

1 John A. Furlong, Bar No. 018356  
General Counsel  
2 STATE BAR OF ARIZONA  
4201 N. 24<sup>th</sup> Street, Suite 100  
3 Phoenix, Arizona 85016-6266  
4 Telephone: (602) 252-4804  
[John.Furlong@staff.azbar.org](mailto:John.Furlong@staff.azbar.org)

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6 **IN THE SUPREME COURT**  
**STATE OF ARIZONA**

7 PETITION TO AMEND ERs 1.5, 4.2,  
8 4.3, AND 6.5, RULE 42, ARIZONA  
9 RULES OF THE SUPREME COURT  
10 AND RULES 5.1 AND 11, ARIZONA  
RULES OF CIVIL PROCEDURE

Supreme Court No. R-12-0027

**State Bar of Arizona's Reply to  
Comment Filed by Consumers For a  
Responsive Legal System**

11 The State Bar of Arizona submits this reply to the comment filed by Consumers  
12 for a Responsive Legal System, apparently also known as "Responsive Law."  
13 Responsive Law supports the amended rules but proposes three additional changes. One  
14 of those changes is unnecessary as the Ethical Rules already address it. The State Bar  
15 opposes the other two changes as not sufficiently protecting limited-scope clients as well  
16 as unnecessarily making Rule 5.1, Ariz. R. Civ. P., different from other existing limited-  
17 scope rules.

18 **1. Proposed change: Amend ER 1.2(c) to require that limited-scope**  
19 **agreements be in writing.**

20 This change is unnecessary. Contrary to the American Bar Association's Model  
21 Rule 1.5, Arizona's rule requires a written communication. ER 1.5(b) requires that a  
22 lawyer communicate, in writing to the client, the "*scope of the representation* and the  
23 basis or rate of the fee and expenses...." (Emphasis added.) Responsive Law's premise  
24 for its suggested change that "[i]n most instances....lawyers can undertake limited scope  
25 representation without any written agreement" is therefore inaccurate.

1           **2. Proposed change: Limit service under new Rule 5.1(c)(2) only to matters**  
2           **within the scope of the lawyer's representation.**

3           Rule 5.1(c)(2), Ariz. R. Civ. P., provides that:

4           Service on an attorney making a limited appearance on behalf of a party shall  
5           constitute effective service on that party under Rule 5(c) with respect to all  
6           matters in the action, but shall not extend the attorney's responsibility for  
7           representing the party beyond the specific matters, hearings, or issues for which  
8           the attorney has appeared.

9           Responsive Law proposes amending this provision to limit effective service to  
10          matters connected with the lawyer's representation or the specific proceeding for which  
11          the lawyer appeared.

12          The State Bar intentionally proposed this language to stay consistent with the  
13          existing limited-scope provisions for family law cases (Rule 9(B)(1), Ariz. R. Fam. Law  
14          P.) and vulnerable-adult-exploitation actions (Rule 5.2, Ariz. R. Civ. P.)

15          Rather than helping clients of limited means, the proposed change might actually  
16          hurt them. The rule as currently drafted makes the limited-scope lawyer the default  
17          gatekeeper in a specific action. Even if not representing a client on other issues, the  
18          lawyer, in discharging his or her ethical obligation to communicate with the client,  
19          would simply need to ensure that the client receives the documents unrelated to the  
20          lawyer's representation. The lawyer then is able to determine whether the served  
21          document relates the lawyer's role. Responsive Law's proposed change would let the  
22          opposing lawyer or party determine on whom documents should be served, which could  
23          leave the limited-scope lawyer at a disadvantage and promote confusion.

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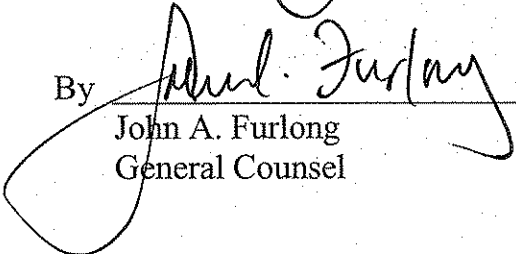
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RESPECTFULLY SUBMITTED this 24<sup>th</sup> day of June 2013.

By   
John A. Furlong  
General Counsel

Electronic copy filed with the Clerk  
of the Supreme Court of Arizona this  
24<sup>th</sup> day of June, 2013.

By: 