



Arizona Commission on Access to Justice

Meeting Agenda

February 4, 2020 - 10:00 a.m. to 2:00 p.m.
State Courts Building ♦ 1501 West Washington ♦ Conference
Room 119A/B ♦ Phoenix, Arizona

[ACAJO WEBPAGE](#)

TIME	AGENDA ITEM	PRESENTER
1 10:00 a.m.	Welcome and Opening Remarks	<i>Judge Lawrence F. Winthrop, Chair</i>
	Approval of minutes from November 14, 2019 ☐ <i>Formal Action/Request</i>	
2 10:05 a.m.	Chairperson's report	<i>Judge Winthrop</i>
3 10:45 a.m.	Update on Arizona ODR Pilot Projects	<i>Cathy Clarich, Caseflow Management Manager, AOC; Nicole LaConte, Court Specialist, AOC</i>
4 11:00 a.m.	Update on the Delivery of Legal Services Task Force	<i>Dave Byers, Executive Director, AOC</i>
5 11:30 a.m.	Update on the Public Information and Messaging Workgroup	<i>Alberto Rodriguez, State Bar Public Information Officer</i>
6 11:45 a.m.	Report on revival of the Law4AZ project	<i>Gretchen Hornberger, Law Librarian, Coconino County</i>

12:00 p.m.

🍴 **Lunch Break** 🍴

7	12:30 p.m.	Report from the Self-Represented Litigants in Limited Jurisdiction Courts Workgroup	<i>Judge Anna Huberman</i>
8	12:45 p.m.	Report on the AZCourtHelp.org website	<i>Dr. Kevin Ruegg and Cathleen Cole</i>
9	1:00 p.m.	Report from the Judicial and Attorney Engagement Workgroup	<i>Judge Joe Kreamer</i>
10	1:15 p.m.	Report from the Intergovernmental Collaborative Workgroup	<i>Judge Winthrop Chris Groninger</i>
11	1:30 p.m.	Report from the Family Court Improvement Committee	<i>Judge Bruce Cohen, Presiding Judge, Family Department, Maricopa County Superior Court</i>
12	1:45 p.m.	Strategic Agenda Development Session	<i>ACAJ Members</i>
13	1:55 p.m. 2:00 p.m.	Good of the Order / Call to the Public Adjournment	<i>Judge Winthrop</i>

2020 Future meetings

May 14, 2020

November 19, 2020

Conference Room 119 A/B; 10:00 a.m. to 2:00 p.m.

**Arizona Commission on Access to Justice
MINUTES**

**Wednesday, November 13, 2019
10:00 a.m. to 2:00 p.m.**

State Courts Building, 1501 W. Washington Street, Conf. Rm. 119A/B, Phoenix, AZ 85007

Present: Judge Lawrence Winthrop (chair), Kip Anderson, Pamela Bridge (*telephonic*), Judge Maria Elena Cruz, Joel England, Kevin Groman, Judge David Haws, Judge Anna Huberman, William Knight, Judge Joseph C. Kreamer, Maria Morlacci, Helen Purcell, Janet K. Regner, Alberto Rodriguez, Dr. Kevin Ruegg, Anthony Young

Absent/Excused: Judge Janet Barton, Pamela Bridge, Anni Foster

Presenters/Guests: Cathleen Cole, Chris Groninger, Pat Winthrop, Neal Singh, Dr. Cara Christ, Christina Corieri, Alicia Moffat

Administrative Office of the Courts (AOC) Staff: Theresa Barrett, Julie Graber, Sabrina Nash, Kathy Sekardi

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the November 13, 2019 meeting of the Arizona Commission on Access to Justice (ACAJ) was called to order by Judge Lawrence F. Winthrop, chair at 10:07 a.m.

B. Approval of Minutes

The draft minutes from the May 15, 2019, ACAJ meeting were presented for approval.

Motion: Judge Joseph Kreamer moved to approve the May 15, 2019, minutes, as presented. **Seconded:** Judge Anna Huberman. **Vote:** Unanimous.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Chairperson's Report

Judge Winthrop thanked and presented certificates of appreciation to the volunteers who helped the ACAJ-SRLLJC workgroup with the voice overs for the eviction videos. Volunteers recognized were: Charles Adornetto, Steve Hausser, Denise Holliday, Judge Anna Huberman, Alex Navidad, Laura Ritenour and Ana Stine. He then reported on several access to justice topics with emphasis on the opioid crisis and legal aid.

- An op-ed article in the October 2019 issue of Arizona Attorney, authored by Chris Groninger titled "An Arizona Success Story" about the Domestic Violence Legal Assistance Project. The Project is a 20-year success story built on the collaboration of the judiciary and the executive branches of government.

- Revival of the Law4AZ Project, a collaborative project with the Secretary of State's office that provides training and informational materials to public librarians across the state to assist patrons in accessing legal information.
- Status of Congressional funding for the Legal Services Corporation, which provides funding to legal aid organizations around the county to address the unmet civil legal needs of low-income Americans who receive no or inadequate professional help for a majority of their civil legal problems.
- The AOC 2019 Rules Summary summarizes new court rules and rule amendments adopted by the Arizona Supreme Court during the August 2019 rules agenda and includes the potential impacts of the rule changes.
- The LSC Opioid Task Force – which includes more than 30 legal aid, health care, and public health experts; judges; leaders in business and law; and other stakeholders who are focused on the opioid crisis and strengthening the role of legal aid in responding to opioid crisis problems related to child support and custody, child abuse and neglect, guardianship, domestic violence, housing, health benefits, and employment – has issued a comprehensive report concerning the role of legal aid in a collaborative community response to the crisis.
- Eviction statistics in Arizona, and the issue of affordable housing is a prime focus this coming year for a number of community organizations. Vitalyst Health Foundation is focused on creating healthy communities with affordable housing. It is reported that 50 families a week are being added to the homeless rolls, most in unsheltered environments. Both local and federal governments are asking for increased funding to support affordable housing for low-income families and individuals and to facilitate affordable housing developments in rural and Native American communities.
- A presentation on the Commission's activities this year will be given to the Arizona Judicial Council in December.
- Copies of the 2019 Annual Report will be sent to members electronically.

B. Status Report of the Governor's Task Force on the opioid crisis and discussion regarding the benefits legal aid can provide this population

Dr. Cara Christ, Director, Arizona of Health Services, reported that in June 2017 the Department of Health Services noticed an increase in the number of reported opioid deaths, which prompted the Governor to declare a public health emergency. The Governor created a task force populated by a variety of state agencies to review the opioid crisis in Arizona and tasked them with preparing legislation and drafting rules to regulate healthcare institutions, including an update for opioid prescribing guidelines, to make naloxone available to first responders and to develop an action plan by September 2017. The task force's [Opioid Action Plan](#) included recommendations to tackle the opioid crisis ranging from legislative action, curriculum for providers, development of a program using federal money to provide law enforcement and first responders with naloxone. That Plan is designed to:

- Reduce opioid deaths, enact legislation that reduces illicit acquisition and distribution of opioids, promote safe prescribing and dispensing and improve access to treatment.
- Establish a regulatory board workgroup to identify prescribing trends.

- Establish a taskforce to identify improvements that should be made to the Arizona Controlled Substances Prescription Monitoring Program.
- Require all undergraduate and graduate medical education programs to incorporate evidence-based pain management and substance-use disorder into their curriculum.
- Utilize Public Service Announcements to educate patients, providers and the public about opioid use.

Christina Corieri, Governor's Office, Senior Policy Advisor, discussed the collaborative efforts of the Department of Corrections (DOC) and the Arizona Department of Health Services to address the opioid crisis in correctional facilities. DOC provided ADHS with a list of individuals released in the last five years which ADHS compared to reported overdoses, hospitalizations and death certificates to identify what type of risk released individuals faced. Between 2014 and 2016 individuals recently released were 4.7 times more likely to experience an overdose or death due to resuming their level of opioid use prior to incarceration. ADHS worked with the DOC to identify individuals who had experienced an overdose while incarcerated, identified as substance abuser or showed a high-risk of substance abuse to provide the DOC with naloxone to distribute to the individual or their family when released. DOC and ADHS created an overdose prevention and education video on how to recognize an overdose and use naloxone. The video plays on a continuous loop in waiting areas. ADHS will continue to monitor opioid data, identify and implement strategies to address the crisis.

C. Legal Aid Client Success

Kristin Fitzharris, Southern Arizona Legal Aid (SALA), updated members on the opioid-related work of its Volunteer Lawyers Program, which utilizes volunteer lawyers to provide pro bono civil legal services to low-income individuals. The program deals with families and children affected by the opioid crisis and helps people obtain consent minor guardianship in probate court. SALA has a valued relationship with the Kinship and Adoption Resource and Education Program, a part of the Arizona Children's Association. In that regard, SALA helps provide stability, education and healthcare to minor children affected by the crisis. Ms. Frizharris stated that it one of the biggest issues of the opioid crisis is the effect it has on minor children living with an addicted parent. She discussed the various ways through family and probation court that a grandparent, family member or other interested party can apply for temporary guardianship of the minor child. Consent guardianship has proven to be the fastest way to get children into a stable home and environment. SALA holds consent minor guardianship classes to education families, clinics to provide legal aid assistance to guardians and certified interpreters to help Spanish speaking clients file out court forms. Ana Loebe, director, Kinship Care and Resource Family Support Services provided a summary on the types of assistance that they provide, information and referrals to other community resources and they offer case management to assist individuals. She stated that the legal aid community has looked at programs in Oklahoma and West Virginia in an effort to coordinate a statewide approach similar to what SALA has done in southern Arizona.

NOTE: Ms. Corieri offered to assist SALA and Kinship Care with setting up a meeting with her director or assistant director to discuss funding opportunities. She stated

Arizona State Opioid Response (SOR) grant funding may be available but is limited to the treatment, coordinated and integrated care, recovery support services and prevention activities. She suggested that SALA put together a proposal showcasing how their program is helping families caught in the opioid crisis and submit it in the spring when SRO funding is available.

Commission Questions/Discussion:

- Are there metrics on collateral victims? Dr. Christ reported that metrics are not currently being collected, she offered to metric information to a future meeting.
- At a meeting of the Foster Care Review Board it was noted that opioid abuse is biggest reason for children being in foster care.
- SALA was commended on its Volunteer Lawyer Program and offering classes to interested individuals.
- Does the data presented include Native American tribes and is the death rate for Native Americans from opioid use similar to other rural areas in Arizona?

Judge Winthrop asked if ACAJ could meet with the Governor's Task Force to share what we see and think of what the legal community, judiciary, medical community, treatment, education, social services can bring to assist with the opioid crisis.

D. The availability of federal funding to provide legal services to victims of the opioid crisis and highlights from the new Vermont legal aid/opioid partnership

Karen Lash, Director, The Justice in Government Project, explained that on a national and state level it is important that legal aid services are offered to deal with the opioid crisis. Legal aid can help families and individuals with opioid-related issues secure housing and health care services, ensure their children/grandchildren are cared for, escape domestic violence, and remove obstacles to employment, all increasing the likelihood of successful recovery. Ms. Lash outlined several federal grant programs that have funded legal services to individuals and families dealing with opioid use related issues. Vermont is the first state administrator of SOR funds to include legal services under prevention and recovery activities. The Vermont Legal Assistance (VLA) program is a medical-legal partnership that involves patients involved in medication assisted treatment (MAT) programs. VLA operated a weekly free legal clinic to help its clients with legal issues such as homelessness, criminal record expungement, custody issues, job and housing discrimination and denial of public benefits. A qualitative study of the clients indicated that they and their families were positively impacted by legal aid services which helped their long-term recovery.

E. Update on Arizona ODR Pilot Project

Cathy Clarich, Manager, AOC Caseflow Management Unit, noted that two family superior courts are participating (Yuma and Pinal counties), and Scottsdale municipal court is piloting misdemeanor and parking cases. She mentioned that concurrently, Maricopa County is piloting its own ODR program in their courts on civil debt and child support enforcement cases.

- Yuma County was the first ODR pilot court in 2018. They are a low volume court focusing on post-decree modifications; child visitation, parenting time and legal decision-making.

- Pinal County has a higher volume of cases and conciliation services. They have added pre-decree cases to online dispute resolution.
- Scottsdale municipal court has two case types: one is criminal misdemeanor pleas. An individual can request a plea by mail and the staff will review the request and forward it to the prosecutor who'll determine if they want to offer a plea, and if so handle all the signing of the plea agreement and related documents through online dispute resolution. Scottsdale recently implemented disputed parking cases.

Ms. Clarich discussed the benefits of online dispute resolution to the public ease of access, increased communication, equal access to information, increased services, neutral space for resolution, staffed twenty-four hours a day, seven days a week. The benefits for mediators are the convenience and flexibility, less secondary trauma from dealing with combative litigants, the ability to step away to speak to a supervisor. The next steps are continuing to educate the public about the program through tutorials, identify training for online mediators, determine the biggest needs for the courts before going statewide.

F. Report on the AZCourtHelp.org website

Dr. Kevin Ruegg thanked the commission members who have helped with the content on AZCourtHelp and introduced Cathleen Cole. Cathleen Cole reported the following:

- In partnership with the Legal Services Committee an informational page was developed devoted to the various forms of legal representation now available on AZCourtHelp.
- Electronic court records have been reformatted by jurisdiction to accommodate the E-access portal.
- The forms page was reformatted to make it more user friendly.
- There were 228 live chats with law librarians this quarter operated by six volunteers from law libraries in Mohave, Coconino, Yavapai and Maricopa. These sessions totaled 1,900 minutes.
- Google Analytics show public knowledge and use of the site are increasing.
- Improvements are being made to search engine optimization to increase search results on Google.
- The Foundation is working with the Mental Health and the Justice Court System to develop a statewide informational portal on mental health courts titled AZCourtCare.

G. Update on Public Information and Messaging Workgroup (taken out of order)

Alberto Rodriguez, co-chair, stated that the workgroup met on October 7, 2019 and has been working with the other ACAJ workgroups to produce the Commission's annual report. Judge Winthrop will present the annual report at the December AJC meeting. He also noted that the workgroup has also been working on the following:

- Promotion of the Eviction actions webpage, videos, legal info and legal process sheets. The State Librarian, Holly Henley, assisted with statewide library distribution of azcourts.gov/eviction business cards
- AZPOINT promotion updates to the courts, law enforcement, domestic violence providers and the public.

H. Report from the Self-Represented Litigants in Limited Jurisdiction Courts Workgroup (taken out of order)

Judge Anna Huberman reported the following:

- Rule Petition [R-19-0018](#) was adopted at the August Rules Agenda. Effective January 1, 2020, the plaintiff must serve a copy of the lease and accounting ledger (for non-payment of rent cases) with the eviction complaint and summons.
- Eviction forms, Legal Info Sheets, videos, and process sheet are being updated.
- Forms and Legal Info Sheets were updated on August 27, 2019, to implement legislative changes regarding subsidized housing.
- A brand-new subsidized housing video has been completed and will be posted shortly. The Spanish version is being finalized.
- New Rule Petition [R-19-0042](#) was filed on November 7, 2019, on an expedited basis to update the web addresses on the Residential Eviction Procedures Information Sheet (REIS) in the Rules of Procedure for Eviction Actions.
- New web-related legal information work completed:
 - New Air Conditioning Issues hub pages are now live in English and in Spanish, which will be promoted in the Spring.
 - The eviction Legal Info Sheets have been transformed into searchable webpages.
 - Legal Process Sheets (Eviction; Juvenile Set Aside) have been added as a new Legal Info Hub format.

The workgroup is wrapping up the eviction topic and its next topic is Consumer Debt, utilizing new and existing subject-matter experts. At the October 31st meeting, members brainstormed important consumer debt topics to begin setting priorities and assigning tasks for its next meeting.

I. Final Report from the Delivery of Legal Services Task Force (taken out of order)

Justice Ann Timmer, Vice Chief Justice, Arizona Supreme Court, discussed a few of the task force's recommendations to improve the delivery of legal services.

- Eliminate Arizona's Rules of Professional Conduct (ER) 5.4 and 5.7, amend ERs 1.0 through 5.3 to remove the barrier to lawyers and nonlawyers co-owning businesses that engage in the practice of law while preserving the dual goals of ensuring the professional independence of lawyers and protecting the public.
- Develop a tier of nonlawyer legal service providers, qualified by education, training, and examination to provide limited legal services to clients, including representation in court and at administrative proceedings
- Promote education and information on what limited scope legal services are to the bench, bar and public to encourage understanding and utilization of such services.
- Revise Rule 38(d), Arizona Rules of Supreme Court, to clarify when a law student at an accredited law school or recent law school graduate may practice law under the supervision of a lawyer admitted to practice in Arizona, what legal services the law student or recent graduate may provide, and the duties and obligations of the supervising lawyer.
- Advance and encourage local courts to establish positions and programs where nonlawyers (e.g., navigators) are located within the court and available to

provide legal information to self-represented litigants about court procedures and self-help services.

Justice Timmer then outlined the next steps for the task force:

- File four rule petitions by January 31, 2020.
- Create guidelines for entity regulation.
- Develop non-lawyer legal provider guidelines and standards.

III. OTHER BUSINESS

A. Good of the Order/Call to the Public

Kevin Ruegg – reported on the importance and role of the Foster Care Review Board

B. Next Meeting Date

Tuesday, February 4, 2020

10:00 a.m. to 2:00 p.m.

State Courts Building, Room 119

1501 W. Washington Street

Phoenix, AZ 85007

Adjourned at 2:09 p.m.

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:	)	
	)	
ESTABLISHING THE ARIZONA	)	Administrative Order
COMMISSION ON ACCESS	)	No. 2014 - <u>83</u>
TO JUSTICE	)	
	)	
	)	

The Judiciary’s Strategic Agenda, *Advancing Justice Together*, Goal 1, states: “Arizonans look to our courts to protect their rights and to resolve disputes fairly and efficiently. To serve these ends, Arizona’s judicial branch must work to ensure that all individuals have effective access to justice. This goal is advanced not only by examining legal representation for moderate and low-income persons, but also by helping self-represented litigants and others navigate the judicial process.”

For more than two decades, Arizona’s Judiciary has worked innovatively to promote access to justice. In the early 1990s, in response to a large increase in family court cases involving unrepresented litigants, the judiciary deployed QuickCourt, a self-service kiosk that generated court forms based on litigant-supplied information. More recently, this Court authorized “unbundled” legal services permitting limited representation or advice to parties who could not afford or chose not to have legal representation for their matter. Court rules have been revised to simplify procedures and forms and to expand the availability of pro bono services.

As the Internet and web-based technology have expanded, the Judiciary has supported on-line self-service centers, websites for our senior citizens, and veterans, remote interpreter services, and the on-line provision of hundreds of court forms in English and Spanish. Much has been accomplished, but more help is needed for litigants with limited or no legal representation who continue to face significant challenges when navigating our court system, its rules and procedures, and the laws of this state.

Recently, the Conference of Chief Justices and Conference of State Court Administrators adopted Joint Resolutions calling on states to support the creation of statewide Access to Justice Commissions. This Court agrees that such a Commission could help serve the important Strategic Agenda goal of promoting access to justice for Arizona’s civil litigants.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED establishing the Arizona Commission on Access to Justice (Commission), as follows:

1. **Purpose.** The Commission shall study and make recommendations on innovative ways of promoting access to justice for individuals who cannot afford legal counsel or who choose to represent themselves in civil cases. The Commission shall evaluate best practices within Arizona and in other states, identify possible changes in court rules or practices to reduce barriers to access, identify and encourage the adoption of best practices among legal service providers, and consider potential long-term funding options.

The Commission's work and priorities will be set by the Chief Justice in consultation with the Chair of the Commission.

The initial work of the Commission shall be to examine and make recommendations on the following:

- a) Assisting self-represented litigants and revising court rules and practices to facilitate access and the efficient processing of family court and eviction cases
- b) Encouraging lawyers and law firms to provide pro bono services or financial support for civil legal aid for those who cannot afford counsel.
- c) Developing an information campaign to inform lawyers and other citizens about the state tax credit for contributions to agencies that serve the working poor, including legal services agencies in Arizona.

2. **Membership and Terms.** The Commission will consist of standing and ad hoc members. Standing members will serve an initial staggered term of one to three years, and may be eligible for re-appointment. Ad hoc members shall be appointed for terms of sufficient length to accomplish the task assigned. The Chief Justice may appoint additional members as necessary.

a) **Standing members.**

- 1) One appellate court judge, who will also serve as Chair and may designate another member to serve as Vice-Chair;
- 2) One clerk of the superior court;
- 3) One court administrator from the superior court;
- 4) Two superior court judges;
- 5) Two limited jurisdiction court judges;
- 6) Two Arizona lawyers in active law practice;
- 7) One Arizona Judicial Council member;
- 8) The Administrative Director of the Courts or designee;
- 9) The Executive Director of the Arizona Foundation for Legal Services & Education, or designee;

- 10) The Executive Director of the State Bar of Arizona, or designee;
- 11) Two legal services representatives; and
- 12) Two public members.

b) Ad hoc members. In addition to the standing members of the Commission, the Chief Justice may appoint ad hoc members whose particular business, legal, judicial, or community experience is needed to undertake the work of the Commission.

c) Work Groups. The Commission Chair may establish or dissolve Work Groups which may be, but are not required to be, partially comprised of persons not members of the Commission.

3. Meetings. Commission meetings shall be scheduled at the discretion of the Chair. Pursuant to ACJA § 1-202, all meetings shall comply with the public meeting policy of the Arizona Judicial Branch.

4. Staffing. The Administrative Office of the Courts shall staff the Commission.

5. Commission Reports. The Commission shall submit its reports and recommendations, no less than annually, to the Arizona Judicial Council (AJC). The first report shall be submitted to the AJC for its March 2015 meeting.

IT IS FURTHER ORDERED that the individuals listed in Appendix A are appointed as members of the Access to Justice Commission for terms beginning upon signature of this order and ending on the dates shown by their respective names.

Dated this 20th day of August, 2014.

SCOTT BALES
Chief Justice

Attachment: Appendix A

Appendix A
ARIZONA COMMISSION ON ACCESS TO JUSTICE

Chair

Hon. Lawrence F. Winthrop
Arizona Court of Appeals, Division One
Term Expires: December 31, 2017

Members

Hon. Michael Jeanes
Superior Court Clerk
Term Expires: December 31, 2017

Mike Baumstark
Administrative Director of the Courts
or designee
Term Expires: December 31, 2017

Kip Anderson
Court Administrator
Term Expires: December 31, 2017

Kevin Ruegg
Executive Director, Arizona Foundation for
Legal Services & Education
Term Expires: December 31, 2017

Hon. Maria Elena Cruz
Superior Court Judge
Term Expires: December 31, 2016

John Phelps
Executive Director, State Bar of Arizona or
designee
Term Expires: December 31, 2017

Hon. Janet Barton
Superior Court Judge
Term Expires: December 31, 2015

Ellen Katz
Legal Aid Services, Maricopa
Term Expires: December 31, 2015

Hon. James Marner
Superior Court Judge
Term Expires: December 31, 2015

Anthony Young
Legal Aid Services, Southern Arizona
Term Expires: December 31, 2015

Hon. Thomas Berning
Limited Jurisdiction Court Judge
Term Expires: December 31, 2016

Steve Seleznow
Public Member
Term Expires: December 31, 2016

Hon. Rachel Torres Carrillo
Limited Jurisdiction Court Judge
Term Expires: December 31, 2016

Lisa Urias
Public Member
Term Expires: December 31, 2016

Barb Dawson

Attorney

Term Expires: December 31, 2015

Millie Cisneros

Attorney

Term Expires: December 31, 2016

Janet Regner

Arizona Judicial Council Liaison

Term Expires: December 31, 2015

GOAL 1

Promoting Access to Justice

The Arizona judiciary leads the nation in identifying and implementing best practices to transform the judicial branch from a system designed for judges and lawyers to a system open (and understandable) to all participants, regardless of their financial status, physical limitations, or ability to obtain legal representation. While the judicial branch has made significant improvements in promoting access to our courts, more is needed to ensure equal access to justice for all Arizonans.

Access to Justice

When the judicial branch simplifies court processes and procedures, the court system is faster and easier for the public to navigate.

- › Continue and expand on the Commission on Access to Justice's work.
 - Provide more information to the public through AZCourtHelp.org and azcourts.gov.
 - Work with the Foundation for Legal Services and Education and the State Bar of Arizona to improve access to legal services and legal information for individuals with modest incomes.
 - Form a workgroup to identify ways to simplify court processes and procedures, making them less costly and more efficient while maximizing use of courts' resources.
- › Evaluate whether online dispute resolution (ODR) pilot projects can be expanded statewide to improve access to justice through technology in such areas as:
 - Family court cases (for example, modifications of parenting time and enforcement of child support orders);
 - Municipal court cases (for example, misdemeanor pleas); and
 - Civil court cases (for example, resolving credit card debt, small claims, traffic citations, and other simple civil matters).
- › Implement the recommendations of the Task Force on the Delivery of Legal Services.
- › Continue and expand efforts to ensure individuals with disabilities of any kind are afforded equal access to our courts.
 - Provide training for presiding judges and court administrators on methods to eliminate existing or potential barriers experienced by litigants, defendants, or other court participants with disabilities.

Self-Represented Litigants

We must continue to make the justice system more accessible for individuals who cannot or choose not to obtain legal representation. We can improve accessibility by developing simpler ways to obtain information about court processes and procedures, providing ways to do court business away from the courthouse, and providing additional training for judges and court staff.

- › Expand training and resources for effective and appropriate support for self-represented litigants including:
 - Simple, on-demand, internet-based explanations of court and legal processes, including instructional videos explaining court processes for specific types of cases such as small claims, civil collection, and family court;
 - On-demand, internet-based tools that allow litigants to conduct more court business away from court buildings, such as interactive and simple court forms with e-submission options; and
 - On-demand and in-person educational programs for judges and court staff focused on assisting self-represented litigants.

PROMOTING ACCESS TO JUSTICE

GOAL 1

Arizonans look to our courts to protect their rights and to resolve disputes fairly and efficiently. To serve these ends, Arizona's judicial branch must work to ensure that all individuals have effective access to justice. This goal is advanced not only by examining legal representation for moderate and low-income persons, but also by helping self-represented litigants and others navigate the judicial process and by using technology to make courts more accessible to all.

Access to justice

Our courts should work with others in government and our communities to assess the legal needs of modest to low-income individuals and to develop strategies to better serve those needs.

- » Create a statewide commission, including members of the public, to study and recommend ways to promote access to justice.
- » Identify ways to promote participation by lawyers in access to justice initiatives and recognize them for their professional and financial contributions.
- » Identify ways to improve funding for the judicial branch and the courts' ongoing ability to provide access to court services.

Services for self-represented litigants

Many people cannot afford or choose not to obtain legal representation in court proceedings. Consequently, the courts must be prepared to assist self-represented individuals in understanding court processes and legal procedures.

- » Expand access to web-based forms, e-filing, and information describing legal terms and court procedures.
- » Ensure court forms and information, whether in electronic or paper form, are easily understandable.
- » Collaborate with legal services agencies and the Arizona Foundation for Legal Services and Education to develop strategies to expand legal and other self-help services for modest- to low-income litigants.
- » Provide front-end triage and referral services to assist self-represented litigants in identifying and obtaining appropriate services.
- » Explore programs to recruit and train college students and other volunteers to work in legal self-help centers to:
 - Assist with legal workshops,
 - Help complete legal forms, and
 - Provide information and referrals.
- » Explore the use of technology-based access to justice solutions being developed in other courts.

Arizona Judicial Council

December 12, 2019

Intro

Thank you for the opportunity to make this annual report.

You have our written report in your materials, and we will distribute electronic or hard copies of the report to the courts across the state, the Governor's office and various agencies, plus our elected representatives in Congress and our state legislature. Please feel free to share the report as you deem appropriate! If you need hard copies, please let Alicia or me know.

1. Update on Past/Existing Projects:

Law4AZ Revival

For any on the Council that were here 4-5 years ago, one of our first projects was called **Law4AZ**, where volunteer law librarians went around the state and trained public librarians on how to help their patrons find useful law-related information. That was a collaboration between the state library system, under the auspices of the Secretary of State, and the Commission. We also created a "buddy" system for the public libraries where they could access a law librarian to assist as needed.

At a recent meeting with Katie Hobbs and Holly Henley, the state librarian, we discussed reviving this project in light of (1) various enhancements involving web-based legal information and (2) the fact that so many of the librarians we trained some years ago have left that position. They were both very supportive of the idea of reviving the program, and the preliminary work is underway with the assistance of Gretchen Hornberger, the law librarian and director of the self-help center in Coconino County Superior Court.

AzCourtHelp.org

That leads nicely into a brief report on the increasing public awareness of our collaborative, statewide legal information resource center, **AZCourtHelp.org**. While our annual report highlights some existing and new features added this year, I wanted to share some interesting comparative numbers on the public's burgeoning use of this resource. In the last **calendar year**, we have seen:

Overall use by unique visitors: increase by 15.8 percent

New users: increase by 16.3 percent

Number of sessions: increase by nearly 20 percent

Number of page views in those sessions: increase by almost 34 percent

In each of these categories, as compared to the initial grant year of July 1, 2017-June 30, 2018, we seen the use in each category increase by **approximately 75 percent**.

And, during 2019 to date, users have downloaded over 11,000 court forms, and all the forms are available in both English and Spanish

Bottom line, we're getting the message out about a very effective educational tool, one that is accessible and valuable for self-represented litigants.

New content being added every week; webinars, legal talks and podcasts, both live and recorded, streaming from both Coconino and Yuma County law libraries.

Very active chat feature with volunteer law librarians

A site that is fully ADA compliant and has Google Language capability

2. Continuing/Anticipated Work During 2020

(a) Eviction videos/Consumer Debt focus for 2020

Access to affordable housing is on the 2020 agenda for the Arizona Town Hall, Greater Phoenix Leadership and a number of other interested entities and groups, like the Vitalyst Foundation. This is not a surprise in light of the widely publicized

housing crisis and numbers of eviction actions, particularly in Maricopa County. Because of the statutory framework, we've been limited as a Commission in what we can propose as it relates to court rules concerning the eviction process. And we were successful this year at getting some meaningful rule changes as it relates to the information the landlord must provide when they serve the eviction complaint. Any further significant change will have to come via the legislature.

But, to help educate the public – both landlords and tenants – our limited jurisdiction court workgroup spent countless hours over the last two years preparing and producing a series of videos and related written materials – in English and Spanish -- explaining the eviction process and the rights and liabilities of the interested parties. Those videos are available on a number of court websites and also on YouTube and have been well-received.

That work group will now turn its attention to producing similar educational materials as it relates to **consumer debt and debt collection issues**.

(b) Delivery of Legal Services

I know you recently heard from Justice Timmer concerning the recommendations from the Supreme Court's task force on the Delivery of Legal Services: those recommendations include creating a new tier of legal service provider, and enhancing existing court navigator and lay legal advocate services across the state.

It would be optimal to provide a right to free counsel in civil cases that involve access to vital government services, such as housing, medical care and other critical services that affect our vulnerable populations -- the poor, disabled, victims of elder abuse and domestic violence, homeless veterans -- and that right is currently being explored or implemented in a number of cities across the country.

Such a step, however, is probably unrealistic at the moment in Arizona. But, legal assistance from a trained court navigator or lay legal advocate, or a law-trained paralegal could be provided at a significantly lower cost, and would also advance the policy goals of the executive branch and its various agencies that deal with these issues. There is also likely existing federal funding already allocated to

Arizona to help pay for those services. This is an issue that, at a minimum, is perfectly suited for a collaborative effort between the judiciary and the executive branches. This of course, is one of the goals of our continuing Justice in Government project with Governor Ducey's office, to expand access to legal services for vulnerable Arizonans dealing with state agencies, so we will be working on this effort in the coming year.

(c) Arizona Domestic Violence Legal Assistance Project

Speaking of inter-governmental collaborative efforts, this is the 20th anniversary of the Arizona Domestic Violence Legal Assistance Program, which has been a joint project of the Arizona Bar Foundation, the judiciary, the legal aid agencies and the Department of Economic Security. It continues to provide lay legal advocates, supervised by legal aid lawyers, for victims of domestic violence at 13 DV shelters across the state, providing both legal assistance with protective orders, coordination with social service agencies, and support in the courtroom at the various protection hearings. Under one or more of the proposals from the the Supreme Court's task force, the services provided by lay advocates for these victims would be expanded, all to the benefit of this at-risk population.

(d) Online Dispute Resolution

The AOC, under the very able leadership of Marcus Reinkensmeyer, launched a series of ODR pilot projects this year, and the very preliminary results are summarized in the report. From my perspective, I'd encourage educating the public about the availability and benefits of ODR, and urge considering expanding the availability of ODR in our limited jurisdiction courts, such as civil traffic matters and consumer debt, because that's where most of Arizona interacts with the court system and where it is most likely individuals will be trying to represent themselves.

3. Tax Credit Reminder

I would be remiss if I didn't say it is never too late for all of us to do some tax planning and to take advantage of the state tax credit available for donations made to qualifying charitable organizations. There are 11 such non-profits approved by the Dept. of Revenue that provide legal services for free to the poor. A single Taxpayer can receive a dollar-for-dollar credit up to \$400 for such donations; taxpayers filing jointly can receive an \$800 tax credit. Those donations can be made up to next year's filing deadline as opposed to the end of the calendar year. All the relevant info is available on the Bar Foundation website, and you can allocate your donation among the various qualifying non-profits as you choose.

4. 2020 as a Transition Year

Finally, among other things, 2020 will likely be somewhat of a transition year for the Commission. It's probably time for some strategic planning to identify future issues and potential projects, and to make sure that these efforts are consistent with the Court's strategic agenda. If you have ideas or suggestions in that regard, please let us know. Additionally, it is also likely that during 2020, with input from our Chief Justice, we'll be planning for transition of leadership on the Commission as well.

Conclusion

Very much appreciate the interest and support that the Arizona Judicial Council has provided to the Commission and its proposals over the last 5 years. I am happy to meet with any of you individually or any group at any time to discuss ATJ issues and the Commission's goals and recommendations.

In the Matter of) Arizona Supreme Court
) No. R-19-0011
RULES 38 AND 39, AND ABROGATE)
RULE 40, RULES OF THE SUPREME)
COURT)
) **FILED 12/12/2019**
)
)
)
_____))

AMENDING RULES 38, 39, AND 40, RULES OF THE ARIZONA SUPREME COURT

IT IS FURTHER ORDERED that all currently approved legal service organizations will not need to re-apply for approval under the new rules and their approval as a legal service organization shall remain

in effect consistent with their terms. All other provisions of the new rules will apply effective May 1, 2020.

IT IS FURTHER ORDERED that Rules 32(c)(4), 32(c)(5), 33(c), 34(f)(2)(G), 42, 45(a)(4), and 46(b), Rules of the Arizona Supreme Court, are hereby amended as set forth in Attachment B, effective May 1, 2020.

DATED this 12th day of December, 2019.

_____/S/_____
ROBERT BRUTINEL
Chief Justice

T0:
Rule 28 Distribution List
Hon Ann A. Scott Timmer
Cheryl Kulas
Mark D Wilson

ATTACHMENT A

Rule 38. Certifications and Limited Admissions to Practice Law

- (a) In-house Counsel
 - (b) Foreign Legal Consultant
 - (c) Law Professor Certification
 - (d) Approved Legal Services Organizations and Certification of *Pro Bono* Counsel.
-

(a) In-house Counsel

- (1) *General Statement and Eligibility.* As used in this rule, “in-house counsel” shall refer to an attorney who is employed within the State of Arizona as in-house counsel or a related position for a single for-profit or non-profit corporation, association, or other organizational entity, which can include its parents, subsidiaries and/or affiliates, the business of which is lawful. A lawyer who is not a member of the State Bar of Arizona who has been admitted to practice law in another jurisdiction may apply for an Arizona Certificate of Registration of In-House Counsel if all of the following conditions are met:
 - (A) The applicant holds a juris doctor degree from a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association;
 - (B) The applicant and is currently a member in good standing of the bar of another state or the District of Columbia, or eligible to practice before the highest court in any state, territory or insular possession of the United States; and
 - (C) The applicant is employed within the State of Arizona as in-house counsel, as hereinabove defined, may apply for an Arizona Certificate of Registration of In-House Counsel (“Registration Certificate”).
- (2) *Foreign Lawyer Eligibility.* A lawyer employed as in-house counsel within the State of Arizona who is admitted to practice and a member in good standing in a jurisdiction outside of the United States, in accordance with the standards and requirements generally applicable to the practice of law in that jurisdiction, may also apply for a Registration Certificate.

- (3) *Filing Requirements.* Any attorney who commences employment by an eligible organization as in-house counsel shall apply for a Registration Certificate within ninety (90) days of the date of commencement of employment.

(A) An applicant for a Registration Certificate shall:

- (i) file with the State Bar of Arizona its form of verified application for an Arizona Certificate of Registration of In-House Counsel;
- (ii) attach to the verified application a certificate from the state bar or from the clerk of the highest admitting court of each state, territory, or insular possession of the United States, or foreign jurisdiction, in which the applicant has been admitted to practice law certifying the current status of the applicant's membership or eligibility to practice therein;
- (iii) certify that the applicant has read and is familiar with the Arizona Rules of Professional Conduct;
- (iv) pay an application fee in an amount established by the Supreme Court; and
- (v) submit evidence that the applicant has successfully completed the course on Arizona law described in Rule 34(j).

(B) Upon a determination by the State Bar of Arizona that the applicant has complied with the requirements of subdivision (3)(A), the State Bar shall issue to the applicant a Registration Certificate. The State Bar shall promptly notify any applicant if it determines that an application fails to comply with the requirements of subdivision (3)(A), and the applicant shall have thirty (30) days from the date of such notice in which to cure any deficiency. If the applicant fails to cure such deficiency within that thirty (30) day period, the application shall be deemed denied.

(C) An applicant may petition the Arizona Supreme Court for a waiver of any of the requirements for registration under this rule.

- (4) *Scope of Authority.* Except as provided in this rule, the holder of a valid and current Registration Certificate shall be entitled to the benefits and responsibilities of active members of the State Bar of Arizona. A Registration Certificate shall not authorize the registrant to provide legal services to any person or entity except when providing legal services to the one for which the registrant serves as in-house counsel, or its parents, subsidiaries or affiliates, or when providing legal services under Rule 38(d).

- (5) *Discipline and Disability Jurisdiction.* The holder of a Registration Certificate shall be subject to the jurisdiction of the courts and agencies of the State of Arizona and to the State Bar of Arizona with respect to the laws and rules of this state governing the conduct and discipline of attorneys to the same extent as an active member of the State Bar.
- (6) *Termination of Certification.* A lawyer's authority to practice as in-house counsel under a Registration Certificate issued pursuant to this rule shall be suspended when the lawyer is suspended or disbarred for disciplinary reasons in any jurisdiction of the United States, or by any federal court or agency, or by any foreign nation before which that lawyer has been admitted to practice.
- (7) *Registration, Fees and CLE Requirements.*
- (A) On or before February 1 of each year, in-house counsel registered pursuant to the provisions of this rule, who continues to be employed as in-house counsel within the State of Arizona, shall renew the Registration Certificate and pay a renewal fee set by the Supreme Court.
 - (B) An attorney registered pursuant to this rule who has become employed by a different eligible entity but continues to meet all the requirements of this rule, must apply for the issuance of an amended Registration Certificate to reflect that change.
 - (C) A lawyer who has been issued a Registration Certificate under this rule shall satisfy the continuing legal education requirements, if any, of at least one of the other state(s) or jurisdiction(s) in which that lawyer is admitted to practice. If not subject to mandatory continuing legal education requirement in the other state(s) or jurisdiction(s), the lawyer shall comply with Arizona's continuing legal education requirements. On or before September 15 of each calendar year, every registered in-house counsel shall file an affidavit demonstrating full compliance with this rule.
- (8) *Reporting Requirements.* Each lawyer issued a Registration Certificate shall report to the State Bar of Arizona, within thirty (30) days, any change in bar membership status in any jurisdiction of the United States or in any foreign jurisdiction where the applicant has been admitted to the practice of law, or the imposition of any disciplinary sanction by any federal or state court or agency before which the applicant has been admitted to practice, or in any state in which the lawyer has rendered legal services while temporarily authorized under any rule or by admission pro hac vice.

If there is a change in circumstances, and an attorney holding a current Registration Certificate becomes ineligible for such Certificate, the attorney shall notify the State Bar of Arizona of such change in writing within thirty (30) days.

- (9) *Pro Hac Vice Admission.* In providing legal services to the lawyer's employer, a lawyer who has been issued a Registration Certificate under this rule may also secure admission pro hac vice in Arizona to provide the services authorized in the preceding paragraph by complying with the requirements of Rule 39 of these rules. A lawyer who has been issued a Registration Certificate under this rule may provide services under Rule 38(d) without securing admission pro hac vice.

A lawyer serving as in-house counsel in Arizona who fails to register pursuant to the provisions of this rule shall be ineligible for admission pro hac vice in Arizona, and may be referred by the State Bar of Arizona to the Bar admission and/or disciplinary regulatory authority in any jurisdiction in which that lawyer has been admitted to practice law.

- (10) *Subsequent Admission.* If an attorney registered under this rule is subsequently admitted to the practice of law in Arizona, that attorney's in-house counsel registration shall be superseded by the Arizona license to practice law.

(b) Foreign Legal Consultant

- (1) *General Statement and Eligibility.* A "foreign legal consultant" is a person who is admitted to practice and is in good standing as an attorney or counselor at law or the equivalent in a foreign country and has been issued a certificate of registration as a foreign legal consultant. To be issued a certificate of registration as a foreign legal consultant, an applicant must:

- (A) have been admitted to practice and have been in good standing as an attorney or counselor at law or the equivalent in a foreign country for not less than five years immediately preceding the date of the application;
- (B) have engaged in the practice of law in such country or in a profession or occupation that requires admission to practice and good standing as an attorney or counselor at law or the equivalent in such country for at least three of the five years immediately preceding the date of the application;
- (C) possess the character and fitness required of all applicants for admission to the practice of law in Arizona;
- (D) intend to practice as a registered foreign legal consultant in Arizona and to maintain an office in Arizona for that purpose; and
- (E) possess the necessary documentation evidencing compliance with the immigration laws of the United States;

- (2) *Filing Requirements.* An applicant must file an application for foreign legal consultant registration with the Committee on Character and Fitness on a form supplied by the Committee. An application must include all of the following:

- (A) an application fee as established by the Supreme Court;
- (B) a character report and character investigation fee as established by the Supreme Court;
- (C) a certificate from the professional body or public authority having jurisdiction over professional discipline in each foreign county in which the applicant is admitted to practice, certifying the applicant's admission to practice, date of admission and good standing as an attorney or counselor at law or the equivalent;
- (D) a letter of recommendation from one of the members of the executive body of each professional body or public authority referenced in (2)(C) or from one of the judge of the highest law court or court of original jurisdiction in each foreign county in which the applicant is admitted;
- (E) duly authenticated English translations of the certificate required by (2)(C) and the letter of recommendation required by (2)(D), if they are not in English; and
- (F) other evidence of applicant's educational and professional qualifications, character and fitness, and satisfaction of the conditions of (1) of this rule as the Committee on Character and Fitness may require. If strict compliance with the provisions of (C) of this rule would cause the applicant unnecessary hardship or upon a showing of exceptional professional qualifications to practice as a foreign legal consultant, the Committee may waive or vary the application of those provisions and permit the applicant to furnish other evidence.

(3) *Scope of Authority.*

- (A) Scope of Practice. A person registered to practice as a foreign legal consultant under this rule may render legal services in Arizona subject, however, to the limitations that he or she shall not:
 - (i) appear for a person other than himself or herself as attorney in any court, or before any magistrate or other judicial officer, in this state other than upon admission pro hac vice pursuant to Rule 39;
 - (ii) prepare any deed, mortgage, assignment, discharge, lease, or any other instrument affecting title to real estate located in the United States of America;
 - (iii) prepare any will or trust instrument affecting the disposition on death of any property located in the United States of America and owned by a resident thereof;

- (iv) prepare any instrument relating to the administration of a decedent's estate in the United States of America;
 - (v) prepare any instrument in respect to marital relations, rights or duties of a resident of the United States of America or the custody or care of the children of a resident;
 - (vi) render professional legal advice on the law of this state or of the United States of America (whether rendered incident to the preparation of legal instruments or otherwise), except on the basis of advice from a person duly qualified and entitled (otherwise than by virtue of having been licensed under this rule) to render professional legal advice in this state;
 - (vii) in any way hold himself or herself out as a member of the state bar.
- (B) Title of “Legal Consultant”. A person registered as a foreign legal consultant under this rule shall at all times use the title “legal consultant”, which shall be used in conjunction with the name of the foreign country of his or her admission to practice, and shall not carry on his or her practice under, or utilize in connection with such practice, any name, title or designation other than one or more of the following:
- (i) his or her own name;
 - (ii) the name of his or her law firm;
 - (iii) his or her authorized title in the foreign country of his or her admission to practice, which may be used in conjunction with the name of such country.
- (4) *Rights and Obligations.* A foreign legal consultant registered under this rule shall not be a member of the state bar but shall be considered an affiliate of the state bar subject to the same conditions and requirements as apply to a member of the state bar under the Rules of the Supreme Court governing members of the state bar, insofar as conditions and requirements are consistent with the provisions of this rule, and shall:
- (A) have the right, in the same manner and to the same extent as members of the state bar, to:
 - (i) employ one or more members of the state bar;
 - (ii) be employed by one or more members of the state bar or by any partnership or professional corporation that includes members of the state bar or that maintains an office in this state; or

- (iii) be a partner in any partnership or shareholder in any professional corporation that includes members of the state bar or that maintains an office in this state;
 - (B) enjoy and be subject to all rights and obligations with respect to attorney-client privilege, work-product privilege, and other professional privileges in the same manner and to the same extent as members of the state bar; and
 - (C) within one year after receiving a certificate of registration, a foreign legal consultant shall complete the state bar course on professionalism, or an equivalent course on the principles of professionalism approved or licensed by the Board of Governors of the State Bar of Arizona for this purpose.
- (5) *Discipline and Disability Jurisdiction.* A person registered as a foreign legal consultant under this rule shall be subject to professional discipline and disability proceedings in the same manner and to the same extent as members of the state bar.
- (6) *Termination of Registration.* If the Supreme Court determines that a person registered as a foreign legal consultant under this rule no longer meets the conditions for registration, it may summarily terminate the foreign legal consultant's registration. Upon termination of the registration, the person shall immediately cease acting as a foreign legal consultant, notify in writing all clients in pending matters, and opposing counsel in pending matters, of the termination of the person's authority to act as a foreign legal consultant, and take all necessary steps to protect the interests of clients.
- (7) *Registration and Fees.* A person registered as a foreign legal consultant must renew his or her registration and pay a renewal fee set the Supreme Court on or before February 1 of each year.
- (8) *Registration Number.* A person registered as a foreign legal consultant shall be assigned a registration number, which will be used to identify that person's registration status in Arizona. Any pleading signed by the foreign legal consultant must include the person's registration number.
- (9) *Subsequent Attorney Admission.* If a person registered as a foreign legal consultant in Arizona is subsequently admitted to the practice of law in Arizona, that person's foreign legal consultant registration will be superseded by the Arizona license to practice law.

(c) Law Professor Certification

- (1) *General Statement and Eligibility.* The Supreme Court may certify a law professor who has been admitted to practice law in another jurisdiction in the United States to practice law in Arizona if all the following conditions are met:

- (A) the applicant is a graduate with a juris doctor degree from a law school provisionally or fully approved by the American Bar Association at the time of the applicant's graduation;
 - (B) the applicant is employed full-time as a faculty member at a law school in Arizona which is provisionally or fully approved by the American Bar Association;
 - (C) the applicant is a member in good standing of the bar of all courts and jurisdictions in which the applicant is admitted to practice;
 - (D) the applicant is not currently subject to an order of attorney discipline or the subject of a pending formal disciplinary or disability proceeding in any jurisdiction; and
 - (E) the applicant possesses the character and fitness required of all applicants for admission to the practice of law in Arizona.
- (2) *Filing Requirements.* An applicant must submit an application for law professor certification with the Committee on Character and Fitness on a form supplied by the Committee. The application must include all of the following:
- (A) an application fee as established by the Supreme Court;
 - (B) a character report and character investigation fee as established by the Supreme Court;
 - (C) a certification of employment by the law school;
 - (D) a certificate of good standing from all courts and jurisdictions in which the applicant is admitted to practice; and
 - (E) evidence that the applicant has successfully completed the course on Arizona law described in Rule 34(j).
- (3) *Certification of Full-time and Clinical Law Professors.*
- (A) Full-time Law Professors. If the Committee determines that the full-time law professor possesses the character and fitness required of other applicants for admission, it shall recommend to the Court the applicant's certification to practice law. The applicant may not act as counsel for a client until certified under this rule by order of the Court. A copy of the order certifying the attorney will be sent by the Clerk to the Chief Bar Counsel.
 - (B) Clinical Law Professors. A law professor providing clinical instruction to law students is authorized to practice law in connection with the supervision of a clinical law program at the law school while the application for

certification is pending before the Committee, provided that the clinical law professor:

- (i) has first submitted an application for law professor certification deemed complete by the Committee;
- (ii) is supervised by an attorney licensed to practice in Arizona, and discloses the name, address, and membership status of that attorney;
- (iii) affirmatively states in all written communications with the public and clients the following language: “Practice temporarily authorized pending certification under Rule 38(c). Supervision by [name of attorney], a member of the State Bar of Arizona.”

If the Committee determines that the clinical law professor possesses the character and fitness required of other applicants for admission, it shall recommend to the Court the applicant’s certification to practice law. A copy of the order certifying the attorney will be sent by the Clerk to the Chief Bar Counsel.

- (4) *Scope of Authority.* Except as provided in this rule, an attorney certified under this rule shall be entitled to all rights and privileges and subject to all duties, obligations, and responsibilities applicable to licensed Arizona attorneys for the period of authorized practice.
- (5) *Discipline and Disability Jurisdiction.* An attorney certified under this rule shall be subject to the Arizona Rules of Professional Conduct and attorney discipline and disability proceedings in the same manner and to the same extent as members of the state bar.
- (6) *Termination of Certification.* Certification under this rule will automatically terminate when the attorney:
 - (A) no longer holds full-time status as a law professor at the Arizona law school; or
 - (B) is disciplinarily suspended or disbarred or placed on disability inactive status in any jurisdiction, court, or agency before which the attorney is admitted.

The attorney admitted under this rule must notify the State Bar of any such change of status within thirty days of the change.

- (7) *Action Required after Termination of Certification.* Upon termination of certification under subsection 5, within thirty days the attorney must:

- (A) notify in writing all clients in pending matters, and co-counsel and opposing counsel in pending litigation, of the termination of the attorney's authority to practice law in Arizona;
 - (B) decline any new representation that would require the attorney to be admitted to practice in Arizona; and
 - (C) take all other necessary steps to protect the interests of clients.
- (8) *Registration, Fees & CLE.* An attorney certified under this rule must pay annual registration fees as required under Rule 32 and comply with mandatory legal education requirements under Rule 45.
- (9) *Registration number.* An attorney certified under this rule shall be assigned a registration number, which shall be used to identify that attorney's status in Arizona in accordance with applicable rules of procedure.
- (10) *Subsequent Attorney Admission.* If an attorney certified under this rule is subsequently admitted to the practice of law in Arizona, the attorney's law professor certification will be superseded by the Arizona license to practice law.

(d) Approved Legal Services Organizations and Certification of *Pro Bono* Counsel.

- (1) *Approved Legal Service Organizations.* An "approved legal services organization" is a non-profit legal entity that has as one of its primary purposes the provision of free civil legal assistance to low income individuals.
- (A) *Filing Requirements.* To qualify as an approved legal services organization, an entity must first file a petition with the Clerk of the Arizona Supreme Court, and a copy of the petition with the Chief Bar Counsel of the State Bar of Arizona. The petition must contain the following information:
 - (i) A statement that it does not accept fees for services rendered to its clients;
 - (ii) An explanation of the structure of the organization;
 - (iii) Disclosure of the major sources of funds used by the organization;
 - (iv) The criteria used to determine potential clients' eligibility for legal and non-legal services performed by the organization;
 - (v) A description of the types of legal services provided by the organization;

- (vi) The names of all attorneys who are employed by the organization, or who regularly or periodically provide volunteer legal services for clients under the auspices and supervision of the organization; and
 - (vii) The existence and extent of malpractice insurance that will cover attorneys authorized to practice under Rule 38(d)(2).
- (B) *State Bar comment.* The State Bar of Arizona, through its Chief Bar Counsel or other authorized representative, may, within ten days of receipt, file a comment on the petition with the Clerk.
- (C) *Annual Notice to Court.* On or before February 1 of each year, the organization shall file a notice with the Clerk and a copy with the State Bar, providing updated information, including a current list of employed and volunteer lawyers certified under this rule, and certifying that the organization has provided, and will insure that volunteer *pro bono* lawyers providing services pursuant to this rule have been offered appropriate training and continuing legal education as it relates to the *pro bono* work being performed under the auspices of the organization. The State Bar, through its Chief Bar Counsel or other authorized representative, may, within ten days of receipt, file a comment on the organization's annual notice with the Clerk.
- (D) *Scope of Authority.* A legal services organization is not approved until an administrative order confirming such approval is entered by the Court. A copy of the order approving the legal services organization and/or certifying the employed or volunteer *pro bono* lawyers listed by the legal services organization, will be sent by the Clerk to the Chief Bar Counsel.
- (E) *Termination of Authorization.* In the event of non-compliance with these provisions, the Court *sua sponte*, or on application by the State Bar, may order the legal services organization to show cause as to whether its approved status, and the *pro bono* certification of lawyers working under its auspices and supervision, should be revoked.

(2) *Certification of Pro Bono Counsel.*

- (A) General Statement. The Supreme Court may certify attorneys not otherwise authorized to practice law in Arizona to provide *pro bono* legal

services under the auspices of a legal services organization approved under Rule 38(d)(1). “*Pro bono* services” are civil legal services provided without charge to low income clients

(B) *Eligibility.* To be certified, the attorney must be one of the following:

(i) *An attorney, including a retired attorney, admitted to practice in Arizona who:*

- (a) Has practiced law for at least five years, but is now on inactive or retired status;
- (b) Is a member in good standing of the bar of all courts and jurisdictions in which he or she has been admitted to practice;
- (c) Has not been disciplined for professional misconduct during the last five years, and has no pending disciplinary or disability proceeding; and
- (d) Limits his or her practice to acting as *pro bono* counsel as set forth in this rule and, notwithstanding the reduced fee provisions of Ethical Rule 6.1(a), will not receive or expect compensation or other direct or indirect pecuniary gain for the legal services rendered; or

(ii) *An out of state attorney domiciled in Arizona but not admitted to practice law in Arizona, who:*

- (a) Has been licensed to practice law for at least five years and is on active, inactive or equivalent status in another jurisdiction;
- (b) Is a member in good standing of the bar of all courts and jurisdictions in which he or she is admitted to practice;
- (c) Has not been disciplined for professional misconduct during the last five years and has no pending formal disciplinary or disability proceeding;
- (d) Has successfully completed the course on Arizona law described in Rule 34(j);

- (e) Has read and agrees to be subject to the Arizona Rules of Professional Conduct; and
- (f) Limits his or her practice to acting as *pro bono* counsel as set forth in this rule and, notwithstanding the reduced fee provisions of Ethical Rule 6.1(a), will not receive or expect compensation or other direct or indirect pecuniary gain for the legal services rendered; or
 - (iii) *An attorney, either domiciled in Arizona or outside Arizona, who is employed part-time or full-time by an approved legal services organization in this state, and who:*
 - (a) Has been licensed to practice law for at least two years, holds an active license to practice law in another jurisdiction in the United States, and is a member in good standing of the bar of all courts or jurisdictions in which he or she is admitted to practice;
 - (b) Has not been disciplined for professional misconduct in the last five years and has no pending formal disciplinary or disability proceeding;
 - (c) Has successfully completed the course on Arizona law described in Rule 34(j);
 - (d) Has read and agrees to be subject to the Arizona Rules of Professional Conduct; and
 - (e) Limits his or her practice to acting as *pro bono* counsel as set forth in this rule; or
 - (iv) *An attorney, not licensed to practice in Arizona, but who is duly registered as In-House Counsel pursuant to Rule 38(a), and provides pro bono legal services under the auspices and supervision of an approved legal services organization, pursuant to Rule 38(d)(1).*
- (C) *Filing Requirements.* The approved legal services organization under which a lawyer is to provide *pro bono* legal services shall file an initial application with the Clerk listing those lawyers it seeks to qualify for *pro bono* counsel certification. For each such lawyer, the application shall include:

- (i) A certificate from each of the highest courts or agencies in the state, territory or district in which the applicant is presently licensed to practice law, documenting that the applicant is a member in good standing of all courts and jurisdictions in which he or she has been admitted to practice, and has no disciplinary history within the last five years or any pending discipline or disability proceeding. An applicant who is registered as In-House Counsel pursuant to Rule 38 (a) shall fulfill this requirement by providing a copy of his or her current Arizona Certification of Registration of In-House Counsel;
 - (ii) An avowal by the approved legal services organization that the applicant is employed by or is an unpaid volunteer providing *pro bono* legal services under the auspices of the organization;
 - (iii) An avowal from the applicant certifying he or she qualifies under and agrees to the provisions of Rule 38(d)(2)(B).
- (D) *Scope of Authority.* An attorney certified and registered under this rule has the authority to act as *pro bono* counsel for clients as defined in this rule. The attorney may not act as counsel for a client until certified under this rule by order of the Court.
- (E) *Recovery of Attorneys' Fees and Costs.* This rule does not preclude an approved legal services organization from receiving court-awarded attorneys' fees and costs for representation provided by certified *pro bono* counsel. Certified volunteer *pro bono* counsel may be reimbursed for recoverable costs, but may not seek or collect attorneys' fees incurred in representing a *pro bono* client.
- (F) *Discipline and Disability Jurisdiction.* An attorney certified under this rule is subject to the Arizona Rules of Professional Conduct. In addition to the proceedings and forms of discipline identified in those rules, the attorney may also be enjoined from further practice of law in Arizona.
- (G) *Termination of Certification.* Certification under this rule shall automatically terminate when:

- (i) An attorney employed by an approved legal services organization ceases working for that organization and is not employed by another approved legal services organization;
 - (ii) The approved legal services organization with which the attorney is associated fails to file the annual supplemental statement required in Rule 38(d)(1)(C), or fails to identify the attorney in that filing;
 - (iii) The attorney is suspended or disbarred or placed on disability inactive status in any jurisdiction, court or agency before which the attorney is admitted;
 - (iv) The attorney is suspended in any jurisdiction for failure to pay child support or failure to cooperate in a disciplinary matter; or
 - (v) The attorney fails to complete the dues statement or pay the prior year's attorney registration fees as required in Rule 38(d)(2)(I)(i) or (ii).
- (H) *Notice of change of status.* The approved legal services organization shall notify the Clerk of the Arizona Supreme Court in writing of any change of status described in Rule 38(d)(2)(F) within 28 days of such change.
- (I) *Registration, Fees and CLE.*
- (i) An otherwise retired or inactive attorney certified under this rule shall not be required to pay an annual registration fee if the attorney has provided twenty-five (25) hours of *pro bono* legal services under this rule within the prior twelve-month period. To be exempt from paying an annual registration fee, the attorney shall complete a dues statement provided by the State Bar of Arizona on or before February 1, identifying the approved legal services organization(s), as described in this rule, for which the attorney has volunteered in the prior twelve-month period, and avowing that he or she has provided twenty-five (25) hours of *pro bono* services during that period and remains qualified for such waiver and for continuing certification as *pro bono* counsel under this rule.

- (ii) An attorney who has not provided at least twenty-five (25) hours of *pro bono* legal services under this rule within the prior twelve-month period but who wishes to remain certified as *pro bono* counsel must pay the registration fee that was applicable in the prior calendar year for registered inactive or retired attorneys, as appropriate, pursuant to the fee schedule established by the Court.
- (iii) Failure of an attorney certified under this rule to complete the State Bar's dues statement, as described above, or to pay the prior year's inactive attorney registration fees by February 1 of each year, shall automatically terminate that lawyer's status as certified *pro bono* counsel and result in suspension of the attorney's Arizona license, if applicable.
- (iv) Attorneys directly employed by an approved legal services organization and licensed volunteer attorneys in active practice must comply with the Mandatory Continuing Legal Education requirements of Rule 45. Retired and inactive lawyers certified as *pro bono* counsel are exempt from Rule 45 CLE reporting requirements.
- (J) *Certification Number.* An attorney certified under this rule shall be assigned a certification number by the State Bar of Arizona, which shall be used to identify that attorney's authorization to practice in Arizona. Any pleading signed by an attorney authorized under this rule shall include the attorney's certification number. Whenever an initial appearance is made in court without a written pleading, the attorney shall advise the court of the attorney's certification number.
- (K) *Subsequent Attorney Admission.* If an Arizona attorney certified under this rule subsequently changes his or her status to active, that attorney's *pro bono* counsel certification shall be terminated. If an attorney licensed in another jurisdiction but certified to practice in Arizona under this rule is subsequently admitted to the practice of law in Arizona, that attorney's *pro bono* counsel certification shall be superseded by the Arizona license to practice law.

Rule 39. Temporary Authorizations to Practice Law

- (a) Pro Hac Vice**
- (b) Practice Pending Admission**
- (c) Law Student Practice**

(d) Military Spouse Certification

(a) Pro Hac Vice

(1) *General Statement and Eligibility.* An attorney who is not a member of the State Bar of Arizona but is currently a member in good standing of the bar of another state or non-U.S. jurisdiction, and eligible to practice before the highest court in any state, territory or insular possession of the United States or foreign jurisdiction (hereinafter called a non-member attorney) may appear as counsel pro hac vice in any case before any state or local court, board or administrative agency in the State of Arizona upon compliance with this rule:

(2) In order to appear as counsel in any matter pending before a court, board, or administrative agency in the State of Arizona, a non-member attorney shall:

- (A) File with the State Bar of Arizona an original and one copy of a verified application; and the verified application required by this rule shall be on a form approved by the Arizona Supreme Court and available at the clerk of the court, board, or administrative agency where such cause is pending.
- (B) File with the State Bar of Arizona a certificate from each state bar or from the clerk of the highest admitting court of each state, territory or insular possession of the United States, or foreign jurisdiction, in which the non-member attorney has been admitted to practice law certifying the non-member attorney's date of admission to such jurisdiction and the current status of the non-member attorney's membership or eligibility to practice therein.
- (C) Pay to the State Bar of Arizona a non-refundable application fee equal to the current dues paid by active members of the State Bar of Arizona for the calendar year in which such application is filed plus an additional assessment set by the Arizona Supreme Court for the Client Protection Fund, with the following exceptions:
 - (i) Not more than one application fee may be required per non-member attorney for consolidated or related matters regardless of how many applications are made in the consolidated or related proceedings by the non-member attorney.
 - (ii) The application fee shall be waived (1) for Judge Advocate General's Corps military attorneys practicing before the Military Trial Court of

the State of Arizona or the Arizona Court of Military Appeals and (2) to permit pro bono representation of an indigent client or clients. An attorney seeking a fee waiver to provide pro bono representation of an indigent client or clients shall include in the application a verification that all clients represented in the action are indigent and that no attorney fee shall be paid by the client. "Indigent" is defined as those individuals whose gross income is at or below 125% of the federal poverty guidelines, as calculated in conformity with the eligibility requirements for Legal Services Corporation grantees, currently codified at 45 C.F.R. Section 1611.

- (D) Upon receipt of the verified application and fee from the non-member attorney as described above, the State Bar of Arizona shall issue to local counsel a Notice of Receipt of Complete Application that states: (1) whether the non-member attorney has previously made any application or motion pursuant to this rule within the preceding three years; (2) the date of any such application or motion; and (3) whether the application or motion was granted or denied by the court or administrative agency. The State Bar of Arizona Notice shall include as exhibits: (1) the original verified application and (2) the original certificate(s) of good standing. The State Bar shall retain copies of verified applications, certificates of good standing and orders granting, denying or revoking applications to appear pro hac vice for three (3) years.
- (E) Local counsel shall file a motion to associate counsel pro hac vice with the court, board, or administrative agency where the cause is pending, together with proof of service on all parties in accordance with Arizona Rules of Civil Procedure. The motion to associate counsel pro hac vice shall include:
 - (i) the original verified application as an exhibit;
 - (ii) the original certificates of good standing as an exhibit;
 - (iii) the State Bar of Arizona Notice as an exhibit; and
 - (iv) a proposed order granting or denying the motion.
- (F) Local counsel shall mail a copy of each order granting or denying the motion as entered by the court, board, or administrative agency to the State Bar of Arizona.

(3) *Scope of Authority.* A non-member attorney may not appear pro hac vice before any court, board or administrative agency of this state unless the non-member attorney has associated in that cause an attorney who is a member in good standing of the State Bar of Arizona (hereinafter called local counsel). The name of local counsel shall appear on all notices, orders, pleadings, and other documents filed in the cause. Local counsel may be required to personally appear and participate in pretrial conferences, hearings, trials, or other proceedings conducted before the court, board, or administrative agency when the court, board, or administrative agency deems such appearance and participation appropriate. Local counsel associating with a non-member attorney in a particular cause shall accept joint responsibility with the non-member attorney to the client, to opposing parties and counsel, and to the court, board, or administrative agency in that particular cause.

(4) *Discretion.* The granting or denial of a motion to associate counsel pro hac vice pursuant to this rule by the court, board, or administrative agency is discretionary. The order granting or denying the motion to associate counsel pro hac vice shall be entered by the court, board, or administrative agency no later than 20 days (exclusive of weekends and holidays) after the filing of such motion. A non-member attorney shall make no appearance in a cause until the court, board, or administrative agency where the cause is pending enters the order granting the motion to associate counsel pro hac vice. The order granting pro hac vice status shall be valid for a period of one year from the date of entry, and shall be renewed for subsequent one year periods upon compliance with renewal procedures as specified herein.

(5) *Disciplinary Jurisdiction of the State Bar of Arizona.* As provided in Rule 46(b), Rules of the Supreme Court, a non-member attorney admitted pro hac vice pursuant to these rules shall be subject to the jurisdiction of the courts and agencies of the State of Arizona and to the State Bar of Arizona with respect to the laws and rules of this state governing the conduct and discipline of attorneys to the same extent as an active member of the State Bar of Arizona.

(6) *Termination of Authorization.* The court, board, or administrative agency may revoke the authority of a non-member attorney to make continued appearances pursuant to this rule. Absent special circumstances, repeated appearances by any person pursuant to this rule may be the cause for denial of the motion to associate counsel pro hac vice. Such special circumstances may include, but are not limited to, the following: (1) a showing that the cause involves a complex area of law in which the nonmember attorney possesses a special expertise, or (2) a lack of local counsel with expertise in the area of law involved in the cause.

(7) *Transfer.* The non-member attorney shall be deemed admitted in the event venue in such action is transferred to another county or court or is appealed; provided, however,

that the court having jurisdiction over such transferred or appealed cause may revoke the authority of the non-member attorney to appear pro hac vice.

(8) *Continuing Duties to Advise of Changes in Status.* A non-member attorney admitted pro hac vice shall have the continuing obligation during the period of such admission to promptly advise the State Bar of Arizona of a disposition made of pending charges or the institution of any new disciplinary proceedings or investigations. The State Bar of Arizona shall then advise any court, board, or administrative agency where the non-member attorney has been admitted pro hac vice of any such information. A non-member attorney shall promptly advise the State Bar of Arizona if permission to appear pro hac vice pursuant to this rule is revoked by any court, board, or administrative agency.

(9) *Renewal of Application and Fees.* On or before each anniversary date of the filing of the verified application with the State Bar of Arizona, local counsel must certify to the State Bar of Arizona whether (a) the non-member attorney continues to act as counsel in the cause; or (b) such cause has been adjudicated to a final conclusion or is otherwise concluded. Any non-member attorney who continues to act as counsel in the cause shall remit to the State Bar of Arizona on or before each anniversary date an assessment set by the Arizona Supreme Court for the Client Protection Fund and a fee equal to the current dues paid by active members of the State Bar of Arizona for the calendar year in which such renewal is sought, unless the non-member attorney is waived under paragraph (c)(1)(B)(ii) of this rule as a Judge Advocate General's Corps military attorney or as an attorney providing pro bono representation of an indigent client.

(10) *Failure to Renew.* Any non-member attorney who continues to appear pro hac vice in a cause and fails to pay the renewal fees set forth in paragraph (h) of this rule shall be suspended from appearance in any cause upon the expiration of a period of thirty days from the anniversary date. The executive director of the State Bar of Arizona shall notify the non-member attorney and local counsel of the suspension and shall file a certified copy of the notice with the court, board or administrative agency where the cause is filed. The non-member attorney may be reinstated upon the payment of fees set forth in paragraph (h) of this rule and a \$50 late penalty. Upon payment of all accrued fees and late penalty, the executive director shall reinstate the non-member attorney and shall certify such reinstatement to the court, board, or administrative agency where the cause is filed.

(11) *Annual Reporting.* The State Bar of Arizona shall prepare an annual report which shall list: (a) all applications filed pursuant to this rule during the preceding twelve months; (b) the names of all applicants; and (c) whether the application was granted or

denied. The report shall be available for inspection at the offices of the State Bar of Arizona and shall be provided to the Supreme Court.

(12) *Disposition of Fees.* Fifteen percent of the application fees paid pursuant to this rule shall be deposited into a civil legal services fund to be distributed by the Arizona Foundation for Legal Services and Education entirely to approved legal services organizations, as that term is defined in Rule 38(d).

(b) Practice Pending Admission

(1) *General Statement and Eligibility.* An applicant who currently holds an active license to practice law in another jurisdiction in the United States, and who has been primarily engaged in the active practice of law for three of the last five years immediately preceding the date upon which the application for admission is filed, may provide legal services in Arizona through an office or other place for the regular practice of law in Arizona for no more than 365 days, provided that the applicant:

- (A) is a licensed attorney in good standing in all courts and jurisdictions in which he or she is admitted to practice;
- (B) is not currently subject to an order of attorney discipline or the subject of a pending disciplinary or disability investigation in any jurisdiction;
- (C) has not previously been denied admission to practice law in Arizona, has not failed to achieve a uniform bar examination score equivalent to the minimum passing score requirement for Arizona within the last three years, and has never been denied admission on character and fitness grounds in any jurisdiction;
- (D) has first submitted an application deemed complete by the Committee on Character and Fitness for admission on motion (Rule 34(f)), admission by transfer of uniform bar examination score (Rule 34(h)), or admission by Arizona bar examination (Rule 34), and has complied with the requirements of Rule 34 (f)(1)(B), (D) and (H);
- (E) reasonably expects to fulfill all of Arizona's requirements for that form of admission;
- (F) associates with and is supervised by an attorney licensed to practice in Arizona, and discloses the name, address, and membership status of that attorney;
- (G) provides a signed verification form from the Arizona attorney certifying the applicant's association with and supervision by that attorney;

- (H) affirmatively states in all written communications with the public and clients the following language: “Practice temporarily authorized pending admission under Rule 39(b). Supervision by [name of attorney], a member of the State Bar of Arizona”;
- (I) pays the annual assessment to the Client Protection Fund; and
- (J) pays the required admission fee.

