

1 Patricia A. Sallen, Bar No. 012338
2 Deputy General Counsel
3 John Furlong, Bar No. 018356
4 General Counsel
5 State Bar of Arizona
6 4201 N. 24th Street, Suite 100
7 Phoenix, AZ 85016-6288
8 (602) 340-7236
9 John.Furlong@staff.azbar.org

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

12 In the Matter of:

Supreme Court No. R-15-0023

13 **PETITION TO AMEND RULES 32,**
14 **41, 42 AND 66 THROUGH 69,**
15 **ARIZONA RULES OF SUPREME**
16 **COURT**

REPLY OF
THE STATE BAR OF ARIZONA

17 The State Bar of Arizona replies in support of its Petition seeking to adopt,
18 among others, rules directing lawyers to appropriately close or plan for closing their
19 law practices.

20 The Pima County Bar Association (“PCBA”) is concerned that lawyers will
21 not be able to follow proposed Rule 41(i) for various reasons and should not be
22 subjected to suspension for failing to meet its requirements.

23 The State Bar respectfully disagrees.

24 First, the proposed rules provide definitive clarity for lawyers. Lawyers must
25 assure a reasonably seamless, confidential and safe transition of client documents or
matters to either the client or another professional in the event the attorney is unable
to do so personally. However, if the attorney dies or is otherwise no longer capable
of doing so, the client, the client’s family and the client’s business may be subjected

1 to unforeseen and irreparable harm. Requiring attorneys to develop a plan for an
2 involuntary interruption or termination of their law practice is part of the State Bar
3 of Arizona's mission to protect the public. American Bar Association Formal Op.
4 92-369 and Ariz. Ethics Op. 04-05 have suggested for many years that lawyers
5 *should* make succession arrangements. Now is the time for appropriate directives.
6 The proposed rules provide that direction, and having the power to enforce the
7 obligation through suspension, if necessary, is important to assuring the mission.

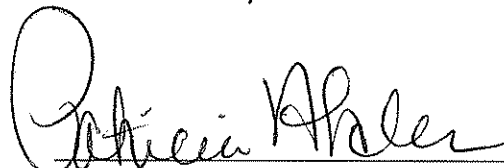
8 Second, the proposed changes were never intended to require that successor
9 counsel take over the substantive representation of clients. The changes are intended
10 to require that lawyers in private practice designate someone else who will be
11 responsible for returning files and other property to clients.

12 Third, the State Bar recognizes that attorneys need the organization's help in
13 learning about and developing a sound succession plan. The State Bar has
14 anticipated that succession planning will be a priority subject for continuing-legal-
15 education programs, and has already published on its website a free guide,
16 "Succession Planning: Preparing for the Unthinkable." This handbook addresses
17 many of the PCBA's concerns, and includes fillable forms for attorneys to use. The
18 State Bar has adopted succession planning into its Lawyer Assistance Program so
19 that staff can answer questions and provide guidance to attorneys.


20 Finally, the State Bar Board of Governors committed to making succession
21 planning a priority by creating a Succession Planning Task Force in 2013. The Task
22 Force drew on the experience of other bar associations and practitioners in
23 developing a comprehensive succession-planning program that includes the
24 proposed rules that affect individual lawyers and the proposed rules that affect how
25

1 we as a profession deal with those who do not have a succession plan. The Board of
2 Governors is eager to work with State Bar members to assure that the program is a
3 success. It will encourage member education as a means of assuring compliance and
4 utilize more punitive measures only as a resort in cases where no legitimate
5 alternative remains.

6 RESPECTFULLY SUBMITTED this 25th day of June, 2015.

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11 Patricia A. Sallen
12 Deputy General Counsel

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14 Electronic copy filed with the
15 Clerk of the Arizona Supreme Court
16 this 25th day of June, 2015.

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