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

9
10 In the Matter of:

Supreme Court No. R-16-0047

11 **PETITION TO AMEND RULE 38**
12 **OF THE ARIZONA RULES OF**
13 **THE SUPREME COURT**

COMMENT OF
THE STATE BAR OF ARIZONA

14 The William E. Morris Institute for Justice, individually and on behalf of the
15 Community Legal Services, Southern Arizona Legal Aid, and DNA-People Legal
16 Services, has submitted a petition to amend Rule 38 of the Arizona Rules of the
17 Supreme Court to clarify the rule and to simplify the process for registered in-house
18 counsel to provide volunteer legal services to an approved legal services program.
19 For the reasons stated herein, the State Bar of Arizona (“State Bar”) supports this
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Petition.

DISCUSSION

The mission of the State Bar is “to serve and protect the public with respect

1 to the provision of legal services and access to justice.” Ariz. R. Sup. Ct. R. 32(a)(2).
2 Consistent with that mission, the State Bar has undertaken several initiatives to
3 increase involvement of attorneys in providing pro bono representation to low-
4 income Arizonans. One such initiative was the State Bar’s submission of Petition R-
5 12-0028, the intent of which was to facilitate the provision of volunteer legal services
6 by retired attorneys and registered in-house counsel. As Petitioner recounts, the State
7 Bar’s proposed amendments to Rule 38 exempted registered in-house counsel from
8 the certification requirements of Rule 38(e)(3). Pet. 16-0047 at 2-4. However, by the
9 time the proposed rule change became final on November 14, 2013, the Court had
10 revised the petition to reinstate the certification requirements for in-house counsel.
11 Pet. R-16-0047 at 4-7.

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15 Petitioners now propose a change to Rule 38 to exempt registered in-house
16 counsel from the Rule 38(e)(3) certification requirements. The State Bar supports
17 this change. The purpose of Rule 38(e) is to permit “certain attorneys who otherwise
18 are not allowed to practice law in Arizona” to provide pro bono, civil legal services
19 to those who could otherwise not afford such services. Rule 38(e)(1). It makes sense
20 that a lawyer who otherwise is not admitted to practice in Arizona, such as an out-
21 of-state retired lawyer, would have to undergo the certification process provided in
22 Rule 38(e)(3). Registered in-house counsel, however, are allowed to practice law in
23 Arizona by virtue of Rule 38(a). Moreover, as Petitioner aptly points out, registered
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1 in-house counsel have already complied with a certification process that mirrors the
2 certification process of Rule 38(e)(3). Per Rule 38(a)(3), a lawyer applying for a
3 Registration Certificate must file a verified application, provide proof of eligibility
4 to practice law in another jurisdiction, certify that the applicant has read and is
5 familiar with Arizona's ethical rules, and submit evidence that the applicant has
6 completed the course on Arizona law. After receiving the Registration Certificate,
7 the in-house counsel is assigned a State Bar number and "entitled to the benefits and
8 responsibilities of active members of the State Bar of Arizona." Rule 38(a)(9). Thus,
9 it serves no purpose to impose Rule 38(e)(3)'s certification requirements on an in-
10 house lawyer who is already allowed to practice in Arizona and who has already
11 complied with Rule 38(a)'s certification requirements.
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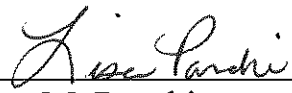
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15 Moreover, requiring in-house counsel to comply with a duplicative
16 certification requirement erects an unnecessary barrier to their volunteer efforts.
17 Access to justice is a serious issue in Arizona; as described in the Petition, over one
18 million Arizonans fall below federal poverty guidelines. Pet. at 11. Registered in-
19 house counsel can help to fill in the gaps and seams in the provision of legal services
20 to indigent clients. Deterrents such as duplicative certification requirements should
21 be eliminated to facilitate the volunteer efforts of registered in-house counsel.
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24 CONCLUSION

25 For the foregoing reasons, the State Bar of Arizona respectfully requests that

1 the Court approve Petition R-16-0047 and amend Rule 38 as requested.

2 RESPECTFULLY SUBMITTED this 22nd day of May, 2017.
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6 _____
7 Lisa M. Panahi
8 General Counsel
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10 Electronic copy filed with the
11 Clerk of the Arizona Supreme Court
12 this 22nd day of May, 2017.

13 by: 
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