(2) *Appearances.* Until the applicant’s admission is granted, the applicant may not appear before a court of record or tribunal in Arizona that requires pro hac vice admission unless the applicant is granted such admission pursuant to Rule 39(a).

(3) *Notice of Disciplinary Investigation.* The applicant must immediately notify the Committee on Character and Fitness in writing if the applicant becomes subject to a disciplinary or disability investigation, complaint, or sanctions in any other jurisdiction at any time during the 365 days of practice authorized by this rule. The Committee on Character and Fitness shall take into account such information in determining whether to grant the attorney’s application for admission to practice law in Arizona.

(4) *Discipline and Disability Jurisdiction.* Any attorney practicing under this rule shall be subject to the Rules of Professional Conduct and the Rules of the Supreme Court regarding attorney discipline in the State of Arizona.

(5) *Termination of Authorization to Practice.* The authority given an applicant to practice law pending admission pursuant to this rule shall terminate immediately if:

- (A) the applicant withdraws the application for admission or the application is denied;
- (B) the applicant fails to remain in compliance with paragraph (1) of this rule;
- (C) the applicant is disbarred, suspended, or placed on disability inactive status in any other jurisdiction in which the applicant is licensed to practice law; or
- (D) the applicant fails to comply with the notification requirements of paragraph (3) of this rule.

(6) *Action Required after Termination of Authorization to Practice.* Upon the termination of authority to practice law pursuant to this rule, the applicant shall:

- (A) immediately cease practicing law in Arizona;

- (B) notify in writing all clients in pending matters, and opposing counsel and co-counsel in pending litigation, of the termination of the applicant's authority to practice law in Arizona; and
- (C) take all other necessary steps to protect the interests of the applicant's clients.

(7) *Registration, Fees & CLE.* An attorney practicing under this rule shall not be subject to annual registration fees as required under Rule 32 or the mandatory legal education requirements under Rule 45.

(8) *Subsequent Attorney Admission.* When an attorney authorized under this rule is subsequently admitted to the practice of law in Arizona, the authorization will be superseded by the Arizona license to practice law.

(c) Law Student Practice

(1) Definitions:

“Certified limited practice student” is a law student or a graduate of a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association who holds a current Arizona Supreme Court certification as a limited practice student.

“Supervising attorney” is an attorney authorized to practice law in Arizona who agrees in writing to supervise the certified limited practice student under these rules and whose name appears on the application for certification or recertification.

“Designated attorney” is, exclusively in the case of government agencies, any deputy assistant or other staff attorney authorized and selected by a supervising attorney to supervise the certified limited practice student where permitted by these rules.

(2) *General Statement and Eligibility.* A student enrolled in an approved law school, or a recent graduate of such a school who has applied to take the bar examination, may apply to be certified as a limited practice student under this rule. To be eligible to become a certified limited practice student, the student must:

- (A) have successfully completed a minimum of two semesters of legal studies, or the equivalent academic hour credits;
- (B) neither ask for nor receive any compensation or remuneration of any kind for services rendered by the student from the person on whose behalf the services are rendered; however, this does not prevent a supervising lawyer, legal services organization, public defender agency, or the state from paying

compensation to the student, nor shall it prevent the lawyer or agency from making such charges for its services as it may properly require;

- (C) certify in writing that the student has read, is familiar with, and will be governed by the Arizona Rules of Professional Conduct and Arizona statutes relating to the conduct of attorneys; and
- (D) be certified by the dean of the accredited law school where the student is enrolled, or was enrolled upon graduation, as being in good academic standing, or good character, and as having either successfully completed or being currently enrolled in and attending academic courses in civil procedure, criminal law, evidence, and professional responsibility;

(3) Filing Requirements.

- (A) All applications for certification as a limited practice student must be submitted to the clerk of the Court on a form provided by the clerk. All information requested on the form must be provided.
- (B) The application must include the signature of the student, the dean or the dean's designee of the law school in which the student is enrolled or was a recent graduate, and the supervising attorney.
- (C) The student must attest that he or she meets all the requirements of the rules; agrees to and shall immediately notify the clerk of the Court in the event he or she no longer meets the requirements of the rule; and that he or she has read, is familiar with, and will be governed by the Arizona Rules of Professional Conduct and these rules.
- (D) The dean or dean's designee of the accredited school in which the applicant is enrolled or was a recent graduate must attest that the applicant meets the requirements of these rules; that he or she will immediately notify the clerk of the Court if the student no longer meets the requirements of these rules; and that he or she has no knowledge of facts or information that would indicate that the applicant is not qualified by ability, training, or character to participate in the activities permitted by these rules.
- (E) The supervising attorney must specify the period of time during which he or she will supervise the student and attest that he or she has read and will abide by these rules and will assume responsibility under the requirements of these rules.

- (F) Requests to change or add a supervising attorney or to extend the period of certification must be submitted on a form provided by the clerk.
- (G) The clerk of the Court will issue the notice of certification and send a copy of the certification to the student, the law school, the supervising attorney, and the State Bar.

(4) Scope of Authority.

- (A) Court and Administrative Tribunal Appearances. A certified limited practice student may appear in any court or before any administrative tribunal in this state on behalf of any person if the person on whose behalf the student is appearing has consented in writing to that appearance and the supervising attorney has also indicated in writing approval of that appearance. In each case, the written consent and approval shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal. In addition, the certified limited practice student shall orally advise the court on the occasion of the student's initial appearance in the case of the certification to appear as a law student pursuant to these rules. Notwithstanding anything set forth below, the court may at any time and in any proceeding require the supervising attorney (or designated attorney) to be personally present for such period and under such circumstances as the court may direct. A certified limited practice student may appear in the following matters:
 - (i) Civil Matters. In civil cases in justice, municipal, and magistrate courts, the supervising lawyer (or designated lawyer) is not required to be personally present in court if the person on whose behalf an appearance is being made consents to the supervising lawyer's absence.
 - (ii) Criminal Matters on Behalf of the State. In any criminal matter on behalf of the state or any political subdivision thereof with the written approval of the supervising attorney (or designated attorney), the supervising attorney (or designated attorney) must be personally present except when such appearance is in justice, municipal, or magistrate courts.
 - (iii) Felony Criminal Defense Matters. In any felony criminal defense matter in justice, municipal, and magistrate courts, and any criminal matter in superior court, the supervising attorney (or designated attorney) must be personally present throughout the proceedings.

- (iv) Misdemeanor Criminal Defense Matters. In any misdemeanor criminal defense matter in justice, municipal, and magistrate courts, the supervising attorney (or designated attorney) is not required to be personally present in court, so long as the person on whose behalf an appearance is being made consents to the supervising attorney's absence; however, the supervising attorney must be physically present during trial.
 - (v) Appellate Oral Argument. A certified limited practice student may participate in oral argument in the Arizona Supreme Court and the Arizona Court of Appeals, but only in the physical presence of the supervising attorney (or designated attorney) and with the specific approval of the court for that case.
- (B) Other Client Representation Activities. Under the general supervision of the supervising attorney (or designated attorney), a certified limited practice student may:
- (i) prepare pleadings and other documents to be filed in any matter in which the certified limited practice student is eligible to appear, but such pleadings or documents must be signed by the supervising attorney (or designated attorney);
 - (ii) prepare briefs, abstracts and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising attorney (or designated attorney);
 - (iii) provide assistance to indigent inmates of correctional institutions or other persons who request such assistance in preparing applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this Court. If there is a lawyer of record in the matter, all such assistance must be supervised by the lawyer of record, and all documents submitted to the court on behalf of such a client must be signed by the lawyer of record and the supervising attorney (or designated attorney);
 - (iv) render legal advice and perform other appropriate legal services, but only after prior consultation with and upon the express consent of the supervising attorney (or designated attorney).

- (C) Other Non-Representation Activities. A certified limited practice student may perform any advisory or non-representational activity which could be performed by a person who is not a member of the State Bar, subject to the approval by the supervising attorney (or designated attorney). In connection with a volunteer legal services program and at the invitation and request of a court or tribunal, a certified limited practice student may appear as a law student volunteer to assist the proceeding in any civil matter, provided:
- (i) the assistance is given to an otherwise unrepresented individual in an uncontested proceeding without entering an appearance as counsel;
 - (ii) the student's supervising attorney is associated with the particular volunteer legal services program;
 - (iii) the certified limited practice student has received the written consent and acknowledgment of non-representation by the unrepresented person, which written consent shall be obtained by the volunteer legal services program and brought to the attention of the court.

(5) Requirements and Duties of Supervising Attorney.

The supervising attorney must:

- (A) be an attorney authorized to practice law in Arizona and have practiced law or taught law in an accredited law school as a full-time occupation for at least two years;
- (B) supervise no more than five (5) certified limited practice students concurrently; provided, however, that a supervising attorney who is employed full-time to supervise law students as part of an organized law school or government agency training program may supervise up to, but in no case more than, fifty (50) certified students;
- (C) assume personal professional responsibility for any work performed by the certified limited practice student while under his or her supervision;
- (D) assist and counsel the certified limited practice student in the activities authorized by these rules and review such activities with the certified limited practice student, all to the extent required for the proper practical training of the certified limited practice student and the protection of the client;

- (E) read, approve, and personally sign any pleadings, briefs or other similar documents prepared by the certified limited practice student prior to the filing thereof, and read and approve any documents which shall be prepared by the certified limited practice student for execution by any person (exclusively in the case of government agencies, a designated attorney may, in the place of the supervising attorney, perform the obligation set forth in this subparagraph, but the supervising attorney shall still provide general supervision);
 - (F) provide the level of supervision to the certified limited practice student required by these rules (exclusively in the case of government agencies, a designated attorney may, in the place of the supervising attorney, perform the obligation set forth in this subparagraph, but the Supervising Attorney shall still provide general supervision); and
 - (G) in the case of a certified student who is participating in the clinical program post-graduation pending the taking of the bar examination, report to the clinical law professor and the dean of the law school, as the law school shall require, on a monthly basis regarding the supervising attorney's supervision and guidance of the certified student.
 - (H) promptly notify the clerk of the Court in writing if his or her supervision of the certified limited practice student has or will cease prior to the date indicated on the application form.
- (6) *Discipline Jurisdiction.* The procedures otherwise provided by law or court rule governing the discipline of lawyers shall not be applicable to the termination of the certification of a limited practice student pursuant to this rule.
- (7) *Duration and Termination of Certification.* Certification of a certified limited practice student will commence on the date indicated on a notice of certification and remain in effect for the period specified on the notice of certification unless sooner terminated pursuant to the earliest of the following occurrences:
- (A) Termination by the Student. The certified limited practice student may request termination of the certification in writing or notify the clerk of the Court that he or she no longer meets the requirements of this rule, and in such event the clerk shall send written notice to the student, the student's supervising attorney, the dean, and the State Bar.

- (B) Termination by the Supervising Attorney. The supervising attorney may notify the clerk of the Court in writing that his or her supervision of the certified limited practice student will cease prior to the date specified in the notice of certification. In such event the clerk shall send written notice to the student, the student's supervising attorney, the dean and the State Bar, and the dean may issue a modified certification reflecting the substitution of a new supervising attorney, as necessary.
 - (C) Termination by the Dean. A certification of student limited practice may be terminated by the dean any time, without cause and without notice or hearing, by filing notice of the termination with the clerk of the Court. A certification of student limited practice shall be terminated if one or more of the requirements for the certification no longer exists or the certified limited practice student, supervising attorney or designated attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. In the event of termination, the clerk of the Court shall send written notice to the student, the student's supervising attorney, the dean, and the State Bar.
 - (D) Failure to Take or Pass the Bar Examination. A certification of student limited practice shall be terminated if the certified student fails to take or pass the first general bar examination for which the student is eligible.
 - (E) Termination by the Arizona Supreme Court. A certification of student limited practice may be terminated by the Arizona Supreme Court any time, without cause and without notice or hearing, by filing notice of the termination with the clerk of the Court. A certification of student limited practice shall be terminated if one or more of the requirements for the certification no longer exists or the certified limited practice student, supervising attorney or designated attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. In the event of termination, the clerk of the Court shall send written notice to the student, the student's supervising attorney, the dean, and the State Bar.
- (8) *Subsequent Attorney Admission.* If a student certified under this rule is subsequently admitted to the practice of law in Arizona, that student's certification of student limited practice will be superseded by the Arizona license to practice law.

(d) Military Spouse Certification.

(1) *General Statement and Eligibility.* Due to the unique mobility requirements of military families who support the defense of our nation, the Court may certify an attorney who is a spouse of a member of the United States Uniformed Services (“service member”) stationed within Arizona to practice law under the terms of this rule. An attorney (“applicant”) who is not a member of the State Bar of Arizona who meets the requirements of (A) through (J) of this paragraph (d)(1) may, upon verified application, be admitted to the temporary practice of law in this jurisdiction. The applicant must:

- (A) establish that the applicant is currently an active member in good standing in at least one jurisdiction where admitted in the United States or territory and is a member in good standing in all jurisdictions where admitted;
- (B) hold a juris doctor degree from a law school provisionally or fully approved by the Council of the Section of Legal Education and Admissions of the American Bar Association at the time of graduation;
- (C) establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;
- (D) submit character investigation information, in a manner established by the Court, including all required supporting documents, and establish that the applicant possesses the character and fitness to practice law in this jurisdiction;
- (E) submit evidence that the applicant is a dependent spouse of a service member of the United States Uniformed Services; that the service member is on full-time, active duty pursuant to military orders in Arizona; and that the applicant is residing in Arizona due to the service member's full-time, active duty pursuant to military orders in this state;
- (F) submit evidence of achieving the passing score established in this jurisdiction for the Multistate Professional Responsibility Examination;
- (G) submit evidence that the applicant has successfully completed the course on Arizona law described in Rule 34(j);
- (H) not have failed the Arizona bar examination or failed to achieve the Arizona scaled score on the uniform bar examination administered within any jurisdiction within five years of the date of filing an application under this rule;

- (I) not have been previously denied admission to the practice of law in Arizona; and
- (J) agree to advise all clients, prior to providing representation or services, that the attorney is temporarily admitted under the military spouse exception.

(2) *Filing Requirements and Certification.*

- (A) **Application.** An applicant must file a verified application for military spouse certification with the Committee on Character and Fitness on a form supplied by the Committee. The application must include the documentation necessary to establish the requirements of (A) through (J) of this rule. At the time of submitting the verified application, the applicant must pay an application fee as set by the Court.
- (B) **Certification by Court.** If the Committee determines that the applicant has met the requirements of this rule and possesses the character and fitness required of all applicants for admission, it shall recommend to the Court the applicant's certification to practice law. The attorney may not act as counsel for a client until certified under this rule by order of the Court. A copy of the order certifying the attorney for temporary admission will be sent by the Clerk to the Chief Bar Counsel.
- (C) **Duration and Renewal.** A temporary admission will be valid for one year from the date of issuance, unless terminated earlier pursuant to paragraph (5). An attorney admitted under this rule may annually renew a temporary admission by filing a written request for renewal and paying a registration fee.

(3) *Scope of Authority.* Except as provided in this rule, an attorney temporarily admitted under this rule shall be entitled to all rights and privileges and subject to all duties obligations and responsibilities otherwise applicable to active members of the State Bar for the period of authorized practice.

- (A) **Association of Local Counsel.** No attorney temporarily admitted under this rule may appear before any court, board, or administrative agency of this state unless the attorney has associated in that cause an attorney (local counsel) who is a member in good standing of the State Bar of Arizona. The name of local counsel shall appear on all notices, orders, pleadings, and other documents filed in the cause. Local counsel may be required to personally appear and participate in pretrial conferences, hearings, trials, or other

proceedings conducted before the court, board, or administrative agency when the court, board, or administrative agency deems such appearance and participation appropriate. Local counsel associating with an attorney temporarily admitted under this rule in a particular cause shall accept joint responsibility with that attorney to the client, to opposing parties and counsel, and to court, board, or administrative agency in that particular cause.

- (B) Supervision of local counsel. If the attorney temporarily admitted under this rule has not engaged in the active practice of law for at least five years cumulatively, the attorney shall be supervised by local counsel as defined above, who will be responsible to the court, the bar, the Court, and the client for all services the temporarily admitted attorney provides pursuant to this rule.
- (4) *Discipline and Disability Jurisdiction.* An attorney temporarily admitted under this rule shall be subject to the jurisdiction of the courts and agencies of the State of Arizona and to the State Bar of Arizona with respect to the laws and rules of this state governing the conduct and discipline of attorneys to the same extent as an active member of the state bar.
- (5) *Termination of Certification.*
 - (A) Events triggering termination. A temporary admission shall terminate, and an attorney shall cease the practice of law in Arizona pursuant to that admission, unless otherwise authorized by these rules, 30 days after any of the following events:
 - (i) the service member's separation or retirement from the United States Uniformed Services;
 - (ii) the service member's permanent relocation to another jurisdiction, unless the service member's immediately subsequent assignment specifies that the Department of Defense does not authorize dependents to accompany the service member, in which case the temporary attorney may continue to practice law in Arizona as provided in this rule;
 - (iii) the attorney's permanent relocation outside the state of Arizona for reasons other than the service member's relocation;

- (iv) the attorney's ceasing to be a dependent as defined by the Department of Defense or, with respect to the Coast Guard when it is not operating as a service in the Navy, the Department of Homeland Security;
 - (v) the attorney's failure to meet the annual licensing requirements for an active member of the State Bar of Arizona;
 - (vi) the attorney's request;
 - (vii) the attorney's admission to practice law in Arizona under any other admissions rule;
 - (viii) the attorney's failure to achieve the Arizona scaled score on the uniform bar examination administered within any jurisdiction;
 - (viii) the attorney's denial of admission to the practice of law in Arizona for violating ethical rules; or
 - (x) notice by the Court at any time, provided that the Clerk of the Court shall mail a copy of the notice of termination to the attorney and associated local counsel.
- (B) Notice of termination to State Bar. An attorney whose temporary admission is terminated shall provide written notice to the State Bar of Arizona within thirty (30) days of the terminating event.
- (C) Notice to courts and clients. At least sixty (60) days before termination of the temporary admission, or as soon as possible under the circumstances, the attorney shall:
- (i) file in each matter pending before any court or tribunal a notice that the attorney will no longer be involved in the case; and
 - (ii) provide written notice to all clients receiving representation from the attorney that the attorney will no longer represent them.
- (6) *Registration, Fees & CLE.* An attorney certified under this rule who seeks to renew the certification shall be required to pay a registration fee. No later than six months following the attorney's temporary admission, the attorney shall certify to the Court completion of at least fifteen hours of continuing legal education on Arizona practice, procedure, and ethics. The attorney shall also comply with Rule 45 and ,on

or before September 15 of each year, certify completion of at least fifteen (15) hours of such continuing legal education during each year for which a temporary admission is renewed.

- (7) *Registration number.* An attorney certified under this rule shall be assigned a registration number, which shall be used to identify the attorney's registration status in Arizona as required by applicable rules of procedure.
- (8) *Subsequent Attorney Admission.* If an attorney certified under this rule is subsequently admitted to the practice of law in Arizona, that attorney's military spouse certification will be superseded by the Arizona license to practice law.

Rule 40. [Reserved]

ATTACHMENT B

**CONFORMING CHANGES
TO OTHER RULES¹**

RULES OF THE ARIZONA SUPREME COURT

Rule 32. Organization of State Bar of Arizona

(a) through (b) [No change in text.]

(c) Membership.

1. through 3. [No change in text.]

4. *Inactive Members.* Inactive members shall be those who have, as provided in these rules, been transferred to inactive status. An active member who is not engaged in practice in Arizona may be transferred to inactive status upon written request to the executive director. Inactive members shall not practice law in Arizona, or hold office in the State Bar or vote in State Bar elections. Inactive members may be certified to provide volunteer legal services to approved legal services organizations as provided in Rule 38(d) of these rules. On application and payment of the membership fee and any delinquent fees that may be due under Rule 45(d), they may become active members. Inactive members shall have such other privileges, not inconsistent with these rules, as the Board may provide. Incapacitated members may be transferred to disability inactive status and returned to active status as provided in these rules.

¹ Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

5. *Retired Members.* Retired members shall be those who have, as provided in these rules, been transferred to retired status. An active, inactive or judicial member who is not engaged in active practice in any state, district, or territory of the United States may be transferred to retired status upon written request to the executive director. Retired members shall not hold State Bar office or vote in State Bar elections. Retired members shall not practice law in any state, district, or territory of the United States. Retired members may be certified to provide volunteer legal services to approved legal services organizations as ~~defined provided~~ in Rule 38(e)(d) of these rules, ~~except that retired members need not have engaged in the active practice of law within the last five years as required in Rule 38(e)(2)(B)(1) or Rule 38(e)(3)(A).~~ Retired members may return to active status subject to the requirements imposed on inactive members who return to active status, as set forth in subsection (c)(4) of this rule. Retired members shall have other privileges, not inconsistent with these rules, as the Board may provide. Incapacitated members may be transferred to disability inactive status and return to active status as provided in these rules.

[No change in remaining text.]

Rule 33. Committees; Practice

(a) through (b) [No change in text.]

(c) Practice in Courts. No person shall practice law in the State of Arizona without being admitted to the bar by compliance with the following rules, provided that an attorney practicing in another state or territory or insular possession of the United States or the District of Columbia may be permitted by any court to appear in a matter pro hac vice, in accordance with the procedures set forth in Rule ~~38~~39(a).

Rule 34. Application for Admission

(a) through (e) [No change in text.]

(f) Admission on Motion.

1. [No change in text.]

2. For the purposes of this rule, the “active practice of law” shall include the following activities, if performed in a jurisdiction in which the applicant is admitted, or if performed in a jurisdiction that permits such activity by a lawyer

not admitted to practice; however, in no event shall any activities that were performed in advance of bar admission in some state, territory or the District of Columbia be accepted toward the duration requirement:

A. through F. [No change in text.]

G. service as corporate counsel in Arizona before January 1, 2009 or while registered pursuant to Rule 38~~(h)~~(a). Active practice performed within Arizona pursuant to Rule 38~~(h)~~(a) may be applied to meet active practice requirements found in Rule 34(f)(1)(A)(ii) provided all other requirements of Rule 34(f) are met.

[No change in remaining text.]

* * *

Rule 42. Arizona Rules of Professional Conduct

ER 5.5. Unauthorized Practice of Law; Multijurisdictional Practice of Law

(a) through (f) [No change in text.]

(g) Attorneys not admitted to practice in Arizona, who are admitted to practice law in any other jurisdiction in the United States and who appear in any court of record or before any administrative hearing officer in Arizona, must also comply with Rules of the Supreme Court of Arizona governing *pro hac vice* admission. See Rule 39(a).

* * *

Rule 45. Mandatory Continuing Legal Education

(a) Continuing Legal Education Requirements.

1. through 3. [No change in text.]

4. An active member of the bar, not exempted, who provides pro bono service to the poor or near poor through an approved legal services organization, as defined in Rule 38~~(e)~~(d), is eligible for one hour of continuing legal education credit for every five hours of pro bono service provided, up to a maximum of five hours per

educational year of continuing legal education credit. Such credit shall be included in the maximum number of hours allowed for self-study and shall be reported in the attorney's annual affidavit of compliance.

[No change in remaining text.]

Rule 46. Jurisdiction in Discipline and Disability matters; Definitions

(a) [No change in text.]

(b) Non-members. A non-member engaged in the practice of law in the State of Arizona or specially admitted to practice for a particular proceeding before any court in the State of Arizona, a non-lawyer permitted to appear in such capacity, a foreign legal consultant as defined in Rule 38(b), or in-house counsel as defined in, and registered pursuant to, Rule 38~~(i)~~(a), submits himself or herself to the disciplinary and disability jurisdiction of this court in accordance with these rules.

[No change in remaining text.]

Arizona Commission on Access to Justice Workgroups

ACAJ-AE-WG - ACAJ-AE-Judicial and Attorney Engagement Workgroup

Honorable Joseph Kreamer, Chair

Ms. Pamela Bridge

Honorable Maria Elena Cruz

Ms. Pat Gerrich

Ms. Cheryl Kulas

Ms. Jennifer Michelle Perkins

Ms. Carrie Sherman

Honorable Thomas Berning

Mr. Daniel K. Christensen

Mr. Joel Frank England

Mr. Kevin Gorman

Ms. Michele Mirto

Ms. Kevin Ruegg

Ms. Lara Slifko

ACAJ-PIM-WG - ACAJ-PIM-Public Information and Messaging Workgroup

Mr. Aaron Nash, Chair

Ms. Cathleen Cole

Ms. Tiarra Earls Haas

Ms. Gretchen Hornberger

Ms. Alicia Moffatt

Mr. Alberto Rodriguez

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Mr. Kip Anderson

Mr. Scott Davis

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ACAJ-IGC-WG - ACAJ-IGC-Inter-Governmental Collaboration Workgroup

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ACAJ-SRLLJC-WG - ACAJ-Self-Represented Litigants in Limited Jurisdiction Courts Workgroup

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Mr. Scott Davis

Mr. Stanley Hammerman

Mr. Paul Julien

Mr. John Skiba

Honorable Charles Adornetto

Mr. Mike Baumstark

Ms. Pamela Bridge

Ms. Veronica Fabian

Ms. Denise Holliday

Mr. Eric Logvin



Meeting Date: February 4, 2020

Subject: Online Dispute Resolution pilot update

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Cathy Clarich, Court Operations Manager, AOC; Nicole LaConte, Court Specialist, AOC

Presenters: Cathy Clarich and Nicole LaConte

Discussion: Ms. Clarich will present an update on the status of the AOC sponsored Online Dispute Resolution projects currently underway in Yuma and Pinal Superior Courts as well as the Scottsdale Municipal Court.

Recommended motion: None.



Meeting Date: February 4, 2020

Subject: Update on the Delivery of Legal Services

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Mr. Dave Byers, Executive Director, Administrative Office of the Chairs, and Delivery of Legal Services Task Force member

Presenters: Same

Discussion: Mr. Beyers will report on the implementation plans and efforts that have been made regarding the Delivery of Legal Services recommendations.

The Report and Recommendations of the Task Force along with other Task Force information, can be found at the Task Force's webpage:

<https://www.azcourts.gov/cscommittees/Legal-Services-Task-Force>.

Recommended motion: None.

Dave Byers¹
Executive Director, Administrative Office of Courts
Member, Task Force on the Delivery of Legal Services
State Courts Building
1501 West Washington
Phoenix, Arizona 85007
Telephone: (602) 452-3303

**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of	)	
	)	Arizona Supreme Court No. R-20-____
PETITION TO AMEND ARIZONA	)	
RULE OF THE SUPREME	)	
COURT 38	)	
_____	)	

Pursuant to Rule 28, Rules of the Supreme Court of Arizona, the Task Force on the Delivery of Legal Services (“Task Force”) petitions the Court to amend Arizona Rules of the Supreme Court 38, as reflected in the attachments hereto, effective January 1, 2021.

I. INTRODUCTION AND BACKGROUND.

Established on November 21, 2018, by Arizona Supreme Court Administrative Order 2018-111, the Task Force was asked to address five charges and to make recommendations on each. The Administrative Order gave the chair

¹ Mr. Byers files this petition in his capacity of a member of the Task Force.

discretion to consider and recommend other rule changes on any topic concerning the delivery of legal services. Members of the legal community approached the Task Force with a proposal to amend Rule 38(d). The Task Force agreed to consider the proposal and worked with members of the legal community to draft this proposed rule amendment.

Although Rule 38(d) currently allows recent law graduates to engage in a limited practice of law until the first offering of the Arizona bar examination,² the rule was drafted in a way that downplayed or masked this opportunity for recent law graduates. Further, current Rule 38(d) is unduly complicated and unclear in large part and fails to include certain program essentials. Thus, the amendments proposed in this petition revise and reorganize the rule for clarity and substantive completeness. As revised, the proposed rule sets out the program requirements and practice restrictions for both law students and recent law graduates in a clear, organized, consistent, and complete manner.

The Task Force presented its recommendation to the Arizona Judicial Council (“AJC”) on October 24, 2019. The Report and Recommendations of the Task Force (*Report*), along with other Task Force information, can be found at the Task Force’s webpage: <https://www.azcourts.gov/cscommittees/Legal-Services-Task-Force>. The

² Certification of a certified limited practice student shall commence on the date indicated on a notice of certification and shall remain in effect . . . [until] the certified student fails to take or pass the first general bar examination for which the student is eligible. Ariz. R. S. Ct. 38(d)(5)(F)(iv).

AJC adopted all recommendations of the Task Force, including the recommendation to amend Rule 38(d), identified as Recommendation 4 of the report.

II. SUMMARY OF PROPOSED AMENDMENTS TO ARIZONA RULE OF SUPREME COURT 38(d).

In Arizona, law students can practice law under the supervision of a licensed attorney in accordance with Arizona Supreme Court Rule 38(d). Participants in this limited practice of law must be supervised by an attorney in a public or private legal office or by a clinical law professor in conjunction with a law school clinical program. As discussed above, although Rule 38(d) currently allows recent law graduates to engage in a limited practice of law until the first offering of the Arizona bar examination, the rule was drafted in a way that downplayed or masked this opportunity for recent law graduates. The proposed amendments clarify that recent law graduates may be certified to engage in the limited practice of law under the supervision of an attorney. The proposed amendments also clarify that neither law students nor law graduates must also participate in a clinical law program.

At least 16 states allow recent law graduates to engage in the limited practice of law post-graduation and pre-bar admission. These state programs share common features:

- All programs have specified durations. For example, some programs authorize practice only during the period in which the graduate has applied to take the first bar examination after his or her graduation and is awaiting the

results. Other programs include similar restrictions and incorporate a tiered expiration date for the authorization to practice, such as no later than 12 or 18 months after the graduate graduated from law school.

- Most of these programs authorize graduates to practice law to the same extent law students are authorized to practice law under programs like existing Rule 38(d)(5). Thus, graduates are permitted to meet with clients, go to court, try cases, argue motions, and the like. Most of the states authorize graduates to handle civil and criminal cases, although some restrict the criminal cases to misdemeanors or less-serious felonies.
- Several programs authorize graduates to practice for certain types of employers, such as legal-aid clinics, public defenders, prosecutor's offices, or city, county, and state offices or agencies.
- Many programs impose supervisory requirements that are similar to the supervisory requirements imposed under existing Rule 38(d).
- A few programs require the dean of the graduate's law school, or the graduate's proposed supervising attorney, to certify the graduate's good character and competence to the state supreme court or another entity. Other programs simply require the employer to comply with the requirements of the program and do not require the employer to file any other documentation with any court or state agency.

Although these other state programs vary in operational details, they all provide a means by which law students and non-licensed law graduates may practice law, and effectively result in expanding the delivery of legal services, especially by public agencies or public service groups that provide legal services to individuals with limited resources. These programs do this by allowing recent law school graduates in the process of becoming licensed to gain experience by practicing law under the supervision of admitted lawyers for a limited duration. Because this limited exception to licensure is anticipated to benefit the public, the Task Force's proposed amendments to Rule 38(d) fall squarely within the mandate to consider and evaluate new models for delivering legal services.

Further, the amendments would eliminate, or at least lessen, many of the practical problems experienced by law school graduates given the workload of the individuals involved in the admission and character and fitness process. The amendments permit recent law graduates to practice under the supervision of a lawyer after graduation from an ABA accredited law school if the graduate takes the first Arizona uniform bar examination, or the first uniform bar examination offered in another state for which the graduate is eligible. Certification to practice terminates automatically if the graduate fails the bar examination, if the Committee on Character and Fitness does not recommend to the Supreme Court the graduate's admission to practice, if the graduate is denied admission to practice law by the Supreme Court, or on the expiration of 12 months from the date of the graduate's

graduation from law school unless the Supreme Court extends the 12-month period. If the graduate passes the bar examination, certification terminates 30 days after the graduate has been notified of approval for admission to practice and eligibility to take the oath of admission. Certification to practice for both graduates and law students also terminates on the occurrence of other events such as failure to meet the requirements for certification.

Finally, the amendments set out the program requirements and practice restrictions for both law students and recent law graduates in a clear, organized, consistent, and complete manner. Thus, for example, the amendments separately set out the program details for law students and law graduates and clarify as well as simplify the supervisory obligations of the supervising attorneys.

CONCLUSION

Petitioner respectfully requests that the Court consider this petition and proposed rule changes at its earliest convenience. Petitioner additionally requests that the petition be circulated for public comment, and that the Court adopt the proposed rules as they currently appear, or as modified considering comments received, with an effective date of January 1, 2021.

DATED this 9th day of January, 2020.

_____/s/_____
Dave Byers
Executive Director
Arizona Administrative Office of Courts

APPENDIX 1A: ARIZONA RULE OF SUPREME COURT 38 (CLEAN)

(a) – (c) No change.

(d) Clinical Law Professors, Law Students, and Law Graduates

1. *Purpose.* This purpose of this rule is to provide law students and recent law school graduates with supervised instruction and training in the practice of law for a limited time, and to facilitate volunteer opportunities for those individuals in pro bono contexts.

2. *Definitions.*

A. “Law school” means a law school either provisionally or fully accredited by the American Bar Association.

B. “Certified limited practice student” is a law student of an accredited law school who holds a currently effective Arizona Supreme Court Certification as a certified limited practice student.

C. “Certified limited practice graduate” is a law graduate of an accredited law school who holds a currently effective Arizona Supreme Court Certification as a certified limited practice graduate.

D. “Clinical Law Professor” is a faculty member teaching a clinical law program at a law school in Arizona either provisionally or fully accredited by the American Bar Association.

E. “Dean” means the dean, the academic associate dean, or the dean’s designee of the accredited law school where the law student is enrolled or the law graduate was enrolled on graduation.

F. “Period of supervision” means the dates for which the supervising attorney has declared, on the application for certification or recertification, that he or she will be responsible for any work performed by the certified limited practice student or the certified limited practice graduate under his or her supervision.

G. “Supervising attorney” is an active member of the State Bar of Arizona in good standing who has practiced law or taught law in an accredited law school as a full-time occupation for at least two years, and agrees in writing to supervise the certified limited practice student or certified limited practice graduate pursuant to

these rules, and is identified as the supervising attorney in the application for certification or recertification. The supervising attorney may designate a deputy, assistant, or other staff attorney to supervise the certified limited practice student or certified limited practice graduate when permitted by these rules.

H. “Volunteer legal services program” means a volunteer legal services program managed by an approved legal services organization in cooperation with an accredited law school. Approved legal service organizations are defined in paragraph (e)(2)(C) of this rule.

3. General Provisions.

A. Limited Bar Membership. To the extent a professor, law student, or law graduate is engaged in the practice of law under this rule, the professor, law student, or law graduate shall, for the limited purpose of performing professional services authorized by this rule, be deemed an active member of the state bar (but not required to pay fees). The provisions of this rule shall govern rather than the provisions of other rules relating to admission and discipline.

B. Nonapplicability of Attorney Discipline Rules to Terms of the Certification. The procedures otherwise provided by law or court rule governing the discipline of lawyers shall not be applicable to the termination of the certification of a clinical law professor, certified limited practice student, or certified limited practice graduate pursuant to these rules. Termination of certification shall be without prejudice to the privilege of the professor, law student, or law graduate to apply for admission to practice law if the professor, law student, or law graduate is in other respects qualified for such admission.

C. Effect of Certification on Application for Admission to Bar. The certification of a clinical law professor, law student, or law graduate shall not be considered as an advantage or a disadvantage to the professor, law student, or law graduate in an application for admission to the state bar.

D. Privileged Communications. The rules of law and of evidence relating to privileged communications between attorney and client shall govern communications made or received by and among professors, supervising and designated attorneys, certified limited practice students, and certified limited practice graduates.

4. Clinical Law Professors.

A. Activities of Clinical Law Professors. A clinical law professor who is certified pursuant to this rule may appear as a lawyer solely in connection with supervision of students in a clinical law program in a law school in Arizona. A clinical law professor may appear in any court or before any administrative tribunal in this state in the matters enumerated in paragraph (d)(5)(C) of this rule on behalf of any person, if the person on whose behalf the appearance is being made has consented in writing to that appearance. Such written consent shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal.

B. Requirements and Limitations for Clinical Law School Professors. To appear as a lawyer pursuant to these rules, the clinical law professor must:

- i. be admitted by examination to the bar of any state or the District of Columbia;
- ii. neither ask for nor receive any compensation or remuneration of any kind for such services from the person on whose behalf the services are rendered;
- iii. certify in writing that the clinical law professor has read and is familiar with the Arizona Rules of Professional Conduct and the Rules of the Supreme Court of Arizona and statutes of the State of Arizona relating to the conduct of lawyers; and
- iv. submit evidence that the clinical law professor has successfully completed the course on Arizona law described in [Rule 34\(j\)](#).

C. Certification of the Clinical Law Professor. The certification shall be signed by the clinical law professor and the dean of the law school on the form prescribed by the clerk of the Court and shall be filed with the clerk and the state bar. The certification shall remain in effect until withdrawn.

D. Duty to Ensure Adequate Supervision and Guidance of Certified Limited Practice Student. The clinical law professor must ensure that certified limited practice students receive adequate supervision and guidance while participating in the law school's clinical law program.

E. Termination of Certification.

- i. The dean at any time, with or without cause or notice or hearing, may terminate

a certification of a clinical law professor by filing a notice of the termination with the clerk of the Supreme Court. The clerk shall mail copies of the notice to the clinical law professor and the state bar.

ii. The Court at any time, with or without cause or notice or hearing, may terminate a certification of a clinical law professor by filing notice of the termination with the clerk of this Court. The clerk shall mail copies of the notice to the clinical law professor and the state bar.

5. Law Students

A. Law Student Eligibility for Limited Practice Certification. To be eligible to become a certified limited practice student, an applicant must

i. have successfully completed legal studies amounting to at least two semesters, or the equivalent academic hour credits if the law school or the student is on some basis other than a semester, at an accredited law school;

ii. neither ask for nor receive any compensation or remuneration of any kind for services rendered by the certified limited practice student from the person on whose behalf the services are rendered; this requirement does not prevent a supervising lawyer, legal services organization, law school, public defender agency, or the state or any political subdivision thereof from paying compensation to the eligible law student, or prevent any such lawyer or agency from requesting compensation or remuneration for legal services as otherwise authorized;

iii. certify in writing that the student has read and is familiar with the Arizona Rules of Professional Conduct, the rules of the Supreme Court of Arizona, and the statutes of the State of Arizona relating to the conduct of attorneys; and

iv. be certified by the dean of the law school where the student is enrolled as being in good academic standing, of good character, and as having either successfully completed or being currently enrolled in and attending academic courses in civil procedure, criminal law, evidence, and professional responsibility.

B. Application to become a Certified Limited Practice Student or Extend the Certification Period

i. All applications to become a certified limited practice student or to extend the period of certification must be submitted on a form provided by the clerk of the Court, to the clerk, with all the information requested on the form, together with any designated fee. The clerk of the Court shall send a copy of all approved student limited practice certifications to the admissions department of the state bar.

ii. The application for certification or extension must be signed by the applicant, the dean of the law school in which the applicant is enrolled, and the supervising attorney.

iii. The applicant must attest that he or she meets all of the requirements of this rule; will immediately notify the clerk of the Court if he or she no longer meets the requirements of the rules; and has read and will abide by the Arizona Rules of Professional Conduct and these rules.

iv. The dean of the law school in which the applicant is enrolled must attest that the applicant meets the requirements of these rules, and, to the best of the dean's knowledge, is qualified by ability, training, or character to participate in the activities permitted by these rules. The dean must immediately notify the clerk of the Court if the certified limited practice student no longer meets the requirements of these rules.

v. The supervising attorney must specify the period during which he or she will be responsible for supervising the applicant and attest that he or she has read and will abide by the Arizona Rules of Professional Responsibility, these rules, and will assume responsibility under the requirements of these rules.

C. Permitted Activities and Requirements of a Certified Limited Practice Student; Presence of Supervising or Designated Attorney

i. Court and Administrative Tribunal Appearances. A certified limited practice student may appear in any court or before any administrative tribunal in this state on behalf of any person who has consented in writing to that appearance if the supervising attorney has provided written approval of that appearance. The written consent and approval shall be filed in the record of the case and shall be brought to the attention of the judge or presiding officer and the certified limited practice student must advise the court on the occasion of the student's initial appearance in the case of the certification to appear as a law student pursuant to these rules.

ii. Presence of Supervising Attorney or Designated Attorney. The supervising attorney or designated attorney must appear with the certified limited practice student in the following circumstances:

- a. In any civil case in justice, municipal, and magistrate court, unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney;
- b. In any civil case in superior court or before any administrative tribunal.
- c. In any criminal case on behalf of the state or any political subdivision of the state if the case is in the superior court or any appellate court;
- d. In any felony criminal defense case in justice, municipal, and magistrate court, and in any criminal case in superior court;
- e. In any misdemeanor criminal defense case, unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney; however, the supervising attorney or designated attorney must be present during trial; and
- f. In oral argument in the Arizona Supreme Court and the Arizona Court of Appeals, but only with the specific approval of the court for that case.
- g. Notwithstanding anything in this section, the court may at any time and in any proceeding require the supervising attorney or designated attorney to be present.

ii. Other Client Representation Activities. Under the supervision of the supervising attorney, but outside the supervisor's presence, a certified limited practice student may:

- a. prepare pleadings and other documents to be filed in any matter in which the certified limited practice student is eligible to appear, but such pleadings or documents must be signed by the supervising attorney or designated attorney;

- b. prepare briefs, motions, and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising attorney or designated attorney;
- c. assist indigent inmates of correctional institutions or other persons who request such assistance in preparing applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this Court. If there is a lawyer of record in the matter, all assistance must be supervised by the lawyer of record, and all documents submitted to the court on behalf of such a client must be signed by the lawyer of record and the supervising attorney or designated attorney;
- d. give legal advice and perform other appropriate legal services, but only with the consent of the supervising attorney or designated attorney.

iii. Other Non-Representation Activities. In connection with a volunteer legal services program and at the invitation or request of a court or tribunal, a certified limited practice student may appear as a law student volunteer to assist the proceeding in any civil matter, provided:

- a. the assistance is given to an otherwise unrepresented individual in an uncontested proceeding without entering an appearance as counsel;
- b. the student's supervising attorney is associated with the particular volunteer legal services program;
- c. the certified limited practice student has received the written consent and acknowledgment of non-representation by the unrepresented person, which written consent shall be obtained by the volunteer legal services program and brought to the attention of the court.

D. Use of the Title "Certified Limited Practice Student."

- i. A certified limited practice student may use the title "Certified Limited Practice Student" only in connection with activities performed pursuant to these rules.
- ii. When a certified limited practice student's name is printed or signature is included on written materials prepared pursuant to these rules, the written

material must also state that the student is a certified limited practice student pursuant to these rules; state the name of the supervising attorney; be signed by the supervising attorney or designated attorney; and otherwise comply with these rules.

iii. A certified limited practice student shall not hold himself or herself out as an active member of the state bar.

iv. Nothing in these rules prohibits a certified limited practice student from describing his or her participation in this program on a resume or letter seeking employment as long as the description is not false, deceptive, or misleading.

E. Duties of the Supervising Attorney. The supervising attorney must:

i. supervise and assume professional responsibility for any work performed by the certified limited practice student while under his or her supervision;

ii. assist and counsel the certified limited practice student in the activities authorized by these rules and review such activities with the certified limited practice student, all to the extent required for the proper training of the certified limited practice student and the protection of the client;

iii. read, approve, and sign any pleadings, briefs or other documents prepared by the certified limited practice student before the filing thereof, and read and approve any document prepared by the certified limited practice student for execution by any person. If a designated attorney performs this duty in place of the supervising attorney, the supervising attorney shall still provide general supervision;

iv. promptly notify the clerk of the Court in writing if his or her supervision of the certified limited practice student has or will cease before the date indicated on the certification.

F. Substitution of the Supervising Attorney. If the supervising attorney becomes unable to supervise the certified limited practice student during the period of certification, the certified limited practice student must designate a substitute supervising attorney by submitting a form provided by the clerk of the Court, to the clerk, together with any designated fee. The substitute supervising attorney must sign the form and specify the period during which he or she will be responsible for supervising the certified limited practice student. The substitute supervising attorney

must also attest that he or she has read and will abide by the Arizona Rules of Professional Responsibility and will comply with the requirements of these rules.

G. Duration and Termination of Certification. Certification of a certified limited practice student shall begin on the date specified in the certification and shall remain in effect for the period specified in the certification unless sooner terminated by the earliest of the following occurrences:

- i. The certified limited practice student requests termination of the certification in writing or notifies the clerk of the Court that he or she no longer meets the requirements of these rules. In such event the clerk shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.
- ii. The supervising attorney notifies the clerk of the Court in writing that his or her supervision of the certified limited practice student will cease before the date specified in the notice of certification. In such event, the clerk shall send written notice to the student, the student's supervising attorney, the dean, and the state bar. The dean may issue a modified certification reflecting the substitution of a new supervising attorney.
- iii. The dean at any time, with or without cause and notice or hearing, files notice of the termination with the clerk of the Court.
- iv. The Court at any time, with or without cause and notice or hearing, files notice of the termination with the clerk of the Court.
- v. One or more of the requirements for certification no longer exists or the certified limited practice student or supervising attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule, or regulation. In the event of termination, the clerk of the Court shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.

6. Law Graduates

A. Law Graduate Eligibility for Limited Practice Certificate. To be eligible to become a certified limited practice graduate, an applicant must:

- i. have graduated from an accredited law school;
- ii. neither ask for nor receive any compensation or remuneration of any kind for

services rendered by the certified limited practice graduate from the person on whose behalf the services are rendered; this requirement does not prevent a supervising lawyer, legal services organization, law school, public defender agency, or the state or any political subdivision thereof from paying compensation to the eligible law graduate, or prevent any such lawyer or agency from requesting compensation or remuneration for legal services as otherwise authorized;

iii. certify in writing that the law graduate has read and is familiar with the Arizona Rules of Professional Conduct, the rules of the Supreme Court of Arizona, and the statutes of the State of Arizona relating to the conduct of attorneys; and

iv. be certified by the dean of the accredited law school where the law graduate was enrolled on graduation as having graduated in good academic standing and being of good character.

B. Application to Become a Certified Limited Practice Graduate

i. All applications to become a certified limited practice graduate must be submitted on a form provided by the clerk of the Court, to the clerk, with all the information requested on the form, together with any designated fee. The clerk of the Court shall send a copy of all approved graduate limited practice certifications to the admissions department of the state bar.

ii. The application for certification must be signed by the applicant, the dean of the law school where the applicant was enrolled on graduation, and the supervising attorney.

iii. The applicant must attest that he or she meets all of the requirements of this rule, will immediately notify the clerk of the Court if he or she no longer meets the requirements of the rules, and has read and will abide by the Arizona Rules of Professional Conduct and these rules.

iv. The dean of the law school where the applicant was enrolled on graduation must attest that the applicant meets the requirements of these rules, and, to the best of the dean's knowledge, is qualified by ability, training, or character to participate in the activities permitted by these rules. The dean must immediately notify the clerk of the Court if the certified limited practice graduate no longer meets the requirements of these rules.

v. The supervising attorney must specify the period during which he or she will be responsible for and will supervise the applicant and attest that he or she has read and will abide by, the Arizona Rules of Professional Responsibility, these rules, and will assume responsibility under the requirements of these rules.

C. Permitted Activities and Requirements of a Certified Limited Practice Graduate; Presence of Supervising Attorney or Designated Attorney

i. Court and Administrative Tribunal Appearances. A certified limited practice graduate may appear in any court or before any administrative tribunal in this state on behalf of any person who has consented in writing to that appearance if the supervising attorney has also provided written approval of that appearance. In each case, the written consent and approval must be filed in the case and be brought to the attention of the judge or the presiding officer. In addition, the certified limited practice graduate must advise the court at the law graduate's first appearance in the case of the certification to appear as a law graduate pursuant to these rules.

ii. Presence of Supervising Attorney or Designated Attorney. The supervising attorney or designated attorney must appear with the certified limited practice graduate in the following circumstances:

a. In any civil case in justice, municipal, and magistrate court unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney;

b. In any civil case in superior court or before any administrative tribunal;

c. In any criminal case on behalf of the state or any political subdivision of the state if the case is in the superior court or any appellate court;

d. In any felony criminal defense case in justice, municipal, and magistrate court, and in any criminal case in superior court;

e. In any misdemeanor criminal defense case unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney; however, the supervising attorney or designated attorney must be present during trial; and

f. In oral argument in the Arizona Supreme Court and the Arizona Court of Appeals, but only with the specific approval of the court for that case.

g. Notwithstanding anything in this section, the court may at any time and in any proceeding require the supervising attorney or designated attorney to be present.

ii. Other Client Representation Activities. Under the general supervision of the supervising attorney or designated attorney, but outside his or her presence, a certified limited practice graduate may:

a. prepare pleadings and other documents to be filed in any matter in which the certified limited practice graduate is eligible to appear, but such pleadings or documents must be signed by the supervising attorney or designated attorney if filed in the superior court, Arizona Court of Appeals, Arizona Supreme Court, or with an administrative tribunal;

b. prepare briefs, motions, and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising attorney or designated attorney;

c. assist indigent inmates of correctional institutions or other persons who request assistance in preparing applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this Court. If there is a lawyer of record in the matter, all assistance must be supervised by the lawyer of record, and all documents submitted to the court on behalf of such a client must be signed by the lawyer of record and the supervising attorney or designated attorney;

d. give legal advice and perform other appropriate legal services, but only after consultation with and consent of the supervising attorney or designated attorney.

iii. Other Non-Representation Activities. In connection with a volunteer legal services program and at the invitation and request of a court or tribunal, a certified limited practice graduate may appear as a law graduate volunteer to assist the proceeding in any civil matter, provided:

a. the assistance is given to an otherwise unrepresented individual in an

uncontested proceeding without entering an appearance as counsel;

b. the certified limited practice graduate's supervising attorney is associated with the particular volunteer legal services program;

c. the certified limited practice graduate has received the written consent and acknowledgment of non-representation by the unrepresented person, which written consent shall be obtained by the volunteer legal services program and brought to the attention of the court.

D. Use of the Title "Certified Limited Practice Graduate."

i. A certified limited practice graduate may use the title "Certified Limited Practice Graduate" only in connection with activities performed pursuant to these rules.

ii. When a certified limited practice graduate's name is printed or signature is included on written materials prepared pursuant to these rules, the written material must also state that the law graduate is a certified limited practice graduate pursuant to these rules, state the name of the supervising attorney, be signed by the supervising attorney or designated attorney if required by these rules, and otherwise comply with these rules.

iii. A certified limited practice graduate shall not hold himself or herself out as an active member of the state bar.

iv. Nothing in these rules prohibits a certified limited practice graduate from describing his or her participation in this program on a resume or letter seeking employment as long as the description is not false, deceptive, or misleading.

E. Duties of the Supervising Attorney. The supervising attorney must:

i. supervise and assume professional responsibility for any work performed by the certified limited practice graduate while under his or her supervision;

ii. assist and counsel the certified limited practice graduate in the activities authorized by these rules and review such activities with the certified limited practice graduate, all to the extent required for the proper training of the certified limited practice graduate and the protection of the client;

iii. read and approve all pleadings, briefs, or other documents prepared by the certified limited practice graduate as required by these rules; sign any pleading, brief, or other document if required by these rules, and read and approve any document prepared by the certified limited practice graduate for execution by any person. If a designated attorney performs this duty in place of the supervising attorney, the supervising attorney must still provide general supervision;

iv. assume professional responsibility for all pleadings, briefs, or other documents filed in any court or with an administrative tribunal by the certified limited practice graduate under his or her supervision;

v. promptly notify the clerk of the Court in writing if his or her supervision of the certified limited graduate has or will cease before the date indicated on the certification.

F. Substitution of the Supervising Attorney. If the supervising attorney becomes unable to supervise the certified limited practice graduate during the period of certification, the certified limited practice graduate must designate a substitute supervising attorney by submitting a form provided by the clerk of the Court, to the clerk, together with any designated fee. The substitute supervising attorney must sign the form and specify the period during which he or she will be responsible for supervising the certified limited practice graduate. The substitute supervising attorney must also attest that he or she has read and will abide by the Arizona Rules of Professional Responsibility and will comply with the requirements of these rules.

G. Duration and Termination of Certification. Certification of a certified limited practice graduate shall begin on the date specified in the certification and shall remain in effect for the period specified in the certification unless sooner terminated by the earliest of the following occurrences:

i. The certified limited practice graduate requests termination of the certification in writing or notifies the clerk of the Court that he or she no longer meets the requirements of these rules. In such event, the clerk shall send written notice to the law graduate, the law graduate's supervising attorney, the dean, and the state bar.

ii. The supervising attorney notifies the clerk of the Court in writing that his or her supervision of the certified limited practice graduate will cease before the date specified in the certification. In such event, the clerk shall send written notice to the law graduate, the law graduate's supervising attorney, the dean, and

the state bar.

iii. The dean at any time, with or without cause and notice or hearing, files notice of the termination with the clerk of the Court.

iv. The Court at any time, with or without cause or notice or hearing, files notice of the termination with the clerk of the Court.

v. One or more of the requirements for certification no longer exists or the certified limited practice graduate or supervising attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. In the event of termination, the clerk of the Court shall send written notice to the law graduate, the law graduate's supervising attorney, the dean, and the state bar.

vi. The law graduate fails to take the first Arizona uniform bar examination, or the first uniform bar examination offered in another jurisdiction for which the law graduate is eligible.

vii. The law graduate fails to pass the first Arizona uniform bar examination for which the law graduate is eligible or fails to obtain a score equal to or greater than the acceptable score established by the Committee on Examinations on the first uniform bar examination offered in another jurisdiction for which the law graduate is eligible.

viii. Thirty days after the Court notifies the law graduate that he or she has been approved for admission to practice law and is eligible to take the oath of admission.

ix. The Committee on Character and Fitness does not recommend to the Court that the law graduate be admitted to practice law.

x. The law graduate is denied admission to practice law by the Court.

xi. The law graduate is admitted to practice law.

xii. Expiration of 12 months from the date of the law graduate's graduation from law school unless, before expiration of the 12-month period and for good cause shown by the law graduate, the Court extends the 12-month period.

Appendix 1B: RULE 38, ARIZONA RULES OF SUPREME COURT (REDLINE)

(a) – (c) No Change.

(d) Clinical Law Professors, ~~and Law Students,~~ and Law Graduates

1. *Purpose.* ~~This rule is adopted to encourage law schools to provide clinical instruction of varying kinds~~ The purpose of this rule is to provide law students and recent law school graduates with supervised instruction and training in the practice of law for a limited time, and to facilitate volunteer opportunities for those individuals in pro bono contexts.

2. *Definitions.*

A. ~~“Accereditd law school”~~ “Law school” means a law school either provisionally or fully ~~approved and~~ accredited by the American Bar Association.

B. “Certified limited practice student” is a law student ~~or a graduate~~ of an accredited law school who holds a currently effective Arizona Supreme Court Certification as a certified limited practice student.

C. “Certified limited practice graduate” is a law graduate of an accredited law school who holds a currently effective Arizona Supreme Court Certification as a certified limited practice graduate.

D. “Clinical Law Professor” is a faculty member teaching a clinical law program at a law school in Arizona either provisionally or fully accredited by the American Bar Association.

~~E.~~ E. “Dean” means the dean, the academic associate dean, or the dean’s designee of the accredited law school where the law student is enrolled or the law graduate was enrolled on graduation.

~~D.~~ “Designated attorney” is, ~~exclusively in the case of government, any deputy, assistant or other staff attorney authorized and selected by a supervising attorney to supervise the certified limited practice student where permitted by these rules.~~

~~E.~~ F. “Period of supervision” means the dates for which the supervising attorney has declared, on the application for certification or recertification, that he or she

will be responsible for any work performed by the certified limited practice student or the certified limited practice graduate under his or her supervision.

F. ~~“Personal presence” means the supervising attorney or designated attorney is in the physical presence of the certified limited practice student.~~

G. ~~“Rules” means Rule 38, Rules of Supreme Court.~~

H. G. ~~“Supervising attorney” is an attorney admitted to Arizona full or limited practice who~~ active member of the State Bar of Arizona in good standing who has practiced law or taught law in an accredited law school as a full-time occupation for at least two years, and agrees in writing to supervise the certified limited practice student or certified limited practice graduate pursuant to these rules, and is identified as the supervising attorney in ~~and whose names appears on the application for certification or recertification. The supervising attorney may designate a deputy, assistant, or other staff attorney to supervise the certified limited practice student or certified limited practice graduate when permitted by these rules.~~

H. ~~“Volunteer legal services program” means a volunteer legal services program managed by an approved legal services organization in cooperation with an accredited law school. Approved legal service organizations are defined in paragraph (e)(2)(C) of this rule.~~

3. *General Provisions.*

A. Limited Bar Membership. To the extent a professor, ~~or a law student, or law graduate~~ is engaged in the practice of law under this rule, the professor, ~~or law student, or law graduate~~ shall, for the limited purpose of performing professional services authorized by this rule, be deemed an active member of the state bar (but not required to pay fees). The provisions of this rule shall govern rather than the provisions of other rules relating to admission and discipline.

B. Nonapplicability of Attorney Discipline Rules to Terms of the Certification. The procedures otherwise provided by law or court rule governing the discipline of lawyers shall not be applicable to the termination of the certification of a clinical law professor, ~~or a certified limited practice student, or certified limited practice graduate~~ pursuant to ~~this rule~~ these rules. Termination of certification shall be without prejudice to the privilege of the professor, ~~or the law student, or law graduate~~ to ~~make application~~ apply for admission to practice law if the professor,

~~or the~~ law student, or law graduate is in other respects qualified for such admission.

C. Effect of Certification on Application for Admission to Bar. The certification of a clinical law professor, ~~or a limited practice~~ law student, or law graduate shall ~~in no way~~ not be considered as an advantage or a disadvantage to the professor, ~~or the law student, or law graduate~~ in an application for admission to the state bar.

D. Privileged Communications. The rules of law and of evidence relating to privileged communications between attorney and client shall govern communications made or received by and among professors, supervising and designated attorneys ~~(and designated attorneys)~~, and certified limited ~~student~~ practice students, and certified limited practice graduates.

4. *Clinical Law Professors.*

A. Activities of Clinical Law Professors. A clinical law professor ~~not a member of the state bar but~~ who is certified pursuant to this rule may appear as a lawyer solely, in connection with supervision of students in a clinical law program approved by the dean and faculty of in a law school in Arizona ~~either provisionally or fully approved and accredited by the American Bar Association~~. A clinical law professor may appear in any court or before any administrative tribunal in this state in the matters enumerated in paragraph (d)(5)(C) of this rule on behalf of any person, if the person on whose behalf the appearance is being made has consented in writing to that appearance. Such written consent shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal.

B. Requirements and Limitations for Clinical Law School Professors. ~~In order to make an appearance~~ To appear as a lawyer pursuant to ~~this~~ these rules, the clinical law professor must:

~~i. be duly employed as a faculty member of a law school in Arizona either provisionally or fully approved or accredited by the American Bar Association for the purpose, *inter alia*, of instructing and supervising a clinical law program approved by the dean and faculty of such law school;~~

~~ii.~~ i. be admitted by examination to the bar of ~~another~~ any state or the District of Columbia;

~~iii.~~ ii. neither ask for nor receive any compensation or remuneration of any kind

for such services from the person on whose behalf the services are rendered;

~~iv.~~ iii. certify in writing that the clinical law professor has read and is familiar with the Arizona Rules of Professional Conduct and the Rules of the Supreme Court of Arizona and statutes of the State of Arizona relating to the conduct of lawyers; and

~~v.~~ iv. submit evidence that the clinical law professor has successfully completed the course on Arizona law described in [Rule 34\(j\)](#).

C. Certification of the Clinical Law Professor. The certification shall be signed by the clinical law professor and the dean of the law school on the form prescribed by the clerk of ~~this~~ the Court and shall be filed with the clerk and the state bar. The certification shall remain in effect until withdrawn.

D. Duty to Ensure Adequate Supervision and Guidance of Certified Limited Practice Student. ~~It shall be the responsibility of t~~The clinical law professor must ~~to ensure that certified limited practice students receive adequate supervision and guidance while participating in the law school's clinical law program. In the case of a certified student who has graduated and participates in the program pending the taking of the bar examination, the clinical law professor shall, on a monthly basis, based on such reporting from the certified limited practice student and the supervising attorney as the law school shall require, confirm that the certified graduate has received and is receiving adequate attorney supervision and guidance.~~

E. ~~Withdrawal or~~ Termination of Certification.

i. The dean at any time, with or without cause or notice or hearing, may ~~withdraw~~ terminate a certification of a clinical law professor ~~at any time~~ by filing a notice ~~to that effect, with or without stating the cause for the withdrawal, of the termination~~ with the clerk of ~~this Court, who shall forthwith mail copies thereof to the clinical law professor and the State Bar of Arizona~~ the Supreme Court. The clerk shall mail copies of the notice to the clinical law professor and the state bar.

ii. The Court at any time, with or without cause or notice or hearing, may terminate ~~the~~ a certification of a clinical law professor ~~at any time without cause and without notice or hearing~~ by filing notice of the termination with the clerk of this Court ~~and with the state bar~~. The clerk shall mail copies of the notice to the clinical law professor and the state bar.

5. *Practical Training of Law Students*

A. Law Student Eligibility for Limited Practice Certification. To be eligible to become a certified limited practice student, ~~a law student applicant~~ an applicant must

i. have successfully completed legal studies amounting to at least two semesters, or the equivalent academic hour credits if the law school or the student is on some basis other than a semester, at an accredited law school, ~~subject to the time limitation set forth in these rules;~~

ii. neither ask for nor receive any compensation or remuneration of any kind for services rendered by the certified limited practice student from the person on whose behalf the services are rendered, ~~but this shall not;~~ this requirement does not prevent a supervising lawyer, legal aid ~~bureau~~ services organization, law school, public defender agency, or the state or any political subdivision thereof from paying compensation to the eligible law student, ~~nor shall it or prevent any such lawyer or agency from making such charges for its services as it may otherwise properly require~~ requesting compensation or remuneration for legal services as otherwise authorized;

iii. certify in writing that the student has read and is familiar with the Arizona Rules of Professional Conduct, ~~and~~ the rules of the Supreme Court of Arizona, and the statutes of the State of Arizona relating to the conduct of attorneys; and

iv. be certified by the dean of the ~~accredited~~ law school where the student is enrolled (~~or was enrolled on graduation~~), ~~or by the dean's designee~~, as being in good academic standing, of good character, and as having either successfully completed or being currently enrolled in and attending; academic courses in civil procedure, criminal law, evidence, and professional responsibility.

B. Application ~~for~~ to become a Certified Limited Practice Student or Extend the Certification Period

i. All applications ~~for student~~ to become a certified limited practice certification student or ~~requests to change or add a supervising attorney or to~~ extend the period of certification ~~pursuant to these rules~~ must be submitted on a form provided by the clerk of the Court, to the clerk, with all the information requested on the form, together with any designated ~~appropriate nonrefundable processing~~ fee. The clerk of the Court shall send a copy of all approved student limited practice

certifications to the admissions department of the state bar.

ii. ~~The application for certification shall require the signature of the applicant, the dean, associate dean, or assistant dean of the accredited law school in which the applicant is enrolled, and the signature of the supervising attorney. The~~ application for certification or extension must be signed by the applicant, the dean of the law school in which the applicant is enrolled, and the supervising attorney.

iii. The applicant ~~shall~~ must attest that he or she meets all of the requirements of ~~the~~ these rules; ~~agrees to and shall will~~ immediately notify the clerk of the Court ~~in the event if~~ he or she no longer meets the requirements of the rules; and ~~that he or she~~ has read, is familiar with and will abide by the Arizona Rules of Professional Conduct ~~of the State of Arizona~~ and these rules.

iv. The dean, ~~associate dean, or assistant dean~~ of the ~~accredited~~ law school in which the applicant is enrolled ~~shall~~ must attest that the applicant meets the requirements of these rules; ~~that he or she shall immediately notify the clerk of the Court in the event that the certified limited practice student no longer meets the requirements of these rules; and that he or she has no knowledge of facts or information that would indicate that the applicant is not~~ and, to the best of the dean's knowledge, is qualified by ability, training, or character to participate in the activities permitted by these rules. The dean must immediately notify the clerk of the Court if the certified limited practice student no longer meets the requirements of these rules.

v. The supervising attorney ~~shall~~ must specify the period during which he or she will be responsible for ~~and will supervise~~ supervising the applicant and attest that he or she has read, is familiar with, and will abide by the Arizona Rules of Professional Responsibility, these rules, and will assume responsibility under the requirements of these rules.

C. Permitted Activities and Requirements of a Certified Limited Practice ~~Certification~~ Student; ~~Physical~~ Presence of Supervising or Designated Attorney

i. Court and Administrative Tribunal Appearances. A certified limited practice student may appear in any court or before any administrative tribunal in this state on behalf of any person ~~if that person on whose behalf the student is appearing~~ who has consented in writing to that appearance ~~and if the supervising attorney has also indicated in writing provided written approval of that appearance. IN~~

~~each case, The written consent and approval shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal. In addition, and the certified limited practice student shall orally must advise the court on the occasion of the student's initial appearance in the case of the certification to appear as a law student pursuant to these rules. A certified limited practice student may appear in the following matters:~~

~~a. Civil Matters. In civil cases in justice, municipal, and magistrate courts, the supervising lawyer (or designated lawyer) is not required to be personally present in court if the person on whose behalf an appearance is being made consents to the supervising lawyer's absence.~~

~~b. Criminal Matters on Behalf of the State. In any criminal matter on behalf of the state or any political subdivision thereof with the written approval of the supervising attorney (or designated attorney), the supervising attorney (or designated attorney) must be present except when such appearance is in justice, municipal, or magistrate courts.~~

~~c. Felony Criminal Defense Matters. In any felony criminal defense matter in justice, municipal, and magistrate courts, and any criminal matter in superior court, the supervising attorney (or designated attorney) must be personally be present throughout the proceedings and shall be fully responsible for the manner in which they are conducted.~~

~~d. Misdemeanor Criminal Defense Matters. In any misdemeanor criminal defense matter in justice, municipal, or magistrate courts, the supervising attorney (or designated attorney) is not required to be personally present in court, so long as the person on whose behalf an appearance is being made consents to the supervising attorney's absence; however, the supervising attorney shall be present during trial.~~

~~e. Appellate Oral Argument. A certified limited practice student may participate in oral arguments in the Arizona Supreme Court and Court of Appeals, but only in the presence of the supervising attorney (or designated attorney) and with the specific approval of the court for that case.~~

~~Notwithstanding anything hereinabove set forth, the court may at any time and in any proceeding require the supervising attorney (or designated attorney) to be personally present for such period and under such circumstances as the court may~~

direct.

ii. Presence of Supervising Attorney or Designated Attorney. The supervising attorney or designated attorney must appear with the certified limited practice student in the following circumstances:

a. In any civil case in justice, municipal, and magistrate court, unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney;

b. In any civil case in superior court or before any administrative tribunal.

c. In any criminal case on behalf of the state or any political subdivision of the state if the case is in the superior court or any appellate court;

d. In any felony criminal defense case in justice, municipal, and magistrate court, and in any criminal case in superior court;

e. In any misdemeanor criminal defense case, unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney; however, the supervising attorney or designated attorney must be present during trial; and

f. In oral argument in the Arizona Supreme Court and the Arizona Court of Appeals, but only with the specific approval of the court for that case.

g. Notwithstanding anything in this section, the court may at any time and in any proceeding require the supervising attorney or designated attorney to be present.

ii. Other Client Representation Activities. Under the ~~general~~ supervision of the supervising attorney ~~(or designated attorney)~~, but outside ~~his or her personal~~ the supervisor's presence, a certified limited practice student may:

a. prepare pleadings and other documents to be filed in any matter in which the certified limited practice student is eligible to appear, but such pleadings or documents must be signed by the supervising attorney ~~(or designated attorney)~~;

b. prepare briefs, ~~abstracts~~ motions, and other documents to be filed in

appellate courts of this state, but such documents must be signed by the supervising attorney (or designated attorney);

c. ~~provide assistance to~~ assist indigent inmates of correctional institutions or other persons who request such assistance in preparing applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this Court. ~~(If there is a lawyer of record in the matter, all such assistance must be supervised by the lawyer of record, and all documents submitted to the court on behalf of such a client must be signed by the lawyer of record and the supervising attorney (or designated attorney);~~

d. ~~render~~ give legal advice and perform other appropriate legal services, but only ~~after prior consultation with and upon the express~~ with the consent of the supervising attorney (or designated attorney).

iii. Other Non-Representation Activities. ~~A certified limited practice student may perform any advisory or non-representational activity which could be performed by a person who is not a member of the state bar, subject to the approval by the supervising attorney (or designated attorney).~~ In connection with a volunteer legal services program and at the invitation or request of a court or tribunal, a certified limited practice student may appear as a law student volunteer to assist the proceeding in any civil matter, provided:

a. the assistance is given to an otherwise unrepresented individual in an uncontested proceeding without entering an appearance as counsel;

b. the student's supervising attorney is associated with the particular volunteer legal services program;

c. the certified limited practice student has received the written consent and acknowledgment of non-representation by the unrepresented person, which written consent shall be obtained by the volunteer legal services program and brought to the attention of the court.

D. Use of the Title "Certified Limited Practice Student."

i. ~~In connection with activities performed pursuant to these rules, a~~ A certified limited practice student may use the title "Certified Limited Practice Student"

~~only and may not use the title~~ in connection with activities ~~not~~ performed pursuant to these rules.

ii. When a certified limited practice student's name is printed or signature is included on written materials prepared pursuant to these rules, the written material must also state that the student is a certified limited practice student pursuant to these rules; state the name of the supervising attorney; be signed by the supervising attorney or designated attorney; and otherwise comply with these rules.

iii. A certified limited practice student ~~may not and shall not in any way~~ hold himself or herself out as ~~a regularly admitted or~~ an active member of the state bar.

iv. Nothing ~~contained~~ in these rules prohibits a certified limited practice student from describing his or her participation in this program on a resume or letter seeking employment as long as the description is not false, deceptive, or misleading.

