

**Scharf-Norton Center for Constitutional Litigation
at the GOLDWATER INSTITUTE**

Jonathan Riches (025712)
Timothy Sandefur (033670)
Adam Shelton (038252)
500 E. Coronado Rd.
Phoenix, AZ 85004
(602) 462-5000
litigation@goldwaterinstitute.org

**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:

PETITION TO AMEND SUPREME
COURT RULE 34(f)

Supreme Court
No.

**PETITION TO AMEND RULE
34(f), RULES OF THE
SUPREME COURT**

Pursuant to Ariz. S. Ct. R. 28, Jonathan Riches, Timothy Sandefur, and Adam Shelton, individually and on behalf of the Goldwater Institute, respectfully petition this Court to adopt amendments to Rule 34(f), Ariz. S. Ct. R. (“Rule 34”), governing the methods of admission for attorneys who are licensed in other states to practice law in Arizona. Under this proposal, an attorney admitted to the practice of law in any other jurisdiction in one or more state(s), territories, or the District of Columbia, and in good standing in every jurisdiction to which the attorney has been admitted, would be eligible for a streamlined admission process

to allow him or her to practice law in Arizona. A redlined draft of the proposed changes is attached as Appendix A. A clean draft of Rule 34, as amended, is attached as Appendix B.

I. Background and Purpose of the Proposed Rule Amendment

This proposed rule change allows any attorney who is admitted to practice law in another jurisdiction, and who has an active license in good standing, to submit a streamlined application to practice law in Arizona. The proposed amendments are minor and allow those who have already demonstrated their fitness and competency to offer much-needed legal services to Arizonans. This change builds on legal and professional policy reforms in Arizona and around the country that make it easier for competent professionals to work across state lines.

A. Reason for the Change

The practice of law has changed considerably in the past two decades. Improvements in computer technology and the increased access to and efficiency of Internet service and electronic communication devices and databases have made it possible for attorneys to work from virtually anywhere. The COVID-19 pandemic accelerated these changes, as millions of attorneys found themselves

required to work from home and appear before courts virtually or telephonically. These changes have been convenient for lawyers and beneficial for clients.¹

The practice of law is uniquely suited to remote work, given how much of the profession involves independent research, writing, and client communications—all of which can take place from any location. Now more than ever, lawyers can work from wherever, whenever—just as effectively as they can from a traditional office space. Moreover, remote work arrangements benefit law firms by reducing overhead expenses, which helps lower the costs of legal services to clients. According to one study, the availability of remote work options have allowed for the interstate relocation of nearly 24 million Americans.² Indeed, in 2022, the Association of Professional Responsibility Lawyers—the country’s leading bar association for legal ethicists—sent the ABA a letter that encouraged a change to ABA Model Rule 5.5, allowing lawyers to provide services to clients regardless of the geographic location of the lawyer or the client.³ This reform, like

¹ According to Clio’s 2020 Legal Trends report, 56% of consumers would prefer videoconferencing over a phone call and 69% prefer working with a lawyer who can share documents electronically through a web page, app, or online portal. 2020 Legal Trends Report (Clio), available at <https://www.clio.com/resources/legal-trends/2020-report/>.

² Scott Lincicome and Ilana Blumsack, *Remote Work*, Cato Institute (Dec. 15, 2022), available at <https://www.cato.org/publications/remote-work>.

³ Debra Cassens Weiss, *Lawyers Should be Able to Practice Law in Any State, Says Group Urging ABA Model Rule Change*, ABA Journal (Apr. 20, 2022), available

the proposed rule, recognizes the reality that today legal services can and should be provided regardless of geographic constraints.

Arizona's current rules, however, do not recognize the reality of remote practice, the interstate flexibility it has allowed, or the benefits it offers for clients, lawyers, and law firms. Generally, if an attorney handles legal matters pertaining to different states, that attorney must be licensed in each jurisdiction. This means that to avoid professional and criminal sanction, an attorney must seek admittance to multiple state bars—with all the attendant costs, administrative burdens, and delay such a process entails.

This results in attorneys who are discouraged from expanding services to clients. In limiting the availability of competent attorneys, these licensing regimes, in turn, drive up costs for legal services.

This proposed amendment to Rule 34(f) lessens burdens on attorneys who are already licensed in other jurisdictions to lawfully practice law in Arizona, while simultaneously recognizing the important role that the Court has in ensuring those who offer legal services to Arizonans are competent to do so.

at <https://www.abajournal.com/web/article/lawyers-should-be-able-to-practice-law-in-any-state-says-group-urging-aba-model-rule-change>.

B. General description of the proposed Amendment

There are currently three avenues for admission to the practice of law in Arizona: (1) through taking the Arizona Uniform Bar Exam; (2) admission by the transfer of the Uniform Bar Exam score from another jurisdiction; and (3) admission on motion. The proposed amendment does not affect options (1) or (2). Rather, it broadens the applicability of admission by motion.

Under the current Rules, to be eligible for admission on motion, an applicant must satisfy several requirements. First, the applicant must be authorized to practice law in a jurisdiction that also offers motion by admission for Arizona attorneys—in other words, there must be reciprocity between Arizona and the state where the applicant is already licensed. Second, an applicant must have engaged in the “active practice of law” for three out of the prior five years. Additionally, an applicant must have obtained a juris doctor degree, obtained a passing score on the Multistate Professional Responsibility Examination, be in good standing in all jurisdictions admitted, not currently subject to discipline in any jurisdiction, be of sound character and fitness, and complete a course on Arizona law. Anyone who failed the Arizona Uniform Bar Exam or passed the Uniform Bar Exam of another state, but whose scaled score would be insufficient in Arizona, will not be admitted on motion.

The proposed amendment makes four changes to Rule 34(f).

