) to engage in the practice of law in Arizona. Despite this provision, a court may suspend the fiduciary's authority to act without an attorney if it determines that lay representation is interfering with the proceeding's orderly progress or imposing undue burdens on other parties.

(4) ***Legal Document Preparers and Limited License Legal Practitioners.*** Certified legal document preparers and limited license legal practitioners may perform services in compliance with the Arizona Code of Judicial Administration. Disbarred or suspended attorneys may only be certified as a legal document preparer or licensed as a limited license legal practitioner if approved by the Supreme Court.

(5) ***Mediators.***

(A) A person who is not authorized under Rule 31.1(a) to engage in the practice of law in Arizona may prepare a written agreement settling a dispute or file such an agreement with the appropriate court if:

(i) the person is employed, appointed, or referred by a court or government entity and is serving as a mediator at the direction of the court or a governmental entity; or

(ii) the person is participating without compensation in a nonprofit mediation program, a community-based organization, or a professional association.

(B) Unless specifically authorized in Rule 31.3(e)(5)(A), a mediator who is not authorized under Rule 31.1(a) to engage in the practice of law in Arizona and who prepares or provides legal documents for the parties without attorney supervision must be certified as a legal document preparer in compliance with the Arizona Code of Judicial Administration § 7-208.

(6) *Nonlawyer Assistants and Out-of-State Attorneys.*

(A) A nonlawyer assistant may act under an attorney's supervision in compliance with ER 5.3 of the Arizona Rules of Professional Conduct. This exception is not subject to the restriction in Rule 31.3(a)(2) concerning a person who is currently suspended or has been disbarred from the State Bar of Arizona or is currently on disability inactive status.

(B) An attorney licensed in another jurisdiction may engage in conduct that is permitted under ER 5.5 of the Arizona Rules of Professional Conduct.

(7) ***Personnel Boards.*** An employee may designate a person as a representative who is not necessarily an attorney to represent the employee before any board hearing or any quasi-judicial hearing dealing with personnel matters, but no fee may be charged (other than for reimbursement of costs) for any services rendered in connection with such hearing by any such designated representative who is not authorized under Rule 31.1(a) to engage in the practice of law in Arizona.

(8) ***State Bar Fee Arbitration.*** A person may represent a legal entity in a fee arbitration proceeding conducted by the State Bar of Arizona Fee Arbitration Committee, if:

(A) the person is a full-time officer, partner, member, manager, or employee of the entity;

(B) the entity has specifically authorized the person to represent it in the particular proceeding;

(C) such representation is not the person's primary duty to the entity, but is secondary or incidental to other duties relating to the entity's management or operation; and

(D) the person is not receiving separate or additional compensation for representing the entity (other than receiving reimbursement for costs).

Rule 32. Organization of State Bar of Arizona.

(a) State Bar of Arizona. The Supreme Court of Arizona maintains under its direction and control a corporate organization known as the State Bar of Arizona.

1. *Practice of law.* [[No change]]

2. *Mission.* The State Bar of Arizona exists to serve and protect the public with respect to the provision of legal services and access to justice. Consistent with these goals, the State Bar of Arizona seeks to improve the administration of justice and the competency, ethics, and professionalism of lawyers and those engaged in the authorized practice of law ~~practicing~~ in Arizona. This Court empowers the State Bar of Arizona, under the Court's supervision, to:

A. organize and promote activities that fulfill the responsibilities of the legal profession and its ~~individual~~ members to the public;

B. promote access to justice for those who live, work, and do business in this state;

C. aid the courts in the administration of justice;

D. assist this Court with the regulation and discipline of persons engaged in the practice of law; assist the Court with the regulation and discipline of alternative business structures (ABS) and limited license legal practitioners (LLLP); foster on the part of those engaged in the practice of law ideals of integrity, learning, competence, public service, and high standards of conduct; serve the professional needs of its members; and encourage practices that uphold the honor and dignity of the legal profession;

E. conduct educational programs regarding substantive law, best practices, procedure, and ethics; provide forums for the discussion of subjects pertaining to the administration of justice, the practice of law, and the science of jurisprudence; and report its recommendations to this Court concerning these subjects.

(b) Definitions. Unless the context otherwise requires, the following definitions shall apply to the interpretation of these rules relating to admission, discipline, disability and reinstatement of lawyers, ABSs, and LLLPs:

1. “Board” [[No change]]

2. “Court”[[No change]]

3. “Discipline” means those sanctions and limitations on members and others and the practice of law provided in these rules. Discipline is distinct from diversion or disability inactive status, but the term may include that status where the context so

requires. Discipline includes sanctions and limitations on ABSs as provided in these rules and ACJA 7-209 and LLLPs as provided in these rules and ACJA 7-210.

4. “Discipline proceeding” and “disability proceeding” [[No change]]

5. “Member” [[No change]]

6. “Non-member” [[No change]]

7. “Respondent” means any person, ABS, or LLLP subject to the jurisdiction of the court against whom a charge is received for violation of these rules or ACJA 7-209 or ACJA 7-210.

8. “State bar” [[No change]]

(c) Membership.

1. *Classes of Members.* Members of the state bar shall be divided into ~~five~~ six classes: active, inactive, retired, suspended, ~~and judicial, and affiliate.~~ Disbarred or resigned persons are not members of the bar.

2. *Active Members.* Every person licensed to practice law in this state is an active member except for persons who are inactive, retired, suspended, ~~or judicial, or~~ affiliate members.