E. ~~Requirements and~~ Duties of the Supervising Attorney. The supervising attorney ~~shall~~ must:

~~i. be an active member of the state bar under these rules, and before supervising a certified limited practice student shall have practiced law or taught law in an accredited law school as a full-time occupation for at least two years;~~

~~ii. supervise no more than five (5) certified limited practice students concurrently; provided, however, that a supervising attorney who is employed full time to supervise law students as part of an organized law school or government agency training program may supervise up to, but in no case more than fifty (50) certified students;~~

~~iii.~~ i. supervise and assume personal professional responsibility for any work performed by the certified limited practice student while under his or her supervision;

~~iv.~~ ii. assist and counsel the certified limited practice student in the activities authorized by these rules and review such activities with the certified limited practice student, all to the extent required for the proper training of the certified limited practice student and the protection of the client;

~~v.~~ iii. read, approve, and sign any pleadings, briefs or other documents prepared by the certified limited practice student before the filing thereof, and read and approve any document prepared by the certified limited practice student for execution by any person. If a designated attorney performs this duty in place of the supervising attorney, the supervising attorney shall still provide general supervision;

~~vi. provide the level of supervision to the certified limited practice student required by these rules (exclusively in the case of government agencies, a designated attorney may, in the place of the supervising attorney, perform the obligation set forth in this subparagraph, but the Supervising Attorney shall still provide supervision); and~~

~~vii. in the case of a certified student who is participating in a clinical program post-graduation pending the taking of the bar examination, report to the clinical law professor and the dean of the law school, as the law school shall require, on a monthly basis regarding the supervising attorney's supervision and guidance of the certified student.~~

~~viii.~~ iv. promptly notify the clerk of the Court in writing if his or her supervision of the certified limited practice student has or will cease before the date indicated on the certification.

F. Substitution of the Supervising Attorney. If the supervising attorney becomes unable to supervise the certified limited practice student during the period of certification, the certified limited practice student must designate a substitute supervising attorney by submitting a form provided by the clerk of the Court, to the clerk, together with any designated fee. The substitute supervising attorney must sign the form and specify the period during which he or she will be responsible for supervising the certified limited practice student. The substitute supervising attorney must also attest that he or she has read and will abide by the Arizona Rules of Professional Responsibility and will comply with the requirements of these rules.

~~F.~~ G. Duration and Termination of Certification. Certification of a certified limited practice student shall ~~commence~~ begin on the date ~~indicated on~~ specified in the certification and shall remain in effect for the period specified in the ~~notice of~~ certification unless sooner terminated ~~pursuant to~~ by the earliest of the following occurrences:

i. ~~Termination by the Student.~~ The certified limited practice student ~~may request~~ termination of the certification in writing or ~~notify~~ notifies the clerk of the Court that he or she no longer meets the requirements of ~~this rule, and these rules.~~ ~~i~~n such event the clerk shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.

ii. ~~Termination by the Supervising Attorney.~~ The supervising attorney ~~may notify~~ notifies the clerk of the Court in writing that his or her supervision of the certified limited practice student will cease before the date specified in the notice of certification. In such event, the clerk shall send written notice to the student, the student's supervising attorney, the dean, and the state bar., ~~and t~~The dean may issue a modified certification reflecting the substitution of a new supervising attorney, as necessary.

iii. ~~Termination by the Dean.~~ ~~A certification of student limited practice may be terminated by t~~The dean at any time, with or without cause and without notice or hearing, by filing files notice of the termination with the clerk of the Court. A certification of student limited practice shall be terminated if one or more of the requirements for the certification no longer exists or the certified limited practice student, supervising attorney or designated attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. In the event of termination, the clerk of the Court shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.

iv. ~~Failure to take or Pass the Bar Examination.~~ ~~A certification of a student limited practice shall be terminated if the certified student fails to take or pass the first general bar examination for which the student is eligible. The Court at any time, with or without cause and notice or hearing, files notice of the termination with the clerk of the Court.~~

v. ~~Termination by the Arizona Supreme Court.~~ ~~A certification of student limited practice may be terminated by the Arizona Supreme Court any time, without cause and without notice or hearing, by filing notice of the termination with the clerk of the Court. A certification of student limited practice shall be terminated if o~~One or more of the requirements for the certification no longer exists or the certified limited practice student, or supervising attorney or designated attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule, or regulation. In the event of termination, the clerk of the Court shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.

6. Law Graduates

A. Law Graduate Eligibility for Limited Practice Certificate. To be eligible to become a certified limited practice graduate, an applicant must:

i. have graduated from an accredited law school;

ii. neither ask for nor receive any compensation or remuneration of any kind for services rendered by the certified limited practice graduate from the person on whose behalf the services are rendered; this requirement does not prevent a supervising lawyer, legal services organization, law school, public defender agency, or the state or any political subdivision thereof from paying compensation to the eligible law graduate, or prevent any such lawyer or agency from requesting compensation or remuneration for legal services as otherwise authorized;

iii. certify in writing that the law graduate has read and is familiar with the Arizona Rules of Professional Conduct, the rules of the Supreme Court of Arizona, and the statutes of the State of Arizona relating to the conduct of attorneys; and

iv. be certified by the dean of the accredited law school where the law graduate was enrolled on graduation as having graduated in good academic standing and being of good character.

B. Application to Become a Certified Limited Practice Graduate

i. All applications to become a certified limited practice graduate must be submitted on a form provided by the clerk of the Court, to the clerk, with all the information requested on the form, together with any designated fee. The clerk of the Court shall send a copy of all approved graduate limited practice certifications to the admissions department of the state bar.

ii. The application for certification must be signed by the applicant, the dean of the law school where the applicant was enrolled on graduation, and the supervising attorney.

iii. The applicant must attest that he or she meets all of the requirements of this rule, will immediately notify the clerk of the Court if he or she no longer meets

the requirements of the rules, and has read and will abide by the Arizona Rules of Professional Conduct and these rules.

iv. The dean of the law school where the applicant was enrolled on graduation must attest that the applicant meets the requirements of these rules, and, to the best of the dean's knowledge, is qualified by ability, training, or character to participate in the activities permitted by these rules. The dean must immediately notify the clerk of the Court if the certified limited practice graduate no longer meets the requirements of these rules.

v. The supervising attorney must specify the period during which he or she will be responsible for and will supervise the applicant and attest that he or she has read and will abide by, the Arizona Rules of Professional Responsibility, these rules, and will assume responsibility under the requirements of these rules.

C. Permitted Activities and Requirements of a Certified Limited Practice Graduate; Presence of Supervising Attorney or Designated Attorney

i. Court and Administrative Tribunal Appearances. A certified limited practice graduate may appear in any court or before any administrative tribunal in this state on behalf of any person who has consented in writing to that appearance if the supervising attorney has also provided written approval of that appearance. In each case, the written consent and approval must be filed in the case and be brought to the attention of the judge or the presiding officer. In addition, the certified limited practice graduate must advise the court at the law graduate's first appearance in the case of the certification to appear as a law graduate pursuant to these rules.

ii. Presence of Supervising Attorney or Designated Attorney. The supervising attorney or designated attorney must appear with the certified limited practice graduate in the following circumstances:

a. In any civil case in justice, municipal, and magistrate court unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney;

b. In any civil case in superior court or before any administrative tribunal;

c. In any criminal case on behalf of the state or any political subdivision of the state if the case is in the superior court or any appellate court;

d. In any felony criminal defense case in justice, municipal, and magistrate court, and in any criminal case in superior court;

e. In any misdemeanor criminal defense case unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney; however, the supervising attorney or designated attorney must be present during trial; and

f. In oral argument in the Arizona Supreme Court and the Arizona Court of Appeals, but only with the specific approval of the court for that case.

g. Notwithstanding anything in this section, the court may at any time and in any proceeding require the supervising attorney or designated attorney to be present.

ii. Other Client Representation Activities. Under the general supervision of the supervising attorney or designated attorney, but outside his or her presence, a certified limited practice graduate may:

a. prepare pleadings and other documents to be filed in any matter in which the certified limited practice graduate is eligible to appear, but such pleadings or documents must be signed by the supervising attorney or designated attorney if filed in the superior court, Arizona Court of Appeals, Arizona Supreme Court, or with an administrative tribunal;

b. prepare briefs, motions, and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising attorney or designated attorney;

c. assist indigent inmates of correctional institutions or other persons who request assistance in preparing applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this Court. If there is a lawyer of record in the matter, all assistance must be supervised by the lawyer of record, and all documents submitted to the court on behalf of such a client must be signed by the lawyer of record and the supervising attorney or designated attorney;

d. give legal advice and perform other appropriate legal services, but only after

consultation with and consent of the supervising attorney or designated attorney.

iii. Other Non-Representation Activities. In connection with a volunteer legal services program and at the invitation and request of a court or tribunal, a certified limited practice graduate may appear as a law graduate volunteer to assist the proceeding in any civil matter, provided:

a. the assistance is given to an otherwise unrepresented individual in an uncontested proceeding without entering an appearance as counsel;

b. the certified limited practice graduate's supervising attorney is associated with the particular volunteer legal services program;

c. the certified limited practice graduate has received the written consent and acknowledgment of non-representation by the unrepresented person, which written consent shall be obtained by the volunteer legal services program and brought to the attention of the court.

D. Use of the Title "Certified Limited Practice Graduate."

i. A certified limited practice graduate may use the title "Certified Limited Practice Graduate" only in connection with activities performed pursuant to these rules.

ii. When a certified limited practice graduate's name is printed or signature is included on written materials prepared pursuant to these rules, the written material must also state that the law graduate is a certified limited practice graduate pursuant to these rules, state the name of the supervising attorney, be signed by the supervising attorney or designated attorney if required by these rules, and otherwise comply with these rules.

iii. A certified limited practice graduate shall not hold himself or herself out as an active member of the state bar.

iv. Nothing in these rules prohibits a certified limited practice graduate from describing his or her participation in this program on a resume or letter seeking employment as long as the description is not false, deceptive, or misleading.

E. Duties of the Supervising Attorney. The supervising attorney must:

i. supervise and assume professional responsibility for any work performed by the certified limited practice graduate while under his or her supervision;

ii. assist and counsel the certified limited practice graduate in the activities authorized by these rules and review such activities with the certified limited practice graduate, all to the extent required for the proper training of the certified limited practice graduate and the protection of the client;

iii. read and approve all pleadings, briefs, or other documents prepared by the certified limited practice graduate as required by these rules; sign any pleading, brief, or other document if required by these rules, and read and approve any document prepared by the certified limited practice graduate for execution by any person. If a designated attorney performs this duty in place of the supervising attorney, the supervising attorney must still provide general supervision;

iv. assume professional responsibility for all pleadings, briefs, or other documents filed in any court or with an administrative tribunal by the certified limited practice graduate under his or her supervision;

v. promptly notify the clerk of the Court in writing if his or her supervision of the certified limited graduate has or will cease before the date indicated on the certification.

F. Substitution of the Supervising Attorney. If the supervising attorney becomes unable to supervise the certified limited practice graduate during the period of certification, the certified limited practice graduate must designate a substitute supervising attorney by submitting a form provided by the clerk of the Court, to the clerk, together with any designated fee. The substitute supervising attorney must sign the form and specify the period during which he or she will be responsible for supervising the certified limited practice graduate. The substitute supervising attorney must also attest that he or she has read and will abide by the Arizona Rules of Professional Responsibility and will comply with the requirements of these rules.

G. Duration and Termination of Certification. Certification of a certified limited practice graduate shall begin on the date specified in the certification and shall remain in effect for the period specified in the certification unless sooner terminated by the earliest of the following occurrences:

i. The certified limited practice graduate requests termination of the certification

in writing or notifies the clerk of the Court that he or she no longer meets the requirements of these rules. In such event, the clerk shall send written notice to the law graduate, the law graduate's supervising attorney, the dean, and the state bar.

ii. The supervising attorney notifies the clerk of the Court in writing that his or her supervision of the certified limited practice graduate will cease before the date specified in the certification. In such event, the clerk shall send written notice to the law graduate, the law graduate's supervising attorney, the dean, and the state bar.

iii. The dean at any time, with or without cause and notice or hearing, files notice of the termination with the clerk of the Court.

iv. The Court at any time, with or without cause or notice or hearing, files notice of the termination with the clerk of the Court.

v. One or more of the requirements for certification no longer exists or the certified limited practice graduate or supervising attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. In the event of termination, the clerk of the Court shall send written notice to the law graduate, the law graduate's supervising attorney, the dean, and the state bar.

vi. The law graduate fails to take the first Arizona uniform bar examination, or the first uniform bar examination offered in another jurisdiction for which the law graduate is eligible.

vii. The law graduate fails to pass the first Arizona uniform bar examination for which the law graduate is eligible or fails to obtain a score equal to or greater than the acceptable score established by the Committee on Examinations on the first uniform bar examination offered in another jurisdiction for which the law graduate is eligible.

viii. Thirty days after the Court notifies the law graduate that he or she has been approved for admission to practice law and is eligible to take the oath of admission.

ix. The Committee on Character and Fitness does not recommend to the Court that the law graduate be admitted to practice law.

x. The law graduate is denied admission to practice law by the Court.

xi. The law graduate is admitted to practice law.

xii. Expiration of 12 months from the date of the law graduate's graduation from law school unless, before expiration of the 12-month period and for good cause shown by the law graduate, the Court extends the 12-month period.

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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of	)	
	)	Arizona Supreme Court No. R-20-____
PETITION TO AMEND	)	
RULE 42, OF THE SUPREME	)	
COURT RULES, ERs 7.1 to 7.5	)	
_____	)	

Pursuant to Rule 28, Rules of the Supreme Court of Arizona, the Task Force on the Delivery of Legal Services (“Task Force”) petitions the Court to amend Rule 42 of the Arizona Rules of the Supreme Court, as reflected in the attachments hereto, effective January 1, 2021.

I. Introduction and Background.

Established on November 21, 2018, by Arizona Supreme Court Administrative Order 2018-111, the Task Force was asked to address five charges and to make recommendations on each. The Administrative Order gave the chair

¹ Mr. Byers files this petition in his capacity of a member of the Task Force.

discretion to consider and recommend other rule changes on any topic concerning the delivery of legal services.

The Task Force presented its recommendation to the Arizona Judicial Council (“AJC”) on October 24, 2019. The Report and Recommendations of the Task Force (*Report*), along with other Task Force information, can be found at the Task Force’s webpage: <https://www.azcourts.gov/cscommittees/Legal-Services-Task-Force>. The AJC approved all recommendations of the Task Force, including the recommendation to amend ethical rules (ERs) 7.1 through 7.5 of Supreme Court Rule 42, which was Recommendation 2 of the report.

A clean version of the proposed amendments for ERs 7.1 through 7.5 is attached at Appendix 1A, and a redline version of the proposed amendments is attached at Appendix 1B.

II. Summary of Proposed Amendments to ERs 7.1 through 7.5.

The proposed amendments address lawyer advertising and incorporate many of the 2018 ABA Model Rule amendments and fulfill the Task Force’s charge to identify issues and improvements in the delivery of legal services. As evidenced by Recommendation 2, the Task Force recommends eliminating or amending ethical rules that impede lawyers’ ability to provide cost-effective legal services.

The proposed amendments to these ethical rules would:

- retain the rules' primary regulatory mandate of refraining from making false and misleading communications;
- set forth the requirements for who may identify themselves as a “certified specialist” in an area of law;
- maintain reasonable restrictions on direct solicitation of specific potential clients; and
- eliminate obsolete and anticompetitive provisions that unreasonably restrict the dissemination of truthful advertising.

The most significant amendment, which goes beyond the 2018 ABA Model Rule amendments, would eliminate current ER 7.2(b)'s prohibition against giving *anyone* anything of “value” for recommending a lawyer or referring a potential client to a lawyer. Anecdotally, it has been observed that this provision is violated daily because, taken literally, this provision prohibits taking an existing client golfing to say thank you for a referral or giving a firm paralegal a gift card or sending flowers for referring a family member to the firm. Similarly, there are many ethics opinions issued both in Arizona² and around the United States that provide convoluted attempts to distinguish between what is permissible “group advertising” versus what is an impermissible “referral service.” Not only do these technical interpretations serve no productive regulatory purpose, but the unnecessary complexity in the

² See State Bar of Ariz. Ops.05-08 (2005), 06-06 (2006); 10-01 (2010), and 11-02 (2011).

regulations stifles lawyers' ability to embrace more efficient online marketing platforms for fear the website or service may be deemed a for-profit referral service.

Rule 7.2(b)'s prohibition against "giving anything of value" exists although there is no quantifiable data evidencing that *for-profit* referral services or even paying for referrals confuses or harms consumers. Consumers do not expect online marketing platforms to be nonprofit operations – which are the only referral services permissible under the current regulatory framework. Note that Florida, one of the most restrictive lawyer advertising jurisdictions in the country, already permits for-profit referral services.

The following summarizes the changes proposed for each ER.

ER 7.1 Communications Concerning a Lawyer's Services

The amended rule retains the existing prohibition against "false and misleading" communications about a lawyer's services. Most bar regulators in the United States have expressed the view that this provision is the rule primarily relied on to regulate lawyer advertising. The current requirements for identifying a lawyer as a "certified specialist" were moved from current ER 7.4 into new ER 7.1(b) and the proposed amendment updates the language from restricting use of the term "specialist" to restricting only the use of the phrase "certified specialist," consistent with the ABA Model Rule. This change avoids constitutional challenges to the overly restrictive prohibition in current ER 7.4, which limits use of the term

“specialist.” The proposed changes would also bring Arizona’s rule in line with the ABA Model Rule language in noting that lawyers may not identify themselves as “*certified* specialists” unless they comply with the requirements set forth in court rules. The reference in new ER 7.1(b) to new criteria for certified specialist is contained in Supreme Court Rule 44, and this cross-reference will assist lawyers researching Arizona’s certified specialist advertising requirements. Explanatory comments from current ER 7.4 have been moved to the comments of ER 7.1 to reassure patent attorneys that their specialization is still recognized.

The amendments also move the requirement that all communications must contain the name of a lawyer or law firm and some “contact” information from ER 7.2(c) into new ER 7.1(c). Comments to 7.1 also now include explanatory comments regarding law firm names that were in current ER 7.5. This is consistent with the 2018 Amendments to the ABA Model Rules of Professional Conduct and clarifies that disbarred lawyers’ names and names of lawyers on disability inactive status must be removed from a firm name.

ER 7.2

Current ER 7.2 sets forth specific rules concerning lawyer advertising. The Task Force recommends deleting this rule and moving the substance of current ER 7.2(c) to new ER 7.1(c). Consumer protection afforded by current ER 7.2 can be provided by less non-competitive provisions. For instance, the rules on conflicts of

interest, including ERs 1.7, 1.8, and 1.10, protect clients/consumers because they restrict a lawyer's (and firm's) representation of a client if the lawyer's own interests could "materially limit" the lawyer's independent professional judgment in representing the client. Thus, a lawyer cannot be "forced" to represent a client simply because the client was referred by someone whom the lawyer pays as a referral source. The conflict of interest rules control who and how a lawyer may represent a client, and such representations must be free of any conflict that could materially limit the lawyer's objectivity. Additionally, disclosures revealing that a lawyer will pay referral fees sufficiently informs consumers about the referral system. Such disclosures may be required to comply with ER 7.1's "false and misleading" standard to assure that adequate information is conveyed to website visitors or referral sources about the fact that the site is not a nonprofit operation.

ER 7.3 Solicitation of Clients

Consistent with the 2018 Amendments to the ABA Model Rules, the title of this rule was modified, and a definition of "solicitation" was added. This rule governs direct marketing to individuals with specific needs for legal services, as opposed to general advertising on billboards, business cards, print advertisements, television commercials, websites, and the like. The proposed amendments are narrowly tailored to protect consumers who need legal services in particular matters from overreaching by lawyers. The amendments would preclude, for example,

solicitation letters sent to homeowners in a community where there are known construction defects, car accident victims, members of a neighborhood that has been affected by an environmental hazard, and individuals charged with crimes. As re-defined, “solicitation” would *not* include sending a letter to everyone in a certain zip code simply to introduce a law firm to a general community that does not have a specific legal need (such as an estate planning firm sending letters to everyone in Paradise Valley or a family law attorney sending announcement postcards to all businesses in her business complex, announcing the opening of her office). The definition of “solicitation” also would exempt class action court or rule-required notifications.

ER 7.3 retains the prohibition against in-person (face to face or door-to-door) and real-time electronic (such as telephone calls or Facetime) solicitation, unless the prospective client falls within certain categories of individuals not likely to be overwhelmed by a lawyer’s advocacy/solicitation skills, such as other lawyers, a former client, or a family member or friend of the lawyer. And even for these categories of prospective clients, a lawyer cannot solicit them (or anyone) if they have made known that they do not want to be solicited or the communication involves coercion, harassment, or duress. At the same time, an amendment to ER 7.3 adds an exception to the prohibition against in-person solicitation for communications directly with business people who regularly hire lawyers for

business legal services, consistent with the 2018 Amendments to the ABA Model Rules. The Task Force notes that this language was vetted extensively through ABA entities and Bar regulators to assure that the language could not be misinterpreted to mean, for instance, that a lawyer could call someone who regularly hires business lawyers to solicit business for criminal defense, bankruptcy, or family law matters. The language in the proposed amendment limits this category of prospective client to only those who regularly retain counsel for business purposes and therefore are experienced at receiving calls, emails, and meetings with lawyers seeking to represent their companies.

The proposed amendments delete the current Rule’s “ADVERTISING MATERIAL” notation requirement for envelopes (and filing requirement), consistent with the 2018 Amendments to the ABA Model Rules. Several jurisdictions, including, for instance, the District of Columbia, Massachusetts, Maine, Pennsylvania, North Dakota, Oregon, and Washington either have never had a notation requirement or deleted the requirement years ago. None of these jurisdictions indicate any consumer confusion in receiving written communications from lawyers. Nor is there any empirical evidence to indicate that the notation serves a necessary purpose in alerting consumers to the contents of an envelope. Given the changes in technology and methods of direct marketing consumers receive on a regular basis, there is far less likelihood of a consumer being confused about the

purpose of a direct mail solicitation letter or email today, than perhaps existed in 1985 when the notation requirement was adopted.

ER 7.4

Current ER 7.4 concerns a lawyer's ability to communicate the lawyer's fields of practice. As noted previously, the requirements for identifying a lawyer as a "certified specialist" was moved to new ER 7.1(b). Comments to ER 7.4 regarding patent attorneys were moved to ER 7.1. The remainder of ER 7.4 has been deleted as duplicative of proposed ER 7.1.

ER 7.5

Current ER 7.5 concerns firm names and letterheads. The ABA deleted ER 7.5 as unnecessary, given that ER 7.5 simply described information in a firm name that might be false or misleading. The Task Force recommends deleting ER 7.5 because it is not needed to regulate law firm names. ER 7.1 is sufficient and is the more commonly used regulation. As previously explained, the Task Force recommends moving ER 7.5's comments to ER 7.1.

III. Conclusion

Petitioner respectfully requests that the Court consider this petition and proposed rule changes at its earliest convenience. Petitioner additionally requests that the petition be circulated for public comment, and that the Court adopt the proposed rules as they currently appear, or as modified considering comments received, with an effective date of January 1, 2021.

DATED this 10th day of January, 2020.

_____/s/_____
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APPENDIX

APPENDIX 1A: PROPOSED AMENDED ERS 7.1 THROUGH 7.5 (Clean)

ER 7.1. Communications Concerning a Lawyer's Services

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services.

(a) A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

(b) A lawyer shall not state or imply that a lawyer is certified as a specialist in a particular field of law, unless the lawyer complies with Arizona Supreme Court Rule 44 requirements.

(c) Any communication made pursuant to this Rule shall include the name and contact information for at least one lawyer or law firm responsible for its content.

[1] Misleading truthful statements are prohibited by this Rule. A truthful statement is misleading if it omits a fact necessary to make the lawyer's communication considered as a whole not materially misleading. A truthful statement is misleading if there is a substantial likelihood that it will lead a reasonable person to formulate a specific conclusion about the lawyer or the lawyer's services for which there is no reasonable factual foundation. A truthful statement also is misleading if presented in a way that creates a substantial likelihood that a reasonable person would believe the lawyer's communication requires that person to take further action when, in fact, no action is required.

[2] A communication that truthfully reports a lawyer's achievements on behalf of clients or former clients may be misleading if presented so as to lead a reasonable person to form an unjustified expectation that the same results could be obtained for other clients in similar matters without reference to the specific factual and legal circumstances of each client's case. Similarly, an unsubstantiated comparison of the lawyer's services or fees with the services or fees of other lawyers may be misleading if presented with such specificity as would lead a reasonable person to conclude that the comparison can be substantiated. The inclusion of a clear and conspicuous disclaimer or qualifying language may preclude a finding that a statement is likely to create unjustified expectations or otherwise mislead the public.

[3] It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. ER 8.4(c). See also ER 8.4(e) for the prohibition against stating or implying an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law.

Firm Names

[4] Firm names, letterhead and professional designations are communications concerning a lawyer's services. A firm may be designated by the names of all or some of its current members, by the names of deceased members where there has been a succession in the firm's identity or by a trade name if it is not false or misleading. A firm name cannot include the name of a lawyer who is disbarred or on disability inactive status because to continue to use a disbarred lawyer's name is misleading. A lawyer or law firm may be designated by a distinctive website address, social media username or comparable professional designation that is not misleading. A law firm name or designation is misleading if it implies a connection with a government agency, with a deceased lawyer who was not a former member of the firm, with a lawyer not associated with the firm or a predecessor firm, with a nonlawyer or with a public or charitable legal services organization. If a firm uses a trade name that includes a geographical name such as "Springfield Legal Clinic," an express statement explaining that it is not a public legal aid organization may be required to avoid a misleading implication.

[5] A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction. Lawyers may not imply or hold themselves out as practicing together in one firm when they are not a firm, as defined in Rule 1.0(c), because to do so would be false and misleading. It is misleading to use the name of a lawyer holding a public office in the name of a law firm, or in communications on the law firm's behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.

[6] Paragraph (b) of this Rule permits a lawyer to communicate that the lawyer does or does not practice in particular areas of law. A lawyer is generally permitted to state that the lawyer "concentrates in" or is a "specialist," practices a "specialty," or "specializes in" particular fields based on the lawyer's experience, specialized training or education, but such communications are subject to the "false and misleading" standard applied in this Rule to communications concerning a lawyer's services.

Certified Specialists

[7] The Patent and Trademark Office has a long-established policy of designating lawyers practicing before the Office. The designation of Admiralty practice also has a long historical tradition associated with maritime commerce and the federal courts. A lawyer's communications about these practice areas are not prohibited by this Rule.

[8] This Rule permits a lawyer to state that the lawyer is certified as a specialist in a field of law if such certification is granted by an organization approved by an appropriate authority of a state, the District of Columbia or a United States Territory or accredited by the American Bar Association or another organization, such as a state supreme court or a state bar association, that has been approved by the authority of the state, the District of Columbia or a United States Territory to accredit organizations that certify lawyers as specialists. Certification signifies that an objective entity has recognized an advanced degree of knowledge and experience in the specialty area greater than is suggested by general licensure to practice law. Certifying organizations may be expected to apply standards of experience, knowledge and proficiency to ensure that a lawyer's recognition as a specialist is meaningful and reliable. To ensure that consumers can obtain access to useful information about an organization granting certification, the name of the certifying organization must be included in any communication regarding the certification.

Required Contact Information

[9] This Rule requires that any communication about a lawyer or law firm's services include the name of, and contact information for, the lawyer or law firm. Contact information includes a website address, a telephone number, an email address or a physical office location.

ER 7.2 [Reserved]

ER 7.3. Solicitation of Clients

(a) “Solicitation” or “solicit” denotes a communication initiated by or on behalf of a lawyer or firm that is directed to a specific person the lawyer knows or reasonably should know needs legal services in a particular matter and that offers to provide, or reasonably can be understood as offering to provide, legal services for that matter.

(b) A lawyer shall not solicit professional employment by live person-to-person contact when a significant motive for the lawyer's doing so is the lawyer's or firm's pecuniary gain, unless the contact is with a:

- (1) lawyer;
- (2) person who has a family, close personal, or prior business or professional relationship with the lawyer or firm; or
- (3) person who routinely uses for business purposes the type of legal services offered by the lawyer.

(c) A lawyer shall not solicit professional employment or knowingly permit solicitation on the lawyer's behalf even when not otherwise prohibited by paragraph (b), if:

- (1) the target of the solicitation has made known to the lawyer a desire not to be solicited by the lawyer; or
- (2) the solicitation involves coercion, duress or harassment; or

(d) This Rule does not prohibit communications authorized by law or ordered by a court or other tribunal.

(e) Notwithstanding the prohibitions in this Rule, a lawyer may participate with a prepaid or group legal service plan operated by an organization not owned or directed by the lawyer that uses live person-to-person contact to solicit memberships or subscriptions for the plan from persons who are not known to need legal services in a particular matter covered by the plan.

Comment

[1] A lawyer's communication is not a solicitation if it is directed to the general public, such as through a billboard, an Internet banner advertisement, a website or a television commercial, or if it is in response to a request for information or is automatically generated in response to electronic searches.

[2] “Live person-to-person contact” means in-person, face-to-face, live telephone and other real-time visual or auditory person-to-person communications, where the person is subject to a direct personal encounter without time for reflection. Such person-to-person contact does not include chat rooms, text messages, or other written communications that recipients may easily disregard. A potential for overreaching exists when a lawyer seeking pecuniary gain solicits a person known to be in need of legal services. This form of contact subjects a person to the private importuning of the trained advocate in a direct interpersonal encounter. The person, who may already feel overwhelmed by the circumstances giving rise to the need for legal services, may find it difficult fully to evaluate all available alternatives with reasoned judgment and appropriate self-interest in the face of the lawyer's presence and insistence upon an immediate response. The situation is fraught with the possibility of under influence, intimidation, and overreaching.

[3] The potential for overreaching inherent in live person-to-person contact justifies its prohibition, since lawyers have alternative means of conveying necessary information to those who may be in need of legal services. In particular, communications can be mailed or transmitted by email or other electronic means that do not violate other laws. Those forms of communications make it possible for the public to be informed about the need for legal services, and about the qualifications of available lawyers and law firms, without subjecting the public to live person-to-person persuasion that may overwhelm the person's judgment.

[4] The contents of advertisements and communications permitted under ER 7.2 can be permanently recorded so that they cannot be disputed. This potential for informal review is itself likely to help guard against statements and claims that might constitute false and misleading communications, in violation of ER 7.1. The contents of live person-to-person contact can be disputed and may not be subject to third-party scrutiny. Consequently, they are much more likely to approach (and occasionally cross) the dividing line between accurate representations and those that are false and misleading.

[5] There is far less likelihood that a lawyer would engage in overreaching against a former client or a person with whom the lawyer has a close personal, family, business or professional relationship, or in situations in which the lawyer is motivated by considerations other than the lawyer's pecuniary gain. Nor is there a serious potential for overreaching when the person contacted is a lawyer or is known to routinely use the type of legal services involved for business purposes. Examples include persons who routinely hire outside counsel to represent the entity; entrepreneurs who regularly engage business, employment law or intellectual

property lawyers; small business proprietors who routinely hire lawyers for lease or contract issues; and other people who routinely retain lawyers for business transactions or formations. Paragraph (b) is not intended to prohibit a lawyer from participating in constitutionally protected activities of public or charitable legal-service organizations or bona fide political, social, civic, fraternal, employee or trade organizations whose purposes include providing or recommending legal services to their members or beneficiaries.

[6] A solicitation that contains false or misleading information within the meaning of ER 7.1, that involves coercion, duress or harassment within the meaning of ER 7.3(c)(2), or that involves contact with someone who has made known to the lawyer a desire not to be solicited by the lawyer within the meaning of ER 7.3(c)(1) is prohibited. Live, person-to-person contact of individuals who may be especially vulnerable to coercion or duress ordinarily is not appropriate, including, for example, the elderly, disabled, or those whose first language is not English.

[7] This Rule does not prohibit a lawyer from contacting representatives of organizations or groups that may be interested in establishing a group or prepaid legal plan for their members, insureds, beneficiaries or other third parties for the purpose of informing such entities of the availability of and details concerning the plan or arrangement which the lawyer or lawyer's firm is willing to offer. This form of communication is not directed to people who are seeking legal services for themselves. Rather, it is usually addressed to an individual acting in a fiduciary capacity seeking a supplier of legal services for others who may, if they choose, become prospective clients of the lawyer.

[8] Communications authorized by law or ordered by a court or tribunal include a notice to potential members of a class in class action litigation.

ER 7.4 [Reserved]

ER 7.5 [Reserved]

APPENDIX 1B: PROPOSED AMENDED ERS 7.1 THROUGH 7.5 (MARKUP)

ER 7.1 Communications Concerning a Lawyer's Services

A lawyer shall not make ~~or knowingly permit to be made on the lawyer's behalf~~ a false or misleading communication about the lawyer or the lawyer's services.

(a) A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

(b) A lawyer shall not state or imply that a lawyer is certified as a specialist in a particular field of law, unless the lawyer complies with Arizona Supreme Court Rule 44 requirements.

(c) Any communication made pursuant to this Rule shall include the name and contact information for at least one lawyer or law firm responsible for its content.

Comment [~~2003 Rule~~ 2019 amendment]

~~[1] This Rule governs all communications about a lawyer's services, including advertising permitted by ER 7.2. Whatever means are used to make known a lawyer's services, statements about them must be truthful. A clear and conspicuous disclaimer or qualifying language may preclude a finding that a statement is false or misleading.~~

[2 1] Misleading Truthful statements that are misleading are also prohibited by this Rule. A truthful statement is misleading if it omits a fact necessary to make the lawyer's communication considered as a whole not materially misleading. A truthful statement is also misleading if there is a substantial likelihood that it will lead a reasonable person to formulate a specific conclusion about the lawyer or the lawyer's services for which there is no reasonable factual foundation. A truthful statement also is misleading if presented in a way that creates a substantial likelihood that a reasonable person would believe the lawyer's communication requires that person to take further action when, in fact, no action is required.

[3 2] Promising or guaranteeing a particular outcome or result is misleading. A communication that truthfully reports a lawyer's achievements on behalf of clients or former clients may be misleading if presented so as to lead a reasonable person to form an unjustified expectation that the same results could be obtained for other clients in similar matters without reference to the specific factual and legal

circumstances of each client's case. Similarly, an unsubstantiated comparison of the lawyer's services or fees with the services or fees of other lawyers may be misleading if presented with such specificity as would lead a reasonable person to conclude that the comparison can be substantiated. The inclusion of a clear and conspicuous disclaimer or qualifying language may preclude a finding that a statement is likely to create unjustified expectations or otherwise mislead the public.

[4 3] It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. ER 8.4(c). See also ER 8.4(e) for the prohibition against stating or implying an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law.

Firm Names

[4] Firm names, letterhead and professional designations are communications concerning a lawyer's services. A firm may be designated by the names of all or some of its current members, by the names of deceased members where there has been a succession in the firm's identity or by a trade name if it is not false or misleading. A firm name cannot include the name of a lawyer who is disbarred or on disability inactive status because to continue to use a disbarred lawyer's name is misleading. A lawyer or law firm may be designated by a distinctive website address, social media username or comparable professional designation that is not misleading. A law firm name or designation is misleading if it implies a connection with a government agency, with a deceased lawyer who was not a former member of the firm, with a lawyer not associated with the firm or a predecessor firm, with a nonlawyer or with a public or charitable legal services organization. If a firm uses a trade name that includes a geographical name such as "Springfield Legal Clinic," an express statement explaining that it is not a public legal aid organization may be required to avoid a misleading implication.

[5] A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction. Lawyers may not imply or hold themselves out as practicing together in one firm when they are not a firm, as defined in Rule 1.0(c), because to do so would be false and misleading. It is misleading to use the name of a lawyer holding a public office in the name of a law firm, or in communications on the law firm's behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm. ~~Whether a communication about a lawyer or legal services is false or misleading is based upon the perception of a reasonable person.~~

[6] Paragraph (b) of this Rule permits a lawyer to communicate that the lawyer does or does not practice in particular areas of law. A lawyer is generally permitted to state that the lawyer “concentrates in” or is a “specialist,” practices a “specialty,” or “specializes in” particular fields based on the lawyer’s experience, specialized training or education, but such communications are subject to the “false and misleading” standard applied in this Rule to communications concerning a lawyer’s services. See comment to ER 5.5(b)(2) regarding advertisements and communications by non-members. A non-member lawyer’s failure to inform prospective clients that the lawyer is not licensed to practice law by the Supreme Court of Arizona or has limited his or her practice to federal or tribal legal matters may be misleading.

Certified Specialists

[7] The Patent and Trademark Office has a long-established policy of designating lawyers practicing before the Office. The designation of Admiralty practice also has a long historical tradition associated with maritime commerce and the federal courts. A lawyer’s communications about these practice areas are not prohibited by this Rule.

[8] This Rule permits a lawyer to state that the lawyer is certified as a specialist in a field of law if such certification is granted by an organization approved by an appropriate authority of a state, the District of Columbia or a U.S. Territory or accredited by the American Bar Association or another organization, such as a state supreme court or a state bar association, that has been approved by the authority of the state, the District of Columbia or a U.S. Territory to accredit organizations that certify lawyers as specialists. Certification signifies that an objective entity has recognized an advanced degree of knowledge and experience in the specialty area greater than is suggested by general licensure to practice law. Certifying organizations may be expected to apply standards of experience, knowledge and proficiency to ensure that a lawyer’s recognition as a specialist is meaningful and reliable. To ensure that consumers can obtain access to useful information about an organization granting certification, the name of the certifying organization must be included in any communication regarding the certification.

Required Contact Information

[9] This Rule requires that any communication about a lawyer or law firm’s services include the name of, and contact information for, the lawyer or law firm. Contact information includes a website address, a telephone number, an email address or a physical office location.

ER 7.2 [Reserved] Advertising Communications Concerning a Lawyer's Services: Specific Rules

~~(a) Subject to the requirements of ERs 7.1 and 7.3, a lawyer may advertise services through written, recorded or electronic communication, including public media.~~

~~(b) A lawyer shall not give anything of value to a person for recommending the lawyer's services except that a lawyer may:~~

~~(1) pay the reasonable costs of advertisements or communications permitted by this Rule;~~

~~(2) pay the usual charges of a legal service plan or a not for profit or qualified lawyer referral service, which may include, in addition to any membership fee, a fee calculated as a percentage of legal fees earned by the lawyer to whom the service or organization has referred a matter, provided that any such percentage fee shall not exceed ten percent, and shall be used only to help defray the reasonable operating expenses of the service or organization and to fund public service activities, including the delivery of pro bono legal services. The fees paid by a client referred by such service shall not exceed the total charges that the client would have paid had no such service been involved. A qualified lawyer referral service is a lawyer referral service that has been approved by an appropriate regulatory authority; and~~

~~(3) pay for a law practice in accordance with ER 1.17.~~

~~(c) Any communication made pursuant to this Rule shall include the name and contact information for at least one lawyer or law firm responsible for its content.~~

~~(d) Every advertisement (including advertisement by written solicitation) that contains information about the lawyer's fees shall be subject to the following requirements:~~

~~(1) advertisements and written solicitations indicating that the charging of a fee is contingent on outcome or that the fee will be a percentage of the recovery shall disclose (A) that the client will be liable for expenses regardless of outcome unless the repayment of such is contingent upon the outcome of the matter and (B) whether the percentage fee will be computed before expenses are deducted from the recovery;~~

~~(2) range of fees or hourly rates for services may be communicated provided that the client is informed in writing at the commencement of any client-lawyer relationship that the total fee within the range which will be charged~~

~~or the total hours to be devoted will vary depending upon that particular matter to be handled for each client and the client is entitled without obligation to an estimate of the fee within the range likely to be charged;~~

~~(3) fixed fees for specific routine legal services, the description of which would not be misunderstood or be deceptive, may be communicated provided that the client is informed in writing at the commencement of any client-lawyer relationship that the quoted fee will be available only to clients whose matters fall within the services described and that the client is entitled without obligation to a specific estimate of the fee likely to be charged;~~

~~(4) a lawyer who advertises a specific fee, range of fees or hourly rate for a particular service shall honor the advertised fee, or range of fees, for at least ninety (90) days unless the advertisement specifies a shorter period; provided, for advertisements in the yellow pages of telephone directories or other media not published more frequently than annually, the advertised fee or range of fees shall be honored for no less than one year following publication.~~

~~(e) Advertisements on the electronic media may contain the same information as permitted in advertisements in the print media. If a law firm advertises on electronic media and a person appears purporting to be a lawyer, such person shall in fact be a lawyer employed full-time at the advertising law firm. If a law firm advertises a particular legal service on electronic media, and a lawyer appears as the person purporting to render the service, the lawyer appearing shall be the lawyer who will actually perform the service advertised unless the advertisement discloses that the service may be performed by other lawyers in the firm.~~

~~(f) Communications required by paragraphs (c) and (d) shall be clear and conspicuous. To be "clear and conspicuous" a communication must be of such size, color, contrast, location, duration, cadence, and audibility that an ordinary person can readily notice, read, hear, and understand it.~~

Comment [2003 rule]

~~[1] To assist the public in learning about and obtaining legal services, lawyers should be allowed to make known their services not only through reputation but also through organized information campaigns in the form of advertising. Advertising involves an active quest for clients, contrary to the tradition that a lawyer should not seek clientele. However, the public's need to know about legal services can be fulfilled in part through advertising. This need is particularly acute in the case of persons of moderate means who have not made extensive use of legal services. The~~

~~interest in expanding public information about legal services ought to prevail over considerations of tradition. Nevertheless, advertising by lawyers entails the risk of practices that are misleading or overreaching.~~

~~[2] This ER permits public dissemination of information concerning a lawyer's name or firm name, address, email address, website, and telephone number; the kinds of services the lawyer will undertake; the basis on which the lawyer's fees are determined, including prices for specific services and payment and credit arrangements; a lawyer's foreign language ability; names of references and, with their consent, names of clients regularly represented; and other information that might invite the attention of those seeking legal assistance.~~

~~[3] Questions of effectiveness and taste in advertising are matters of speculation and subjective judgment. Some jurisdictions have had extensive prohibitions against television and other forms of advertising, against advertising going beyond specified facts about a lawyer, or against "undignified" advertising. Television, the Internet, and other forms of electronic communication are now among the most powerful media for getting information to the public, particularly persons of low and moderate income; prohibiting television, Internet, and other forms of electronic advertising, therefore, would impede the flow of information about legal services to many sectors of the public. Limiting the information that may be advertised has a similar effect and assumes that the bar can accurately forecast the kind of information that the public would regard as relevant. But see ER 7.3(a) for the prohibition against a solicitation through a real-time electronic exchange initiated by the lawyer.~~

~~[4] Neither this Rule nor ER 7.3 prohibits communications authorized by law, such as notice to members of a class action litigation.~~

~~[5] Except as permitted under paragraphs (b)(1)–(b)(3), lawyers are not permitted to pay others for recommending the lawyer's services or channeling professional work in a manner that violates ER 7.3. A communication contains a recommendation if it endorses or vouches for a lawyer's credentials, abilities, competence, character, or other professional qualities. Directory listings, group advertisements, and online referral services that list lawyers by practice area do not constitute impermissible "recommendations."~~

~~[3] Paragraph (b)(1), however, allows a lawyer to pay for advertising and communications permitted by this ER, including the costs of print directory listings, on-line directory listings, newspaper ads, television and radio airtime, domain name registrations, sponsorship fees, Internet-based advertisements, and group~~

~~advertising. A lawyer may compensate employees, agents and vendors who are engaged to provide marketing or client development services, such as publicists, public relations personnel, business development staff and website designers. Moreover, a lawyer may pay others for generating client leads, such as Internet-based client leads, as long as the lead generator is consistent with ERs 1.5(e) (division of fees) and 5.4 (professional independence of the lawyer), and the lead generator's communications are consistent with ER 7.1 (communications concerning a lawyer's services). To comply with ER 7.1, a lawyer must not pay a lead generator that states, implies, or creates a reasonable impression that it is recommending the lawyer, is making the referral without payment from the lawyer, or has analyzed a person's legal problems when determining which lawyer should receive the referral. Giving or receiving a de minimis gift that is not a quid pro quo for referring a particular client is permissible. See also ER 5.3 (duties of lawyers and law firms with respect to the conduct of nonlawyers); ER 8.4 (duty to avoid violating the ERs through the actions of another).~~

~~[6] A lawyer may pay the usual charges of a legal service plan or a not-for-profit or qualified lawyer referral service. A legal service plan is a prepaid or group legal service plan or a similar delivery system that assists people who seek to secure legal representation. Published and electronic group advertising and directories are not lawyer referral services, but participation in such listings is governed by ERs 7.1 and 7.4. A lawyer referral service, on the other hand, is any organization in which a person or entity receives requests for lawyer services, and allocates such requests to a particular lawyer or lawyers or that holds itself out to the public as a lawyer referral service. Such referral services are understood by the public to be consumer-oriented organizations that provide unbiased referrals to lawyers with appropriate experience in the subject matter of the representation and afford other client protections, such as complaint procedures or malpractice insurance requirements. Consequently, this ER only permits a lawyer to pay the usual charges of a not-for-profit or qualified lawyer referral service. A qualified lawyer referral service is one that is approved by an appropriate regulatory authority, such as the State Bar of Arizona, as affording adequate protections for the public.~~

~~[7] The reasonable operating expenses of a legal service plan or lawyer referral service include payment of the actual expenses of operating, conducting, promoting and developing the service, including expenditures for capital purposes for the service, as determined on a reasonable accounting basis and with provision for reasonable reserves. Public service activities of a legal service plan or lawyer referral service include the following: (a) furnishing or providing funding for legal services to persons and entities financially unable to pay for all or part of such services; (b)~~

~~developing and implementing programs to educate members of the public with respect to the law, the judicial system, the legal profession, or the need, manner of obtaining, and availability of legal services; and (c) creating and administering programs to improve the administration of justice or aid in relations between the Bar and the public.~~

~~[8] A lawyer who accepts assignments or referrals from a legal service plan or referrals from a lawyer referral service must act reasonably to assure that the activities of the plan or service are compatible with the lawyer's professional obligations. See ER 5.3. Legal service plans and lawyer referral services may communicate with the public, but such communication must be in conformity with these ERs. Thus, advertising must not be false or misleading, as would be the case if the communications of a group advertising program or a group legal services plan would mislead the public to think that it was a lawyer referral service sponsored by a state agency or bar association. Nor could the lawyer allow in-person, telephonic, or real-time contacts that would violate ER 7.3.~~

~~[9] Paragraph (f) requires communications under paragraphs (c) and (d) to be clear and conspicuous. In addition to the requirements of paragraph (f), a statement may not contradict or be inconsistent with any other information with which it is presented. If a statement modifies, explains, or clarifies other information with which it is presented, it must be presented in proximity to the information it modifies, in a manner that is readily noticeable, readable, and understandable, and it must not be obscured in any manner.~~

ER 7.3 Solicitation of Clients

(a) "Solicitation" or "solicit" denotes a communication initiated by or on behalf of a lawyer or firm that is directed to a specific person the lawyer knows or reasonably should know needs legal services in a particular matter and that offers to provide, or reasonably can be understood as offering to provide, legal services for that matter.

~~(a b)~~ A lawyer shall not solicit professional employment by live person-to-person in-person, live telephone or real-time electronic contact ~~solicit professional employment from the person contacted or employ or compensate another to do so~~ when a significant motive for the lawyer's doing so is the lawyer's or firm's pecuniary gain, unless the ~~person contacted~~ contact is with a:

(1) ~~is a lawyer; or~~

(2) person who has a family, close personal, or prior business or professional relationship with the lawyer or firm; or

(3) person who routinely uses for business purposes the type of legal services offered by the lawyer.

~~(b c)~~ A lawyer shall not solicit professional employment or knowingly permit solicitation on the lawyer's behalf ~~from the person contacted by written, recorded or electronic communication or by in-person, telephone or real-time electronic contact~~ even when not otherwise prohibited by paragraph ~~(a b)~~, if:

(1) the target of the solicitation has made known to the lawyer a desire not to be solicited by the lawyer; or

(2) the solicitation involves coercion, duress or harassment; or

~~(3) the solicitation relates to a personal injury or wrongful death and is made within thirty (30) days of such occurrence.~~

(d) This Rule does not prohibit communications authorized by law or ordered by a court or other tribunal.

~~(e) Every written, recorded or electronic communication from a lawyer soliciting professional employment from anyone known or believed likely to be in need of legal services for a particular matter shall include the words "Advertising Material" in twice the font size of the body of the communication on the outside envelope, if any, and at the beginning and ending of any recorded or electronic communication;~~

~~unless the recipient of the communication is a person specified in paragraphs (a)(1) or (a)(2).~~

~~(1) At the time of dissemination of such written communication, a written copy shall be forwarded to the State Bar of Arizona at its Phoenix office.~~

~~(2) Written communications mailed to prospective clients shall be sent only by regular U.S. mail, not by registered mail or other forms of restricted delivery.~~

~~(3) If a contract for representation is mailed with the written communication, the contract shall be marked "sample" in red ink and shall contain the words "do not sign" on the client signature line.~~

~~(4) The lawyer initiating the communication shall bear the burden of proof regarding the truthfulness of all facts contained in the communication, and shall, upon request of the State Bar or the recipient of the communication, disclose how the identity and specific legal need of the potential recipient were discovered.~~

~~(d e)~~ Notwithstanding the prohibitions in ~~paragraph (a)~~this Rule, a lawyer may participate with a prepaid or group legal service plan operated by an organization not owned or directed by the lawyer that uses in live person-to-person ~~or telephone~~ contact to solicit memberships or subscriptions for the plan from persons who are not known to need legal services in a particular matter covered by the plan.

2003 Comment [2009 2019 amendment]

[1] ~~A solicitation is a targeted communication initiated by the lawyer that is directed to a specific person and that offers to provide, or can reasonably be understood as offering to provide, legal services. In contrast, a~~ A lawyer's communication typically ~~does is~~ not constitute a solicitation if it is directed to the general public, such as through a billboard, an Internet banner advertisement, a website or a television commercial, or if it is in response to a request for information or is automatically generated in response to ~~Internet~~ electronic searches. ~~See ER 8.4 (duty to avoid violating the ERs through the actions of another).~~

[2] "Live person-to-person contact" means in-person, face-to-face, live telephone and other real-time visual or auditory person-to-person communications, where the person is subject to a direct personal encounter without time for reflection. Such person-to-person contact does not include chat rooms, text messages, or other written communications that recipients may easily disregard. There is a A potential for abuse overreaching exists when a lawyer seeking pecuniary gain solicits solicitation a person ~~involves direct in-person, live telephone or real-time electronic~~

~~contact by a lawyer with someone known to be in need of legal services. This~~ These forms of contact subjects a person to the private importuning of the trained advocate in a direct interpersonal encounter. The person, who may already feel overwhelmed by the circumstances giving rise to the need for legal services, may find it difficult fully to evaluate all available alternatives with reasoned judgment and appropriate self-interest in the face of the lawyer's presence and insistence upon an immediate response ~~being retained immediately~~. The situation is fraught with the possibility of undue influence, intimidation, and overreaching.

[3] ~~The This~~ potential for ~~abuse~~ overreaching inherent in ~~direct in-person, live person-to-person contact telephone or real-time electronic solicitation~~ justifies its prohibition, particularly since lawyers have alternative means of conveying necessary information to those who may be in need of legal services. In particular, communications can be mailed or transmitted by email or other electronic means that do not ~~involve real-time contact and do not~~ violate other laws governing ~~solicitations~~. Those forms of communications ~~and solicitations~~ make it possible for the public to be informed about the need for legal services, and about the qualifications of available lawyers and law firms, without subjecting the public to ~~direct in live person-to-person, telephone or real-time electronic~~ persuasion that may overwhelm the person's judgment.

[4] ~~The use of general advertising and written, recorded or electronic communications to transmit information from lawyer to the public, rather than direct in-person, live telephone or real-time electronic contact, will help to assure that the information flows cleanly as well as freely.~~ The contents of advertisements and communications permitted under ER 7.2 can be permanently recorded so that they cannot be disputed ~~and may be shared with others who know the lawyer~~. This potential for informal review is itself likely to help guard against statements and claims that might constitute false and misleading communications, in violation of ER 7.1. The contents of ~~direct in-live person-to-person, live telephone or real-time electronic~~ contact can be disputed and may not be subject to third-party scrutiny. Consequently, they are much more likely to approach (and occasionally cross) the dividing line between accurate representations and those that are false and misleading.

[5] There is far less likelihood that a lawyer would engage in ~~abusive practices~~ overreaching against a former client or a person with whom the lawyer has a close personal, or family, business or professional relationship, or in situations in which the lawyer is motivated by considerations other than the lawyer's pecuniary gain. Nor is there a serious potential for ~~abuse~~ overreaching when the person contacted is

a lawyer or is known to routinely use the type of legal services involved for business purposes. Examples include persons who routinely hire outside counsel to represent the entity; entrepreneurs who regularly engage business, employment law or intellectual property lawyers; small business proprietors who routinely hire lawyers for lease or contract issues; and other people who routinely retain lawyers for business transactions or formations. Consequently, the general prohibition in ER 7.3(a) and the requirements of ER 7.3(c) are not applicable in those situations. Also, p Paragraph (ab) is not intended to prohibit a lawyer from participating in constitutionally protected activities of public or charitable legal-service organizations or bona fide political, social, civic, fraternal, employee or trade organizations whose purposes include providing or recommending legal services to its their members or beneficiaries.

[6] ~~But even permitted forms of solicitation can be abused. Thus, any A solicitation which that contains false or misleading information which is false or misleading within the meaning of ER 7.1, which that involves coercion, duress or harassment within the meaning of ER 7.3(b-c)(2), or which that involves contact with someone who has made known to the lawyer a desire not to be solicited by the lawyer within the meaning of ER 7.3(b-c)(1) is prohibited. Moreover, if after sending a letter or other communication to a person as permitted by paragraph (c), the lawyer receives no response, any further effort to communicate with the person may violate the provisions of ER 7.3(b). Live, person-to-person contact of individuals who may be especially vulnerable to coercion or duress ordinarily is not appropriate, including, for example, the elderly, disabled, or those whose first language is not English.~~

[7] This ER Rule is does not intended to prohibit a lawyer from contacting representatives of organizations or groups that may be interested in establishing a group or prepaid legal plan for their members, insureds, beneficiaries or other third parties for the purpose of informing such entities of the availability of and details concerning the plan or arrangement which the lawyer or lawyer's firm is willing to offer. This form of communication is not directed to people who are seeking legal services for themselves. Rather, it is usually addressed to an individual acting in a fiduciary capacity seeking a supplier of legal services for others who may, if they choose, become prospective clients of the lawyer. Under these circumstances, the activity which the lawyer undertakes in communicating with such representatives and the type of information transmitted to the individual are functionally similar to and serve the same purpose as advertising permitted under ER 7.2.

[8] The requirement in ER 7.3(c) that certain communications be marked "Advertising Material" does not apply to communications sent in response to

~~requests of potential clients or their spokespersons or sponsors. General announcements by lawyers, including changes in personnel or office location, do not constitute communications soliciting professional employment from a client known to be in need of legal services within the meaning of this Rule.~~

~~[9] Lawyers may comply with the requirement of paragraph (c)(1) by submitting (a) a copy of every written, recorded or electronic communication soliciting professional employment from a prospective client known or believed likely to be in need of legal services for a particular matter, or (b) a single copy of any identical communication published or sent to more than one person and a list of the names and mailing or e-mail addresses or fax numbers of the intended recipients and the dates identical solicitations were published or sent. Lawyers may comply with the requirement of paragraph (c)(1) by submitting the required communications and information to the State Bar on a monthly basis.~~

~~[10] The State Bar may dispose of the submissions received pursuant to paragraph (c)(1) after one year following receipt.~~

~~[11] Paragraph (d) of this Rule permits a lawyer to participate with an organization which uses personal contact to solicit members for its group or prepaid legal service plan, provided that the personal contact is not undertaken by any lawyer who would be a provider of legal services through the plan. The organization must not be owned by or directed (whether as manager or otherwise) by any lawyer or law firm that participates in the plan. For example, paragraph (d) would not permit a lawyer to create an organization controlled directly or indirectly by the lawyer and use the organization for the in-person or telephone solicitation of legal employment of the lawyer through memberships in the plan or otherwise. The communication permitted by these organizations also must not be directed to a person known to need legal services in a particular matter, but is to be designed to inform potential plan members generally of another means of affordable legal services. Lawyers who participate in a legal service plan must reasonably assure that the plan sponsors are in compliance with ERs 7.1, 7.2 and 7.3(b). See ER 8.4(a).~~

ER 7.4. [Reserved]— Communication of Fields of Practice

~~(a) A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law. A lawyer shall not state or imply that the lawyer is a specialist except as follows:~~

~~(1) a lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "patent attorney" or a substantially similar designation;~~

~~(2) a lawyer engaged in admiralty practice may use the designation "admiralty," "proctor in admiralty" or a substantially similar designation; and (3) a lawyer certified by the Arizona Board of Legal Specialization or by a national entity that has standards for certification substantially the same as those established by the board may state the area or areas of specialization in which the lawyer is certified. Prior to stating that the lawyer is a specialist certified by a national entity, the entity must be recognized by the board as having standards for certification substantially the same as those established by the board. If the national entity has not been recognized by the board, it may make application for recognition by completing an application form provided by the board.~~

~~(b) Communications to the Arizona Board of Legal Specialization and its Advisory Commissions relating to an applicant's qualifications for specialization certification shall be absolutely privileged, and no civil action predicated thereon may be instituted or maintained against any evaluator, staff or witness who communicates with or before the Board or its Advisory Commissions. Members of the Board of Legal Specialization, its Advisory Commission, and others involved in the specialization certification process shall be immune from suit for any conduct in the course of their official duties.~~

Comment

~~[1] This Rule permits a lawyer to indicate areas of practice in communications about the lawyer's services; for example, in a telephone directory or other advertising. If a lawyer practices only in certain fields, or will not accept matters except in such fields, the lawyer is permitted so to indicate. However, stating that the lawyer is a "specialist" in a particular field is not permitted. These terms have acquired a secondary meaning implying formal recognition as a specialist. Hence, use of these terms may be misleading unless the lawyer is certified or recognized in accordance with procedures in the state where the lawyer is licensed to practice.~~

~~[2] Recognition of specialization in patent matters is a matter of long-established policy of the Patent and Trademark Office. Designation of admiralty practice has a long historical tradition associated with maritime commerce and the federal courts.~~

ER 7.5. [Reserved] Firm Names and Letterheads

~~(a) A lawyer shall not use a firm name, letterhead or other professional designation that violates ER 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1.~~

~~(b) A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.~~

~~(c) The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.~~

~~(d) Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact.~~

~~COMMENT TO 2003 AND 2012 AMENDMENTS~~

~~[1] [2012 Amendment] A firm may be designated by the names of all or some of its members, by the names of deceased or retired members where there has been a continuing succession in the firm's identity, or by a trade name such as the "ABC Legal Clinic." A lawyer or law firm may also be designated by a distinctive website address or comparable professional designation that complies with ER 7.1.~~

~~[2] [2003 Amendment] With regard to paragraph (d), lawyers sharing office facilities, but who are not in fact associated with each other in a law firm, may not denominate themselves as, for example, "Smith and Jones," for that title suggests that they are practicing law together in a firm.~~

~~[3] [2003 Amendment] "Of counsel" designation may be used to state or imply a relationship between lawyers only if the relationship is close, personal, continuous, and regular.~~



Meeting Date: February 4, 2020

Subject: Update on the Public Information and Messaging Workgroup

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Alberto Rodriguez, Co-chair, State Bar of Arizona; Aaron Nash, (Co-chair) Public Information Officer, AOC

Presenters: (Same)

Discussion:

Presenters will discuss the workgroup's efforts regarding:

- Air Conditioning legal information sheets and materials online in English and Spanish – will promote going into the summer.
- Short videos from clerks and law librarians and promoting legal information sheets and resources related to warrants are still in the planning stages.
- The workgroup is available to support information sharing related to AZPOINT as that program develops.
- ACAJ annual report improvements – workgroup leaders will receive regular requests for content throughout the year.
- ABA traveling exhibit on the 100th anniversary of the 19th Amendment guaranteeing women's right to vote.

Recommended motion: None.



Meeting Date: February 4, 2020

Subject: Rejuvenation of Law4AZ Report

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Ms. Gretchen Hornberger, Coconino County Law Library and member of the ACAJ Public Information and Messaging Workgroup.

Presenters: Same.

Discussion: Ms. Hornberger, will discuss the grant application to revive the Law4AZ project, the elements involved, and timelines for development and training.

Recommended motion: None.



Meeting Date: February 4, 2020

Subject: Report from the Self-Represented Litigants in Limited Jurisdiction Courts Workgroup

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Judge Anna Huberman, Chair – SRL-LJC Workgroup

Presenters: (Same)

Discussion: The SRL-LJC workgroup met on January 23, 2020. Judge Huberman will discuss the new focus of the workgroup regarding consumer debt in the limited jurisdiction courts and other work accomplished.

- A brand-new military services video has been completed and will be posted shortly. The Spanish version is being finalized.
- Rule Petition [R-19-0042](#) was approved on November 12, 2019, on an expedited basis to update the web addresses on the Residential Eviction Procedures Information Sheet (REIS) in the Rules of Procedure for Eviction Actions.
- The workgroup's next phase is Consumer Debt with new and existing subject-matter experts.

Recommended motion: None



Meeting Date: February 4, 2020

Subject: AZCourtHelp.org website update

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Dr. Kevin Ruegg, Executive Director, Arizona Foundation for Legal Services & Education, and Cathleen Cole, Content Manager, Arizona Foundation for Legal Services & Education

Presenters: (Same)

Discussion: Discussion will include updated statistics and analysis from Google Analytic reports for AZCourtHelp.org website, and enhancements and improvements to the website since the last report.

Recommended motion: None.



Google Analytic Results

<i>Timeframe</i>	<i>Sessions</i>	<i>Users</i>	<i>New Users</i>	<i>Pageviews</i>
10/1/18 – 12/31/18	55,405	46,832	45,542	142,030
10/1/19 – 12/31/19	60,317	49,150	47,694	172,672
<i>Difference</i>	8.87%	4.95%	4.73%	21.57%

Devices Used

<i>Timeframe</i>	<i>Desktop</i>	<i>Cell Phone</i>	<i>Tablet</i>
10/1/18 – 12/31/18	24,029	20,951	2,096
10/1/19 – 12/31/19	23,788	23,541	1,544
<i>Difference</i>	-1.00%	12.36%	-26.34%

Acquisition of Users

<i>Timeframe</i>	<i>Organic Search</i>	<i>Referral</i>	<i>Direct</i>	<i>Google Ad</i>	<i>Social Media</i>
10/1/18 – 12/31/18	30,137	8,097	6,716	2,801	66
10/1/19 – 12/31/19	27,035	9,326	6,571	7,344	132
<i>Difference</i>	-10.29%	15.18%	-2.16%	162.19%	100%

Top 10 Referrals

<i>10/1/18 – 12/31/18</i>	<i>10/1/19 – 12/31/19</i>
AZCourts.gov – 4,614	AZCourts.gov – 5,952
AZLawHelp.org – 616	Phoenix.gov – 986
courts.Yavapai.us – 554	courts.Yavapai.us – 512
sc.Pima.gov – 159	AZLawHelp.org – 214
jp.Pima.gov – 150	jp.Pima.gov – 155
Mohavecourts.com – 123	sc.Pima.gov – 136
Navajocountyaz.gov – 121	Goodyearaz.gov – 126
Maranaaz.gov – 116	Navajocountyaz.gov – 119
Flagstaff.az.gov – 112	Housing.az.gov – 98
Goodyearaz.gov – 101	Azpoint.azcourts.gov – 70

Top 10 Cities

<i>10/1/18 – 12/31/18</i>	<i>10/1/19 – 12/31/19</i>
Phoenix – 12,743	Phoenix – 15,931
Tucson – 2,679	Tucson – 2,680
Los Angeles – 1,809	Mesa – 1,909
Mesa – 1,609	Los Angeles – 1,761
Scottsdale – 1,084	Scottsdale – 1,268
Tempe – 1,033	Tempe – 1,089
Chandler – 775	Chandler – 1,019
La Victoria – 764	Glendale – 865
Glendale – 718	Gilbert – 853
Gilbert – 690	Las Vegas – 652

To contribute content or provide feedback - Cathleen.Cole@azflse.org



Top 10 Pages Viewed on the Site

#Views	Page Name/Link
10,238	Electronic Court Records
7,458	Forms
6,527	Find My Court
3,973	Self-Help Resources
3,642	Court Calendars
2,808	Qué significa días calendario?
2,601	Justice Court Locations
2,274	Live Chat
2,188	Child Support Information
2,114	Legal Aid Resources

Top 10 Outbound Links

#Clicks	Form Name
887	Public Access Case Lookup
804	Maricopa Superior Court Calendar
701	Child Support Calculator
538	Maricopa Justice Court Calendar
529	Access to Justice Online Intake
492	Free Legal Answers
427	Phoenix Municipal Record Request
366	Maricopa Law Library – Family Court
341	Maricopa Justice Courts
340	Mohave Court Calendars

Top 10 Google Searches in #1 spot

Search Term
Az court help
Azcourthelp.org
Writ of restitution az
15 dias calendario
Can you make payments on a speeding ticket
Can you make payments on a traffic ticket
Court schedule
20 dias calendario
Divorce in az
Defensor de oficio definicion

Top 10 Searched Terms on ACH

Search Term
Name change
Divorce
Child support
Eviction
Probate
Order of protection
Power of attorney
Guardianship
Forms
Court date

To contribute content or provide feedback - Cathleen.Cole@azflse.org



AZCourtHelp.org

ANALYTICAL COMPARISON

33%

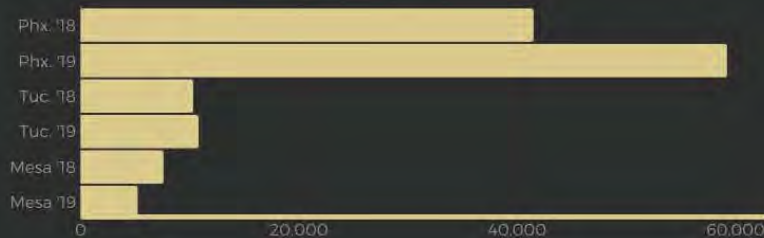
INCREASE IN PAGEVIEWS

672,061 IN 2019 V. 503,998 IN 2018



NUMBER OF USER
SESSIONS FROM 2017
TO 2019

USERS FROM THE TOP 3 ARIZONA TOWNS



MOST COMMON PAGEVIEWS



ELECTRONIC COURT
RECORDS
32,517 IN 2019
20,269 IN 2018



FORMS
26,637 IN 2019
19,079 IN 2018



¿QUÉ SIGNIFICA
"DÍAS CALENDARIO"?
16,747 IN 2019
17,151 IN 2018



FIND MY COURT
23,372 IN 2019
13,769 IN 2018



Meeting Date: February 4, 2020

Subject: Judicial and Attorney Engagement Workgroup

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Judge Joe Kreamer, Chair

Presenters: Same.

Discussion: The workgroup met on ____, 2020.

Judge Kreamer will discuss the workgroup's strategic planning focus, including engaging public lawyers, engaging law firms, and judicial engagement.

Recommended motion: None.



Meeting Date: February 4, 2020

Subject: Report from the Inter-Governmental Collaborative Workgroup

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Judge Lawrence F. Winthrop, Chair

Presenters: Judge Winthrop, Chris Groninger, Janet Regner, Kevin Groman, Maria Morlacci.

Discussion: The workgroup met on January 21, 2019. The presenters will discuss the workgroup's proposed follow-up and strategic planning focus.

Recommended motion: None.



Meeting Date: February 4, 2020

Subject: Report on the Family Court Improvement Committee

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Hon. Bruce Cohen, Presiding Judge – Family Department, Maricopa County Superior Court

Presenters: Same.

Discussion: The Family Court Improvement Committee was established by Administrative Order 2019-115 as a standing committee of the Arizona Judicial Council. Among the charges of the committee are:

- Make recommendations that would improve and enhance family law statutes, rules, and court processes and procedures.
- Develop and coordinate policies and strategies that would improve the likelihood that child support will be paid.
- Conduct the federally mandated quadrennial Child Support Guidelines review and make recommendations on issues raised by the 2017 Committee for an Interim Review of the Child Support Guidelines.
- Identify and respond to the emerging trends and issues impacting family court services.
- Advise the Administrative Office of the Courts Education Services Division about judicial officer and court staff educational needs.
- Provide advice regarding the use of online dispute resolution in family court cases.

Judge Cohen will provide an update on the committee's efforts.

Recommended motion: None.



Meeting Date: February 4, 2020

Subject: ACAJ Strategic Agenda Development

Type of action requested:

- ☐ Formal action or request
- ☐ Information only
- ☒ Other

Topics or initiatives	Member



Arizona Commission on Access to Justice

Meeting Agenda

May 14, 2020 - 10:00 a.m. to 12:30 p.m.

