

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-12-0028
PETITION TO AMEND RULE 38,)
ARIZONA RULES OF THE SUPREME)
COURT)
)
)
) **FILED 12/05/2012**
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_____)

**ORDER
AMENDING ON AN EMERGENCY BASIS
RULE 38, RULES OF THE SUPREME COURT**

The State Bar of Arizona filed a petition on May 14, 2012, proposing to amend the above-captioned rule. The Petition is currently open for comment, with comments due May 21, 2013. On October 23, 2012, the William E. Morris Institute for Justice filed a "Motion for Expedited Consideration of Petition for Rule Change." Upon consideration,

IT IS ORDERED granting the motion for expedited consideration. Rule 38, Rules of the Supreme Court, is amended as modified on an emergency basis pursuant to Rule 28(G), Rules of the Supreme Court, as set forth in the attachment hereto, effective January 1, 2013. The Court finds compelling circumstances rendering the annual rule processing cycle inadequate in light of the State Bar of Arizona's obligation to improve access to justice and the current economic recession, which has increased the need for low or no cost legal services available to the indigent and working poor. Further, the Petition has been thoroughly vetted by the Access to Justice Task Force and the Governing Board of the State Bar.

IT IS FURTHER ORDERED that this matter shall remain open for comment, with comments due May 21, 2013. The Court will consider final adoption of the amendments at its regular 2013 annual rules agenda.

DATED this 5th day of December, 2012.

REBECCA WHITE BERCH
Chief Justice

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TO:
Rule 28 Distribution
John A Furlong
Ellen S Katz

ATTACHMENT*

RULES OF THE SUPREME COURT

Rule 38. Special Exceptions to Standard Examination and Admission Process

(a)-(d) [No change in text.]

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

1. *Purpose.* ~~Individuals admitted to the practice of law in Arizona~~ Attorneys have a responsibility to provide competent legal services for all persons, including those unable to pay for such services. As one means of meeting these legal needs, attorneys who otherwise are not allowed to practice law in Arizona may volunteer to provide civil legal assistance to individuals who are unable to pay for such services under limited circumstances.

A. An attorney who is or was admitted to practice law for at least five (5) years in the courts of any state, district, or territory of the United States (other than Arizona) who volunteers to provide civil legal assistance to individuals who are unable to pay for such services is allowed to do so, under limited circumstances, under this rule. An attorney may be admitted to practice for the limited purpose of providing such assistance as an unpaid volunteer in association with an approved legal services organization so long as that organization employs at least one Arizona attorney not admitted pursuant to any provision of this rule.

B. An attorney who is registered as in-house counsel pursuant to Rule 38(h) may provide assistance as an unpaid volunteer in association with an approved legal services organization so long as that organization employs at least one Arizona attorney not admitted pursuant to any provision of this rule. An attorney who qualifies under this provision need not comply with the certification requirement of paragraph (e)(3) of this rule.

2. *Definitions.*

* Additions to text are indicated by underscoring and deletions by ~~strikeouts~~.

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 ~~(other than Arizona)~~, is not registered as in-house counsel pursuant to Rule 38(h), and

i. has been engaged in the active practice of law for at least five years before applying to participate in the volunteer lawyer program;

ii. has been a member in good standing of the entity governing the practice of law of any other state, territory, or the District of Columbia and has not been disciplined for professional misconduct by the bar or courts of any jurisdiction within the past fifteen years;

iii. agrees to abide by the Rules of Professional Conduct and submit to the jurisdiction of the Supreme Court of Arizona for disciplinary purposes;

iv. neither asks for nor receives compensation of any kind for the legal services to be rendered hereunder; and

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

C. [No change in text.]

3.-7. [No change in text.]