3. *Affiliate Members.* Limited license legal practitioners (LLLPs) are affiliate members for purposes of regulation and discipline under these rules.

~~3. 4. Admission, Licensure and Fees. All persons admitted to practice in accordance with the rules of this court shall, by that fact, become active members of the state bar. Upon admission to the state bar or licensure as an LLLP, the applicant a person:~~

(i) shall pay a fee as required by the supreme court, which shall include the annual membership fee for ~~active members~~ of the state bar. If ~~an applicant a person~~ is admitted or licensed to the state bar on or after July 1 in any year, the annual membership fee ~~payable upon admission~~ shall be reduced by one half.

(ii) Upon admission to the state bar, ~~an~~ a lawyer applicant shall also, in open court, take and subscribe an oath to support the constitution of the United States and the constitution and laws of the State of Arizona in the form provided by the supreme court.

(iii) All members shall provide to the state bar office a current street address, e-mail address, telephone number, any other post office address the member may use, and the name of the bar of any other jurisdiction to which the member may be admitted. Any change in this information shall

be reported to the state bar within thirty days of its effective date. The state bar office shall forward to the court, on a quarterly basis, a current list of membership of the bar.

~~4.~~ 5. *Inactive Members.* [[No change to text]]

~~5.~~ 6. *Retired Members.* [[No change to text]]

~~6.~~ 7. *Judicial Members.* [[No change to text]]

~~7.~~ 8. *Membership Fees.* An annual membership fee for active members, inactive members, retired members, ~~and~~ judicial members, and affiliate members shall be established by the board with the consent of this court and shall be payable on or before February 1 of each year. No annual fee shall be established for, or assessed to, active members who have been admitted to practice in Arizona before January 1, 2009, and have attained the age of 70 before that date. The annual fee shall be waived for members on disability inactive status pursuant to Rule 63. Upon application, the Chief Executive Officer/Executive Director may waive all or part of the dues of any other member for reasons of personal hardship. Both the grant or denial of an application shall be reported to the board. Denial of a personal hardship waiver shall be reviewed by the board. The board should take all steps necessary to protect private information relating to the application.

~~8.~~ 9. *Computation of Fee.* The annual membership fee shall be composed of an amount for the operation of the activities of the State Bar and an amount for funding the Client Protection Fund, each of which amounts shall be stated and accounted for separately. Each active and inactive member, who is not exempt, and each affiliate member shall pay the annual Fund assessment set by the Court, to the State Bar together with the annual membership fee, and the State Bar shall transfer the fund assessment to the trust established for the administration of the Client Protection Fund. The State Bar shall conduct any lobbying activities in compliance with *Keller v. State Bar of California*, 496 U.S. 1 (1990). Additionally, a member who objects to particular State Bar lobbying activities may request a refund of the portion of the annual fee allocable to those activities at the end of the membership year.

~~9.~~ 10. *Allocation of fee.* Upon payment of the membership fee, each individual lawyer member shall receive a bar card and each LLLP shall receive a certificate of licensure, issued by the board evidencing payment. All fees shall be paid into the treasury of the state bar and, when so paid, shall become part of its funds, except that portion of the fees representing the amount for the funding of the Client Protection Fund shall be paid into the trust established for the administration of the Client Protection Fund.

~~10~~ 11. Delinquent Fees. A fee not paid by the time it becomes due shall be deemed delinquent. An annual delinquency fee for active members, inactive members, retired members, ~~and~~ judicial members, and affiliate members shall be established by the board with the consent of this court and shall be paid in addition to the annual membership fee if such fee is not paid on or before February 1. A member who fails to pay a fee within two months after written notice of delinquency shall be summarily suspended by the board from membership to the state bar, upon motion of the state bar pursuant to Rule 62, but may be reinstated in accordance with these rules.

~~11~~ 12. Resignation. [[No change to text]]

~~12~~ 13. Insurance Disclosure.

A. Each active and affiliate member of the State Bar of Arizona shall certify to the State Bar on the annual dues statement or in such other form as may be prescribed by the State Bar on or before February 1 of each year: (1) whether the lawyer or limited license legal practitioner is engaged in the private practice of law; and (2) if engaged in the private practice of law, whether the lawyer or limited license legal practitioner is currently covered by professional liability insurance. Each ~~active~~ member who reports being covered by professional liability insurance shall notify the State Bar of Arizona in writing within 30 days if the insurance policy providing coverage lapses, is no longer in effect, or terminates for any reason. A ~~lawyer~~ member who acquires insurance after filing the annual dues statement or such other prescribed disclosure document with the State Bar of Arizona may advise the Bar as to the change of this status in coverage.

B. The State Bar of Arizona shall make the information submitted by ~~active~~ members pursuant to this rule available to the public on its website as soon as practicable after receiving the information.

C. Any active or affiliate member of the State Bar of Arizona who fails to comply with this rule in a timely fashion may, on motion of the State Bar pursuant to Rule 62, be summarily suspended from the practice of law until such time as the lawyer or limited license legal practitioner complies. Supplying false information in complying with the requirements of this rule shall subject the lawyer or limited license legal practitioner to appropriate disciplinary action.

(d) Powers of Board. [[Only change is to subpart 2. As reflected below]]

2. Promote and aid in the advancement of the science of jurisprudence, the education of ~~lawyers~~ legal professionals and the improvement of the administration of justice.