[ACAJ WEBPAGE](#)

	TIME	AGENDA ITEM	PRESENTER
1	10:00 a.m.	Review Zoom etiquette Welcome and Opening Remarks Approval of minutes from February 4, 2020 ☐ <i>Formal Action/Request</i> Chairperson's report • COVID • ABA Day on the Hill http://ambar.org/abadaydigital • Governor's executive orders "CARES Act, Subsidized Housing and Evictions" Podcast link Podcast materials • Amended Best Practice EO 2020-14 Podcast link Podcast materials • Arizona Disaster Legal Information Hotline • COVID-19 Arizona Judicial Branch Updates https://www.azcourts.gov/covid19	<i>Judge Lawrence F. Winthrop, Chair</i>
2	10:30 a.m.	Report on Office of Administrative Hearings trainings https://www.azoah.com/	<i>Mr. Greg Hanchett, Director of the Office of Administrative Hearings</i>
3	10:50 a.m.	Modification of Support for Incarcerated Parents ☐ <i>Formal Action/Request</i>	<i>Judge Bruce Cohen, Presiding Judge, Family Department, Maricopa County Superior Court</i>

**All times are approximate and subject to change. The committee chair reserves the right to set the order of the agenda. For any item on the agenda, the committee may vote to go into executive session as permitted by Arizona Code of Judicial Administration § 1-202. Please contact ACAJ staff, Kathy Sekardi at (602) 452-3253 or Julie Graber, at (602) 452-3250 with any questions concerning this agenda. Any person with a disability may request a reasonable accommodation, such as auxiliary aids or materials in alternative formats, by contacting Sabrina Nash at (602) 452-3849. Requests should be made as early as possible to allow time to arrange the accommodation.*

4	11:05 a.m.	Update on the Delivery of Legal Services Task Force R-20-0034 Petition to Restyle and Amend Supreme Court Rule 31; Adopt New Rule 33.1; and Amend Rules 32, 41, 42 (Various ERs from 1.0 to 5.7), 46-51, 54-58, 60, and 75-76 Order Amending Rule 39 of the Arizona Rules of the Supreme Court on an Emergency Basis ACJA 7-209 Alternative Business Structures Flow chart for ABSs ACJA 7-210 Limited License Legal Practitioner Flow Chart for LLLPs Administrative Order No. 2020-25 Pilot DVLDP	<i>Jennifer Albright, Sr. Court Policy Analyst, AOC</i>
5	11:25 a.m.	Report from Legal Service Providers re COVID-19 efforts: Southern Arizona Legal Aid Community Legal Services DNA-People's Legal Services	<i>Anthony Young, SALA Pam Bridge, CLS Rodolfo Sanchez, DNA People's Legal Services</i>
6	11:35 a.m.	Update on the Public Information and Messaging Workgroup 2019 ACAJ Annual Report	<i>Aaron Nash, Public Information Officer, AOC</i>
7	11:45 a.m.	Report from the Self-Represented Litigants in Limited Jurisdiction Courts Workgroup https://www.azcourts.gov/Portals/34/20200429EvictionGuidanceFinal.pdf Cares Act Subsidized Housing Podcast link Cares Act Subsidized Housing Podcast materials Amended Best Practice EO 2020-14 Podcast link Amended Best Practice EO 2020-14 Podcast materials	<i>Judge Anna Huberman Pam Bridge, CLS Paul Julien, Judicial Education Officer, AOC</i>
8	11:55 a.m.	Report on the AZCourtHelp.org website https://covid19.azlawhelp.org	<i>Dr. Kevin Ruegg and Cathleen Cole</i>

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- 9 12:15 p.m. **Report from the Judicial and Attorney
Engagement Workgroup**

*Judge Joe Kreamer
Joel England
Chris Groninger*

- 10 12:25 p.m. **Good of the Order / Call to the Public**
12:30 p.m. **Adjournment**

Judge Winthrop

Next meeting - November 19, 2020
Conference Room 119 A/B; 10:00 a.m. to 3:00 p.m. (1 hour longer than normal)

Save the dates for 2021

February 4, 2021

November 2, 2021

May 6, 2021

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**Arizona Commission on Access to Justice
MINUTES**

Tuesday, February 4, 2020

10:00 a.m. to 2:00 p.m.

State Courts Building, 1501 W. Washington Street, Conf. Rm. 119A/B, Phoenix, AZ 85007

Present: Judge Lawrence Winthrop (chair), Mike Baumstark, Judge Thomas Berning (*telephonic*), Judge Bruce Cohen, Judge Maria Elena Cruz, Nancy Gray-Eade (*proxy for Judge David Haws*), Anni Foster, Kevin Groman (*telephonic*), Judge Anna Huberman, Judge Joseph C. Kreamer, Maria Morlacci, Helen Purcell (*telephonic*), Dr. Kevin Ruegg, Rodolfo Sanchez (*telephonic*), Kathy Schaben, Valerie Wyatt, Anthony Young

Absent/Excused: Kip Anderson, Pamela Bridge, Judge Dean Christoffel, Joel England, William Knight,

Presenters/Guests: Dave Byers, Cathleen Cole, Chris Groninger, Alberto Rodriguez, Gretchen Hornberger,

Administrative Office of the Courts (AOC) Staff: Theresa Barrett, Julie Graber, Sabrina Nash,

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the February 4, 2020 meeting of the Arizona Commission on Access to Justice (ACAJ) was called to order by Judge Lawrence F. Winthrop, chair at 10:05 a.m. Judge Winthrop welcomed and introduced new members; Judge Bruce Cohen, Rodolfo Sanchez and Kathy Schaben. He also introduced Judge Samuel Thumma to the commission.

B. Approval of Minutes

The draft minutes from the November 13, 2019, ACAJ meeting were presented for approval.

Motion: Judge Joseph Kreamer moved to approve the November 13, 2019, minutes, as presented. **Seconded:** Maria Morlacci. **Vote:** Unanimous.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Chairperson's Report

Judge Winthrop reviewed the purpose of the commission as stated in Administrative Order 2014-83.

- Examine legal representation for moderate and low-income persons.
- Help self-represented litigants navigate the judicial process.
- To study and make recommendations on innovative ways on promoting access to justice for individuals who can't afford legal counsel, or who choose to represent themselves in civil cases.

- Evaluate best practices in Arizona and other states and to identify possible changes in court rules or practices to reduce barriers to meaningful access.
- Identify and pursue adopting best practices among legal service providers in Arizona and to consider long-term funding options for civil legal services.
- Make recommendations to assist self-represented litigants in revised court rules and practices to facilitate the efficient processing of family court and eviction cases.
- Encourage lawyers and law firms to provide pro bono services or financial support for civil legal aid for those who can't afford legal services.
- Develop an informational campaign to inform lawyers and the public about the state tax credit available for contributions to agencies that serve the working poor, including legal service agencies in Arizona.
- On December 20, 2019 the President signed U.S. Senate appropriations legislation that included \$440 million dollars to the Legal Service Corporation (LSC) to provide civil legal aid services across the country. This is a \$25 million dollar increase from last year, distribution of funds is based on census numbers which may change in the future.
- ACAJ presented its written Annual Report to the Arizona Judicial Council (AJC) in December and Judge Winthrop updated AJC on the following:
 - The revival of the Law for Arizona Libraries project,
 - AZCourtHelp statistics,
 - Completion of the eviction videos, and the new topic that the ACAJ SRL-LJC workgroup is addressing - consumer debt.
 - The 20th anniversary of the Arizona Domestic Violence Legal Assistance Project and the number of Arizonans that have benefited from the project and the Arizona Tax Credit program.
- The Domestic Violence Legal Document Preparer Pilot Project has been approved by the Arizona Supreme Court. The pilot project will allow non-lawyer lay advocates to become certified as legal document preparers and will be able provide free assistance, legal information and document preparation for victims of domestic violence under the guidance and supervision of legal aid entities.
- The Maricopa County Veteran's Stand Down Alliance held its annual event at the Veterans Memorial Coliseum. This event assists veterans and their families who are struggling with homelessness and other issues to get and stay connected to supportive resources.

B. Update on Arizona Online Dispute Resolution Pilot Projects (ODR)

Cathy Clarich, Caseflow Manager, AOC, briefly discussed two family superior courts that are participating in the ODR pilot (Yuma and Pinal counties), and Scottsdale municipal court is piloting misdemeanor and parking cases. Concurrently, Maricopa County is piloting its own ODR program in their courts on civil debt collection and child support enforcement cases.

- Yuma County was the first ODR pilot court in 2018. Their focus is on post-decree modifications; child visitation, parenting time and legal decision-making.
- Pinal County has a higher volume of cases and conciliation services. They have added pre-decree cases to online dispute resolution.
- Scottsdale municipal court has two case types: criminal misdemeanor pleas and disputed parking cases. An individual can request a plea by mail and the staff

will review the request and forward it to the prosecutor who'll determine if they want to offer a plea, and if so handle all the signing of the plea agreement and related documents through online dispute resolution.

Ms. Clarich noted that the pilots end March 2020, both Pinal county and Scottsdale municipal courts would like to extend the pilot. She mentioned the development of a workgroup made up of members from the AOC's standing committees to determine next steps:

- Allow participants to opt-in/opt-out.
- Mandatory for all courts to participate.
- Case types to include in ODR.
- Cost of administering the program.
- Determine the biggest needs for the courts before going statewide.

C. Update on the Delivery of Legal Services Task Force

Dave Byers, Executive Director, AOC, updated members on the status of recommendations from the Delivery of Legal Services Task Force (LSTF). He noted that two petitions have been filed on the Rules Forum for public comment.

- Petition R-20-0034 – primarily focuses on the development of a regulatory structure for regulating legal services businesses that involve nonlawyers owners, managers and decision-makers. It also proposes adopting a new nonlawyer category of limited license legal practitioner (LLLP).
- Petition R-20-0030 – would amend the Ethical Rules regarding lawyer advertising, solicitation and referral.

The petitions filed have a two-step comment period, the first comment period ends March 30, 2020, the workgroup will then respond to the comments and refile in April. The second comment closes May 26, 2020. The workgroup will again review comments received and make edits. The Supreme Court will review the petitions at the August 2020 Rules Agenda. Mr. Byers noted that the Report and Recommendations of the Delivery of Legal Services Task force along with other task force information, can be found on the task force's [webpage](#).

D. Update on the Public Information and Messaging Workgroup (taken out of order)

Aaron Nash, co-chair, updated the commission on the workgroup's efforts:

- The air conditioning legal information sheets and materials have been posted online in both English and Spanish – will promote the air conditioning information closer to summer.
- Warrants are one of the highest search topics when looking for information on the court's webpage. Info sheets and other materials are in development for this topic.
- PIM assisted with putting together the annual report this year. To obtain information for the report throughout the year, a SharePoint page has been created where members can provide their quarterly information. ACAJ members will be receiving reminder emails requesting information for the annual report.
- AOC has purchased a replica of the American Bar Association traveling exhibit on the 100th anniversary of the 19th Amendment guaranteeing women the right to vote. Justice Timmer will be presenting it at a conference and PIM is in the process of developing a calendar for use in scheduling the traveling exhibit.

- AZCourtCare.org will go live in February on the AZCourtHelp.org website as a resource for information about mental health treatment resources and options, including involuntary treatment in Arizona.

E. Report on Revival of the Law4AZ project (taken out of order)

Gretchen Hornberger, Law Librarian, Coconino County has been in touch with Katie Hobbs, Secretary of State, and Holly Henley, state librarian, to discuss the grant application to revive the Law4AZ project and to work out the timelines for development and training. The project is a collaboration between the Secretary of State and the state library system. The Law4AZ project sends volunteer law librarians around the state to train public librarians on how to help patrons find useful law-related information. Ms. Hornberger is taking a phased approach to the revival of Law4AZ.

- Year one is planning and measuring where the justice gap statewide is in relation to legal needs of the public and their access to legal information. Updating training to take to public libraries and train the law librarian trainers.
- Year two will focus on in-person training in the libraries where the justice gap is the greatest. Another goal in year two is to increase technological capacity of libraries to be broadcast receiving sites for the AZCourtHelp Legal Talks.

F. Report from the Self-Represented Litigants in Limited Jurisdiction Courts Workgroup (taken out of order)

Judge Anna Huberman reported on the following workgroup activities:

- The subsidized housing and military services videos have been completed and will be posted to the website shortly.
- Rule Petition R-19-0042 was approved on November 12, 2019, on an expedited basis to update the web addresses on the Residential Eviction Procedures Information Sheet (REIS) in the Rules of Procedure for Eviction Actions.
- The workgroup's next topic is Consumer Debt with new and existing subject-matter experts. The workgroup has listed several potential consumer debt topics and will narrow the list during the next workgroup meeting.

G. Report on the AZCourtHelp.org website (taken out of order)

Cathleen Cole stated that AZCourtHelp has been working with the Committee on Mental Health and the Justice System to develop an online presence for mental health court. The AZCourtCare.org website was created to share information about treatment resources and options in Arizona. Ms. Cole demonstrated the website and explained that it provides basic information on what to do in a crisis, forms and other resources, processes that can apply to any Arizona county, a glossary and collection of acronyms to assist individuals through the process. The direct link is [AZCourtCare.org](https://www.azcourthelp.org) and there is also a link to the website on AZCourtHelp.org. Based on the success of postcards and business cards created for AZCourtHelp, Judge Winthrop suggested that cards be developed for AZCourtCare.

H. Report from the Judicial and Attorney Engagement Workgroup

Judge Joseph Kreamer stated the workgroup has not met but announced that his busy schedule has slowed down, and he will be scheduling a meeting soon to discuss pro bono services, judicial and attorney engagement, in-house counsel and finding volunteer opportunities for lawyers. He stated the current challenge of pro bono work for in-house

counsel and governmental attorneys is matching volunteer opportunities with their limited time and options.

I. Report from the Intergovernmental Collaborative Workgroup

Chris Groninger stated that the workgroup has been using fact sheets produced in conjunction with the Justice in Government Project to assist in conversations with other agencies to encourage them to integrate legal services in the other services offered by the agencies. The workgroup focused on three areas.

- Re-entry – met with the Governor’s office to talk about the benefits of integrating legal services in the Second Chance Centers to those who are receiving services to assist with employment or housing issues.
- Kinship Care/Guardianship – two webinars showcasing promising programs or services that are provided by other state’s legal aid programs to assist grandparents and family members with the guardianship issues encountered due to the opioid crisis have been presented to interested legal aid programs.
- Domestic Violence Community –successful in moving the pilot project forward and are working to create partnerships with the legal aid community, non-profit community and courts to provide legal assistance for victims. Currently seeking funding sources to assist with the work of the pilot project and expanding the Domestic Violence Legal Assistance project.

J. Report from the Family Court Improvement Committee

Judge Bruce Cohen, Presiding Judge, Family Department, Maricopa County Superior Court, announced that he is a member of the new AOC standing committee, Family Court Improvement Committee. He stated that the committee has met twice and outlined the tasks assigned to them in Administrative Order 2019-115:

- Make recommendations that would improve and enhance family law statutes, rules, and court processes and procedures.
- Develop and coordinate policies and strategies to improve the likelihood of child support being paid.
- Conduct the federally-mandated quadrennial Child Support Guidelines review and make recommendations on the issues raised by the 2017 Committee for the Interim Review of Child Support Guidelines.
- Identify and respond to emerging trends and issues that impact family court services.
- Advise the AOC Education Services Division on judicial officer and court staff educational needs.
- Provide advice regarding the use of online dispute resolution in family court.

Discussion on how to deal with self-represented litigants among various judges. Judge Cohen volunteered to arrange training for judges, administrative law judges and support staff on the challenges of dealing with the self-represented community and how it benefits the judges and the courts. Judge Huberman suggested checking the Commission on Judicial Conduct cases for potential participants for training.

K. Strategic Agenda Development Session

Judge Winthrop asked the members to review the 2019 ACAJ Annual Report, the current and the previous Strategic Agendas with a focus on access to justice. He asked members to bring strategic agenda ideas to the May 2020 meeting.

III. OTHER BUSINESS

A. Good of the Order/Call to the Public

No members of the public were present.

B. Next Meeting Date

Thursday, May 14, 2020

10:00 a.m. to 3:00 p.m.

State Courts Building, Room 119

1501 W. Washington Street

Phoenix, AZ 85007

Adjourned at 1:56 p.m.



Meeting Date: May 14, 2020

Subject: Office of Administrative Hearings training

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Mr. Greg Hanchett, Director of the Office of Administrative Hearings

Presenters: (Same)

Arizona residents every day seek relief from administrative decisions arising out of various state agencies.

Mr. Greg Hanchett, the Director of the Office of Administrative Hearings, will discuss their approach to self-represented litigants and training for hearing officers as it relates to those litigants.

To access the extensive webpage of the Arizona Office of Administrative Hearings go to <https://azoah.com/index.html>

Recommended motion: None



OAH METHODOLOGIES TO ENHANCE PRO SE ACCESS TO ADMINISTRATIVE HEARINGS

Short History of OAH

► **Mission Statement:**

- We will contribute to the quality of life in the State of Arizona by fairly and impartially hearing the contested matters of our fellow citizens arising out of state regulation.

► **Created by the Legislature in 1995 for Two Reasons:**

- Create a more efficient means of providing due process hearings which arise out of state regulation.
- Provide a forum for due process hearings that is fair, impartial and free from actual or perceived agency bias.

► **Central Panel States**

- In creating OAH, Arizona joined a growing list of states providing for centralized hearing panels for resolution of due process hearings growing out of state regulation.

Key is Dedication to Providing Fair and Impartial hearings for Seeking Truth

- ▶ It drives:
 - ▶ Whole system(whole agency) approach
 - ▶ Design of interactive resources for litigants
 - ▶ Structure of agency interactions with participants (both judges and staff)
 - ▶ Structure of hearings
 - ▶ Training
 - ▶ Utilization of external input (participant evaluations, complaints)

Identifying Methods To Enhance Pro Se Accessibility to Hearings

- ▶ Agency Tools to facilitate Access By All Parties (Focus on Customer!)
 - ▶ Clear, Easily Navigated Websites
 - ▶ www.azoah.com
 - ▶ Make Forms As Accessible As Possible
 - ▶ OAH Website provides an easy means for any litigant to file a motion
 - ▶ <https://www.azoah.com/motions.html>
 - ▶ Staff Training
 - ▶ Provide staff guidelines to empower staff to provide appropriate information to litigants.
 - ▶ Immediate response to telephone and email inquires (no waiting days to provide information).
 - ▶ If can't provide immediately, advise when response will be provided.

Hearing Processes to Facilitate Access

- ▶ Overcoming our misperceptions about “neutrality.”
 - ▶ Judge is obligated to ascertain the truth and to apply the law correctly.
 - ▶ Judge must also be impartial and maintain appearance of impartiality.
 - ▶ These concerns are not mutually exclusive but are concomitant.
 - ▶ *Richard Zorza*: The task is to identify the techniques that judges can use to be simultaneously engaged and neutral, so they can find the facts they need while being truly free from bias or taint.

Examples of Hearing Processes

- ▶ (1) Framing the subject matter of the hearing.
- ▶ (2) Explaining process to be followed at hearing.
 - ▶ Burden of proof
 - ▶ Telling parties that judge may be asking questions and possibly probing for additional details and that this does not in any way indicate any type of prejudging but is undertaken so judge can do his job (i.e., get all facts and write an accurate decision because judge’s job is to follow the law).
 - ▶ Who will go forward first (which party, possibly judge, i.e., ROC cases)
- ▶ (3) OAH has a script to be followed (subject, of course, to exigencies of particular case)

Training and External Feedback

- ▶ (1) Requiring Annual Training
- ▶ (2) OAH Ethical Standards
- ▶ (3) Post Final Agency Decision Evaluation for rejected Recommended Decisions
- ▶ (4) Participant Evaluation and Post Decision Complaint Process

Requiring Annual ALJ CLE training related to administrative law.

- ▶ **OAH must develop, implement and maintain a program for continuing training and education of administrative law judges. A.R.S. § 41-1092.01(C)(7).**
- ▶ **Individual ALJ requirements**
 - ▶ Each ALJ must attend and complete four hours of continuing legal education each year. Three hours in areas related to administrative law and/or fair and independent hearings and one hour of ethics. A.R.S. §41-1092.01(C)(7).
 - ▶ OAH arranges and pays for CLE. CLE must be obtained from State Bar or other Director approved sources.
 - ▶ No later than June 30th of each year each ALJ must report completed CLE.
- ▶ **Management requirements**
 - ▶ Director must annually review and identify training topics for ALJ's. Consideration of
 - ▶ CLE each judge has reported during the year
 - ▶ Information received through OAH's oversight and external input procedures.

OAH Ethical Standards

- ▶ Adopted NAALJ Rules early on as standards of conduct for ALJ's.
- ▶ Available on our website for public to review.
- ▶ <https://www.azoah.com/OAHCodeofJudicialConduct.pdf>

Post Final Agency Decision Evaluations

The screenshot shows a software window titled "Evaluation of Agency Response". The window has a menu bar with "General" and "Options". Below the menu bar is a toolbar with icons for "New", "Open", "Save", "Print", and "Refresh (F5)". The main area of the window is divided into two panes. The left pane is titled "Description: Evaluation of Agency Response" and contains several input fields: "Date", "Weekends" (with a dropdown menu), "Holidays" (with a dropdown menu), "Plus", "Weekends" (with a dropdown menu), "Holidays" (with a dropdown menu), "Alt parent", "Date", and "Weekends" (with a dropdown menu). The right pane is titled "Default notes" and contains a list of instructions: "Delete non applicable categories/subcategories; annotate applicable categories/subcategories after dash provided". Below the instructions are three numbered sections: "1. ALJ ERROR", "2. AGENCY DISCRETION", and "3. NON-SUBSTANTIVE". Each section has a list of sub-points: "1a. Shifted burden of persuasion -", "1b. Misidentified or misapplied relevant law -", "1c. Did not address relevant issue/issues -", "2a. Reweighed evidence or considered evidence not in the record -", "2b. Different interpretation of law or considered authority not presented at hearing -", and "3. NON-SUBSTANTIVE -".

Participant Evaluation and Complaint Process

- ▶ A.R.S 41-1092.01(8) requires OAH to have a program of evaluation of AIJ's that includes comments received from the public. We offer participants the ability to provide feedback about the entire process including the impartiality and attentiveness of judge. This info. is maintained and provided in our annual report.
 - ▶ <https://www.azoah.com/24thAnnualReport.pdf>
- ▶ Complaint Process is also available to participants.
 - ▶ No impact on case outcome but is a recommended practice:
<http://www.chicagoappleseed.org/wp-content/uploads/2019/03/Central-Panel-Report-2.17.pdf>
 - ▶ <http://intranet.arrakis.azoah.com/docs/ALJComplaintReviewProcedureFINAL.pdf>

Resources

- ▶ Richard Zorza, *Self-Represented Litigants and the Access to Justice Revolution in the State Courts: Cross-Pollinating Perspectives Toward a Dialogue for Innovation in the Courts and the Administrative System*, 29 J. Nat'l Ass'n Admin. L. Judiciary Iss. 1 (2009)
<https://digitalcommons.pepperdine.edu/naalj/vol29/iss1/3/>
- ▶ www.azoah.com



Meeting Date: May 14, 2020

Subject: Incarcerated Support Obligors

Type of action requested:

- ☒ Formal action or request
- ☐ Information only
- ☐ Other

From: Bruce R. Cohen

Presenters: Bruce R. Cohen

Discussion: Nationwide, it is recognized that an appreciable number of those sentenced to prison do so with an existing child support obligation. Yet there is an extremely low percentage of those inmates who proactively seek to modify the child support order for the period of incarceration, despite the fact that the incarceration serves as a factual basis to seek modification. Efforts have been made to inform those about to begin a period of incarceration about their right to seek modification, but those efforts have not resulted in any significant remediation of the problem.

I am suggesting the formation of a workgroup that would streamline the process for newly sentenced inmates to apply for IV-D services. If the application is made, there would be the opportunity to seek modification without any of the constraints caused by imprisonment.

In the vast majority of cases, this population of support-obligated parents will be released from prison. Other jurisdictions have found that these parents encounter a lower earning capacity and significant support arrears. This may impede their inclination to commence support payments and may turn them toward earnings through an underground economy.

Recommended motion: Formation of a workgroup



Meeting Date: May 14, 2020

Subject: Update on the Delivery of Legal Services

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Jennifer Albright, Sr. Policy Analyst and staff to the Delivery of Legal Services Task Force

Presenters: Same

Discussion: Ms. Albright will report on the implementation plans and efforts that have been made regarding the Delivery of Legal Services recommendations.

The Report and Recommendations of the Task Force along with other Task Force information, can be found at the Task Force's webpage:

<https://www.azcourts.gov/cscommittees/Legal-Services-Task-Force>.

Recommended motion: None.

Meeting material hyperlinks:

[R-20-0034 Petition to Restyle and Amend Supreme Court Rule 31; Adopt New Rule 33.1; and Amend Rules 32, 41, 42 \(Various ERs from 1.0 to 5.7\), 46-51, 54-58, 60, and 75-76](#)

[Order Amending Rule 39 of the Arizona Rules of the Supreme Court on an Emergency Basis](#)

[ACJA 7-209 Alternative Business Structures](#)

[Flow chart for ABSs](#)

[ACJA 7-210 Limited License Legal Practitioner](#)

[Flow Chart for LLLPs](#)

[Administrative Order No. 2020-25 Pilot DVLDP](#)

DELIVERY OF LEGAL SERVICES PROJECT UPDATES

Jennifer R. Albright,
AOC

RULE PETITION R-20-0034 MAY 22 COMMENT PERIOD CLOSSES

Alternative Business Structures (ABS)

- Eliminate barrier to nonlawyers having ownership interest in law firms
- Licensed by Supreme Court with annual renewal
- Only lawyers deliver legal services
- State Bar discipline process
- Substantial overlap in ethical rules with lawyers
- Compliance attorney required
- Background checks of owners

Limited License Legal Practitioner (LLLP)

- Nonlawyers
- Legal representation in family law, LJ Civil, misdemeanors where no jail, administrative law, landlord/tenant, & debt collection
- Examination, licensed, affiliate bar members
- Same ethical rules and discipline process as lawyers
- First 3 years, experience based waiver of education requirements

R-20-0007; RULE 39(C)

- Limited practice certification for recent law graduates
- Not a new rule; clarifies and makes process clearer
- Comment period remains open until May 29, 2020
- August Rules Agenda
- Adopted by emergency order on April 6
 - Avenue for recent graduates to start jobs if July Bar Exam delayed
 - Benefit to government agencies, nonprofits, other law practices serving those affected by pandemic

BAR FOUNDATION DVLDP PILOT

- DV Lay Advocates ; Legal Aid Attorneys as Supervisors
- January AO Issued: 2020-25
- Ramping up toward start date (early fall)
 - Examination drafting
 - Online materials ad training delivery
 - Candidate selection and applications

UARIZONA LICENSED LEGAL ADVOCATE PILOT

- Lay Legal Advocates; Emerge
- UArizona will deliver courses
- AOC administer test; issue license
- Document preparation; legal advice on defined areas of practice; no in-court representation
- Limited Scope Agreements
- Finalizing AO
- Fall start date



Meeting Date: May 14, 2020

Subject: Update on the Delivery of Legal Services

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Anthony Young, SALA; Pam Bridge, CLS; and Rudolfo Sanchez, DNA Peoples Legal Services

Presenters: Same

Discussion: Each of our Legal Services Corporation legal aid providers quickly implemented public education and legal assistance for victims of the COVID-19 pandemic. We've asked representatives of each to briefly identify what they have been seeing and doing.

Recommended motion: None.

Meeting material hyperlinks:

[Southern Arizona Legal Aid](#)

[Community Legal Services](#)

[DNA-People's Legal Services](#)



Tried:

Arizonans' perspective on Access to Justice

A Report Measuring Arizona's Unmet Legal Needs - 2017

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Background

About the 2017 Civil Legal Needs Study

The title of this 2017 Arizona legal needs assessment came from respondents to the survey. The survey asked for comments as to what the individuals did when facing legal challenges. As the cloud title graphic on the front page indicates, the one word reply used most often was “Tried”. The people tried to deal with the unfair demands, tried to work with the other parties, tried to search for answers, tried to understand their rights and responsibilities. They tried. Still, they were not able to overcome the legal barrier facing them. It is important to understand that the problems faced by those responding to this survey, should never have been barriers to begin with. When the barrier is a matter of justice, Arizona’s legal aid programs are there to help.

This legal needs assessment seeks to examine the legal issues facing Arizona families, explores the costs beyond that of the individual to include the cost to their communities, and outlines the legal assistance provided to Arizonans during the assessment time period and how those individuals were positively impacted.

The 2017 legal needs assessment marks 10 years since Arizona’s first statewide legal needs assessment. Leading this report is a bulleted list of Arizona’s accomplishments since the 2007 survey. Arizona’s next steps in creating equal access to justice and a proposed outline of goals for the coming decade follow the outcomes reported from this legal needs assessment. These goals demonstrate that Arizona’s pledge of “justice for all” is not an empty promise.

Methodology: The data reviewed includes survey responses of nearly 6,000 individuals, other Arizona studies, 2017 statistics from legal help centers, and 2017 annual client data reports from the legal aid agencies¹. The surveys, modeled after Arizona’s 2007 statewide legal need assessment, were available in English and Spanish both online and in paper copies at legal aid agencies’ offices across Arizona. Acknowledging the non-scientific random collection of online surveys, this study has taken the following steps to increase the validity of generalization with the data collected:

- Offers a comparison of demographics between survey respondents and Arizona’s general population with notations where there is a percentage difference in the demographics.
- Evaluates the 2017 actual client service reports of the legal aid agencies compared to identified legal needs of survey respondents.
- Includes outside studies to analyze similarities of needs identified generally to Arizona compared to those legal needs identified by survey respondents.

¹ Both 2007 and 2013 Civil Legal Needs Studies surveyed the legal community. The 2017 Civil Legal Needs Study does not include survey data from the legal community. The 2017 Study is ongoing and will be supplemented with legal community survey data at a later date.

Arizona Legal Aid Steering Committee

In 1996, Arizona managed the consolidation of civil legal aid programs through the creation of the Arizona Legal Aid Steering Committee. The Steering Committee consists of the Arizona Bar Foundation, Arizona's general civil legal aid programs and their volunteer lawyers programs: Community Legal Services, DNA People's Legal Services, Southern Arizona Legal Aid, and the William E Morris Institute for Justice. The Arizona Legal Aid Steering Committee is chaired and guided by the Honorable Joseph Kreamer.



DNA People's Legal Services



Message from AZ Steering Committee

Challenging Arizona to Do Better

Below is Arizona's Legal Needs Study, *Tried*. The Legal Services Corporation's 2017 Justice Gap Report [FN#1] ("LSC Justice Gap Report") found that 71% of low-income Americans had at least one civil legal issue in the prior twelve months. Arizona's Legal Needs Study reveals that Arizonans surveyed had an even higher percentage with legal needs than the reported national percentage. 80% of Arizonans surveyed reported that they had at least one legal issue in the last twelve months.

Arizona, though, is doing better than the national percentages when it comes to individuals accessing professional legal assistance. The LSC Justice Gap Report shows that 86% of the civil legal needs of low income Americans resulted in inadequate or no legal help. Arizona's rate is lower – almost one out of two respondents in Arizona's study stated that they were able to contact legal aid or a private attorney to help them with their legal problems. However, that means even though Arizona is exceeding national averages, the majority of Arizonans surveyed were not able to access the professional legal help that they need.

The Arizona Legal Needs Study also shows that Arizonans are actively trying to deal with their legal problems. Only 16% did nothing at all when facing their civil legal crisis. The reasons for not seeking help varied, with the largest percentage (24%) stating that they were concerned that they would create a bigger dispute if they sought help. The second most often mentioned reason (22%) was that they did not know who could help them, and the third most identified reason was a concern that the cost would be more than they could afford.

The survey respondents who did not reach a legal aid agency or private attorney but did seek help utilized various methods. Some contacted a church or community group; some complained to a government agency; some looked for legal information at libraries, courts or online; and some tried resolving the issue by contacting the other party and representing themselves. Although they tried to handle the situation with the resources they had available, 86% reported that their legal problem was not resolved satisfactorily.

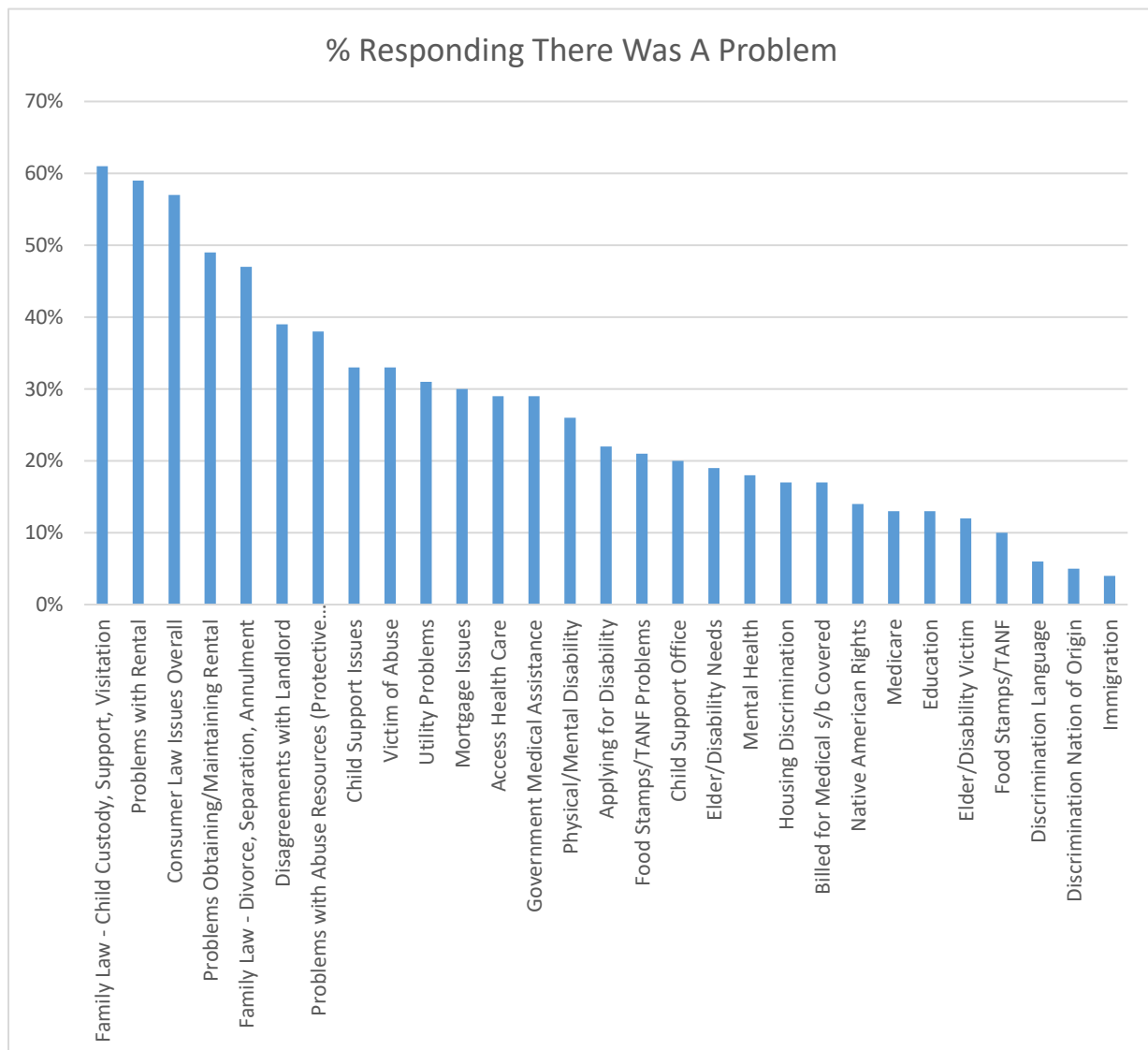
Arizonans are trying but our justice system is not meeting the demand. Following the Study below is an outline provided through the National Center for State Courts of measures to be taken to meet the aspirational goal of 100% access to effective assistance for essential civil needs. Please read through these measures, find where you can help, and reach out.

In case you are concerned that the need is so great that nothing will ever change, we have presented evidence that we can do better. In each section we have added a paragraph of what the Legal Aid agencies were able to accomplish with their limited resources. Also, take a moment to read the changes that have occurred since the 2007 "Voicing a Need for Justice, Survey Results on Legal Aid Access in Arizona" was published and the goals for 2007 thru 2017 were established. You will see that we can, and must, do better for our neighbors and for the justice system itself. Without equal access to justice, there is no justice.

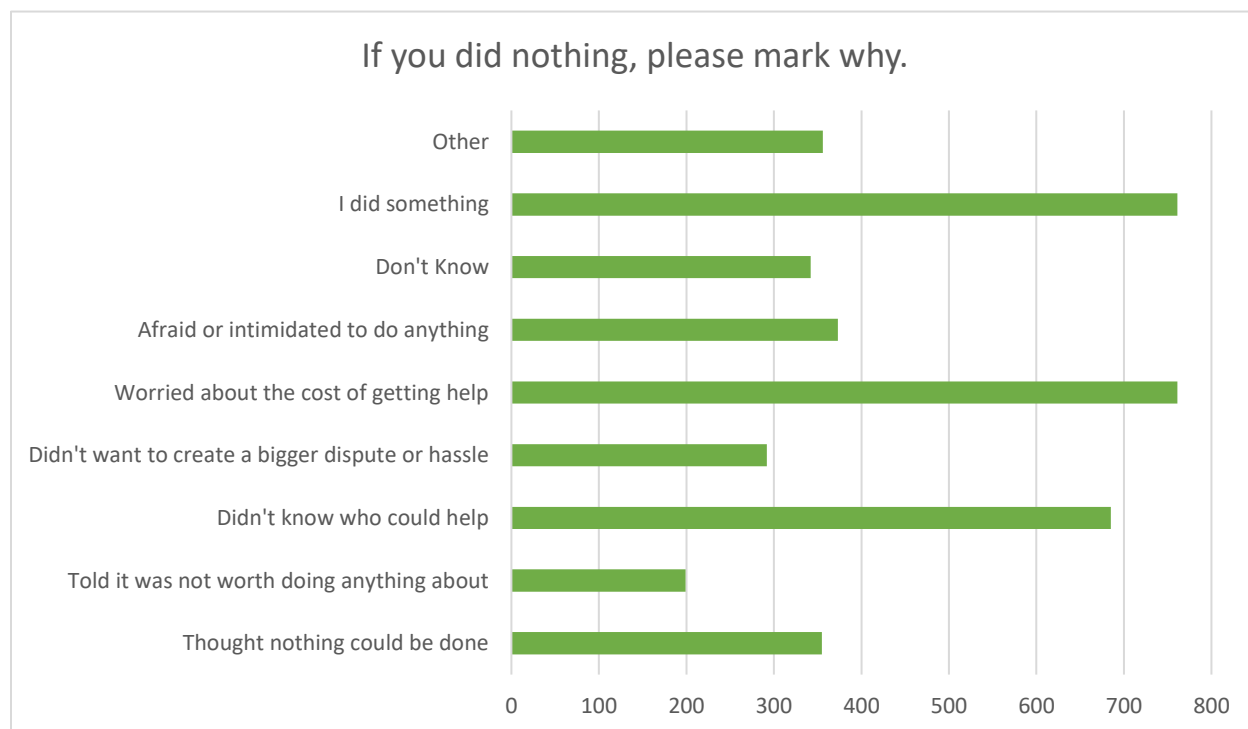
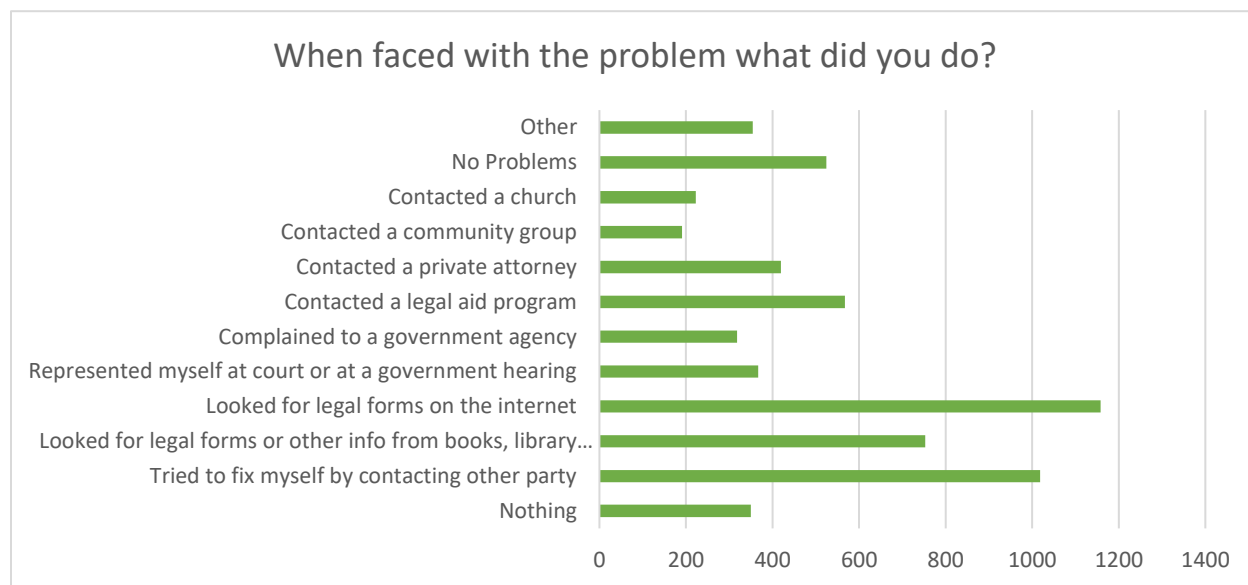
**Hon. Joseph Kreamer
For the Steering Committee**

Summary of Findings

Arizona respondents to the 2017 legal needs assessment offered great insight into the legal problems facing individuals and families in areas of Landlord/Tenant & Housing Law, Homelessness, Discrimination, Consumer Law, Family Law, Domestic Violence and Abuse, Access to Public Benefits, Health Care, Disability, Education, Immigration, and Individual/Civil Rights. Based on feedback provided by nearly 6,000 survey participants and community feedback, the highest rated legal needs indicated include 1) Family Law – Custody, Support, Visitation and Family Law – Divorce, Separation, Annulment, 2) Landlord/Tenant – Habitability and Safety and Landlord/Tenant – Obtaining and Maintain Affordable Housing, and 3) Consumer Law – Debt Collection, Collection Agencies, Credit and Bank Accounts, Student Loans.



Most of survey participants indicating they had experienced a legal problem tried to address the problem on their own and were, predictably, unsatisfied with the results. Among those survey respondents reporting that they ‘did nothing’ to fix their legal problem, the highest numbers indicated they didn’t know who could help and they were worried about the cost associated with getting help.



Summary of Findings

ARIZONANS HAVE A GREAT NEED FOR LEGAL HELP.

80%

of survey
respondents
reported their
household had a
legal problem in the
last 12 months.

**ARIZONANS WITH A LEGAL
PROBLEM TRY TO FIND HELP.**

84%

TRIED to find help
from a community
group, friends,
online, at libraries, a
lawyer, legal aid,
etc.



THE NEED FOR LEGAL HELP OUTPACES RESOURCES.

46%

of households trying to find help were able to get help from legal aid or a private attorney.

WHEN LEGAL HELP IS AVAILABLE, FAMILIES BENEFIT

\$8 Million

**economic benefit to
Arizona families
receiving legal aid
help in 2017.**

Looking Back

Increasing Access to Justice 2007 - 2019

In 2007, Arizona did not have:

- An 800-number statewide automated call center for legal aid, modest means, and full-pay lawyer referral.
- There was no Modest Means program.
- There was not an online pre-qualifier application, A2J interview, for legal services.
- The librarians were not trained and equipped to assist with legal information for the public.
- There was no court rule allowing an attorney to provide brief and/or unbundled services.
- There was no court rule allowing CLE credit for pro bono work.
- There was no rule court allowing retired Arizona attorneys to offer pro bono services without re-establishing their Arizona license.
- There was no portion of the pro hac vice fees going toward the provision of legal aid.
- There was not an online court filing system.
- There was no Arizona Access to Justice Commission.
- There was no In-House Counsel Access to Justice Commission
- Maricopa Court did not have a Justice Corp Court Navigator program.
- <http://azcourthelp.org> ; <http://lawforseniors.org> ; <http://lawforveterans.org> did not exist.
- The State Bar did not have a streamlined “Find A Lawyer” portal available for all the public.

Today, through the hard work and commitment of many individuals and organizations, Arizona has accomplished each of the objectives bulleted above. While Arizona can be proud of these successes, we acknowledge that a great need for civil legal assistance remains unmet. This report demonstrates that Arizona can do better.



Legal Needs – Housing Law

Your House but My Home

According to the 2017 American Community Survey 1-Year Survey, approximately 35% of Arizona households are renting their homes.³ Many of these renters are being evicted: in 2017 there were more than 25,000 families in Maricopa County alone who were court ordered to leave their home.⁴ Of those answering the 2017 Legal Needs Survey (Survey), 47% indicated they rented a home in the last 12 months. Of this group, 59% reported having problems with the rental unit and 49% indicated difficulty obtaining or maintaining rental housing – making Landlord/Tenant Law the second highest legal need based on Survey responses. Those that responded, stated that they primarily rented from a Private Landlord (67%), followed by Other (23%) and Public Housing (14%). Of those that reported problems with their rented home, a majority of respondents indicated issues with the safety or habitability as the biggest problems: Electric or Plumbing Problems (24%), Cockroaches/Mice/Rats (24%), and Unfinished Repairs (23%). According to respondents asked about disagreements with the landlord, 18% reported “Eviction Threats” as the most common issue.

The 2017 Legal Needs Assessment also surveyed Arizonans about homeowner related issues. To the Survey question “In the last 12 months have you had a mortgage or owned your own home?”, only 26% responded in the affirmative. Those responding to the potential problems facing homeowners, 30% indicated they had experienced legal issues related to their homeownership, but cited “Other” as the primary problem.

Another question asked to survey participants was whether they had been homeless in the last 12 months. Of the 4,954 responses received, only 18% indicated they had experienced homelessness in the last 12 months. Because of their homelessness, 82% indicated that they had other problems including: Getting Section 8 or Other Subsidized Housing (39%), Keeping a Job (38%), and Finding or Getting Emergency Shelter (33%).

How Legal Aid Helped: 2,293 closed cases, More than 3,500 people aided, Over \$2,044,000 economic benefit to Arizona families

In 2017, Arizona’s legal aid programs helped nearly 2,300 cases related to Housing Law impacting more than 3,500 individuals. Arizona’s legal aid programs provide a variety of legal assistance on a wide range of Housing Law issues, including: Federally Subsidized Housing Rights, Housing Discrimination, Mobile Homes, Mortgage Foreclosure, Private Landlord/Tenant, Public Housing, and Predatory Lending. Of these Housing Law cases, 206 cases closed had a direct monetary benefit of \$2,044,087 to Arizona families. Over half of the Housing Law cases demonstrating a financial impacts were the result of legal aid programs providing legal help with a private landlord/tenant matter (\$219,974 monetary benefit to Arizona renters). Legal help to keep tenants in

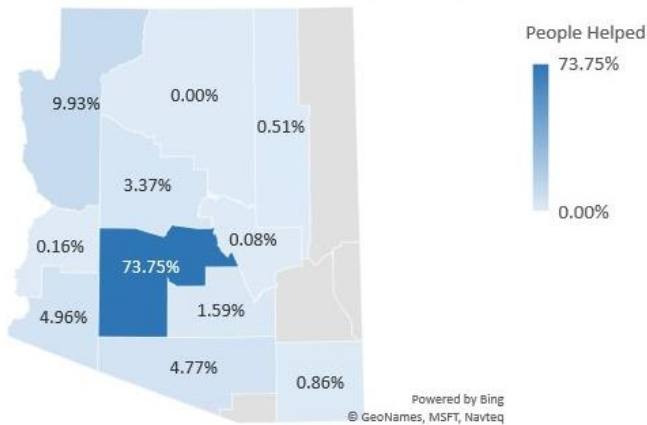
³ U.S. Census Bureau, 2017 American Community Survey 1-Year Estimates

⁴ <https://www.azcentral.com/story/news/local/arizona-best-reads/2018/04/13/eviction-rate-spikes-again-across-phoenix-affordable-housing-crisis-worsens/508696002/> retrieved 11/2018

their homes not only benefits the renter, who wants and can pay their rent, it saves landlords the expenses involved with evicting a tenant.

The map below illustrates the 3,839 individuals benefiting from legal aid assistance in landlord/tenant disputes throughout 2017. Tenant disagreements with landlords are represented statewide by legal aid attorneys who are able to have a positive impact on communities, tenants and landlords.

Landlord/Tenant 2017 People Helped



“Stove and refrigerator not working, electricity go off all the time, black mold all through the house. I gave landlord a list of everything was wrong with the house and return he gave me a notice for me to move.”

Legal Needs – Consumer Law

Bad Deals and Broken Promises

Between 2015 and 2017 complaints against the three major U.S. credit agencies more than doubled in Arizona. A majority of these complaints involved simple name misspellings while others involved identity theft and fraud, which badly damaged consumer credit scores.⁵ Arizona Attorney General Mark Brnovich reported that his office received more than 17,500 consumer complaints in 2017, with the top complaints involving telemarketing scams; motor vehicle sales, repairs, and rentals; timeshares, telecommunications (i.e., internet service providers, cell phones, pay TV, bundling); and, mortgage and real estate.⁶

“Collections agency took me to court for a credit card debt I supposedly had 8 years ago, that I can’t prove I never had.”

Arizonans responding to the 2017 Legal Needs Assessment indicated Consumer Law issues to be the third overall highest legal need reported with over 57% of respondents to Consumer Law survey questions indicating a problem. Of those that responded, the problems reported most frequently included: Debt Collections/Collection Agencies (16%), Problems with Bank Accounts (14%), and Student Loans (14%) and Credit Card Accounts (14%) tied for third. While not included in the most common consumer law issues, more than 8% of consumer law respondents reported problems related to identity theft and financial exploitation.

How Legal Aid Helped: 1,137 cases closed, More than 2,687 people aided, Over \$1,519,205 economic benefit to Arizona families

In 2017, 14% of closed legal aid program cases (1,137) addressed a consumer law issue, impacting over 2,687 individuals. Of these cases, the top consumer law issues included: Collections (repossessions /deficiency /garnishment) (515); Bankruptcy/Debtor Relief (273); and Contracts/Warranties (234). According to 2017 case data, Arizona’s legal aid programs realized a direct financial impact for approximately 113 families experiencing a consumer law issue, resulting in a cumulative total of over \$1,519,205 direct monetary benefit. These cases include consumer law matters such as: Bankruptcy/Debtor Relief, Contracts & Warranties, and Collections.

⁵ <https://www.azcentral.com/story/money/business/consumers/2018/02/01/arizona-veteran-wanted-car-loan-but-credit-bureau-said-he-dead-credit-bureau-errors/1070878001/> retrieved 12/04/2018

⁶ <https://www.azag.gov/press-release/ag-brnovich-kicks-az-consumer-protection-week-march-4th-10th> retrieved 12/04/2018

Increasing the dollars kept in the family budget helps the local community by giving the family increased income for consumer spending: an average of \$386 more a month and the over \$1 million could only positively impact their local economies.

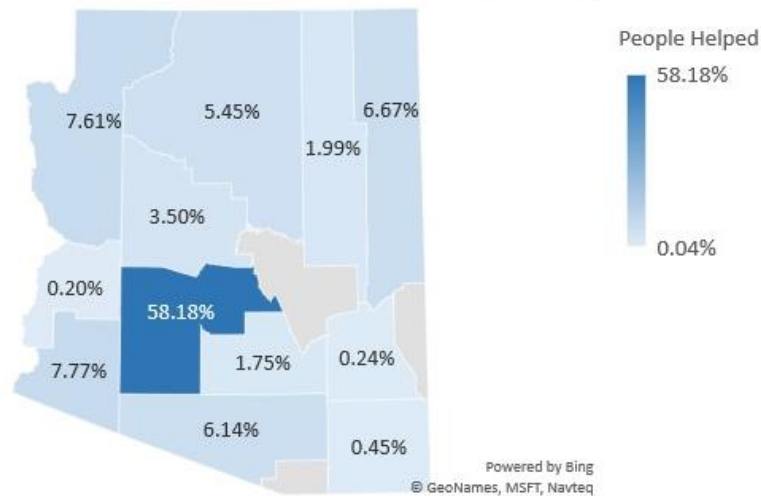
The map below demonstrates the statewide impact of legal aid on Arizona families. These financial injustices are a statewide issue that cost families and communities. Legal aid attorneys have shown they can assist in advocating for consumer rights under Arizona law.

These additional components of the gross **domestic product** aren't as critical as **consumer spending**. Even a small downturn in **consumer spending** can damage the **economy**. As it drops off, **economic** growth slows. ... When **consumer** demand exceeds manufacturers' ability to provide the goods and services, prices increase. Nov 4, 2018



Consumer Spending and Its Impact on the Economy - The Balance
<https://www.thebalance.com/consumer-spending-definition-and-determinants-3305917>

Consumer Law Problem 2017 People Helped



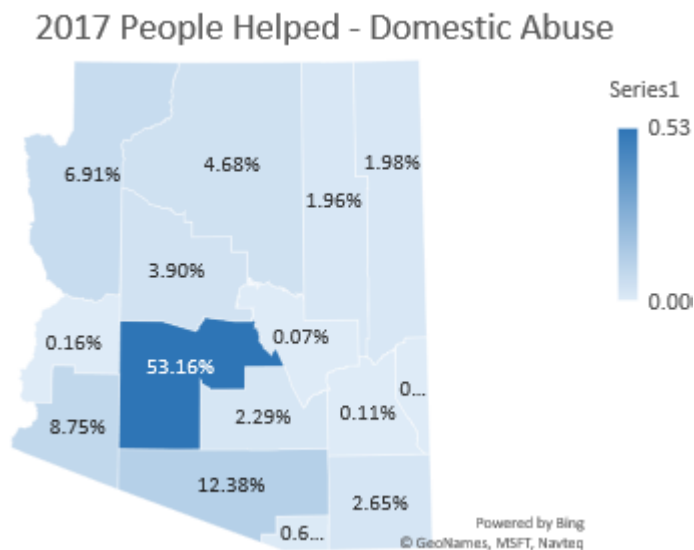
Legal Needs – Abuse

Domestic Violence & Abuse

It is estimated that 1 in 4 women and 1 in 7 men have experienced domestic violence in their lifetime. This means that over 804,000 Arizona women and over 453,000 Arizona men will experience domestic violence in their lifetime⁷. According to the National Network to End Domestic Violence, Arizona’s most unmet, non-residential needs for victims of domestic violence are housing, legal representation, and financial assistance⁸. Of the 5,994 Arizonans who started the legal needs assessment survey, 3,368 answered the survey question related to abuse. Of these respondents to the abuse survey question, 33% indicated they were victims of physical, emotional, or sexual abuse. Of those completing the abuse-related questions of the survey, 12% indicated they had problems getting an order of protection or restraining order. Another 12% indicated difficulty enforcing an order of protection or restraining order.

How Legal Aid Helped: 1,529 closed cases, \$2,163,266 economic benefit to Arizona families

Throughout 2017, legal aid programs reported closing 1,529 cases on behalf of victims of domestic violence. Of those cases, 1,103 of those received legal help related to a family law matter. Other victims of domestic violence received legal help with an individual rights legal matter (172), housing related issue (105), or consumer law matter (39). Throughout 2017, domestic violence related casework resulted in \$2,163,266 direct monetary benefit to victims of domestic violence and their families.



Legal Needs – Health & Human Services

Caught In the Red Tape

In 2017, the Supplemental Nutrition Assistance Program (food stamps) provided food assistance to 919,000 Arizona residents, approximately 13% of Arizona's population (1 in 8). More than 72% of Arizona food stamp recipients are in families with children and more than 50% are made up of working families⁹. Almost 22% are in households with elderly or disabled family members.

According to the Center on Budget and Policy Priorities' report cited state that every \$1 in SNAP benefits to individuals generates \$1.70 in economic activity.

"I'm homeless with no residence. I need to eat but I can't get food stamps unless I have a residence."

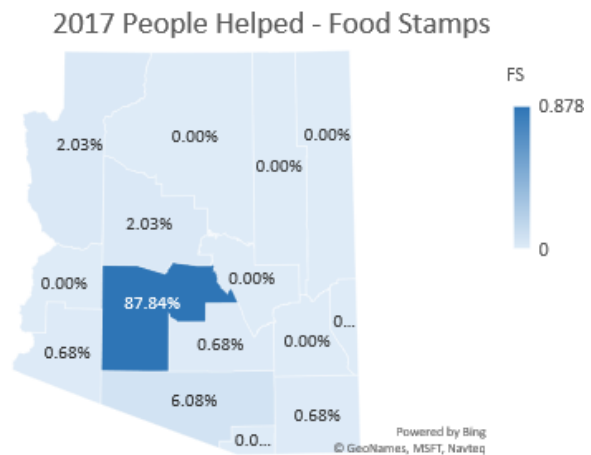
The 2017 Legal Needs Assessment included a variety of questions related to accessing government nutritional, financial, medical, and disability support. Among survey respondents identifying issues accessing food or cash benefits, only 10% indicated a problem concerning their benefits being incorrectly denied, cut or stopped (9%); wrong amount of benefits paid (2%), and benefits overpaid because of agency error (1%). Of those responding, 21% indicated a problem with applying or maintaining food or cash benefits.

Questions about access to other government assistance programs, including Medicaid, Medicare, and Social Security Disability were also included in the 2017 Legal Needs Assessment. Of those responding to questions related to medical assistance, 44% indicated that they or a member of their household had applied for Medicaid coverage (AHCCCS, ALTCS, KidsCare, or American Indian Health Program) in the last 12 months. Of those, 29% reported having experienced a problem with Medicaid assistance with the highest reported problem being Denied Medical or Dental Services for an Adult (13%) followed by Getting in Touch with Your Caseworker (8%). Survey participants also responded to questions about Medicare with only 13% of respondents indicating problems related to getting general information (5%) and affordability of copays and prescriptions (5%). Survey participants responding to questions about disability benefits indicated that 22% had problems related to filing an application (10%) and an application being denied (10%).

⁹ <https://www.cbpp.org/research/food-assistance/a-closer-look-at-who-benefits-from-snap-state-by-state-fact-sheets#Arizona> retrieved 3/07/2019

How Legal Aid Helped: 89 cases closed, 150 people aided, \$13,050 economic benefit to Arizona families

In 2017, Arizona Legal Aid agencies closed 88 cases that helped 150 people with legal problems concerning nutritional and financial assistance. These 89 cases include nine of the families received a direct economic benefit (those assisted directly with establishing or reestablishing benefits or avoiding having to pay back funds) of \$13,050. The map shows the legal assistance provided to Arizonans related to public benefits.



Legal Needs – Veterans

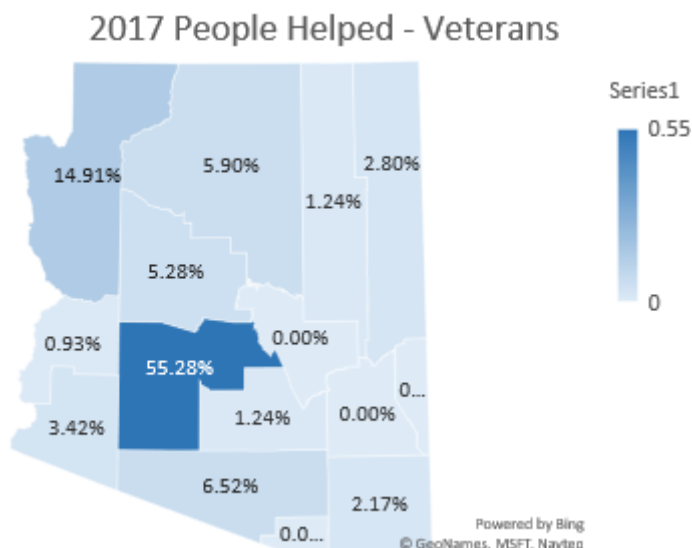
Veterans & Service Members

In 2017, the U.S. Department of Veterans Affairs surveyed homeless veterans across the nation through Project CHALENG, an effort to identify their most pressing needs. Veterans that participated in the study identified different types of legal assistance as three of the top ten general needs¹². The Arizona Bar Foundation hosts the online legal resource: <http://lawforveterans.org>. In order maintain consistency with prior legal needs assessment tools, the 2017 legal needs study did not include questions that determined the participant's status as a veteran. In 2017, LawForVeterans reported 26,813 unique pageviews by individuals seeking legal information specific to veteran issues. The most visited content provides insight as to the types of information needed with the top content including: Veterans Courts (19% of pageviews), Legal Resources (6% of pageviews) and Dividing Pensions in Divorce (6% of pageviews). On behalf of Arizona's legal aid programs, the Arizona Bar Foundation facilitates on online and telephone pre-qualification interview for free and reduced legal assistance. Of the 10,013 applications for free and reduced fee legal assistance, 724 (7%) identified themselves as a veteran or service member and 1,020 (10%) applicants identified a veteran or service member in the household. Among the 724 veterans applying for legal assistance, the highest legal needs were: Family Law (289), Consumer (127), and Housing (117).

How Legal Aid Helped: 343 cases, over \$340,000 economic benefit to Arizona Veterans

Throughout 2017, legal aid programs reported closing 343 cases on behalf of Arizona veterans. Of those cases, 128 of veterans received legal help related to a housing matter. Other victims of domestic violence

received legal help with a consumer law issue (72), family law matter (46), or public benefits (38). These cases had the collective impact of \$340,000 direct monetary benefit to Arizona veterans and their families.

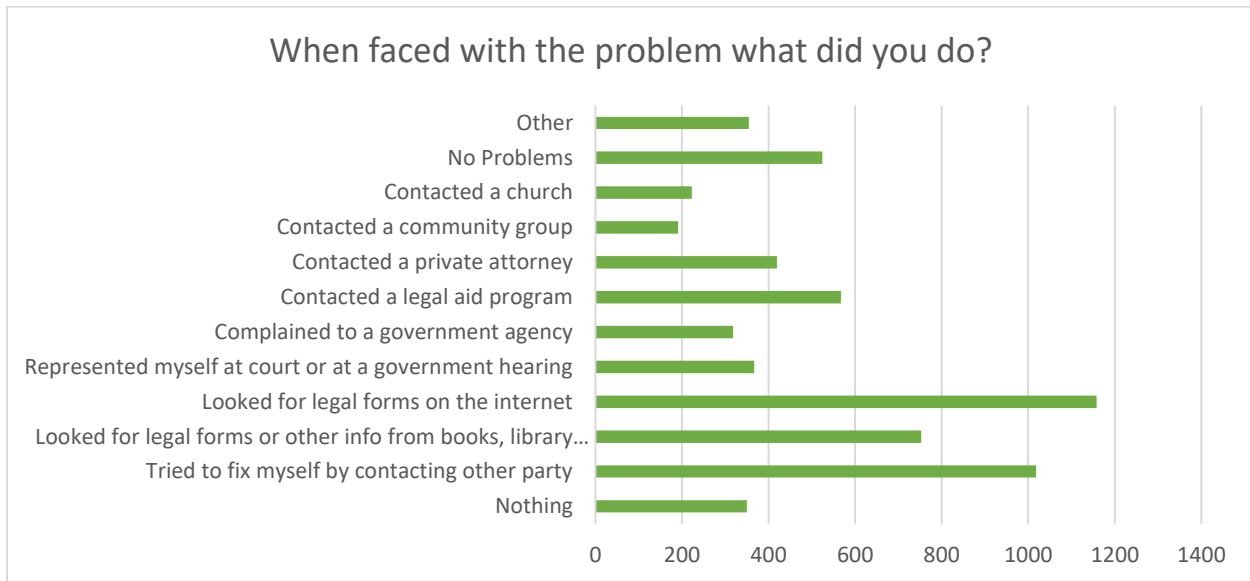


¹² <https://www.va.gov/HOMELESS/docs/CHALENG-2017-factsheet-508.pdf>

Responding to the Need

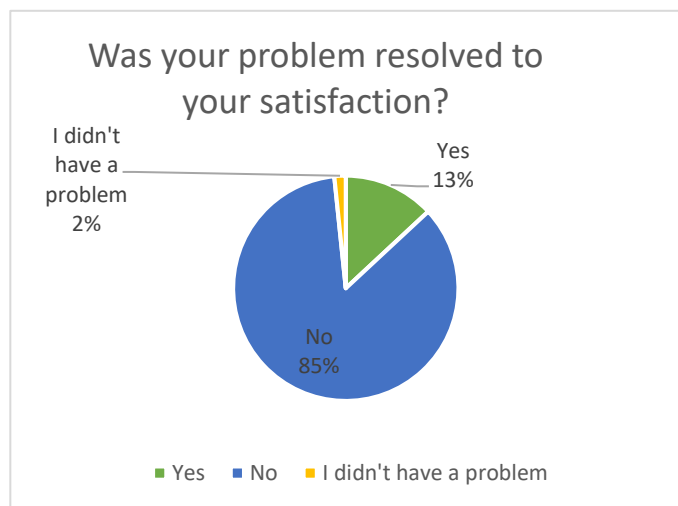
Majority of Low-Income Arizonans Face Civil Legal Problems Alone

The 2017 Legal Needs Assessment asked participants to describe how they handled the problems they reported in the Survey. Only 44% of those that started the survey completed the section on how they responded to the problems faced. Of those that responded, 80% indicated they responded in some way to their problems. The chart below details how survey participants responded:



The highest number of respondents Looked for Legal Forms on the Internet (44%), Tried to Fix Myself by Contacting the Other Party (38%), and Looked for Legal Forms or Other Info From Books, Library and Court (28%). Others responded that they Contacted Legal Aid (21%) or Contacted a Private Attorney (16%). Only 13% of respondents stated that they did nothing to respond to their legal problem. Of those participants that responded they did nothing to address their legal problem, 34% stated that they Worried About The Cost of Getting Help and 31% stated they Didn't Know Who Could Help.

Survey participants were asked to respond whether the problem reported and how they responded to that problem had resolved the issue to their satisfaction. Of those that responded, 85% reported that their legal problem was not resolved to their satisfaction.



Where AZ Goes From Here

100% Access Goals Recommended by Conference of Chief Justices

1. Resource Planning – The major perceived Access to Justice barrier is lack of resources. Developing a nuanced long term strategy for ensuring sufficient resources is key. Any Justice for All strategy will need to reflect state realities and embrace flexibility and innovation in resource planning.
2. Technology Capacity – Technology capacity exist within the organizations of the individual stakeholders, but there is often a need for more coordination and integration. There is universal agreement that without technology, there will be no cost effective system to work towards 100% access. Building technologies that are scalable and integrated with multiple stakeholders will be critical to this work.
3. Triage, Referral & Channel Integration - States must deploy a component that assess what services each individual and situation needs, and then makes the appropriate and verified referrals. Many states are talking about a “portal” concept for triage, referral and channel integration. The idea is to create “no wrong door” through which people with legal problems access the system.
4. Community Integration & Prevention – Access to Justice is not court-centric. Adopting a user’s point of view and addressing civil legal issues before they worsen can save time, money, and avoid what can be a burdensome court process. Research shows that most civil legal issues never make it to the court system. Facilitating relationships with community stakeholders and integrating them into the ATJ response can dramatically impact the scope of outreach for legal information and services.
5. Judicial & Court Staff Education – A judiciary willing to lead and inspire not just the courts, but also the may ATJ constituencies and partners, is key to achieving meaningful access to justice for all. Equally important is an access-friendly courtroom environment, presided over by a judge who knows how to handle every kind of case, from the heavily-lawyered to the entirely self-represented.
6. Broad Self-Help Informational Services – Demystifying the system and explaining it to self-represented litigants in plain language is critical to achieving ATJ. The better the job done on this, the more successful with be the self-represented litigant and the less strain it will put on resources to help them succeed in the process.
7. Plain Language Forms – Implementation of standardized plain language forms with protocols for assessing and updating forms and testing for comprehensibility and usability.
8. Language Services Integration – Language access services at all points of contact between LEP users and all legal system components (e.g., provision of qualified interpreters and translators, multilingual staff, written and audio-visual tools in languages other than English).

9. Alternative Dispute Resolution Integration – Provision of information about ADR modes and processes, substantive ADR law, and consequences as an integrated part of the triage system.
10. Compliance Assistance – Providing both timely information and explanations of information through a variety of court stakeholders (e.g., judge, self-help center, clerks) and through various media including proactive court text or e-mail messages about next steps and upcoming events.
11. Courtroom Assistance Services- Can range from videos providing information about understanding the court process to hiring staff as court navigators. Wide range of options in this area.
12. Expansion & Efficiency Improvements of Full Service Representation – It is clearly important to support as much full service representation through legal aid and the private bar as resources will allow, especially when a legal issue is particularly complex, where the stakes are particularly high (e.g., safety or homelessness), or where mental health, age, or other capacity issues impeded the person's ability to fend for himself or herself.
13. Unbundled (Discrete Task) Legal Assistance – Need the court rules in place to allow unbundled legal services, combined with lawyers willing to provide the services and a way to match the willing lawyers with the triage system.
14. Simplification – The current system was designed by lawyers for lawyers. Courts need to review and simplify court rules and processes when possible to eliminate unnecessary appearances and filings.
15. Role Flexibility for other professionals – Services in addition to lawyers, including allowing legal practice by allied professionals (e.g., LLLT) or court navigators.

About This Report

Survey Respondent Demographics

Demographic questions in each Survey were at the conclusion of the Survey and followed all questions about legal needs and responses. The demographic information captured by the Survey is representative of less than half of all Survey respondents. Only 43% of Survey respondents provided demographic information related to the language spoken in the home, race, age, gender, income, family composition, and Arizona County of residence. Despite not capturing the entire demographic makeup of all survey respondents, the data compiled below gives insight into those responding to the survey.

Survey Response By Arizona County								
County	English Online Survey	English Printed Survey	Spanish Online Survey	Spanish Printed Survey	Total Response	Percent of Response	AZ Population 2017 ¹³	Percent of AZ Population
Apache	22	2	0	3	27	1.04%	71,606	1.02%
Cochise	98	0	1	0	99	3.80%	124,756	1.78%
Coconino	30	7	0	0	37	1.42%	140,776	2.01%
Gila	29	0	0	0	29	1.11%	53,501	0.76%
Graham	16	0	0	0	16	0.61%	37,466	0.53%
Greenlee	6	0	1	0	7	0.27%	9,455	0.13%
La Paz	5	0	0	0	5	0.19%	20,601	0.29%
Maricopa	1,072	15	36	3	1,126	43.19%	4,307,033	61.39%
Mohave	94	0	0	0	94	3.61%	207,200	2.95%
Navajo	32	3	0	1	36	1.38%	108,956	1.55%
Pima	734	29	25	5	793	30.42%	1,022,769	14.58%
Pinal	154	23	1	0	178	6.83%	430,237	6.13%
Santa Cruz	14	2	8	0	24	0.92%	46,212	0.66%
Yavapai	83	1	2	0	86	3.30%	228,168	3.25%
Yuma	36	2	7	5	50	1.92%	207,534	2.96%

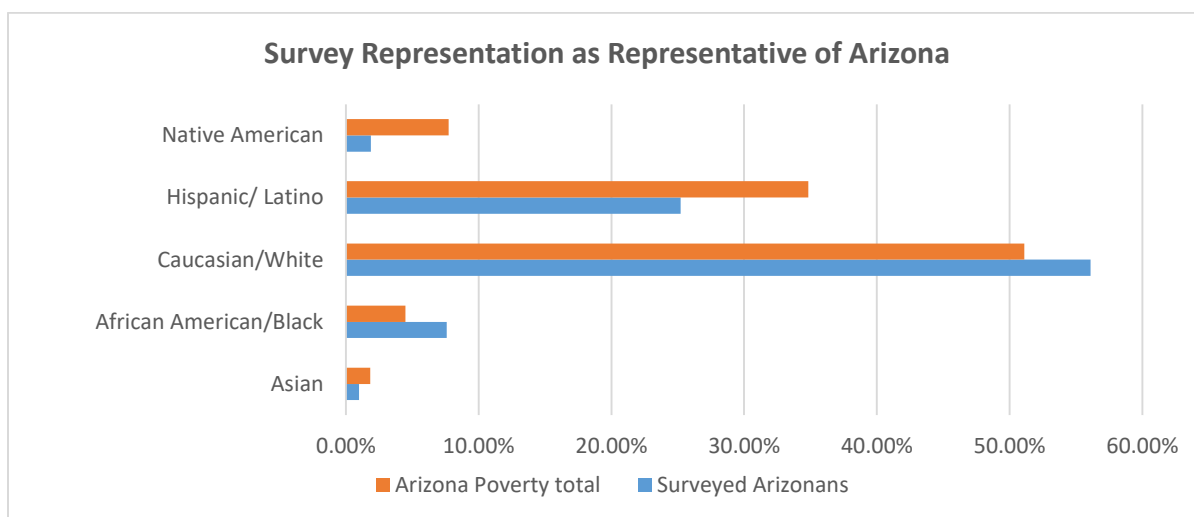
The chart above demonstrates that Survey respondents' percentages are within one percent of the Arizona population percentages with the exception of two counties: Maricopa and Pima. There is a much lower response from Maricopa County and much higher representation from Pima County.

