

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-16-0047
RULE 38, RULES OF THE)
SUPREME COURT) **FILED 08/31/2017**
)
)
)
_____)

**ORDER
AMENDING RULE 38, RULES OF THE ARIZONA SUPREME COURT**

A petition having been filed proposing to amend Rule 38, Rules of the Arizona Supreme Court, and comments having been received, upon consideration,

IT IS ORDERED that Rule 38, Rules of the Arizona Supreme Court, be amended in accordance with the attachment hereto, effective January 1, 2018.

DATED this 31st day of August, 2017.

_____/S/_____
SCOTT BALES
Chief Justice

TO:

Rule 28 Distribution

Ellen S Katz

Kevin J Groman

Hon William J O'Neil

Hon Lawrence F Winthrop

Lisa M Panahi

ATTACHMENT*

Rule 38. Special Exceptions to Standard Examination and Admission Process

* * *

(e) Authorization to Practice Law for Attorneys Volunteering with Approved Legal Services Organizations.

1. [No change in text.]

2. Definitions.

A. [No change in text.]

B. A “Rule 38(e) attorney” is any person who is or was admitted to practice in the courts of any state, district, or territory of the United States of America and

i.-iv. [No change in text.]

v. is certified under paragraph (e)(3) or (4) of this rule.

C. [No change in text.]

3. *Certification.* An attorney, other than an attorney registered as in-house counsel, who seeks authorization to practice law under this rule shall file with the clerk of the Supreme Court of Arizona an application including:

A. a certificate from the highest court or agency in the state, territory, or district in which the applicant is presently licensed to practice law documenting that the applicant has fulfilled the requirements of active bar members for at least five years preceding the date of the application, and that the applicant has not been disciplined for professional misconduct by the bar or highest court of the state, territory, or district during the last 5 years; ~~provided that an attorney who is registered as in-house counsel pursuant to Rule 38(h) shall fulfill this requirement by providing a copy of his or her current Arizona Certification of Registration of In-House Counsel;~~

B. –C. [No change in text.]

* Additions in the text of the rule are shown by underscoring and deletions from text are shown by ~~strike through~~.

4. *Certification of Registered In-House Counsel.* An attorney who is registered as in-house counsel pursuant to Rule 38(a) may be certified to volunteer to provide legal assistance under this rule after an authorized representative of the approved legal services organization files a notice with the clerk of the Supreme Court of Arizona containing the following information:

A. The name of the attorney who will be an unpaid volunteer with the organization; and

B. A statement that the attorney has provided the legal services organization with a copy of his or her current Arizona Certification of Registration of In-House Counsel.

The clerk of the Supreme Court shall send a copy of the notice authorizing practice to the State Bar of Arizona.

5. *Mandatory Continuing Legal Education.* Rule 38(e) attorneys shall be exempt from the requirements of Rule 45, Mandatory Continuing Legal Education.

56. *Pro Bono Requirement.* As provided in paragraph (e)(2)(B)(iv) of this rule, no attorney who practices law under the authority of this rule may receive compensation from the approved legal services organization with which the attorney is associated, from the attorney's client, or through a contingent fee agreement. This prohibition shall not prevent the attorney from seeking legal fees and costs from the opposing party, so long as all fees obtained are received by the client or donated to a qualified legal services program with the client's consent. In addition, an approved legal service organization or a client may reimburse any attorney practicing under this rule for actual expenses incurred while rendering services hereunder.

67. *Expiration of Authorization.* Authorization to practice law under this section shall expire if the applicant ceases to be associated as an unpaid volunteer with the organization. If the applicant ceases to be associated as an unpaid volunteer with the organization, an authorized representative of the organization shall, within ten (10) days of the date that association ceased, file a notification of the cessation with the clerk of the Supreme Court of Arizona and the State Bar of Arizona, specifying the date the association ceased.

78. *Discipline.* In addition to any appropriate proceedings and discipline which may be imposed by the Court under these rules, the Rule 38(e) attorney shall be subject to the following disciplinary measures:

A. civil contempt imposed by the presiding judge or hearing officer for failure to abide by a tribunal's orders in any matter in which the Rule 38(e) attorney has participated; and

B. withdrawal of the certification hereunder, with or without cause, by either the Court or the approved legal assistance organization.