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**IN THE SUPREME COURT STATE OF ARIZONA**

PETITION TO AMEND RULE 38(d)(3)                    )  
OF THE RULES OF THE SUPREME                    )  
COURT OF ARIZONA PERTAINING                    )  
TO THE ACTIVITIES OF LAW STUDENTS            )  
ACTING IN A VOLUNTEER CAPACITY                )  
  )  
  )

Supreme Court No:

**I. INTRODUCTION**

Pursuant to Rule 28 of the Rules of the Supreme Court, Southern Arizona Legal Aid, Inc. (SALA) respectfully petitions the Arizona Supreme Court to amend Rule 38(d)(3) by adding language which permits eligible law students volunteering with a volunteer lawyers program associated with an approved legal services organization to appear at the request of the court as a friend of the court in uncontested civil proceedings under the direct supervision of a volunteer attorney or staff attorney associated with an approved legal services organization.

**II. SUMMARY OF PROPOSED CHANGE**

As presently written, Arizona Supreme Court Rule 38(d)(3) governs the court appearances of law students who are enrolled in clinical curriculum-based law school

programs for which they receive credit. The rule allows eligible law students to appear in a variety of matters, under the direct and indirect supervision of a supervising attorney with written consent of any person on whose behalf the student is appearing. The proposed amendment would permit an eligible law student participating in a volunteer legal services program managed by an approved legal services organization, and in cooperation with a law school, to, at the request of the court, appear as a friend of the court to assist with uncontested civil matters under the direct supervision of a volunteer attorney, and with the consent of self-represented litigants.

Law student volunteer programs in association with legal services organizations are relatively new in Arizona and as a result, were not considered upon the drafting of the original rule. Such volunteer programs fall outside the scope of the current rule for two reasons. One, students appear not to represent clients in contested hearings and receive school credit for doing so, but to assist the court with self-represented litigants and help expedite the judicial process. Under the volunteer model, students sign up at the beginning of each semester and are trained by members of the bar and judiciary. No school credit is given for student participation and no student practices law nor renders legal advice. Two, law student volunteer programs are primarily designed to foster the pro-bono ethic so that upon graduation and entry into the bar, volunteerism will be part of the new attorney collective mindset. By virtue of its design alone, the law student volunteer model falls outside the scope of the current rule because participation is one hundred percent voluntary and students are supervised at all times by either a volunteer attorney or a legal services staff attorney.

The current SALA Volunteer Lawyers Program Bankruptcy Project is an example of an on-going successful volunteer-based court room project. In the Bankruptcy Project, students, under the direct in-person supervision of a volunteer attorney, meet with self-represented litigants before their reaffirmation hearings to ensure they understand the paperwork and process. After meeting with the self-represented litigant and reviewing the file, the law student and volunteer attorney appear at the hearing as friends of the court along side the self-represented litigant. The law student and volunteer attorney give a synopsis of the self-represented litigant's case and provide a recommendation as to whether they believe reaffirmation is the best alternative. The judge then proceeds with the hearing and interacts directly with the self-represented litigant. The court benefits from the project because the self-represented litigants are more informed upon going before the judge and, as a result, the hearing proceeds in an expeditious manner. The law students enjoy the opportunity and experience of appearing before a federal court judge, interacting with self-represented litigants and interacting with a licensed practicing attorney.

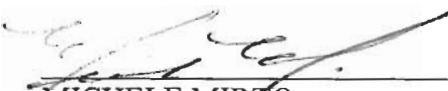
An amendment to the current rule will also remove ambiguity surrounding the question of whether Rule 38(d) governs law student volunteer programs. With its adoption, important work between volunteer lawyer programs, the courts and the law schools can continue without concern about programming parameters and rule compliance.

SALA's Volunteer Lawyers Program is actively researching new projects that serve self-represented litigants and engage volunteer attorneys, volunteer law students and the judiciary. Adoption of this amendment will allow volunteer lawyer programs

throughout the state to move forward and establish strong relationships with the judiciary while continuing to promote volunteerism at the law student level.

DATED this 30<sup>th</sup> day of October, 2006.

  
THOMAS BERNING

  
MICHELE MIRTO

  
ANNE BARRETT

**DRAFT OF PROPOSED AMENDED RULE**

**Rule 38 (d) Activities of Law Students**

**Rule 38 (d) 3 G**

Any eligible law student participating in a volunteer legal services program managed by an approved legal services organization, and in cooperation with the James E. Rogers College of Law at the University of Arizona, the Sandra Day O'Connor College of Law at the Arizona State University or any other American Bar Association accredited law school in the state of Arizona, may, at the invitation and request of the court, appear as a friend of the court to assist the proceeding, in any civil matter involving an otherwise unrepresented individual in an uncontested proceeding. Such eligible student must be directly supervised in person by an attorney associated with such volunteer legal services program, and must receive written consent from the

unrepresented person. Such written consent will be obtained by the volunteer legal services program and shall be brought to the attention of the court.