

1 John A. Furlong, Bar No. 018356
2 General Counsel
3 STATE BAR OF ARIZONA
4 4201 North 24th Street, Suite 100
5 Phoenix, Arizona 85016-6266
6 Telephone: (602) 252-4804
7 Email: John.Furlong@staff.azbar.org

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

11 PETITION TO ADD RULE 38(i),
12 ARIZONA RULES OF THE
13 SUPREME COURT, REGARDING
14 ADMISSION

15 Supreme Court No. R-12-0020
16 **Comment of the State Bar of**
17 **Arizona on Petition to Add**
18 **Rule 38(i), Ariz. R. Sup. Ct.,**
19 **Regarding Admission**

20 The State Bar of Arizona endorses the petition's attempt to accommodate
21 lawyers who are military spouses and must move frequently to other states because
22 of their spouses' deployments. The White House supports a coordinated and
23 comprehensive approach to supporting military families through its Joining Forces
24 Initiative. The Department of Defense recently issued a survey of active-duty
25 spouses, expressing concern about the impact of spousal employment on military
26 recruitment and retention. In February, the ABA House of Delegates unanimously
passed a resolution advocating that admissions authorities accommodate the unique
needs of military-spouse attorneys.

In short, lawyers who are military spouses are trying to balance their personal
life choices with their choice to be part of a profession currently governed by a
state-based licensing system. Other lawyers face similar challenges. A new

1 lawyer's life partner may get a medical internship in another state or spouse may
2 get transferred by an international company to another country.

3 While supporting the goal of accommodating the needs of military families,
4 however, the State Bar proposes a more restrained approach than does the proposed
5 rule, which would open the admissions door unconditionally to all military spouses.
6 The State Bar proposes, in its stead, a conditional admissions proposal that would
7 require military spouses who wish to practice in Arizona to be employed by local
8 counsel and to receive conditional licensing for a year at a time.

9 Having the local counsel connection is important. The petition acknowledges
10 the "unique lifestyle of our military personnel and their families temporarily
11 stationed in the state of Arizona" and that a "typical military family moves every
12 two to three years." Local counsel, as provided for in the State Bar's proposal,
13 would be available for the client when the military-spouse lawyer needs to move on
14 relatively short notice.

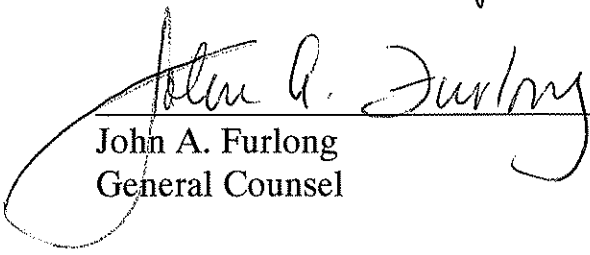
15 Idaho recently became the first state in the nation to adopt a military-spouse
16 rule. Rule 229, Section II, Idaho Bar Commission Rules, effective July 1, 2012.
17 The petitioner's organization was a proponent of that rule, which solves many of
18 the objections to the rule proposed in Arizona. The State Bar has modeled its
19 proposed rule on Idaho's adopted rule, customized for Arizona.¹

20 Accordingly, Appendix A shows petitioner's proposed rule with the State
21 Bar's proposed changes. Appendix B is a clean version of the State Bar's proposal.

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24 ¹ The petition asks the Court to add the new rule as Rule 38(j), Ariz. R. Sup. Ct. Because the rule
25 governing admission *pro hac vice* was transferred to Rule 34 effective January 1, 2012, any
26 proposed rule should be added as Rule 38(i), Ariz. R. Sup. Ct.

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RESPECTFULLY SUBMITTED this 18th day of May, 2012.



John A. Furlong
General Counsel

Electronic copy filed with the Clerk
of the Supreme Court of Arizona this
18th day of May, 2012,

by: Kathleen A. Lundgren

APPENDIX A

Rule 38(i). Military Spouse Provisional Admission ~~by Endorsement~~.

1. An applicant who meets the requirements of (A) through ~~(L)(1)~~ of this paragraph ~~38(i)(2)~~ may, upon motion, be admitted to the provisional practice of law in this jurisdiction.

2. The Provisional Applicant shall:

- A. have been admitted by bar examination to practice law in another jurisdiction in the United States or territory;
- 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 passing score on the Multistate Professional Responsibility Examination as it is established in this jurisdiction;
- D. establish that the Provisional Applicant is currently an active member in good standing in at least one jurisdiction where admitted, and establish that the Provisional Applicant is a member in good standing in all jurisdictions where admitted;
- E. establish that the Provisional Applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;
- F. establish that the Provisional Applicant possesses the character and fitness to practice law in this jurisdiction;
- G. submit evidence ~~that the Provisional Applicant of successful completion of~~ has successfully completed the course on Arizona law described in Rule paragraph 348(j)(4);
- H. submit evidence that ~~the Provisional Applicant they are~~ is a dependent spouse of a servicemember of the United States Uniformed Services as defined by the Department of Defense; and;
- I. submit evidence that the servicemember is on military orders in the State of Arizona;
- J. submit evidence that the Provisional Applicant is living in Arizona due to the servicemember's military orders in this state;
- K. file a notice that:
 - i. avows that the Provisional Applicant is employed by supervising Local Counsel and the address and telephone number of Local Counsel;
 - ii. provides the written consent of Local Counsel.