First, the proposed amendment removes any requirement of state-by-state reciprocity. The retaliatory barrier built into the present rule does not protect clients or consumers, but merely punishes attorneys for the decisions of *other* jurisdictions and reduces the availability of legal services in Arizona. Whatever value retaliatory trade barriers might have, this one does not prioritize the needs of ordinary Arizonans who would benefit from a greater availability of legal services from competent attorneys.

Second, while the proposed amendment requires that an attorney have an active license in another jurisdiction, it eliminates the requirement that the attorney has been engaged in the “active practice of law” for three of the past five years. Among other things, that requirement discourages new attorneys, part-time attorneys, and recent retirees from practicing law in Arizona. It also prevents attorneys who have entered and exited the workforce for familial and other reasons from seeking employment if they relocate to Arizona. Notably, no other path for admission in Arizona includes any similar time-based active practice requirement. If new attorneys with a passing UBE score are deemed competent to practice law, even though they have not practiced for three of the past five years, it is irrational to prevent other actively licensed attorneys—who may have been practicing for much longer—to practice in Arizona just because they may have entered or exited the workforce at various times in their careers.

Third, the proposed amendment allows for the admission of foreign-educated lawyers who are already licensed to practice law in the United States. Currently, under the Admission on Motion option, an applicant must “hold a juris doctor degree from a law school approved by the Council of the Section of Legal Education and Admission to the Bar of American Bar Association at the time of graduation.” This requirement is left substantially unchanged. The only addition is the appending of the following language to the end of the subsection “or a completed foreign legal education that has been deemed substantially equivalent to a juris doctor degree by the state or states from which the applicant has received authorization to engage in the practice of law.” This ensures that an attorney who was educated in a foreign country is permitted to apply for licensure so long as the education was sufficiently similar to that required at a law school approved by the Council of the Section of Legal Education and Admission to the Bar of American Bar Association.

Fourth, and finally now, this proposal tweaks how an applicant establishes that he or she possesses the character and fitness to practice law in Arizona. Under this proposal, an applicant’s successful completion of a character and fitness examination in the jurisdiction in which the applicant is currently licensed presumptively establishes that he or she possesses the character and fitness necessary to practice law in Arizona. However, under the proposed rule, the Court

still retains the ability to order further examination of the applicant's character and fitness if there is sufficient cause to believe that the approval by another state was deficient.

The remaining criteria in Rule 34(f) are left unchanged.

C. The general movement in favor of universal licensing

The proposed rule complements other policy reforms by the Arizona Legislature to expand occupational and professional licensing eligibility to those licensed outside of Arizona, and continues this Court's efforts to make multi-state and interstate practice easier for attorneys and their clients.

In 2019, Arizona was the first state in the country to enact universal licensure for the majority of occupations and professions in Arizona. A.R.S. § 32-4302. Under that law, licensing boards must recognize out-of-state occupational licenses for people who have been licensed in their professions for at least one year and are in good standing in all states where they are licensed, subject to certain other negligible conditions. The key aspect of this universal licensing law is that workers will not be required to duplicate training and other requirements that often needlessly delay or prevent them from getting to work. The policy eliminates costly, time-intensive, and often unnecessary barriers to work in over 65 occupations and professions, including in the medical field.

Universal licensing has been beneficial for Arizonan workers and consumers. Over 8,000 licenses have already been granted in Arizona since universal recognition went into effect, in professions ranging from medicine to engineering to cosmetology.⁴ Arizona’s landmark reform set the stage for a national movement, with 20 states following Arizona’s lead in enacting universal licensing, and several more now considering the same reform.⁵

The proposed rule change allows Arizona to again lead the nation in reforms that will cut costly, time-intensive, and often unnecessary barriers to work in one of the most critical professional fields.

The proposed rule change also builds on reforms this Court has made to allow for interstate and multi-state legal practices. In 2011, this Court was one of the first state high courts in the country to adopt the Uniform Bar Examination in full.⁶ Arizona is also part of the first group of states that will use the “NextGen”

⁴ *Arizona is Now the First State to Recognize Occupational Licenses from Other States*, In Defense of Liberty Blog, Goldwater Institute (Apr. 10, 2019) <https://www.goldwaterinstitute.org/arizona-is-now-the-first-state-to-recognize-occupational-licenses-from-other-states/>.

⁵ *New Goldwater Report: Universal Recognition Has Helped Arizonans Get to Work*, Goldwater Institute (Feb. 22, 2023), <https://www.goldwaterinstitute.org/new-goldwater-report-universal-recognition-has-helped-arizonans-get-to-work/>.

⁶ Administrative Order No. 2011-141, Arizona Supreme Court (Dec. 22, 2011), https://www.azbaradmissions.org/ex_feesdeadlines_aO2011-141.

bar examination that is currently being developed to test the universality of the U.S. legal system⁷

A 2020 study by the American Bar Association found that Arizona was one of three states with the lowest number of attorneys per capita, having 2.1 lawyers per 1,000 residents.⁸ The study further found that two-thirds of Arizona counties have fewer than one lawyer per 1,000 residents.⁹ This is a distressing statistic, as there is no reason to doubt that Arizonans need and would benefit from, a greater availability of competent legal services. A larger supply of such services will lower prices, bringing legal assistance within the reach of more Arizonans. And empowering more competent practitioners to enter the market will increase the quality of legal services as well, by increasing the number of qualified legal thinkers, encouraging them both to cooperate and to compete, and enabling the best legal talent in other states to come to Arizona, as well.

This Court appeared to recognize the need for additional legal services in the state by recently enacting two innovative reforms. First, the Court allowed non-

⁷ *Arizona Announces Plan to Adopt NextGen Bar Exam in July 2027*, Nat'l Conference of Bar Exam'rs (Dec. 5, 2023), <https://www.ncbex.org/news-resources/arizona-adopt-nextgen>.

