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

9 In the Matter of:

Supreme Court No. R-17-0022

10 **PETITION TO AMEND RULES**
11 **32(c) AND (d) OF THE ARIZONA**
12 **RULES OF SUPREME COURT**

13 **COMMENT OF**
14 **THE STATE BAR OF ARIZONA**

15 Pursuant to Rule 28(d), Ariz. R. Sup. Ct., the State Bar of Arizona (“State
16 Bar”) hereby submits its Comment in opposition to the Petition in the above-
17 captioned matter.

18 The Petition seeks to change the current structure of the integrated State Bar
19 by splitting the functions of the State Bar into two subsets: a mandatory bar and a
20 voluntary bar. Pet. R-17-0022 at 2. The Petition proposes to: (1) eliminate mandatory
21 membership dues for what Petitioner deems to be non-regulatory functions; and (2)
22 convert dues to voluntary contributions for all non-regulatory functions, as defined
23 by Petitioner. While the State Bar agrees that this Court is the appropriate body to

1 decide this issue, the State Bar opposes Petitioner’s proposed amendments to Rule
2 32 and highlights the exhaustive review of Rule 32 recently completed by this Court,
3 as discussed in further detail below.
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5 DISCUSSION

6 I. The Task Force on the Review of the Role and Governance 7 Structure of the State Bar of Arizona

8 A. Background of the Task Force.

9 The Arizona Supreme Court regulates the practice of law in Arizona and
10 oversees the State Bar. On July 29, 2014, by Administrative Order No. 2014-79, the
11 Supreme Court established the Task Force on the Review of the Role and
12 Governance Structure of the State Bar of Arizona (“Task Force”). The Task Force
13 was charged with the duty of examining the Rules of the Supreme Court on the
14 mission and governance structure of the State Bar.
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17 The Task Force worked extensively between August 2014 and July 2015,
18 reviewing the State Bar’s structure and, *inter alia*, the mission of the State Bar and
19 its composition as an integrated bar. On September 1, 2015, nearly a year after the
20 establishment of the Task Force, the Task Force submitted its final report to the
21 Court, entitled Report of the Task Force on the Review of the Role and Governance
22 Structure of the State Bar of Arizona (the “Report”).
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1 The Report was made readily accessible to interested stakeholders, who were
2 given the opportunity to comment on the findings in the Report. Because many of
3 the issues raised in the Petition were considered by the Task Force and this Court so
4 recently, the State Bar takes this opportunity to highlight the arguments set forth in
5 the Petition before this Court.
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7 **B. The Task Force espoused the necessity of an integrated bar.**
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9 In the Report, the Task Force explained how an integrated bar assists the Court
10 by enforcing the ethical rules adopted by the Court – traditional regulatory functions.
11 But the State Bar’s mission goes further than assisting the Court by fulfilling
12 regulatory functions; the State Bar exists to protect the public with respect to the
13 provision of legal services and access to justice.
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15 Petitioner’s argument that only traditional regulatory functions should be
16 funded by mandated dues disregards the mission set forth in Rule 32. An integrated
17 bar is structured to fulfill this mission in a way that cannot be accomplished by the
18 bifurcated system proposed by Petitioner. The important interplay between the
19 services the State Bar provides as an integrated bar and protection of the public was
20 set forth in the Report as follows:
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22 An integrated bar benefits not only the Court and the bar, but the public
23 as well. The Court has adopted ethical rules for the protection of the
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1 public, and the bar's regulatory function assists the Court in enforcing
2 those rules. But what is equally important is that the bar works
3 proactively to assure that its attorney members comply with the rules.
4 The bar educates it [sic] members on professionalism and ethics and
5 provides an ethics hotline so that attorneys may receive advice on
6 specific ethics questions. It assists attorneys with trust account
7 regulations and law office management. It promotes the competence of
8 its members by establishing sections in specific areas of practice and
9 by educating members in substantive matters of law. The bar is not
10 required to provide these services to fulfill its regulatory function, yet
11 these services promote attorney competence, and they therefore play an
12 important role in consumer protection and serving public interest.

13 Report at 7. Pages 4-9 of the Report, analyzing the organization of the State
14 Bar as an integrated bar, are attached as Appendix A.

