

1 ROBERT B. YOUNG
2 Attorney at Law, no.002388
3 89 West Encanto Boulevard
4 Phoenix, Arizona 85003-1108
5 (602) 253-2856
6 Respondent

7 BEFORE THE ARIZONA SUPREME COURT

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PETITION TO AMEND RULES 32(c),
45 and 64(f), ARIZONA RULES OF
THE SUPREME COURT

Supreme Court NO. R-05-0034
COMMENTS OF STATE BAR MEMBER
ROBERT B. YOUNG
(Oral argument requested)

ROBERT B. YOUNG, an attorney in good standing and member of the State Bar of Arizona, as Respondent herein, does hereby submit the following as his Comments to the Petition to Amend Rules 32(c),45 and 64(f), Arizona Rules of the Supreme Court, filed with this Court by the State Bar of Arizona.

Respondent YOUNG is one of six candidates running for election to the State Bar Board of Governors, District 6, in a special election being held to fill a vacancy created by the completion of the term of President now filled by President Helen Grimwood. Respondent contended in his bid for election that the way the State Bar went about in proposing the membership rules changes and the proposed changes themselves represented the "significant issue" facing the membership today.

Attachment A hereto is a copy of an e-mail sent to the 9,900 attorneys making up District 6 setting forth Respondent's position with regard to the issue.

Attachment B, a letter from HARVEY FINKS, an attorney

1 practicing in the retirement community of Sun City, Arizona,
2 is representative of the universal reaction Respondent has
3 received from the membership approving Respondent's position
4 as to the State Bar's handling of the "over 70" exemption.

5 Attachment C, the hand-written letter of Sun City attorney
6 DUDLEY BRANDOM, describes the proposed repeal of the "over 70"
7 exemption as an "extinction program".

8 The view of a third attorney from Sun City, C.O.LAMP,
9 expressed in a telephone conversation, underscores a significant
10 impact that the proposal will have. Mr.LAMP's only involvement
11 with the practice of law is to offer himself once a year as
12 a Maricopa County Superior Court trial arbitrator. He does it,
13 of course, without remuneration. If forced to resign by the
14 proposed repeal of the "over 70" exemption, he would be dis-
15 qualified from engaging in this important activity.

16 Attachment D is a copy of a letter received from Scottsdale,
17 Arizona, attorney CONRAD W. SANDERS.

18 The State Bar's contention the proposal to be an "equitable
19 distribution" of membership fees is without merit given the
20 belief that most of the "over 70" members will choose to resign
21 from active practice if faced with the prospect of paying the
22 full amount of dues and taking fifteen hours of mandatory contin-
23 uing legal education. It can hardly be considered equitable in
24 the face of the State Bar allowing the judicial category to
25 stand without change.

26 In the transmittal letter accompanying the Petition, Presi-
27 dent Grimwood gives as the State Bar's intention in making the
28

1 the proposal, the following:

2 This change will require members over 70
3 to choose a category of membership and
4 will give the Bar an accurate picture of
5 how many attorneys are actively practicing,
6 retired, or inactive in Arizona.

7 This "shoot first, ask questions later" approach to the
8 matter does a disservice to both the membership and the public.
9 The only "accurate picture" that will emerge from all this is
10 the number of senior attorneys forced into retirement.

11 That same "accurate picture" could have been obtained
12 prospectively by polling its membership and engaging the
13 services of the recently created Senior Lawyers group for this
14 undertaking. Instead, when the Senior Lawyers group appeared
15 before the State Bar Board of Governors meeting this past
16 January to ask for a withdrawal of the Petition, their request
17 was rejected.

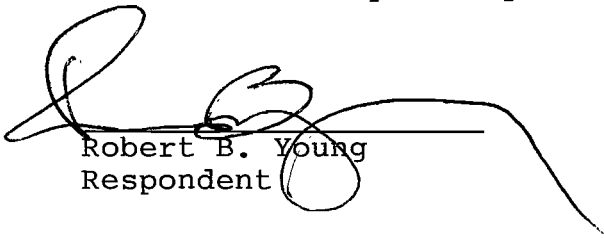
18 The proposed change requiring resigned members to take
19 the Bar Exam is also offensive to the membership. One can
20 think of any number of circumstances in which a member legiti-
21 mately wishes to return to active status after resigning, but
22 is discouraged from doing so because of the prospect of having
23 to take the Bar Exam. The relevancy of the Bar Exam in deter-
24 mining the competency of an experienced lawyer is clearly a
25 matter of question.

26 The most troubling aspect of the way the State Bar has
27 handled this matter is the total lack of sensitivity staff
28 and counsel have shown the senior members of the State Bar.

1 The life of the senior lawyer is one of mixed emotion: the pride
2 that comes from just having reached that point in ones career,
3 the sadness of knowing that others are not around to share that
4 pride. This was brought home to me by the wife of an attorney
5 who returned my e-mail with the following message inscribed at
6 the bottom:

7 Abbott Goldenkoff died Xmas time.
8 Mrs. Lois Goldenkoff

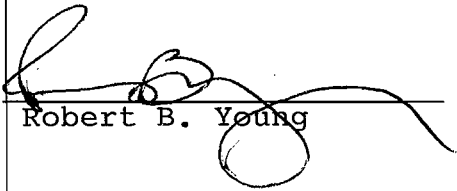
9 RESPECTFULLY submitted this 19th day of May 2006.