(e) – (g) [[No change]]

(h) Administration of rules. Examination and admission of lawyer members shall be administered by the committee on examinations and the committee on character and fitness, as provided in these rules. Examination and licensure of limited license legal practitioners shall be administered by the Administrative Office of Courts as provided in ACJA 7-210. Licensure of alternative business structures shall be by the Committee on Alternative Business Structures, as provided in these rules and ACJA 7-209. Discipline, disability, and reinstatement matters shall be administered by the presiding disciplinary judge, as provided in these rules. All matters not otherwise specifically provided for shall be administered by the board.

(i) – (k) [[No change]]

(l) Expenses of Administration and Enforcement. The state bar shall pay all expenses incident to the administration and enforcement of these rules relating to membership, mandatory continuing legal education, discipline, disability, and reinstatement of lawyers, including the membership, mandatory continuing legal education and disability of limited license legal practitioners, except that costs and expenses shall be taxed against a respondent ~~lawyer~~ or applicant for readmission, as provided in these rules. The administrative office of the courts shall pay all expenses incident to administration and enforcement of these rules relating to application for admission to the practice of law, examinations and admission, including expenses related to application for licensure and examination of limited license legal practitioners. The State Bar and Administrative Office of Courts may recoup extraordinary costs beyond the schedule of fees adopted by the Court relating to an alternative business structure application for licensure or administration and enforcement of these rules against an alternative business structure.

(m) [[No change]]

Proposed New Rule 33.1. Committee; Entity Regulation

(a) Committee.

1. Creation of the Committee. ~~The review~~ **examination** of applications and **recommendations to grant or deny** licensure of alternative business structures shall conform to this rule and ACJA 7-209. For such purposes, there shall be a Committee on Alternative Business Structures. The Committee on Alternative Business Structures shall consist of eleven members.

2. Appointment of Members. Members of the Committee ~~and its Chair~~ shall be appointed by the Court, considering geographical, gender, and ethnic diversity. Members shall serve at the pleasure of the Court and may be removed from the Committee at any time by order of the Court. A member of the Committee may resign at any time. **The Chief Justice shall appoint the Committee chair.**

3. Terms of Office. Members of the Committee will serve three-year terms, which will be staggered among members as designated by the Chief Justice. Members may be reappointed **to successive terms**. If a vacancy exists due to resignation or inability of a board member to serve, the Court shall appoint another person to serve the unexpired term.

4. Powers and Duties of the Committee. The Committee on Alternative Business Structures shall ~~review~~ **examine** applications for licensure and recommend to the Court ~~for licensure~~ those applicants who are deemed by the ~~Board~~ **Committee** to be **qualified and not qualified** pursuant to ACJA § 7-209. **The Court will then consider the recommendations and either grant or deny licensure.**

5. Review by Court. The Committee's recommendation regarding an application for licensure will be transmitted to the Court for review as provided in 7-209(E). Upon receipt of the recommendation, the Court may decline review or issue an order approving, denying, or approving with modification the recommendation. Upon receipt of the Court's order, the Committee shall either grant or deny the application as directed.

6. Response to Recommendation to Deny.

A. An applicant affected by any recommendation of the Committee on Alternative Business Structures may, within twenty (20) days after such a recommendation has been filed with the Court file a response with the Court. The response should state the facts that form the basis for the response, and applicant's reasons for believing this Court should approve, deny, or modify the recommendation of the Committee.

B. A copy of the response must be promptly served upon the Committee.

The Committee will have thirty (30) days after service to transmit the applicant's file, including all findings and reports prepared by or for the Committee, and a reply to the response fully advising the Court as to the Committee's reason for its recommendation. Thereafter, the Court may hold any hearings or request additional information as necessary to decide whether to approve or deny the application or approve it with modification.

C. Any document filed under Rule 33.1(a)(6) is open to the public except that, upon request by an applicant, the Clerk will seal medical or psychological reports and records. An applicant may request the Court to seal a portion of any other materials submitted.

(b) Decision Regarding Licensure. The Committee shall recommend approval of applications if the requirements in this rule and in ACJA are met by the applicant. The Committee's recommendation shall state the factors in favor of approval.

(1) Decisions of the Committee must take into consideration the following regulatory objectives:

(A) protecting and promoting the public interest;

(B) promoting access to legal services

(C) advancing the administration of justice and the rule of law;

(D) encouraging an independent, strong, diverse, and effective legal profession; and

(E) promoting and maintaining adherence to professional principles.

(2) The Committee shall examine whether an applicant has adequate governance structures and policies in place to ensure:

(A) lawyers providing legal services to consumers act with independence consistent with the lawyers' professional responsibilities;

(B) the alternative business structure maintains proper standards of work;

(C) the lawyer makes decisions in the best interest of clients;

(D) confidentiality consistent with Arizona Rule of Supreme Court 42 is maintained; and

(E) any other business policies or procedures that do not interfere with a lawyers' duties and responsibilities to clients.

(c) Power of Court to Revoke or Suspend License. Nothing contained in this rule shall be considered as a limitation upon the power and authority of this Court upon

petition of the Committee on Alternative Business Structures, probable cause committee, bar counsel, or on its own motion, to file a petition with the presiding disciplinary judge to revoke or suspend, after due notice and hearing, the license of an alternative business structure in this state for fraud or material misrepresentation in the procurement the ABS's license.