15 All attorneys bear the responsibility to protect the public. The integrated bar
16 assures that all attorneys share the costs equally in furtherance of this objective. As
17 such, the Task Force recommended that the bar remain integrated. Report at 9.

18 **C. The Task Force analyzed and rebutted the comparison of the**
19 **State Bar to a union or labor organization.**

20 The Task Force also addressed arguments which liken the State Bar to a union
21 or labor organization, such as those set forth by Petitioner in the Petition. As
22 delineated by the Task Force, the State Bar is *sui generis* and serves a different
23 purpose than a union or labor organization – it serves the public by upholding and
24 enforcing members' ethical and professional obligations, and in turn, advancing our
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1 justice system.

2 The State Bar is not like a labor organization that exists primarily to bargain
3 with employers for the benefit of the organization's members; the State Bar does not
4 exist to speak in a unified voice on behalf of our membership. Petitioner's argument
5 that the State Bar "does not and cannot reasonably be expected to speak for all
6 lawyers on all matters" (Pet. at 4) misconstrues the very mission set forth by this
7 Court in Rule 32, which is to protect the public with respect to the provision of legal
8 services and access to justice. Rule 32(a)(2).
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11 The State Bar is empowered by this Court to organize and promote activities
12 that fulfill the responsibilities of the legal profession; to promote access to justice;
13 to aid in the administration of justice; to assist in the regulation and discipline of
14 attorneys; to conduct educational programs; and to provide forums for the discussion
15 of subjects pertaining to the practice of law. *Id.* The charges from the Court to the
16 State Bar, as spelled out in Rule 32, do not require the State Bar to heed the political
17 or ideological dispositions of our members or to speak as a voice for our members.
18 Instead, the State Bar's functions are performed under the guiding centerpiece of
19 protection of the public, in conformity with Rule 32.
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1 **D. Opponents of the integrated bar were given notice and a full**
2 **opportunity to be heard; their opinions were considered by the**
3 **Task Force and this Court.**

4 The initial draft of the Report and the Final Report were posted on the Arizona
5 Judicial Branch website, along with a video summarizing the Task Force’s work.
6 The Court also established an Outlook mailbox for comments. The webpage can still
7 be found at: <https://www.azcourts.gov/cscommittees/Task-Force-to-Review-the->
8 [State-Bars-Role-and-Governance](https://www.azcourts.gov/cscommittees/Task-Force-to-Review-the-). Following the Report, the Task Force submitted
9 its Petition to amend Rule 32 on January 8, 2016, proposing substantial amendments
10 to Rule 32, yet leaving undisturbed the State Bar’s composition as an integrated bar,
11 consistent with the recommendation of the Task Force.
12

13 Following the Petition, this Court set an April 1, 2016 initial comment
14 deadline; a May 13, 2016 amended petition deadline; and a June 10, 2016 second
15 round of comments deadline. During both the initial comment period and the second
16 comment period, comments were filed asserting opposition to the State Bar as an
17 integrated bar.¹ Those in opposition to an integrated bar argued their positions to this
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21 ¹ 04-01-16 Mauricio R. Hernandez argued in favor of abolishing the mandatory Bar;
22 04-01-16 Paul V. Avelar argued against mandatory and integrated Bar; 04-01-16
23 Karyl Krug argued against integrated Bar; 05-17-16 Richard W. Morris agreed with
24 arguments against an integrated Bar; 05-19-16 Karyl Krug argued against integrated
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1 Court *just last year*. This Court had the benefit of receiving the Task Force’s
2 thoughtful recommendations, and those by commenters seeking to amend Rule 32
3 to eradicate the integrated bar.
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5 The State Bar is confident that this Court gave contemplative consideration to
6 all positions presented to the Court in the process of drastically amending Rule 32,
7 yet leaving the composition of the State Bar as an integrated bar undisturbed. The
8 Petition revisits an issue that the Court fully vetted over the last two years with the
9 assistance of a well-rounded and dynamic Task Force, and the comments that
10 followed.
11

12 **II. Recently Amended Rule 32**

13 **A. A bifurcated bar will not support the amended mission and**
14 **empowerments of the State Bar, as set forth in revised Rule 32.**

15 Effective January 1, 2017, amended Rule 32 set forth a revised State Bar
16 mission; the State Bar “*exists to serve and protect the public with respect to the*
17 *provision of legal services and access to justice.*” Rule 32(a)(2) (emphasis added).
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19 The Task Force’s Report artfully articulates that all attorneys bear the responsibility
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22
23 Bar; 06-10-16 James M. Manley argued against integrated Bar; 06-10-16 Mauricio
24 Hernandez argued against integrated Bar.
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1 to protect the public.