The 2017 Survey respondents' percentages were compared to the Arizona poverty population since lower income populations are eligible for free civil legal assistance from Arizona's legal aid organizations. Lower income populations are often defined by legal aid programs as those at or below 125% of Federal Poverty Guidelines and is the program eligibility criteria established by Arizona's primary legal aid funder, the Legal Services Corporation (LSC). Legal assistance is also available to Arizonans outside the LSC eligibility criteria but is dependent on the other funding resources available and eligibility criteria determined by the funder.

¹³ <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>

Although only 43% of survey participants completed questions related to demographic information, the responses to demographic questions were analyzed for representation of Arizona's minority and poverty¹⁴ populations.

To address the lower poverty population participation, legal aid programs held community forums in their service geographies. Results from Community Forums will be compiled and included as an addendum to this report.



Only 42% of survey participants responded to the question about gender. Of those, 69% responded they were female, 29% responded they were male, 2% indicated they Preferred Not to Answer, and 1% responded Other. Using this information, females are disproportionately over-represented when compared to Arizona's general population (50.3% female, 49.7% male¹⁵).

The survey asked participants to describe their household composition and annual household income. Although comparisons to Arizona's general population household composition and income do not precisely align, insight may still be drawn from participant responses. Forty two percent (42%) of survey respondents described their household composition and annual income¹⁶.

¹⁴ <https://talkpoverty.org/state-year-report/arizona-2017-report/>

¹⁵ <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF>

¹⁶ <https://censusreporter.org/profiles/04000US04-arizona/>

Household Composition	Question Respondents
Single female	18.84%
Single male	11.84%
Single no gender chosen	0.72%
Single female w/children	21.18%
Single male w/children	3.66%
Single no gender chosen w/children	0.28%
Married or Partner	14.55%
Married or Partner w/children	18.08%
Multi-generational (parents w/ adult children)	4.81%
Multi-generational (grandparents, parents w/children)	6.04%

Of the 42% of survey participants responding to household and annual income questions answered the questions related to household composition and annual income. The highest overall respondents to the household question were Single individuals with or without children (57%), followed by Married/Partners with or without children (32%) and Multi-generational households (11%). Those with children in the home made up 48% of those responding. The chart at left analyzes the gender of those responding to demographic questions related to household.

Overall, 44% of Arizona households make less than \$50,000 annually¹⁷. A majority of those responding to the annual income question indicate that 86% of those responding make less than \$40,000 per year. Although less than half of all respondents completed the demographic questions of the survey, the legal needs identified by the assessment may be more representative of those with lower incomes.

¹⁷ <https://censusreporter.org/profiles/04000US04-arizona/>

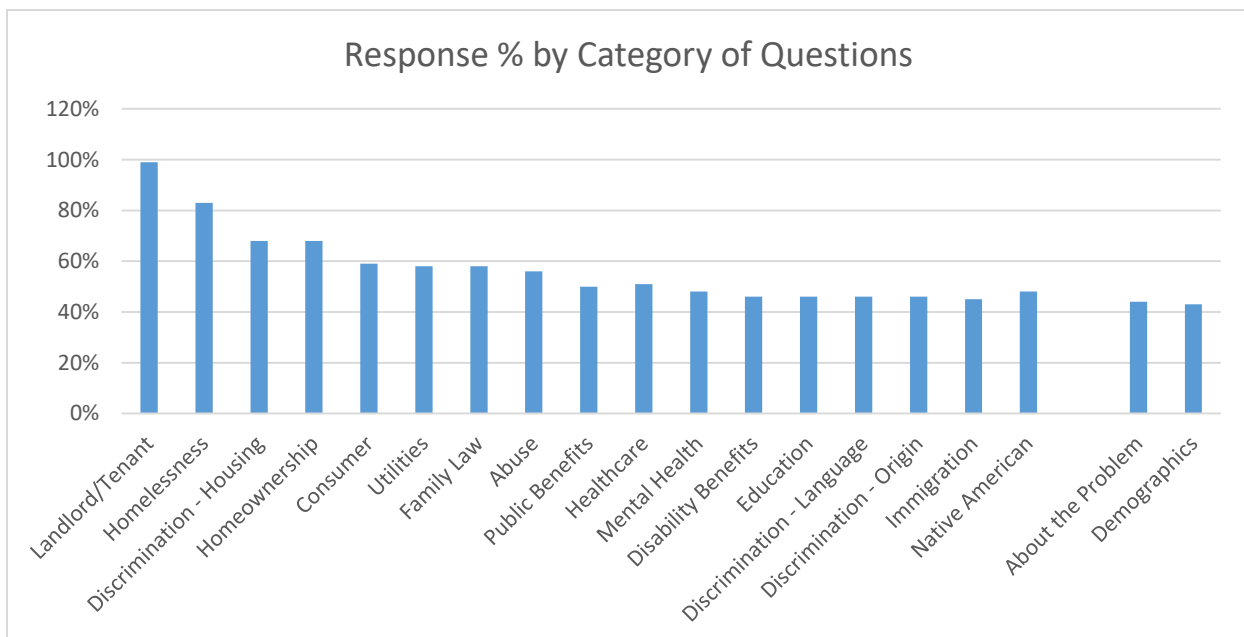
About this Report

2017 Master Tables

To administer the 2017 Legal Needs Assessment, four survey instruments were used: English Online Survey, Spanish Online Survey, English Printed Survey, and Spanish Printed Survey. Both the English and Spanish Online Surveys were posted prominently on the websites of Community Legal Services, DNA People's Legal Services, and Southern Arizona Legal Aid. The English and Spanish Online Surveys were featured prominently on the landing pages of AZLawHelp.org, LawForSeniors.org, LawforVeterans.org and the AZCourtHelp.org websites. English and Spanish Printed Surveys were available in each main and satellite legal aid offices across Arizona. Completed surveys were collected by legal aid programs and hand delivered or mailed to the Foundation for compilation.

Survey	English Online	English Print	Spanish Online	Spanish Print	TOTAL Respondents
Respondents	5,630	91	255	18	5,994

Overall responses to survey questions started at 99% response rate with the first question but decreased consistently as the survey continued and ended with 43% response rate to the demographic questions at the conclusion of the survey. The totals below include all survey formats.



The English and Spanish Online survey instruments included logic to automatically direct participants to follow up questions based on how they responded to the questions. For example, the first question of the survey asked participants whether they rented a home in the last 12 months. Respondents that indicated they had rented a home in the last 12 months were directed to detailed questions related to problems with the rental property, disagreements with landlords, and other experiences related to eviction and payment of rent. Those respondents that indicated they had not rented a home in the last 12 months were directed to the next category of questions. Likewise, on the printed surveys, instructions following the questions directed the respondent to continue answering questions or skip to the beginning of the next category. Despite online logic or printed instructions, not all participants answered all of the questions relevant to the participant.

Below are the compiled results to each of the survey questions used in the legal needs assessment. The first percentage listed next to the question indicates the response rate for that question.

99%	Have you rented a home in the last 12 months?					TOTAL	5915	Answered
	Yes	2569	50	131	11	2761	47%	
	No	2993	41	114	6	3154	53%	

Arizona Bar Foundation
4201 N. 24th St., Suite 210
Phoenix, AZ 85016

Addendum A

Focus Group Discussions

During 2017 and 2018, 27 representatives from over 25 organizations responded to a request for identifying the legal needs of their clientele. The participating organizations included: Ability 360, Area Agency on Aging, Area Coalition to End Homelessness, Arizona Behavioral Health Corporation, Arizona Department of Housing, Behold Housing, Better Business Bureau of Arizona, Channel 15, City of Phoenix, Embry Riddle, Furnishing Dignity, Housing Authority of Maricopa County, Housing Solutions of Northern Arizona, Native American Connections, Prescott Police Department, Prescott Valley Police Department, Save the Family, State Innovation Exchange, Terros, Inc., Trellis, UMOM New Day Centers, Verde Valley Sanctuary, Western Arizona Council of Governments, and the Yavapai Family Advocacy Center.

Feedback from forum and focus group discussions indicated Housing Law – Landlord/Tenant Matters as the highest legal need with a majority of participants listing Housing Law as priority #1. Family Law was recorded as the second highest priority with the second highest response rate, Consumer Law and Employment Law needs were tied in the #3 priority established by participants, with “Other”, which included public benefits, criminal law, and discrimination, receiving the lowest priority legal area of need. Consistent with the electronic and printed assessment findings of the 2017 Legal Needs Study, legal needs related to Housing, Family and Consumer Law.

While the 2017 Legal Needs Study did not have a separate question for Employment law, there was an expressed need by the respondents. In the study, 314 individuals, who also had struggled with homelessness, reported that they had problems keeping a job. 355 individuals reported that physical or mental disabilities caused them to have trouble finding a job, 169 had to deal with being treated unfairly at their job, and 357 were struggling to keep their jobs. Sixteen people reported they had legal status to work but were prevented from getting a job. They were all working or seeking work but faced a barrier where Legal Aid attorneys could have possibly helped keep the unemployment numbers lower. (e.g., clearing up credit mistakes, helping obtain identification and/or a driver's license, setting aside a conviction, clarifying an employer's obligation to make reasonable accommodations, etc.).

Participants in the Focus Group Discussions were also asked to list the 5 most critical needs for the population they serve. Evictions and landlord/tenant issues were listed in the top five most frequently, 7 times. Lack of affordable housing in the community, including lack of housing for people with disabilities, was listed 6 times. Employment issues of people being taken advantage of by their employers was listed 3 times. Family law, bankruptcy/debt, domestic violence, criminal issues, and public benefits were each mentioned twice. The list of other issues mentioned at least once were immigration, mental health, HOA issues, phone/computer scams, title loans, and failure to honor warranties on large purchase items.

The critical needs identified were issues identified by survey respondents and further confirm the legal needs results of the 2017 study.

Focus Group Discussions

During 2017 and 2018, there were nine community forums held addressing the legal needs of each group. The forums were held in the Whiteriver Apache community, Gila River Indian community, Showlow, Lakeside, Sacton, Tucson, Bisbee, various places in Maricopa County, and in Yuma. The forum representatives included community partner agencies, bench and bar members, law enforcement, and members at large, some of whom were eligible under the Legal Service Corporation guidelines. The forums held in Southern Arizona yielded a common result that lack of affordable housing and evictions were the greatest concerns. In one Maricopa county forum landlord/tenant and fair housing issues were mentioned as the greatest needs. In the other Maricopa forums, immigration issues and solar/consumer fraud were the mentioned as the highest concern. The Yuma county forum shared as the greatest concern was family law cases and the need for more “hands on” lawyering in those cases.

The feedback from the community forums and the 2017 study results were consistent.



Meeting Date: May 14, 2020

Subject: Update on the Public Information and Messaging Workgroup

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Alberto Rodriguez, Co-chair, State Bar of Arizona; Aaron Nash, Co-chair, Public Information Officer, AOC

Presenters: (Same)

Discussion: Presenters will discuss the workgroup's efforts regarding:

COVID-19: AZCourtHelp, Evictions, Protective Orders, Videos, and Spanish translations

Recommended motion: None.



Supreme Court

STATE OF ARIZONA

FROM THE CHAMBERS OF
ROBERT M. BRUTINEL
CHIEF JUSTICE

1501 WEST WASHINGTON STREET
PHOENIX, ARIZONA 85007-3222
(602) 452-3531
FAX (602) 452-3917
RBrutinel@courts.az.gov

May 4, 2020

Dear Members of Arizona's Senate and House of Representatives,

In these difficult times we are surrounded by reminders of the importance of working to provide access to justice in Arizona. Each of you play a significant role in improving access to justice and to the administration of justice in our state.

I encourage you to review the latest annual report of the Arizona Supreme Court's Commission on Access to Justice, chaired by Judge Lawrence Winthrop of the Arizona Court of Appeals. The report chronicles the Commission's projects, ongoing work and its achievements, many made possible through your participation and support. Please see the report at <https://www.azcourts.gov/Portals/74/ACAJ/Annual%20Reports/2019%20Annual%20Report%20ACAJ.pdf>.

Improving access to justice has been a pillar of the Arizona judicial branch's commitment to public service for many years. It is the number one goal in the current five-year strategic agenda, *Justice for the Future: Planning for Excellence*, and is the foundation for the work of the Court's Access to Justice Commission. For information on the judicial branch's strategic direction in Arizona, see the Agenda at <https://www.azcourts.gov/Portals/0/Communications/JusticeForTheFuture.pdf?ver=2019-06-28-165330-887>.

For a hardcopy of the annual report or the strategic agenda, please contact the Administrative Office of the Courts at communications@courts.az.gov or by calling 602-452-3301.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Brutinel".

Robert Brutinel



Meeting Date: May 14, 2020

Subject: Report from the Self-Represented Litigants in Limited Jurisdiction Courts Workgroup

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Judge Anna Huberman, Chair – SRL-LJC Workgroup

Presenters: (Same)

Discussion: The SRL-LJC workgroup met on April 1 and May 7, 2020. Judge Huberman will discuss the efforts of the workgroup focusing on consumer debt in the limited jurisdiction courts and other work accomplished.

- Courts and COVID-19-related eviction action issues
- Consumer debt scripts, storyboards, and videos are being created and produced
-

Recommended motion: None

MARICOPA COUNTY JUSTICE COURTS:



PODCAST: CARES ACT, SUBSIDIZED HOUSING AND EVICTIONS

April 13, 2020

Materials:

<https://spaces.hightail.com/space/tOuRfKkxm6>

Faculty:

Jessica Cruz, MNLM

Rental Assistance
Programs Manager,
Housing Authority of
Maricopa County

Pam Bridge

Community Legal Services

Denise Holliday

Hull, Holliday, and Holliday



Updated 4/13/2020

MAY QUALIFY FOR UP TO 0.5 HOURS OF COJET/CLE

The CARES Act (Coronavirus Aid, Relief, and Economic Security Act) passed by Congress stops some landlords from filing new eviction actions for nonpayment of rent for the next 120 days (through July 25th, 2020). The CARES Act **does not** apply to eviction cases that were filed before March 27th, 2020, leases that are not part of the housing programs below, or evictions based on another reason besides nonpayment of rent.

The CARES Act prevents a landlord from filing for eviction against and charging late fees to a tenant for nonpayment of rent if they live in subsidized housing. This applies to federal housing programs, including:

- Public housing
- Section 8 Housing Choice Voucher program
- Section 8 project-based housing
- Section 202 housing for the elderly
- Section 811 housing for people with disabilities
- Section 236 multifamily rental housing
- Section 221(d)(3) Below Market Interest Rate (BMIR) housing
- HOME
- Housing Opportunities for Persons with AIDS (HOPWA)
- McKinney-Vento Act homelessness programs (42 U.S.C. § 11360, et seq.)
- Section 515 Rural Rental Housing
- Sections 514 and 516 Farm Labor Housing
- Section 533 Housing Preservation Grants
- Section 538 multifamily rental housing
- Low-Income Housing Tax Credit (LIHTC)

Here is the Text of the Act:

SEC. 4024. TEMPORARY MORATORIUM ON EVICTION FILINGS.

(a) DEFINITIONS.—In this section:

(1) COVERED DWELLING.—The term “covered dwelling” means a dwelling that—

(A) is occupied by a tenant—

(i) pursuant to a residential lease; or

(ii) without a lease or with a lease terminable under State law; and

(B) is on or in a covered property.

(2) COVERED PROPERTY.—The term “covered property” means any property that—

(A) participates in—

(i) a covered housing program (as defined in section 41411(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12491(a))); or

(ii) the rural housing voucher program under section

542 of the Housing Act of 1949 (42 U.S.C. 1490r);
or

(B) has a—

- (i) Federally backed mortgage loan; or
- (ii) Federally backed multifamily mortgage loan.

(3) DWELLING.—The term “dwelling”—

(A) has the meaning given the term in section 802 of the Fair Housing Act (42 U.S.C. 3602); and

(B) includes houses and dwellings described in section 803(b) of such Act (42 U.S.C. 3603(b)).

(4) FEDERALLY BACKED MORTGAGE LOAN.—The term “Federally backed mortgage loan” includes any loan (other than temporary financing such as a construction loan) that—

(A) is secured by a first or subordinate lien on residential real property (including individual units of condominiums and cooperatives) designed principally for the occupancy of from 1 to 4 families, including any such secured

loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and

(B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

(5) FEDERALLY BACKED MULTIFAMILY MORTGAGE LOAN.—

The term “Federally backed multifamily mortgage loan” includes any loan (other than temporary financing such as a construction loan) that—

(A) is secured by a first or subordinate lien on residential multifamily real property designed principally for the occupancy of 5 or more families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and

(B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

(b) MORATORIUM.—During the 120-day period beginning on the date of enactment of this Act, the lessor of a covered dwelling may not—

(1) make, or cause to be made, any filing with the court of jurisdiction to initiate a legal action to recover possession

H. R. 748—214

of the covered dwelling from the tenant for nonpayment of rent or other fees or charges; or

(2) charge fees, penalties, or other charges to the tenant related to such nonpayment of rent.

(c) NOTICE.—The lessor of a covered dwelling unit—

(1) may not require the tenant to vacate the covered dwelling unit before the date that is 30 days after the date on which the lessor provides the tenant with a notice to vacate; and

(2) may not issue a notice to vacate under paragraph (1) until after the expiration of the period described in subsection (b).



Landlords May Not File Evictions for Nonpayment Rent or Charge Late Fees Against Tenants Living in Federal Subsidized Housing

The **CARES Act** states your landlord cannot file for eviction if you do not pay your rent or charge you late fees beginning March 27 if:

- **You live in subsidized housing.** This applies to federal housing programs, including:
 - Public housing
 - Section 8 Housing Choice Voucher program
 - Section 8 project-based housing
 - Section 202 housing for the elderly
 - Section 811 housing for people with disabilities
 - Section 236 multifamily rental housing
 - Section 221(d)(3) Below Market Interest Rate (BMIR) housing
 - HOME
 - Housing Opportunities for Persons with AIDS (HOPWA)
 - McKinney-Vento Act homelessness programs (42 U.S.C. § 11360, et seq.)
 - Section 515 Rural Rental Housing
 - Sections 514 and 516 Farm Labor Housing
 - Section 533 Housing Preservation Grants
 - Section 538 multifamily rental housing
 - Low-Income Housing Tax Credit (LIHTC)
- Or your landlord has a **federally backed mortgage on the property you reside.**

WARNING: you can still be evicted for other reasons besides nonpayment of rent.

If your landlord files an eviction action against you or charges you late fees and one of the above conditions apply to you, you may want to call Community Legal Services for free legal assistance before your eviction hearing at 602-258-3434, Monday- Friday 8:00 am – 3:00 pm.

305 S. 2nd Ave., Phoenix, AZ 85003 • Phone 602-258-3434

Advocate. Litigate. Educate



Los Arrendadores No Pueden Presentar para el Desalojos Por Falta de Pago de la Renta O Cobrar Tarifas por Pagos Atrasadas Contra un Inquilino Que Vive En Vivienda Federal Subsidiada

La **Ley CARES** establece que su arrendador no puede presentar para el desalojo si no paga su renta o cobrarle tarifas por pagos atrasados comenzando el 27 de marzo si:

- **Vives en viviendas subsidiadas.** Esto se aplica a los programas federales de vivienda, que incluyen:
 - Vivienda pública
 - Sección 8 programa de Vales de Elección de Vivienda
 - Sección 8 viviendas basadas en proyectos
 - Sección 202 viviendas para la tercera edad
 - Sección 811 de vivienda para personas con discapacidad
 - Sección 236 viviendas de alquiler multifamiliares
 - Sección 221 (d)(3) vivienda por debajo del mercado Tasa de Interés (BMIR)
 - HOME
 - Oportunidades de vivienda para personas con SIDA (HOPWA)
 - Programas de personas sin hogar de la Ley McKinney-Vento (42 U.S.C. § 11360, et seq.)
 - Sección 515 Vivienda de alquiler rural
 - Secciones 514 y 516 Vivienda de trabajo agrícola
 - Sección 533 Subvenciones para la preservación de viviendas
 - Sección 538 viviendas de alquiler multifamiliares
 - Crédito Fiscal para Viviendas de Bajos Ingresos (LIHTC)
- O su arrendador tiene una hipoteca **con respaldo federal sobre la propiedad en la que reside.**

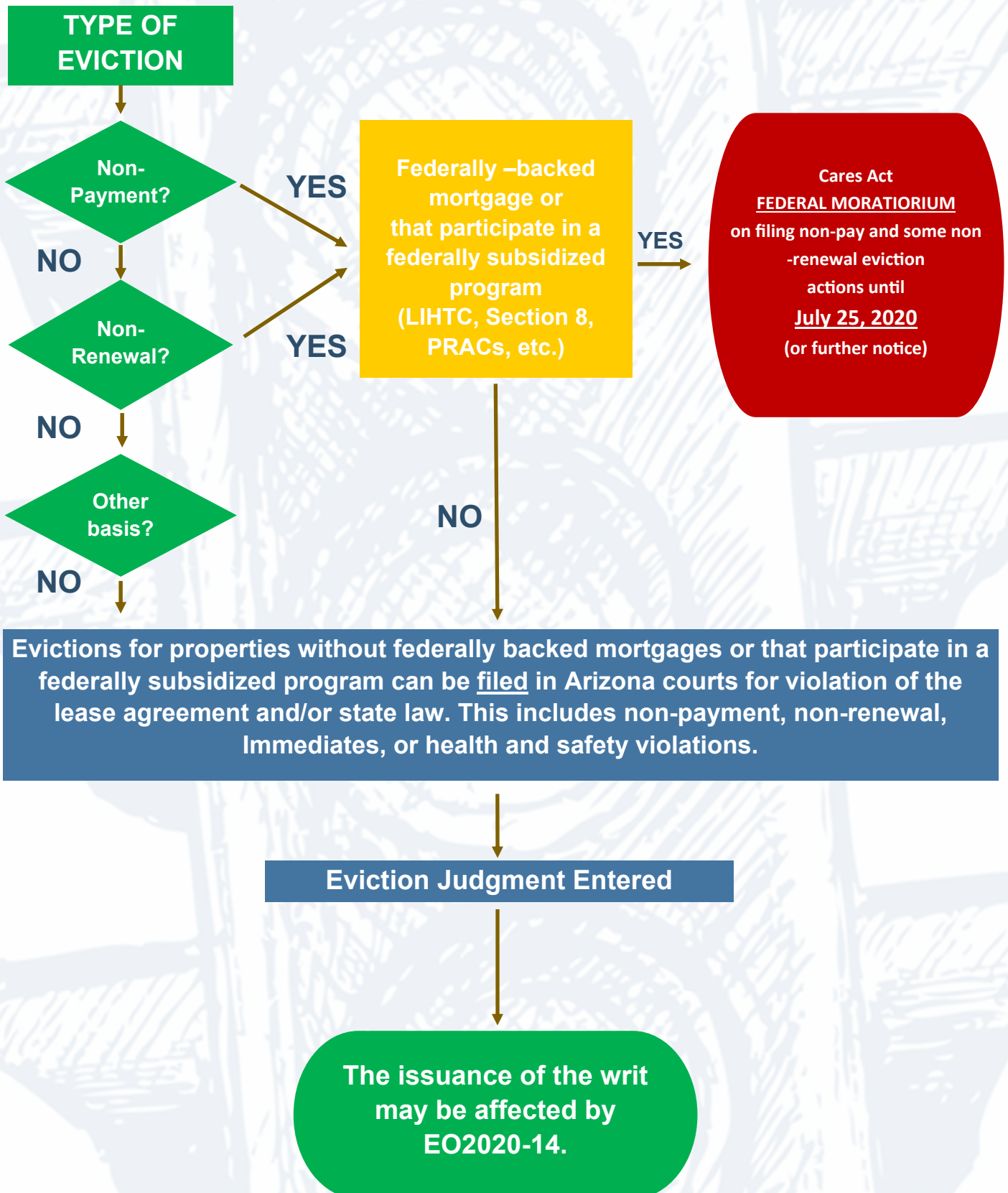
ADVERTENCIA: todavía puede ser desalojado por otras razones además de no pagar la renta.

Si su arrendador presenta una acción de desalojo en su contra o le cobra tarifas por pagos atrasados y una de las condiciones anteriores se aplica a usted, puede llamar a Community Legal Services para asistencia gratuita antes de su audiencia de desalojo al (602) 258-3434, de lunes a viernes 8:00am - 3:00pm.

305 S. 2nd Ave., Phoenix, AZ 85003 • Phone 602-258-3434

Advocate. Litigate. Educate

AZ Eviction Process During COVID-19 Crisis



Arizona Rental, Utility and Food Assistance Resources Information

www.211.org/services/covid19

You can dial “211” from any phone to speak with a community resource specialist in your area who will help you. For faster service, check out their website.

find services and resources that are available to you.

You'll find help with:

- Supplemental food and nutrition programs
- Shelter and housing options and utilities assistance
- Emergency info and disaster relief
- Employment and education opportunities
- Services for veterans
- Health care, vaccination and health epidemic information
- Reentry help for ex-offenders

Arizona: Toll-Free Alternative Number: (877) 211-8661

Arizona Department of Housing Grants

•602-771-1000

<https://housing.az.gov/general-public/eviction-prevention-assistance>

<https://housing.az.gov/about/application-funding>

Family Services Center, City of Phoenix Human Services Dept

•602-534-2433 (to schedule an appointment)

<https://www.phoenix.gov/humanservices/programs/emergency>

Get Help Paying Utility and Rental Bills

<https://www.maricopa.gov/451/Get-Help-Paying-Utility-Rental-Bills>

Community Action Agencies in Arizona that offer emergency Eviction and Utility Assistance

<https://housing.az.gov/community-action-agencies-arizona-offer-emergency-eviction-and-utilityassistance>

Unemployment Filing/Benefits:

www.des.az.gov/services/employment/unemployment-individual

Find a Food Bank Near You

<https://azfoodbanks.org>

Resources for individuals and businesses, such as financial assistance, childcare, meals for children, and virtual learning for students

<https://arizonatogether.org>

To apply for Nutrition Assistance, Arizonans can visit <https://www.healthearizonaplus.gov/> or call (855) 432-7587 Monday through Friday, from 7 a.m. to 6 p.m.

For more information about DES services during the pandemic, please visit <https://des.az.gov/services/coronavirus>

Community Resources

Meals for children: www.azhealthzone.org

Resources for Seniors: www.des.az.gov

WIC (Women, Infants & Children): www.azdhs.gov

Virtual Learning for Kids: www.docs.google.com/spreadsheets/d

Find Health care: www.aachc.org

Child Care Assistance: www.des.az.gov

Digital AZ Library: www.azlibrary.gov

Manage Anxiety & Stress: www.cdc.gov/coronavirus/2019-ncov

Utility Assistance:

Help with utilities: www.des.az/services/basicneeds/shelter-housing/utility-assistance

APS: www.aps.com/en/residential/save-money-and-energy/disconnections

SFP: srpnet.com/about/customer-assistance.aspx

TEP(Tucson Electric Power): www.tep.com/covid-19

SWG: www.swgas.com/en/alert-details-page-007

Rental Assistance Programs Near You:

- John F Long Family Services: <https://www.phoenix.gov/phxcare>

- 3454 North 51st Ave Phoenix, AZ 852031 (602) 262-6510

- Arizona Community Action Agency: <http://azcaa.org>

- 340 East Palm Lane Phoenix, AZ 85004

- (602) 604-0640

- Labor's Community Service Agency:

- 3117 N 16th St #100, Phoenix, AZ 85016

- (602) 263-5741

- Travis L Williams: <https://www.phoenix.gov/humanservices/programs/emergency>

- 4732 South Central Ave Phoenix, AZ 85040 (602) 534-4732

- Sunnyslope Family Service Center: <https://www.phoenix.gov/phxcare>

- 914 West Hatcher Road Phoenix, Arizona 85021

- 602-495-5229

- Saint Vincent De Paul: <https://www.stvincentdepaul.net/>

- 420 West Watkins Road

- 877-811-8661

- Chicanos Por La Causa: <https://cplc.org/>

- 6850 W Indian School Rd, Phoenix, AZ 85033

- (623) 247-0464

- Salvation Army: www.arizona.salvationarmy.org

- 2707 E. Van Buren St., Phoenix, AZ 85008

- (602)267-4100

To schedule an emergency assistance appointment call 602-534-AIDE(2433) or 1-866-882-1778

- Catholic Charities: <https://www.catholiccharitiesaz.org/>

Job Agencies:

- [AZ.Jobs](#)

- <https://azstatejobs.azdoa.gov/>

- <http://dependablestaffing.com/>

- 1111 N3rd St, Phoenix, AZ 85004

- Phone : (602) 264-1444

- <https://stsstaffing.com/>

- 4020 N 20th St #104, Phoenix, AZ 85016

- Phone : (602) 248-9313

- <https://www.randstadusa.com/jobs/>

- 3800 N Central Ave suite c-100, Phoenix, AZ 85012

- Phone : (602) 200-3910

■ Accurateplacement.com

1661 E Camelback Rd #201, Phoenix, AZ 85016

Phone : (602) 678-0144

■ Frontlinesourcegroup.com

2415 E Camelback Rd #701, Phoenix, AZ 85016

Phone : (602) 281-6591

■ <https://aaastaffing.com/>

3030 N 3rd St, Phoenix, AZ 85012

Phone : (602) 840-0287

■ <http://www.axisemployment.co/>

2990 E Northern Ave #C100, Phoenix, AZ 85028

Phone : (602) 242-2626

COMPANIES WITH IMMEDIATE HIRING NEED

(list updated 3/25/2020)

Employers with Immediate Hiring Need	City	Comments/ Specific Instructions on how to apply
Fry's Food	Anthem	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Fry's Food	Apache Junction	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Walgreens	Apache Junction	By email: ebony.fisher@walgreens.com
Costco	Arizona	https://bit.ly/3abDhtC
Amazon	Arizona	Apply through Beacon Group
Fry's Food	Avondale	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Fry's Food	Buckeye	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Accent Care	Bullhead City	By email to JeniferStedman@accentcare.com
Fry's Food	Casa Grande	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Fry's Food	Cave Creek	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Fry's Food	Chandler	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Walgreens	Chandler	By email: ebony.fisher@walgreens.com
Fry's Food	Cottonwood	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Fry's Food	Flagstaff	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Fry's Food	Fountain Hills	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Walgreens	Fountain hills	By email: ebony.fisher@walgreens.com
Fry's Food	Gilbert	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Cam Control	Gilbert	https://www.camcontrol.pro/careers
Fry's Food	Glendale	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Safeway	Glendale	WWW.SAFEWAY.COM
Walgreens	Glendale	By email: ebony.fisher@walgreens.com
Fry's Food	Globe	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Fry's Food	Goodyear	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Walgreens	Green Valley	By email: ebony.fisher@walgreens.com
Accent Care	Kingman	By email to JeniferStedman@accentcare.com
Accent Care	Lake Havasu	By email to JeniferStedman@accentcare.com
Walgreens	Lake Havasu	By email: ebony.fisher@walgreens.com
Fry's Food	Laveen	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Walgreens	Litchfield Park	By email: ebony.fisher@walgreens.com
Fry's Food	Lithfield Park	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Fry's Food	Marana	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
FRYS FOOD	Mesa	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
UPS	Mesa	https://www.jobs-ups.com
Prudential Cleanroom Services	Mesa	in person (https://www.prudentialuniforms.com/careers/)
Rotech Healthcare Inc.	Mesa	https://rotech.jobs.net/
Walgreens	Mesa	By email: ebony.fisher@walgreens.com
FRYS FOOD	Oro Valley	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Rotech Healthcare Inc.	Parker	https://rotech.jobs.net/
Fry's Food	Peoria	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Rotech Healthcare Inc.	Peoria	https://rotech.jobs.net/
Safeway	Peoria	WWW.SAFEWAY.COM
Allied Universal security	Phoenix	https://jobs.aus.com/security-professional-positions
Fry's Food	Phoenix	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
UPS	Phoenix	https://www.jobs-ups.com/
Safeway	Phoenix	WWW.SAFEWAY.COM
Food City	Phoenix	www.foodcity.com
Banner Health	Phoenix	https://www.bannerhealth.com/careers
Iconic Results	Phoenix	https://iconicresults.com/careers/
Walgreens	Phoenix	By email: ebony.fisher@walgreens.com
Fry's Food	Prescott Valley	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Rotech Healthcare Inc.	Prescott Valley	https://rotech.jobs.net/
Fry's Food	Sahuarita	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Fry's Food	San Tan Valley	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Fry's Food	Scottsdale	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Helpful hands care	Scottsdale	info@helpfulhandscare.com
Westminster Village	Scottsdale	www.wmvaz.com
Walgreens	Scottsdale	By email: ebony.fisher@walgreens.com
Fry's Food	Sierra Vista	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Walgreens	Sierra Vista	By email: ebony.fisher@walgreens.com
Fry's Food	Sun City	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Safeway	Sun City	WWW.SAFEWAY.COM
Walgreens	Sun City	By email: ebony.fisher@walgreens.com
Fry's Food	Sun City West	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Walgreens	Sun Lakes	By email: ebony.fisher@walgreens.com
Fry's Food	Surprise	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Fry's Food	Tempe	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
UPS	Tempe	Please go to above link and apply by location
Cafe Valley	Tolleson	Come to open interviews every Thursday, hiring on the spot to start the following Monday
Fry's Food	Tucson	https://jobs.kroger.com/frys-food-stores/go/Fry's-Food-Stores/571300/
Safeway	Tucson	https://www.albertsonscareers.com/careers.html?icmpid=swy_vxt_r1h2_othc_ih
State of Arizona UI Call Center Positions	Tucson	www.azstatejobs.azdoa.gov job id 54869
Rotech Healthcare Inc.	Tucson	https://rotech.jobs.net/
Walgreens	Tucson	By email: ebony.fisher@walgreens.com
State of Arizona	Yuma	www.azstatejobs.azdoa.gov



MARICOPA COUNTY JUSTICE COURTS

A handwritten signature in black ink, appearing to read "C. Adornetto".

Charles J. Adornetto
MCJC Judicial
Education Officer

Judicial Resources:
<https://spaces.hightail.com/space/tOuRfKkxm6>

Podcasts:
<https://anchor.fm/charles-adornetto>

Return to:

Ester.Mendoza@jbazmc.maricopa.gov

CERTIFICATE OF ATTENDANCE

PODCAST: CARES ACT, SUBSIDIZED HOUSING AND EVICTIONS

April 13, 2020

Eligible for up to 0.5 hours of COJET/CLE

0 hours of Ethics

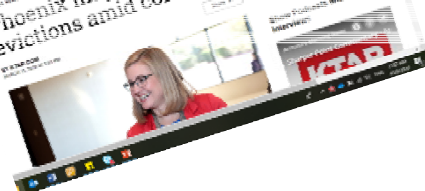
I claim _____ hours

Name:

Signature:

EVICTIIONS IN THE TIME OF COVID-19

Phoenix mayor halts city-owned evictions amid coronavirus fears



Trump suspends HUD evictions, foreclosures amid coronavirus pandemic

Several cities and states have imposed similar moratoriums

TRD NATIONAL / Staff

March 18, 2020 02:25 PM

The Verde Valley
Independent
& Camp Verde **Bugle**

USTED NEWS LEADER FOR COTTONWOOD, CAMP VERDE & THE VERDE VALLEY

TUE, APRIL 28

WEATHER 77.0°

Governor imposes eviction moratorium until July 23



Arizona governor orders halt on evictions for renters affected by coronavirus
By Howard Fischer Capitol Media Services
Mar 25, 2020

TIMELINE

- 3/13/2020 National Emergency Declaration
- 3/15/2020 Halting evictions for city owned housing in Phoenix
- 3/18/2020 Moratorium on foreclosures and evictions on units with FHA mortgages for 60 days
- 3/24/2020 AZ Governor's executive order suspending evictions for 120 days
- 3/27/2020 CARES ACT moratorium on evictions on properties with federally backed mortgages or federal subsidies for 120 days.

CORONAVIRUS AID, RELIEF AND ECONOMIC SECURITY ACT – CARES ACT

Applies to all tenants, not just those affected by COVID-19

FORBEARANCE FOR SINGLE AND MULTIFAMILY PROPERTIES
WITH FEDERALLY BACKED LOANS (FANNIE, FREDDIE, HUD)
AND FEDERALLY ASSISTED HOUSING

EVICTIION MORATORUIUM FOR PROPERTIES WITH
FEDERALLY BACKED LOANS

ARIZONA

51,000 Households have federal assistance.

- 22,000 vouchers
- 5,100 public housing
- 8,500 Section 8
- 5,800 other

5

EO 2020-14

For non-payment of rent and other eviction cases excluding material non-compliance and immediate
Establishes that Peace Officers and Constables temporarily delay enforcement of Eviction Action Orders for residential premises if COVID-19 reason exists:

- Quarantine due to illness
- Ordered by doctor to self-quarantine
- Someone else in the household with COVID-19
- Health conditions that puts tenant at risk
- Substantial loss of income (job loss, less income, need to take care of homebound children)
- Other pertinent circumstances

6



Meeting Date: May 14, 2020

Subject: AZCourtHelp.org website update

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Dr. Kevin Ruegg, Executive Director, Arizona Foundation for Legal Services & Education, and Cathleen Cole, Content Manager, Arizona Foundation for Legal Services & Education

Presenters: (Same)

Discussion: Discussion will include updated statistics and analysis from Google Analytic reports for AZCourtHelp.org website, COVID-related information, and enhancements and improvements to the website since the last report.

Recommended motion: None.



AZCourtHelp.org

Google Analytic Results

<i>Timeframe</i>	<i>Users</i>	<i>New Users</i>	<i>Pageviews</i>
<i>3/1/2019– 4/25/2019</i>	31,735	30,386	99,295
<i>3/1/2020-4/25/2020</i>	46,178	44,831	148,415
<i>Difference</i>	45.5%	47.5%	49.4%

The amount of time an individual stays on a page has increased by 20% and the amount of people leaving the site from their landing page has decreased by 22%.

Devices Used

<i>Timeframe</i>	<i>Desktop</i>	<i>Cell Phone</i>	<i>Tablet</i>
<i>3/1/2019– 4/25/2019</i>	13,829 (52%)	11,846 (44%)	1,079 (4%)
<i>3/1/2020-4/25/2020</i>	17,369 (45%)	20,312 (53%)	889 (2%)
<i>Difference</i>	25.6%	71.47%	-17.61%

From the launch of AZCourtHelp, cell phone and desktop usage has been about 50/50, with desktop computers always emerging a few hundred users ahead. This report is the first to show a significant increase of cell phone user; it can be assumed that the number of desktop users will continue to decline as long as public access to computers (e.g. libraries) are restricted.

Acquisition of Users

<i>Timeframe</i>	<i>Organic Search</i>	<i>Referral</i>	<i>Direct</i>	<i>Google Ad</i>	<i>Social Media</i>
<i>3/1/19– 4/25/19</i>	18,437	5,101	4,944	3,849	87
<i>3/1/2020-4/25/2020</i>	29,204	10,698	3,590	4,268	122
<i>Difference</i>	58.4%	109.7%	-27.4%	10.9%	40.2%

This year's work on metadata optimization has increased the visibility of AZCourtHelp on search engines. Currently, AZCourtHelp averages a position of 12 (up from 20th), amongst Google users in the United States. The addition of a Find My Court tab on the homepage of azcourts.gov, along with multiple referral links within AZPoint, have increased the number of users within AZCourtHelp by an additional 3,500 users in this 56 day period.

To contribute content or provide feedback - Cathleen.Cole@azflse.org



Top 10 Referrals

3/1/19- 4/25/19	3/1/2020- 4/25/2020
AZCourts.gov – 3,351	AZCourts.gov – 4,173
courts.Yavapai.us – 357	Azpoint.azcourts.gov – 2,547
AZLawHelp.org – 145	AZLawHelp.org – 1,987
jp.Pima.gov – 121	Phoenix.gov – 516
Coconino.az.gov – 90	clerkofcourt.maricopa – 410
sc.Pima.gov – 84	courts.Yavapai.us – 292
Goodyearaz.gov – 79	Housing.az.gov – 219
Maranaaz.gov – 75	jp.Pima.gov – 89
Navajocountyaz.gov – 70	sc.Pima.gov – 82
Flagstaff.az.gov – 62	SuperiorCourt.Maricopa – 72

Top 10 Cities

3/1/19- 4/25/19	3/1/20- 4/25/20
Phoenix – 9,448	Phoenix – 7,302
Tucson – 1,812	Mesa – 4,172
Mesa – 1,276	Tempe – 4,064
Los Angeles – 1,130	Tucson – 2,200
Scottsdale – 822	Chandler – 2,067
Tempe – 718	Los Angeles – 1,555
Chandler – 589	Glendale – 1,173
Gilbert – 546	Las Vegas – 1,071
Glendale – 526	Gilbert – 870
Peoria – 333	Scottsdale – 841

During the pandemic, users in 2,726 municipalities in the United States, 203 locations were in Arizona, have found assistance on AZCourtHelp. In 2019, a total of 1,971 municipalities (124 Arizona locations) utilized AZCourtHelp.

Los Angeles users are primarily searching for family law, eviction, marriage, and court records information. Las Vegas users are primarily searching for marriage, traffic, court records, and court location information.

Top 10 Pages Viewed 3.1.19-4.25-19

#Views	Page Name/Link
4,101	Maricopa Court Records
3,921	Electronic Court Records
3,838	Forms
3,261	Find My Court
3,123	Qué significa días calendario?
2,343	Self-Representation Portal
1,492	Traffic Violations
1,473	Live Chat
1,373	Child Support Calculator
1,291	Court Calendars

Top 10 Pages Viewed 3.1.20-4.25-20

#Views	Page Name/Link
9,625	Find My Court
7,861	Electronic Court Records
5,769	Forms
3,526	Justice Court Locations
2,791	Municipal Court Locations
2,760	Courthouse Weddings
2,557	Marriage Licenses
2,520	Marriage
2,083	Court Calendars
1,902	Superior Court Records

The most notable change is the increase in traffic regarding marriage. In total there were a combined 10,676 views of marriage related AZCourtHelp materials since March 1, 2020, whereas there were only 2,907 pageviews in the 2019 timeframe. AZCourtHelp has also referred 861 users to Maricopa County's marriage license by mail program, since its publishing on April 3, 2020.

To contribute content or provide feedback - Cathleen.Cole@azflse.org



Most Clicks in Google Search Results

<i>Search Term</i>
AZ Court Records
Arizona court records
Marriage license Arizona
Types of warrants
Arizona marriage license
Courthouse wedding
Arizona child support calculator
Immediate eviction Arizona
Child support calculator AZ
Marriage license

Top 10 Searched Terms on ACH

<i>Search Term</i>
Name change
Divorce
Order of Protection
Child Support
Probate
Eviction
Marriage
Power of Attorney
Forms
Guardianship

Live Chat Statistics

	3/1/2019 – 4/25/2019	3/1/2020 – 4/25/2020
<i>Item</i>	<i>Value</i>	<i>Value</i>
Number of Active Chat Operators	4	12
Number of Counties Represented	3	8
Number of Chat Sessions	113	628
Total Amount of Chat Time	20hrs 47min	105hrs 33min
Average Length of Chat Sessions	11min	10min

As of today, there are a total of 19 trained Live Chat operators who volunteer to work shifts assisting AZCourtHelp users. There have been 111 conversations that discussed a legal matter in relation to COVID-19.

Live Chat Topics

<i>#Mentions</i>		<i>#Mentions</i>	
3	Set Aside	27	Court Dates
4	Emancipation	29	Legal Decision Making/Parenting Time
6	Appeals	29	Traffic
8	Garnishment	31	Name Change
10	Small Claims	34	Civil Cases
11	Probate	35	Dissolution of Marriage
14	Criminal	45	Other
18	Court Records	51	Landlord/Tenant
18	Property	52	Marriage/Weddings
21	Child Support	61	Filing/Fees
22	Guardianship	100	Protective Orders

To contribute content or provide feedback - Cathleen.Cole@azflse.org



COVID-19 Resources

On April 7, 2020, AZCourtHelp published a page dedicated to pertinent resources related to COVID-19. It contains:

- A link to the COVID-19 Q&A portal on AZLawHelp – covid19.azlawhelp.org
- Mini Legal Talks on COVID-19 subjects
- A link to the AOC's COVID-19 information page
- Find My Court component on AZCourtHelp
- Attorney General's scams, frauds, and price gouging reporting information
- Contact information for the State Law Librarians
- Legal Aid Resources page on AZCourtHelp

There have been 446 pageviews of COVID-19 related pages on AZCourtHelp in the 18 days of publication.

COVID-19 Videos

Coconino Law Library has been producing mini legal help videos related to COVID-19, the first of which was published on April 9, 2020. Currently, there are 5 videos which are hosted on YouTube and embedded in AZCourtHelp. There has been a total of 849 views of the various videos.

Video Name	Publish Date	# Views
Getting a Protective Order During COVID-19	4/9/2020	375
Getting Married at the Courthouse During COVID-19	4/9/2020	172
Changing Child Support During COVID-19	4/13/2020	155
COVID-19 Parenting Time	4/23/2020	85
COVID-19: Changes to the Landlord/Tenant Law	4/13/2020	62

To contribute content or provide feedback - Cathleen.Cole@azflse.org



Meeting Date: May 14, 2020

Subject: Judicial and Attorney Engagement

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Judge Joe Kreamer, Chair; Mr. Joel England, Exec. Dir. Arizona State Bar; Chris Groninger, Arizona Bar Foundation

Presenters: Same.

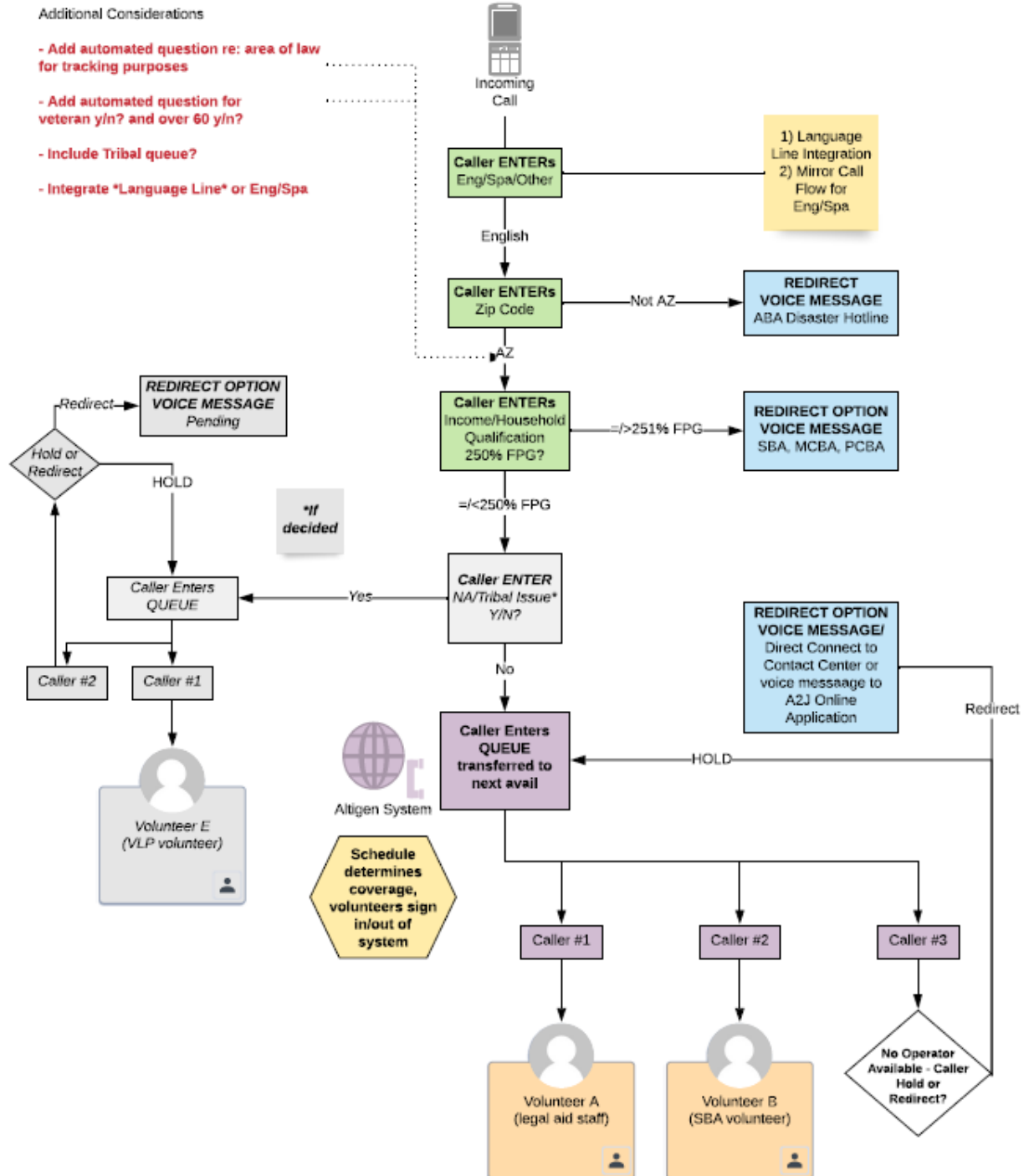
Discussion: The workgroup met on April 29, 2020.

Judge Kreamer will discuss the workgroup's efforts during the COVID-19 pandemic and strategic planning focus. Joel England and Chris Groninger will report on the Arizona Disaster Legal Information Hotline.

Recommended motion: None.

DESIGN OVERVIEW – DISASTER LEGAL INFORMATION HOTLINE

DRAFT - Arizona DISASTER Legal Hotline - DRAFT



OPERATION OVERVIEW – DISASTER LEGAL INFORMATION HOTLINE

Purpose of Legal Hotline:	Provide legal information (only) and referral to Arizonans experiencing a legal issue because of or related to a disaster. For current purposes, the Disaster Legal Hotline will provide legal information to callers impacted by COVID-19.
Hours of Operation:	Monday – Friday 9:00 am – 4:30 pm <i>Days and hours of operation to be determined</i>
Staffed By:	• Legal Aid Program Staff • VLP Attorneys • SBA Recruited Volunteers • FDN Recruited Volunteers
Malpractice Coverage:	Only legal information, not legal advice provided through Hotline. If necessary, volunteers through VLP programs will be covered by legal aid malpractice policy, other volunteers covered by joint program (SBA+FDN) designation in Foundation's policy.
Duration of Legal Hotline Operation:	Estimated 6-month (upon implementation) timeline, to be extended or shortened if required
Operator Resources: COVID-19 Legal Information/Referral	Existing COVID-19 legal information will be converted to training and reference materials for Operators https://covid19.azlawhelp.org https://arizonatogether.org/
Caller/Operator Language:	• Eng/Spa option or • Integration of Language Line services
COVID-19 Legal Hotline: Scope of Legal Information	Consumer/Finances Court Access Domestic Violence Employment Family Housing – Mortgage & Landlord/Tenant Order of Protection Public Benefits Unemployment Insurance Other: FFCRA, CARES, Exec Orders, Admin Orders



Arizona Commission on Access to Justice

Virtual Meeting Agenda

November 19, 2020 - 9:00 a.m. to 12:15 p.m.

For information on how to participate in the “Call to the Public” visit the [ACAJ WEBPAGE](#)

Conference call: 888-788-0099 **Meeting ID:** 602-452-3252
Meeting Code: 119866

TIME	AGENDA ITEM	PRESENTER
9:00 a.m.	Welcome and Opening Remarks	<i>Judge Lawrence F. Winthrop, Chair</i>
	Approval of minutes from May 14, 2020 ☐ <i>Formal Action/Request</i>	
9:10 a.m.	Report from the American Bar Association President	<i>Patricia Lee Refo, President, American Bar Association</i>
9:25 a.m.	Understanding the Justice Gap and the Potential for Non-legal Service Providers to Help Bridge that Gap	<i>Prof. Rebecca Sandefur, The College of Liberal Arts and Sciences, ASU Faculty Fellow, American Bar Foundation Editor, Law & Society Review</i>
10:10 a.m.	Updates on Alternative Business Structures and Legal Paraprofessionals programs • Rule and code section adoptions • Implementation of other Legal Services Task Force recommendations	<i>Jennifer Albright, AOC, Sr. Court Policy Analyst Suzanne Porter, Program Manager, CLD</i>
10:25 a.m.	Chairperson’s report	<i>Judge Winthrop</i>
10:35 a.m.	Workgroup Report: Family Court • Modification of Support for Incarcerated Parents	<i>Judge Bruce Cohen, Presiding Judge, Family Department, Maricopa County Superior Court</i>

**All times are approximate and subject to change. The committee chair reserves the right to set the order of the agenda. For any item on the agenda, the committee may vote to go into executive session as permitted by Arizona Code of Judicial Administration § 1-202. Please contact ACAJ staff, Kathy Sekardi at (602) 452-3253 or Sabrina Nash at (602) 452-3849 with any questions concerning this agenda. Any person with a disability may request a reasonable accommodation, such as auxiliary aids or materials in alternative formats, by contacting Sabrina Nash at (602) 452-3849. Requests should be made as early as possible to allow time to arrange the accommodation.*

10:50 a.m.	COVID-19 Eviction Actions Update • Interim Administrative Orders • AOC plans for court processes • AOC plans for judicial training • Executive branch and CDC moratoriums	Mike Baumstark
11:05 a.m.	Workgroup Report: CARES Act Compliance	Judge Samuel Thumma
11:10 a.m.	Update on COVID-19 Legal Information Hotline	Joel England
11:15 a.m.	Update on AZCourtHelp.org Enhancements and Use	Dr. Kevin Ruegg and Cathleen Cole Arizona Bar Foundation for Legal Services & Education
11:25 a.m.	Workgroup Report: Public Information and Messaging	Aaron Nash, Public Information Officer, AOC
11:35 a.m.	Workgroup Report: Justice in Government	Chris Groninger
11:45 a.m.	Workgroup Report: Attorney and Judicial Engagement	Judge Joe Kreamer
11:50 a.m.	Workgroup Report: Self-Represented Litigants in Limited Jurisdiction Courts Workgroup	Judge Anna Huberman
12:00 p.m.	ABA/ATJ Chairs Presentation – Ignite Talk	Cathleen Cole
12:10 p.m.	Good of the Order / Call to the Public	Judge Winthrop

**All times are approximate and subject to change. The committee chair reserves the right to set the order of the agenda. For any item on the agenda, the committee may vote to go into executive session as permitted by Arizona Code of Judicial Administration § 1-202. Please contact ACAJ staff, Kathy Sekardi at (602) 452-3253 or Sabrina Nash at (602) 452-3849 with any questions concerning this agenda. Any person with a disability may request a reasonable accommodation, such as auxiliary aids or materials in alternative formats, by contacting Sabrina Nash at (602) 452-3849. Requests should be made as early as possible to allow time to arrange the accommodation.*

Arizona Commission on Access to Justice
MINUTES
Thursday, May 14, 2020
10:00 a.m. to 12:30 p.m.
Virtual Meeting

Virtual attendees: Judge Lawrence Winthrop (chair), Judge Samuel Thumma (vice-chair), Mike Baumstark, Judge Thomas Berning, Judge Dean Christoffel, Judge Bruce Cohen, Judge Maria Elena Cruz, Joel England, Anni Foster, Kevin Groman, Judge David Haws, Judge Anna Huberman, William Knight, Judge Joseph C. Kreamer, Maria Morlacci, Helen Purcell, Janet Regner, Rodolfo Sanchez, Kathy Schaben, Valerie Wyatt, Anthony Young

Absent/Excused: Kip Anderson, Pamela Bridge

Presenters/Guests: Greg Hanchett, Jennifer Albright, Dave Byers, Cathleen Cole, Chris Groninger, , , Gretchen Hornberger, Alicia Moffatt

Administrative Office of the Courts (AOC) Staff: Theresa Barrett, Julie Graber, Sabrina Nash, Kathy Sekardi

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the May 14, 2020 meeting of the Arizona Commission on Access to Justice (ACAJ) was called to order by Judge Lawrence F. Winthrop, chair at 10:07 a.m. Judge Winthrop welcomed everyone and asked Kathy Sekardi to discuss virtual meeting etiquette. Judge Winthrop introduced the two newest members to the commission; Judge Dean Christoffel, Pima County Superior Court and Judge Sam Thumma, Court of Appeals, Division I, and newly appointed vice-chair of ACAJ.

B. Approval of Minutes

The draft minutes from the February 4, 2020 ACAJ meeting were presented for approval. Judge Christoffel noted that he was listed as absent from the February meeting when in fact he hadn't yet been appointed to the Commission.

Motion: Anthony Young moved to approve the February 4, 2020 minutes, as amended. **Seconded:** Rodolfo Sanchez. **Vote:** Unanimous.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Chairperson's Report

- COVID-19 pandemic hit the state and resulted in a statewide stay at-home orders for all but essential workers which lead to large scale layoffs and unemployment in the state. The AOC and Justice Brutinel worked to establish guidelines and issued administrative orders in relation to court operations and amended best practices during the pandemic. Justice Brutinel's administrative orders encourage reduced in-courthouse staffing, remote work for staff, telephonic or virtual hearings when possible and the resumption of jury trials with appropriate

protective precautions in place for court staff and public visitors.

- Both federal and state governments responded with stimulus legislation and Arizona was declared eligible for federal disaster relief funds with a portion of the funds dedicated to assist with the unemployment crisis brought on by the pandemic.
- Legal Assistance for Poverty Population – \$50 million was awarded, request was for \$150 million to address the tidal wave of low-income individuals requesting assistance due to the COVID-19 pandemic.
- Working in conjunction the Arizona State Bar, the Bar Foundation and Legal Aid entities with input from the Governor’s Office have created the Arizona Disaster Legal Information Hotline which will launch next week. The Foundation has also enhanced the existing AZLawHelp and AZCourtHelp websites to provide additional information for those seeking legal assistance.
- CISCO will partner with the State Library to install new external wireless access points to underserved rural areas to increase access to justice in these communities.
- The Pew Charitable Trust has issued a report and recommendations on potential reform measures in debt collection. Recommendations include: tracking data on debt claims, educating legislators on the current disadvantages that debtors face and the need to review court rules and procedures to ensure all parties can adequately present their case.
- The Law4AZ program was awarded a \$7,500 federal grant to revive the program through August 2021. The first phase will focus on information gathering on underserved areas, the second phase will focus on training librarians in the underserved areas and allocating resources to increase access to justice for the affected communities.

B. Report on Office of Administrative Hearings Trainings

Greg Hanchett, Director of the Office of Administrative Hearings (OAH), stated that the Office of Administrative Hearings was created by the legislature in 1995 to create an efficient means of providing fair, impartial and free from actual or perceived agency. The OAH has created clear and easily navigated websites which make forms accessible to pro se litigants. Staff is also trained on how to provide appropriate information to litigants, respond to phone and email inquiries. The OAH has created a script for judges to follow as part of their training and judges are required to attend annual training which includes OAH ethical standards. There is also a post-final agency decision evaluation for rejected recommended decisions and a participant evaluation and a post-decision complaint process. To access the extensive webpage of the Arizona Office of Administrative Hearings go to <https://azoah.com/index.html>

C. Modification of Support for Incarcerated Parents

Bruce Cohen, Presiding Family Court Judge, Maricopa County Superior Court discussed the possibility of streamlining the process for the modification of child support orders for incarcerated applicants. Judge Cohen stated that he’d like the Commission to establish a stakeholder workgroup to create a streamlined process for incarcerated defendants to apply for IV-D services.

Discussion: Members expressed their support of the proposed workgroup and Judge Dean Christoffel offered to contact Pima County stakeholders.

D. Update on the Delivery of Legal Services Task Force

Jennifer Albright, AOC, updated members on the implementation plans and efforts that have been made regarding the Task Force on Delivery of Legal Services recommendations. The Report and Recommendations of the Task Force along with other Task Force information, can be found at the Task Force's webpage:

<https://www.azcourts.gov/cscommittees/Legal-Services-Task-Force>.

E. Report from Legal Service Providers re: COVID-19 efforts:

[Southern Arizona Legal Aid \(SALA\)](#) – Anthony Young stated that SALA's offices are closed and they are working remotely to assist clients. They are working to expand the call center and are directing clients to their website. SALA applied for a COVID-19 related grant from the Arizona Community Fund to purchase cellphones, mobile hotspots and laptops for staff. Mr. Young noted that most requests for legal assistance were for housing and unemployment.

[Community Legal Services \(CLA\)](#) – Pam Bridge reported that CLA is providing intake services telephonically and online. CLA has undertaken a massive outreach effort to send COVID-related information to farmworkers and community partners on landlord notification, unemployment resources and stimulus checks. CLA has conducted 13 legal lunchtime webinars on a variety of topics such as; tenant rights, how to access the courts, family law and protective orders.

[DNA-People's Legal Services](#) - Rodolfo Sanchez noted DNA's service area is large because the Navajo Nation encompasses three states: Arizona, New Mexico and Utah. Mr. Sanchez shared that their employees are self-quarantining in an abundance of caution to protect the public and staff. They are working remotely and post updated information on their website regarding COVID-19 and refer clients to the AZLawHelp website. DNA applied for a COVID-19 related grant from the Arizona Community Fund to purchase cellphones, mobile hotspots and laptops for staff. Their stay-at-home order covers all three states and has been extended through June. The Hopi Nation which is located within the Navajo Nation and New Mexico have implemented strict regulations regarding travel. The Navajo Nation is currently a COVID-19 hotspot with 1 in 50 residents affected by the virus.

Update on the Public Information and Messaging Workgroup

Aaron Nash, co-chair, announced that the workgroup was meeting more frequently due to COVID-related issues.

- Working with courts via social media, websites and press releases to provide the community with information on how to access the courts and what courts are doing to keep the public safe.
- Developing eviction information to share with the public and the courts.
- Dissemination of COVID-19 and eviction-related information to Spanish speaking communities.
- Added two new members to the workgroup: Judge David Fuller and Jessica Fotinos.
- Compiling information from contributors for the ACAJ Annual Report.

F. Report from the Self-Represented Litigants in Limited Jurisdiction Courts Workgroup

Judge Anna Huberman reported on the following workgroup activities:

- Completed video and legal info sheets on evictions and air conditioning repair.
- Continue to work on Consumer Debt scripts, videos and legal info sheets.
- Consulting with Step Up to Justice representatives regarding evictions during the pandemic.

G. Report on the AZCourtHelp.com website

Cathleen Cole stated that AZCourtHelp has been working with the Committee on Mental Health and the Justice System to develop an online presence for mental health court. The AZCourtCare.org website was created to share information about treatment resources and options in Arizona. Ms. Cole demonstrated the website and explained that it provides basic information on what to do in a crisis, forms and other resources, processes that can apply to any Arizona county, a glossary and collection of acronyms to assist individuals through the process. The direct link is [AZCourtCare.org](https://www.AZCourtCare.org) and there is also a link to the website on AZCourtHelp.org. Based on the success of postcards and business cards created for AZCourtHelp, Judge Winthrop suggested that cards be developed for AZCourtCare.

H. Report from the Judicial and Attorney Engagement Workgroup

Judge Joseph Kreamer discussed the workgroup's efforts during the COVID-19 pandemic and strategic planning focus. Joel England and Chris Groninger will report on the Arizona Disaster Legal Information Hotline.

III. OTHER BUSINESS

A. Good of the Order/Call to the Public

No members of the public were present.

Next Meeting Date:

Thursday, November 19, 2020

10:00 a.m. to 3:00 p.m.

State Courts Building, Room 119

1501 W. Washington Street

Phoenix, AZ 85007

Adjourned at 12:52 p.m.



Meeting Date: November 19, 2020

Subject: Understanding the Justice Gap and New Services' Role in Bridging It

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

Presenter: Prof. Rebecca L. Sandefur, The College of Liberal Arts and Sciences, Arizona State University; Faculty Fellow, American Bar Foundation; Editor, Law & Society Review

Discussion: Understanding the Justice Gap and New Services' Role in Bridging It
Americans experience over 150 million new civil justice problems each year. These problems affect fundamental areas of life: making a living, having a place to live, being able to care for people who are dependent on us. They affect all groups in the population, but they fall most heavily on poor people and people of color. For over 60 years, we have tried the same solutions again and again: more funding for civil legal aid and more volunteer effort from the bar. Sixty years of trying the same thing over and over offers us a definitive track record of failure: 100% subsidized services supplemented by lawyers' pro bono cannot meet the need – not even for the minority of the population that is eligible for that kind of free service, and certainly not for the massive “modest means” population that is not. If we truly want to scale up help to meet the need, we need more than lawyers. Jurisdictions around the country are considering altering rules about who and what can provide legal services and who can profit from them. Research in the US and around the world informs us about how to do this effectively while protecting consumers.

Recommended motion: None.



UNDERSTANDING THE JUSTICE GAP AND NEW SERVICES' ROLE IN BRIDGING IT

REBECCA L. SANDEFUR
ARIZONA STATE UNIVERSITY
AMERICAN BAR FOUNDATION



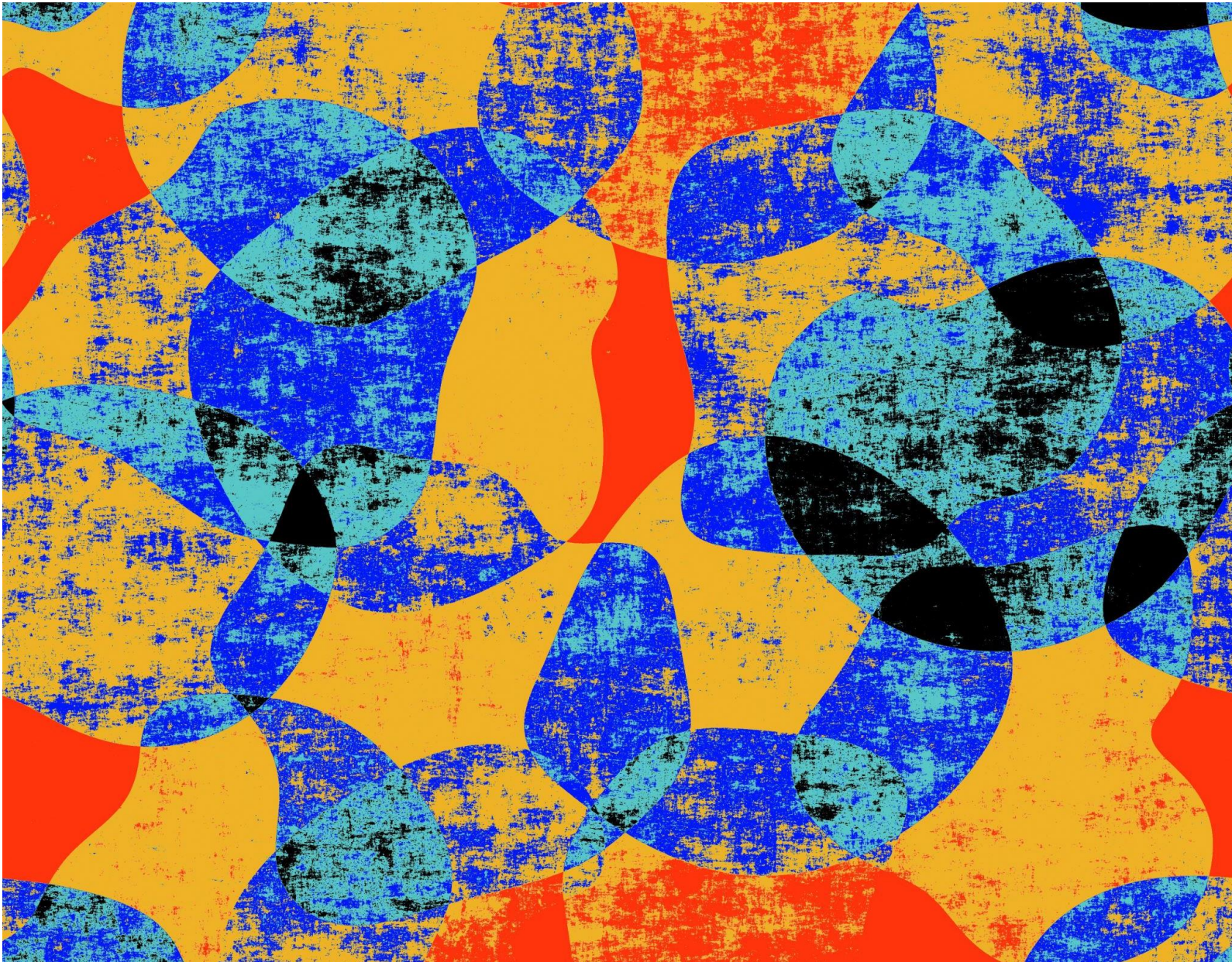
What do we know about America's access to civil justice crisis?



What makes us think more people would get help if there were more kinds of legal helpers?



What makes us think that new kinds of legal helpers could do a good job?



WHAT DO WE KNOW ABOUT THE CRISIS?