(d) Practice in Courts. No alternative business structure shall employ any person to provide legal services in the State of Arizona unless the person is licensed to practice law or otherwise authorized to provide legal services under Rule 31.1 or 31.3

(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, 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 Board concerning an application for licensure in connection with any proceeding before the Court. In addition, the Board or designated staff may disclose their respective records pertaining to an applicant for licensure to:

1. any licensing authority in another 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.

(f) Immunity from Civil Suit.

1. The Court, the Board Committee, and the members, staff, employees, and agents thereof, are immune from all civil liability for conduct and communications occurring in the performance of their official duties relating to the licensing of applicants seeking to be licensed to practice law.

2. Records, statements of opinions and other information regarding an applicant for licensure communicated by any person, form, or institution, without malice, to the Court or the Board, and the members, staff, employees, and agents thereof, are privileged, and civil suits predicated thereon may not be instituted.

Rule 41. Duties and Obligations of Members⁴

(a) Definition.

“Unprofessional conduct” means substantial or repeated violations of the oath of Admission to the State Bar or the Lawyer’s Creed of Professionalism of the State Bar of Arizona.

(b) Duties and Obligations. The duties and obligations of members shall be:

(a 1) Those prescribed by the Arizona Rules of Professional Conduct adopted as Rule 42 of these Rules.

(b 2) To support the constitution and the laws of the United States and the State of Arizona.

(c 3) To maintain the respect due to courts of justice and judicial officers.

(d 4) To counsel or maintain no other action, proceeding or defense than those which appear to him legal and just, excepting the defense of a person charged with a public offense.

(e 5) To be honest in dealings with others and not make false or misleading statements of fact or law.

(f 6) To fulfill the duty of confidentiality to a client and not accept compensation for representing a client from anyone other than the client without the client’s knowledge and approval.

(g 7) To avoid engaging in unprofessional conduct and to advance no fact prejudicial to the honor or reputation of a party or a witness unless required by the duties to a client or the tribunal.

(h 8) To support the fair administration of justice, professionalism among lawyers, and legal representation for those unable to afford counsel.

(i 9) To protect the interests of current and former clients by planning for the lawyer’s termination of or inability to continue a law practice, either temporarily or permanently.

(c) Oath and Creed. The Oath of Admission to the Bar and Lawyer’s Creed of Professionalism of the State Bar of Arizona are as follows.

⁴ Definition of “unprofessional conduct”, Oath of Admission, and Lawyers Creed of Professionalism are inserted into Rule 41 due to their deletion in restyled Rule 31. The only amendment to Rule 41 is to change the subsection numbering. without change or amendment from text in current Rule 31.

Oath of Admission to the Bar

I, (state your name), do solemnly swear (or affirm) that I will support the constitution and laws of the United States and the State of Arizona;

I will treat the courts of justice and judicial officers with respect;

I will not counsel or maintain an action, proceeding, or defense that lacks a reasonable basis in fact or law;

I will be honest in my dealings with others and not make false or misleading statements of fact or law;

I will fulfill my duty of confidentiality to my client; I will not accept compensation for representing my client from anyone other than my client without my client's knowledge and approval;

I will avoid engaging in unprofessional conduct; I will not advance any fact prejudicial to the honor or reputation of a party or witness, unless required by my duties to my client or the tribunal;

I will at all times faithfully and diligently adhere to the rules of professional responsibility and A Lawyer's Creed of Professionalism of the State Bar of Arizona.

A Lawyer's Creed of Professionalism of the State Bar of Arizona

Preamble

As a lawyer, I must strive to make our system of justice work fairly and efficiently. To carry out that responsibility, I will comply with the letter and spirit of the disciplinary standards applicable to all lawyers and I will conduct myself in accordance with the following Code of Professionalism when dealing with my client, opposing parties, their counsel, tribunals and the general public.

A. With respect to my client:

1. I will be loyal and committed to my client's cause, but I will not permit that loyalty and commitment to interfere with my ability to provide my client with objective and independent advice;
2. I will endeavor to achieve my client's lawful objectives in business transactions and in litigation as expeditiously and economically as possible;

3. In appropriate cases, I will counsel my client with respect to alternative methods of resolving disputes;
4. I will advise my client against pursuing litigation (or any other course of action) that is without merit and I will not engage in tactics that are intended to delay the resolution of a matter or to harass or drain the financial resources of the opposing party;
5. I will advise my client that civility and courtesy are not to be equated with weakness;
6. While I must abide by my client's decision concerning the objectives of the representation, I nevertheless will counsel my client that a willingness to initiate or engage in settlement discussions is consistent with effective and honorable representation.

B. With respect to opposing parties and their counsel:

1. I will be courteous and civil, both in oral and written communication;
2. I will not knowingly make statements of fact or law that are untrue;
3. In litigation proceedings, I will agree to reasonable requests for extensions of time or for waiver of procedural formalities when the substantive interests of my client will not be adversely affected;
4. I will endeavor to consult with opposing counsel before scheduling depositions and meetings and before rescheduling hearings, and I will cooperate with opposing counsel when scheduling changes are requested;
5. I will not utilize litigation or any other course of conduct to harass the opposing party;
6. I will not engage in excessive and abusive discovery; and I will advise my client to comply with all reasonable discovery requests;
7. I will not threaten to seek sanctions against any party or lawyer unless I believe that they have a reasonable basis in fact and law;
8. I will not delay resolution of a matter, unless the delay is incidental to an action reasonably necessary to ensure the fair and efficient resolution of that matter;
9. In depositions and other proceedings, and in negotiations, I will conduct myself with dignity, avoid making groundless objections and not be rude or disrespectful;
10. I will not serve motions and pleadings on the other party or the party's counsel at such a time or in such a manner as will unfairly limit the other party's opportunity to respond;

11. In business transactions I will not quarrel over matters of form or style but will concentrate on matters of substance and content;

12. I will identify clearly, for other counsel or parties, all changes that I have made in the documents submitted to me for review.