2 Programs like the conservatorship program, member assistance and law office
3 management programs, and educational publications and programs all exist to help
4 State Bar members, and in turn, protect the public. Every attorney shares the cost of
5 that responsibility. Eliminating the integrated bar will eviscerate funding for these
6 programs that protect the public. The integrated bar assures that every lawyer – not
7 just a percentage of lawyers – pays a fair share to support the fundamentals of serving
8 and protecting the public. *See* Report at 9.

11 **B. The Nebraska State Bar Association’s deunification resulted in
12 an immediate slash to pro bono programs and other programs
13 that serve the court and the public.**

14 The hybrid system proposed by Petitioner is based on Nebraska’s recently
15 deunified State Bar Association. Pet. at 7. Nebraska’s State Bar was deunified in
16 2013. Contrary to Petitioner’s assertion that this model can be achieved without
17 “undue adverse effect” on the State Bar, the very organization that Petitioner seeks
18 to replicate suffered immediate undue adverse effect following deunification. As
19 explained by Liz Neeley, Executive Director of the Nebraska State Bar Association,
20 “the impact on the bar has been considerable . . . much of the reduction was in
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1 programs such as pro bono efforts and the bar’s minority justice commission.”² The
2 Nebraska Bar was hit with a 25 percent reduction to its budget in the first year of
3 implementation of this hybrid system. “So the programs that we were forced to
4 reduce or cut because of our new budget reality were those that serve the court and
5 the public,” explained Neeley.³ It is reasonable to surmise that over the last two
6 years, the Nebraska Bar has made further cuts to programs that directly benefit the
7 court and the public.
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10 Modeling our State Bar after Nebraska’s hybrid-system warrants a complete
11 evaluation of the benefits and consequences associated with such a system. Shortly
12 after deunification, Nebraska was forced to cut programs that protect the public and
13 advance access to justice initiatives. Cuts to programs like these undermine the
14 programs that further the State Bar’s mission pursuant to Rule 32. Such realities
15 must be considered in determining what State Bar models best serves the Arizona
16 public, courts, and legal professionals.
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20 ² Dan Kittay, *Deunification challenge in Michigan, big changes in Nebraska: Part*
21 *of a trend?* BAR LEADER, May-June 2014,
22 [http://www.americanbar.org/publications/bar_leader/2013-
23 d.html](http://www.americanbar.org/publications/bar_leader/2013-14/may_june/deunification_challenge_michigan_big_changes_nebraska_part_trend.html)

24 ³ *Id.*

1 **C. The State Bar carries out its mission and activities in conformity**
2 **with *Keller*, with a focus on protection of the public.**

3 As a mandatory bar, the State Bar follows a “*Keller*-pure” policy and does not
4 use membership dues to fund activities of a political or ideological nature that are
5 not reasonably related to the State Bar’s core functions. This is now explicitly set
6 forth in amended Rule 32(c)(8).
7

8 However, the State Bar has followed the Supreme Court’s *Keller*-pure
9 mandate long before the incorporation of the explicit reference in Rule 32. The State
10 Bar observes *Keller* by ensuring that mandatory bar dues are expended for activities
11 that are germane to the goals of regulating the legal profession and improving the
12 quality of legal services. *Keller v. State Bar of California*, 496 U.S. 1 (1990). Even
13 though the State Bar uses mandatory dues only for *Keller*-pure lobbying activities,
14 under amended Rule 32 a member may still object to and receive a refund of the
15 annual fee allocable to those activities. *See* Rule 32(c)(8). Petitioner’s citation to
16 case law regarding union loans from union members to compare to Rule 32’s opt-
17 out provision is misplaced, since the State Bar is not a union and does not function
18 as a union.
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22 The integrated bar allows the State Bar to carry out the mission and
23 empowerments of Rule 32 in a nonpartisan manner. Because the State Bar must
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1 comply with *Keller*, the State Bar must focus its programs and activities on
2 protection of the public – setting aside political or ideological deliberations that
3 distract from our core endeavors to advance our members’ competency, ethics and
4 professionalism, and promote access to justice.
5