L. Submit character investigation information, in a manner established by the Court, including all required supporting documents.

3. A Provisional Applicant who has failed a bar examination administered in this jurisdiction within five years of the date of filing an application under this rule shall not be eligible for military spouse provisional admission. ~~license by endorsement.~~

~~4. Before being admitted by military spouse license by endorsement, the applicant must complete a course on Arizona law, the content and method of delivery of which shall be approved by the supreme court.~~

4. Duration and Renewal.

A. A provisional license will be valid for one year from the date of issuance, unless it is terminated by the occurrence of a situation as provided for below in Section 7.

B. A provisional license may be renewed at the end of each year, for a period of one year, upon:

- i. Filing a written request for renewal;
- ii. Submitting an affidavit by supervising Local Counsel that certifies:
 - a. The Provisional Applicant's continuing employment with Local Counsel; and
 - b. Local Counsel's adherence to the supervision requirements as provided under this rule.
- iii. Payment of a \$300 application fee.

5. Continuing Legal Education. Provisional Applicants admitted to practice law shall, no later than six months following the Provisional Applicant's admission to practice law, certify completion of at least fifteen hours of continuing legal education on Arizona practice, procedure and ethics.

6. An attorney admitted to provisional practice under this rule ("Provisional Attorney") may engage in the practice of law in this jurisdiction only under the supervision and direction of Local Counsel.

A. As used in this rule, Local Counsel means an active member in good standing of the State Bar of Arizona.

B. Unless specifically excused from attendance by the trial judge, Local Counsel shall personally appear with the Provisional Attorney on all matters before the court.

C. Local Counsel will be responsible to the court, the Bar, the Supreme Court and the client for all services of the Provisional Attorney provided pursuant to this rule.

7. Termination.

A. A Provisional Attorney shall immediately cease all activities under this rule upon:

- i. The spouse's separation or retirement from the United States Uniformed Services;
- ii. Failure to meet the annual licensing requirements of an active member of the State Bar of Arizona;
- iii. The absence of supervision by Local Counsel;
- iv. Permanent relocation outside the state of Arizona; or
- v. The Provisional Attorney ceasing to be a dependent as defined by the Department of Defense (or, for the Coast Guard when it is not operating as a service in the Navy, by the Department of Homeland Security) on the spouse's official military orders.

B. A provisional license shall be terminated upon:

- i. Request by the Provisional Attorney;
- ii. The Provisional Attorney being admitted to practice law in this state under an admissions rule other than that of Provisional Admission;
- iii. The Provisional Attorney receiving a failing score on the Arizona Bar Exam;
- iv. The Provisional Attorney being denied admission to the practice of law in Arizona for violating ethical rules;
- v. Notice by the Supreme Court at any time, provided that the Clerk of the Supreme Court shall mail a copy of the notice of termination to the Provisional Attorney and supervising Local Counsel;
- vi. Notice to the State Bar of Arizona, required within 30 days, of:
 - a. The spouse's separation or retirement from the United States Uniformed Services;
 - b. The spouse's permanent relocation to another jurisdiction; or
 - c. The Provisional Attorney ceasing to be a dependent as defined by the Department of Defense (or, for the Coast Guard when it

is not operating as a service in the Navy, by the Department of Homeland Security) on the spouse's official military orders.

C. Upon termination of the provisional license, the Provisional Attorney shall immediately:

i. File in each matter pending before any court or tribunal a notice that the Provisional Attorney will no longer be involved in the case; and

ii. Advise all clients receiving representation from the Provisional Attorney that the Provisional Attorney will no longer represent them.

8. A Provisional Attorney shall be entitled to the benefits and responsibilities of active members of the State Bar of Arizona, and shall be subject to the jurisdiction of the courts and agencies of the State of Arizona and to the State Bar of Arizona with respect to the laws and rules of this state governing the conduct and discipline of attorneys to the same extent as an active member of the State Bar.

APPENDIX B

Rule 38(i). Military Spouse Provisional Admission.

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- D. establish that the Provisional Applicant is currently an active member in good standing in at least one jurisdiction where admitted, and establish that the Provisional Applicant is a member in good standing in all jurisdictions where admitted;
- E. establish that the Provisional Applicant is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;
- F. establish that the Provisional Applicant possesses the character and fitness to practice law in this jurisdiction;
- G. submit evidence that the Provisional Applicant has successfully completed the course on Arizona law described in Rule 34(j);
- H. submit evidence that the Provisional Applicant is a dependent spouse of a servicemember of the United States Uniformed Services as defined by the Department of Defense;
- I. submit evidence that the servicemember is on military orders in the State of Arizona;
- J. submit evidence that the Provisional Applicant is living in Arizona due to the servicemember's military orders in this state;
- K. file a notice that:
 - i. avows that the Provisional Applicant is employed by supervising Local Counsel and the address and telephone number of Local Counsel;
 - ii. provides the written consent of Local Counsel.

- L. Submit character investigation information, in a manner established by the Court, including all required supporting documents.
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