C. With respect to the courts and other tribunals:

1. I will be an honorable advocate on behalf of my client, recognizing, as an officer of the court, that unprofessional conduct is detrimental to the proper functioning of our system of justice;

2. Where consistent with my client's interests, I will communicate with opposing counsel in an effort to avoid litigation and to resolve litigation that has actually commenced;

3. I will voluntarily withdraw claims or defenses when it becomes apparent that they do not have merit;

4. I will not file frivolous motions;

5. I will make every effort to agree with other counsel, as early as possible, on a voluntary exchange of information and on a plan for discovery;

6. I will attempt to resolve, by agreement, my objections to matters contained in my opponent's pleadings and discovery requests;

7. When scheduled hearings or depositions have to be canceled, I will notify opposing counsel and, if appropriate, the court (or other tribunal) as early as possible;

8. Before dates for hearings or trial are set – or, if that is not feasible, immediately after such dates have been set – I will attempt to verify the availability of key participants and witnesses that I can promptly notify the court (or other tribunal) and opposing counsel of any likely problem in that regard;

9. In civil matters, I will stipulate to facts as to which there is no genuine dispute;

10. I will endeavor to be punctual in attending court hearings, conferences, and dispositions;

11. I will at all times be candid with, and respectful to, the tribunal.

D. With respect to the public and our system of justice:

1. I will remember that, in addition to commitment to my client's cause, my responsibilities as a lawyer include a devotion to the public good;

2. I will keep current in the areas in which I practice and, when necessary, will associate with, or refer my client to, counsel knowledgeable in another field or practice;
3. As a member of a self-regulating profession, I will be mindful of my obligations under the Rules of Professional Conduct to report violations of those Rules;
4. I will be mindful of the need to protect the integrity of the legal profession and will be so guided when considering methods and contents of advertising;
5. I will be mindful that the law is a learned profession and that among its desirable goals are devotion to public service, improvement or administration of justice, and the contribution of uncompensated time and civic influence on behalf of those persons who cannot afford adequate legal assistance.

Rule 46. Jurisdiction in Discipline and Disability Matters; Definitions

(a) **[[No change]]**

(b) **Licensed Alternative Business Structures.** Any entity licensed as an alternative business structure and its members are subject to the disciplinary jurisdiction of this court. Any false statement or misrepresentation made by an applicant for licensure which is not discovered until after the applicant is licensed may serve as an independent ground for the imposition of discipline under these rules and ACJA § 7-209 and an aggravating factor in any disciplinary proceeding based on other conduct. Any fraudulent misstatement or material misrepresentation made by an applicant for licensure may result in revocation of the alternative business structure’s license.

(c) **Limited License Legal Practitioners.** Any person licensed as a limited license legal practitioner is subject to the disciplinary jurisdiction of this court and the authority delegated in these rules to the board of governors of the state bar. Any false statement or misrepresentation made by an applicant for licensure which is not discovered until after the applicant is licensed may serve as an independent ground for the imposition of discipline under these rules and ACJA § 7-210 and an aggravating factor in any disciplinary proceeding based on other conduct. Any fraudulent misstatement or material misrepresentation made by an applicant may result in revocation of the limited license legal practitioner’s license.

(~~b~~ d) **Non-members.** **[[No change to text]]**

(e ~~e~~) **Former Judges.** **[[No change to text]]**

(~~d~~ f) **Incumbent Judges.** **[[No change to text]]**

(e g) **Disbarred Lawyers.** **[[No change to text]]**

(f h) **Definitions.** When the context so requires, the following definitions shall apply to the interpretation of these rules relating to discipline, disability and reinstatement of lawyers, **limited license legal practitioners, and alternative business structures:**

1. “Acting presiding disciplinary judge” -- 4. “Charge” **[[No change]]**
5. “Committee” means the Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona unless stated otherwise.
6. “Complainant” means a person who initiates a charge against a lawyer, ~~or~~ entity, or limited license legal practitioner or later joins in a charge to the state bar regarding the conduct of a lawyer, alternative business structure, or limited license legal practitioner. The complainant will be provided information as set

forth in Rule 53, unless specifically waived by the complainant. The state bar or any bar counsel may be complainant.

7. “Complaint” -- 9. “Court” [[No change]]

10. “Discipline” means those sanctions and limitations on members and the practice of law provided in these rules, including those sanctions and limitations provided in these rules and ACJA 7-209 for alternative business structures and ACJA 7-210 for limited license legal practitioners. Discipline is distinct from diversion or disability inactive status, but the term may include that status where the context so requires.

11. “Disciplinary clerk” -- 16. “Member” [[No change]]

17. “Misconduct” means any conduct by an individual sanctionable under these rules, including unprofessional conduct as defined in Rule ~~31(a)(2)(E)~~ 41(a) or conduct that is eligible for diversion, any conduct by an alternative business structure actionable under these rules or ACJA 7-209, or any conduct by a limited license legal practitioner actionable under these rules or ACJA 7-210.

18. “Non-member” -- 20. “Record,” [[No change]]

21. “Respondent” means a member, including limited license legal practitioner or non-member, including an ABS or its nonlawyer members, against whom a discipline or disability proceeding has been commenced.