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12 
13 Robert B. Young
 Respondent

14 Copy of the foregoing
15 mailed this 19th day
16 of May 2006 to:

16 ROBERT B. VAN WYCK
17 Chief Bar Counsel
18 State Bar of Arizona
19 4201 North 24th Street, Suite 200
20 Phoenix, Arizona 85016-6288
21 Attorney for Petitioner

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21 Robert B. Young

The message below is from a candidate for the State Bar Board of Governors. While the message is being generated through the State Bar e-mail system, the Bar is not responsible for its content. We have implemented this system to give Board candidates a cost-effective way of reaching members within their district one time via e-mail.

EXHIBIT A

Dear Fellow Member:

At a recent meeting of the Sole Practitioner's Section, a younger colleague was overheard making the observation that last year's wholesale revision of the Federal bankruptcy law had had a "negative impact" on his practice. I identified with his comment. There was a time when virtually none of the cases in Maricopa County Superior Court involved unrepresented parties seeking a dissolution of their marriage. Today, the percentage of cases in which either one of the parties or both parties are unrepresented is seventy percent, this occurring as the result of adoption of "no-fault" divorce law.

As a candidate for election to District 6, Board of Governors, it is my identification with the young man at the Sole Practitioner's meeting, and with the problems he faces in his practice, that would be brought to the table if I am successful in my candidacy.

Something else inspired me to run for election. I discern a lapse on the part of at least some of the Board members that they are there in a representative capacity, acting on behalf of the membership.

The State Bar recently decided there was a need for increasing the amount of revenue derived from membership fees. It decided to target the lawyers over the age of 70, members of the Bar exempted from the payment of membership dues and CLE under a time-worn tradition. The Board of Governors voted in favor of filing a petition in the Arizona Supreme Court proposing repeal of the "over 70" exemption and it proposed changes to other categories of membership as well.

The petition was made known to the membership three weeks after its filing by a letter from President Grimwood. She stated in an e-mail to the membership that the proposal to start having the "over 70" members pay the full membership fee and take CLE represented "a more equitable distribution of membership dues." She made this argument even though the one category of membership that wasn't being changed was the judicial category which provided for a reduced membership fee for judges.

Clearly, making the "over 70" lawyers pay the full membership fee and take CLE will force them into retirement, given that all but a handful make only a nominal amount from their practice. Had the State Bar given them an opportunity to be heard, the controversy could have been avoided.

President Grimwood, in the April issue of Arizona Attorney, devotes her entire column to the importance of the role of diversity should play in the State Bar administration:

It is also clear that the State Bar must institutionalize an effective approach to diversity in Bar Committees and leadership...

I have asked the Board and future presidents to set diversity goals for appointments to the State Bar's standing committee...

I would personally be offended if a single vote were cast for me because my father was an immigrant from China. This is not to say diversity can not have a role to play in the affairs of the State Bar, but it is the kind of diversity that is based upon merit, not the color of one's skin or a person's gender.

Senior members provide an important perspective to the management of the Bar's affairs. Clearly someone reaching the age of 70, who is still a contributing member, is someone whose presence in our ranks should be celebrated.

What President Grimwood has overlooked is the importance of another form of diversity, diversity of age.

Thank you.

Robert B. Young
Sole Practitioner
89 W. Encanto Blvd
Phoenix, AZ 85003
602.253.2856
E-mail: dly81446@aol.com

LAW OFFICES
HARVEY FINKS, P. C.

PROFESSIONAL CORPORATION

Telephone (623) 974-2541

MAILING ADDRESS:

P. O. BOX 1897
Sun City, Arizona 85372

EXHIBIT B

LOCATED AT:

12630 North 103rd Avenue
Suite 214
Sun City, Arizona, 85351

May 3, 2006

Robert B. Young, Esq.
89 W. Encanto Blvd.
Phoenix, AZ 85003

Dear Mr. Young:

Thank you for your recent letter regarding elderly lawyers. I did receive Ms. Grimwood's letter and I responded, copy enclosed. I also enclose a copy of a letter I had received from a client just a few days before I received Mrs. Grimwood's letter. This is an unsolicited letter of a type I frequently receive from my clients. All elderly (between 85 and 103). Most are in assisted living. Most are of modest means. Few are emotionally prepared to change the people they are used to dealing with.

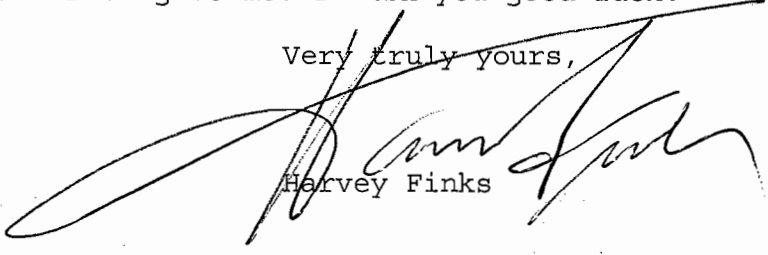
On the rare occasion they seek my services, they either do not get a bill or, if they do get a bill it is grossly undercharged. I never bill for the full amount of time I spend. And I do not earn anything from the practice of law.

