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(STATE BAR NUMBER 011474)

6 IN THE SUPREME COURT OF THE STATE OF ARIZONA

7 IN THE MATTER OF:

R-13-0019

8 PETITION TO AMEND COMMENT [3] TO  
9 ER 8.4, RULE 42, ARIZONA RULES OF  
THE SUPREME COURT

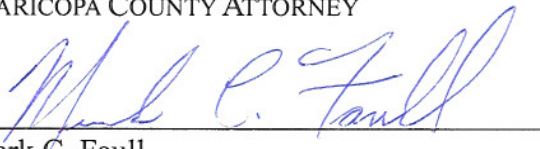
MARICOPA COUNTY ATTORNEY'S  
COMMENT TO PETITION TO AMEND  
COMMENT [3] TO ER 8.4, RULE 42,  
ARIZONA RULES OF THE SUPREME  
COURT

10  
11 The Maricopa County Attorney hereby submits this comment in opposition of the R-13-  
12 0019 Petition to Amend Comment [3] to ER 8.4, Rule 42, Arizona Rules of the Supreme Court.

13 Respectfully submitted this 16<sup>th</sup> day of May, 2013.

14 WILLIAM G. MONTGOMERY  
MARICOPA COUNTY ATTORNEY

15 BY:

  
16 Mark C. Faull  
17 Chief Deputy  
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

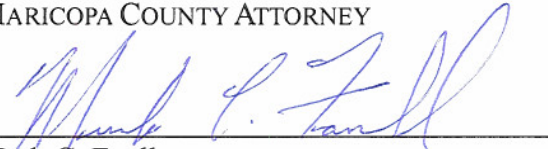
2 The Petition to Amend Comment [3] to ER 8.4, Rule 42, Arizona Rules of the Supreme  
3 Court, R-13-0019, is subjective and covers a finite list of classes, whether the State Bar Task Force  
4 version or the Board of Governor’s version. While the Board of Governor’s language is preferable  
5 to the State Bar Task Force language, both versions continue to include finite lists of protected  
6 individuals, rather than all-inclusive protections against discrimination. In addition, these lists  
7 include groups which are not recognized as protected classes in Arizona, thus putting the Rule in  
8 possible conflict with other provisions of the law and/or public policy. By reciting a litany of  
9 specific protected groups, the list may exclude certain groups and will undoubtedly change with the  
10 times, as is evident by the State Bar Task Force version, which still seeks to add “gender  
11 expression” to the list.

12 Recognizing the dignity of all human beings, R-12-0018 is a preferable alternative to R-13-  
13 0019. It alleviates the above concerns by protecting each and every individual against  
14 discrimination. R 12-0018 further gives lawyers more guidance than either version of R-13-0019  
15 regarding what type of conduct would constitute a violation of the Rule.

16 For these reasons, the Maricopa County Attorney’s Office continues to support the changes  
17 sought in R-12-0018 and opposes either proposal contained in R-13-0019.

18 Respectfully submitted this 16<sup>th</sup> of May, 2013.

19 WILLIAM G. MONTGOMERY  
20 MARICOPA COUNTY ATTORNEY

21 BY:   
Mark C. Faull  
Chief Deputy