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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:

PETITION TO AMEND RULE
34(f)(1)(A), RULES OF THE
ARIZONA SUPREME COURT

Supreme Court No. R-12-0005

**Reply to Comment of the State Bar
of Arizona on Petition to Amend
Rule 34(f)(1)(A), Rules of the
Arizona Supreme Court**

Pursuant to Rule 28(D)(2), Ariz. R. Sup. Ct., Petitioners hereby reply to the “Comment of the State Bar of Arizona on Petition to Amend Rule 38(h)(1)(A),¹ Ariz. R. Sup. Ct.,” filed May 21, 2012. The State Bar expressed its support for the Petition, contingent upon the proposed changes not endangering or compromising the reciprocity Arizona established with 31 other jurisdictions.

Arizona’s reciprocity with those 31 jurisdictions is based upon this Court’s conclusion that those jurisdictions allow for “admission of licensed Arizona

¹ Petitioners filed their “Petition to Amend Rule 38(h)(1)(A)” on January 6, 2012. On December 22, 2011, this Court filed an Order amending and reorganizing Rules 34, 35, 37, and 38 of this Court. *See* Order re Petition No. R-11-0030, filed 12/22/11. Per that Order, the portion of the rules addressed by this Petition now appears in Rule 34(f)(1)(A); the Petition has been renamed accordingly, in a supplement filed March 26, 2012.

lawyers on a basis equivalent to [Rule 34, Ariz. R. Sup. Ct.].” While those reciprocal relationships are factors in the Court’s consideration of the Petition, Petitioners respectfully submit that they should not present a bar to its adoption. In fact, the proposed rule change would bring the Arizona rule *more in line* with the rules of its reciprocal jurisdictions. As illustrated in Figure 1 below,² nearly a third of Arizona’s reciprocal jurisdictions already base admission on motion on a record of active practice in a reciprocal jurisdiction. Just three³ base it on place of bar examination *only*, as Arizona’s current rule does. More than a third of Arizona’s listed reciprocal jurisdictions have no stringent reciprocity requirement themselves.

² Information collected in Figure 1 can be found in the following rules: Alaska Bar Rule 2, Sec. 2(1); Colo. R. Civ. P. 201.3(1); D.C. App. Rule 46(c)(3); Georgia Sup. Ct. R. Governing Admission to the Practice of Law, Part C, Sec. 2(b); Idaho Bar Commission Rule 206; Ill. Sup. Ct. R. 705; Ind. R. for Admis. to the Bar and the Discipline of Attorneys, Rule 6; Iowa Ct. R. 31.12, 31.13; Kansas Sup. Ct. R. 708; Ky. SCR Rule 2.110; Me. Bar. Admis. R. 11A; Mass. Sup. Jud. Ct. R. 3:01, Sec. 6; Michigan R. for the Bd. of Law Examiners, Rule 5; Minnesota State Bd. of Law Examiners, R. 7A; Miss. R. Admis. St. B. Rule VI, Sec. 1; Mo. Sup. Ct. R. 8.10; Nebraska Sup. Ct. R. § 3-105; N.H. Sup. Ct. R. 42(X)(a)(iv); 22 NYCRR 520.10; N.C. R. Gov’g Admis. to Practice Law Rule .0502; N.D. Sup. Ct. R. Admis. to Practice R. 7; 5 Okl. St. Chap. 1, Appx. 5, Rule 2; Or. Sup. Ct. R. 15.05; Pa. B.A.R. 204; S.D. Codified Laws §§ 16-16-12.1, 16-16-12.2; Tenn. Sup. Ct. R. 7, Sec. 5.01(b); R. Governing Admis. to the Bar of Texas, Rule XIII; Utah Sup. Ct. R. of Prof’l Prac. 14-705; Wash. APR 18; W. Va. Admis. to the Prac., Rule 4.0; Wisc. Sup. Ct. R. 40.05.

³ Alaska, Georgia, and Oregon.

Fig. 1. Basis for Admission on Motion in Jurisdictions Reciprocal with Arizona.

Reciprocal Jurisdiction	Requires bar examination in reciprocal jurisdiction	Requires record of active practice in reciprocal jurisdiction	Requires only active license, or admission, in a reciprocal jurisdiction	Has no explicit reciprocity requirement
Alaska	X			
Colorado		X		
District of Columbia				X
Georgia	X			
Idaho ⁴	X	X		
Illinois				X
Indiana				X
Iowa				X
Kansas			X	
Kentucky		X		
Maine		X		
Massachusetts				X
Michigan				X
Minnesota				X
Mississippi		X		
Missouri			X	
Nebraska				X
New Hampshire ⁵	X	X		
New York			X	
North Carolina		X		
North Dakota				X
Oklahoma			X	
Oregon	X			

⁴ Idaho requires that both bar examination and an active record of practice have occurred in a reciprocal jurisdiction.

⁵ New Hampshire permits qualification based on *either* bar examination in a reciprocal jurisdiction or an active record of practice in a reciprocal jurisdiction, similar to the proposed rule advocated by Petitioners.

Reciprocal Jurisdiction	Requires bar examination in reciprocal jurisdiction	Requires record of active practice in reciprocal jurisdiction	Requires only active license, or admission, in a reciprocal jurisdiction	Has no explicit reciprocity requirement
Pennsylvania ⁶	X	X		
South Dakota		X		
Tennessee				X
Texas				X
Utah ⁷	X	X		
Washington			X	
West Virginia			X	
Wisconsin				X

Moreover, by using the current definition of “active practice of law,” the proposed change creates a high burden for admission for those applicants that actively practiced in a reciprocal jurisdiction for at least five years, while admitted in that jurisdiction. For example, Rule 34(f)(3) requires that an applicant have spent 1,000 hours or more per year engaged in the practice of law for each of the required five years in the durational period *and* derived at least 50 percent of non-investment income from the practice of law. The language of the proposed change eliminates mere part-time practice in a reciprocal jurisdiction as a shortcut to avoiding the Arizona bar exam and gaining admission on motion.

⁶ Pennsylvania permits qualification based on *either* bar examination in a reciprocal jurisdiction or an active record of practice in a reciprocal jurisdiction, similar to the proposed rule advocated by Petitioners.

⁷ Utah requires that both bar examination and an active record of practice have occurred in a reciprocal jurisdiction.

Petitioners respectfully submit that an active record of practice after admission in a reciprocal jurisdiction or jurisdictions is a credible barometer of an applicant's qualifications for admission on motion in Arizona. The proposed rule change values place of substantial practice experience, rather than solely the place of bar examination.

Petitioners also note that Arizona's recent adoption of the Uniform Bar Examination ("UBE") demonstrates a shift from a focus on where a test was taken. Under this Court's Rule 34(h), applicants may now gain admission through transfer of a UBE score. Though admission by transfer of UBE score and admission on motion are separate and distinct processes, not all of the UBE jurisdictions are presently reciprocal with Arizona for admission on motion purposes. This evolution in admission standards suggests that strict place-of-bar-examination-reciprocity should no longer be the only measure of an applicant's eligibility.

Consistent with the above information, and consistent with State Bar of Arizona's contingent support for the Petition, Petitioners respectfully request that the Court adopt the proposed rule change⁸ and amend Arizona Supreme Court Rule 34(f)(1)(A) accordingly.

⁸ Petitioners proposed final rule language for this Court's consideration in Appendix A to their Supplement to the Petition, filed on March 26, 2012.

RESPECTFULLY SUBMITTED this 18th day of June, 2012.

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