⁸ Stephanie Francis Ward, *2020 State of the Profession Report Shows Dearth of Lawyers in Rural Areas, Attorney Debt Struggles*, ABA Journal (July 28, 2020), <https://www.abajournal.com/news/article/abas-profession-profile-shows-a-dearth-of-lawyers-in-rural-areas-and-attorney-debt-struggles>.

⁹ *Id.*

lawyers to have ownership in law firms.¹⁰ Second, it adopted a rule that allows paraprofessionals to provide limited legal advisory services to the people of Arizona.¹¹ Both of these reforms have increased the supply of legal services in the state and reduced costs and burdens on clients in need of legal help.¹² And they have done so without reducing the quality of legal services provided. Notably, the first 22 months that the non-lawyer Alternative Business Structure rule was in place saw *no* recorded complaints against ABS firms.¹³ Like these model reforms, the proposed rule expands legal services in a way that is fair to lawyers, and protective of clients and consumers.

II. Contents of the proposed amendment

The subsection to which amendments are proposed are set forth here in redline form.

¹⁰ Arizona Supreme Court, *News Release: Arizona Supreme Court Makes Generational Advance in Access to Justice* (Aug. 27, 2020), <https://www.azcourts.gov/Portals/201/Press%20Releases/2020Releases/082720RulesAgenda.pdf>.

¹¹ Ariz. Code of Judicial Admin., § 7-210, <https://www.azbar.org/media/eoob51ae/ao-legal-paraprofessionals-acja-7-210.pdf>.

¹² Shoshana Weissmann, et al., *The World Needs More Lawyers*, released by the Regulatory Transparency Project of the Federalist Society 7–9 (Sept. 28, 2023), <https://rtp.fedsoc.org/wp-content/uploads/The-World-Needs-More-Lawyers.pdf>.

¹³ *Id.* at 9.

(f) Admission on Motion.

1. An applicant who meets the requirements of (A) through (G) of this paragraph (f)(1) may, upon motion, be admitted to the practice of law in this jurisdiction.

The applicant shall:

A. ~~either (i) have been admitted to the practice of law in another jurisdiction by bar examination to practice law in another jurisdiction allowing for admission of Arizona lawyers on a basis equivalent to this rule, and primarily engaged in the active practice of law in one or more state(s) territories or the District of Columbia for three of the five years immediately preceding the date upon which the application was filed, or (ii) have been admitted by bar examination to practice law in another jurisdiction that does not allow for admission of Arizona lawyers on a basis equivalent to this rule and thereafter were admitted to and primarily engaged in the active practice of law in another jurisdiction allowing admission of Arizona lawyers on a basis equivalent to this rule for three of the five years immediately preceding the date upon which the application is filed;~~

B. hold 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 at the time of graduation or completed a foreign legal education that has been deemed substantially equivalent to a juris doctor

degree by the state or states from which the applicant has received authorization to engage in the practice of law;

C. submit evidence of a passing score on the Multistate Professional Responsibility Examination as it is established in this jurisdiction;

D. establish that the applicant is currently an active member in good standing or resigned in good standing in all jurisdictions where admitted, ~~although if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission;~~

E. establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any jurisdiction;

F. establish that the applicant possesses the character and fitness to practice law in this jurisdiction; and

G. submit evidence of successful completion of the course on Arizona law described in paragraph (j) of this rule.

2. The fact that an applicant is authorized to practice law in another United States jurisdiction, has not been disbarred or suspended from the practice of law in any jurisdiction, and demonstrates good standing in all jurisdictions admitted shall establish for purpose of (f)(1)(F) that the applicant possesses the character and fitness to practice law in this jurisdiction absent a specific good cause belief that the character and fitness examination undergone previously was deficient. 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. representation of one or more clients in the practice of law;~~

~~B. service as a lawyer with a local, state, or federal agency, including military service;~~

~~C. teaching law full time at a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association;~~

~~D. service as a judge in a federal, state, territorial, or local court of record;~~

~~E. service as a judicial law clerk;~~

~~F. service as corporate counsel; or~~

~~G. service as corporate counsel in Arizona while registered pursuant to~~

~~Rule 38(a). Active practice performed within Arizona pursuant to~~

~~Rule 38(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.~~

3. An applicant shall be considered to be an "active" member of the jurisdiction(s) in which they are authorized to practice law if ~~For purposes of this rule, the active practice of law shall not include work that, as undertaken, constituted the unauthorized practice of law in the jurisdiction in which it was performed or in the jurisdiction in which the clients receiving the unauthorized services were located. The "active practice of law" is further defined to require that at all times in the durational period the applicant has held a law license in "active" status.~~

4. An applicant shall not be eligible for admission on motion if within three years of filing the application the applicant has either 1) failed the Arizona uniform bar examination, or 2) passed the uniform bar examination in another jurisdiction but failed to achieve the Arizona scaled score.

5. The applicant shall pay the application fee as established by the Court. ~~The Court shall approve jurisdictions considered "reciprocal" to Arizona, and the Committee shall publish and make available a list of reciprocal jurisdictions.~~

III. Conclusion

Petitioners request that this Court adopt amendments to Rule 34(f) as proposed herein.

Respectfully submitted January 10, 2024 by:

/s/ Adam Shelton

Jonathan Riches (025712)

Timothy Sandefur (033670)

Adam Shelton (038252)

**Scharf-Norton Center for Constitutional
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APPENDIX A

Rule 34. Application for Admission

(a) Methods of Admission to the Practice of Law in Arizona. Persons desiring to be admitted to the practice of law in the State of Arizona may apply for admission by one of three methods: (1) admission by Arizona uniform bar examination, (2) admission on motion, or (3) admission by transfer of uniform bar examination score from another jurisdiction.

(b) Applicant Requirements and Qualifications.

