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8 **IN THE SUPREME COURT**
9 **STATE OF ARIZONA**

10 In the Matter of:

11 Supreme Court No. R-

12 **PETITION TO AMEND THE**
13 **OATH OF ADMISSION TO THE**
14 **BAR & LAWYER’S CREED OF**
15 **PROFESSIONALISM**

16 **PETITION**

17 Pursuant to Rule 28, Ariz. R. Sup. Ct., the State Bar of Arizona (“State Bar”)
18 petitions the Court to amend The Oath of Admission to the Bar (“Oath”) and A
19 Lawyer’s Creed of Professionalism of the State Bar of Arizona (“Creed”). The
20 proposed revisions arose out of a request from the State Bar’s Board of Governors’
21 (“BOG”) to the State Bar’s Professionalism Committee.

22 **Discussion**

23 In 2013, the Committee recommended substantial changes to the Oath and
24 Creed. The Committee votes on those changes, however, were almost evenly split
25 for and against. The BOG declined to propose those changes and, instead, returned
the package of proposals to the Committee for additional work. The Committee
determined to revisit the proposed changes in an effort to achieve unanimity or at
least a general consensus. The Committee achieved that and submitted to the BOG
a package of far-less-reaching proposed amendments to the Oath and the Creed.

1 The BOG approved that second package and now requests that the Supreme Court
2 adopt the changes.

3 The State Bar proposes one minor substantive change to the Oath to
4 harmonize it with the Arizona Loyalty Oath of Office and Rule 32(c)(3), Ariz. R.
5 Sup. Ct. The proposed version is attached as Appendix A.

6 The proposed changes to the Creed reflect additional areas of emphasis as
7 the result of practical experience since the Creed was originally adopted. The
8 proposed version is attached as Appendix B. Specifically, the significant proposed
9 changes would:

- 10 • Clarify that subdivision (A)(3) deals with recommending alternative-
11 dispute methods of resolving litigation.
- 12 • Advise, in new subdivision (B)(7), that a lawyer should not threaten
13 punitive sanctions unless the lawyer has good cause to believe that the
14 opposing lawyer or party has engaged in or is expected to engage in
15 bad-faith conduct. This is an attempt to quell some lawyers' routine
16 threats of sanctions.
- 17 • Revise renumbered subdivision (B)(8) (formerly (B)(7)) to
18 accommodate circumstances in which delay might be justifiable.
19 Current (B)(7) is written in such a way as to presume that all delay is
20 unprofessional when, in fact and in some circumstances, it might not
21 be.
- 22 • Add, in subdivision (C)(11), that professionalism requires that
23 lawyers not only be candid with tribunals, but also must be respectful
24 to tribunals.

Conclusion

The State Bar believes that the changes will clarify and also enhance lawyers' obligations to the profession.

RESPECTFULLY SUBMITTED this _____ day of January, 2016.

By _____
John A. Furlong
General Counsel

Electronic copy filed with the Clerk
of the Supreme Court of Arizona
this _____ day of January, 2016.

by: _____

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APPENDIX A

1 THE OATH OF ADMISSION TO THE BAR

2
3 I, (state your name), do solemnly swear (or affirm) that I will support
4 the Constitution of the United States and the Constitution and laws of
5 the State of Arizona:

6
7 I will maintain the respect due the courts of justice and judicial
8 officers;

9
10 I will not counsel or maintain any suit or proceeding that shall appear
11 to me to be without merit or to be unjust; I will not assert any defense
12 except such as I honestly believe to be debatable under the laws of
13 the land;

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15 I will employ for the purpose of maintaining the causes confided in
16 me such means only as are consistent with truth and honor; I will
17 never seek to mislead the judge or jury by any misstatement or false
18 statement of fact or law;

19
20 I will maintain the confidence and preserve inviolate the secrets of
21 my client; I will accept no compensation in connection with my
22 client's business except from my client or with my client's
23 knowledge and approval;

1 I will abstain from all offensive conduct; I will not advance any fact
2 prejudicial to the honor or reputation of a party or witness, unless
3 required by the justice of the cause with which I am engaged;

4
5 I will never reject, from any consideration personal to myself, the
6 cause of the defenseless or oppressed, nor will I delay any person's
7 cause for greed or malice;

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9 I will at all times faithfully and diligently adhere to the rules of
10 professional responsibility and Aa Lawyer's Cereed of
11 Professionalism of the State Bar of Arizona.

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APPENDIX B

1 **A LAWYER’S CREED OF PROFESSIONALISM OF THE STATE BAR**
2 **OF ARIZONA**

3 Preamble

4 As a lawyer, I must strive to make our system of justice work
5 fairly and efficiently. ~~In order to~~ To carry out that responsibility, I will
6 comply with the letter and spirit of the disciplinary standards applicable to all
7 lawyers and I will conduct myself in accordance with the following Creed of
8 Professionalism when dealing with my client, opposing parties, their
9 counsel, tribunals and the general public.