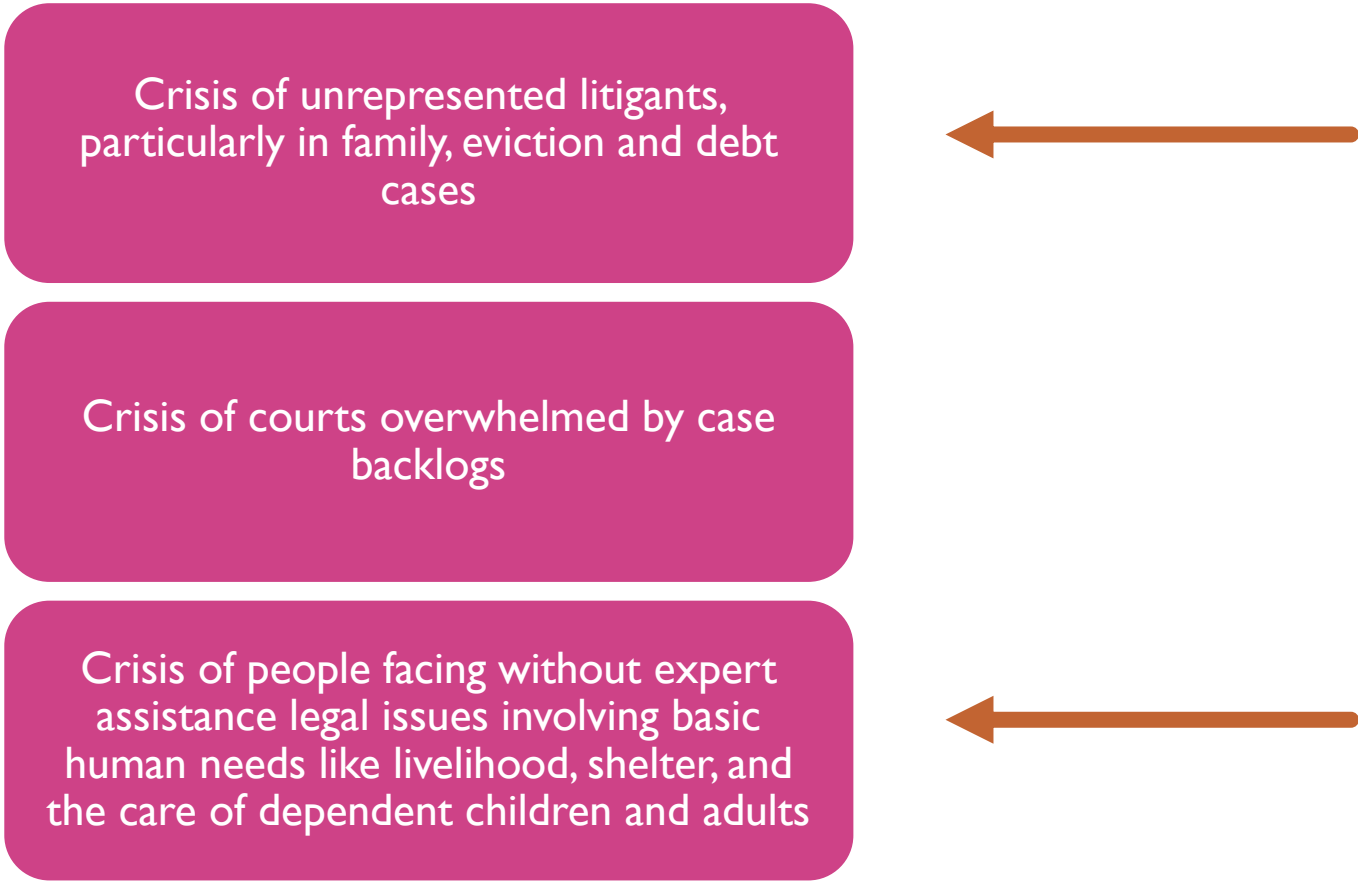
Crisis of unrepresented litigants,
particularly in family, eviction and debt
cases



Crisis of unrepresented litigants,
particularly in family, eviction and debt
cases

Crisis of courts overwhelmed by case
backlogs





Crisis of unrepresented litigants,
particularly in family, eviction and debt
cases

The diagram features three magenta rounded rectangular boxes stacked vertically. The top box contains text about unrepresented litigants, the middle box about court backlogs, and the bottom box about people without expert assistance. To the right of the top and bottom boxes are orange arrows pointing left. The entire diagram is set against a background with a horizontal bar at the top divided into three colored segments: dark grey, orange, and light grey.

Crisis of courts overwhelmed by case
backlogs

Crisis of people facing without expert
assistance legal issues involving basic
human needs like livelihood, shelter, and
the care of dependent children and adults

THE JUSTICE GAP

JUSTICIABLE PROBLEMS SURVEYS

- Surveys ask representative samples of populations not about “legal” issues, but about justiciable problems, defined for people without reference to law. E.g.,
 - Your employer owes you over-time pay and won’t pay it
 - You are three or more months behind on your rent
- Why ask this way?: reference to law substantially reduces public recognition of relevant issues
- Method: ask people whether they have encountered defined problems, then ask how they have tried to resolve them.

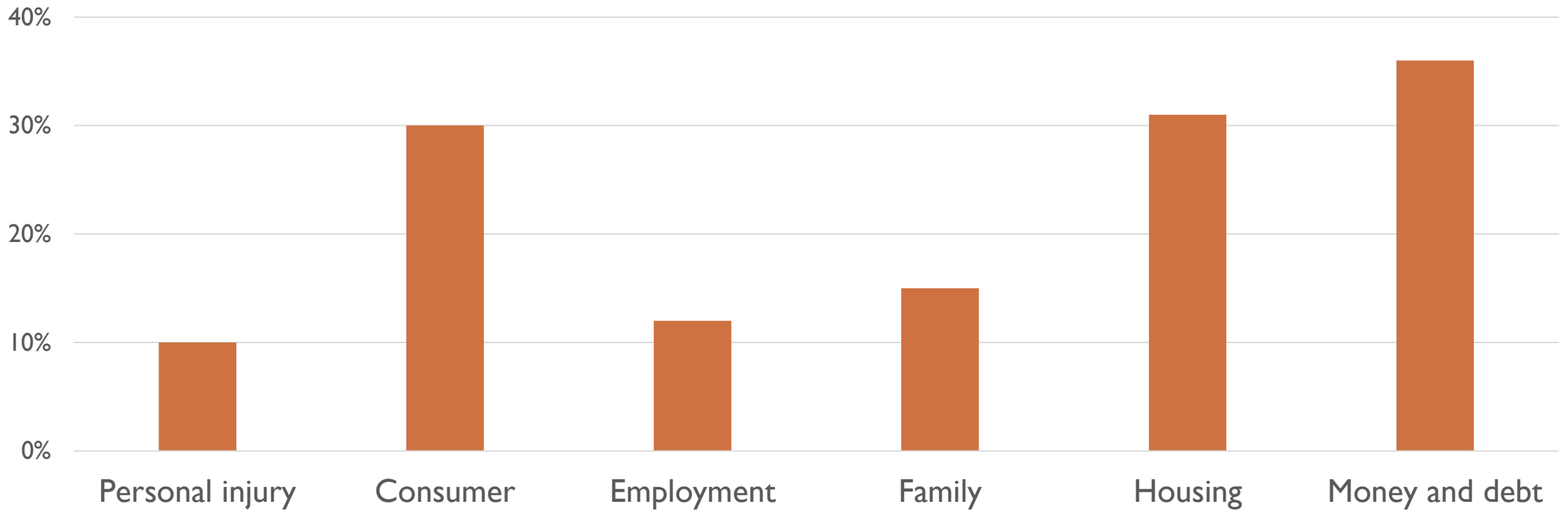
PEOPLE-CENTERED ACCESS TO JUSTICE

16 PEACE, JUSTICE AND STRONG INSTITUTIONS



MILLIONS OF CIVIL JUSTICE PROBLEMS AFFECT AMERICANS AND ARIZONANS EVERY YEAR

USA: Adults at All Income Levels



Sources: World Justice Project

THIS INCLUDES NATIONALLY, FOR EXAMPLE

❑ Facing formal legal action:

- Tenants involved in the 3.6 million evictions filed (pre-COVID).¹
- 4 million workers having their wages garnished for debt (pre-COVID).²
- People involved in 1.5 million adult guardianship actions. (pre-COVID)³

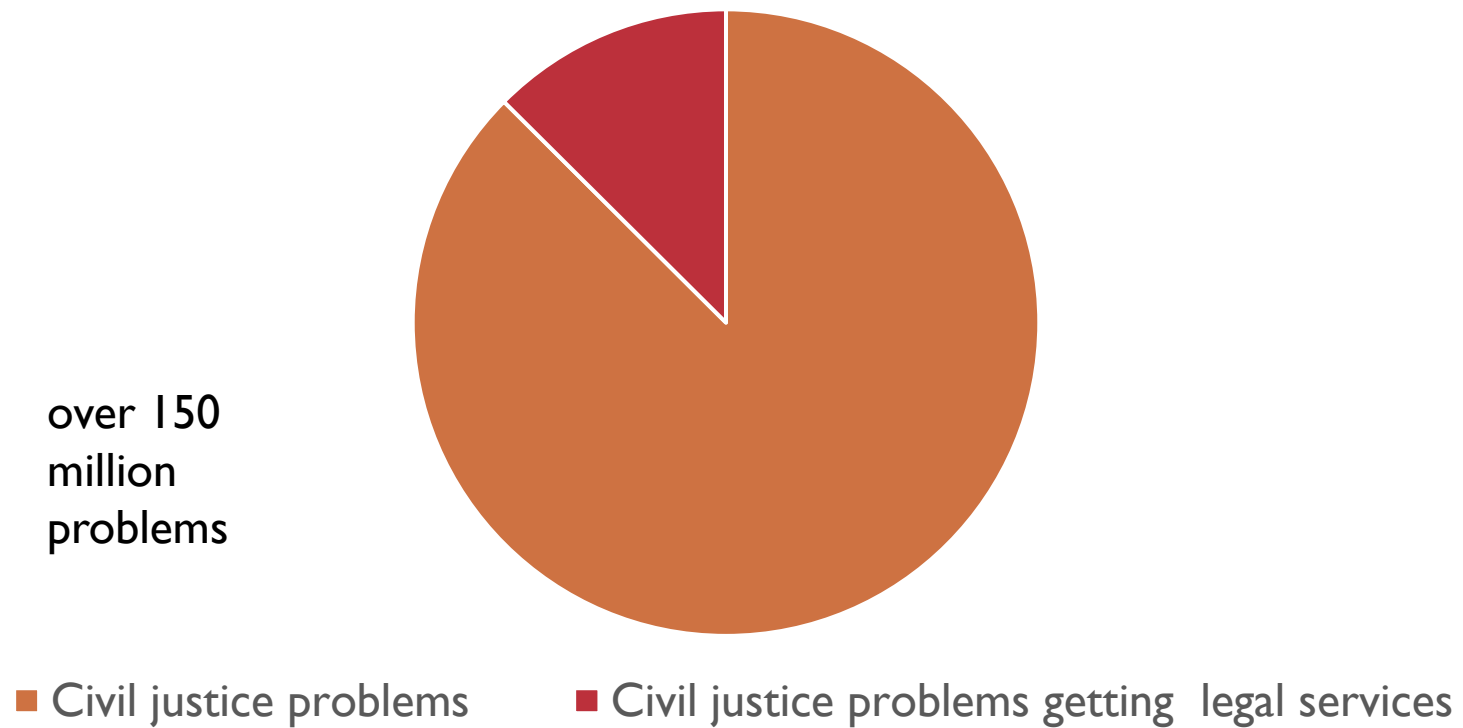
❑ Facing situations that raise civil legal issues:

- 6.9 million people behind on student loan payments. (pre-COVID)⁴
- 2.5 million grandparents raising grandchildren (pre-COVID).⁵
- 15.7 million people caring for an adult with dementia (pre-COVID).⁶
- 8.2 million people living in unsafe or unhealthy rental housing (pre-COVID).⁷
- The over 40 million new filers for unemployment benefits since mid-March 2020⁸

IMPACTFUL: NATIONALLY A PRE-COVID ESTIMATED...

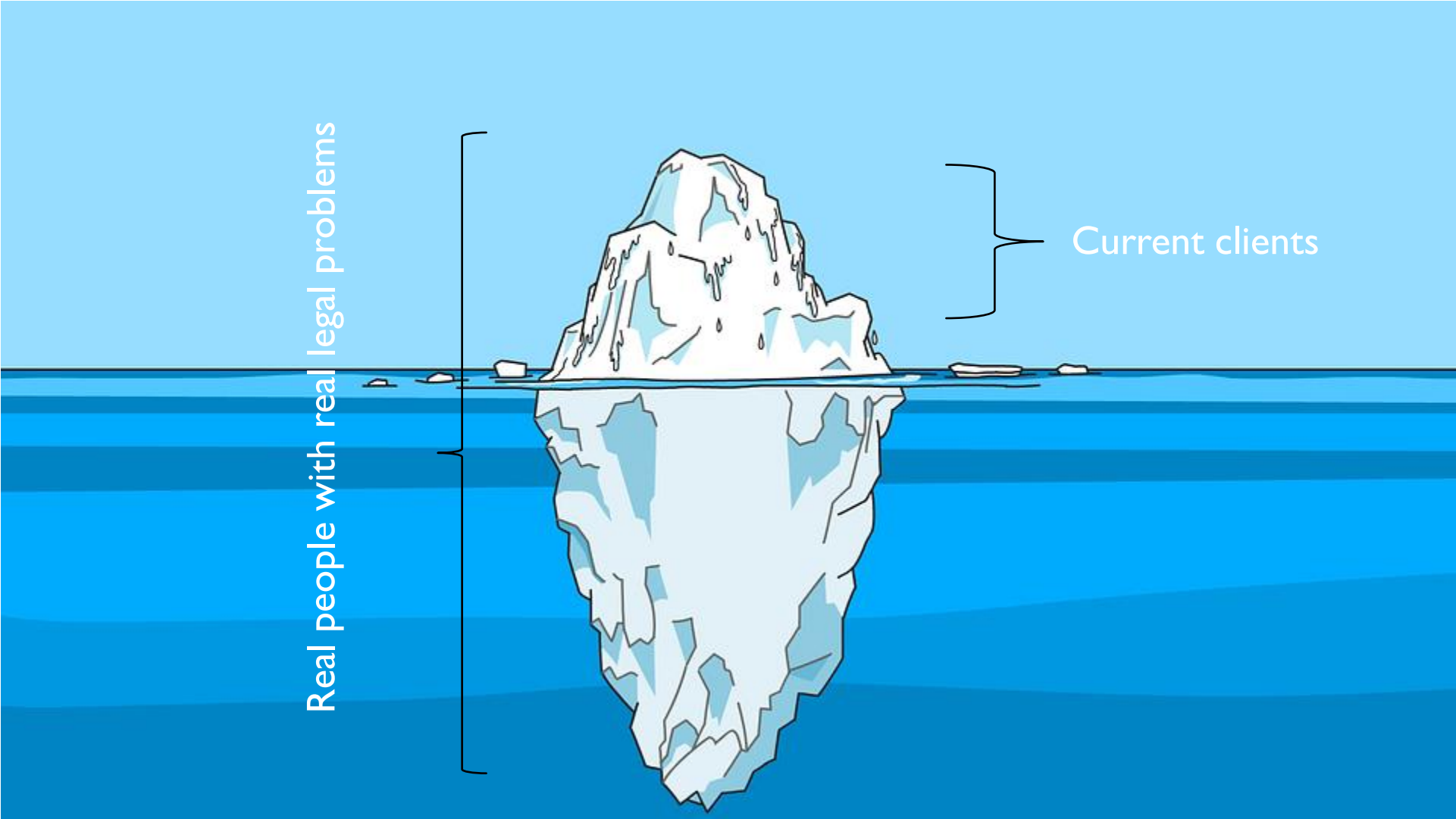
- 19.5 million justice problems led to negative health outcomes
- 18 million justice problems led to lost income, employment or housing
- 13.5 million justice problems led to damaged relationships
- 4.7 million justice problems led to problems with alcohol or drugs
- People spend large portions of their lives dealing with these problems. ***If nothing changes:***
 - Americans in mid-life can expect to deal with justice problems for over **two-fifths** (43%) of the rest of their lives.
 - Americans aged 18-34 can expect that over a **fifth** (21%) of their lives will be overshadowed by hardships caused by civil justice problems.

MOST GET NO LEGAL SERVICE OF ANY KIND: USA



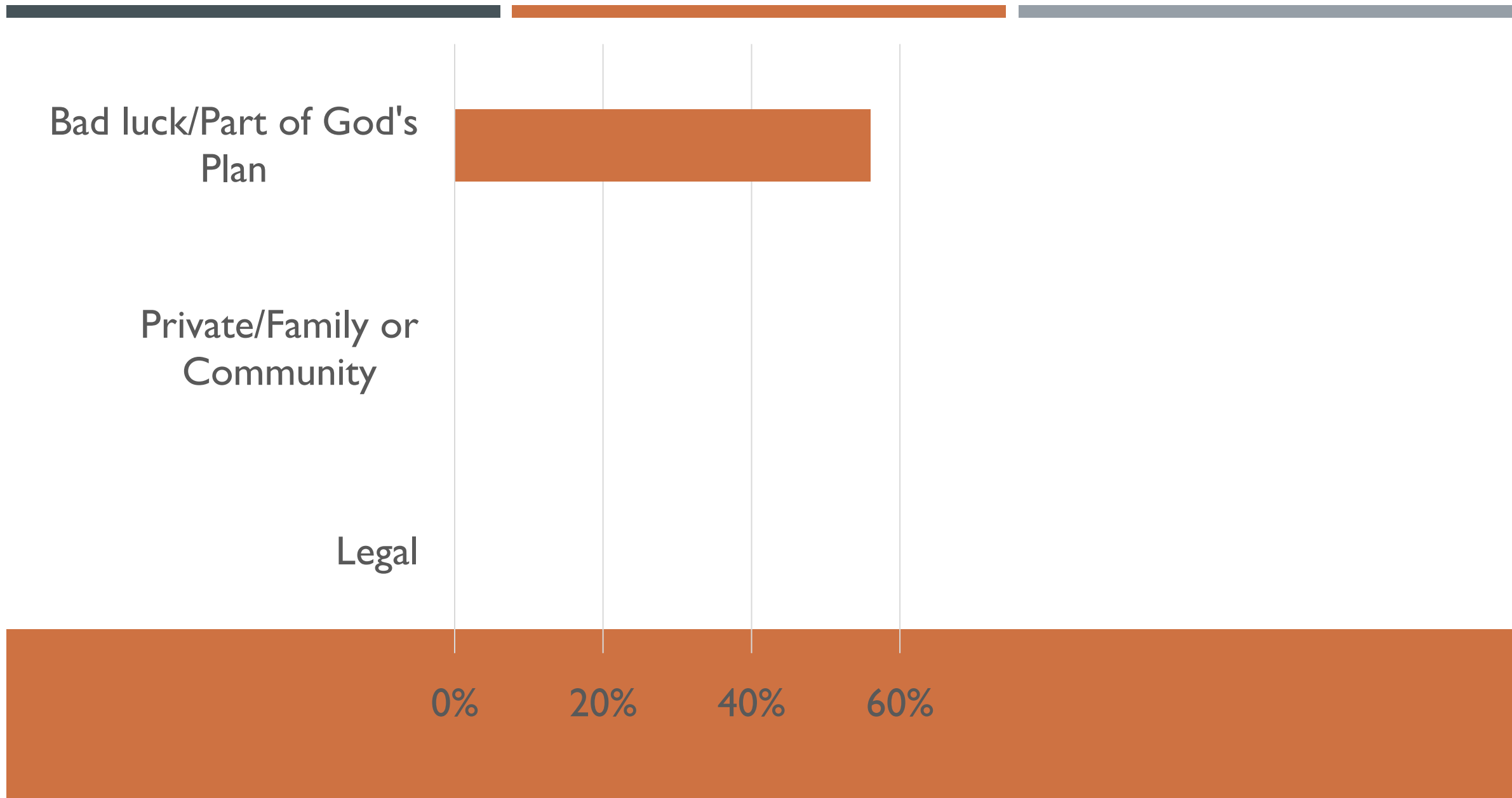
Real people with real legal problems

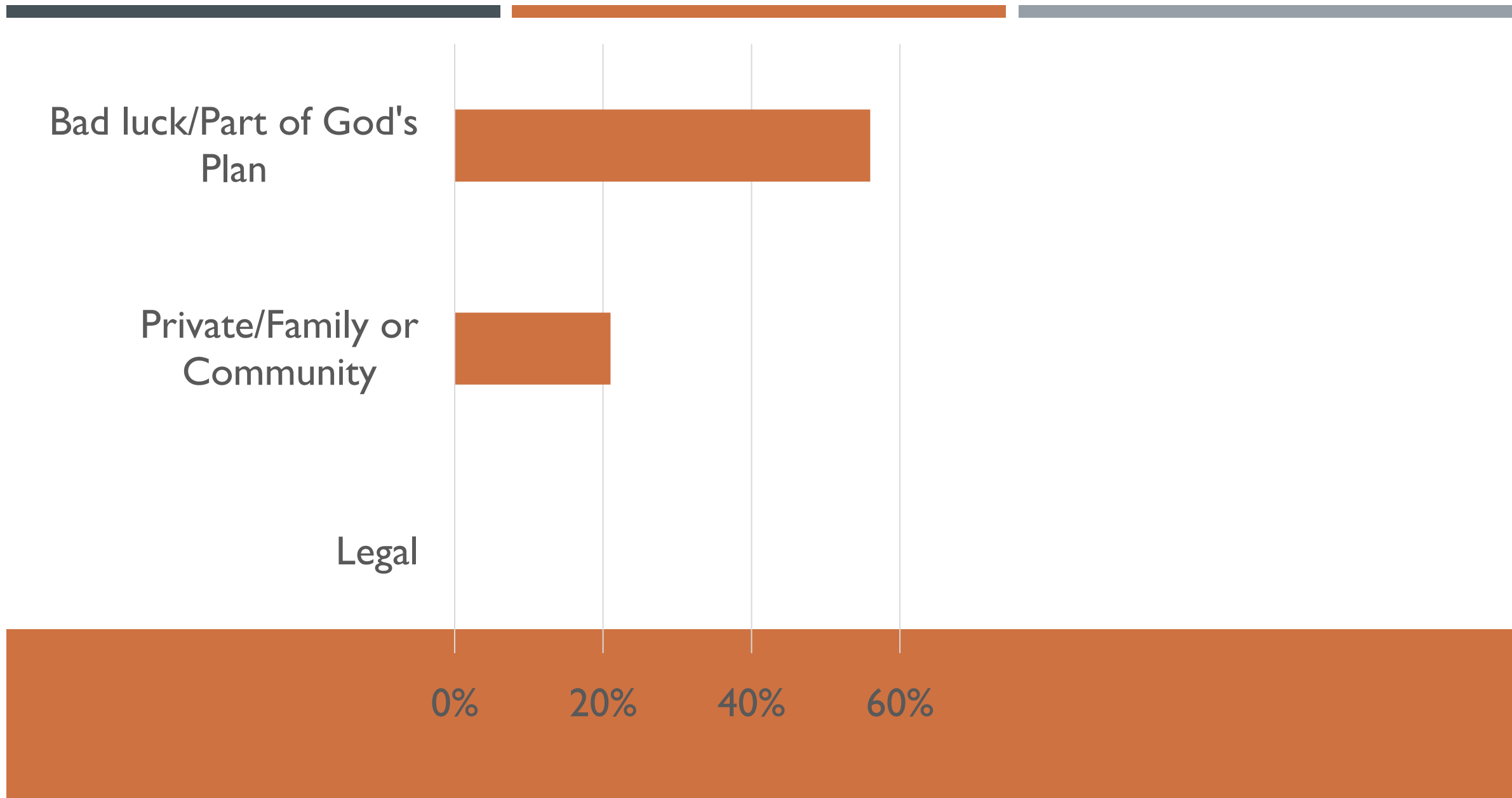
Current clients

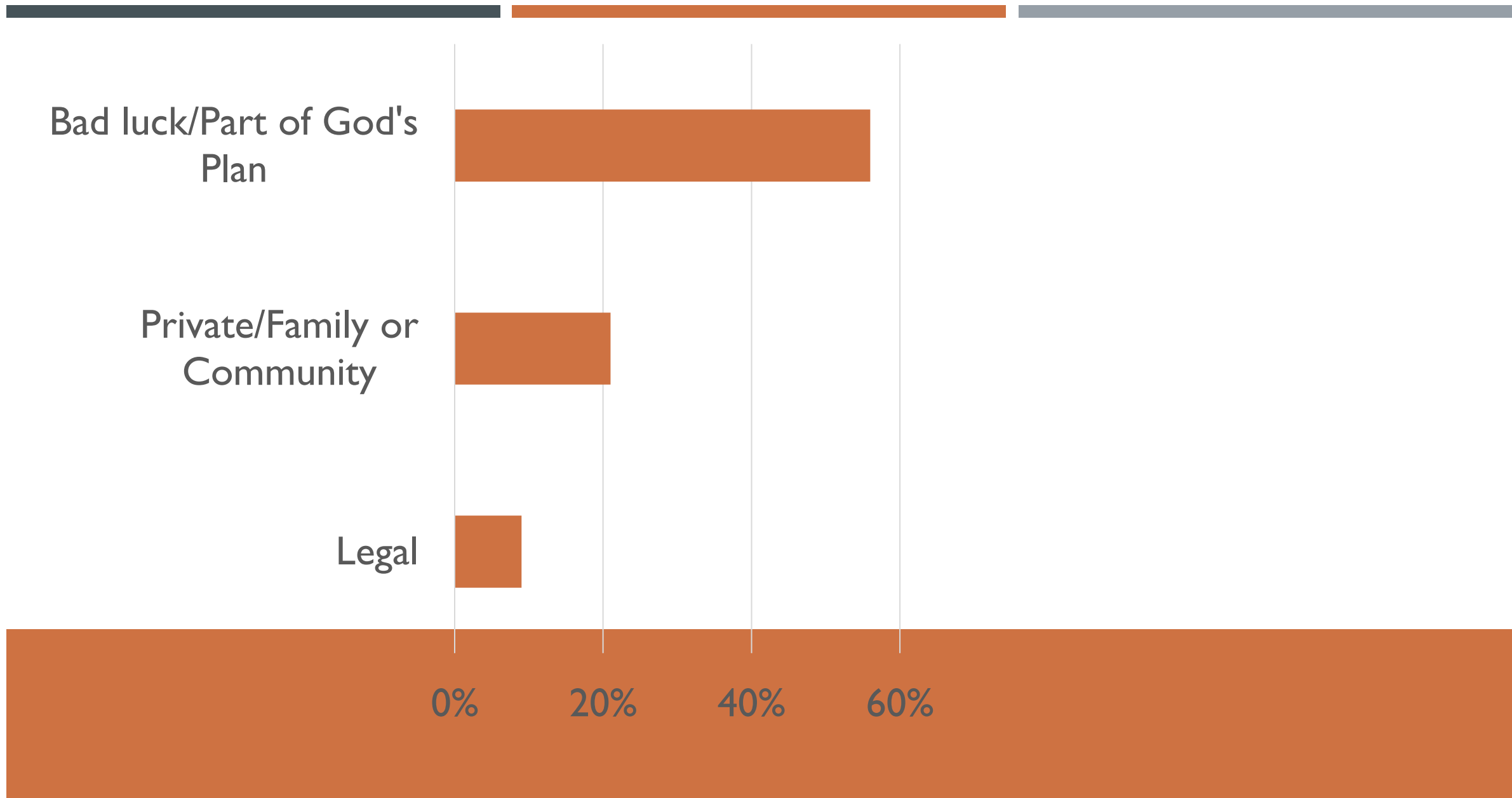




PEOPLE OFTEN
DON'T
RECOGNIZE
THE LEGAL
ASPECTS OF
THEIR
PROBLEMS







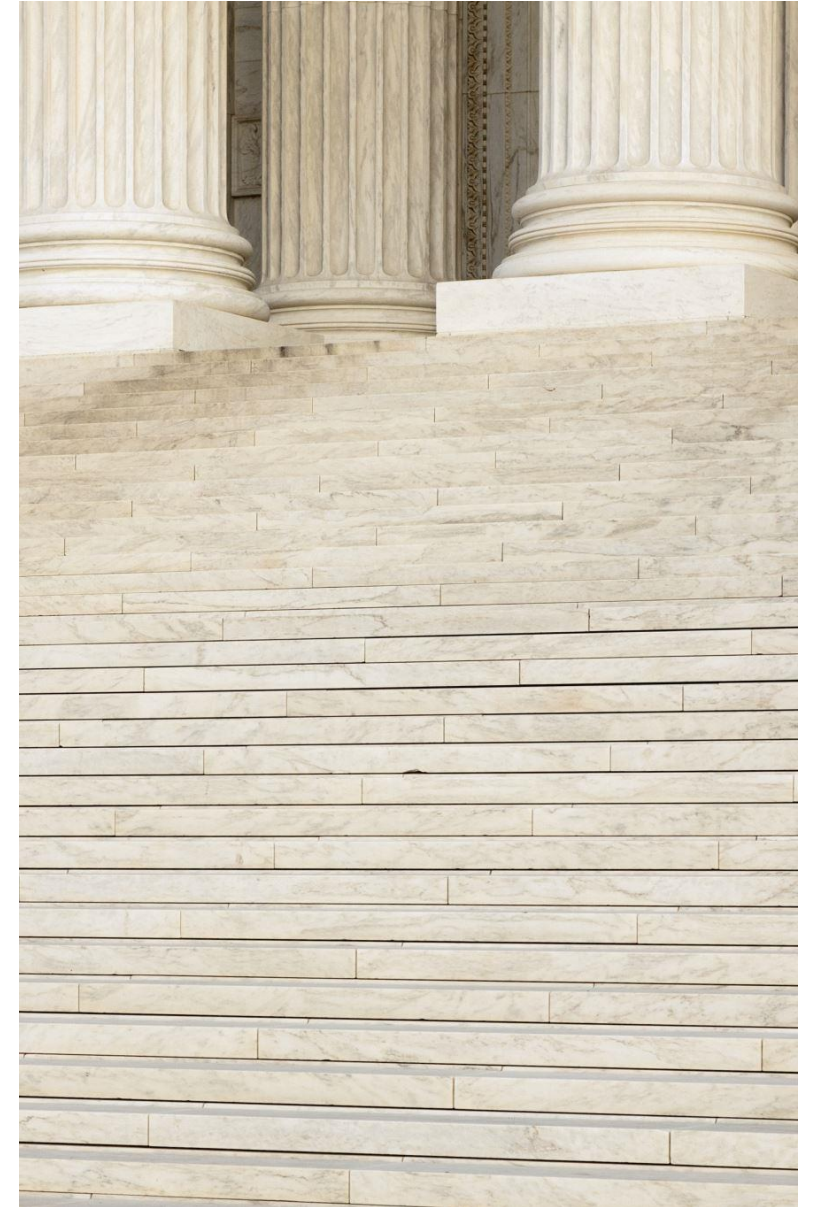


WHY WOULD
NEW KINDS OF
SERVICES MAKE
A DIFFERENCE?



WHAT'S NEW?

- Types of *authorized* legal services providers
 - Non-lawyers practicing law
 - Humans
 - Computers
- Types of *authorized* structures for legal services delivery
 - Alternative Business Structures
 - Multi-disciplinary practice
 - Walmart law



WHY CHANGE?

REASON I: EXPERIENCE

- Since 2001 in Australia and 2007 in England and Wales, nonlawyers can own law firms and share fees with lawyers.
- For decades in the US District of Columbia, a form fee sharing/ownership by nonlawyers has been permitted.
- In the UK, **the US**, and other countries, nonlawyers have been providing authorized legal services for many years.

PROVIDERS



CAPACITIES

represent

enact

advise

protect

inform

omnicompetence

enact

advise

protect

inform

limited competence

enact

advise

inform

limited competence

enact

inform

limited competence

inform

limited competence

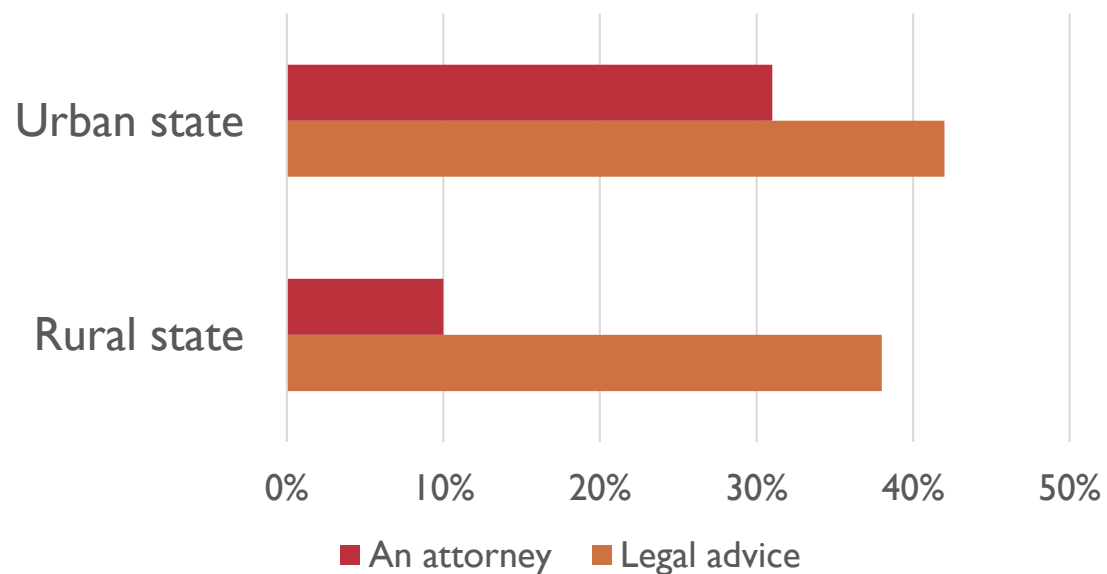
WHY CHANGE?

REASON 2: CONSUMER DEMAND

- People are often actively seeking legal advice rather than full representation.
- When nonlawyer providers are available, people are happy to use them.
- The presence of more alternatives is related to a greater likelihood of doing something about justice problems.

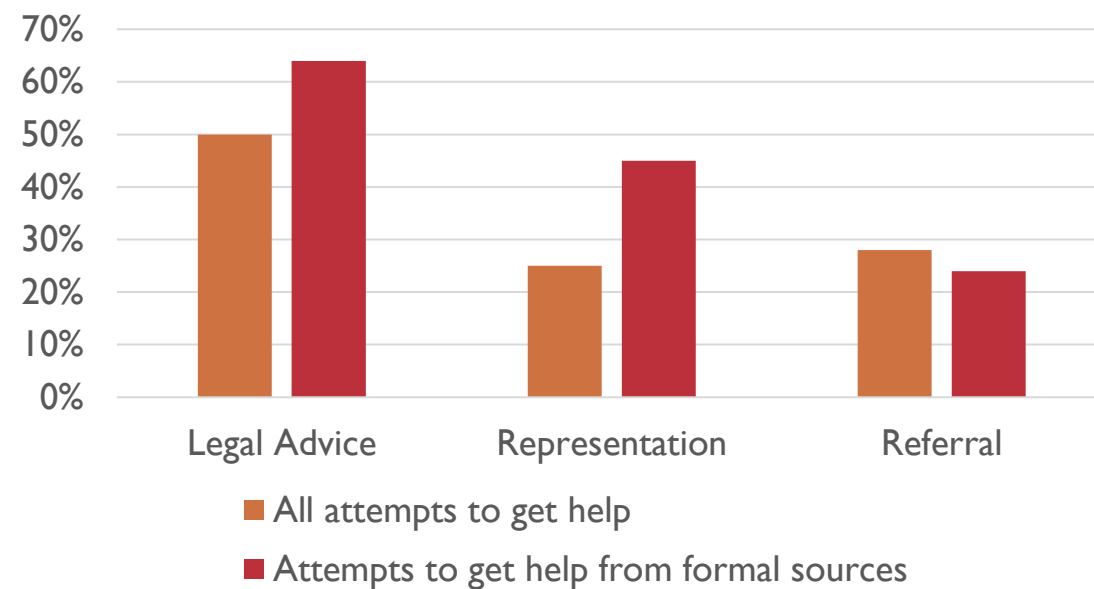
PEOPLE ARE LOOKING FOR LEGAL ADVICE

In legal aid live chat, people ask for



Source: Sandefur, Legally Empowering Technologies Project
Funded by Open Society Foundations

From helpers, people want



Source: Sandefur, Community Needs and Services Study
Funded by National Science Foundation and American Bar Foundation

People who are not lawyers have been representing clients in a range of U.S. forums for over 60 years.

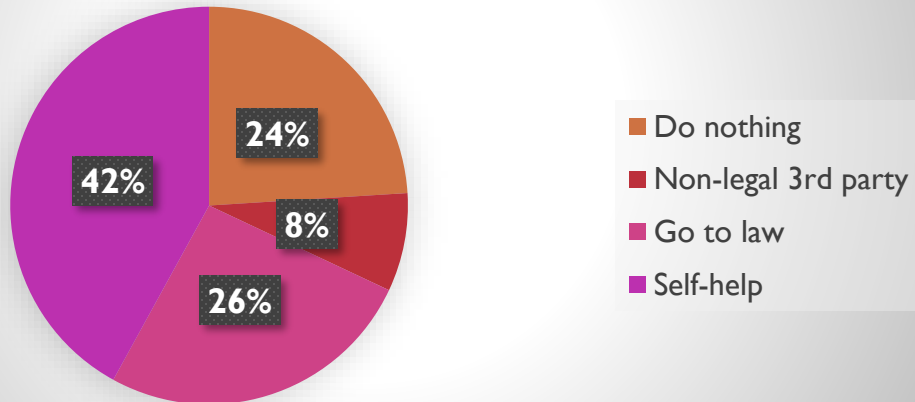
- 22% of representatives in unemployment compensation appeals (WI)⁹
- 38% of representatives in state tax appeals (WI)⁹
- 22% of representatives in SSDI appeals (US)⁹
- Over 2000 immigration representatives accredited to appear in federal immigration matters¹⁰

When nonlawyers are available,
people use them.

MORE OPTIONS = PEOPLE MORE LIKELY TO DO SOMETHING ABOUT THEIR JUSTICE PROBLEMS

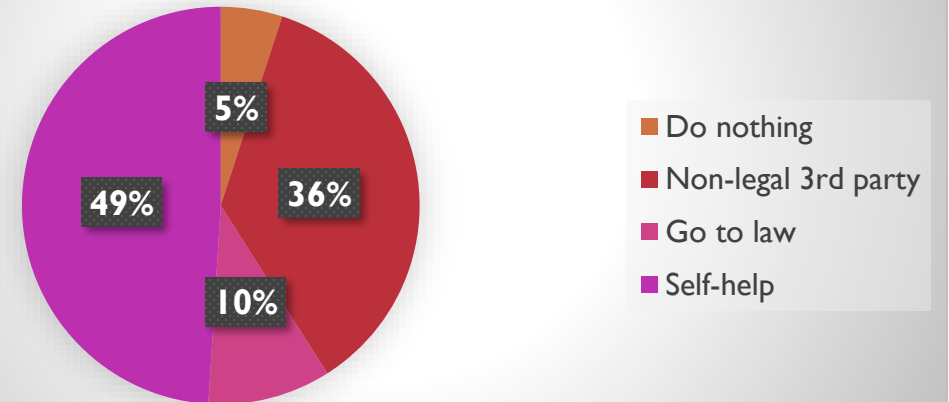
Restricted legal aid,
few nonlawyer alternatives
(USA 1992)

Responses to Civil Justice Problems



Expansive legal aid,
many nonlawyer alternatives
(England and Wales 2004)

Responses to Civil Justice Problems

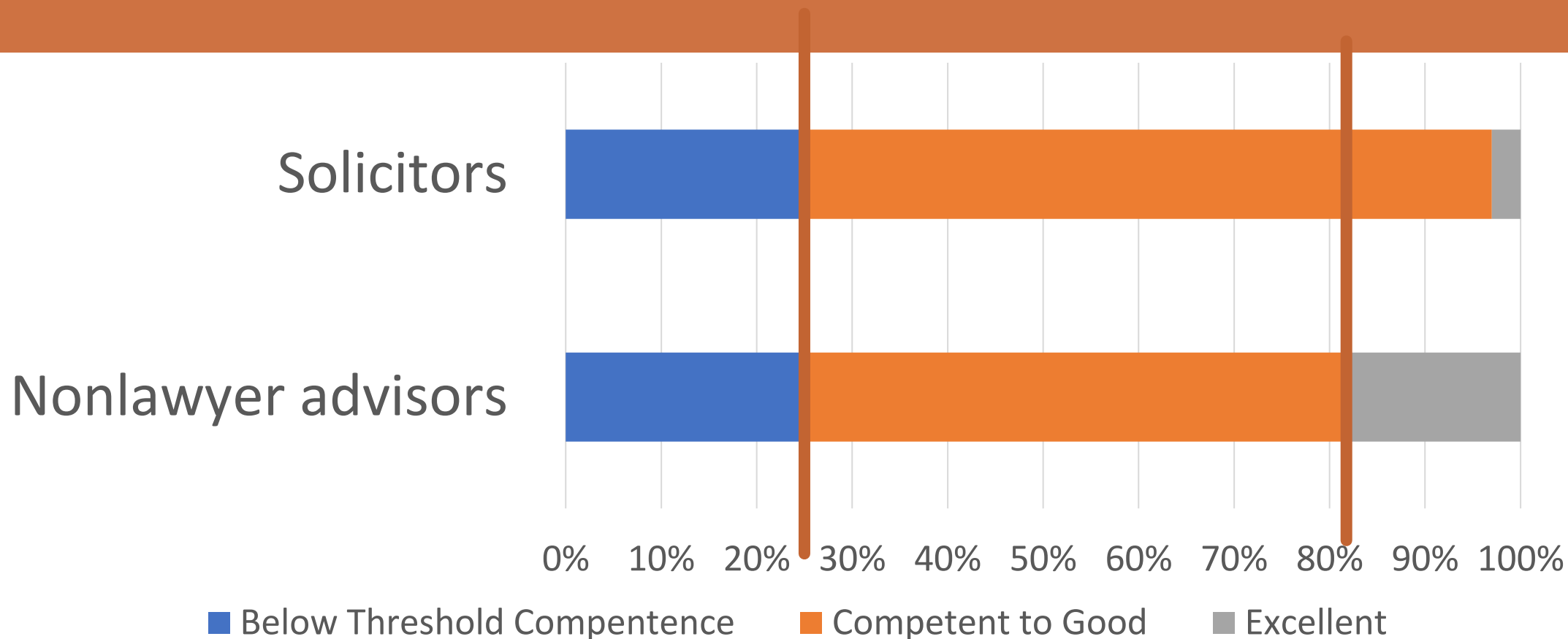




REASON 3:

RESEARCH
CONSISTENTLY
DEMONSTRATES THAT
SPECIALIZED NON-
LAWYER PROVIDERS
PERFORM AS WELL OR
BETTER THAN
TRADITIONAL
ATTORNEYS

COMPETENCE OF NONLAWYER ADVISORS: PEER REVIEW OF LEGAL WORK: UK¹¹



Areas of practice: benefits, housing, debt, personal injury, immigration, employment, other civil



OPPORTUNITIES

- Greater consumer choice
- Services designed around clients
- Expanded access
- New sources of revenue and investment
- More efficient regulation





THANK YOU – LOOKING FORWARD TO THE CONVERSATION

© REBECCA L. SANDEFUR 2020

Please feel free to contact me at rebecca.sandefur@asu.edu.

SOURCES AND RESOURCES

1. Ashley Gromis. 2019. “Eviction: Intersection of Poverty, Inequality and Housing.” Eviction Lab, Princeton University. https://www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2019/05/GROMIS_Ashley_Paper.pdf
2. “Millions of Americans’ Wages Seized Over Credit Card and Medical Debt.” <https://www.npr.org/2014/09/15/347957729/when-consumer-debts-go-unpaid-paychecks-can-take-a-big-hit> (September 15, 2014, NPR)
3. Brenda K. Uekert and Richard Van Duizend. 2011. “Adult Guardianships: A ‘Best Guess’ National Estimate and the Momentum for Reform.” National Center for State Courts. <http://www.eldersandcourts.org/~media/Microsites/Files/cec/AdultGuardianships.ashx>
4. New York Federal Reserve. 2019. These are borrowers behind in payments for at least 90 days or in default. https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/xls/sl_update_2018.xlsx
5. US Bureau of the Census. 2017. American Community Survey.

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6. AARP. 2019. "Dementia Care: Helping Your Loved One Stay Connected and Safe."
<https://www.aarp.org/caregiving/basics/info-2019/alzheimers-dementia-care.html>
7. According to the 2017 American Housing Survey, 7.5% of rental units in the US had conditions that were "severely" or "moderately" inadequate. The average size of a renter household is 2.5 people (<https://www.nmhc.org/research-insight/quick-facts-figures/quick-facts-resident-demographics/>). There are 43.9 million occupied rental housing units (<https://www.huduser.gov/portal/pdredge/pdr-edge-frm-asst-sec-061118.html>). This implies 8.2 million people living in inadequate rental housing.
8. *Wall Street Journal* <https://www.wsj.com/articles/u-s-surge-in-unemployment-claims-expected-to-continue-11586424605>
9. Herbert M. Krtizer, *Legal Advocacy: Lawyers and Nonlawyers at Work* (1998).
10. Sandefur, Rebecca L. "Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms." *Stan. JCR & CL* 16 (2020): 283.
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Meeting Date: November 19, 2020

Subject: Updates on Delivery of Legal Services Projects

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Jennifer Albright, AOC Staff

Presenters: Jennifer Albright, AOC Staff

Discussion: Update on the adoption of rules and ACJA sections that allow for licensing of Alternative Business Structures (ABSs) and Legal Paraprofessionals (LPs) and timeframes for those programs to be fully developed. Introduction of Suzanne Porter, Program Manager, who recently joined AOC Certification and Licensing Division and who will manage the ABS and LP programs.

Updates on two pilot programs that allow lay legal advocates to provide additional services through domestic violence shelters.

Recommended motion: None.

Arizona Code of Judicial Administration
Part 7: Administrative Office of the Courts
Chapter 2: Certification and Licensing Programs
Section 7-209: Alternative Business Structures

A. Definitions.

“Alternative business structure” (“ABS”) is a business entity that includes nonlawyers who have an economic interest or decision-making authority in the firm and provides legal services in accord with Supreme Court Rules 31 and 31.1(c).

“Authorized person” means a person possessing:

1. An economic interest in the alternative business structure equal to or more than 10 percent of all economic interests in the alternative business structure; or
2. The legal right to exercise decision-making authority on behalf of the alternative business structure. Examples may include: a sole proprietor of a sole proprietorship, a manager of a limited liability company, an officer of a corporation, a general partner of a general or limited partnership, or a person possessing comparable rights by operation of law or by agreement.

“Compliance lawyer” means an active member of the State Bar of Arizona in good standing who, pursuant to Supreme Court Rule 42, ER 5.3(d) and subsection (G)(3)(b) of this section, is responsible for ensuring compliance with the rules governing ABSs, Supreme Court Rule 42, and the regulatory requirements of this section.

“Decision-making authority” in an ABS means the authority, by operation of law or by agreement, to directly or indirectly:

1. Legally bind the ABS;
2. Control or participate in the management or affairs of the ABS;
3. Direct or cause the direction of the management and policies of the ABS; or
4. Make day-to-day or long-term decisions on matters of management, policy, and operations of the ABS.

“Director” means the administrative director of the courts or the director’s designee.

“Economic interest” means (1) a share of a corporation’s stock, a capital or profits interest in a partnership or limited liability company, or a similar ownership interest in any other form of entity, or (2) a right to receive payments for providing to or on behalf of the entity management services, property, or the use of property (including software and other intangible personal property) that is based, in whole or in part, on the firm’s gross revenue or profits or any portion thereof. Notwithstanding the foregoing, “economic interest” does not mean employment-based compensation pursuant to a plan qualified under the Internal Revenue Code of 1986, as hereafter may be amended, or any successor rule, or discretionary bonuses paid to employees.

“Person” means an individual, business corporation, nonprofit corporation, partnership, limited partnership, limited liability company, general cooperative association, limited cooperative

association, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate, trust, association, joint venture, public corporation, or government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

B. Applicability. This section governs the administration, licensing and regulation of alternative business structures, and shall be read with the supreme court rules governing the practice of law.

C. Purpose. This section is intended to result in the effective administration of the alternative business structures licensing program.

D. Administration

1. Role and Responsibilities of the Supreme Court. The supreme court is authorized to regulate the practice of law as a function of its responsibility to administer an integrated judiciary, pursuant to article VI, §§ 1 and 3 of the Arizona Constitution.
2. Establishment and Administration of Fund. The state treasurer shall establish an Alternative Business Structures Fund consisting of monies received for licensure fees, costs, and civil penalties. The Administrative Office of the Courts shall administer the fund and shall receive and expend monies from the fund for ABS program operations, including disciplinary operations by the State Bar of Arizona.
3. Role and Responsibilities of the Director. As designated by article VI, § 7 of the Arizona Constitution, the director:
 - a. Shall:
 - (1) Develop policies and procedures in conformity with this section;
 - (2) Appoint and supervise all division staff;
 - (3) Approve or disapprove all budgetary matters;
 - (4) Ensure implementation of the applicable laws and this section; and
 - (5) Develop policies and procedures regarding the processing of applications for licensing by division staff.
 - b. May:
 - (1) Direct division staff to conduct an investigation into alleged acts of misconduct or violations in relation to initial licensure, renewal of a license or licensure after a period of revocation; and
 - (2) Refer a complaint to the state bar.
 - (3) Initiate a compliance audit of a license holder to determine if the license holder is in compliance with statutes, court rules, administrative orders, court orders, local rules, the ACJA, and any other legal or ethical requirement relating to the license holder's ABS license. The following provisions apply to audits:
 - (a) Timeframes. The director shall develop timeframes and procedures for division

staff conducting compliance audits.

(b) Confidentiality.

(i) Working papers associated with the compliance audit maintained by division staff are not public records and are not subject to disclosure, except to court staff in connection with their official duties, the state bar, the attorney general, county attorney, public regulatory entities, or law enforcement agencies.

(ii) Upon completion of an audit the final report issued to the affected party is a public record subject to public inspection.

(c) Subpoena. The director may subpoena witnesses or documentary evidence, administer oaths, and examine under oath any individual relative to the audit.

(d) Referral. The director may refer the audited license holder to the state bar for investigation of alleged acts of misconduct or violations of statutes, court rules, administrative orders, court orders, local rules, the ACJA, and any other legal or ethical requirement relating to the license holder's ABS license.

(e) Violations or Noncompliance. Willful violation of or willful noncompliance with an order of the director regarding the audit, or willful noncompliance with a corrective action plan resulting from an audit, may result in an order directing the license holder to comply. The director may forward a copy of the order or report to the superior court and request the superior court issue an order to require the appearance of a person or business, compliance with the director's order, or both. The superior court may treat the failure to obey the order as contempt of court and may impose penalties as though the license holder had disobeyed an order issued by the superior court.

4. Role and Responsibilities of Division Staff.

a. The director shall designate the division director and other division staff to assist in the administration of the ABS licensing program pursuant to article VI, § 7 of the Arizona Constitution.

b. Division staff shall:

(1) Submit completed applicant fingerprint cards and applicable fees to the Arizona Department of Public Safety, in accordance with A.R.S. § 41-1750 and Public Law 92-544, pursuant to subsection (E)(1)(c);

(2) Make recommendations to the committee on all application and licensing matters and any other matters regarding applicants and license holders;

(3) Provide updates to the committee on program activities;

(4) Maintain a list of license holders and post the list on the applicable website and make the list available to the public;

(5) Conduct compliance audits and monitoring as required by this section; and

(6) Conduct pre-licensure investigations of allegations of acts of misconduct or violations of the statutes, court rules, or the applicable sections of the ACJA by applicants or authorized persons and report the findings to the committee.

(7) Submit a quarterly report to the court and the state bar of current license holders.

5. Role and Responsibilities of Committee on Alternative Business Structures.

- a. Appointment of Members. Pursuant to Rule 33.1, the court shall appoint members to initial varying terms of one, two, and three years to encourage continuity of the committee. Other appointment details are contained in Supreme Court Rule 33.1(a)(2) and (3). The members shall assist division staff in the recruitment of committee members.
- b. Duties of the Committee. In addition to Supreme Court Rule 33.1(a)(4) – (6) and (b):
 - (1) The committee shall:
 - (a) Make recommendations to the supreme court or the Arizona Judicial Council regarding rules, policies, and procedures for regulating ABSs, including:
 - (i) applicant qualifications;
 - (ii) fees;
 - (iii) a code of conduct; and
 - (iv) any other matter pertaining to ABSs.
 - (b) Recommend whether to license an applicant for initial licensure;
 - (c) Examine license renewal applications and grant or deny renewal; and
 - (d) Order a summary suspension of a license.
 - (2) The committee may:
 - (a) Hold interviews of applicants regarding initial licensure; and
 - (b) Hold interviews of license holders regarding renewal of licensure;
- d. In addition to the requirements of subsection (D), and except as otherwise provided herein, committee members must abide by ACJA § 7-201(I)(2) through (7).
- e. On or before April 1 of each year the committee shall file a report with the supreme court describing the status of the ABS program. The report shall include, but is not limited to, the following information:
 - (1) The number of applications granted and declined during the previous calendar year;
 - (2) The number of licensed ABSs as of December 31 of the previous calendar year;
 - (3) The number of charges filed against ABSs and ABS compliance lawyers during the previous calendar year and the nature of the charge(s);
 - (4) The number of complaints initiated by the State Bar during the previous calendar year and the nature of the complaint;
 - (5) Discipline imposed during the previous calendar year, the nature of conduct leading to the discipline and the discipline imposed; and
 - (6) Recommendations concerning modification or improvements to the ABS program.
- f. The state bar shall provide the committee with the following information:
 - (1) On a calendar quarter basis:

- (a) The number of charges filed against ABSs during the previous calendar quarter and the nature of the charge;
 - (b) The number of complaints initiated by the state bar during the previous calendar quarter and the nature of the complaint; and
 - (c) Discipline imposed during the previous calendar quarter, the nature of the conduct leading to the discipline and the discipline imposed.
 - (2) On or before January 31, on an annual basis:
 - (a) The number of licensed ABSs as of December 31st; and
 - (b) Recommendations concerning modifications or improvements to the ABS program.
 - (3) Such other information as the committee may request to prepare the report described in section (D)(5)(e) herein.
6. **Role and Responsibility of the State Bar of Arizona.** The State Bar of Arizona is responsible for receiving, processing, investigating, seeking interim suspension of, and prosecuting disciplinary matters against ABSs and an ABS's members, and shall carry out this responsibility according to supreme court rules and this code section.
7. **Computation of Time.** For the purposes of this section, the computation of days pursuant to Rule 6(a), Rules of Civil Procedure is calculated as follows:
- (1) **Day of the Event Excluded.** Exclude the day of the act, event, or default that begins the period.
 - (2) **Exclusions if the Deadline is Less Than 11 Days.** Exclude intermediate Saturdays, Sundays, and legal holidays if the period is less than 11 days.
 - (3) **Last Day.** Include the last day of the period unless it is a Saturday, Sunday, or legal holiday. When the last day is excluded, the period runs until the next day that is not a Saturday, Sunday, or legal holiday.
 - (4) **Next Day.** The "next day" is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.

E. Licensure.

- 1. **Application for Initial Licensure.**
 - a. **Forms.** An applicant, including all authorized persons, shall apply for licensure on approved forms and file them with division staff.
 - (1) Division staff shall conduct a preliminary review of the submitted application and determine if the application is deficient, the required supporting documents are deficient, fees are deficient, or a combination of these requirements are deficient.
 - (2) Division staff shall advise the applicant of the deficiencies.
 - (3) The applicant shall provide the information and a written response to correct or explain the deficiencies, or otherwise remedy the defects in the application, supporting documents or fees.

- (4) Division staff may require the applicant to provide additional information or an explanation reasonably necessary to determine if the applicant meets the required qualifications specified in this section.
 - (5) Upon receipt of a complete application, division staff may conduct a personal credit review and review records regarding an application for initial licensure, consistent with the policies and procedures developed by the director.
 - (6) The applicant shall notify division staff of any changes relevant to the application for licensure within five days of the change.
 - (7) Upon a final review of the application, division staff shall prepare and forward to the committee a written recommendation regarding the applicant's qualifications and eligibility for licensure.
 - (8) Division staff shall advise the committee in any written recommendation regarding licensure of an applicant, of any complaints alleging acts of misconduct or violations of statute, court rules or order, or this section, if the allegations occurred during the time the applicant held an active license and were received after the applicant's licensure expired.
 - (9) Division staff's written recommendation to the committee shall note any deficiencies in the application. A deficient application for initial licensure is lacking one or more of the following requirements:
 - (a) An explanation or correction of any deficiencies, pursuant to subsection (E)(1)(a)(4);
 - (b) Payment of all appropriate fees, pursuant to subsection (E)(1)(b); or
 - (c) Necessary information or documents to complete a criminal background check, including a readable fingerprint card or affidavit in lieu of a fingerprint card, pursuant to subsection (E)(1)(c).
 - (10) The committee, upon review of the division staff recommendation, may request an informal interview with an applicant, pursuant to subsection (D)(5)(c)(2)(a), to establish if:
 - (a) Additional information is needed to determine if the applicant meets all qualifications in this section;
 - (b) An explanation of the information provided by the applicant is needed to determine if the applicant meets all qualifications in this section; or
 - (c) Any complaints, regarding allegations of misconduct or violations of the statutes, court rules, or applicable sections of the ACJA, received after the applicant's original licensure expired, require investigation by division staff pursuant to subsection (E)(1)(a)(4).
- b. Fees. The applicant shall submit with the application, an application fee, initial licensure fee, and any other fees required as specified in subsection (J). Fees are not refundable or waivable. An applicant shall make the payment for any fee payable to the Arizona Supreme Court. An application submitted without fees is deficient. In addition to the fees described in subject J, if the cost of the investigation exceeds \$1,500, or division staff expends more than 80 hours performing the investigation, applicant shall pay the additional investigation cost and division staff additional investigation time at \$100 per hour.

- c. Fingerprinting. If required, an authorized person shall submit with the application, a full set of fingerprints, with the fee established by law, for the purpose of obtaining a state and federal criminal records check. An application submitted without a fingerprint card, if required, is deficient.

- (1) The authorized person shall provide a readable and complete fingerprint card. The authorized person shall pay any costs attributable to the original fingerprinting or subsequent re-fingerprinting due to unreadable fingerprints and any fees required for the submission or resubmission of fingerprints.
- (2) If after two attempts, the FBI determines the fingerprints provided are not readable, the authorized person shall submit a written statement, under oath, that the authorized person has not been arrested, charged, indicted, convicted of or pled guilty to any felony or misdemeanor, other than as disclosed on the application.
- (3) Division staff shall submit completed fingerprint cards and the applicable fees to the Arizona Department of Public Safety, pursuant to A.R.S. § 41-1750, Public Law 92-544, and subsection (D)(4)(b)(1).

2. Decisions Regarding Licensure.

- a. In determining whether to recommend to the supreme court a grant of licensure, the committee shall take into consideration Supreme Court Rule 33.1(b), which states:

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 Supreme Court Rule 42 is maintained; and
- (E) any other business policies or procedures do not interfere with a lawyers' duties and responsibilities to clients.

- b. Notification of Licensure. Upon the supreme court's order approving a license, division staff shall promptly notify qualified applicants of licensure in writing. Each qualified ABS shall receive a document evidencing licensure, stating the applicant's name, date of licensure, license number, and expiration date of the license. Each license shall expire as provided in (F)(1).
- c. License Status. All licenses are valid until expired, voluntarily surrendered, suspended or revoked.
- d. Denial of Initial License.
 - (1) The committee shall recommend to the supreme court denial of licensure if the applicant does not meet the qualifications or eligibility requirements at the time of the application described in this section; or has not submitted a complete application with all deficiencies corrected, the required documents and fees.
 - (2) The committee may recommend denial of licensure if the committee finds, with respect to the applicant or any authorized person, one or more of the following:
 - (a) Has committed material misrepresentation, omission, fraud, dishonesty, or corruption in the application form;
 - (b) Has committed any act constituting material misrepresentation, omission, fraud, dishonesty or corruption in business or financial matters;
 - (c) Has conduct showing the applicant or an authorized person of the applicant is incompetent or a source of injury and loss to the public;
 - (d) Has a conviction by final judgment of a felony, regardless of whether civil rights have been restored;
 - (e) Has a conviction by final judgment of a misdemeanor if the crime has a reasonable relationship to the practice of law or the delivery of legal services to be provided by the ABS, regardless of whether civil rights have been restored;
 - (f) Has been disbarred from, or denied admission to, the practice of law or the equivalent of disbarment or denial in this state or any other jurisdiction;
 - (g) Is currently suspended from the practice of law in this state or any jurisdiction;
 - (h) Has a denial, revocation, suspension, or any disciplinary action of any professional or occupational license or certificate;
 - (i) Has a censure, probation, or any other disciplinary action of any professional or occupational license or certificate by other licensing or regulatory entities if the underlying conduct is relevant to licensure under this section;
 - (j) Has a termination, suspension, probation, or any other disciplinary action regarding past employment if the underlying conduct is relevant to licensure under this section;
 - (k) Has been found civilly liable in an action involving misrepresentation, material omission, fraud, misappropriation, theft, or conversion;
 - (l) Is currently on probation or parole;
 - (m) Has violated any decision, order, or rule issued by a professional regulatory entity;
 - (n) Has violated any order of a court, judicial officer, administrative tribunal, or the

- committee;
 - (o) Has made a false or misleading statement or verification in support of an application for licensure filed by another person;
 - (p) Has made a false or misleading oral or written statement to division staff or the committee;
 - (q) Failed to disclose information on the application subsequently revealed through the background check;
 - (r) Failed to respond or furnish information to division staff or the committee when the information is legally requested and is in the applicant's control or is reasonably available to the applicant and pertains to licensure or investigative inquiries; or
 - (s) If the applicant's business has a record of conduct constituting dishonesty or fraud on the part of an employee, authorized person, or the business.
- (3) The committee may consider any or all of the following criteria when reviewing the application of an applicant with a misdemeanor or felony conviction, pursuant to subsection (E)(2)(d)(2)(d) or (e):
- (a) The applicant's age at the time of the conviction;
 - (b) The applicant's experience and general level of sophistication at the time of the pertinent conduct and conviction;
 - (c) The degree of violence, injury or property damage and the cumulative effect of the conduct;
 - (d) The applicant's level of disregard of ethical or professional obligations;
 - (e) The reliability of the information regarding the conduct;
 - (f) If the offenses involved fraud, deceit, or dishonesty on the part of the applicant resulting in harm to others;
 - (g) The recency of the conviction;
 - (h) Any evidence of rehabilitation or positive social contributions since the conviction occurred as offered by the applicant;
 - (i) The relationship of the conviction to the purpose of licensure;
 - (j) The relationship of the conviction to the practice of law or the delivery of legal services to be provided by the ABS;
 - (k) The applicant's candor during the application process;
 - (l) The significance of any omissions or misrepresentation during the application process; and
 - (m) The applicant's overall qualifications for licensure separate from the conviction.
- (4) Upon the committee's decision to recommend denial of licensure, division staff shall notify each applicant of the reasons for the denial and the right of the applicant to a hearing, pursuant to subsection (E)(2)(d)(5). The division staff shall provide the notice in writing and shall send the notice within 10 days after the committee's decision.
- (5) An applicant is entitled to a hearing on the decision to recommend denial of licensure, if the disciplinary clerk receives a written request for a hearing within fifteen days after division staff mails the notice of the denial. The applicant is the moving party at the hearing and has the burden of proof. The provisions of ACJA § 7-201(H)(12) through (23) apply regarding procedures for the hearing and appeal.

- (6) An applicant denied licensure by a final decision of the supreme court, whether or not a hearing was requested and held, may reapply for licensure, pursuant to subsection (E), under the following circumstances:
 - (a) It has been twelve months since the final decision by the supreme court;
 - (b) The applicant shall present new documentation to address the original issues resulting in denial including all of the following:
 - (i) Demonstration of acceptance of responsibility for the conduct leading to the denial by the committee; and
 - (ii) Establishes purpose of business meets the regulatory objective of Supreme Court Rule 33.1(b)(1) and subsection (E)(2)(a)(1).
 - (c) In determining whether the applicant has established that the purpose of business meets the regulatory objective of Supreme Court Rule 33.1(b)(1) and subsection (E)(2)(a), the committee shall conduct an informal interview with the applicant no later than 60 days after the applicant has submitted a completed application.

3. Time Frames for Licensure.

- a. The director shall develop time frames for the processing of applications by division staff, pursuant to subsection (D)(3)(a)(5).
- b. An applicant shall respond timely to requests for information from division staff pertaining to the applicant's application. Unless the applicant can show good cause as to why the committee should grant additional time, the committee shall not approve any applicant unless the applicant successfully completes all requirements within 90 days from the date division staff received the original initial application for licensure.
- c. If an applicant needs additional time to comply with division staff requests or to complete the application process within the time frames specified in this subsection, the applicant shall file a written request for an extension with division staff. The request shall state the reasons for additional time to comply with time frames and licensure requirements. The applicant shall file the request for additional time to complete the initial application at a minimum, 10 days prior to the 90-day deadline, unless the applicant makes a showing of good cause. Failure to complete the application process or file a written request for an extension of time within this time period shall nullify and void the original application and supporting documents, including fingerprints and fees.
- d. Division staff shall forward the written request for an extension of time to the committee at the next scheduled committee meeting.
- e. If the applicant fails to meet the 90-day deadline or is not granted additional time by the committee to complete the initial licensure process, the applicant is considered a new applicant. The applicant shall submit a new application including a fingerprint card and fees.

4. Records of Applicants for Licensure and License Holders shall be governed by the provisions of Supreme Court Rule 123, except as otherwise provided in Arizona Rules of Court. Division staff shall retain applicant and license holder records for a period of five years from the last activity in the record. Division staff shall take appropriate methods to ensure the confidentiality of any destroyed records.
5. Unlawful Use of Designation or Abbreviation.
 - a. An ABS who has received a license is authorized to utilize the designation of “Arizona licensed” in connection with their title or name and may use any appropriate abbreviation connected with this licensure. No other business shall assume or use the title, designation, or abbreviation, or any other title, designation, sign or card, the use of which is reasonably likely to induce others to believe the business holds a valid ABS license issued by the Arizona Supreme Court. The license holder shall not sell, transfer, or assign its license to any other business.
 - b. The committee, upon completion of an investigation may issue a cease and desist order. A hearing officer or a superior court judge, upon petition by the committee, may enter an order for an individual or business to immediately cease and desist conduct constituting engagement as an ABS without the required license.
6. Voluntary Surrender. A license holder in good standing may surrender its license to the committee. However, the surrender is not valid until accepted by the committee. The committee or division staff may require additional information reasonably necessary to determine if the license holder has violated any provision of the statutes, court rules, and this section. The surrender does not prevent the commencement of subsequent discipline proceedings for any conduct of the surrendered license holder occurring prior to the surrender.
 - a. Division staff shall present the surrendered license to the committee at the next available committee meeting after receiving notice of the surrender. Upon the committee’s acceptance of the voluntary surrender, division staff shall designate the license of the license holder as a “surrendered license holder in good standing.” Division staff shall notify the license holder in writing within 10 days after the committee’s acceptance of the surrender.
 - b. The committee shall not accept the surrender if there is a complaint pending against the license holder.
 - c. The committee shall, within 90 days of the receipt of the surrendered license by division staff, either accept the surrender or, based upon the recommendations of division staff, await the outcome of the pending disciplinary proceedings. If the supreme court, hearing panel or presiding disciplinary judge subsequently imposes a sanction upon the license of the surrendered license holder, division staff shall change the status of the license holder from “surrendered license holder in good standing” to that of an ABS so disciplined.

- d. An ABS who is granted voluntary surrender must comply with the requirements of subsections (H)(4)-(6).

F. Renewal of Licensure.

1. Expiration Date. Licenses expire on February 1 of each year, except as otherwise provided in this section. All licenses shall continue in force until expired, voluntarily surrendered, suspended, or revoked.
2. Application. A license holder is responsible for applying for a renewal license. The license holder shall apply for renewal of licensure on the form provided by division staff. The committee shall set a renewal application deadline, in advance of the expiration date, to allow a reasonable time frame for processing the renewal application.
 - a. When a license holder has filed a timely and complete renewal application, the existing license does not expire until the administrative process for review of the renewal application has been completed.
 - b. When a license holder requests to file an untimely renewal application, the division director may process the untimely application and recommend to the committee to renew a license if the untimely renewal applicant demonstrates to the director good cause for the untimely filing. In addition, the following shall apply:
 - (1) The applicant shall submit a complete renewal application and applicable fees, and any other documentation requested by division staff to verify the grounds for the good cause exception requested.
 - (2) The applicant shall not provide legal services:
 - (a) Until the director decides in writing based on good cause to process the application; or
 - (b) If the director decides not to process the untimely application, until an initial application is processed, and the applicant is granted a license renewal pursuant to this section.
 - c. When a timely renewal application is denied, the existing licensure does not expire until the last day for seeking a hearing on the denial decision pursuant to subsection (E)(2)(d)(5); or if a hearing is requested, until the final decision is made on an appeal of the denial by the committee pursuant to ACJA § 7-201(H)(25).
 - d. The committee may request an informal interview with the applicant for renewal, pursuant to subsection (D)(5)(c)(2)(b), to establish if additional information or an explanation of the information provided by the applicant is needed to determine if the applicant continues to meet the qualifications for licensure in this section.
 - e. The license of a license holder who does not supply a complete renewal application and payment of the renewal fee in the specified time and manner to division staff shall

expire as of the expiration date. Division staff shall treat any renewal application received after the expiration date as a new application, except when the license holder requests to file an untimely renewal application pursuant to subsection (F)(2)(b).

3. Additional Information. Before renewal of licensure, division staff may require additional information reasonably necessary to determine if the applicant continues to meet the qualifications specified in this section, which may include:

- a. Background information, pursuant to subsection (E)(1)(a); and
- b. Fingerprinting pursuant to subsection (E)(1)(c).

4. Decision Regarding Renewal.

- a. The committee may renew a license if the license holder:
 - (1) meets all requirements for renewal as specified in this section;
 - (2) submits a completed renewal application;
 - (3) pays the renewal fees on or before the expiration date as specified by this section; and
 - (4) meets the regulatory objectives and governance structures and policies of section (E)(2)(a).
- b. Division staff shall promptly notify the applicant in writing of the committee's decision to renew the applicant's license. Each renewed applicant shall receive a document evidencing renewal of licensure, stating the applicant's name, date of licensure, license number and expiration date.
- c. The committee may deny renewal of licensure for any of the reasons stated in subsection (E)(2)(d). Division staff shall promptly notify the applicant, in writing, within 10 days of the committee's decision to deny renewal of licensure. The notice shall include the committee's reasons for the denial of renewal of licensure and the right of the applicant to a hearing, pursuant to subsection (F)(4)(d).
- d. An applicant is entitled to a hearing, on the decision to deny renewal of licensure if the disciplinary clerk receives a written request for a hearing within fifteen days after the date of the notice of denial. The applicant is the moving party at the hearing and has the burden of proof. The provisions of ACJA § 7-201(H)(12) through (23) and (H)(25) through (27) apply regarding procedures for hearing and appeal.