1. No applicant will be recommended for admission to the practice of law in Arizona by the Committee on Character and Fitness unless the Committee is satisfied that:

A. the applicant is over the age of twenty-one years;

B. the applicant is of good moral character;

C. the applicant is mentally, emotionally and physically able to engage in the practice of law, and possesses the required knowledge of the law to do so;

D. the applicant is a graduate with a juris doctor from a law school

provisionally or fully approved by the American Bar Association at the time

of graduation or the applicant is a graduate with a juris doctor and has been

actively engaged in the authorized practice of law in one or more states,

territories, or the District of Columbia for at least three of the last five years

prior to filing an application for admission to practice in Arizona; and

E. if ever admitted to practice in any jurisdiction, foreign or domestic, the applicant is presently in good standing, or the applicant resigned in good standing or is capable of achieving good standing status in that jurisdiction; if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission.

F. the Arizona uniform bar examination applicant has successfully completed the course on Arizona law described in paragraph (j) of this rule.

2. An applicant may be allowed to sit for the Arizona uniform bar examination prior to the award of a juris doctor degree if the applicant:

A. is a currently enrolled student in good standing at a law school fully or provisionally approved by the American Bar Association;

B. is expected to graduate with a juris doctor degree within one hundred twenty (120) days of the first day of early exam administration;

C. has satisfied all requirements for graduation with a juris doctor except for not more than eight (8) semester hours or its equivalent in quarter hours at the time of early exam administration;

D. will not be enrolled in more than two (2) semester hours or its equivalent in quarter hours during the month of early bar examination testing and the immediately preceding month;

E. has been determined by their school to be academically prepared for early testing;

F. provides by the deadline to the Committee on Character and Fitness, on a form provided by the Committee, an affidavit attested to by the applicant and the law school that they meet the above criteria. The law school's decision whether to certify that the student meets the criteria is final and shall not be subject to review by the Committee or the Court.

No applicant shall be recommended to practice law until graduation or satisfaction of all requirements for graduation, and completion of all requirements for admission to the practice of law under these rules. If an applicant under this subsection has not graduated with a juris doctor within one hundred twenty (120) days of the first day of early exam administration, all parts of the Arizona uniform bar examination, including the score, are void and the applicant's examination scores shall not be disclosed for any purpose.

Scores may not be released until such time as satisfactory proof of award of juris doctor, as determined by the Court, is provided to the Committee. An early examination which is voided shall count as an examination attempt under Rule 35(c)(1).

At the completion of the juris doctor requirements and within sixty (60) days after graduation, the applicant must cause his or her law school, dean, or registrar to submit to the Committee on Character and Fitness proof of graduation, showing his or her juris doctor was conferred within one hundred twenty (120) days of the first day of early exam administration. Failure to complete the course of study within one hundred twenty (120) days of the examination and provide evidence of graduation within an additional sixty (60) days shall render the applicant's score void.

3. The Committee on Character and Fitness shall endeavor to complete its inquiries, some or all of which may be delegated to the National Conference of Bar Examiners, to be in position to recommend for or against a successful Arizona uniform bar examinee's admission to the practice of law no later than the time the results of the Arizona uniform bar examination are available for examination applicants. This time limitation is aspirational only, and may be extended for further inquiry and formulation of a recommendation when the circumstances of a case so require.

(c) **Application and Character Report Materials.** Any person desiring to be admitted to the practice of law in the State of Arizona must submit to the Committee on Character and Fitness an application in the form supplied by the Committee. The application for admission must be accompanied by required supporting documents and application fee.

1. The Arizona uniform bar examination applicant shall also complete and submit a character report accompanied by a character investigation fee as established by the Court. For an Arizona uniform bar examination applicants only, the character report and related fee may be submitted separately from the application for admission.

2. An applicant for admission on motion or admission by transfer of uniform bar examination score shall submit character investigation materials together with the application.

(d) **Documents Required in Support of Application.** The following must accompany every application:

1. subject to the exception made in paragraph (b)(1)(D) of this rule, the applicant's law school diploma, or other evidence satisfactory to the Committee on Character and Fitness showing 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 graduation;

2. if the applicant has been previously admitted to practice law in any jurisdiction, foreign or domestic, the certificate of the appropriate court agency(ies) or the mandatory bar association, whichever has custody of the roll of attorneys in such jurisdiction, indicating the date of admission and that the applicant is presently in good standing, or that the applicant resigned in good standing or is capable of achieving good standing status in that jurisdiction;
3. for applicants taking the Arizona uniform bar examination, an examination fee as established by the Court;
4. an application fee as established by the Court;
5. a full face photograph of the applicant's head, neck and shoulders, without a hat, and not larger than two and one-half (2.5) inches by two and one half (2.5) inches nor smaller than two (2) inches by two (2) inches taken within six months prior to filing with the Committee on Character and Fitness; and
6. a complete set of the applicant's fingerprints. The Committee on Character and Fitness is authorized to receive criminal history information regarding any applicant for admission from any law enforcement agency in conjunction with the admissions process.

(e) Arizona Uniform Bar Examination Application Filing Schedule; Fees.

1. On the basis of an application for admission by Arizona uniform bar examination properly and timely filed, with all required supporting documents

and fees, the applicant will be certified to sit for the Arizona uniform bar examination. An applicant may be certified to sit for the Arizona uniform bar examination before satisfying the requirement of paragraph (b)(1)(E) of this rule.

2. The application for admission and all of the documents required to be submitted by the Arizona uniform bar examination applicant must be timely submitted, with required fees, in accordance with the schedule and filing fees established by the Court. In the event an application, documents or fees are submitted after the initial filing deadline, late fees as established by the Court shall be assessed. No application, documents or fees will be accepted after the close of filing deadline, as established by the Court.

Any applicant failing to pass a written Arizona uniform bar examination who wishes to take the next subsequent examination must submit an application for examination, required supporting documentation, and application and examination fees as established by the Court, no later than twenty days after the date of the letter notifying the applicant of the applicant's failure to pass the written examination. If the application is submitted after twenty days, a late application fee shall be paid in accordance with the schedule and filing fees established by the Court. No application for subsequent Arizona uniform bar

examination will be accepted after the filing deadline as established by the Court.

