



# Supreme Court

STATE OF ARIZONA

402 ARIZONA STATE COURTS BUILDING  
1501 WEST WASHINGTON STREET  
PHOENIX, ARIZONA 85007-3231

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RACHELLE M. RESNICK  
CLERK OF THE COURT

KATHLEEN E. KEMPLEY  
CHIEF DEPUTY CLERK

September 6, 2007

**RE: RULE 38(d)(3), RULES OF THE SUPREME COURT**  
Arizona Supreme Court No. R-06-0023

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on August 27, 2007, in regard to the above-referenced cause:

**ORDERED:** [Amended Petition to Amend Rule 38(d)(3) of the Rules of the Supreme Court of Arizona Pertaining to the Activities of Law Students Acting in a Volunteer Capacity] = ADOPTED as modified, effective January 1, 2008, as a pilot program. The matter shall be submitted to the State Bar Committee on Legal Services for its consideration and review. The Court shall consider the matter again at its September 2008 rules agenda.

Rachelle M Resnick, Clerk

TO:

Anthony L Young, Director, Southern Arizona Legal Aid Inc  
Toni M Massaro, Dean, University of Arizona, James E Rogers College  
of Law

Hon Gus Aragon Jr, Volunteer Lawyers Program Advisory Board

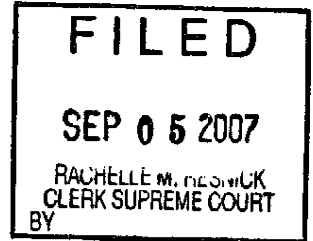
Richard Beck

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**IN THE SUPREME COURT OF THE STATE OF ARIZONA**

Supreme Court No. R-06-0023

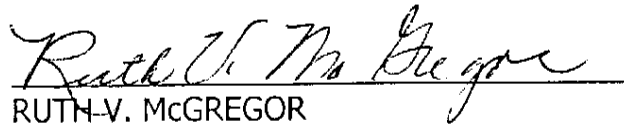


**ORDER AMENDING RULE 38(d), RULES OF THE SUPREME COURT, ON AN  
EXPERIMENTAL BASIS**

IT IS ORDERED that Rule 38(d), Rules of the Supreme Court, be amended on an experimental basis in accordance with the attachment hereto,\* effective as of the date of signing. The matter shall be reconsidered at the Court's September, 2008 rules agenda.

DATED in the City of Phoenix, Arizona at the Arizona Courts Building, this 5<sup>th</sup> day of September, 2007.

For the Court:

  
RUTH-V. MCGREGOR  
Chief Justice

\* Changes or additions in text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

## Rule 38 (d) Activities of Law Students

### (d) Clinical Law Professors and Law Students

1. *Purpose.* The bench and the bar are primarily responsible for providing competent legal services for all persons, including those unable to pay for these services. This rule is adopted as one means of providing assistance to practicing attorneys in providing such services and to encourage law schools to provide clinical instruction in trial work of varying kinds and to facilitate volunteer opportunities for students in pro bono contexts.

2. [No change except renumbering of reference to (d)(6)(A) to read “(d)(7)(A)”]

3. *Activities of Law Students.*

A. An eligible law student meeting the requirements of paragraph (d)(5) 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 lawyer has also indicated in writing approval of that appearance, in the following matters:

i-ii [No change]

Notwithstanding anything hereinabove set forth, the court may at any time and in any proceeding require the supervising lawyer to be personally present for such period and under such circumstances as the court may direct.

B. An eligible law student meeting the requirements of paragraph (d)(5) may also appear in any criminal matter on behalf of the state or any political subdivision thereof with the written approval of the prosecuting attorney or that attorney's authorized representative. In all appearances in criminal cases a supervising lawyer must be present except when such appearance is in justice, municipal, or magistrate courts.

C. [No change]

D. Under the general supervision of the supervising lawyer, but outside his personal presence, an eligible law student meeting the requirements of paragraph (d)(5) may engage in other activities, including:

i. – iv [No change]

E. An eligible law student meeting the requirements of paragraph (d)(5) may participate in oral argument in this Court and the court of appeals, but only in the presence of the supervising lawyer.

F. Students who meet the requirements of (d)(6) below, may, at the invitation and request of the court, provide assistance to unrepresented individuals in uncontested civil proceedings without entering an appearance as counsel. Such students must be directly supervised in person by an attorney associated with a volunteer legal services program as described in (d)(6)(B).

G. Except for students participating under the requirements of (d)(6) below, all activities under this rule must be part of the law school's educational and clinical law practice program approved by the dean and faculty of the College of Law of the University of Arizona or the College of Law of Arizona State University, or other law school's juris doctorate program approved and accredited by the American Bar Association. A written statement of the contents of the school's educational and clinical law practice program of the Arizona State University or University of Arizona College of Law or other law school's juris doctorate program approved and accredited by the American Bar Association shall be filed with the executive director of the state bar not later than thirty days prior to the commencement of the program.

4. [No change]

5. Requirements and Limitations for Law Students. Except for students making an appearance pursuant to paragraph (d)(3)(F), in order to make an appearance pursuant to this rule, the law student must:

(A) [No change except renumbering of reference to 38(d)(7) to read “38(d)(8)”]

(B)–(E) [No change]

6. Requirements and Limitations for Law Students making appearances pursuant to paragraph (d)(3)(F). The law student must:

A. During the academic year, be duly enrolled in the University of Arizona or Arizona State University or any other American Bar Association accredited law school in the State of Arizona, and during the summer, must be in good standing at the University of Arizona, Arizona State University, or any other accredited law school in the State of Arizona and intending to return, or have graduated and be studying for the Arizona Bar;

B. Be participating in a volunteer legal services program managed by an approved legal services organization in cooperation with the University of Arizona College of Law, the Arizona State University College of Law, or any other American Bar Association accredited law school in the State of Arizona;

C. Be directly supervised in person by an attorney associated with such volunteer legal services program;

**D. Receive 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 by the volunteer legal services program.**

*67. Certification for Students making an appearance pursuant to paragraph (d)(3)(A) –(E):*

A. [No change to text of (A) of former 6]

B. The certification of a law student making an appearance pursuant to paragraph (d)(3)(A) –(E): by the law school dean shall be filed with the clerk of this Court and with the state bar and, unless it is sooner withdrawn, it shall remain in effect until the expiration of eighteen months after it is filed or until the announcement of the results of the first bar examination following the student's graduation, whichever is earlier. As to any student who passes that examination, the certification shall continue in effect until the date the student is admitted to the bar.

C. In the case of either a clinical law professor or a law student, certification:

i.-iii [No change]

D. [No change]

*78. [No change to text]*

[No change to text of (A) through (C) of former 7]

*89. [No change to text].*

*[No change to text of (A) through (D) of former 8]*