G. Role and Responsibilities of Licensed Alternative Business Structures and Compliance Lawyers.

1. Initial Licensure. In addition to the requirements of subsection (E)(1), each applicant for licensure as an ABS must meet the following requirements:

- a. Submit completed applications for the alternative business structure and each authorized person.
- b. Submit a prescribed indemnification statement and conflict of interest statement signed by each authorized person.
- c. Fully disclose all relationships to any parent company or organization, and currently paid or unpaid officers, directors, owners, and boards of directors, and any and all company subsidiary dba's operating in any state.
- d. Declare a statutory agent in Arizona.
- e. Obtain any necessary federal and state tax identification numbers as required by law.
- f. Designate a principal with whom division staff may communicate on any administrative, procedural, or operational issues.
- g. Submit articles of incorporation and letters of good standing from the Arizona Corporation Commission or otherwise demonstrate authorization to do business in the State of Arizona.
- h. Demonstrate the business meets objectives identified in Supreme Court Rule 33.1(b) and subsection (E)(2)(a) herein.
- i. Submit the prescribed acknowledgement form that the ABS and its members are subject to the regulatory and discipline authority as set forth in the supreme court rules and this section.
- j. Insurance Disclosure
 - (1) Each ABS shall certify to the state bar on an annual form prescribed by the state bar on or before February 1 of each year whether the ABS is currently covered by professional liability insurance. Each ABS who reports being covered by professional liability insurance shall notify the state bar in writing within 30 days if the insurance policy providing coverage lapses, is no longer in effect, or terminates for any reason. An ABS who acquires professional liability insurance after February 1 shall advise the state bar of the change of status in coverage.
 - (2) The state bar shall make the information submitted by ABSs pursuant to this rule available to the public on its website as soon as practicable after receiving the information.
 - (3) Any ABS who fails to comply with this section in a timely fashion may be summarily suspended by the Committee on Alternative Business Structures. Supplying false information in complying with the requirements of this section shall subject the ABS to appropriate disciplinary action.

2. Roles and Responsibilities of ABSs. Each ABS shall:

- a. Adhere to the Rules of Arizona Supreme Court and the standards in the code of conduct in subsection (K) herein.
 - b. Maintain a statutory agent in Arizona.
 - c. Notify division staff of any change in designated principal, compliance lawyer, or authorized person or any change in the telephone number, business address, mailing address, or home address of principals, compliance lawyers, and authorized persons, or any other required database information within 3 business days of the change. The designated principal of the ABS shall notify division staff of changes through the ABS regulation email system or in writing, utilizing the form provided by division staff.
 - d. Maintain the confidentiality of all records regarding any person receiving legal services.
 - e. Notify division staff in writing within 30 days of a change in designated principal or compliance lawyer.
 - f. Any ABS that ceases doing business must adhere to the requirements of subsections (H)(4) through (6).
 - g. Any ABS subject of an acquisition or merger with another business entity, regardless of whether the other business entity is also an ABS, must prior to merger or acquisition:
 - (1) Submit on the form prescribed notice of impending merger or acquisition; and
 - (2) Comply with the requirements of subsections (G)(1)(a) through (c), and (j).
3. Compliance lawyer. Each ABS must designate a compliance lawyer whose qualifications and responsibilities are as follows:
- a. Qualifications. The compliance lawyer shall:
 - (1) Meet the requirements of Supreme Court Rule 31(a) and (b);
 - (2) Be a manager or employee of the ABS;
 - (3) Consent to the designation;
 - (4) Not have been subject to discipline by the State Bar of Arizona or any similar agency in any other jurisdiction during the past 10 years; and
 - (5) Possess credentials and experience in the legal field to ensure that ethical obligations, protection of the public, and standards of professionalism are adhered to.
 - b. Responsibilities. The compliance lawyer shall take all reasonable steps to:
 - (1) Ensure compliance with the ethical and professional responsibilities of lawyers in the ABS providing legal services;
 - (2) Ensure compliance by the ABS's authorized persons;

- (3) Ensure the ABS's authorized persons and others employed, associated with, or engaged by the ABS do not cause or substantially contribute to a breach of the regulatory requirements of this code or the ethical and professional obligations of lawyers;
 - (4) Ensure that a prompt report is made to the state bar of any facts or matters reasonably believed to be a substantial breach of the regulatory requirements of this code or the ethical and professional obligations of lawyers;
 - (5) Ensure that the state bar is promptly informed of any fact or matter that reasonably should be brought to its attention in order that the state bar may investigate whether a breach of regulatory or ethical requirements has occurred; and
 - (6) Notify division staff and the state bar in writing within 3 days when the compliance lawyer has ceased to be the compliance lawyer for the ABS.
- c. Violations. Any compliance lawyer who fails to comply with this section, including any failure to report any facts or matters reasonably believed to amount to a substantial breach of the regulatory requirements of this code or the ethical and professional obligations of lawyers, in addition to other possible sanctions, may be suspended on an interim basis pursuant to Rule 61, Rules of Supreme Court.

H. Discipline.

- 1. Rules. The supreme court rules governing complaints, investigations, and disciplinary proceedings against Arizona licensed attorneys are applicable to alternative business structures and its members under this section, except as otherwise stated in this section.
- 2. Sanctions. Misconduct by an ABS or its members shall be grounds for imposition of one or more of the following types of sanctions:
 - a. Revocation. Revocation of an ABS's license may be imposed by judgment and order entered by the supreme court, a hearing panel, or the presiding disciplinary judge. Any order of revocation must state a fixed period of time a license is revoked before an ABS can seek re-licensure.
 - b. Suspension. Suspension of an ABS may be imposed by judgment and order entered by the supreme court, a hearing panel, or the presiding disciplinary judge for an appropriate fixed period of time not to exceed 3 years. Suspension of an ABS license prohibits the ABS from accepting new legal services clients and requires notification pursuant to subsection (H)(4). An order of the supreme court, a hearing panel, or the presiding disciplinary judge may specify additional restrictions on the activities of an ABS during the term of suspension. An ABS whose activities are suspended shall remain suspended until the court enters an order reinstating the ABS to its full business capacity in Arizona or upon order of the presiding disciplinary judge pursuant to subsection (E)(8)(b).
 - c. Reprimand. A reprimand may be imposed by judgment and order entered by the supreme court, a hearing panel, or the presiding disciplinary judge.

- d. Admonition. An admonition may be imposed by judgment and order entered by the supreme court, a hearing panel, the presiding disciplinary judge, or the Attorney Discipline Probable Cause Committee.
- e. Probation. Probation may be imposed by judgment and order entered by the supreme court, a hearing panel, the presiding disciplinary judge, or the Attorney Discipline Probable Cause Committee as follows:
 - (1) Probation shall be imposed for a specified period not in excess of one year but may be renewed for an additional one-year period.
 - (2) Probation may be imposed only in those cases in which there is little likelihood that the respondent ABS or its members will harm the public during the period of probation and the conditions of probation can be adequately supervised. The conditions of probation shall be stated in writing, shall be specific, understandable and enforceable, and may include restitution, disgorgement, and assessment of costs and expenses.
 - (3) The presiding disciplinary judge may appoint a monitor to supervise the ABS during a period of probation. The cost of the monitor shall be paid by the ABS.
 - (4) The monitor shall report to the state bar, which shall be responsible for supervising the respondent ABS during the probationary period. Bar counsel shall report material violations of the terms of probation to the presiding disciplinary judge by filing a notice of noncompliance with the disciplinary clerk and serving respondent with a copy of the notice. The notice of noncompliance shall include verification or separate affidavit upon personal knowledge stating sufficient facts to support the allegations of material violations of the terms of probation. Respondent shall have 10 days after service of the notice to file a response. Upon filing the notice of noncompliance, the presiding disciplinary judge may (a) issue an order declining to proceed with the notice; (b) issue an order setting the matter for status conference; or (c) issue an order setting a hearing within 30 days to determine if the terms of probation have been violated and if an additional sanction should be imposed. In a probation violation hearing, the state bar must prove a violation by preponderance of the evidence. At the end of the probation term, bar counsel shall prepare and forward a notice to the presiding disciplinary judge regarding the respondent's completion or non-completion of the imposed terms.
- f. Monetary Penalties. The supreme court, a hearing panel, or the presiding disciplinary judge may order the license holder to pay any of the following monetary obligations:
 - (1) Restitution or refund (disgorgement) may be ordered to persons financially injured, including reimbursement to the State Bar Client Protection Fund. Restitution or refund and the amount thereof must be proven by a preponderance of the evidence;
 - (2) A civil fine in an amount not to exceed \$1,000,000. Civil fines collected pursuant to this section shall be deposited in the Alternative Business Structure Fund.

- g. Assessment of Costs and Expenses. An assessment of costs and expenses related to disciplinary proceedings shall be imposed upon an ABS pursuant to Supreme Court Rule 60(d).
- 3. Enforcement. Execution and other post-judgment remedies shall be governed by Supreme Court Rule 60(d).
- 4. Notice to Clients and Adverse Parties. Within 10 days after the date of an order or judgment issued by the presiding disciplinary judge, a hearing panel, or the supreme court imposing discipline and sanctions, or the date of surrender of license, an ABS whose license was revoked or suspended or who has surrendered its license, shall notify the following persons by registered or certified mail, return receipt requested, of the order of judgment or surrender, and of the fact that the ABS is disqualified from providing legal services after the effective date of same:
 - a. All legal services clients represented by ABS legal service providers in pending matters;
 - b. Any co-counsel in pending matters;
 - c. Any opposing counsel in pending matters, or in the absence of such counsel, the adverse parties; and
 - d. Each court or tribunal in which the ABS's legal service providers have any pending matter, whether the matter is active or inactive.
- 5. Duty to Withdraw. In the case of a suspension for longer than 90 days, or a suspension of 90 days or less when any client does not consent to the association of counsel, and in all cases of revocation of licensure, it shall be the responsibility of the assigned lawyer in the ABS to move in the court or agency in which any proceeding is pending for leave to withdraw in the event the client does not obtain substitute counsel before the effective date of the suspension or revocation.
- 6. Return of Client Property. Respondent shall deliver to all clients being represented in pending legal matters any papers or other property to which they are entitled and shall notify them, and any counsel representing them, of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property. The respondent shall deliver all files and records in pending legal matters to the client, notwithstanding any claim of outstanding payment for services.
- 7. Effective Date of Order; Pending Matters. Judgments imposing suspension or revocation shall be effective 30 days after entry, unless the presiding disciplinary judge, hearing panel, or the supreme court specifies an earlier date. Judgments and orders imposing other sanctions are effective immediately upon entry. Respondent, after entry of a judgment of revocation or suspension, shall not provide legal services, except that during the period between entry and the effective date of the order, respondent may complete on behalf of

any client all matters that were pending on the entry date. If a judgment or order permits the ABS to provide legal services under supervision of the state bar, respondent may only provide those services allowed by the judgment or order. Respondent shall refund any part of fees paid in advance which have not been earned.

8. Affidavit Filed with Presiding Disciplinary Judge and Court. Within 10 days after the effective date of the judgment of revocation or suspension, respondent shall file with the disciplinary clerk and with the supreme court an affidavit showing:
 - a. Respondent has fully complied with the provisions of the order and with this section;
 - b. An agent of record and other addresses where communications may thereafter be directed; and
 - c. Respondent has served a copy of such affidavit upon bar counsel.
9. Duty to Maintain Records. An ABS whose license has been revoked or suspended shall keep and maintain records constituting proof of compliance with this section. Proof of compliance, which shall include copies of the notice sent pursuant to subsection (H)(4) and signed returned receipts, shall be provided to chief bar counsel. Proof of compliance is a condition precedent to any application for reinstatement or licensing.
10. Contempt. Failure to comply with the provisions of this section may be punishable by contempt.

I. Reinstatement after Suspension or Revocation. An alternative business structure license holder whose license was suspended or revoked by the supreme court may apply for reinstatement under the following conditions:

1. If an ABS's license has been revoked the ABS may, after a period of 3 years, apply for reinstatement of licensure in accordance with the requirements for initial licensure herein. In addition, an applicant is subject to the requirements of subsection (3) below and shall pay the initial licensure and reinstatement fees.
2. An ABS whose license has been suspended 90 days or less may apply for reinstatement no sooner than 10 days before the expiration of the period of suspension by filing with the disciplinary clerk and serving on the state bar an affidavit for reinstatement. The affidavit shall include an avowal that the ABS has fully complied with the requirements of the suspension judgment or order, and has paid all required fees, costs, expenses, and fines. If an affidavit is not filed within 60 days after expiration of the period of suspension, the reinstatement procedure set forth in subsection (3) below shall apply.
3. An ABS whose license has been suspended for more than 90 days may apply for reinstatement no sooner than 90 days prior to the expiration of the period of suspension set forth in the judgment but may not be reinstated until the full period of suspension has been served. An applicant for reinstatement shall file a written application for reinstatement

with the disciplinary clerk, which shall be verified by the applicant, and accompanied by the appropriate fees and proofs of payment required by subsection (4) below of this section. The applicant shall file with the application for reinstatement a written release or authorization for the state bar to obtain documents or information in the possession of any third party. The application shall contain the following information and be accompanied by the following documents:

- a. A copy of the final order of suspension;
- b. An affidavit from the state bar stating whether any further investigations or formal proceedings alleging misconduct have been filed or are pending against the ABS, any authorized person, and any lawyer the ABS will employ, associate with, or engage to provide legal services;
- c. A statement of the offense or misconduct upon which the suspension was based, together with the dates of suspension;
- d. The names and addresses of all complaining witnesses in discipline proceedings that resulted in suspension and the names of the hearing officer or presiding judge before whom the discipline proceedings were heard;
- e. A concise statement of facts claimed to support reinstatement of licensure. An ABS must show by clear and convincing evidence that the basis for suspension has been overcome;
- f. A detailed description of any ABS activities during the period of suspension, if allowed by the judgment or order of suspension;
- g. A description of the occupation and income, during the period of suspension, for all authorized persons and any lawyers the ABS will employ, associate with, or engage to provide legal services;
- h. A statement covering the period of suspension showing the dates, general nature and final disposition of every civil action against the ABS or in which any authorized person and any lawyer the ABS will employ, associate with, or engage to provide legal services, was either a plaintiff or defendant;
- i. A statement covering the period of suspension showing dates, general nature and ultimate disposition of every matter involving the arrest or prosecution of any authorized person and any lawyer the ABS will employ, associate with, or engage to provide legal services;
- j. A statement showing whether or not any applications were made by any authorized person and any lawyer the ABS will employ, associate with, or engage to provide legal services, requiring proof of good moral character for its procurement, and as to each application, the dates, the name and address of the authority to whom it was addressed and the disposition thereof;
- k. A statement covering the period of suspension setting forth any procedure or inquiry concerning the standing as a member of any profession or organization, or any holder of any license or office, which involved the reprimand, removal, suspension, revocation of any authorized person, and any lawyer the ABS will employ, associate with, or

- engage to provide legal services, together with the dates, facts and disposition thereof, and the name and address of the authority in possession of the record thereof;
- l. A statement of any charges of fraud made or claimed against the ABS, or any authorized person, and any lawyer the ABS will employ, associate with, or engage to provide legal services, whether formal or informal, together with the dates, names, and addresses of persons making such chargers;
 - m. Copies of all prior applications for reinstatement, including all findings, decisions or orders entered;
 - n. A list of all authorized persons, the designated principal, and compliance lawyer. Any changes to who is an authorized person, principal, or compliance lawyer must be noted. The following documentation shall accompany the list:
 - (1) application form for any newly identified authorized persons;
 - (2) form designating a principal for any newly identified principal; and
 - (3) form designating a compliance lawyer for any newly identified compliance lawyer; and
 - o. Any further information or documents as requested by the state bar.
4. Application Fee. As a prerequisite to filing and before investigation of the application, every applicant for reinstatement shall pay to the records manager of the state bar an application fee, as set forth in section (J) herein, along with the state bar's estimate of the costs of its investigation and the costs and expenses of all related proceedings before the presiding disciplinary judge, a hearing panel, or the supreme court. The state bar may contract with an outside agency to perform all or part of the investigation. If the applicant's payment is less than the actual cost of investigation and subsequent proceedings, the applicant shall be required to satisfy such deficiency before the application is reviewed by the court. Any excess costs advanced shall be promptly refunded to the applicant at the conclusion of proceedings. Any subsequent costs or expenses incurred shall be paid by the applicant before the ABS's license is reinstated.
5. Costs and Expenses of Disciplinary Proceedings. Prior to filing the application for reinstatement, the applicant shall pay all outstanding costs and expenses of any disciplinary proceeding. Verification of such payment in the form of an affidavit from the records manager of the state bar must accompany the application.
6. Amounts Owed to the Client Protection Fund. Prior to filing an application for reinstatement, the applicant shall cause all state bar members to pay sums owed to the client protection fund due prior to reinstatement proceedings. Verification of such payment in the form of an affidavit from the Administrator of the Client Protection Fund must accompany the application.
7. Annual or Other Licensure Fees. No reinstatement shall become effective until payment of all licensing fees and other charges accruing after the application for reinstatement has been granted.

8. Successive Applications. No application for reinstatement shall be filed within one (1) year following the denial of a request for reinstatement.
9. Withdrawal of Application. An applicant may withdraw an application at any time before the filing of the hearing panel report.
10. Reinstatement Proceedings. Reinstatement hearings shall be governed by Supreme Court Rule 65(b).

J. Fee Schedule.

1. Definitions. The following definitions apply to this schedule:

- a. “International” means the ABS has one or more physical locations outside the United States.
- b. “Large – Non-law Firm” means an ABS that has 100 or more full- or part-time employees and is not a traditional law firm as that term is defined herein.
- c. “Small – Non-law Firm” mean an ABS that has fewer than 100 full- or part-time employees and is not a traditional law firm as that term is defined herein.
- d. “Non-profit - Not Arizona” mean an ABS that is a nonprofit corporation in good standing that is not incorporated in Arizona.
- e. “Non-profit – Arizona” is an ABS that is a nonprofit corporation in good standing that is incorporated in Arizona.
- f. “Traditional Law Firm” is an ABS whose primary business is provision of legal services with nonlawyer economic interest holders.

2. Initial Licensure

a. International	\$12,000
b. Large – Non-law Firm	\$10,000
c. Small – Non-law Firm	\$ 6,000
d. Non-profit - Not Arizona	\$ 5,000
e. Non-profit – Arizona	\$ 2,000
f. Traditional Law Firm	\$ 6,000

3. Renewal Licensure

a. International	\$ 6,000
b. Large - Non-law Firm	\$ 5,000
c. Small – Non-law Firm	\$ 3,000
d. Non-profit - Not Arizona	\$ 2,500
e. Non-profit – Arizona	\$ 1,000
f. Traditional Law Firm	\$ 3,000

4. Miscellaneous Fees.

a. Replacement of License or Name Change.	\$25
b. Merger or Acquisition Fee	
(1) International	\$12,000
(2) Large – Non-law Firm	\$10,000
(3) Small – Non-law Firm	\$ 6,000
(4) Non-profit – Not Arizona	\$ 5,000
(5) Non-profit – Arizona	\$ 2,000
(6) Traditional Law Firm	\$ 6,000
c. Public Record Request Per Page Copy	\$.50
d. Certificate of Correctness of Copy of Record	\$18
e. Reinstatement Application (after suspension or revocation)	
(1) International	\$12,000
(2) Large – Non-law Firm	\$10,000
(3) Small – Non-law Firm	\$ 6,000
(4) Non-profit - Not Arizona	\$ 5,000
(5) Non-profit – Arizona	\$ 2,000
(6) Traditional Law Firm	\$ 6,000
f. Extraordinary investigation assessment (see section (E)(1)(b) herein)	based on actual costs;

K. Code of Conduct. The following code of conduct describes the expectations and standards that an ABS is expected to maintain as a provider of legal services. A failure to meet these standards or a breach of regulatory requirements are grounds for disciplinary action against an

ABS itself, or its non-lawyer members, who each have the same responsibility for ensuring ethical legal services for clients. Members of an ABS who are members of the state bar bear the responsibility of the ethical and professional obligations of the profession as well as the standards stated herein. An individual failure or breach may warrant action itself or as a pattern of conduct.

1. Code of Conduct for ABS's. In addition to the requirements of subsection (G)(2), each ABS and its authorized persons must adhere to the following minimum standards of conduct.
 - a. Shall not allow the legal representation of clients, if the representation involves a conflict of interest as governed by Supreme Court Rule 42, ERs 1.7, 1.8, 1.9, 1.10, 1.11, 1.13 and 1.18.
 - b. Shall not take any action or engage in activity that interferes with the professional independence of lawyers or others authorized to provide legal services.
 - c. Shall ensure that legal services are delivered with reasonable diligence and promptness.
 - d. Shall not take an action or engage in any activity that misleads or attempts to mislead a client, a court, or others, either by the ABS's own acts or omissions, or those of its members or employees, or by allowing or being complicit in the acts or omissions of others.
 - e. Shall maintain effective governance structures, arrangements, systems, and controls to ensure:
 - (1) Compliance with the requirements of supreme court rules and this section; and
 - (2) Managers, economic interest holders, decision-makers, employees, or anyone employed, associated with, or engaged do not cause or substantially contribute to a breach of the ethical rules of Supreme Court Rule 42 or this section.
 - f. Must maintain records to demonstrate compliance with its obligations under the supreme court rules and this section.
 - g. Must monitor financial stability and business viability. When an ABS becomes aware it will cease to operate, it must affect an orderly wind-down of business activities and comply with the requirements for surrender of an ABS license in this section.
 - h. Must monitor and manage all material risks to the business, including those which arise from connected businesses or connected services.
 - i. Must hold property of legal services clients separate from the property of the ABS. The requirements of Supreme Court Rules 42, ER 1.15 and Rule 43 are applicable to all legal services-related client property.

- j. An ABS, its members and employees must cooperate with the Administrative Office of Courts, Committee on Alternative Business Structures, the State Bar of Arizona, the presiding disciplinary judge, and any court who oversees and investigates concerns related to its delivery of legal services.
 - k. Must respond promptly to the Administrative Office of Courts, Committee on Alternative Business Structures, the state bar, the presiding disciplinary judge, and the supreme court and provide full and accurate information and documentation in response to any request or investigation.
 - l. Shall not attempt to prevent any person from providing information or documents in response to any request or investigation.
 - m. Must act promptly to take any remedial action requested by the state bar, the Administrative Office of Courts, the presiding disciplinary judge, and the supreme court.
 - n. Shall assure that all authorized persons and employees, in matters pertaining to legal services, perform all duties and functions in the manner ethically required of a lawyer pursuant to Supreme Court Rule 42.
- 2. Code of Conduct for Authorized Persons, Managers, Economic Interest Holders, and Decision-Makers. An authorized person, including any manager, economic interest holder, or decision-maker in an ABS is individually responsible for compliance by the ABS with this code of conduct. Failures or breaches of this responsibility may subject any authorized person, including any manager, economic interest holder, or decision-maker of an ABS to discipline.
 - 3. Code of Conduct for Compliance Lawyers. In addition to the requirements of subsection (G)(3)(b) and Supreme Court Rule 42, a designated compliance lawyer is responsible individually for compliance by the ABS and authorized persons, including any managers, economic interest holders, or decision-makers of the ABS, with this code of conduct. Failures or breaches of this responsibility may subject a compliance lawyer to discipline.
 - 4. As to matters involving legal services, in the event of a conflict between this code of conduct, Supreme Court Rule 42, and other professional codes of conduct (e.g., AICPA Code of Professional Conduct), this code of conduct and Rule 42 shall govern.

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 7: Administrative Office of the Courts
Chapter 2: Certification and Licensing Programs
Section 7-210: Legal Paraprofessional

A. Definitions. In addition to the definitions in ACJA § 7-201(A), the following definitions apply to this section:

“Advocacy” means course content or practical experience that demonstrates and develops skills that are associated with conducting court hearings and trials, administrative hearings, mediation and arbitration, and settlement and plea negotiation.

“Board” means the Board of Nonlawyer Legal Service Providers.

“Civil procedures course” means at least 3 credits from a course dedicated to civil procedure and the remaining required credits can be obtained through a course or courses that cover an area of civil law, such as administrative law, if the course includes procedural law content.

“Experiential learning” means learning through a format such as an internship, externship or clinical experience during which students develop knowledge, skills, and values from direct experiences outside a traditional academic setting.

“Legal Paraprofessional” (“LP”) means an individual licensed pursuant to this section to provide legal services without the supervision of an attorney in the areas of law and within the scope of practice defined herein.

“Legal specialization course” means a course that covers substantive law or legal procedures and that was developed specifically for, and that teaches practical skills needed by, paralegals or legal paraprofessionals. For example, courses in general “business law” designed for undergraduate or graduate business curriculums and law-related courses that focus solely on theory do not qualify as a legal specialization course.

“Substantive law-related experience” means the provision of legal services as a paralegal or paralegal student including, but not limited to, drafting pleadings, legal documents or correspondence, completing forms, preparing reports or charts, legal research, and interviewing clients or witnesses in the area(s) or practice the applicant seeks to be licensed. Substantive law-related experience does not include routine clerical or administrative duties.

B. Applicability. This section applies to individuals who provide legal services within the exemption to the prohibition of the unauthorized practice of law set forth in Supreme Court Rule 31.3(e)(4) and this section. To qualify to provide legal services under the specified exemption pursuant to Rule 31.3(e)(4) and this section, legal paraprofessionals shall hold a valid license and perform their duties in accordance with subsection (F). A person shall not represent that he or she is a legal paraprofessional unless the person holds an active license as a legal paraprofessional. This section is read in conjunction with ACJA § 7-201: General Requirements, and the Arizona Rules of Supreme Court governing the practice of law. In the

event of any conflict between the Arizona Rules of Supreme Court, ACJA § 7-201, and ACJA § 7-210, the Rules of Supreme Court shall govern.

C. Purpose. The supreme court has inherent regulatory power over all persons providing legal services to the public, regardless of whether they are lawyers or nonlawyers. Accordingly, this section is intended to result in the effective administration of the legal paraprofessional licensing program.

D. Administration.

1. Role and Responsibilities of the Supreme Court. In addition to the requirements of ACJA § 7-201(D), the supreme court shall review recommendations from the board for licensure of applicants and make a final determination on the licensure of these applicants.
2. Establishment and Administration of Fund. The supreme court shall establish a legal paraprofessional fund consisting of monies received for license fees, costs, and civil penalties. The supreme court shall administer the legal paraprofessional fund and shall receive and expend monies from the fund.
3. Role and Responsibilities of the Division Staff. These responsibilities are contained in ACJA § 7-201(D).
4. Board of Nonlawyer Legal Service Providers. In addition to the requirements of ACJA § 7-201(D) the following requirements apply:
 - a. The Board of Nonlawyer Legal Service Providers is established, comprised of the following eleven members appointed by the chief justice:
 - (1) Two certified legal document preparers;
 - (2) Until June 30, 2022, two additional members and thereafter, two legal paraprofessionals,
 - (3) One judge or court administrator;
 - (4) One clerk of the superior court or designee;
 - (5) One attorney;
 - (6) Two public members; and
 - (7) Two additional members.
 - b. The board shall issue licenses to qualified applicants pursuant to subsections (E)(2) and (3).
 - c. On or before April 1 of each year, the board shall file a report with the supreme court describing the status of the legal paraprofessional program. The report shall include but is not limited to, the following information:
 - (1) The number of applications granted and declined during the previous calendar year;
 - (2) The number of licensed legal paraprofessionals as of December 31 of the previous calendar year;

- (3) The number of charges filed against legal paraprofessionals during the previous calendar year and the nature of the charge(s);
 - (4) The number of complaints initiated by the state bar during the previous calendar year and the nature of the complaint;
 - (5) Discipline imposed during the previous calendar year, the nature of the conduct leading to the discipline and the discipline imposed; and
 - (6) Recommendations concerning modifications or improvements to the legal paraprofessional program.
- d. The state bar shall provide the board with the following information:
- (1) On a calendar quarter basis:
 - (a) The number of charges filed against legal paraprofessionals during the previous calendar quarter and the nature of the charge(s);
 - (b) The number of complaints initiated by the state bar during the previous calendar quarter and the nature of the complaint; and
 - (c) Discipline imposed during the previous calendar quarter, the nature of the conduct leading to the discipline and the discipline imposed.
 - (d) The current list of licensed LP's; the state bar shall submit a copy to the clerk of the supreme court.
 - (2) On or before January 31 on an annual basis:
 - (a) the number of licensed legal paraprofessionals as of December 31; and
 - (b) Recommendations concerning modifications or improvements to the legal paraprofessional program.
 - (3) Such other information as the board may request to prepare the report described in (D)(4)(c) herein.

E. Licensure. In addition to the requirements of ACJA § 7-201(E)(1) through (5), the following requirements apply:

- 1. Necessity. A person shall not represent that the person is a legal paraprofessional, or is authorized to provide legal services, without holding a valid license pursuant to this section.
- 2. Eligibility for Applying for a License.
 - a. All potential applicants for a license, in addition to meeting the requirements set forth in subsection (E)(3), shall meet the examination requirements of this subsection.
 - (1) Potential applicants for a license shall successfully pass the examination prior to submitting an application for licensure.
 - (2) Upon a potential applicant passing the examination, division staff shall forward notice to the potential applicant of the potential applicant's fulfillment of the examination requirement and provide the potential applicant with a license application form which shall include forms necessary for a review of qualification based on character and fitness.

- b. Administration of the Examination. In addition to the requirements of ACJA § 7-201(E):

- (1) The examinations for a license shall consist of:

- (a) a test on legal terminology, substantive law, client communication, data gathering, document preparation, the ethical code for LPs, and professional and administrative responsibilities pertaining to the provision of legal services, as identified through a job analysis conducted at the direction of the board; and
 - (b) a substantive law test on each of the areas of practice described in subsection (F)(2) in which the applicant seeks to be licensed. The examinations shall be administered in a board-approved format and delivery method.

- (2) Administration of reexaminations. These requirements are contained in ACJA § 7-201(E)(1)(f)(2).

3. Licensing.

- a. Fingerprinting. Pursuant to ACJA § 7-201(E)(1)(d), an applicant shall furnish fingerprints for a criminal background investigation.

- b. Eligibility for License; Education. The board shall grant a license to an applicant who possesses the following qualifications:

- (1) A citizen or legal resident of the United States;

- (2) At least twenty-one years of age;

- (3) Not have been denied admission to the practice of law in Arizona or any other jurisdiction;

- (4) An applicant disbarred or suspended from the practice of law in Arizona or any other jurisdiction may only be granted a license if approved by the supreme court;

- (5) Of good moral character;

- (6) Complies with the laws, court rules, and orders adopted by the supreme court governing legal paraprofessionals in this state;

- (7) The applicant has successfully passed the legal paraprofessional examination for each area of practice in which they seek licensure;

- (8) The applicant has been deemed qualified by the board based on character and fitness; and

- (9) The applicant shall also possess one of the following combinations of education or experience:

- (a) An associate-level degree in paralegal studies or an associate-level degree in any subject plus a certificate in paralegal studies approved by the American Bar Association or is offered by an institution that is accredited by an institutional accrediting agency recognized by the U.S. Department of Education or the Council for Higher Education Accreditation (CHEA) and that requires successful completion of a minimum of 24 semester units, or the clock hour equivalent, in legal specialization courses which shall include a minimum of:

- (i) For the family law and civil practice endorsement: 3 credit hours in family

law and 6 credit hours in civil procedures, 3 credit hours in evidence, 3 credit hours of legal research and writing, and a minimum of 120 hours of experiential learning under the supervision of a lawyer that includes content on advocacy;

(ii) For the criminal law endorsement: 3 credit hours in criminal law, 3 credit hours in evidence, 3 credit hours of legal research and writing, and a minimum of 120 hours of experiential learning under the supervision of a lawyer that includes content on advocacy;

(iii) For the administrative law endorsement: 3 credit hours in administrative law, 3 credit hours in evidence, 3 credit hours of legal research and writing, and a minimum of 120 hours of experiential learning under the supervision of a lawyer that includes content on advocacy;

(iv) For all endorsements, a minimum of 3 credit hours in professional responsibility.

All applicants meeting the education requirements of (9)(a) must also have one (1) year of substantive law-related experience under the supervision of a lawyer in the area of practice of each endorsement sought.

(b) Four-year bachelor's degree in law from an accredited college or university and approved by the court that included the following coursework:

(i) For the family law and civil practice endorsement: 3 credit hours in family law and 6 credit hours in civil procedures, 3 credit hours in evidence, 3 credit hours of legal research and writing, and a minimum of 120 hours of experiential learning that includes content on advocacy;

(ii) For the criminal law endorsement: 3 credit hours in criminal law, 3 credit hours in evidence, 3 credit hours of legal research and writing, and a minimum of 120 hours of experiential learning that includes content on advocacy;

(iii) For the administrative law endorsement: 3 credit hours in administrative law, 3 credit hours in evidence, 3 credit hours of legal research and writing, and a minimum of 120 hours of experiential learning that includes content on advocacy;

(iv) For all endorsements, a minimum of 3 credit hours in professional responsibility.

(c) Completed a certification program for legal paraprofessionals approved by the Arizona Judicial Council. Certification programs may be for credit or non-credit but must be offered through an educational institution that is at least regionally accredited. Certification programs must provide the subject matter courses that meet the credit hours or equivalent clock hours in the subject matter areas required for each subject matter area endorsement.

(d) A Master of Legal Studies (MLS) from an American Bar Association accredited law school that included the following coursework:

(i) For the family law and civil practice endorsement: 3 credit hours in family law and 6 credit hours in civil procedures, 3 credit hours in evidence, 3 credit hours of legal research and writing, and a minimum of 120 hours of experiential learning that includes content on advocacy;

(ii) For the criminal law endorsement: 3 credit hours in criminal law, 3 credit

- hours in evidence, 3 credit hours of legal research and writing, and a minimum of 120 hours of experiential learning that includes content on advocacy;
 - (iii) For the administrative law endorsement: 3 credit hours in administrative law, 3 credit hours in evidence, 3 credit hours of legal research and writing, and a minimum of 120 hours of experiential learning that includes content on advocacy;
 - (iv) For all endorsements, a minimum of 3 credit hours in professional responsibility.
 - (e) A Juris Doctor from a law school accredited by the American Bar Association.
 - (f) Foreign-trained lawyers with a Masters of Laws (LLM) from an American Bar Association accredited law school that included the following coursework:
 - (i) For the family law and civil practice endorsement: 3 credit hours in family law and 6 credit hours in civil procedures, 3 credit hours in evidence, 3 credit hours of legal research and writing, and a minimum of 120 hours of experiential learning that includes content on advocacy;
 - (ii) For the criminal law endorsement: 3 credit hours in criminal law, 3 credit hours in evidence, 3 credit hours of legal research and writing, and a minimum of 120 hours of experiential learning that includes content on advocacy;
 - (iii) For the administrative law endorsement: 3 credit hours in administrative law, 3 credit hours in evidence, 3 credit hours of legal research and writing, and a minimum of 120 hours of experiential learning that includes content on advocacy;
 - (iv) For all endorsements, a minimum of 3 credit hours in professional responsibility.
- c. Eligibility for License; Experience. The board shall grant a license to an applicant who does not meet the requirements of (b)(9) of this section, but who possesses the following qualifications:
- (1) A citizen or legal resident of the United States;
 - (2) At least twenty-one years of age;
 - (3) Not have been denied admission to the practice of law in Arizona or any other jurisdiction;
 - (4) An applicant disbarred or suspended from the practice of law in Arizona or any other jurisdiction may only be granted a license if approved by the Supreme Court;
 - (5) Of good moral character;
 - (6) Complies with the laws, court rules, and orders adopted by the supreme court governing legal paraprofessionals in this state;
 - (7) The applicant has successfully passed the legal paraprofessional examination pursuant to (E)(2)(b) herein;
 - (8) The applicant has been deemed qualified by the board based on character and fitness; and
 - (9) Has completed seven years of full-time substantive law-related experience within the 10 years preceding the application, including experience in the practice area in

which the applicant seeks licensure as follows:

(a) For licensure in family law, limited jurisdiction civil, and limited jurisdiction criminal, 2 years of substantive law-related experience in each area in which the applicant seeks licensure.

(b) For landlord-tenant, debt collection, and administrative law, 2 years of substantive law-related experience in each area in which the applicant seeks licensure.

(10) Proof of substantive law-related experience will be certified by supervising attorney, meeting the following requirements:

(a) The name and Bar number of the supervising lawyer(s);

(b) Certification by the lawyer that the work experience meets the definition of substantive law-related experience in the practice area in which the applicant will be licensed as defined in (A); and

(c) The dates of the applicant's employment by or service with the lawyer(s) or licensed paralegal practitioner(s).

d. Professionalism Course. Within one year after being licensed, a newly licensed LP shall complete the state bar course on professionalism. A newly licensed LP who fails to comply with the requirements of this paragraph shall be summarily suspended upon motion of the state bar pursuant to Rule 62, provided that a notice of non-compliance shall have been sent to the LP, mailed to the LP's last address of record at least thirty days prior to such suspension, but may be reinstated in accordance with the rules of reinstatement herein.

F. Role and Responsibilities of Licensees.

1. Authorized Services. Upon successful completion of a substantive law exam described in subsection (E)(2)(b) for one or more of the areas of practice described in subsection (F)(2) and the board's endorsement on the legal paraprofessional's license, a legal paraprofessional is authorized to render legal services within the scope of practice defined in subsection (F)(2), without the supervision of an attorney, including:

a. Prepare and sign legal documents;

b. Provide specific advice, opinions, or recommendations about possible legal rights, remedies, defenses, options, or strategies;

c. Draft and file documents, including initiating and responding to actions, related motions, discovery, interim and final orders, and modification of orders, and arrange for service of legal documents;

d. Appear before a court or tribunal on behalf of a party, including mediation, arbitration, and settlement conferences where not prohibited by the rules and procedures of the forum; and

e. Negotiate on behalf of a client in accord with the code of conduct.

2. Areas of Practice; Scope of Practice.

- a. Family Law. Legal paraprofessionals may render authorized services in domestic relations, except they may not represent any party in a matter that involves the following unless the legal paraprofessional has met additional qualifications as established by the supreme court.

- (1) Preparation of a Qualified Domestic Relations Order (QDRO) and supplemental orders dividing retirement assets;
- (2) Division or conveyance of formal business entities or commercial property; or
- (3) An appeal to the court of appeals or supreme court.

- b. Limited Jurisdiction Civil. Legal paraprofessionals may engage in authorized services in any civil matter that may be or is before a municipal or justice court of this state.

- c. Limited Jurisdiction Criminal. Legal paraprofessionals may render authorized services in criminal misdemeanor matters before a municipal or justice court of this state where, upon conviction, a penalty of incarceration is not at issue, whether by law or by agreement of the prosecuting authority and trial court.

- d. Administrative Law. Legal paraprofessionals may engage in authorized services before any Arizona administrative agency that allows it. Legal paraprofessionals are not authorized to represent any party in an appeal of the administrative agency's decision to a superior court, the court of appeals, or the supreme court, except that the legal paraprofessional may file an application or notice of appeal. LPs are not authorized to represent any lawyer or LP before the court, presiding disciplinary judge, or hearing panel.

3. Code of Conduct. Each legal paraprofessional shall adhere to the code of conduct in subsection J.

4. Identification. A legal paraprofessional shall include the practitioner's name, the title "Arizona Legal Paraprofessional" or the abbreviation "LP" and the legal paraprofessional's license number on all documents prepared by the legal paraprofessional, unless expressly prohibited by a non-judicial agency or entity. The legal paraprofessional shall also provide the practitioner's name, title and license number to any person upon request.

5. Notification of Discipline. A license holder who has been disbarred from the practice of law in any state since original licensure as a legal paraprofessional shall provide the information regarding the disbarment to the board within 30 days of service of the notice of the disbarment.

6. Notification of Denial of Admission. A license holder who has been denied admission to the practice of law or suspended or disbarred from the practice of law in any jurisdiction since original licensure as a legal paraprofessional shall provide the information regarding the denial to the board and state bar within 30 days of service of the notice of the denial.

G. Complaints, Investigation, Disciplinary Proceedings, and Continuing Legal Education.

The Supreme Court Rules governing complaints, investigations, discipline, sanctions, reinstatement, continuing legal education, and public access to state bar records are applicable to legal paraprofessionals, except:

1. Rule 44 is not applicable to legal paraprofessionals.
2. Rule 60(a)(1) is applicable to legal paraprofessionals, except that the term “revocation” shall replace the term “disbarment.”
3. Reinstatement proceedings under Rules 64 and 65, Rules of Supreme Court, are applicable to legal paraprofessionals, except the term “revoked” or “revocation” shall replace the term “disbarred” or “disbarment.”

H. Policies and Procedures for Board Members. These requirements are contained in ACJA § 7-201(I).

I. Continuing Legal Education Policy.

1. Purpose. Ongoing continuing legal education (“CLE”) is one method to ensure legal paraprofessionals maintain competence in the field after licensure is obtained. Continuing education also provides opportunities for legal paraprofessionals to keep abreast of changes in the profession and the Arizona judicial system.
2. Applicability. All legal paraprofessionals shall comply with the continuing education requirements of Rule 45, Arizona Rules of Supreme Court.
3. Responsibilities of legal paraprofessionals.
 - a. It is the responsibility of each legal paraprofessional to ensure compliance with the continuing education requirements, maintain documentation of completion of continuing education, and to submit the maintained documentation to the nonlawyer legal service provider program upon the request of the board or division staff.
 - b. Upon request, each legal paraprofessional shall provide any additional information required by the board or division staff when reviewing renewal applications and continuing education documentation.

J. Code of Conduct. This code of conduct is adopted by the supreme court to apply to all legal paraprofessionals in the State of Arizona. The purpose of this code of conduct is to establish rules of professional conduct and minimum standards for performance by legal paraprofessionals.

1. Ethics. Each legal paraprofessional is bound by Supreme Court Rule 42, Arizona Rules of Professional Conduct in accordance with the following:

- a. References to “lawyer(s)” are to be read as “legal paraprofessional(s).”
 - b. References to “applicant” or “applicant for admission to the state bar” is to be read as applicant for a legal paraprofessional license.
 - c. References to “admission to practice” or “admitted to practice” shall be read as licensed as an LP.
 - d. ER 5.5(a) through (b) applies to LPs. ER 5.5(c) through (h) are not applicable.
2. Professionalism. Each legal paraprofessional shall adhere to Supreme Court Rule 41, except for the Oath of Admission to the Bar.
3. Trust Accounts. Each legal paraprofessional shall adhere to Supreme Court Rule 43.
4. Insurance Disclosures. Each legal paraprofessional shall adhere to Supreme Court Rule 32(c)(13).
5. Performance in Accordance with Law.
 - a. A legal paraprofessional shall perform all duties and discharge all obligations in accordance with applicable laws, rules, or court orders.
 - b. A legal paraprofessional shall not represent that the practitioner is authorized to practice law beyond the areas of practice and scope of practice as provided in subsections (F)(1) and (2).
 - c. A legal paraprofessional shall not use the designations “lawyer,” “attorney at law,” “counselor at law,” “Esq.,” or other equivalent words, the use of which is reasonably likely to induce others to believe the legal paraprofessional is authorized to engage in the practice of law beyond that allowed by the practitioner’s license. Any communications concerning an LP’s services must identify the LP as being a legal paraprofessional.
 - d. A legal paraprofessional shall not provide any kind of advice, opinion or recommendation to a client about possible legal rights, remedies, defenses, options, or strategies unless the practitioner has the license and subject matter area specific endorsement to do so.
 - e. A legal paraprofessional shall inform the client in writing that a legal paraprofessional is not a lawyer and cannot provide any kind of advice, opinion or recommendation to a client about possible legal rights, remedies, defenses, options, or strategies beyond what the LP is specifically licensed to provide authorized services for.

K. Fee Schedule.

1. Application Fees

- a. Application Fee; Initial Licensure \$300
- b. Fingerprint Application Processing - rate set by Arizona law and is subject to change.

2. Examination Fees

- a. Core Skills Test \$100
- b. Core Skills Test Reexaminations \$100
(For any applicant who does not pass the examination on the first attempt. The \$100 fee applies to each reexamination.)
- c. Core Skills Test Reregistration for Examination \$100
(For any applicant who registers for an examination date and fails to appear at the designated site on the scheduled date and time.)
- d. Subject Matter Test \$150
- e. Subject Matter Test Reexamination \$150
(For any applicant who does not pass the examination on the first attempt. The \$150 fee applies to each reexamination.)
- f. Subject Matter Test Reregistration for Examination \$150

4. Miscellaneous Fees.

- a. Application. Printed Application for Admission or Character Report (materials available online for free) \$ 20.00
- b. NSF Fee \$ 40.00
- c. Document Deficiency Fee: assessed if required supporting documents are not filed with application. \$100.00
- d. Replacement of License or Name Change \$ 25.00
- e. Public Record Request per Page Copy \$.50
- f. Certificate of Correctness of Copy of Record \$ 18.00

5. Annual Dues for Arizona State Bar Affiliate Members. Each person licensed as a legal paraprofessional is subject to the membership fees and requirements of Supreme Court Rule 32(c). Dues for State Bar Affiliate Membership are assessed separately.

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-20-0034
RESTYLE AND AMEND RULE 31; ADOPT)
NEW RULE 33.1; AMEND RULES 32,)
41, 42 (VARIOUS ERS FROM 1.0 TO)
5.7), 46-51, 54-58, 60 AND 75-76)
)
)
) FILED: 8/27/2020
)
)
_____)

**ORDER AMENDING
THE ARIZONA RULES OF THE SUPREME COURT
AND THE ARIZONA RULES OF EVIDENCE**

Petitioner Dave Byers, on behalf of the Task Force on the Delivery of Legal Services, has filed a rule petition and amended rule petition proposing to: (a) abrogate Arizona Supreme Court Rule 31 (and associated items following the rule) and replace them with proposed new Rules 31, 31.1, 31.2, and 31.3; (b) amend Supreme Court Rules 32, 41, 42 (and certain ethics rules and comments set forth in that rule), 43, 46-51, 54-58, 60, 63, 66, 67, 75 and 76; and (c) adopt a new Supreme Court Rule 33.1. Having considered the petition, comments submitted in response to the petition, and Petitioner's reply to those comments,

IT IS ORDERED:

(a) abrogating current Supreme Court Rule 31 and the Oath of Admission and the Lawyer's Creed of Professionalism that follow the rule, and replacing them with the adoption of new Rules 31, 31.1, 31.2, and 31.3 in accordance with Attachment #1 to this order, effective January 1, 2021;

(b) adopting new Supreme Court Rule 33.1 in accordance with Attachment #2 to this order, effective January 1, 2021;

(c) amending or abrogating ERS 1.0, 1.5, 1.6, 1.7, 1.8, 1.10, 1.17, 5.1, 5.3, 5.4, 5.7 and 8.3 in Supreme Court Rule 42 and those rules' associated rule comments, in accordance with Attachment #3 to this order, effective January 1, 2021;

(d) amending Supreme Court Rules 32, 41, 43, 46-51, 54-58, 60, 63, 66, 67, 75 and 76 in accordance with Attachment #4 to this order, effective January 1, 2021; and

(e) adopting new Arizona Rule of Evidence 513 in accordance with Attachment #5 to this order, effective January 1, 2021.

DATED this 27th day of August, 2020.

_____/s/_____
ROBERT BRUTINEL
Chief Justice

TO:

Rule 28 Distribution

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Tonya Kay MacBeth
Eric Hill
Christine Davis
Edward Renner
Sergio Escamilla
Lindsay Bautista
Helen R. Davis
Antonio Ceritelli
Cristina Perez Hesano
Monica A. Limon-Wynn
Dominic Wayne Majors
Zachariah J. DeMeola

Attachment #1

ATTACHMENT #1

ARIZONA RULES OF THE SUPREME COURT

Rule 31. Supreme Court Jurisdiction

(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 licensed under Rule 31.1(c) 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) 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).

(c) 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) 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.

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), (c), 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 the Arizona Supreme 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, a trust, or a governmental or tribal entity.

(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 an 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 an 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 an 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) **Arizona Corporation Commission.** A person may represent a legal entity in a proceeding before the Arizona Corporation Commission ("Commission") if the representation complies with subsection (c)(5). Additionally, a person with expertise in the field of public utility regulatory compliance, public utility accounting or finance, public utility engineering, railroad engineering or safety, or pipeline engineering or safety may prepare, submit, or file with the Commission on the entity's behalf a tariff, rate schedule, engineering report, or other technical or financial document within the person's field of expertise.

(7) **Exception.** Despite Rule 31.3(c)(3) through (c)(6), 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,

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 an 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 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 Legal Paraprofessionals.*** Certified legal document preparers and legal paraprofessionals 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 legal paraprofessional 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).

Attachment #2

ATTACHMENT #2

ARIZONA RULES OF THE SUPREME COURT

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 Arizona Supreme 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 Arizona Supreme Court for review as provided in ACJA § 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 Arizona Supreme 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 § 7-209 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 the Arizona Supreme 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 Committee concerning an application for licensure in connection with any proceeding before the Court. In addition, the Committee or designated staff may disclose their respective records pertaining to an applicant for licensure to:

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

(f) Immunity from Civil Suit.

1. The Arizona Supreme 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 as an alternative business structure.

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 Committee, and the Court's and Committee's members, staff, employees, and agents, are privileged, and civil suits predicated on such records, statements, or other information may not be instituted.

Attachment #3

ATTACHMENT #3¹

ARIZONA RULES OF THE SUPREME COURT

Rule 42. Arizona Rules of Professional Conduct

* * *

ER 1.0. Terminology

(a) – (b) [[No change]]

(c) "Firm" or "law firm" denotes a lawyer or lawyers in a ~~law partnership, professional corporation sole proprietorship, or other association; or lawyers employed in a legal services organization or the legal department of a corporation or other organization~~ any affiliation, or any entity that provides legal services for which it employs lawyers. Whether ~~government lawyers should be treated as a firm depends on the particular Rule involved and the specific facts of the situation~~ two or more lawyers constitute a firm can depend on the specific facts.

(d) – (f) [[No change]]

~~(g) "Partner" denotes a member of a partnership, a shareholder in a law firm organized as a professional corporation, or a member of an association authorized to practice law.~~

~~(h g)~~ [[No change to text]]

~~(i h)~~ [[No change to text]]

~~(j i)~~ [[No change to text]]

~~(k j)~~ "Screened" denotes the isolation of a lawyer or nonlawyer from any participation in a matter through the timely imposition of procedures within a firm that are reasonably adequate under the circumstances to protect information that the isolated lawyer or nonlawyer is obligated to protect under these Rules or other law.

(1) Reasonably adequate procedures include:

(i) written notice to all affected firm personnel that a screen is in place and the screened lawyer or nonlawyer must avoid any communication with other firm personnel about the screened matter;

(ii) adoption of mechanisms to deny access by the screened lawyer or nonlawyer to firm files or other information, including information in electronic form, relating to the screened matter;

¹ Additions to the text of the rules are shown by underscoring and deletions of text are shown by ~~strike-through~~.

(iii) acknowledgment by the screened lawyer or nonlawyer of the obligation not to communicate with any other firm personnel with respect to the matter and to avoid any contact with any firm files or other information, including information in electronic form, relating to the matter;

(iv) periodic reminders of the screen to all affected firm personnel; and

(v) additional screening measures that are appropriate for the particular matter will depend on the circumstances.

(2) Screening measures must be implemented as soon as practical after a lawyer, nonlawyer, or firm knows or reasonably should know that there is a need for screening.

(l k) – (n m) [[No change to text]]

(n) “Business transaction,” when used in reference to conflicts of interests:

(1) includes but is not limited to:

(i) the sale of goods or services related to the practice of law to existing clients of a firm’s legal practice;

(ii) a lawyer referring a client to nonlegal services performed by others within a firm or a separate entity in which the lawyer or the lawyer’s firm has a financial interest; or

(iii) transactions between a lawyer or a firm and a client in which a lawyer or firm accepts nonmonetary property or an interest in the client’s business as payment of all or part of a fee.

(2) does not include:

(i) ordinary fee arrangements between client and lawyer; or

(ii) standard commercial transactions between a lawyer and a client for products or services that the client generally markets to others and over which the lawyer has no advantage with the client.

(o) “Personal interests,” when used in reference to conflicts of interests, include but are not limited to:

(1) the probity of a lawyer’s own conduct, or the conduct of a nonlawyer in the firm, in a transaction;

(2) referring clients to a nonlawyer within a firm to provide nonlegal services;
or

(3) referring clients to an enterprise in which a firm lawyer or nonlawyer has an undisclosed or disclosed financial interest.

(p) “Authorized to practice law in this jurisdiction” denotes a firm that employs lawyers or nonlawyers who provide legal services as authorized by Rule 31.1(a).

(q) “Nonlawyer” denotes a person not licensed as a lawyer in this jurisdiction or who is licensed in another jurisdiction but is not authorized by Supreme Court Rule 31.1(a) to practice Arizona law.

Comment [2003 2021 amendment]

Confirmed Writing

[1] **[[No change]]**

Firm

~~[2] Whether two or more lawyers constitute a firm within paragraph (c) can depend on the specific facts. For example, two practitioners who share office space and occasionally consult or assist each other ordinarily would not be regarded as constituting a firm. However, if they present themselves to the public in a way that suggests that they are a firm or conduct themselves as a firm, they should be regarded as a firm for purposes of the Rules. The terms of any formal agreement between associated lawyers are relevant in determining whether they are a firm, as is the fact that they have mutual access to information concerning the clients they serve. Furthermore, it is relevant in doubtful cases to consider the underlying purpose of the Rule that is involved. A group of lawyers could be regarded as a firm for purposes of the Rule that the same lawyer should not represent opposing parties in litigation, while it might not be so regarded for purposes of the Rule that information acquired by one lawyer is attributed to another.~~

~~[3] With respect to the law department of an organization, including the government, there is ordinarily no question that the members of the department constitute a firm within the meaning of the Rules of Professional Conduct. There can be uncertainty, however, as to the identity of the client. For example, it may not be clear whether the law department of a corporation represents a subsidiary or an affiliated corporation, as well as the corporation by which the members of the department are directly employed. A similar question can arise concerning an unincorporated association and its local affiliates.~~

[4-2] Similar questions can also arise with respect to lawyers in legal aid, and legal services organizations, and other entities that include nonlawyers and provide other services in addition to legal services. Depending upon the structure of the organization, the entire organization or different components of it may constitute a firm or firms for purposes of these Rules. For instance, an organization that provides legal, accounting, and financial planning services to clients is a “firm” for purposes of these Rules for which a lawyer is responsible for assuring that reasonable measures are in place to safeguard client confidences and avoid

conflicts of interest by all employees, officers, directors, owners, shareholders, and members of the firm regardless of whether or not the nonlawyers participate in providing legal services. See Rules 5.1, 5.2, and 5.3.

Fraud

[3 5] – [5 7] **[[Renumbered; No change to text]]**

~~Screened~~

~~[8] This definition applies to situations where screening of a personally disqualified lawyer is permitted to remove imputation of a conflict of interest under ERs 1.10, 1.11, 1.12 or 1.18.~~

~~[9] The purpose of screening is to assure the affected parties that confidential information known by the personally disqualified lawyer remains protected. The personally disqualified lawyer should acknowledge the obligation not to communicate with any of the other lawyers in the firm with respect to the matter. Similarly, other lawyers in the firm who are working on the matter should be informed that the screening is in place and that they may not communicate with the personally disqualified lawyer with respect to the matter. Additional screening measures that are appropriate for the particular matter will depend on the circumstances. To implement, reinforce and remind all affected lawyers of the presence of the screening, it may be appropriate for the firm to undertake such procedures as a written undertaking by the screened lawyer to avoid any communication with other firm personnel and any contact with any firm files or other information, including information in electronic form, relating to the matter; written notice and instructions to all other firm personnel forbidding any communication with the screened lawyer relating to the matter; denial of access by the screened lawyer to firm files or other information, including information in electronic form, relating to the matter, and periodic reminders of the screen to the screened lawyer and all other firm personnel.~~

~~[10] In order to be effective, screening measures must be implemented as soon as practical after a lawyer or law firm knows or reasonably should know that there is a need for screening.~~

ER 1.5. Fees

(a) – (d) [[No change]]

~~(e) A division of fees between lawyers who are not in the same firm may be made only~~ Two or more firms jointly working on a matter may divide a fee paid by a client if:

~~(1) the division is in proportion to the services performed by each lawyer or each lawyer receiving any portion of the fee assumes joint responsibility for the representation; the firms disclose to the client in writing how the fee will be divided and how the firms will divide responsibility for the matter among themselves;~~

~~(2) the client agrees~~ consents to the division of fees; in a writing signed by the client;; ~~to the participation of all the lawyers involved and the division of the fees and responsibilities between lawyers; and~~

~~(3) the total fee is reasonable; and~~

~~(4) the division of responsibility among firms is reasonable in light of the client's need that the entire representation be completely and diligently completed.~~

Comment [2003 2021 amendment]

Reasonableness of Fee and Expenses

[1] [[No change]]

Basis or Rate of Fee

[2] – [3] [[No change]]

Term of Payment

[4] – [5] [[No change]]

Prohibited Contingent Fees

[6] [[No change]]

Disclosure of Refund Rights for Certain Prepaid Fees

[7] [[No change]]

~~Division of Fee~~

~~[8] A division of fee is a single billing to a client covering the fee of two or more lawyers who are not in the same firm. A division of fee facilitates association of more than one lawyer in a matter in which neither alone could serve the client as well, and most often is used when the fee is contingent and the division is between~~

~~a referring lawyer and a trial specialist. Paragraph (e) permits the lawyers to divide a fee by agreement between the participating lawyers, if the division is in proportion to the services performed by each lawyer or all lawyer assume joint responsibility for the representation and the client agrees, in a writing signed by the client, to the arrangement. A lawyer should only refer a matter to a lawyer who the referring lawyer reasonably believes is competent to handle the matter and any division of responsibility among lawyers working jointly on a matter should be reasonable in light of the client's need that the entire representation be completely and diligently completed. See ERs 1.1, 1.3. If the referring lawyer knows that the lawyer to whom the matter was referred has engaged in a violation of these Rules, the referring lawyer should take appropriate steps to protect the interests of the client. Except as permitted by this Rule, referral fees are prohibited by ER 7.2(b).~~

[9] Paragraph (e) does not prohibit or regulate division of fees to be received in the future for work done when lawyers were previously associated in a law firm.

Dispute Over Fees

[10 8] **[[Renumbered; No change to text]]**

ER 1.6. Confidentiality

(a) – (e) [[No change]]

2003 Comment [amended ~~2009~~ 2021]

[1] - [4] [[No change]]

Authorized Disclosure

[5] Except to the extent that the client's instructions or special circumstances limit that authority, a lawyer is impliedly authorized to make disclosures about a client when appropriate in carrying out the representation in some situations, for example, a lawyer may be impliedly authorized to admit a fact that cannot properly be disputed or, to make a disclosure that facilitates a satisfactory conclusion to a matter. Lawyers in a firm may, in the course of the firm's practice, disclose to each other, and nonlawyers in the firm, information relating to the legal representation of a client of the firm, unless the client has instructed that particular information be confined to specified lawyers. Any such shared information shall be subject to requirements of confidentiality.

[6] [[No change]]

Disclosure Adverse to Client

[7] – [20] [[No change]]

Withdrawal

[21] [[No change]]

Acting Competently to Preserve Confidentiality

[22] – [23] [[No change]]

Former Client

[24] [[No change]]

ER 1.7. Conflict of Interest: Current Clients

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client; or

(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if each affected client gives informed consent, confirmed in writing, and:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

(2) the representation is not prohibited by law; and

(3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal.

(c) A lawyer may not represent a party in asserting a claim against another party represented by a firm if the same person or entity holds an ownership interest, directly or indirectly, of 10 percent or more, or has managerial authority comparable to that of a partner, in the lawyer's firm and the other firm.

Comment [2003 2021 amendment]

[1] – [9] **[[No change]]**

Personal Interest Conflicts

~~[10] The lawyer's own interests should not be permitted to have an adverse effect on representation of a client. For example, if the probity of the lawyer's own conduct in a transaction is in serious question, it may be difficult or impossible for the lawyer to give a client detached advice. Similarly, a lawyer may not allow related business interest to affect representation, for example, by referring clients to an enterprise in which the lawyer has an undisclosed financial interest. See ER 1.8 for specific Rules pertaining to a number of personal interest conflicts, including business transactions with clients. See also ER 1.10 (personal interest conflicts under ER 1.7 ordinarily are not imputed to other lawyers in a law firm).~~

[11] – [12] **[[Renumbered; No change to text]]**

[13] – [14] **[[Renumbered; No change to text]]**

[34] ER 1.7(c) parallels ER 1.7(b)(3) in barring certain concurrent representations of adverse parties, irrespective of consent. Where there is an overlap of ownership or management between law firms that does not involve effective control, ER 1.7(a) and (b) will determine whether the two firms can concurrently represent adverse parties. Moreover, where a lawyer or other owner of a firm has a financial interest in an opposing party, the interest will ordinarily be considered a “personal interest” as that term is used in ER 1.10(a) that may not be imputed to other lawyers in the firm, unless that personal interest would materially limit the other lawyers’ independent professional judgment. Even though the personal interest conflict will not be imputed to other members of the firm, the lawyer must disclose the interest to the firm’s client and obtain their informed consent, confirmed in writing, to proceed with the representation.

ER 1.8. Conflict of Interest: Current Clients: Specific Rules

(a) – (l) [[No change]]

(m) A lawyer wishing to engage in a business transaction with a client must comply with both ER 1.7 and 1.8(a) if:

(1) the client expects the lawyer to represent the client in the transaction; or

(2) the lawyer's financial interest otherwise poses a significant risk that the lawyer's representation of the client will be materially limited by the lawyer's financial interest in the transaction.

Comment [2003 2021 amendment]

Business Transactions Between Client and Lawyer

~~[1] A lawyer's legal skill and training, together with the relationship of trust and confidence between lawyers and client, create the possibility of overreaching when the lawyer participates in a business, property or financial transaction with a client, for example a loan or sales transaction or a lawyer investment on behalf of a client. The requirements of paragraph (a) must be met even when the transaction is not closely related to the subject matter of the representation, as when a lawyer drafting a will for a client learns that the client needs money for unrelated expenses and offers to make a loan to the client. The Rule applies to lawyers engaged in the sale of goods or services related to the practice of law, for example, the sale of title insurance or investment services to existing clients of the lawyer's legal practice. See ER 5.7. It also applies to lawyers purchasing property from estates they represent. It does not apply to ordinary fee arrangements between client and lawyer, which are governed by ER 1.5, although its requirements must be met when the lawyer accepts an interest in the client's business or other nonmonetary property as payment of all or part of a fee. In addition, the Rule does not apply to standard commercial transactions between the lawyer and the client for products or services that the client generally markets to others, for example, banking or brokerage services, medical services, products manufactured or distributed by the client, and utilities services. IN such transactions, the lawyer has no advantage in dealing with the client, and the restrictions in paragraph (a) are unnecessary and impracticable.~~

~~[2] Paragraph (a)(1) requires that the transaction itself be fair to the client and that its essential terms be communicated to the client in writing, in a manner that can be reasonably understood. Paragraph (a)(2) requires that the client also be advised, in writing, of the desirability of seeking advice of independent legal counsel. It also requires that the client be given a reasonable opportunity to obtain such advice. Paragraph (a)(3) requires that the lawyer obtain the client's informed consent, in a writing signed by the client, both to the essential terms of the~~

~~transaction and to the lawyer's role. When necessary, the lawyer should discuss both the material risks of the proposed transaction, including any risk presented by the lawyer's involvement, and the existence of reasonably available alternatives and should explain why the advice of independent legal counsel is desirable. See ER 1.0(e) (definition of informed consent).~~

[3 1] The risk to a client is greatest when the client expects the lawyers to represent the client in the transaction itself or when the lawyer's financial interest otherwise poses a significant risk that the lawyer's representation of the client will be materially limited by the lawyer's financial interest in the transaction. Here the lawyer's role requires that the lawyer must comply, not only with requirements of paragraph (a), but also with requirements of ER 1.7. Under that Rule, the lawyer must disclose the risks associated with the lawyer's dual role as both legal adviser and participant in the transaction, including when lawyers refer clients for nonlegal services provided in the firm by either the lawyer or nonlawyer in the firm or refer clients through a separate entity in which the lawyer has a financial interest, such as the risk that the lawyer will structure the transaction or give legal advice in a way that favors the lawyer's interests at the expense of the client. Moreover, the lawyer must obtain the client's informed consent. In some cases, the lawyer's interest may be such that ER 1.7 will preclude the lawyer from seeking the client's consent to the transaction.

[4 2] – [21 19] **[[Renumbered; No change to text]]**

ER 1.10. Imputation of Conflicts of Interest: General Rule

(a) While lawyers and nonlawyers are associated in a firm, none of them shall knowingly represent a client on legal or nonlegal matters when any one of them practicing alone would be prohibited from doing so by ERs 1.7 or 1.9, unless the prohibition is based on a personal interest of the prohibited lawyer or nonlawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers and nonlawyers in the firm.

(b) – (e) [[No change]]

(f) If a nonlawyer is personally disqualified pursuant to paragraph (a), the nonlawyer may be screened and the nonlawyer’s personal disqualification is not imputed to the rest of the firm unless the nonlawyer is an owner, shareholder, partner, officer, or director of the firm.

(g) If a lawyer is personally disqualified from representing a client due to events or conduct in which the person engaged before the person became licensed as a lawyer, the lawyer may be screened, and the lawyer’s personal disqualification is not imputed to the rest of the firm unless the lawyer is an owner, shareholder, partner, officer or director of the firm.

Comment [~~2003 and 2016~~ 2021 amendment]

Definition of Firm

~~[1] For purposes of the Rules of Professional Conduct, the term ‘firm’ denotes lawyers in a law partnership, professional corporation, sole proprietorship or other association; or lawyers employed in a legal services organization of the legal department of a corporation or other organization. See ER 1.0(c). Whether two or more lawyers constitute a firm within this definition can depend on the specific facts. See ER 1.0 Comments [2]—[4].~~

Principles of Imputed Disqualification

~~[2] The rule of imputed disqualification stated in paragraph (a) gives effect to the principle of loyalty to the client as it applies to lawyers who practice in a law firm. Such situations can be considered from the premise that a firm of lawyers is essentially one lawyer for purposes of the rules governing loyalty to the client, or from the premise that each lawyer is vicariously bound by the obligation of loyalty owed by each lawyer with whom the lawyer is associated. Paragraph (a) operates only among the lawyers currently associated in a firm. When a lawyer moves from one firm to another, the situation is governed by ERs 1.9(b) and 1.10(b).~~

~~[3] The rule in paragraph (a) does not prohibit representation where neither questions of client loyalty nor protection of confidential information are presented. Where one lawyer a firm could not effectively represent a given client because of~~

~~strong political beliefs, for example, but that lawyer will do no work on the case and the personal beliefs of the lawyer will not materially limit the representation by others in the firm, the firm should not be disqualified. On the other hand, for example, if an opposing party in a case were owned by a lawyer in the law firm, and others in the firm are reasonably likely to be materially limited in pursuing the matter because of loyalty to that lawyer, the personal disqualification of the lawyer would be imputed to all others in the firm. A disqualification arising under ER 1.8(l) from a family or cohabitating relationship is persona and ordinarily is not imputed to other lawyers with whom the lawyers are associated.~~

~~[4] The rule in paragraph (a) also does not prohibit representation by others in the law firm where the person prohibited from involvement in a matter is a nonlawyer, such as a paralegal or legal secretary. Nor does paragraph (a) prohibit representation if the lawyer is prohibited from acting because of events before the person became a lawyer, for example, work that a person did while a law student. Such persons, however, ordinarily must be screened from any personal participation in the matter to avoid communication to others in the firm of confidential information that both the nonlawyers and firm have a legal duty to protect. See ERs 1.0(k) and 5.3.~~

[5 1] – [11 7] **[[Renumbered; No change to text]]**

ER 1.17. Sale of Law Practice or Firm

~~(a) A lawyer or a law firm may sell or purchase a law practice, or an area of law practice a practice area of a firm, including good will, if the following conditions are satisfied seller gives written notice to each of the seller's clients regarding:~~

~~(a) The seller ceases to engage the private practice of law, or in the area of practice that has been sold, in the geographic area(s) in which the practice has been conducted;~~

~~(b) The entire practice, or the entire area of practice, is sold to one or more lawyers or law firms;~~

~~(c) The seller gives written notice to each of the seller's clients regarding;~~

~~(1) the proposed sale, including the identity of the purchaser;~~

~~(2) the client's right to retain other counsel or to take possession of the file; and~~

~~(3) the fact that the client's consent to the transfer of the client's files will be presumed if the client does not take any action or does not otherwise object within ninety (90) days of receipt of the notice.~~

~~(b) If a client cannot be given notice, the representation of that client may be transferred to the purchaser only upon entry of an order so authorizing by a court having jurisdiction. The seller may disclose to the court in camera information relating to the representation only to the extent necessary to obtain an order authorizing the transfer of a file.~~

~~(d) The fees charged clients shall not be increased by reason of the sale.~~

~~(c) A sale may not be financed by increases in fees charged to the clients of the practice. Existing arrangements between the seller and the client as to fees and the scope of the work must be honored by the purchaser.~~

~~(d) Before providing a purchaser access to detailed information relating to the representation, including client files, the seller must provide the written notice to a client as described above.~~

~~(e) Lawyers participating in the sale of a law practice or a practice area must exercise competence in identifying a purchaser qualified to assume the practice and the purchaser's obligation to undertake the representation competently, avoid disqualifying conflicts, and secure the client's informed consent for those conflicts that can be agreed to and the obligation to protect information relating to the representation.~~

~~(f) If approval of the substitution of the purchasing lawyer for a selling firm is required by the rules of any tribunal in which a matter is pending, such approval must be obtained before the matter can be included in the sale.~~

(g) This Rule does not apply to the transfers of legal representation between lawyers when such transfers are unrelated to the sale of a practice or an area of practice.

