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IN THE SUPREME COURT

STATE OF ARIZONA

In the matter of:

**PETITION TO AMEND SUPREME  
COURT RULES 32(b) and (c)**

Supreme Court No. R-24-0030

**COMMENT ON THE PETITION  
TO AMEND RULES 32(b) AND (c),  
RULES OF THE SUPREME  
COURT**

1 Pursuant to Rule 28 of the Rules of the Supreme Court, Community Legal  
2 Services (“CLS”), DNA People’s Legal Services (“DNA”), Southern Arizona  
3 Legal Aid (“SALA”), and the William E. Morris Institute for Justice (“MIJ”)  
4 submit these comments in opposition to The Goldwater Institute’s Petition to  
5 Amend Arizona Supreme Court Rule 32(b) and (c) (hereinafter “Rule 32”). In the  
6 Petition, the Goldwater Institute proposes to “eliminate membership dues for non-  
7 regulatory functions” of the State Bar of Arizona. While the Goldwater Institute’s  
8 justification for such a change is based on First Amendment arguments and  
9 limiting political speech, our opposition to the Petition is based on its effects on  
10 State Bar functions related to advancing the legal profession through actions to  
11 improve access to justice. The State Bar’s functions should include promoting  
12 access to justice and ensuring that lawyers are available to represent low-income  
13 Arizonans. Such functions directly benefit lawyers by engendering trust in a legal  
14 system that often is unavailable to low-income Arizonans.

15 In support of this comment, CLS, DNA, SALA, and MIJ state the following:

16  
17 **I. Statement of Interest**

18 CLS, DNA, and SALA (collectively “legal services”) are federally funded  
19 civil legal services law firms that represent low-income Arizonans. Together,  
20 CLS, DNA, and SALA deliver free, direct legal services statewide to low-income  
21 Arizonans in a variety of priority civil practice areas affecting life’s most basic  
22 needs and legal rights.

1 MIJ is a non-profit organization established to advocate and litigate on  
2 behalf of the interests of low-income and other vulnerable Arizonans statewide.  
3  
4 MIJ works closely with the three federally funded legal services law firms, other  
5 legal advocacy organizations, and community groups on a variety of systemic  
6 poverty law and public interest issues, including ensuring that all Arizonans have  
7  
8 access to legal representation in civil legal matters and a chance at justice by  
9 having equal access to the legal system.

10 **II. The Petition Will Prevent Essential Funding for Legal Services in**  
11 **Arizona.**

12 The State Bar’s mission is more than Arizona lawyer regulation—it is to  
13  
14 *“serve and protect the public with respect to the provision of legal services and*  
15 *access to justice.”* In furtherance of that longstanding principle, the State Bar has  
16  
17 been a strong supporter of pro bono services and civil legal aid services in Arizona.  
18 CLS, DNA, SALA, and MIJ represent low-income Arizonans, which includes  
19 Arizonans in historically marginalized communities. Like the State Bar, Arizona’s  
20 legal services network helps deliver pro bono legal services and is one of the  
21 limited conduits for low-income Arizonans to have representation in the civil legal  
22 system, a system full of rules that can be challenging, intimidating, and confusing  
23 for lay persons.  
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26 The Petition includes reference to art competitions, various types of  
27 publications, health and wellness benefits, awards, and social gatherings hosted by  
28

1 the State Bar. However, the Petition only briefly mentions State Bar functions that  
2 enhance the legal profession through activities to promote access to justice before  
3 dismissing the justifications for such functions—without analysis—as merely  
4 indirectly beneficial to lawyers.<sup>1</sup> Ensuring that Arizonans have access to  
5 representation—and, thus, meaningful access to the legal system—is in furtherance  
6 of the State Bar’s foundational purpose and, frankly, is critical to ensuring that  
7 Arizona’s legal profession is helping to deliver on the foundational promise of  
8 equal justice for all.

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12 The *Keller* case, cited by Petitioners, states: “The challenged expenditures  
13 must be ‘necessarily or reasonably incurred for the purpose of regulating the legal  
14 profession or ‘improving the quality of legal service[s].’” *Keller v. State Bar of*  
15 *California*, 496 U.S. 1, 14 (1990).<sup>2</sup> State Bar functions intended to increase access  
16 to justice and to ensure that economically vulnerable Arizonans have legal counsel  
17 in civil matters serve the goal of improving the quality of legal services in Arizona.

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20 Enacting a rule change that impairs the State Bar’s ability to advance the  
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22 <sup>1</sup> Petition, at Page 6.

23 <sup>2</sup> Petitioners were counsel for the plaintiff in a similar action in Oklahoma,  
24 *Schell v. Chief Just. & Justs. of Okla. Sup. Ct.*, 11 F.4th 1178, 1193–95 (10th Cir.  
25 2021). Though Petitioners cite to *Schell* as a favorable case, it was remanded to  
26 the trial court on the freedom of association claim against bar that spent dues on  
27 non-germane activities *only*. The Court otherwise rejected the arguments  
28 presented by plaintiff and specifically discussed *Keller*, reaffirming that  
“mandatory dues could be used for activities central to goals and purposes germane  
to a bar association's legitimate functions but not for ideological purposes  
extraneous to the recognized goals and purposes of a bar.” *Schell* at 1189.

1 legal profession through access to justice functions would cause harm to the  
2 profession and, as critically, low-income Arizonans and other Arizonans in  
3 historically marginalized communities. Arizona deserves a State Bar focused on  
4 regulating the profession *and* improving legal services through functions that  
5 increase meaningful access to Arizona courts and pathways to legal help for  
6 Arizonans to vindicate their most basic legal rights.  
7

9 **III. Conclusion**

10 Commenters request that the Court reject the Goldwater Institute’s Petition  
11 to limit the use of State Bar dues. However, even if the Court accepts Petitioner’s  
12 argument, Commenters submit that access to justice functions, and functions to  
13 support civil legal aid are necessarily and reasonably incurred for the purpose of  
14 improving the quality of legal services in Arizona. Access to justice for all  
15 Arizonans is a fundamental tenet of the legal profession and our constitutional  
16 democracy, and the State Bar has a legitimate interest in advancing the legal  
17 profession through functions improving access to justice.  
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22 Respectfully submitted this 30<sup>th</sup> day of April 2024.

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24 COMMUNITY LEGAL SERVICES  
25 DNA PEOPLE’S LEGAL SERVICES  
26 SOUTHERN ARIZONA LEGAL AID  
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Clerk of the Supreme Court of Arizona  
this 30<sup>th</sup> day of April 2024.

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