

1 ANDREW P. SCHAFFER, AZ Bar. No. 037352
2 BRENDA MUÑOZ FURNISH, AZ Bar. No. 027280
3 MICHELLE J. SIMPSON, AZ Bar. No. 020199
4 WILLIAM E. MORRIS INSTITUTE FOR JUSTICE
5 3707 North Seventh Street, Suite 101
6 Phoenix, Arizona 85014-5095
7 (602) 252-3432
8 dpschaffer@mijaz.org
9 bmfurnish@mijaz.org
10 mjsimpson@mijaz.org

11 PAMELA BRIDGE, AZ Bar No. 018252
12 COMMUNITY LEGAL SERVICES
13 305 S. 2nd Avenue
14 Phoenix, Arizona 85003
15 (602) 253-1536
16 pbridge@clsaz.org

17 CHARLES W. DOUGHTY, AZ Bar No. 027403
18 DNA PEOPLE'S LEGAL SERVICES
19 2323 E. Greenlaw Ln., Ste. 1
20 Flagstaff, AZ 86004
21 (928) 774-0653
22 cwdoughty@dnalegalservices.org

23 ALAN R. SOLOT, AZ Bar No. 006587
24 SOUTHERN ARIZONA LEGAL AID
25 2343 E. Broadway Road, #200
26 Tucson, Arizona
27 (520) 623-9461
28 asolot@sazlegalaid.org

IN THE SUPREME COURT
STATE OF ARIZONA

In the matter of:

**PETITION TO AMEND SUPREME
COURT RULES 32(a)-(m)**

Supreme Court No. R-25-0001

**COMMENT ON THE PETITION
TO AMEND RULES 32(a)-(m),
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 Arizona Senate President Warren Petersen
5 and former Speaker Ben Toma’s (“Petitioners”) Petition to Amend Arizona
6 Supreme Court Rule 32(a) - (m)(hereinafter “Rule 32”) to eliminate the
7 requirement that attorneys join and pay dues to the State Bar of Arizona.¹
8 Petitioners state that “[t]he Arizona Bar does not comply with the Supreme Court’s
9 mandate that it obtain attorneys’ consent before spending mandatory bar dues on
10 activities not ‘germane’ to the regulation of attorneys” as required by *Keller v.*
11 *State Bar of California*, 496 U.S. 1, 14 (1990). Petition, pages 1-2.

12 We submit this comment in opposition to the Petition. The State Bar of
13 Arizona presently prioritizes serving the public and enhancing the legal profession
14 through a variety of activities germane to the regulation of attorneys. For example,
15 the State Bar promotes access to justice and expanding the availability of legal
16 services to low-income Arizonans, which is “germane” to improving the overall
17 quality of legal services, as required by *Keller v. State Bar of California*.² The
18 State Bar’s mission includes access to justice, which directly benefits attorneys by
19 engendering trust in both [1] the legal profession and [2] a legal system that often

20 ¹ Ben Toma is no longer the Speaker of the Arizona House of Representatives,
21 nor a member of the legislature, nor a member of the State Bar of Arizona.

22 ² *Keller*, 496 U.S. at 13-14.

1 is unavailable to low-income Arizonans. Granting the Petition risks the removal of
2 access to justice as a necessary cornerstone of the regulation of attorneys, even as
3 the Arizona Supreme Court is prioritizing access to justice in its *Strategic Agenda*.³
4

5 In support of this Comment, CLS, DNA, SALA, and MIJ state the
6 following:
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8 **I. Statement of Interest**

9 CLS, DNA, and SALA (collectively “civil legal aid”) are federally funded
10 civil legal aid law firms that represent low-income Arizonans. Together, CLS,
11 DNA, and SALA deliver free, direct legal services statewide to low-income
12 Arizonans in a variety of priority civil practice areas affecting life’s most basic
13 needs and legal rights.
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16 MIJ is a non-profit organization established to advocate and litigate on
17 behalf of the interests of low-income and other vulnerable Arizonans statewide.
18 MIJ works closely with the three federally funded civil legal aid law firms, other
19 legal advocacy organizations, and community groups on a variety of systemic
20 poverty law and public interest issues, including ensuring that all Arizonans have
21 access to legal representation in civil legal matters and a chance at justice by
22 having equal access to the legal system.
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28 ³ Arizona Judicial Branch Strategic Agenda 2024-2029, ... *And Justice for All*
(Oct. 2024) <https://www.azcourts.gov/AZ-Courts/Strategic-Agenda>

1 **II. The Petition Attempts to Misdirect the Court to An Erroneous**
2 **Legal Standard**

3 The Petition’s justification for the proposed change to Rule 32(a)-(m) is
4 based on a First Amendment argument, claiming that the State Bar limits the
5 speech of its members by hosting events that are not “germane” to “regulating the
6 legal profession and improving the quality of legal services.” Petition, page 4,
7 quoting *Keller*.⁴ The Petition states that the Bar is not complying with *Keller*,⁵ and
8 even if it were, this Court should not follow *Keller* as it was essentially overruled
9 by the decision *Janus v. American FSCME*.⁶

10 The holding in *Janus* is heavily based on the fact that the organization in
11 question was a public-sector union, and the issues in the case involved collective
12 bargaining agreements for employees, and other employee-centered matters
13 handled by the union.⁷ The State Bar is not a public-sector union, and its members
14 are not employees in all instances.

15 Moreover, *Keller* is still good law. The *Janus* decision only explicitly
16 overruled *Abood v. Detroit Bd. of Ed.*⁸ The “germaneness” test set forth in in
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19 ⁴ 496 U.S. at 13-14.