Comment [2003 rule]

~~[1] The practice of law is a profession, not merely a business. Clients are not commodities that can be purchased and sold at will. Pursuant to this Rule, when a lawyer or an entire firm ceases to practice, or ceases to practice in an area of law, and other lawyers or firms take over the representation, the selling lawyer or firm may obtain compensation for the reasonable value of the practice as may withdrawing partners of law firms. See ERs 5.4 and 5.6.~~

Termination of Practice by the Seller

~~[2] The requirement that all of the private practice, or all of an area of practice, be sold is satisfied if the seller in good faith makes the entire practice, or the area of practice, available for sale to the purchasers. The fact that a number of the seller's clients decide not to be represented by the purchasers but take their matters elsewhere, therefore, does not result in a violation. Return to private practice as a result of an unanticipated change in circumstances does not necessarily result in a violation. For example, a lawyer who has sold the practice to accept an appointment to judicial office does not violate the requirement that the sale be attendant to cessation of practice if the lawyer later resumes private practice upon being defeated in a contested or a retention election for the office or resigns from a judiciary position.~~

~~[3] The requirement that the seller cease to engage in the private practice of law does not prohibit employment as a lawyer on the staff of a public agency or a legal services entity that provides legal services to the poor, or as in house counsel to a business.~~

~~[4] The Rule permits a sale of an entire practice attendant upon retirement from the private practice of law within the jurisdiction. Its provisions, therefore, accommodate the lawyer who sells the practice on the occasion of moving to another state. Some states are so large that a move from one locale therein to another is tantamount to leaving the jurisdiction in which the lawyer has engaged in the practice of law. To also accommodate lawyers so situated, states may permit the sale of the practice when the lawyer leaves the geographical area rather than the jurisdiction.~~

~~[5] This Rule also permits a lawyer or law firm to sell an area of practice. If an area of practice is sold and the lawyer remains in the active practice of law, the lawyer must cease accepting any matters in the area of practice that has been sold, either as counsel or co-counsel or by assuming joint responsibility for a matter in connection with the division of a fee with another lawyer as would otherwise be permitted by ER 1.5(c). For example, a lawyer with a substantial number of estate planning matters and a substantial number of probate administration cases may sell the estate planning portion of the~~

~~practice but remain in the practice of law by concentrating on probate administration; however, that practitioner may not thereafter accept any estate planning matters. Although a lawyer who leaves a jurisdiction or geographical area typically would sell the entire practice, this Rule permits the lawyer to limit the sale to one or more areas of the practice, thereby preserving the lawyer's right to continue practice in the areas of the practice that were not sold.~~

~~Sale of Entire Practice or Entire Area of Practice~~

~~[6] The Rule requires that the seller's entire practice, or an entire area of practice, be sold. The prohibition against sale of less than an entire practice area protects those clients whose matters are less lucrative and who might find it difficult to secure other counsel if a sale could be limited to substantial fee-generating matters. The purchasers are required to undertake all client matters in the practice or practice area, subject to client consent. This requirement is satisfied, however, even if a purchaser is unable to undertake a particular client matter because of a conflict of interest.~~

~~Client Confidences, Consent and Notice~~

~~[7] Negotiations between seller and prospective purchaser prior to disclosure of information relating to a specific representation of an identifiable client no more violate the confidentiality provisions of ER 1.6 than do preliminary discussions concerning the possible association of another lawyer or mergers between firms, with respect to which client consent is not required. See ER 1.6(b)(7). Providing the purchaser access to detailed information relating to the representation, such as the client's file, however, requires client consent. The ER provides that before such information can be disclosed by the seller to the purchaser the client must be given actual written notice of the contemplated sale, including the identity of the purchaser, and must be told that the decision to consent or make other arrangements must be made within 90 days. If nothing is heard from the client within that time, consent to the sale is presumed.~~

~~[8] A lawyer or law firm ceasing to practice cannot be required to remain in practice because some clients cannot be given actual notice of the proposed purchase. Since these clients cannot themselves consent to the purchase or direct any other disposition of their files, the Rule requires an order from a court having jurisdiction authorizing their transfer or other disposition. The Court can be expected to determine whether reasonable efforts to locate the client have been exhausted, and whether the absent client's legitimate interests will be served by authorizing the transfer of the file so that the purchaser may continue the representation. Preservation of client confidences requires that the petition for a court order be considered in camera. (A procedure by which such an order can be obtained needs to be established in jurisdictions in which it presently does not exist.)~~

~~[9] All elements of client autonomy, including the client's absolute right to discharge a lawyer and transfer the representation to another, survive the sale of the practice or area of practice.~~

~~Fee Arrangements Between Client and Purchaser~~

~~[10] The sale may not be financed by increases in fees charged the clients of the practice. Existing arrangements between the seller and the client as to fees and the scope of the work must be honored by the purchaser.~~

~~Other Applicable Ethical Standards~~

~~[11] Lawyers participating in the sale of a law practice or a practice area are subject to the ethical standards applicable to involving another lawyer in the representation of a client. These include, for example, the seller's obligation to exercise competence in identifying a purchaser qualified to assume the practice and the purchaser's obligation to undertake the representation competently (see ER 1.1); the obligation to avoid disqualifying conflicts, and to secure the client's informed consent for those conflicts that can be agreed to (see ER 1.7 regarding conflicts and ER 1.0(e) for the definition of informed consent); and the obligation to protect information relating to the representation (see ERs 1.6 and 1.9).~~

~~[12] If approval of the substitution of the purchasing lawyer for the selling lawyer is required by the rules of any tribunal in which a matter is pending, such approval must be obtained before the matter can be included in the sale (see ER 1.16).~~

~~Applicability of the Rule~~

~~[13] This Rule applies to the sale of a law practice of a deceased, disabled or disappeared lawyer. Thus, the seller may be represented by a non-lawyer representative not subject to these Rules. Since, however, no lawyer may participate in a sale of a law practice which does not conform to the requirements of this Rule, the representatives of the seller as well as the purchasing lawyer can be expected to see to it that they are met.~~

~~[14] Admission to or retirement from a law partnership or professional association, retirement plans and similar arrangements, and a sale of tangible assets of a law practice, do not constitute a sale or purchase governed by this Rule.~~

~~[15] This Rule does not apply to the transfers of legal representation between lawyers when such transfers are unrelated to the sale of a practice or an area of practice.~~

ER 5.1. Responsibilities of ~~Partners, Managers, and Supervisory Lawyers~~ Lawyers Who Have Ownership Interests or are Managers or Supervisors

~~(a) A partner in a law firm, and a lawyer who individually or together with other lawyers possess comparable managerial authority in a firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.~~

(a) A lawyer who has an ownership interest in a firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a firm, shall make reasonable efforts to ensure that the firm has in effect internal policies and procedures giving reasonable assurance that all lawyers and nonlawyers in the firm conform to these Rules of Professional Conduct.

(1) Internal policies and procedures include, but are not limited to, those designed to detect and resolve conflicts of interest, maintaining confidentiality, identifying dates by which actions must be taken in pending matters, account for client funds and property and ensure that inexperienced lawyers are properly supervised.

(2) Other measures may be required depending on the firm's structure and the nature of its practice.

(b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct. The degree of supervision required is that which is reasonable under the circumstances, taking into account factors such as the experience of the person who is being supervised and the amount of work supervised. Whether a lawyer has supervisory authority may vary given the circumstances.

(c) A lawyer shall be personally responsible for another lawyer's violation of the Rules of Professional Conduct if:

(1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner has an ownership interest in or has comparable managerial authority in the firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

(i) Appropriate remedial action by an owner or managing lawyer depends on the immediacy of that lawyer's involvement and the seriousness of the misconduct.

(ii) A supervisor must intervene to prevent avoidable consequences of misconduct if the supervisor knows that the misconduct occurred.

Comment [2003 amendment]

[1] Paragraph (a) applies to lawyers who have managerial authority over the professional work of a firm. See ER 1.0(c). This includes members of a partnership, the shareholders in a law firm organized as a professional corporation, and members of other associations authorized to practice law; lawyers having comparable managerial authority in a legal services organization or a law department of an enterprise or government agency; and lawyers who have intermediate managerial responsibilities in a firm. Paragraph (b) applies to lawyers who have supervisory authority over the work of other lawyers in a firm.

[2] Paragraph (a) requires lawyers with managerial authority within a firm to make reasonable efforts to establish internal policies and procedures designed to provide reasonable assurance that all lawyers in the firm will conform to the Rules of Professional Conduct. Such policies and procedures include, but are not limited to, those designed to detect and resolve conflicts of interest, identify dates by which actions must be taken in pending matters, account for client funds and property and ensure that inexperienced lawyers are properly supervised.

[3] Other measures that may be required to fulfill the responsibility prescribed in paragraph (a) can depend on the firm's structure and the nature of its practice. In a small firm of experienced lawyers, informal supervision and periodic review of compliance with the required systems ordinarily will suffice. In a large firm, or in practice situations in which difficult ethical problems frequently arise, more elaborate measures may be necessary. Some firms, for example, have a procedure whereby junior lawyers can make confidential referral of ethical problems directly to a designated senior partner or special committee. See ER 5.2. Firms, whether large or small, may also rely on continuing legal education in professional ethics. In any event, the ethical atmosphere of a firm can influence the conduct of all its members and the partners may not assume that all lawyers associated with the firm will inevitably conform to the Rules.

[4] Paragraph (c) expresses a general principle of personal responsibility for acts of another. See also ER 8.4(a).

[5] Paragraph (c)(2) defines the duty of a partner or other lawyer having comparable managerial authority in a law firm, as well as a lawyer who has direct supervisory authority over performance of specific legal work by another lawyer. Whether a lawyer has supervisory authority in particular circumstances is a question of fact. Partners and lawyers with comparable authority have at least indirect responsibility for all work being done by the firm, while a partner or manager in charge of a particular matter ordinarily also has supervisory responsibility for the work of other firm lawyers engaged in the matter. Appropriate remedial action by a partner or managing lawyer would depend on the immediacy of that lawyer's involvement and the seriousness of the misconduct. A supervisor is required to intervene to prevent avoidable consequences of misconduct if the supervisor knows that the misconduct occurred. Thus, if a supervising lawyer knows

~~that a subordinate misrepresented a matter to an opposing party in negotiation, the supervisor as well as the subordinate has a duty to correct the resulting misapprehension.~~

~~[6] Professional misconduct by a lawyer under supervision could reveal a violation of paragraph (b) on the part of the supervisory lawyer even though it does not entail a violation of paragraph (c) because there was no direction, ratification or knowledge of the violation.~~

~~[7] Apart from this Rule and ER 8.4(a), a lawyer does not have disciplinary liability for the conduct of a partner, associate or subordinate. Whether a lawyer may be liable civilly or criminally for another lawyer's conduct is a question of law beyond the scope of these Rules.~~

~~[8] The duties imposed by this Rule on managing and supervising lawyers do not alter the personal duty of each lawyer in a firm to abide by the Rules of Professional Conduct. See ER 5.2(a).~~

ER 5.3. Responsibilities Regarding Nonlawyer Assistants

~~With respect to a nonlawyer employed or retained by or associated with a lawyer:~~

~~(a) a partner, and a lawyer who individually or together with other lawyers possess comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;~~

~~(ab) a lawyer having direct supervisory authority over the nonlawyer~~ A lawyer in a firm shall make reasonable efforts to ensure that the person's conduct firm has in effect measures giving reasonable assurance that the conduct of nonlawyers engaged in activities assisting lawyers in providing legal services and those who have access to attorney-client information, is compatible with the professional obligations of the lawyer,; and Reasonable measures include, but are not limited to, adopting and enforcing policies and procedures designed:

(1) to prevent nonlawyers in a firm from directing, controlling, or materially limiting the lawyer's independent professional judgment on behalf of clients or materially influencing which clients a lawyer does or does not represent; and

(2) to ensure that nonlawyers assisting in the delivery of legal services or working under the supervision of a lawyer comport themselves in accordance with the lawyer's ethical obligations, including, but not limited to, avoiding conflicts of interest and maintaining the confidentiality of all lawyer client information protected by ER 1.6.

(b) A lawyer having supervisory authority over a nonlawyer within or outside a firm shall make reasonable efforts to ensure that the nonlawyer's conduct when engaged in activities assisting lawyers in providing legal services is compatible with the professional obligations of the lawyer.

(1) Reasonable efforts include providing to nonlawyers appropriate instruction and supervision concerning the ethical aspects of their employment or retention, particularly regarding the obligation not to disclose information relating to the representation of the client.

(2) Measures employed in supervising nonlawyers should take into account that they may not have legal training and are not subject to professional discipline.

(3) When retaining or directing a nonlawyer outside the firm to assist the lawyer's delivery of legal services, a lawyer should communicate directions appropriate under the circumstances to give reasonable assurance that the nonlawyer's conduct is compatible with the professional obligations of the lawyer.

(4) Where the client directs the selection of a particular nonlawyer service provider outside the firm, the lawyer ordinarily should agree with the client concerning the allocation of responsibility for monitoring as between the client and the lawyer.

(c) ~~a~~ A lawyer shall be responsible for conduct of ~~such a person~~ a nonlawyer that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:

(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer ~~is a partner or~~ has comparable managerial authority in the firm ~~in which the person is employed, or has direct supervisory authority over the person,~~ and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

(d) When a firm includes nonlawyers who have an economic interest or managerial authority in the firm, any lawyer practicing therein shall ensure that a lawyer has been identified as responsible for establishing policies and procedures within the firm to assure nonlawyer compliance with these rules.

Comment [2003 2021 amendment]

[1] The rule in paragraph (d) recognizes that lawyers may provide legal services through firms that include nonlawyers as economic interest holders, owners, managers, shareholders, officers, or other nonlawyers who hold decision-making authority. Any such alternative business structure (ABS) as defined in Rule 31 must be licensed in accordance with ACJA § 7-209. Any lawyer who provides legal services through an unlicensed ABS is engaged in the unauthorized practice of law.

Nonlawyers Within the Firm

~~[1] Paragraph (a) requires lawyers with managerial authority within a law firm to make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that nonlawyers in the firm and nonlawyers outside the firm who work on firm matters act in a way compatible with the professional obligations of the lawyer. See ER 5.1, Comment [1] (responsibilities with respect to lawyers within a firm). Paragraph (b) applies to lawyers who have supervisory authority over such nonlawyers within or outside the firm. Paragraph (c) specifies the circumstances in which a lawyer is responsible for the conduct of such nonlawyers within or outside the firm that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer.~~

~~[2] Lawyers generally employ assistants in their practice, including secretaries, investigators, law student interns, and paraprofessionals. Such assistants, whether employees or independent contractors, act for the lawyer in rendition of the lawyer's professional services. Law enforcement officers generally are not considered associated with government lawyers, for purposes of this ER. A lawyer must give such assistants appropriate instruction and supervision concerning the ethical aspects of their employment, particularly regarding the obligation not to disclose information relating to representation of the client, and should be responsible for their work product. The~~

~~measures employed in supervising nonlawyers should take account of the fact that they do not have legal training and are not subject to professional discipline.~~

~~Nonlawyers Outside the Firm~~

~~[3] A lawyer may use nonlawyers outside the firm to assist the lawyer in rendering legal services to the client. Examples include the retention of an investigative or paraprofessional service, hiring a document management company to create and maintain a database for complex litigation, sending client documents to a third party for printing or scanning, and using an Internet-based service to store client information. When using such services outside the firm, a lawyer must make reasonable efforts to ensure that the services are provided in a manner that is compatible with the lawyer's professional obligations. The extent of this obligation will depend upon the circumstances, including the education, experience and reputation of the nonlawyer; the nature of the services involved; the terms of any arrangements concerning the protection of client information; and the legal and ethical environments of the jurisdictions in which the services will be performed, particularly with regard to confidentiality. See also ERs 1.1 (competence), 1.2 (allocation of authority), 1.4 (communication with client), 1.6 (confidentiality), 5.4(a) (professional independence of the lawyer), and 5.5(a) (unauthorized practice of law). When retaining or directing a nonlawyer outside the firm, a lawyer should communicate directions appropriate under the circumstances to give reasonable assurance that the nonlawyer's conduct is compatible with the professional obligations of the lawyer.~~

~~[4] Where the client directs the selection of a particular nonlawyer service provider outside the firm, the lawyer ordinarily should agree with the client concerning the allocation of responsibility for monitoring as between the client and the lawyer. See ER 1.2. When making such an allocation in a matter pending before a tribunal, lawyers and parties may have additional obligations that are a matter of law beyond the scope of these ERs.~~

ER 5.4. Professional Independence of a Lawyer

~~(a) A lawyer or law firm shall not share legal fees with a nonlawyer, except that:~~

~~(1) an agreement by a lawyer with the lawyer's firm, partner, or associate may provide for the payment of money, over a reasonable period of time after the lawyer's death, to the lawyer's estate or to one or more specified persons;~~

~~(2) a lawyer who purchases the practice of a deceased, disabled, or dis appeared lawyer may, pursuant to the provisions of ER 1.17, pay to the estate or to other representative of that lawyer the agreed upon purchase price;~~

~~(3) a lawyer or law firm may include nonlawyer employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement; and~~

~~(4) a lawyer may share court-awarded legal fees or fees otherwise received and permissible under these rules with a nonprofit organization that employed, retained or recommended employment of the lawyer in the matter.~~

~~(b) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.~~

~~(c) A lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.~~

~~(d) A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for profit, if:~~

~~(1) a nonlawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration;~~

~~(2) a nonlawyer is a corporate director or officer thereof or occupies the position of similar responsibility in any form of association other than a corporation; or~~

~~(3) a nonlawyer has the right to direct or control the professional judgment of a lawyer.~~

Comment [2003 amendment]

~~[1] The provisions of this Rule express traditional limitations on the sharing of fees. These limitations are to protect the lawyer's professional independence of judgment. Where someone other than the client pays the lawyer's fee or salary, or recommends employment of the lawyer, that arrangement does not modify the lawyer's obligation to the client. As stated in paragraph (c), such arrangements should not interfere with the lawyer's professional judgment.~~

~~[2] This Rule also expresses traditional limitations on permitting a third party to direct or regulate the lawyer's professional judgment in rendering legal services to another. See also ER 1.8(f) (lawyer may accept compensation from a third party as long as there is no interference with the lawyer's independent professional judgment and the client gives informed consent).~~

ER 5.7. Responsibilities Regarding Law-Related Services

~~(a) A lawyer may provide, to clients and to others, law-related services, as defined in paragraph (b), either:~~

~~(1) — by the lawyer in circumstances that are not distinct from the lawyer's provision of legal services to clients; or~~

~~(2) — by a separate entity which is controlled by the lawyer individually or with others.~~

~~Where the law-related services are provided by the lawyer in circumstances that are not distinct from the lawyer's provision of legal services to clients, the lawyer shall be subject to the provisions of the Rules of Professional Conduct in the course of providing such services. In circumstances in which law-related services are provided by a separate entity controlled by the lawyer individually or with others, the lawyer shall not be subject to the Rules of Professional Conduct, in the course of providing such services, only if the lawyer takes reasonable measures to assure that a person obtaining the law-related services knows that the services of the separate entity are not legal services and that the protections of the client-lawyer relationship do not apply.~~

~~(b) The term law-related services denotes services that might reasonably be performed in conjunction with and in substance are related to the provision of legal services, and that are not prohibited as unauthorized practice of law when provided by a nonlawyer.~~

Comment [2003 rule]

~~[1] When a lawyer performs law-related services or controls an organization that does so, there exists the potential for ethical problems. Principal among these is the possibility that the person for whom the law-related services are performed fails to understand that the services may not carry with them the protections normally afforded as part of the client-lawyer relationship. The recipient of the law-related services may expect, for example, that the protection of client confidences, prohibitions against representation of persons with conflict interests, and obligations of a lawyer to maintain professional independence apply to the provision of law-related services when that may not be the case.~~

~~[2] ER 5.7 applies to the provision of law-related services by a lawyer even when the lawyer does not provide any legal services to the person for whom the law-related services are performed. The Rule identifies the circumstances in which all of the Rules of Professional Conduct apply to the provision of law-related services. Even when those circumstances do not exist, however, the conduct of a lawyer involved in the provision of law-related services is subject to those Rules that apply generally to lawyer conduct, regardless of whether the conduct involves the provision of legal services. See, e.g., ER 8.4.~~

~~[3] When law-related services are provided by a lawyer under circumstances that are not distinct from the lawyer's provision of legal services to clients, the lawyer in providing~~

~~the law-related services must adhere to the requirements of the Rules of Professional Conduct as provided in paragraph (a)(1).~~

~~[4] Law-related services also may be provided through an entity that is distinct from that through which the lawyer provides legal services. If the lawyer individually or with others has control of such an entity's operations, the Rule requires the lawyer to take reasonable measures to assure that each person using the services of the entity knows that the services provided by the entity are not legal services and that the Rules of Professional Conduct that relate to the client-lawyer relationship do not apply. A lawyer's control of an entity extends to the ability to direct its operation. Whether a lawyer has such control will depend upon the circumstances of the particular case.~~

~~[5] When a client-lawyer relationship exists with a person who is referred by a lawyer to a separate law-related service entity controlled by the lawyer, individually or with others, the lawyer must comply with ER 1.8(a).~~

~~[6] In taking the reasonable measures referred to in paragraph (a) to assure that a person using law-related services understands the practical effect or significance of the inapplicability of the Rules of Professional Conduct, the lawyer should communicate to the person receiving the law-related services, in a manner sufficient to assure that the person understands the significance of the fact, that the relationship of the person to the business entity will not be a client-lawyer relationship. The communication should be made before entering into an agreement for provision of or providing law-related services, and preferably should be in writing.~~

~~[7] The burden is upon the lawyer to show that the lawyer has taken reasonable measures under the circumstances to communicate the desired understanding. For instance, a sophisticated user of law-related services, such as a publicly held corporation, may require a lesser explanation than someone unaccustomed to making distinctions between legal services and law-related services, such as an individual seeking tax advice from a lawyer-accountant or investigative services in connection with a lawsuit.~~

~~[8] Regardless of the sophistication of potential recipients of law-related services, a lawyer should take special care to keep separate the provision of law-related and legal services in order to minimize the risk that the recipient will assume that the law-related services are legal services. The risk of such confusion is especially acute when the lawyer renders both types of services with respect to the same matter. Under some circumstances the legal and law-related services may be so closely entwined that they cannot be distinguished from each other, and the requirement of disclosure and consultation imposed by paragraph (a) of the Rule cannot be met. In such a case a lawyer will be responsible for assuring that both the lawyer's conduct and, to the extent required by ER 5.3, that of nonlawyer employees in the distinct entity which the lawyer controls complies in all respects with the Rules of Professional Conduct.~~

~~[9] A broad range of economic and other interests of clients may be served by lawyers engaging in the delivery of law-related services. Examples of law-related services~~

~~include providing title insurance, financial planning, accounting, trust services, real estate counseling, legislative lobbying, economic analysis, social work, psychological counseling, tax preparation, and patent, medical or environmental consulting.~~

~~[10] When a lawyer is obliged to accord the recipients of such services the protections of those Rules that apply to the client-lawyer relationship, the lawyer must take special care to heed the proscriptions of the Rules addressing conflict of interest (ERs 1.7 through 1.11, especially ERs 1.7(a)(2) and 1.8(a), (b) and (f)), and to scrupulously adhere to the requirements of ER 1.6 relating to disclosure of confidential information. The promotion of the law-related services must also in all respects comply with ERs 7.1 through 7.3, dealing with advertising and solicitation. In that regard, lawyers should take special care to identify the obligations that may be imposed as a result of a jurisdiction's decisional law.~~

~~[11] When the full protections of all of the Rules of Professional Conduct do not apply to the provision of law-related services, principles of law external to the Rules, for example, the law of principal and agent, govern the legal duties owed to those receiving the services. Those other legal principles may establish a different degree of protection for the recipient with respect to confidentiality of information, conflicts of interest and permissible business relationships with clients. See also ER 8.4.~~

~~[12] Variations in language of this Rule from ABA Model Rule 5.7 as adopted in 2002 are not intended to imply a difference in substance.~~

ER 8.3. Reporting Professional Misconduct

(a) – (b) [[No change]]

(c) A lawyer who knows that a legal paraprofessional or certified Alternative Business Structure entity has committed a violation of the applicable codes of conduct that raises a substantial question as to the person or entity's compliance with the codes shall inform the appropriate authority.

(e d) This Rule does not require disclosure of information otherwise protected by ER 1.6 or information gained by a lawyer or judge while serving as a member of an approved lawyers assistance program to the extent that such information would be confidential if it related to the representation of a client.

Comment [2003 amendment]

[1] – [5] [[No change]]

Comment to 2002 Amendment to ER 8.3(D)

[[No change]]

Comment to 2021 Amendment to ER 8.3(c)

The duty to report misconduct of a legal paraprofessional that raises a substantial question as to that individual's compliance with their code of conduct as set forth in ACJA § 7-210 does not apply to a lawyer who is retained to represent the legal paraprofessional. Similarly, the duty to report misconduct by an Alternative Business Structure (ABS) entity that raises a substantial question as to the entity's compliance with the code of conduct in ACJA § 7-209 does not apply to a lawyer retained to represent the ABS but does apply to lawyers who work in or have ownership interests in an ABS.

Attachment #4

ATTACHMENT #4²

ARIZONA RULES OF THE SUPREME COURT

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 legal paraprofessionals; 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 legal paraprofessionals:

1. “Board” **[[No change]]**

2. “Court” **[[No change]]**

² Additions to the text of the rules are shown by underscoring and deletions of text are shown by ~~strike-through~~.

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 legal paraprofessionals 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 legal paraprofessional subject to the jurisdiction of the court against whom a charge is received for violation of these rules, 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.* Legal paraprofessionals 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 a legal paraprofessional, 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 legal paraprofessional 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 legal paraprofessional is engaged in the private practice of law; and (2) if engaged in the private practice of law, whether the lawyer or legal paraprofessional is currently covered by professional liability insurance. Each active and affiliate 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 or legal paraprofessional 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 and affiliate 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 legal paraprofessional complies. Supplying false information in complying with the requirements of this rule shall subject the lawyer or legal paraprofessional to appropriate disciplinary action.

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

1. **[[No change]]**

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.

3. – 10. **[[No change]]**

(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 legal paraprofessionals 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) – (j) [[No change]]

(k) Payment of Fees and Costs. The payment of all fees, costs and expenses required under the provision of these rules related to membership, mandatory continuing legal education, discipline, ~~and~~ reinstatement, and unauthorized practice of law shall be made to the State Bar. The payment of all fees, costs and expenses required under the application for admission to the practice of law, examinations and admission shall be made to the finance office of the administrative office of courts.

(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 legal paraprofessionals, except that costs and expenses shall be taxed against a respondent ~~lawyer~~ or applicant for readmission, as provided in these rules. The ~~A~~administrative ~~O~~office of the ~~C~~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 legal paraprofessionals. The State Bar and the 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]]

Rule 41. Duties and Obligations of Members

(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. Unprofessional conduct includes substantial or repeated violations of the Legal Paraprofessional’s Creed of Professionalism.

(b) Duties and Obligations. The duties and obligations of members, including affiliate 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 paraprofessionals, 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 and Legal Paraprofessional’s Creed of Professionalism of the State Bar of Arizona are as follows.

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 and Legal Paraprofessional's

Creed of Professionalism of the State Bar of Arizona

Preamble

As a [lawyer/legal paraprofessional], 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/ legal paraprofessionals] 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, or legal paraprofessional 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/legal paraprofessional] 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 43. Trust Accounts

(a) Duty to Deposit Client Funds and Funds Belonging to Third Persons; Deposit of Funds Belonging to the Lawyer or Legal Paraprofessional. Funds belonging in whole or in part to a client or third person in connection with a representation shall be kept separate and apart from the lawyer's or legal paraprofessional's personal and business accounts. All such funds shall be deposited into one or more trust accounts that are labeled as such. The location of the trust account shall be controlled by the provisions of ER 1.15(a). No trust account required by this rule may have overdraft protection. No funds belonging to the lawyer, legal paraprofessional, or ~~law~~ firm shall be deposited into a trust account established pursuant to this rule except as follows:

1. – 2. **[[No change]]**

3. Earned fees and funds for reimbursement of costs or expenses may be deposited into a trust account if they are part of a single credit card transaction that also includes the payment of advance fees, costs or expenses and the lawyer does not use a credit card processing service that permits the lawyer or legal paraprofessional to direct such funds to the lawyer's or legal paraprofessional's separate business account. Any such earned fees and funds for reimbursement of costs or expenses must be withdrawn from the trust account within a reasonable time after deposit.

4. Funds belonging in part to a client or third person and in part presently or potentially to the lawyer, legal paraprofessional, or ~~law~~ firm must be deposited therein, but the portion belonging to the lawyer, or legal paraprofessional, or ~~law~~ firm must be withdrawn when due and legally available from the financial institution, or within a reasonable time thereafter, unless the right of the lawyer or ~~law~~ firm to receive it is disputed by the client or third person, in which event the lawyer or legal paraprofessional shall comply with ER 1.15(e).

(b) Trust Account Requirements.

1. Standards of Performance.

A. Due professional care must be exercised in the performance of the lawyer's or legal paraprofessional's duties under this rule.

B. Employees and others assisting the attorneys or legal paraprofessional's in the performance of such duties must be competent and properly trained and supervised.

C. Internal controls within the lawyer's or legal paraprofessional's office must be adequate under the circumstances to safeguard funds or other property held in trust.

2. Trust Account Records.

A. Every active and affiliate member of the state bar shall maintain, on a current basis, complete records of the handling, maintenance and disposition of all funds, securities and other property belonging in whole or in part to a client or third person in connection with a representation. These records shall include the records required by

ER 1.15 and cover the entire time from receipt to the time of final disposition by the lawyer or legal paraprofessional of all such funds, securities and other property. The lawyer or legal paraprofessional shall preserve these records for a period of five years after termination of the representation.

B. A lawyer or legal paraprofessional shall maintain or cause to be maintained an account ledger or the equivalent for each client, person or entity for which funds have been received in trust, showing:

(i) – (iii) **[[No change]]**

C. A lawyer or legal paraprofessional shall make or cause to be made a monthly three-way reconciliation of the client ledgers, trust account general ledger or register, and the trust account bank statement.

D. A lawyer or legal paraprofessional shall retain, in accordance with this rule, all trust account bank statements, cancelled pre-numbered checks (unless recorded on microfilm or stored electronically by a bank or other financial institution that maintains such records for the length of time required by this rule), other evidence of disbursements, duplicate deposit slips or the equivalent (which shall be sufficiently detailed to identify each item), client ledgers, trust account general ledger or register, and reports to clients.

E. A record shall be maintained showing all property, other than cash, held for clients or third persons in connection with a representation, including the date received, where located and when returned or otherwise distributed.

3. *Deposits from Credit Card Transactions.* A lawyer, legal paraprofessional, or ~~law~~ firm may permit funds from a credit card transaction to be deposited into a client trust account for payment of advance fees, costs or expenses, and merchant or credit card transaction fees, but only if:

A. the lawyer or legal paraprofessional has sources of funds, other than client or third-party funds, available at the time of the credit card transaction to replace any funds that may be debited from the account due to a credit card chargeback and any associated fees or charges;

B. **[[No change]]**

C. the trust account contains sufficient funds of the lawyer, legal paraprofessional, or ~~law~~ firm at the time of the transaction to pay all merchant and credit card transaction fees, except to the extent such fees are paid by the client as part of the transaction.

4. *Disbursement Against Uncollected Funds.* A lawyer or legal paraprofessional generally may not use, endanger, or encumber money held in trust for a client or third person without the permission of the owner given after full disclosure of the circumstances. Except for disbursements based upon any of the four categories of limited-risk uncollected deposits enumerated in paragraph A below, a lawyer or legal

paraprofessional may not disburse funds held in trust unless the funds are collected funds. For purposes of this provision, “collected funds” means funds deposited, finally settled by the issuer’s bank, and credited without recourse to the lawyer’s or legal paraprofessional’s trust account.

A. Certain categories of trust account deposits are considered to carry a limited and acceptable risk of failure so that disbursements of trust account funds may be made in reliance on such deposits without disclosure to and permission of clients and third persons owning trust account funds that may be affected by such disbursements. Notwithstanding that a deposit made to the lawyer’s or legal paraprofessional’s trust account has not been finally settled and credited to the account, the lawyer or legal paraprofessional may disburse funds from the trust account in reliance on such deposit under any of the following circumstances, if the lawyer or legal paraprofessional has other sources of funds, other than client or third party funds, available at the time of disbursement to replace any uncollected funds:

(i) – (iv) **[[No change]]**

In any of the above circumstances, a lawyer’s or legal paraprofessional’s disbursement of funds from a trust account in reliance on deposits that are not yet collected funds is at the risk of the lawyer or legal paraprofessional making the disbursement. If any of the deposits fail, for any reason, the lawyer or legal paraprofessional, upon receipt of notice or actual knowledge of the failure, must immediately act to protect the property of the lawyer’s or legal paraprofessional’s clients and third persons. If the lawyer or legal paraprofessional accepting any such check personally pays the amount of any failed deposit within three business days of receipt of notice that the deposit has failed, the lawyer or legal paraprofessional will not be considered to have committed professional misconduct based upon the disbursement of uncollected funds.

B. A lawyer’s or legal paraprofessional’s disbursement of funds from a trust account in reliance on deposits that are not yet collected funds in any circumstances other than those four categories set forth above, when it results in funds of clients or third persons being used, endangered, or encumbered, will be grounds for a finding of professional misconduct.

5. *Methods of Disbursement.* All trust account disbursements shall be made by pre-numbered check or by electronic transfer, provided the lawyer or legal paraprofessional maintains a record of such disbursements in accordance with the requirements of this rule. All instruments of disbursement shall be identified as a disbursement from a trust account.

(c) Certificate of Compliance. Every active and affiliate member of the state bar shall on or before February 1 of each year file with the board a certificate certifying compliance with the provisions of this rule and ER 1.15 of the Arizona Rules of Professional Conduct, or that he or she is exempt from the provisions of this rule and ER 1.15. The certificate of compliance shall state as follows:

Annual Certificate of Compliance

[[No change]]

(d) Trust Account Examination; Random Examination.

1. *Authority.* The state bar shall evaluate all information coming to its attention by charge or otherwise indicating a possible violation of the trust account rules, and such information shall be treated and processed as is any other charge against a lawyer or legal paraprofessional. In addition to trust account examinations that shall be conducted based upon information coming to the bar's attention, the state bar may also conduct random trust account examinations of any member's trust account(s), in accordance with Guidelines developed by the Board of Governors and approved by the supreme court.

2. *Scope of Examination.* **[[No change]]**

3. *Rebuttable Presumption.* If a lawyer or legal paraprofessional fails to maintain trust account records required by this rule or ER 1.15, or fails to provide trust account records to the state bar upon request or as ordered by a panelist, a hearing officer, the commission or the court, there is a rebuttable presumption that the lawyer or legal paraprofessional failed to properly safeguard client or third person's funds or property, as required by this rule and ER 1.15.

4. *Limited Exception for Out-of-State Members.* All funds, securities and other property of clients and third persons held by an Arizona-licensed lawyer or legal paraprofessional whose ~~law~~ office is situated in another state shall not be subject to investigation, examination or verification except to the extent such funds and property are related to matters affecting Arizona clients.

5. *Trust Account Examination and Verification Expenses.* **[[No change]]**

(e) Confidentiality. [[No change]]

(f) Establishment of Trust Accounts; State Bar Oversight.

1. A lawyer, legal paraprofessional, or ~~law~~ firm receiving funds belonging in whole or in part to a client or third person in connection with a representation must hold the funds in one of the following types of accounts:

A. a pooled interest-bearing or dividend-earning trust account ("IOLTA account") on which the interest or dividends accrue for the benefit of the Arizona Foundation for Legal Services and Education ("Foundation");

B. a separate interest-bearing or dividend-earning trust account for the particular client or client's matter on which the interest or dividends, net of any reasonable service or other charges or fees imposed by the financial institution or investment company in connection with the account, will be paid to the client; or

C. a pooled interest-bearing or dividend-earning trust account, with subaccounting provided by the lawyer, legal paraprofessional, or the ~~law~~ firm, which will provide for

computation of interest or dividends earned by each client's funds and the payment thereof, net of any reasonable service or other charges or fees imposed by the financial institution or investment company in connection with the account, to the client.

2. In determining which type of account provided for in section (f)(1) to use, a lawyer, legal paraprofessional, or ~~law~~ firm shall take into consideration the following factors:

A. – C. **[[No change]]**

D. the cost of establishing and administering a separate non-IOLTA account for the client's benefit, including service charges, the costs of the lawyer's or legal paraprofessional's services, and the costs of preparing any tax reports required for income accruing to the client's benefit;

E. – F. **[[No change]]**

Funds should be deposited in an IOLTA account as provided for in section (f)(1)(A) if the interest does not cover the cost of opening and maintaining a separate interest-bearing or dividend-earning account. The State Bar shall not pursue a disciplinary matter against any lawyer, legal paraprofessional, or ~~law~~ firm solely based on the good-faith determination of the appropriate account in which to deposit or invest client funds.

3. A lawyer, legal paraprofessional, or ~~law~~ firm must maintain any client trust account provided for in section (f)(1) only at a regulated financial institution, which is either (i) a financial institution authorized by federal or state law to take deposits and conduct financial transactions with Arizona lawyers or legal paraprofessionals and is insured by the Federal Deposit Insurance Corporation or any successor insurance corporation(s) established by federal or state laws or (ii) any open-ended investment company registered with the Securities and Exchange Commission that is authorized by federal or state law to take deposits and conduct financial transactions with Arizona lawyers. A regulated financial institution must agree to comply with the requirements of section (f)(4) below and agree to pay IOLTA interest to the Foundation. The lawyer, legal paraprofessional, or ~~law~~ firm must ensure that:

A. – C. **[[No change]]**

D. The financial institution sends notification immediately to the State Bar chief bar counsel of any properly payable instrument that is presented for payment against a client trust account containing insufficient funds, uncollectible funds, or a negative available balance, regardless of whether the financial institution honors the instrument. All occurrences shall be reported to the State Bar regardless of the cause.

If a financial institution ceases to operate as a regulated financial institution and has no successor operating as a regulated financial institution, a lawyer, legal paraprofessional, or ~~law~~ firm that maintains an account listed under section (f)(1) at that financial institution must, upon receiving notice of the financial institution's change in status, promptly notify any clients whose funds may be affected by the change in status, promptly transfer, to the extent possible, any client trust account funds from that

financial institution into another account provided for in section (f)(1), and promptly deposit into the other account provided for in section (f)(1) any insurance, collateral, or proceeds resulting from the financial institution's change in status.

4. In addition to the requirements of section (f)(3), a lawyer, legal paraprofessional, or ~~law~~ firm may only maintain an IOLTA account as provided for in section (f)(1)(A) at an authorized regulated financial institution. To be designated as authorized, a regulated financial institution must sign a participation certification before the fiscal year beginning July 1, with the State Bar as representative of its members, and the Foundation as a third-party beneficiary and administrator of the interest or dividends.

A. The participation certification must:

i. – ii. **[[No change]]**

iii. provide that the financial institution transmit, with each remittance to the Foundation, a statement, as directed by the Foundation, showing information including the name of the lawyer, legal paraprofessional, or ~~law~~ firm on whose account the remittance is sent, the period for the remittance submitted, the account number, the account status, the rate of interest applied or the dividends earned, and the charges imposed against the interest remitted;

iv. provide that the financial institution transmit a report on each separate account, similar to the report required by section (f)(4)(a)(iii), to the lawyer, legal paraprofessional, or ~~law~~ firm opening said trust account;

v. – vi. **[[No change]]**

vii. provide that the financial institution be allowed to charge a particular lawyer, legal paraprofessional, or ~~law~~ firm for the reasonable cost of producing the reports and records required by this rule;

viii. – xi. **[[No change]]**

B. – C. **[[No change]]**

5. – 6. **[[No change]]**

7. In addition to other obligations under section (f) of this rule, all lawyers admitted to practice or legal paraprofessionals in this state shall:

A. as a condition thereof, consent to the reporting and production requirements set forth in this rule, and

B. provide information requested by the State Bar on the annual dues statement regarding any and all client trust accounts they maintain.

(g) [Reserved].

(h) Suspension of Member. Any active or affiliate member who fails to comply with requirements of this rule shall be suspended summarily by order of the board upon notice

by the state bar pursuant to Rule 62(a)(4), provided that a notice by certified, return receipt mail of such non-compliance shall have been sent to the member, mailed to the member's last address of record in the state bar office at least thirty days prior to such suspension.

(i) Reinstatement of Member. A lawyer or legal paraprofessional who has been suspended for failure to comply with this rule may be reinstated by compliance with those provisions and notice to the board by the state bar of such compliance.

(j) Applicability of Rule. Every lawyer admitted to practice law in Arizona or legal paraprofessional shall comply with the provisions of this rule regarding funds received, disbursed or held in Arizona, and funds received, disbursed or held on behalf of an Arizona client or a third person in connection with the representation of an Arizona client.

Rule 46. Jurisdiction in Discipline and Disability Matters; Definitions

(a) Lawyers Admitted to Practice. **[[No change]]**

(b) Licensed Alternative Business Structures. Any alternative business structure and its members are subject to the disciplinary jurisdiction of the Arizona Supreme 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) Legal Paraprofessionals. Any person licensed as a legal paraprofessional is subject to the disciplinary jurisdiction of the Arizona Supreme 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 imposing 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 legal paraprofessional'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, legal paraprofessionals, 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 alternative business structure, or legal paraprofessional, or later joins in a charge to the state bar regarding the conduct of a lawyer, alternative business structure, or legal paraprofessional. 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 legal paraprofessionals. 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 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 legal paraprofessional actionable under these rules or ACJA § 7-210.

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

21. “Respondent” means a member, including legal paraprofessional 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 an ABS or its members may be made on the designated agent for service pursuant to 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 and Legal Paraprofessionals.* 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 or legal paraprofessional 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. *Alternative Business Structures.* Allegations in a complaint or applications for reinstatement, 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 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 alternative business structure seeking licensure after a period of revocation or suspension is on respondent alternative business structure.

(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 an affiliate member, or non-member, including alternative business structures, 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) – (v) **[[No change]]**

(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. – 2. [[No change]]

3. impose discipline on an attorney, alternative business structure, or legal paraprofessional; transfer an attorney or legal paraprofessional to disability inactive status; and serve as a member of a hearing panel in discipline and disability proceedings, as provided in these rules;

4. – 6. [[No change]]

7. recommend to the court proposed changes or additions to the rules of procedure for attorney and legal paraprofessional discipline and disability proceedings, and to rules and ACJA §§ 7-209 and 7-210 governing discipline of alternative business structures and legal paraprofessionals; 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 affiliate members, 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 legal paraprofessionals.

1. If bar counsel determines the lawyer, alternative business structure, or a legal paraprofessional 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 legal paraprofessional 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. – C. **[[No change]]**

(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~~ the 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 legal paraprofessional 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 legal paraprofessional committed professional misconduct, the lawyer is incapacitated, or the lawyer, alternative business structure, or legal paraprofessional 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 legal paraprofessional, or incapacity of an individual lawyer or legal paraprofessional is subject to remediation or resolution through alternative programs or mechanisms, including:

A. – E. [[No change]]

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 or legal paraprofessional 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 legal paraprofessional 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]]

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 legal paraprofessional.

~~BEFORE THE PRESIDING DISCIPLINARY JUDGE~~

~~In the Matter of a Member~~	~~}~~
~~of the State Bar of Arizona,~~	~~}~~
~~(Name)~~	~~}~~
~~Bar No./License No. 000000~~	~~}~~

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

(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 lawyers and legal paraprofessionals 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, Attorneys. 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, Alternative Business Structures. 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, Legal Paraprofessional. Misconduct by a legal paraprofessional 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]]**

(~~c~~ e) Enforcement. **[[No change to text]]**

Rule 63. Transfer to Disability Inactive Status

(a) Purpose. A lawyer or legal paraprofessional whose physical or mental condition adversely affects the lawyer's or legal paraprofessional's ability to practice law shall be investigated, and where warranted, shall be the subject of formal proceedings to determine whether the lawyer or legal paraprofessional shall be transferred to disability inactive status. Transfer to disability inactive status is not a form of discipline but is designed to ensure the protection of the public and rehabilitation of the lawyer. Orders of transfer may include conditions of conduct in the nature of probation, and consent orders shall be encouraged.

(b) Method of Transfer

1. *Judicial ~~D~~eterminations of ~~I~~ncapacity.* If a lawyer or legal paraprofessional has been judicially declared incompetent, incompetent to stand trial, or is voluntarily or involuntarily committed on the grounds of incompetency or other disability or incapacity in a court proceeding, the presiding disciplinary judge, upon motion of bar counsel and proper proof of the fact, shall enter an order of transfer immediately transferring the lawyer or legal paraprofessional to disability inactive status for an indefinite period until further order. A copy of the order shall be personally served upon the clerk of the court, the lawyer or legal paraprofessional, the lawyer's or legal paraprofessional's guardian and conservator, and the director of the institution to which the lawyer or legal paraprofessional may have been committed.

2. *Interim ~~O~~rder of ~~I~~ncapacity.* When it appears to the state bar, the committee, the presiding disciplinary judge, or the hearing panel that a lawyer or legal paraprofessional may be incapacitated to the extent that the lawyer or legal paraprofessional may be causing harm to the public, the legal profession or the administration of justice by reason of a mental or physical condition or because of addiction to drugs or intoxicants, bar counsel may file a motion, setting forth facts to support a prima facie finding of incapacity and accompanied by verification or affidavit, with the disciplinary clerk, for an order temporarily transferring the lawyer or legal paraprofessional to disability inactive status pending a hearing to determine incapacity as provided in this rule.

3. *Finding of ~~I~~ncapacity to ~~D~~ischarge ~~D~~uty.* If it is alleged by a lawyer or legal paraprofessional or otherwise appears in the course of a discipline proceeding that the lawyer or legal paraprofessional is incapacitated or impaired by reason of a mental or physical condition or because of addiction to drugs or intoxicants, and the lawyer or legal paraprofessional lacks the capacity to adequately discharge the lawyer's or legal paraprofessional's duty to clients, the bar, the courts or the public, a petition may be filed with the disciplinary clerk by bar counsel, on bar counsel's own initiative or upon a recommendation of the committee, the presiding disciplinary judge, or the lawyer or legal paraprofessional alleged to be incapacitated.

4. *Finding of Incompetency to Assist in Defense.* If it is alleged by a lawyer or legal paraprofessional or otherwise appears in the course of a discipline or disability

proceeding that the lawyer is unable to understand the proceedings or assist in the lawyer's or legal paraprofessional's defense as a result of a mental or physical condition, the presiding disciplinary judge, sua sponte, or upon motion of bar counsel, shall immediately transfer the lawyer or legal paraprofessional to disability inactive status on a temporary basis pending a determination of competency, and all pending discipline proceedings shall be temporarily stayed. When a lawyer files a petition requesting transfer to disability inactive status alleging incompetence to assist in the lawyer's or legal paraprofessional's defense, the petition shall be processed according to paragraph (c) of this rule.

5. *By Consent Agreement.* An agreement for transfer to disability inactive status must be signed by the lawyer or legal paraprofessional, the lawyer's or legal paraprofessional's counsel, if any, and bar counsel.

A. General Language. Agreements must include the following language as applicable:

(i) a statement describing the nature and extent of the lawyer's or legal paraprofessional's physical or mental condition that adversely affects his or her ability to practice law warranting transfer to disability inactive status;

(ii) a statement that the order of transfer to disability inactive status may include conditions of conduct in the nature of probation;

(iii) a statement that the lawyer's or legal paraprofessional's consent to be transferred to disability inactive status is submitted freely and voluntarily and not as a result of coercion or intimidation;

(iv) a statement that the lawyer or legal paraprofessional is represented by counsel, has chosen not to seek the assistance of counsel or is unable to secure representation by counsel;

(v) a statement that the lawyer or legal paraprofessional voluntarily waives the right to an adjudicatory hearing on the transfer, unless otherwise ordered, and waives all motions, defenses, objections, or requests which have been made or raised, or could be asserted thereafter, if the transfer is approved;

(vi) a statement that the lawyer or legal paraprofessional acknowledges the duty to comply with all rules pertaining to notification of clients, return of property, and other rules pertaining to suspension, including reinstatement;

(vii) – (ix) **[[No change]]**

B. Evaluations. - C. Hearing. **[[No change]]**

(c) Proceedings to Determine Incapacity or Competence.

1. *Petition.* A petition requesting transfer to disability inactive status may be filed with the disciplinary clerk by bar counsel, on bar counsel's own initiative or upon a

recommendation of the committee, the presiding disciplinary judge, or the lawyer or legal paraprofessional alleged to be incapacitated. The petition shall be accompanied by affidavits, reports, or other documentation to support a prima facie finding of incapacity.

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

3. *Appointment of Counsel.* The presiding disciplinary judge may appoint counsel to represent the lawyer or legal paraprofessional alleged to be incapacitated if the lawyer or legal paraprofessional is without adequate representation and the presiding disciplinary judge determines there is prima facie evidence of incapacity. The presiding disciplinary judge shall appoint counsel to represent a lawyer or legal paraprofessional who is without representation in proceedings to determine competency.

4. *Hearing.*

A. *Incapacity to Discharge Duty.* The presiding disciplinary judge may take or direct whatever action deemed necessary or proper to determine whether the lawyer or legal paraprofessional is incapacitated, including directing examination of the lawyer or legal paraprofessional by qualified experts designated by the presiding disciplinary judge at the expense of the state bar. The petitioner shall have the burden of proving by clear and convincing evidence, which shall include a relevant and recent medical, psychiatric or psychological evaluation, that, as a result of a mental or physical condition, the lawyer or legal paraprofessional lacks the capacity to adequately discharge the lawyer's or legal paraprofessional's duty to clients, the bar, the courts or the public.

B. *Competency to Assist in Defense.* The presiding disciplinary judge may take or direct whatever action deemed necessary or proper to determine whether the lawyer or legal paraprofessional is competent, including directing examination of the lawyer by qualified experts. Upon the filing of a disability petition, the state bar may also direct a lawyer to submit to an independent medical or mental evaluation by a qualified expert chosen by the state bar. The mere presence of a mental illness, defect, or disability or physical incapacity is not grounds for finding a lawyer incompetent. The only issue to be determined is whether the lawyer or legal paraprofessional is able to assist in the lawyer's or legal paraprofessional's own defense. To assist in the lawyer's or legal paraprofessional's own defense, the lawyer or legal paraprofessional needs to understand the charges, be able to communicate with the lawyer's or legal paraprofessional's attorney about the charges and any defense to those charges, and be able to testify about relevant conduct in the disciplinary proceeding. The expense for the evaluation shall be paid by the petitioner, unless otherwise ordered by the presiding disciplinary judge.

5. *Report of Presiding Disciplinary Judge.* Within thirty (30) days after the hearing or the filing of the post-hearing memoranda or stipulation, the presiding disciplinary judge shall prepare and file with the disciplinary clerk a decision and order containing findings of fact and conclusions concerning transfer to disability inactive status based on a

determination of incapacity to discharge duty or competency to assist in defense. The presiding disciplinary judge shall also serve a copy of the report and the order transferring the lawyer or legal paraprofessional to disability inactive status on the parties. Thereafter, the lawyer or legal paraprofessional shall be transferred to disability inactive status subject to a right to appeal. If a party does not appeal the order of transfer, the presiding disciplinary judge shall notify the court of same by memorandum, and the decision shall be final.

6. Appeal. [[No change]]

(d) Status of Pending Disciplinary Proceedings.

1. *Incapacity to Discharge Duty.* An order transferring a lawyer or legal paraprofessional to disability inactive status based on a finding that a lawyer or legal paraprofessional is unable to discharge his or her duties to clients, the bar, the courts or the public does not affect any pending disciplinary proceedings, which shall continue, or if previously stayed, shall resume. Upon a showing of good cause, however, the presiding disciplinary judge or the court may order that all pending discipline proceedings be stayed. If pending discipline cases are stayed, any investigation may continue and testimony may be taken and other evidence preserved pending further proceedings. If information comes to the attention of bar counsel that good cause no longer supports the stay, the stay may be reviewed according to the procedure set forth for an order to show cause in paragraph (d)(3) of this rule.

2. *Competency to Assist in Defense.* If the presiding disciplinary judge or this court determines a lawyer or legal paraprofessional is not competent to assist in the lawyer's or legal paraprofessional's own defense, discipline proceedings shall be stayed, and the lawyer or legal paraprofessional placed or retained on disability inactive status until an application for transfer to active status is filed and subsequently granted. If, after the filing of a petition for order to show cause pursuant to paragraph (d)(3) of this rule, a decision that the lawyer is competent to assist in the lawyer's or legal paraprofessional's own defense becomes final, the temporary order of transfer to disability status shall be vacated by the presiding disciplinary judge or the court and the discipline proceedings shall resume.

3. Order to Show Cause.

A. *Petition.* In the case of a lawyer or legal paraprofessional who has been transferred to disability inactive status, if information comes to the attention of the state bar indicating that good cause no longer exists to maintain a stay imposed pursuant to paragraph (d)(1) of this rule, or that the lawyer or legal paraprofessional appears no longer to be incompetent and a stay imposed pursuant to paragraph (d)(2) of this rule is no longer appropriate, bar counsel shall file with the disciplinary clerk a petition for order to show cause.

B. Hearing. The presiding disciplinary judge shall issue an order requiring the lawyer or legal paraprofessional to show cause why an existing stay of pending discipline proceedings imposed upon a showing of good cause or upon a finding of incompetency should not be lifted. The only issue to be addressed at the hearing is whether such a stay should be lifted.

C. Decision and Order of presiding disciplinary judge. The presiding disciplinary judge shall, as soon as practicable, prepare and file with the disciplinary clerk a decision containing findings of fact and an order concerning whether the stay should be lifted. The presiding disciplinary judge shall also serve a copy of the decision and order on the parties. Any such order is subject to appellate review by the court. If an order is entered finding that an existing stay is no longer supported by good cause, or if an order is entered finding that a lawyer or legal paraprofessional is no longer incompetent, and if the time to appeal has expired, any stayed discipline proceedings shall resume.

D. Appeal and Review. Appeal from the presiding disciplinary judge's order shall be as set forth in paragraphs (c)(6) of this rule. If the court accepts the presiding disciplinary judge's finding that an existing stay is no longer supported by good cause or that a lawyer or legal paraprofessional is no longer incompetent, any stayed discipline proceedings shall resume.

(e) Confidentiality of Disability Proceedings. Proceedings and records relating to transfer to or from disability inactive status, including determinations of competency, are confidential, except that orders transferring a lawyer or legal paraprofessional to or from disability inactive status are public.

(f) Assessment of Costs. [[No change]]

(g) Reinstatement to Active Status.

1. *Application.* **[[No change]]**

2. *Waiver of Doctor-Patient Privilege.* The filing of an application for transfer to active status by a lawyer or legal paraprofessional transferred to disability inactive status shall constitute a waiver of any doctor-patient privilege with respect to any treatment of the lawyer or legal paraprofessional during the period of disability. The lawyer or legal paraprofessional shall be required to disclose the name of each psychiatrist, psychologist, physician or other health care provider, and hospital or other institution by whom or in which the lawyer or legal paraprofessional has been examined or treated since the lawyer's or legal paraprofessional's transfer to disability inactive status. The lawyer or legal paraprofessional shall furnish to the presiding disciplinary judge or this court written authorization to each health care provider and facility to release information and records relating to the disability if requested by the presiding disciplinary judge, this court or appointed medical experts.

3. *Reinstatement.* No lawyer or legal paraprofessional transferred to disability inactive status may resume active status until reinstated by order of this court. A lawyer or legal paraprofessional shall be entitled to apply for transfer to active status at any time at least one year after the lawyer's last application or at such shorter intervals as the court or the presiding disciplinary judge may direct in the order transferring the lawyer to disability inactive status or any modification thereof. The application shall be granted upon a showing, by clear and convincing evidence, that the lawyer's or legal paraprofessional's mental or physical condition has been removed and the lawyer or legal paraprofessional is fit to resume the practice of law. In its discretion, the hearing panel or the court may direct that the lawyer or legal paraprofessional establish proof of competence and learning in law, which proof may include certification by the bar examiners of the lawyer's or legal paraprofessional's successful completion of an examination for admission to practice, notwithstanding the lawyer or legal paraprofessional was on inactive status less than five years. If a lawyer or legal paraprofessional has been transferred to disability inactive status by an order in accordance with these rules and, thereafter, has been judicially declared to be no longer under disability, the hearing panel may dispense with further evidence that the disability has been removed and may recommend the lawyer's or legal paraprofessional's reinstatement to active status upon such terms as are deemed appropriate.

4. *Pending Discipline.* **[[No change]]**

Rule 66. Appointment of Conservator to Protect Client Interests.

(a) Appointment of Conservator. The state bar or any other interested person may petition the presiding judge of a superior court or the presiding judge's designee ("appointing judge") to appoint one or more eligible persons to act as conservators of the client files and records, client trust accounts and such other affairs of a lawyer or legal paraprofessional or formerly admitted lawyer or formerly admitted legal paraprofessional, as the appointing judge determines appropriate. There shall be no filing fee for petitions for conservator under this rule. The appointing judge shall appoint a conservator if the lawyer or legal paraprofessional maintains or has maintained a law practice within the county, no partner or other responsible successor to the practice of the lawyer or legal paraprofessional is known to exist, and:

1. the lawyer or legal paraprofessional is made the subject of an order of interim suspension and related matters; or
2. the appointing judge by order directs the state bar to file an application under this rule; or
3. the lawyer or legal paraprofessional is transferred to inactive status because of incapacity or disability, or disappears or dies; or
4. where other reasons requiring protection of the public are shown.

(b) Service of Petition. A copy of the petition and any related order to show cause shall be personally served upon the respondent lawyer or legal paraprofessional, the state bar, and upon other persons as provided in Rule 63 governing transfer to disability inactive status. Upon affidavit of petitioner or the state bar that diligent efforts have failed to reveal the whereabouts of respondent, or that respondent is evading service, service shall be made on the respondent by certified mail/delivery restricted to addressee in addition to regular first-class mail, sent to the last address provided by the respondent to the state bar pursuant to Rule 32(c)(3). When service of the petition is made by mail, the state bar shall file a notice of service in the conservatorship matter indicating the time and manner of mailing. Service shall be deemed complete when the notice is filed.

(c) – (e) [[No change]]

Rule 67. Duties of Conservator

(a) – (b) [[No change]]

(c) Written Notice to Clients of Conservatorship. The conservator shall send written notice to all clients listed in the inventory of the fact of the appointment of a conservator, the grounds that required such appointment, and the possible need of the clients to obtain substitute counsel or legal paraprofessional. Written notice shall be by first class mail to the client's last known address, as ascertained from a review of the client's file.

(d) Return of Files. A file in the conservator's possession or control shall be returned to a client upon the execution of a written receipt, or released to substitute counsel or legal paraprofessional upon the request of the client and execution of a written receipt by such counsel or legal paraprofessional.

(e) [[No change]]

(f) Conservator-Client Relationship. Neither the conservator nor any partner, associate or other lawyer or legal paraprofessional practicing in association with the conservator shall:

1. make any recommendation of counsel or legal paraprofessional to any client identified as a result of the conservatorship in connection with any matter identified during the conservatorship; or
2. represent such a client in connection with:
 - A. any matter identified during the conservatorship; or
 - B. any other matter during or for a period of three (3) years after the conclusion of the conservatorship.

(g) – (h) [[No change]]

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(c). Proceedings against non-members or alternative business structures 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); 31.1(c); 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, legal paraprofessional, or alternative business structure 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 alternative business structure regarding the unauthorized practice of law. The state bar or any bar counsel may be a complainant.
6. “Complaint” — 11. “Record” **[[No change]]**
12. “Respondent” is any person or alternative business structure subject to the jurisdiction of the court against whom a charge is received for violation of these rules.
13. “State bar” — 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 alternative business structure 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]]**
5. *Restitution.* **[[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. Civil penalties against an alternative business structure shall be deposited in the Alternative Business Structure Fund. Civil fines against a legal paraprofessional shall be deposited in the fund established by the supreme court for that program.
7. *Costs and Expenses.* **[[No change to text]]**

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

Attachment #5

ATTACHMENT #5

ARIZONA RULES OF EVIDENCE

Rule 513. Legal Paraprofessional

A communication between a legal paraprofessional and a client is privileged if it is made for the purpose of securing or giving legal advice, is made in confidence, and is treated confidentially. This privilege is co-extensive with, and affords the same protection as, the attorney-client privilege.



Meeting Date: November 19, 2020

Subject: Child Support Assistance for Parents in Prison, Pilot Program

Type of action requested:

- ☒ Formal action or request
- ☐ Information only
- ☐ Other

From: Judge Bruce R. Cohen

Presenters: Judge Bruce R. Cohen

Discussion: On May 14, 2020, the ACAJ membership voted in support of the formation of a stakeholder workgroup to create a streamlined process for incarcerated defendants to apply for IV-D services.

Judge Cohen will discuss the efforts taken to develop a pilot program for Maricopa County.

Recommended motion: None.



Meeting Date: November 19, 2020

Subject: COVID-19 Eviction Actions Update

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Mike Baumstark, AOC Deputy Director

Presenters: Mike Baumstark

Discussion: The presenter will update members on the impact of COVID-19 on eviction actions.

Recommended motion: None.



Meeting Date: November 19, 2020

Subject: Workgroup Report: CARES Act Compliance

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: CARES Act Compliance Workgroup

Presenters: Judge Samuel Thumma

Discussion: This newly established workgroup was formed to provide public awareness and education and promote access to court forms and other resources concerning eviction proceedings that did not comply with the CARES Act. The workgroup had its first meeting on November 3, 2020. During that meeting, the workgroup discussed various possible next steps, including the need for public education and resources, and to assist judicial management if such relief contains provisions similar to the CARES Act, or addresses similar issues. Workgroup members were asked to express interest in participating in these next steps and to begin that effort in advance of the next workgroup meeting likely to be held in December 2020.

Recommended motion: None.



Meeting Date: November 19, 2020

Subject: Legal Hotline Update

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Joel England, Executive Director of the State Bar of Arizona

Presenters: Joel England

Discussion: COVID-19 Legal Information Hotline Update

From May 20, 2020 through October 30, 2020, calls received: 2,339 calls received.

Top Legal Issues:

Housing (35%)

Finances or Money (14%)

Employment/Unemployment (13%)

694 Referrals to free ½ hour consultation

Assisted 120 small business owners

379 callers aged 60+ helped with COVID-19 legal issues

Recommended motion: None.



Meeting Date: November 19, 2020

Subject: AZCourtHelp.org website update

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Dr. Kevin Ruegg, Executive Director, Arizona Foundation for Legal Services & Education, and Cathleen Cole, Content Manager, Arizona Foundation for Legal Services & Education

Presenters: (Same)

Discussion: Updated statistics and analysis from Google Analytic reports for AZCourtHelp.org website, COVID-related information, and enhancements and improvements to the website since the last report.

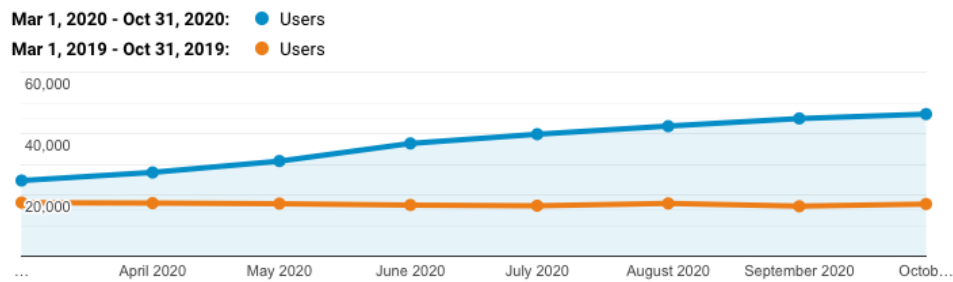
Recommended motion: None.



AZCourtHelp.org

Google Analytic Results

Timeframe	Users	New Users	Pageviews
3/1/2019 – 10/31/2019	129,885	128,729	457,782
3/1/2020 – 10/31/2020	280,571	280,662	846,851
Change	+116%	+118%	+85%



Devices Used

Timeframe	Desktop	Cell Phone	Tablet
3/1/2019 – 10/31/2019	65,680 (51%)	59,577 (46%)	5,193 (3%)
3/1/2020 – 10/31/2020	119,286 (42%)	156,790 (56%)	6,040 (2%)
Change	+33%	+82%	+16%

Acquisition of Users

Timeframe	Organic Search	Referral	Direct	Google Ad	Social Media
3/1/2019 – 10/31/2019	71,273	25,404	19,878	17,410	490
3/1/2020 – 10/31/2020	198,687	51,308	20,759	21,790	1,309
Change	+179%	+102%	+4%	+25%	+220%

Organic Search – users who find the site via a web browser search

Referral – users who click a hyperlink found on a partner's website

Direct – the user types in the url

To contribute content or provide feedback - Cathleen.Cole@azflse.org



AZCourtHelp.org

Top 10 Referrals to AZCourtHelp

3/1/19 – 10/31/19	3/1/20-10/31/20
AZCourts.gov – 9,338	AZCourts.gov – 19,560
courts.Yavapai.us – 5,978	Azpoint.azcourts.gov – 14,105
Phoenix.gov – 4,575	AZLawHelp.org – 10,115
AZLawHelp.org – 1,180	Phoenix.gov – 2,401
jp.Pima.gov – 797	clerkofcourt.maricopa – 1,662
sc.Pima.gov – 414	courts.Yavapai.us – 718
Navajocountyaz.gov – 36	jp.Pima.gov – 522
GoodyearAZ.gov – 192	sc.Pima.gov – 350
MaranaAZ.gov – 92	Superiorcourt.maricopa.gov – 350
Coconino.az.gov – 170	Housing.az.gov – 238

Top 10 Cities

3/1/19 – 10/31/19	3/1/20-10/31/20
Phoenix – 39,970	Phoenix – 67,576
Tucson – 7,439	Mesa – 18,770
Mesa – 5,049	Tucson – 13,507
Los Angeles – 4,814	Tempe – 10,750
Scottsdale – 3,330	Los Angeles – 9,117
Tempe – 2,928	Chandler – 8,671
Chandler – 2,475	Scottsdale – 6,052
Glendale – 2,306	Glendale – 5,857
Gilbert – 2,183	Gilbert – 5,397
Peoria – 1,457	Las Vegas – 4,184

Top 10 Pages Viewed 3/1/19 - 10/31/19

#Views	Page Name/Link
19,968	Electronic Court Records
18,762	Forms
15,453	Find <u>My Court</u>
12,214	¿Qué significa “días calendario”?
11,199	Self-Help Resources
8,759	Maricopa Court Records
7,063	Court Calendars
6,562	Child Support Calculator
6,334	Live Chat
5,958	Child Support Information

Top 10 Pages Viewed 3/1/20 - 10/31/20

#Views	Page Name/Link
53,539	Find My Court
42,395	Electronic Court Records
29,326	Forms
21,682	Marriage Licenses
17,453	Justice Court Locations
15,716	Municipal Court Locations
13,537	Self-Help Resources
11,772	Types of Warrants
10,939	Courthouse Weddings
10,100	Superior Court Records

Most Clicks in Google Search Results

Search Term
Types of warrants
Arizona court records
Az court records
Different types of warrants
Arizona court case lookup
Warrant quashed
Arizona landlord tenant act 2020
Can you be evicted in Arizona right now
Quash warrant
Injunction against harassment

Top 10 Searched Terms on ACH

Search Term
Name change
Order of Protection
Divorce
Marriage
Forms
Marriage license
Motion
Restraining order
Emancipation
Child Support

To contribute content or provide feedback - Cathleen.Cole@azflse.org



Live Chat Statistics

	3/1/19-10/31/19	3/1/20-10/31/20
<i>Item</i>	<i>Value</i>	<i>Value</i>
Number of Active Chat Operators	5	13
Number of Counties Represented	4	7
Number of Chat Sessions	652	3312
Total Amount of Chat Time	97hrs 25min	544hrs 7min
Average Length of Chat Sessions	9min	10min

Live Chat Topics

<i>#Mentions</i>	
22	Garnishment
45	Adoption
46	Appeals
60	Property Matters
71	Probate
100	Guardianship
103	Small Claims
111	Court Records or Case Files
112	Child Support
115	Name Change
119	Fines, fees, payments

<i>#Mentions</i>	
124	Criminal Matters & Set Aside
128	Civil Cases
152	Court Scheduling
170	LDMPT
182	Separation/Divorce/Annulment
186	Marriage Licenses and Weddings
220	Traffic Issues
236	Landlord/Tenant
240	Other
246	General Forms/Filing/Service
524	Orders of Protection & IAH's

“Other” chats consist of users seeking court/judicial contact information, legal aid/attorney referrals, court locations, mental health treatment, civil services, etc...



COVID-19 Resources

On April 7, 2020, AZCourtHelp published a page dedicated to pertinent resources related to COVID-19. It contains:

- A link to the COVID-19 Q&A portal on AZLawHelp – covid19.azlawhelp.org
- Mini Legal Talks on COVID-19 subjects
- A link to the AOC's COVID-19 information page
- Find My Court component on AZCourtHelp
- Attorney General's scams, frauds, and price gouging reporting information
- Contact information for the State Law Librarians
- Legal Aid Resources page on AZCourtHelp

There have been 1,331 pageviews of COVID-19 related pages on AZCourtHelp.

COVID-19 Videos

Coconino Law Library has been producing mini legal help videos related to COVID-19, the first of which was published on April 9, 2020. Currently, there are 5 videos which are hosted on YouTube and embedded in AZCourtHelp. There has been a total of 1,443 views of the various videos on YouTube.

Video Name	Publish Date	# Views
Getting a Protective Order During COVID-19	4/9/2020	422
Getting Married at the Courthouse During COVID-19	4/9/2020	260
Changing Child Support During COVID-19	4/13/2020	410
COVID-19 Parenting Time	4/23/2020	176
COVID-19: Changes to the Landlord/Tenant Law (Unpublished)	4/13/2020	175

To contribute content or provide feedback - Cathleen.Cole@azflse.org



Meeting Date: November 19, 2020

Subject: Update on the Public Information and Messaging Workgroup

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Aaron Nash, Co-chair, Public Information Officer, AOC

Presenters: Aaron Nash

Discussion: Presenters will discuss the workgroup's efforts regarding:

Recommended motion: None.



Meeting Date: November 19, 2020

Subject: Report from Justice in Government Workgroup

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Chris Groninger

Presenters: Chris Groninger

Discussion: Update on intergovernmental collaboration efforts of the Justice in Government Workgroup in 2020.

Recommended motion: None.



Meeting Date: November 19, 2020

Subject: Report from the Judicial and Attorney Engagement Workgroup

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Judge Joe Kreamer, Chair; Mr. Joel England, Exec. Dir. Arizona State Bar; Chris Groninger, Arizona Bar Foundation

Presenters: Same.

Discussion: The workgroup met on November 5, 2020.

Judge Kreamer will discuss the workgroup's efforts during the COVID-19 pandemic and strategic planning focus.

Recommended motion: None.



Meeting Date: November 19, 2020

Subject: Workgroup Report: SRL-LJC

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Judge Anna Huberman, SRL-LJC Chair

Presenters: Judge Huberman

Discussion: Update on scripts and videos on consumer debt collection.
Conversation on how the judiciary has handled court during the pandemic, what we have learned and what we would like to see going forward.

Recommended motion: None.



Meeting Date: November 19, 2020

Subject: Ignite Talk – AZCourtHelp and AZCourtCare

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Cathleen Cole, Legal Information and Access Director, AZFLSE

Presenters: Cathleen Cole

Discussion: Cathleen Cole was recently selected to present an “Ignite Talk” to the chairs of the state access to justice commissions, as well as various state supreme court justices, court administrators and legal aid leaders from around the county to feature the AZCourtHelp.org and AZCourtCare legal information websites.

Recommended motion: None.