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9 **(STATE BAR NUMBER 011474)**

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

11 **IN THE MATTER OF:**

12 **PETITION TO AMEND CANON 2.3**
13 **IN RULE 81 OF THE ARIZONA**
14 **RULES OF THE SUPREME**
15 **COURT**

R-15-0014

MARICOPA COUNTY ATTORNEY'S
RESPONSE TO PETITION TO AMEND
CANON 2.3 IN RULE 81 OF THE ARIZONA
RULES OF THE SUPREME COURT

16 The Maricopa County Attorney hereby responds to the Petition to Amend Canon
17 2.3 in Rule 81, Arizona Rules of the Supreme Court, and asks this Court to deny the
18 petition. This petition, along with R-15-0020, illustrates why the Maricopa County
19 Attorney's Office opposed the earlier efforts to amend ER 8.4 to further delineate
20 discrete groups of fellow human beings with specific inclusion in the rules. This
21 petition, like R-15-0020, bootstraps the same problematic arguments and
22 justifications for adding "gender identity" as the State Bar Task Force heard in trying
23 to add "gender expression" to ER 8.4. These two petitions now rely on the presence
24 of the term "gender identity" in ER 8.4 as the basis for listing "gender identity" in the
25 Judicial Canons.
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1 These petitions again highlight the problem of attempting to list specific
2 differences in our court rules prohibiting prejudice and discrimination. Such a task is
3 potentially never-ending and is always fraught with the danger that some difference
4 has been omitted. Despite the fact that the rule clearly states, “. . . including but not
5 limited to . . .” there will always be someone who feels their exclusion from the non-
6 inclusive list needs to be rectified. Rather than continuing to try and define how
7 specific groups of fellow human beings may be different to justify an official
8 admonition to overlook such differences – differences that require self-declarations
9 immune to objective verification (with one important caveat to the example of
10 transgendered individuals noted below) – the proposed language in each of these
11 petitions, along with current language, should be jettisoned in favor of the simple
12 straightforward declaration that:
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17 “All persons shall be treated with respect reflecting the inherent dignity and
18 value shared and held in common by every human being.”
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20 If the concern in these petitions in listing “gender identity” is to address specific
21 cases of transgendered individuals, then it would be far better and more accurate to
22 define “transgendered individuals” as those with a medical diagnosis of being
23 transgendered due to an incongruity between their chromosomal gender and their
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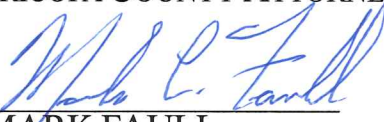
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1 physical gender, and use that specific term. A defined, diagnosed, objective term is
2 far preferable to “gender identity.”
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4 Respectfully submitted this 20th day of May, 2015.
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7 MARICOPA COUNTY ATTORNEY

8 By 
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