3. When an application to take the Arizona uniform bar examination is properly filed with required supporting documents, after review, the applicant shall be promptly notified that the application is in order and that the applicant is certified to sit for the Arizona uniform bar examination, specifying the time and place of such examination.

(f) Admission on Motion.

1. An applicant who meets the requirements of (A) through (G) of this paragraph (f)(1) may, upon motion, be admitted to the practice of law in this jurisdiction.

The applicant shall:

~~A. either (i) have been admitted to the practice of law in another jurisdiction by bar examination to practice law in another jurisdiction allowing for admission of Arizona lawyers on a basis equivalent to this rule, and primarily engaged in the active practice of law in one or more state(s) territories or the District of Columbia for three of the five years immediately preceding the date upon which the application was filed, or (ii) have been admitted by bar examination to practice law in another jurisdiction that does~~

~~not allow for admission of Arizona lawyers on a basis equivalent to this rule and thereafter were admitted to and primarily engaged in the active practice of law in another jurisdiction allowing admission of Arizona lawyers on a basis equivalent to this rule for three of the five years immediately preceding the date upon which the application is filed;~~

B. hold 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 at the time of graduation or completed a foreign legal education that has been deemed substantially equivalent to a juris doctor degree by the state or states from which the applicant has received authorization to engage in the practice of law;

C. submit evidence of a passing score on the Multistate Professional Responsibility Examination as it is established in this jurisdiction;

D. establish that the applicant is currently an active member in good standing or resigned in good standing in all jurisdictions where admitted, ~~although if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the~~

~~circumstances and make a recommendation to the Supreme Court for admission or denial of admission;~~

E. establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any jurisdiction;

F. establish that the applicant possesses the character and fitness to practice law in this jurisdiction; and

G. submit evidence of successful completion of the course on Arizona law described in paragraph (j) of this rule.

2. The fact that an applicant is authorized to practice law in another United States jurisdiction, has not been disbarred or suspended from the practice of law in any jurisdiction, and demonstrates good standing in all jurisdictions admitted shall establish for purpose of (f)(1)(F) that the applicant possesses the character and fitness to practice law in this jurisdiction absent a specific good cause belief that the character and fitness examination undergone previously was deficient. 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. representation of one or more clients in the practice of law;~~
- ~~B. service as a lawyer with a local, state, or federal agency, including military service;~~
- ~~C. teaching law full-time at a law school approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association;~~
- ~~D. service as a judge in a federal, state, territorial, or local court of record;~~
- ~~E. service as a judicial law clerk;~~
- ~~F. service as corporate counsel; or~~
- ~~G. service as corporate counsel in Arizona while registered pursuant to Rule 38(a). Active practice performed within Arizona pursuant to Rule 38(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.~~

3. An applicant shall be considered to be an “active” member of the jurisdiction(s) in which they are authorized to practice law if ~~For purposes of this rule, the active practice of law shall not include work that, as undertaken, constituted the unauthorized practice of law in the jurisdiction in which it was performed or in the jurisdiction in which the clients receiving the unauthorized services were located. The "active practice of law" is further defined to require~~

~~that at all times in the durational period~~ the applicant has held a law license in "active" status.

4. An applicant shall not be eligible for admission on motion if within three years of filing the application the applicant has either 1) failed the Arizona uniform bar examination, or 2) passed the uniform bar examination in another jurisdiction but failed to achieve the Arizona scaled score.

5. The applicant shall pay the application fee as established by the Court~~The Court shall approve jurisdictions considered "reciprocal" to Arizona, and the Committee shall publish and make available a list of reciprocal jurisdictions.~~

(g) Admission on Motion Application Filing; Fees. Any applicant seeking admission on motion to the practice of law in Arizona must meet the requirements of paragraph (f) of this rule and:

1. shall file an application for admission on motion, including character investigation information, in a manner established by the Court, including all required supporting documents;
2. shall pay the application fee as established by the Court; and
3. may request that the Committee perform an initial review of the applicant's application to determine whether the applicant meets the active practice requirement. The request must be received prior to the Committee commencing its investigation. Upon applicant's written request, the Committee shall

determine whether applicant meets the active practice requirement and provide the applicant with a written determination. If applicant fails to meet the active practice requirement, the Committee shall refund that portion of the application fee as determined by the Court.

(h) Admission by Transfer of Uniform Bar Examination Score.

1. An applicant who has taken the uniform bar examination in another jurisdiction and who meets the requirements of (A) through (G) of this paragraph (h)(1) may be admitted to the practice of law in this jurisdiction.

The applicant shall:

- A. have achieved a scaled score on the uniform bar examination that is equal to or greater than the minimum acceptable score established by the Court and that was earned within five years prior to the applicant's taking the oath of admission and being admitted to the practice of law in Arizona;
- B. hold 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 at the time of graduation;
- C. submit evidence of a passing score on the Multistate Professional Responsibility Examination as it is established in this jurisdiction, earned within eight years of the date of application or within the time frame for

taking the oath of admission after the successful bar examination in order to have the applicant's score accepted by the Committee on Examinations;

D. establish that the applicant is currently a member in good standing in every jurisdiction, foreign or domestic, wherever admitted to practice law; if the applicant is not presently in good standing, establish that the applicant resigned in good standing, although if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission;

E. establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any jurisdiction;

F. establish that the applicant possesses the character and fitness to practice law in this jurisdiction; and

G. submit evidence of successful completion of the course on Arizona law described in paragraph (j) of this rule.

2. For the purpose of paragraph (h)(1)(a) of this rule, a score is considered to have been earned on the date of administration of the uniform bar examination that resulted in the score.

3. An applicant who failed to earn the minimum acceptable score established by the Court within six attempts, regardless of where the uniform bar examination was taken, shall not be eligible for admission by transfer of uniform bar examination score under this paragraph.

