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

12 PETITION TO AMEND SUPREME ) Supreme Court No. R-10-0023  
13 COURT RULE 42 )  
14 ) Comment of the Maricopa County Bar  
15 ) Association  
16 )  
17 )

18 The State Bar of Arizona submitted a comment expressing concern regarding the  
19 potential for unscrupulous lawyer referral services to take advantage of percentage fees  
20 permitted by amendments to current ethical rules proposed by the Maricopa County Bar  
21 Association (“MCBA”). The State Bar's concerns are unfounded because the proposed  
22 amendments would permit only legitimate lawyer referral services to receive percentage  
23 fees. Specifically, the amendments proposed to ER 7.2 specifically state that such fees  
24 may be used only “to help defray the reasonable operating expenses of the service or  
25 organization and to fund public service activities, including the delivery of pro bono  
26 legal services.” The proposed comment to ER 7.2 defines public service activities as  
“(a) furnishing or providing funding for legal services to persons and entities financially  
unable to pay for all or part of such services; (b) developing and implementing  
programs to educate members of the public with respect to the law, the judicial system,  
the legal profession, or the need, manner of obtaining, and availability of legal services;  
and (c) creating and administering programs to improve the administration of justice or

1 aid in relations between the Bar and the public.” The Supreme Court's authority over  
2 any of the lawyers who participate in lawyer referral services, whether as a lawyer  
3 receiving referrals from the service or as a lawyer working for the service is more than  
4 adequate to ensure that such referral services do not misuse any fees derived from the  
5 service. Additionally, state and federal law which regulate non-profit organizations  
6 would also prevent any abuse by organizations which falsely purport to be not-for-  
7 profit.

8         The State Bar also expresses concern that the sharing of fees is not limited to  
9 particular kinds of cases. The MCBA's research into the practices of other states which  
10 allow percentage fee sharing has shown that the typical practice is to share fees in all  
11 types of cases. Because such sharing will help ensure that clients receive a competent  
12 lawyer, provide lawyers with more potential clients, and help provide funds to allow for  
13 legal representation of underserved segments of Arizona, the MCBA believes that the  
14 benefits to the proposed rule change outweigh any speculative, negative consequences.

15                 **RESPECTFULLY SUBMITTED** this 1<sup>st</sup> day of June, 2010.

16   **OSBORN MALEDON, PA**

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18   /s/ Mark I. Harrison  
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24 **ORIGINAL** of the foregoing plus 6 copies  
25 (as well as a CD with the foregoing Comment  
26 in Word and PDF formats) filed this 1<sup>st</sup> day  
of June, 2010, with:

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1 Clerk of the Court  
2 Supreme Court of Arizona  
3 1501 West Washington  
4 Phoenix, AZ 85007-3329

4 **COPY** of the foregoing sent via e-mail  
5 & First-Class mail this 1<sup>st</sup> day of June, 2010, to:

6 John Furlong, General Counsel  
7 State Bar of Arizona  
8 4201 N. 24<sup>th</sup> Street, Suite 200  
9 Phoenix, AZ 85016-6288

9 by: /s/ Joni J. Jarrett-Mason

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