

1 Honorable Janet E. Barton
2 Presiding Judge
3 Superior Court of Arizona, Maricopa County
4 125 W. Washington
Phoenix, AZ 85003
(602) 506-5340

5 IN THE SUPREME COURT OF THE STATE OF ARIZONA

6
7 In the Matter of:

} Supreme Court No. R-16-_____

8
9 PETITION TO AMEND RULE 32
10 OF THE RULES OF THE SUPREME
11 COURT OF ARIZONA

12 Pursuant to Rule 28, Rules of the Supreme Court of Arizona, the Presiding
13 Judge of the Superior Court of Arizona in Maricopa County, respectfully
14 petitions this Court to adopt the attached proposed amendment to Rule 32 of the
15 Rules of the Supreme Court of Arizona.

16 The proposed amendment would allow retired judges who are on the call
17 back list to provide judicial services to the court and who do not practice law to
18 retain judicial status with the State Bar and pay the judicial rate for annual bar
19 dues. The Superior Court relies on the services of retired judges for coverage in
20 a variety of situations. In the spring of 2015, the Superior Court in Maricopa
21 County had an unprecedented number of judicial retirements. Retired judges
22 were instrumental in filling the gap between the retirements and the new judges
23 taking office.

24 Other jurisdictions allow retired judges who do not engage in the active
25 practice of law to retain judicial status. For example, the District of Columbia
26 State Rules provides in Rule II relating to members in the Rules Governing the
27 District of Columbia Bar:

28 //

1 Judges of courts of record, full-time court commissioners, U.S.
2 bankruptcy judges, U.S. magistrate judges, other persons who
3 perform a judicial function on an exclusive basis, in an official
4 capacity created by federal or state statute or by administrative
5 agency rule, and *retired judges who are eligible for temporary
6 judicial assignment, and are not engaged in the practice of law*,
7 shall be classified as judicial members, except that if a member's
8 terms and conditions of employment require that he or she be eligible
9 to practice law, then the member may choose to be an active member.

8 Emphasis added. Similarly, the order regarding the Kentucky Bar Association
9 Annual Dues Structure, issued by the Supreme Court of Kentucky on April 27,
10 2012 provides in part:

11 the annual dues shall be \$150.00 for members of the KBA who hold
12 one of the following listed judicial offices on a full-time basis:

- 13 a) Justice of the Supreme Court of Kentucky;
- 14 b) Judge of the Kentucky Court of Appeals;
- 15 c) Judge of a Kentucky Circuit Court;
- 16 d) Judge of a Kentucky District Court;

16 ...

17 j) Retired members of the judiciary who have held one or more of the
18 above-enumerated offices on a full-time basis and who do not engage
19 in the practice of law.

19 Emphasis added. *See also* Wisconsin SCR 10.03 (in regards to membership in
20 the Wisconsin State Bar, stating “The class of judicial members includes the
21 following persons: supreme court justices, court of appeals judges, circuit court
22 judges, full-time circuit court commissioners, full-time municipal court judges,
23 supreme court commissioners, court of appeals staff attorneys, federal district
24 court judges, federal appellate court judges, federal bankruptcy judges, federal
25 magistrate judges, federal administrative law judges, and *retired justices and
26 judges who are eligible for temporary judicial assignment and are not engaged
27 in the practice of law.*”) (emphasis added); Montana Rules of Court, By-Laws of
28 the State Bar of Montana, Article I. Membership, SECTION 3. (providing “ii.

1 The class of judicial members includes elected or appointed members of the
2 Montana judicial system who devote full time professional activity as judges,
3 and *retired judges who are eligible for temporary judicial assignment and are*
4 *not engaged in the practice of law.*”) (emphasis added).

5 Allowing retired judges to retain their judicial status with the bar may
6 increase the number of judges available for assignment on the call back list. This
7 benefits the court, as well as the public, in ensuring proper coverage when judges
8 retire, or when sitting judges are unavailable for health issues or family
9 emergencies.

10 For the foregoing reasons, the Presiding Judge of the Superior Court of
11 Arizona in Maricopa County respectfully requests this Court amend Rule 32 of
12 the Rules of the Supreme Court of Arizona as detailed in Exhibit A to allow
13 retired judges who are not engaged in the active practice of law to retain judicial
14 status with the State Bar of Arizona.

15 Respectfully submitted this 5th day of January, 2016.

16 /s/ Janet E. Barton

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18

Hon. Janet E. Barton
19 Presiding Judge
Superior Court of Arizona, Maricopa County

20 Electronic copy filed with
21 the Clerk of the Supreme
22 Court of Arizona this 5th
23 day of January, 2016.
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2 Exhibit A

3 Rules of the Supreme Court of Arizona

4 Rule 32. Organization of State Bar of Arizona

5 ...

6 **(c) Membership.**

7 1. Classes of Members. Members of the state bar shall be divided into five classes:
8 active, inactive, retired, suspended, and judicial. Disbarred or resigned persons are
9 not members of the bar.

10 2. Active Members. Every person licensed to practice law in this state is an active
11 member except for persons who are inactive, retired, suspended, or judicial
12 members.

13 ...

14 6. *Judicial Members.* Judicial members shall be justices of the Supreme Court of
15 Arizona, judges of the Court of Appeals and Superior Court of Arizona, ~~and~~ of the
16 United States District Court for the District of Arizona, AND RETIRED
17 JUSTICES AND JUDGES WHO ARE ELIGIBLE FOR TEMPORARY
18 JUDICIAL ASSIGNMENT AND ARE NOT ENGAGED IN THE PRACTICE
19 OF LAW. Judicial membership status shall likewise be accorded to members of
20 the state bar who are full-time commissioners, city or municipal court judges,
21 judges pro tempore or justices of the peace in the state of Arizona not engaged in
22 the practice of law, or justices or judges of other courts of record of the United
23 States or of the several states. Judicial members shall hold such classification only
24 so long as they hold the offices or occupations entitling them to such membership
25 OR ARE RETIRED FROM THE OFFICES OR OCCUPATIONS ENTITLING
26 THEM TO SUCH MEMBERSHIP, ARE ELIGIBLE FOR TEMPORARY
27 JUDICIAL ASSIGNMENT, AND ARE NOT ENGAGED IN THE PRACTICE
28 OF LAW. Judicial members shall be entitled to vote but shall not be entitled to
hold office. Judicial members shall have such privileges, not inconsistent with the
rules of this court, as the board provides. A judicial member who retires or resigns
from the bench AND ENGAGES IN THE PRACTICE OF LAW shall become an
active member subject to all provisions of these rules.

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