4. Before being admitted by transfer of uniform bar examination score, the applicant must complete a course on Arizona law, the content and method of delivery of which shall be approved by the Supreme Court.

(i) Admission by Transfer of Uniform Bar Examination Score Application

Filing; Fees. Any applicant seeking admission to the practice of law based on transfer of uniform bar examination score must meet the requirements of paragraph (h) and shall:

1. file an application for admission by transfer of uniform bar examination score, including character investigation information, in a manner established by the Court, including all required supporting documents, and
2. pay the application fee as established by the Court.

(j) Completion of Course on Arizona Law. Before being admitted to the practice of law in Arizona, Arizona uniform bar examination applicants, applicants for

admission by transfer of uniform bar examination score, and applicants for admission upon motion must complete a course on Arizona law, the content and delivery of which shall be approved by the Supreme Court.

(k) Deficiency in Examination Application and Supporting Documents. If the Committee on Examinations finds that an application is deficient, or the required supporting documents are deficient, or both, the Committee shall advise the applicant in writing of the deficiency, and the assessment of applicable late fees as established by the Court. The Committee shall allow the applicant either to supply additional information or to correct, explain in writing, or otherwise remedy the defects in the applicant's application, supporting documents, or fees up until the filing deadline. If such deficiencies in an examination application are not cured by the examination deadlines established by the Court, and if the Committee's reasons for refusing to grant permission for the applicant to take an examination are of record as a part of the applicant's file, the Committee shall withdraw the application and advise the applicant of such withdrawal and the reasons therefor.

(l) Deficiency in Character Report Materials. If the Committee on Character and Fitness finds that the character report materials are deficient, the Committee shall advise the applicant in writing of the deficiency and shall allow a reasonable time for the applicant either to submit additional written information or relevant documentation, or to correct or otherwise remedy the defects in the applicant's

supporting documents. Thereafter, if such deficiencies have not been cured within the designated time period, the application shall be considered abandoned by the applicant and the Committee's review of the investigation into the applicant's character shall cease, and the Committee shall advise applicant of such abandonment and the reasons therefore. If the application has been abandoned for more than one year and the applicant later seeks to continue the admission process, applicant must submit a new application and associated fees.

(m) Failure to Meet Standards; Effect on Time for Reapplication. If the Committee or the Court has denied an applicant admission to the practice of law by reason of the failure to meet the standards required by paragraph (b) of this rule, such applicant may not reapply for a period of five years from the date of denial of admission, unless the Committee or the Court orders otherwise.

(n) Completion of Professionalism Course.

1. *New Admittee Professionalism Course.* Except as otherwise provided in this rule, within one year after being admitted to the practice of law, the applicant 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.

A. A new admittee taking inactive status immediately upon admission is exempt from completing such a course but shall complete one within 12 months of becoming an active member of the state bar.

B. A new admittee who is an active member but neither resides nor practices law in Arizona is exempt from completing such a course but shall complete one within 12 months of becoming a resident of or commencing the practice of law in Arizona.

2. *Summary Suspension.* A new admittee who fails to comply with the requirements of paragraph (j)(1) of this rule shall be summarily suspended from the practice of law in Arizona, upon motion of the state bar pursuant to Rule 62, 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, but may be reinstated in accordance with these rules.

APPENDIX B

Rule 34. Application for Admission

(a) Methods of Admission to the Practice of Law in Arizona. Persons desiring to be admitted to the practice of law in the State of Arizona may apply for admission by one of three methods: (1) admission by Arizona uniform bar examination, (2) admission on motion, or (3) admission by transfer of uniform bar examination score from another jurisdiction.

(b) Applicant Requirements and Qualifications.

1. No applicant will be recommended for admission to the practice of law in Arizona by the Committee on Character and Fitness unless the Committee is satisfied that:

- A. the applicant is over the age of twenty-one years;
- B. the applicant is of good moral character;
- C. the applicant is mentally, emotionally and physically able to engage in the practice of law, and possesses the required knowledge of the law to do so;
- D. the applicant is a graduate with a juris doctor from a law school provisionally or fully approved by the American Bar Association at the time of graduation or the applicant is a graduate with a juris doctor and has been actively engaged in the authorized practice of law in one or more states, territories, or the District of Columbia for at least three of the last five years prior to filing an application for admission to practice in Arizona; and

E. if ever admitted to practice in any jurisdiction, foreign or domestic, the applicant is presently in good standing, or the applicant resigned in good standing or is capable of achieving good standing status in that jurisdiction; if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission.

F. the Arizona uniform bar examination applicant has successfully completed the course on Arizona law described in paragraph (j) of this rule.

2. An applicant may be allowed to sit for the Arizona uniform bar examination prior to the award of a juris doctor degree if the applicant:

A. is a currently enrolled student in good standing at a law school fully or provisionally approved by the American Bar Association;

B. is expected to graduate with a juris doctor degree within one hundred twenty (120) days of the first day of early exam administration;

C. has satisfied all requirements for graduation with a juris doctor except for not more than eight (8) semester hours or its equivalent in quarter hours at the time of early exam administration;

D. will not be enrolled in more than two (2) semester hours or its equivalent in quarter hours during the month of early bar examination testing and the immediately preceding month;

E. has been determined by their school to be academically prepared for early testing;

F. provides by the deadline to the Committee on Character and Fitness, on a form provided by the Committee, an affidavit attested to by the applicant and the law school that they meet the above criteria. The law school's decision whether to certify that the student meets the criteria is final and shall not be subject to review by the Committee or the Court.

No applicant shall be recommended to practice law until graduation or satisfaction of all requirements for graduation, and completion of all requirements for admission to the practice of law under these rules. If an applicant under this subsection has not graduated with a juris doctor within one hundred twenty (120) days of the first day of early exam administration, all parts of the Arizona uniform bar examination, including the score, are void and the applicant's examination scores shall not be disclosed for any purpose.