6 Placing these programs and services under the umbrella of a voluntary bar not
7 only dilutes the efficacy of these well established and constructive programs, but
8 also undermines the Bar’s mission statement. Protection of the public should not
9 depend on how “attractive” (e.g., “low”) membership dues are. An integrated bar
10 benefits from economies of scale to provide quality services to members and the
11 public in the most economically efficient manner. Placing some of the most valuable
12 community-oriented programs under a “voluntary” budget will diminish funds for
13 them, and detract from the value and purpose of the legal profession as a whole.
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16 A voluntary bar may also position the State Bar outside the obligations of
17 *Keller*. Like other voluntary bars that must heed the political and ideological
18 inclinations of their membership to retain members, the “voluntary” portion of the
19 Arizona State Bar would have to shift focus from protection of the public to
20 membership retention. Making services available for those who need it the most and
21 are the least able to afford it is a burden all members of the profession should bear,
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1 or these services will become more and more unavailable.

2 **D. The State Bar and the Arizona Supreme Court are substantially**
3 **into the process of implementing the changes to Rule 32**
4 **approved after diligent deliberation.**

5 In addition to a revised State Bar mission, Rule 32 was otherwise
6 substantially revised, the details of which are outside the scope of the Petition and
7 this Comment. However, these amendments require considerable changes to the
8 State Bar's operations and policies. The State Bar and the Court are working
9 cooperatively to ensure that the State Bar implements the necessary changes to the
10 State Bar governance and operations in a timely manner. Implementation of the
11 changes pursuant to revised Rule 32 are ongoing and continue to be conducted with
12 the reasonable expectation that the newly defined "core" obligations of the State Bar
13 cannot be amply achieved or adequately funded under a bifurcated structure.
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17 **CONCLUSION**

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19 The State Bar agrees with Petitioner that moving any part of the regulation of
20 the practice of law to the Legislature is a bad idea. However, the State Bar disagrees
21 with Petitioner's recommendation in all other respects. For the reasons stated in this
22 Comment, the State Bar opposes the proposed Rule 32 amendments requested by
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1 Petitioner and respectfully requests that the Court deny the Petition.

2 RESPECTFULLY SUBMITTED this 22nd day of May, 2017.

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4
5 Lisa M. Panahi
6 Lisa M. Panahi
General Counsel

7 Electronic copy filed with the
8 Clerk of the Arizona Supreme Court
9 this 22nd day of May, 2017.

10 by: [Signature]
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APPENDIX A

PART II: THE STATE BAR OF ARIZONA

A voluntary bar. The Arizona Bar Association was Arizona's first organized bar. It was formed in 1895, just 24 years after establishment of the territorial Supreme Court. Membership in the Arizona Bar Association was voluntary.

An integrated bar. The State Bar Act, passed in 1933, established the State Bar of Arizona. Under the Act, those engaged in the practice of law in Arizona were required to be SBA members. At that time, Arizona had approximately 650 attorneys and two dozen judges, only a third of whom had been members of the previous voluntary bar organization.

Supreme Court Rules. The Supreme Court adopted court rules governing the SBA and the practice of law in 1973. Those rules maintained the SBA as an integrated bar and mandated that attorneys be members as a requirement of practicing law in Arizona. The Supreme Court and the Legislature exercised joint oversight over the practice of law until the "sunset" of the State Bar Act in 1983. Thereafter, and continuing to the present, the Arizona Supreme Court has exclusively regulated the practice of law in Arizona.¹ Supreme Court Rule 31(a)(1) specifically provides:

Any person or entity engaged in the practice of law or unauthorized practice of law in this state, as defined by these rules, is subject to this court's jurisdiction.