22. “Settlement officer” -- 24. “State bar file” [[No change]]

Rule 47. General Procedural Matters

(a) - (b) [[No change]]

(c) Service. Service of the complaint, pleadings and subpoenas shall be effectuated as provided in the Rules of Civil Procedure, except as otherwise provided herein. Personal service of complaints and subpoenas may be made by staff examiners employed by the state bar.

1. Service of Complaint.

(A) Individual Respondents. Service of the complaint in any discipline or disability proceeding may be made on respondent or respondent's counsel, if any, by certified mail/delivery restricted to addressee in addition to regular first class mail, sent to the last address provided by counsel or respondent to the state bar's membership records department pursuant to Rule 32(c)(4)(iii) 32(e)(3). When service of the complaint is made by mail, bar counsel shall file a notice of service with the disciplinary clerk, indicating the date and manner of mailing, and service shall be deemed complete five (5) days after the date of mailing.

(B) ABS Respondents. Service of the complaint in any discipline proceeding against a licensed ABS or its members may be made on the designated agent for service per ACJA 7-209 or the respondent's counsel, if any, by certified mail/delivery restricted to addressee in addition to regular first class mail, sent to the last address provided by respondent, respondent's counsel, or the designated agent for service pursuant to ACJA 7-209. When service of the complaint is made by mail, bar counsel shall file a notice of service with the disciplinary clerk, indicating the date and manner of mailing, and service shall be deemed complete five (5) days after the date of mailing.

2. Service of Subpoena. [[No change]]

(d) - (l) [[No change]]

Rule 48. Rules of Construction

(a) – (c) [[No change]]

(d) Standard of Proof.

1. Lawyers. Allegations in a complaint, applications for reinstatement, petitions for transfer to and from disability inactive status and competency determinations shall be established by clear and convincing evidence. In discipline proceedings that include allegations of trust account violations, there shall be a rebuttable presumption that any lawyer who fails to maintain trust account records as required by ER 1.15 or Rule 43, Ariz. R. S. Ct, or who fails to provide trust account records to the state bar upon request or as ordered by the committee, the presiding disciplinary judge, or the court, has failed to properly safeguard client or third-party funds or property, as required by the provisions of ER 1.15 or Rule 43, Ariz. R. S. Ct.

2. ABS. Allegations in a complaint or applications for reinstatement, shall be established by a ~~preponderance of the~~ **clear and convincing** evidence. In discipline proceedings that include allegations of trust account violations, there shall be a rebuttable presumption that any ABS that fails to maintain trust account records as required by ER 1.15 or Rule 43, Ariz. R. S. Ct, or that fails to provide trust account records to the state bar upon request or as ordered by the committee, the presiding disciplinary judge, or the court, has failed to properly safeguard client or third-party funds or property, as required by the provisions of ER 1.15 or Rule 43, Ariz. R. S. Ct.

(e) Burden of Proof. The burden of proof in proceedings seeking discipline is on the state bar. That burden is on the petitioning party in proceedings seeking transfer to disability inactive status. That burden in proceedings seeking reinstatement and transfer from disability inactive status is on respondent or applicant. The burden on an ABS seeking licensure after a period of revocation or suspension is on respondent ABS.

(f) – (i) [[No change]]

Rule 49. Bar Counsel

(a) - (b) [[No change]]

(c) Powers and Duties of Chief Bar Counsel. Acting under the authority granted by this Court and under the direction of the executive director, chief bar counsel shall have the following powers and duties:

1. *Prosecutorial Oversight.* Chief bar counsel shall maintain and supervise a central office for the filing of requests for investigation relating to conduct by a member, including limited license legal practitioners, or non-member and for the coordination of such investigations; supervise staff needed for the performance of all discipline functions within the responsibility of the state bar, overseeing and directing the investigation and prosecution of discipline cases and the administration of disability, reinstatement matters, and contempt proceedings, and compiling statistics regarding the processing of cases by the state bar.

2. *Dissemination of Discipline and Disability Information.*

A. Notice to Disciplinary Agencies. [[No change]]

B. Disclosure to National Discipline Data Bank. [[No change]]

C. Public Notice of Discipline Imposed. Chief bar counsel shall cause notices of orders or judgments of reprimand, suspension, disbarment, transfers to and from disability status and reinstatement as well as all sanctions against alternative business structures to be published in the Arizona Attorney or another usual periodic publication of the state bar, and shall send such notices to a newspaper of general circulation in each county where the lawyer maintained an office for the practice of law. Notices of sanctions or orders shall be posted on the state bar's website as follows:

(i) Disbarment, suspension, interim suspension, reprimand, and reinstatement shall be posted for an indefinite period of time.

(ii) Probation (including admonition with probation), restitution and costs shall be posted for two (2) years from the effective date of the sanction or until completion, whichever is later; the posting shall indicate whether or not the terms of the order have been satisfied.

(iii) A finding of contempt of a supreme court order shall be posted for five (5) years from the effective date of the order or until the contempt is purged, whichever is later; the posting shall indicate whether or not the terms of the order have been satisfied.

(iv) A transfer to disability inactive status shall be posted while the order is in effect.

(v) An administrative or summary suspension shall be posted while the suspension is in effect.

(vi) Revocation, suspension, reprimand, and licensing after a period of revocation involving an alternative business structure shall be posted for an indefinite period of time.