Scores may not be released until such time as satisfactory proof of award of juris doctor, as determined by the Court, is provided to the Committee. An early examination which is voided shall count as an examination attempt under Rule 35(c)(1).

At the completion of the juris doctor requirements and within sixty (60) days after graduation, the applicant must cause his or her law school, dean, or registrar to submit to the Committee on Character and Fitness proof of graduation, showing his or her juris doctor was conferred within one hundred twenty (120) days of the first day of early exam administration. Failure to complete the course of study within one hundred twenty (120) days of the examination and provide evidence of graduation within an additional sixty (60) days shall render the applicant's score void.

3. The Committee on Character and Fitness shall endeavor to complete its inquiries, some or all of which may be delegated to the National Conference of Bar Examiners, to be in position to recommend for or against a successful Arizona uniform bar examinee's admission to the practice of law no later than the time the results of the Arizona uniform bar examination are available for examination applicants. This time limitation is aspirational only, and may be extended for further inquiry and formulation of a recommendation when the circumstances of a case so require.

(c) **Application and Character Report Materials.** Any person desiring to be admitted to the practice of law in the State of Arizona must submit to the Committee on Character and Fitness an application in the form supplied by the Committee. The application for admission must be accompanied by required supporting documents and application fee.

1. The Arizona uniform bar examination applicant shall also complete and submit a character report accompanied by a character investigation fee as established by the Court. For an Arizona uniform bar examination applicants only, the character report and related fee may be submitted separately from the application for admission.

2. An applicant for admission on motion or admission by transfer of uniform bar examination score shall submit character investigation materials together with the application.

(d) **Documents Required in Support of Application.** The following must accompany every application:

1. subject to the exception made in paragraph (b)(1)(D) of this rule, the applicant's law school diploma, or other evidence satisfactory to the Committee on Character and Fitness showing 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 graduation;

2. if the applicant has been previously admitted to practice law in any jurisdiction, foreign or domestic, the certificate of the appropriate court agency(ies) or the mandatory bar association, whichever has custody of the roll of attorneys in such jurisdiction, indicating the date of admission and that the applicant is presently in good standing, or that the applicant resigned in good standing or is capable of achieving good standing status in that jurisdiction;
3. for applicants taking the Arizona uniform bar examination, an examination fee as established by the Court;
4. an application fee as established by the Court;
5. a full face photograph of the applicant's head, neck and shoulders, without a hat, and not larger than two and one-half (2.5) inches by two and one half (2.5) inches nor smaller than two (2) inches by two (2) inches taken within six months prior to filing with the Committee on Character and Fitness; and
6. a complete set of the applicant's fingerprints. The Committee on Character and Fitness is authorized to receive criminal history information regarding any applicant for admission from any law enforcement agency in conjunction with the admissions process.

(e) Arizona Uniform Bar Examination Application Filing Schedule; Fees.

1. On the basis of an application for admission by Arizona uniform bar examination properly and timely filed, with all required supporting documents

and fees, the applicant will be certified to sit for the Arizona uniform bar examination. An applicant may be certified to sit for the Arizona uniform bar examination before satisfying the requirement of paragraph (b)(1)(E) of this rule.

2. The application for admission and all of the documents required to be submitted by the Arizona uniform bar examination applicant must be timely submitted, with required fees, in accordance with the schedule and filing fees established by the Court. In the event an application, documents or fees are submitted after the initial filing deadline, late fees as established by the Court shall be assessed. No application, documents or fees will be accepted after the close of filing deadline, as established by the Court.

Any applicant failing to pass a written Arizona uniform bar examination who wishes to take the next subsequent examination must submit an application for examination, required supporting documentation, and application and examination fees as established by the Court, no later than twenty days after the date of the letter notifying the applicant of the applicant's failure to pass the written examination. If the application is submitted after twenty days, a late application fee shall be paid in accordance with the schedule and filing fees established by the Court. No application for subsequent Arizona uniform bar

examination will be accepted after the filing deadline as established by the Court.

3. When an application to take the Arizona uniform bar examination is properly filed with required supporting documents, after review, the applicant shall be promptly notified that the application is in order and that the applicant is certified to sit for the Arizona uniform bar examination, specifying the time and place of such examination.

(f) Admission on Motion.

1. An applicant who meets the requirements of (A) through (G) of this paragraph (f)(1) may, upon motion, be admitted to the practice of law in this jurisdiction.

The applicant shall:

- A. have been admitted to the practice of law in another jurisdiction in one or more state(s) territories or the District of Columbia;
- B. hold 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 at the time of graduation or a completed a foreign legal education that has been deemed substantially equivalent to a

juris doctor degree by the state or states from which the applicant has received authorization to engage in the practice of law;

C. submit evidence of a passing score on the Multistate Professional Responsibility Examination as it is established in this jurisdiction;

D. establish that the applicant is currently an active member in good standing or resigned in good standing in all jurisdictions where admitted;

E. establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any jurisdiction;

F. establish that the applicant possesses the character and fitness to practice law in this jurisdiction; and

G. submit evidence of successful completion of the course on Arizona law described in paragraph (j) of this rule.

2. The fact that an applicant is authorized to practice law in another United States jurisdiction, has not been disbarred or suspended from the practice of law in any jurisdiction, and demonstrates good standing in all jurisdictions admitted shall establish for purpose of (f)(1)(F) that the applicant possesses the character and fitness to practice law in this jurisdiction absent a specific good cause belief that the character and fitness examination undergone previously was deficient. :

3. An applicant shall be considered to be an “active” member of the jurisdiction(s) in which they are authorized to practice law if the applicant has held a law license in "active" status.

4. An applicant shall not be eligible for admission on motion if within three years of filing the application the applicant has either 1) failed the Arizona uniform bar examination, or 2) passed the uniform bar examination in another jurisdiction but failed to achieve the Arizona scaled score.