20 ⁵ 496 U.S. 1, 14.

21 ⁶ 585 U.S. 878 (2018).

22 ⁷ *Id.*

23 ⁸ 431 U.S. 209 (1977).

1 *Keller* remains. And, the Petition does not support a claim that the State Bar does
2 not comply with the guidelines in *Keller*.

3
4 The Petition argues that the Arizona Administrative Office of the Courts can
5 effectively handle all aspects of lawyer regulation. Petition, pages 14-19. The
6 Petition is silent, however, on whether ensuring access to justice is a regulatory
7 activity or germane to regulating the legal profession and improving the quality of
8 legal services. As noted below, the State Bar’s actions to ensure that Arizonans
9 have access to justice is in furtherance of the State Bar’s foundational purpose and
10 meets the test of *Keller*.

13 **III. The Petition Will Prevent Essential Work to Promote Access to Justice** 14 **and Legal Services in Arizona**

15 The State Bar’s mission is more than Arizona attorney regulation or
16 education – it is to “*serve and protect the public with respect to the provision of*
17 *legal services and access to justice.*”⁹ In furtherance of that longstanding
18 principle, over the past year, the State Bar formed and launched an Access to
19 Justice Committee with a specific mission “to promote access to civil legal
20 services for all individuals by identifying and eliminating barriers to justice.”¹⁰

21 Throughout its history, the Bar has served as a strong partner and supporter
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25 ⁹ State Bar of Arizona Mission Statement (last visited April 29, 2025)
26 <https://www.azbar.org/about-us/mission-vision-core-values>.

27 ¹⁰ State Bar of Arizona, Access to Justice Committee (last visited April 28,
28 2025) <https://www.azbar.org/for-legal-professionals/communities/committees/access-to-justice-committee/>

1 of civil legal aid in Arizona. Civil legal aid strives to deliver justice to low-income
2 Arizonans, which includes Arizonans living in historically marginalized
3 communities. Civil legal aid is one of the limited conduits for low-income
4 Arizonans to have representation in the broad spectrum of poverty law practice
5 areas, including public benefits, family safety, housing, consumer, and
6 employment. For many Arizonans, civil legal aid is the only option for help to
7 navigate the civil legal system, a system full of rules that those in the legal system
8 recognize and acknowledge can be challenging, intimidating, and confusing for lay
9 persons.
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13 In addition to supporting civil legal aid, the State Bar promotes increased
14 access to legal representation through a wide variety of programs. For instance,
15 the State Bar's Modest Means Project provides low-cost legal assistance to people
16 who don't qualify for civil legal aid but cannot afford to pay the standard rate for
17 attorneys. Additionally, the State Bar facilitates legal assistance events in the
18 community such as legal assistance for small start-up companies, and partners with
19 a television station to provide monthly phone banks to provide free legal
20 assistance.
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24 One would be hard-pressed to find an argument that having legal counsel in
25 civil matters does not improve the overall quality of legal services in Arizona.
26 Arizona State University sociologist, Rebecca Sandefur, who has looked at access
27 to legal representation for nearly two decades, found that having a lawyer
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1 increased the odds of a favorable outcome for the claimant sometimes by 13-fold.¹¹
2 Arizonans are entitled to their “day in court” and deserve fairness and equality in
3 their access to counsel and participation in Arizona’s legal system. The State Bar
4 can and must continue its longstanding and necessary work to promote access to
5 justice,¹² access to legal services, and the elimination of barriers to such access in
6 Arizona.
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9 **IV. Conclusion**

10 Commenters request that the Rules Committee reject the Petition, which
11 represents an attempt to limit the State Bar’s role in Arizona’s legal system and
12 community. However, even if the Rules Committee accepts Petitioners’ argument,
13 State Bar functions to promote and expand legal services for economically
14 vulnerable Arizonans are necessarily and reasonably related to the purpose of
15 improving the quality and standing of the legal profession in Arizona. Access to
16 justice for all Arizonans is a fundamental value of the legal profession, and the
17 State Bar’s functions to advance access to justice must continue in Arizona as part
18 of the administration and regulation of the practice of law.
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24 ¹¹ Sandefur, Rebecca L., (2010) *The Impact of Counsel: An Analysis of*
25 *Empirical Evidence*, Seattle Journal of Social Justice: Vol. 9: Iss. 1 Article 3,
26 <https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1076&context=sjsj>

27 ¹² Arizona requires all school districts and charter schools to daily set aside
28 time for students wishing to recite the pledge of allegiance which ends with the
words, “and justice for all.” See A.R.S. § 15-506(A)(5).

1 Respectfully submitted this day of May 1, 2025.

2 COMMUNITY LEGAL SERVICES

3 DNA PEOPLE'S LEGAL SERVICES

4 SOUTHERN ARIZONA LEGAL AID

5 WILLIAM E. MORRIS INSTITUTE FOR
6 JUSTICE

7 By /s/ Andrew P. Schaffer

8 Andrew P. Schaffer

9 Brenda Muñoz Furnish

10 Michelle J. Simpson

11 3707 North Seventh Street, Suite 101

12 Phoenix, Arizona 85014-5095

13 /s/ Pamela Bridge

14 Pamela Bridge

15 COMMUNITY LEGAL SERVICES

16 /s/ Charles W. Doughty

17 Charles W. Doughty

18 DNA PEOPLE'S LEGAL SERVICES

19 /s/ Alan R. Solot

20 Alan R. Solot

21 SOUTHERN ARIZONA LEGAL AID

22 Original electronically filed with the
23 Clerk of the Supreme Court of Arizona
24 this 1st day of May, 2025.

25 By: /s/ Andrew P. Schaffer