D. Notice to Courts. [[No change]]

3. *Report*. [[No change]]

(d) [[No change]]

Rule 50. Attorney Discipline Probable Cause Committee

(a) – (d) [[No change]]

(e) Powers and Duties of the Committee. Unless otherwise provided in these rules, the committee shall be authorized and empowered to act in accordance with Rule 55 and as otherwise provided in these rules, including ACJA 7-209 and 7-210, and to:

1. meet and take action, as deemed appropriate by the chair, in no less than three-person panels, each of which shall include a public member and a lawyer member (all members of the panel must participate in the vote and a majority of the votes shall decide the matter, a member of the panel may participate by remote access, and the quorum requirements of paragraph (f) do not apply to panels under this paragraph);
2. periodically report to the court on the operation of the committee;
3. recommend to the court proposed changes or additions to the rules of procedure for ~~attorney~~ discipline and disability proceedings; and
4. adopt such procedures as may from time to time become necessary to govern the internal operation of the committee, as approved by the court.

(f) – (h) [[No change]]

Rule 51. Presiding Disciplinary Judge

(a) – (b) [[No change]]

(c) Powers and Duties of the Presiding Disciplinary Judge. The presiding disciplinary judge shall be authorized to act in accordance with these rules and to:

1. appoint a staff in accordance with an approved budget as necessary to assist the presiding disciplinary judge in the administration of the judge's office and in the performance of the judge's duties;
2. order the parties in disciplinary proceedings to attend a settlement conference;
3. impose discipline on an attorney, alternative business structure, or limited license legal practitioner; transfer an attorney to disability inactive status; and serve as a member of a hearing panel in discipline and disability proceedings, as provided in these rules;
4. shorten or expand time limits set forth in these rules, as the presiding disciplinary judge, in the exercise of discretion, determines necessary;
5. enlist the assistance of members of the bar to conduct investigations in conflict cases;
6. periodically report to the court on the operation of the office of the presiding disciplinary judge;
7. recommend to the court proposed changes or additions to the rules of procedure for attorney discipline and disability proceedings, including rules and ACJA 7-209 and 7-210 governing discipline of alternative business structures and limited license legal practitioners; and
8. adopt such practices as may from time to time become necessary to govern the internal operation of the office of the presiding disciplinary judge, as approved by the supreme court.

(d) [[No change]]

Rule 54. Grounds for Discipline

Grounds for discipline of members, including limited license legal practitioners, and non-members, and alternative business structures include the following:

(a) – (h) [[No change]]

(i) Unprofessional conduct as defined in Rule ~~31(a)(2)(E)~~ 41(a).

(j) Violations of ACJA 7-209.

(k) Violations of ACJA 7-210.

Rule 55. Initiation of Proceedings; Investigation

(a) Commencement; Determination to Proceed. Bar counsel shall evaluate all information coming to its attention, in any form, by charge or otherwise, alleging unprofessional conduct, misconduct or incapacity. This shall include any allegation involving a violation of these rules or ACJA 7-209 or ACJA 7-210 by alternative business structures and limited license legal practitioners.

1. If bar counsel determines the lawyer, alternative business structure, or a limited license legal practitioner is not subject to the disciplinary jurisdiction of the supreme court, bar counsel shall refer the information to the appropriate entity.

2. If bar counsel determines the lawyer, alternative business structure, or limited license legal practitioner is subject to the disciplinary jurisdiction of the court, bar counsel shall, in the exercise of bar counsel's discretion, resolve the matter in one of the following ways:

A. dismiss the matter with or without comment; or

B. enter into a diversion agreement or take other appropriate action without conducting a full screening investigation where warranted; or

C. refer the matter for a screening investigation as provided in Rule 55(b) if the alleged conduct may warrant the imposition of a sanction.

(b) Screening Investigation and Recommendation by Bar Counsel. When a determination is made to proceed with a screening investigation, the investigation shall be conducted or supervised by bar counsel. Bar counsel shall give the respondent written notice that ~~he or she is~~ respondent is under investigation and of the nature of the allegations. No disposition adverse to the respondent shall be recommended by bar counsel until the respondent has been afforded an opportunity to respond in writing to the charge.

1. *Response to Allegations.* [[No change]]

2. *Action Taken by Bar Counsel.* [[No change]]

(c) [[No change]]

Rule 56. Diversion

(a) [[No change]]

(b) Referral to Diversion. Bar counsel, the committee, the presiding disciplinary judge, a hearing panel, or the court may offer diversion to ~~the~~ an attorney, alternative business structure, or limited license legal practitioner based upon the Diversion Guidelines recommended by the board and approved by the court. The Diversion Guidelines shall be posted on the state bar and supreme court websites. Where the conduct so warrants, diversion may be offered if:

1. the lawyer, alternative business structure, or limited license legal practitioner committed professional misconduct, the lawyer is incapacitated, or the lawyer, alternative business structure, or limited license legal practitioner does not wish to contest the evidence of misconduct and bar counsel and the respondent agree that diversion will be appropriate;
2. the conduct could not be the basis of a motion for transfer to disability inactive status pursuant to Rule 63 of these rules;
3. the cause or basis of the professional misconduct by an individual lawyer, alternative business structure, or limited license legal practitioner or incapacity of an individual lawyer is subject to remediation or resolution through alternative programs or mechanisms, including:
 - A. medical, psychological, or other professional treatment, counseling or assistance,
 - B. appropriate educational courses or programs,
 - C. mentoring or practice monitoring services,
 - D. dispute resolution programs, or
 - E. any other program or corrective course of action agreed upon by bar counsel and respondent to address respondent's misconduct;
4. the public interest and the welfare of the respondent's clients and prospective clients will not be harmed if, instead of the matter proceeding immediately to a disciplinary or disability proceeding, the lawyer agrees to and complies with specific measures that, if pursued, will remedy the immediate problem and likely prevent any recurrence of it; and
5. the terms and conditions of the diversion plan can be adequately supervised.