5. The applicant shall pay the application fee as established by the Court.

(g) Admission on Motion Application Filing; Fees. Any applicant seeking admission on motion to the practice of law in Arizona must meet the requirements of paragraph (f) of this rule and:

1. shall file an application for admission on motion, including character investigation information, in a manner established by the Court, including all required supporting documents;
2. shall pay the application fee as established by the Court; and
3. may request that the Committee perform an initial review of the applicant's application to determine whether the applicant meets the active practice requirement. The request must be received prior to the Committee commencing its investigation. Upon applicant's written request, the Committee shall determine whether applicant meets the active practice requirement and provide

the applicant with a written determination. If applicant fails to meet the active practice requirement, the Committee shall refund that portion of the application fee as determined by the Court.

(h) Admission by Transfer of Uniform Bar Examination Score.

1. An applicant who has taken the uniform bar examination in another jurisdiction and who meets the requirements of (A) through (G) of this paragraph (h)(1) may be admitted to the practice of law in this jurisdiction.

The applicant shall:

A. have achieved a scaled score on the uniform bar examination that is equal to or greater than the minimum acceptable score established by the Court and that was earned within five years prior to the applicant's taking the oath of admission and being admitted to the practice of law in Arizona;

B. hold 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 at the time of graduation;

C. submit evidence of a passing score on the Multistate Professional Responsibility Examination as it is established in this jurisdiction, earned within eight years of the date of application or within the time frame for taking the oath of admission after the successful bar examination in order to have the applicant's score accepted by the Committee on Examinations;

D. establish that the applicant is currently a member in good standing in every jurisdiction, foreign or domestic, wherever admitted to practice law; if the applicant is not presently in good standing, establish that the applicant resigned in good standing, although if the applicant is not in good standing or did not resign in good standing in all jurisdictions solely because of unpaid mandatory fees or incomplete mandatory continuing legal education requirements, and the applicant has attempted to but cannot cure such deficiencies in the other jurisdiction(s), the Committee on Character and Fitness may evaluate the circumstances and make a recommendation to the Supreme Court for admission or denial of admission;

E. establish that the applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any jurisdiction;

F. establish that the applicant possesses the character and fitness to practice law in this jurisdiction; and

G. submit evidence of successful completion of the course on Arizona law described in paragraph (j) of this rule.

2. For the purpose of paragraph (h)(1)(a) of this rule, a score is considered to have been earned on the date of administration of the uniform bar examination that resulted in the score.

3. An applicant who failed to earn the minimum acceptable score established by the Court within six attempts, regardless of where the uniform bar examination was taken, shall not be eligible for admission by transfer of uniform bar examination score under this paragraph.

4. Before being admitted by transfer of uniform bar examination score, the applicant must complete a course on Arizona law, the content and method of delivery of which shall be approved by the Supreme Court.

(i) Admission by Transfer of Uniform Bar Examination Score Application

Filing; Fees. Any applicant seeking admission to the practice of law based on transfer of uniform bar examination score must meet the requirements of paragraph (h) and shall:

1. file an application for admission by transfer of uniform bar examination score, including character investigation information, in a manner established by the Court, including all required supporting documents, and
2. pay the application fee as established by the Court.

(j) Completion of Course on Arizona Law. Before being admitted to the practice of law in Arizona, Arizona uniform bar examination applicants, applicants for admission by transfer of uniform bar examination score, and applicants for admission upon motion must complete a course on Arizona law, the content and delivery of which shall be approved by the Supreme Court.

(k) Deficiency in Examination Application and Supporting Documents. If the Committee on Examinations finds that an application is deficient, or the required supporting documents are deficient, or both, the Committee shall advise the applicant in writing of the deficiency, and the assessment of applicable late fees as established by the Court. The Committee shall allow the applicant either to supply additional information or to correct, explain in writing, or otherwise remedy the defects in the applicant's application, supporting documents, or fees up until the filing deadline. If such deficiencies in an examination application are not cured by the examination deadlines established by the Court, and if the Committee's reasons for refusing to grant permission for the applicant to take an examination are of record as a part of the applicant's file, the Committee shall withdraw the application and advise the applicant of such withdrawal and the reasons therefor.

(l) Deficiency in Character Report Materials. If the Committee on Character and Fitness finds that the character report materials are deficient, the Committee shall advise the applicant in writing of the deficiency and shall allow a reasonable time for the applicant either to submit additional written information or relevant documentation, or to correct or otherwise remedy the defects in the applicant's supporting documents. Thereafter, if such deficiencies have not been cured within the designated time period, the application shall be considered abandoned by the applicant and the Committee's review of the investigation into the applicant's

character shall cease, and the Committee shall advise applicant of such abandonment and the reasons therefore. If the application has been abandoned for more than one year and the applicant later seeks to continue the admission process, applicant must submit a new application and associated fees.

(m) Failure to Meet Standards; Effect on Time for Reapplication. If the Committee or the Court has denied an applicant admission to the practice of law by reason of the failure to meet the standards required by paragraph (b) of this rule, such applicant may not reapply for a period of five years from the date of denial of admission, unless the Committee or the Court orders otherwise.

(n) Completion of Professionalism Course.

1. *New Admittee Professionalism Course.* Except as otherwise provided in this rule, within one year after being admitted to the practice of law, the applicant 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.

A. A new admittee taking inactive status immediately upon admission is exempt from completing such a course but shall complete one within 12 months of becoming an active member of the state bar.

B. A new admittee who is an active member but neither resides nor practices law in Arizona is exempt from completing such a course but shall complete

one within 12 months of becoming a resident of or commencing the practice of law in Arizona.

2. *Summary Suspension.* A new admittee who fails to comply with the requirements of paragraph (j)(1) of this rule shall be summarily suspended from the practice of law in Arizona, upon motion of the state bar pursuant to Rule 62, 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, but may be reinstated in accordance with these rules.