10 **A. With respect to my client:**

- 11 1. I will be loyal and committed to my client's cause, but I will not permit
12 that loyalty and commitment to interfere with my ability to provide my
13 client with objective and independent advice;
- 14 2. I will endeavor to achieve my client's lawful objectives in
15 business transactions and in litigation as expeditiously and
16 economically as possible;
- 17 3. ~~In appropriate cases~~ litigation, I will counsel my client with respect
18 to mediation, ~~arbitration~~ and other alternative methods of resolving
disputes;
- 19 4. I will advise my client against pursuing litigation (or any other course of
20 action) that is without merit and I will not engage in tactics that are
21 intended to delay the resolution of the a matter or to harass or drain the
financial resources of the opposing party;
- 22 5. I will advise my client that civility and courtesy are not to be equated
23 with weakness;
- 24 6. While I must abide by my client's decision concerning the objectives of
25 the representation, I nevertheless will counsel my client that a willingness

1 to initiate or engage in settlement discussions is consistent with effective
2 and honorable representation.

3 **B. With respect to opposing parties and their counsel:**

- 4 1. I will be courteous and civil, both in oral and in written communication;
- 5 2. I will not knowingly make statements of fact or of law that are untrue;
- 6 3. In litigation proceedings, I will agree to reasonable requests for
7 extensions of time or for waiver of procedural formalities when the
8 legitimate substantive interests of my client will not be adversely
9 affected;
- 10 4. I will endeavor to consult with opposing counsel before
11 scheduling depositions and meetings and before rescheduling hearings,
12 and I will cooperate with opposing counsel when scheduling changes
13 are requested;
- 14 5. I will not utilize litigation or any other course of conduct to harass
15 the opposing party;
- 16 6. I will not engage in excessive and abusive discovery, and I will advise
17 my client to comply with all reasonable discovery requests;
- 18 7. I will not threaten to seek punitive sanctions against any party or lawyer
19 unless I have good cause to believe that the party or lawyer has engaged
20 or will engage in bad faith conduct;
- 21 8. I will not ~~utilize delay tactics~~ resolution of a matter, unless delay is
22 incidental to an action reasonably necessary to ensure the fair and
23 efficient resolution of that matter;
- 24 9. In depositions and other proceedings, and in negotiations, I will conduct
25 myself with dignity, avoid making groundless objections and not be rude
or disrespectful to any person;
10. I will not serve motions and pleadings on the other party or the party's
counsel at such a time or in such a manner as will unfairly limit the
other party's opportunity to respond;

1 11. In business transactions I will not quarrel over matters of form or style
2 but will concentrate on matters of substance and content;

3 12. I will identify clearly, for other counsel or parties, all changes that I have
4 made in documents submitted to me for review.

5 **C. With respect to the courts and other tribunals:**

6 1. I will be an honorable advocate on behalf of my client, recognizing, as
7 an officer of the court, that unprofessional conduct is detrimental to the
8 proper functioning of our system of justice;

9 2. Where consistent with my client's interests, I will communicate with
10 opposing counsel in an effort to avoid litigation and to resolve litigation
that has actually commenced;

11 3. I will voluntarily withdraw claims or defenses when it becomes apparent
12 that they do not have merit;

13 4. I will not file frivolous motions;

14 5. I will make every effort to agree with other counsel, as early as possible,
15 on a voluntary exchange of information and on a plan for discovery;

16 6. I will attempt to resolve, by agreement, my objections to matters
17 contained in my opponent's pleadings and discovery requests;

18 7. When scheduled hearings or depositions have to be canceled, I will notify
19 opposing counsel and, if appropriate, the court (or other tribunal) as early
as possible;

20 8. Before dates for hearings or trials are set - or, if that is not feasible,
21 immediately after such dates have been set - I will attempt to verify the
22 availability of key participants and witnesses so that I can promptly
23 notify the court (or other tribunal) and opposing counsel of any likely
problem in that regard;

24 9. In civil matters, I will stipulate to facts as to which there is no genuine
25 dispute;

1 10.I will endeavor to be punctual in attending court hearings, conferences
2 and depositions;

3 11.I will at all times be candid with, and respectful to, the tribunal.

4 **D. With respect to the public and to our system of justice:**

5 1. I will remember that, in addition to commitment to my client's cause, my
6 responsibilities as a lawyer include a devotion to the public good;

7 2. I will keep current in the areas in which I practice and, when necessary,
8 will associate with, or refer my client to, counsel knowledgeable in
9 another field of practice;

10 3. As a member of a self-regulating profession, I will be mindful of
11 my obligations under the Rules of Professional Conduct to report
violations of those Rules;

12 4. I will be mindful of the need to protect the integrity of the legal
13 profession and will be so guided when considering methods and contents
14 of advertising;

15 5. I will be mindful that the law is a learned profession and that among its
16 desirable goals are devotion to public service, improvement or
17 administration of justice, and the contribution of uncompensated time
18 and civic influence on behalf of those persons who cannot afford
19 adequate legal assistance.
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