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

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PETITION TO AMEND RULE 45,
ARIZONA RULES OF THE
SUPREME COURT

Supreme Court No. R-13-_____
Petition to Amend Rule 45, Ariz.
R. Sup. Ct.

27 Pursuant to Rule 28 of the Rules of the Arizona Supreme Court, the State Bar
28 of Arizona petitions the Court to amend Rule 45 of the Arizona Rules of the
29 Supreme Court ("Rule 45") to allow credit toward Continuing Legal Education
30 ("CLE") requirements for certain self-study hours in the provision of pro bono
31 services to those of lower income.

32 The proposed changes to Rule 45 provide one hour of self-study CLE credit
33 for every five hours of pro bono service provided to the poor or near-poor through
34 an "approved legal services organization," as that term of art is defined in Sup. Ct.
35 Rule 38(e)(2)(C), up to a maximum of five hours per educational year. Attorneys
36 eligible for the CLE credit described in this proposal will report their pro bono
37 service in the established process with their annual affidavits of compliance.
38 Appendix A provides a redlined version of the proposed amendment to Rule 45.

1 proposal requires pro bono work to be performed for one of these organizations in
2 order to qualify for CLE credit, the breadth of the proposal is narrow.

3 Both of the “access to justice” provisions of Rule 38 allow attorneys who
4 meet the criteria to practice law in Arizona without taking the bar exam by
5 coordinating with or working for an approved legal services program. Moreover,
6 Rule 38(e) attorneys are exempt from the requirements of Rule 45, Mandatory
7 Continuing Legal Education. Thus, this Court has long recognized the importance
8 of pro bono work, access to justice, and the implicit study and training required for
9 such work by waiving the CLE requirements for attorneys who are licensed solely
10 to do pro bono work under Rule 38(e) and by waiving the bar exam and the intense
11 study and preparation required to pass it for attorneys who practice law in Arizona
12 while employed by an approved legal services organization under Rule 38(f).

13 Simply put, pro bono service requires effort, energy, *and study*. Much pro
14 bono work is outside of the attorney’s primary practice area and requires legal study
15 and research that enhances that attorney’s legal knowledge as effectively as the
16 typical CLE lecture. For example, this past year, long-time landlord-tenant
17 volunteers found themselves learning the impact of new foreclosure laws on
18 evictions and new provisions addressing emerging issues such as bed bugs.
19 Moreover, consumer issues often require study of federal statutes and regulations
20 outside of an attorney’s regular practice area. Pro bono work is rewarding not only
21 because it enables an attorney to help provide “access to justice” for impoverished
22 clients, but also because it often encompasses study in new areas of law. This
23 modest proposal provides an excellent way to achieve the goals of mandatory CLE
24 and the interests of access to justice by incentivizing additional pro bono service to
25 those in need.
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1 Moreover, this proposal is not a sea change in existing practice. Arizona
2 Supreme Court Rule 45 already permits arbitrators to claim up to two hours of self-
3 study when providing mandatory arbitration services in lieu of financial
4 compensation. Rule 45(a)(4), Ariz. R. Sup. Ct.¹ Specifically as to non-arbitration-
5 based pro bono service, several other states have approved similar CLE credit for
6 pro bono rules to recruit, retain, and recognize attorneys for pro bono service.²
7 Such a program here in Arizona will help the State Bar keep pace with the access to
8 justice efforts in other jurisdictions and will serve to achieve the goals of “access to
9 justice” for the indigent by encouraging pro bono work and by recognizing the
10 educational value inherent in taking on such work.

11 **II. OVERVIEW OF PROPOSED AMENDMENT**

12 The proposed amendment to Rule 45 would permit any attorney who performs
13 pro bono work to claim one hour of CLE credit for every five hours of volunteer
14 service with an approved legal services organization, up to a maximum of five self-
15 study hours per year. The Bar has the regulatory authority to prescribe specific
16 reporting requirements as needed and is in a position to borrow from the reporting
17 features of other jurisdictions that support access to justice efforts. *See, e.g.*, Col.
18 CLE Form 8 (available at <http://coloradosupremecourt.com/pdfs/CLE/Form8.pdf>).
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24 ¹ *See also* MCLE Regulation 101(L). In practice, the use of arbitration service for pro
bono credit has not caused any problems or concerns for the State Bar of Arizona.

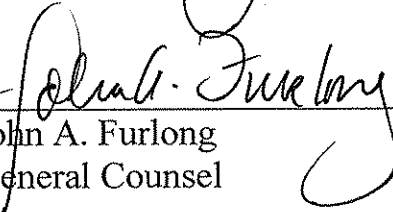
25 ² ABA Standing Committee on Pro Bono & Public Services and the Center for Pro Bono
26 (updated 5/12/2012), <http://apps.americanbar.org/legal services/probono/clerules.html>. *See generally* Col. R. Civ. P. 260.8 (available at <http://coloradosupremecourt.com/pdfs/CLE/Rules.pdf>);
Tenn. R. Sup. Ct. 21 § 4.07(c) (available at <http://www.tncourts.gov/rules/supreme-court/21>).

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III. CONCLUSION

The State Bar of Arizona respectfully requests that the Court amend Rule 45 of the Arizona Rules of the Supreme Court as shown in Appendix A.

RESPECTFULLY SUBMITTED this 9th day of January, 2013.



John A. Furlong
General Counsel

Electronic copy filed with the Clerk of the Supreme Court of Arizona this 9th day of January, 2013.

By: Kathleen A Lundgren

APPENDIX A

**State Bar's Proposed Amendment to Ariz. R. Sup. Ct. 45
to Add New Subsection (a)(5)**

(Petitioner's proposed additions are shown by underscoring)

Rule 45. Mandatory Continuing Legal Education

a. Continuing Legal Education Requirement

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5. An active member of the bar, not exempted, who provides pro bono service to the poor or near poor through an Approved Legal Services Organization is eligible for one hour of continuing legal education credit for every five hours of pro bono service provided, up to a maximum of five hours per educational year of continuing legal education credit. Such credit shall be included in the maximum number of hours allowed for self-study and shall be reported in the attorney's annual affidavit of compliance.