(c) Diversion agreement or order. If diversion is offered and accepted prior to an investigation pursuant to Rule 55(b), the agreement shall be between the attorney, or alternative business structure, or limited license legal practitioner and bar

counsel. If bar counsel recommends diversion after an investigation pursuant to Rule 55(b) but before authorization to file a complaint, the recommendation for an order of diversion shall be submitted to the committee for consideration. If the committee rejects the recommendation, the matter shall proceed as otherwise provided in these rules. If diversion is offered and accepted after authorization to file a complaint, the matter shall proceed pursuant to Rule 57. If the presiding disciplinary judge rejects the diversion agreement, the matter shall proceed as provided in these rules.

Rule 57. Special Discipline Proceedings

(a) Discipline by Consent.

1. *Consent to Discipline.* [[No change]]

2. *Form of Agreement.* An agreement for discipline by consent shall be signed by respondent, respondent's counsel, if any, and bar counsel. An agreement shall include the following:

A. ~~Rule Violations.~~ Each count alleged in the charge or complaint shall be addressed in the agreement, including a statement as to the specific disciplinary rule or ACJA section that was violated, or conditionally admitted to having been violated, and the facts necessary to support the alleged violation, conditional admission, or decision to dismiss a count.

B. Forms of Discipline. -- F. Use of Standardized Documents. [[No change]]

3. *Procedure.* [[No change]]

4. *Presiding Disciplinary Judge Decision.* [[No change]]

5. *Disbarment by Consent.* [[No Change]]

(b) [[No Change]]

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respondent and on bar counsel of record. The hearing panel shall notify the parties when the decision will be filed outside the time limits of this rule and shall state the reason for the delay. The decision of the hearing panel is final, subject to the parties' appeal rights as set forth in Rule 59.

Rule 60. Sanctions

(a) Types and Forms of Sanctions, lawyers. Misconduct by an attorney, individually or in concert with others, shall be grounds for imposition of one or more of the following sanctions:

1. *Disbarment*. [[No change]]
2. *Suspension*. [[No change]]
3. *Reprimand*. [[No change]]
4. *Admonition*. [[No change]]
5. *Probation*. [[No change]]
6. *Restitution*. [[No change]]

(b) Types and Forms of Sanctions, ABS. Misconduct by an ABS shall be grounds for imposition of one or more of the sanctions provided for in these rules and ACJA 7-209.

(c) Types and Forms of Sanctions, LLLP. Misconduct by an LLLP shall be grounds for imposition of one or more of the sanctions provided for in these rules and ACJA 7-210.

(~~b~~ d) Assessment of the Costs and Expenses. [[No change to text]]

(e e) Enforcement. [[No change to text]]

VI. UNAUTHORIZED PRACTICE OF LAW

Rule 75. Jurisdiction

(a) Jurisdiction. This court has jurisdiction over any person engaged in the unauthorized practice of law pursuant to Rule 31(b) ~~31(a)~~ of these rules or any entity providing legal services contrary to the requirements of Rule 31.1(b). Proceedings against non-members or entities may also be instituted pursuant to Rules 47 through 60, and such proceedings may be concurrent with proceedings under this rule and Rules 76 through 80, Ariz.R.S.Ct.

(b) Definitions. The following definitions shall apply in unauthorized practice of law proceedings.

1. All definitions in Rules 31(b), (c); 31.1; and 41(a) ~~31(a)(2)~~ shall apply.
2. “Bar counsel” [[No change]]
3. “Charge” means any allegation of misconduct or incapacity of a lawyer or entity or misconduct or incident of unauthorized practice of law brought to the attention of the state bar.
4. “Committee” [[No change]]
5. “Complainant” means a person who initiates a charge or later joins in a charge to the state bar against a non-lawyer or entity regarding the unauthorized practice of law. The state bar or any bar counsel may be a complainant.
6. “Complaint” through 11. “Record” [[No change]]
12. “Respondent” is any person or entity subject to the jurisdiction of the court against whom a charge is received for violation of these rules.
13. “State bar” through 16. “Unauthorized practice of law proceeding” [[No change]]

Rule 76. Grounds for Sanctions, Sanctions and Implementation

(a) Grounds for Sanctions. Grounds for sanctions include the following:

1. Any act found to constitute the unauthorized practice of law pursuant to Rule ~~31~~ 31.2.

2. Willful disobedience or violation of a court ruling or order requiring the individual or entity to do or forbear to do an act connected with the unauthorized practice of law.

3. [[No change]]

(b) Sanctions and Dispositions.

1. *Agreement to Cease And Desist*. [[No change]]

2. *Cease and Desist Order*. [[No change]]

3. *Injunction*. [[No change]]

4. *Civil Contempt*. [[No change]]

6. *Civil Penalty*. The superior court may order a civil penalty up to \$25,000 against every respondent upon whom another sanction is imposed.

7. *Costs and Expenses*. [[No change to text]]

(c) Implementation of Cease and Desist Sanction. [[No change]]