My living is earned by the investments that I made over the years. I stopped taking new clients ten years ago. I retain a law office, open one day a week to keep myself active and because the people who became my clients in the 1960s, 70s and 80s when I needed clients, shouldn't be dumped by me now that I don't need them. I earn nothing from the practice of law.

I did not pursue this matter with the Supreme Court. I have never been to the Supreme Court. What's more I don't use a computer and I am informed that is the only way one can communicate with the Supreme Court.

Thank you for writing to me. I wish you good luck.

Very truly yours,


Harvey Finks

HF/tu
Enclosure

C. Dudley Brandom Apt #2020
18616 N 99th Avenue
Sun City, AZ 85373-1457

EXHIBIT C

(623) 972-0009

5-15-06

Memo to Robert Young

please excuse no statenrg, no typewriter,
no computer/printer, etc, but reluctance of office
facilities impose these restraints.

I'm very interested in and supportive of
your opposition to the Court's plan to impose
Full dues assessments and full CLE obligations
on Senior Citizen Attorneys.

At the Senior level, activities of Seniors
are diminished substantially - the older the
greater. Also income substantially decreases.
The CLE requirements impose another ill-
considered problem, not only the financial
outlay, but the physical ability to
attend various programs. Physical problems,
and ability to travel present a new
obstacle - mobility & medical obligations
were not formerly such a problem.

This approach of high dues & full
CLE obligations (which decrease with age)
is virtually a plan to line up the
Senior attorneys against the wall and bring
on a Hitler style extinction program.

Actually - efforts should be exerted
to utilize the experience and respect
of the Seniors - Not to extinguish
them.

Thanks again for your efforts in
opposing the "Extinction" prog

AZ # 7171 No # 13681

C. Dudley Brandom

CONRAD W. SANDERS

ATTORNEY AND COUNSELOR AT LAW

9730 N. 80th Place
Scottsdale, Arizona 85258
voice and facsimile line

480-991-5007

EXHIBIT D

May 8, 2006

Robert B. Young, Esq.
89 W. Encanto Blvd.
Phoenix, AZ 85003

Dear Mr. Young:

Your recent mailing supporting us "old guys" was most impressive --
-- and well said. Enclosed is a reprint of my recent letter to Helen
Perry Grimwood on the same subject. I have cast my State Bar ballot
in your favor, and I will ask my daughter, Carla A. Sanders, to
also vote for you.

Sincerely,



Conrad W. Sanders

CONRAD W. SANDERS
ATTORNEY AND COUNSELOR AT LAW

9730 N. 80th Place
Scottsdale, Arizona 85258
voice and facsimile line
480-991-5007

May 4, 2006

Helen Perry Grimwood
President, State Bar of Arizona
4201 N. 24th Street
Phoenix, AZ 85016-6288

Dear President Grimwood:

This is to comment upon --- and express my objection to the proposal to change bar membership requirements to adversely impact Arizona attorneys over age 70. I question the existence of any necessity or benefit to the bar or public from these proposals.

I do believe that the proposed change would have the beneficial effect of minimizing competition among lawyers --- by forced retirement of elderly attorneys unable to economically afford the annual CLE costs (about \$1,500.) and bar fees (about \$500.) The consequence of lessened competition usually means protection of suppliers' income and increased cost to consumers.

I am currently scheduled to attain age 75 this year. I have been a practicing attorney for the past 51 years. I was first licensed in Illinois, which to this date does not have any mandatory CLE expense ---- and its annual Illinois attorney registration fee is a very affordable \$239.00.

I faithfully paid Arizona bar dues and met CLE requirements for 30 years until attaining age 70. Requiring me to bear these expenses, represents an approximate annual total cost of \$2000.00 to continue my Arizona bar membership. That cost represents an unnecessary seizure of my minimal fee income ---- before paying any self-employment and income taxes. Fortunately, I have other retirement income, so excluding me from further law practice will not lead my standing with a tin cup at the doorway of the Supreme Court.

I continue to practice law because it is the only real work-skill I possess; and it provides me with great intellectual satisfaction and purpose, I am also able to service the needs of my long time clients, most of whom can not afford the fees of my downtown peers. Since my practice is very small and limited to matters of long time familiarity, 15 annual hours of CLE is not of any benefit to me at this advanced point in my professional life. It represents a great waste of time and automobile expense in attending, to say nothing of its intolerable burden on my continuing to practice law. I do not deprecate the benefit of CLE to an inexperienced attorney or an attorney who has a broad practice.

Helen Perry Grimwood
President, State Bar of Arizona
May 4, 2006
Page Two

I respectfully suggest that the State Bar of Arizona does not need to disenfranchise elderly attorneys in order to sustain itself in good health nor to protect the public.

Sincerely,

Conrad W. Sanders