The current State Bar. The State Bar of Arizona now has more than 17,500 active members and an additional 5,000 members who are judges, retired or inactive members, or in-house counsel.

The SBA currently has about 100 employees, more than \$12 million in assets, and an annual budget exceeding \$14 million. Approximately one-half of the SBA's budget is devoted to attorney regulation. In 2013, the discipline system fielded

¹ "This court has long recognized that under article III of the Constitution 'the practice of law is a matter exclusively within the authority of the Judiciary. The determination of who shall practice law in Arizona and under what condition is a function placed by the state constitution in this court.' *In re Smith*, 189 Ariz. 144, 146, 939 P.2d 422, 424 (1997) (quoting *Hunt v. Maricopa County Employees Merit Sys. Commission*, 127 Ariz. 259, 261-62, 619 P.2d 1036, 1038-39 (1980) (citations omitted)). The court's authority over the practice of law is also based on the creation of an integrated judicial department and the revisory jurisdiction of this court as provided in article VI, sections 1 and 5(4) of the Arizona Constitution." *In re Creasy*, 198 Ariz. 539, 12 P.3d 214 (2000).

almost 3,500 inquiries and handled more than 700 formal attorney misconduct investigations, resulting in 136 sanctions and 300 cases of diversion and member assistance. The SBA that year also addressed nearly 100 complaints against non-lawyers concerning the unauthorized practice of law.

The SBA offers widely used member services, such as the following, that are designed to ensure professionalism and competence on the part of its attorney members and assist with the Bar's primary responsibility of protecting the public: (1) The "ethics hotline" fields about 2,500 calls annually (or about 10 calls each business day). (2) A continuing legal education department presents nearly 200 seminars every year, about one-fourth of which concern ethics. (3) Nearly 2,000 SBA members attend the Bar's annual convention, which features dozens of education sessions. (4) SBA sections regarding particular areas of the law serve more than 2,000 members and conduct about 160 programs annually. (5) More than two dozen SBA committees deal with specific substantive matters of law, such as court rules and jury instructions, or with broader issues such as the mentoring of new attorneys and law office technology. (6) A law office assistance program helps lawyers improve law office management skills, and a trust account hotline responds to hundreds of inquiries each year regarding trust account management. (7) SBA publications include a directory, which helps the public and other lawyers locate licensed Arizona attorneys. (8) A monthly magazine, the *Arizona Attorney*, educates attorneys about recent court rulings, discipline actions, and key topics affecting the practice of law.

The SBA conducts other activities that also directly benefit the public. Every year, the SBA receives approximately 100 claims for reimbursement from the Client Protection Fund, which holds funds in trust from an annual assessment on SBA members. Those funds go to pay about \$300,000 annually to claimants whose attorneys caused them financial harm. Moreover, the SBA's conservatorship program assures that clients receive their files when their attorneys die, disappear, or become disabled without having a succession plan in place. The SBA also offers, without charge, a voluntary arbitration program to expeditiously resolve fee disputes between clients and their counsel. In addition, the SBA sponsors Law Day legal clinics, provides legal services to veterans and active duty service men and women, organizes programs benefitting the homeless, and provides a "diversity pipeline" that introduces high school and elementary students to law careers.

In summary, the programs described above protect the public by educating attorneys and by making them more capable, competent, and professional. These programs also serve the public interest by providing remedies for individuals who have been harmed by their counsel and by increasing the public's access to legal services and our justice system.

PART III: MISSION OF THE STATE BAR OF ARIZONA

A. **Rule 32(a).** Supreme Court Rule 32(a)(1) establishes the organization known as the State Bar of Arizona. This rule also details the mission of the SBA in a cumbersome, 266-word sentence.

In addition to being difficult to read, the Task Force believes the current Rule 32(a) fails to identify and express the SBA's core mission. Task Force members unanimously believe that the SBA's primary mission is to protect and serve the public. Activities undertaken by the SBA require the board to ask the predicate question, "Does this activity in some way protect or serve the public?" The SBA's functions derive from affirmative answers to that question. The SBA has responsibilities to improve the legal profession, to promote attorney competency, to enhance the administration of justice, and to assure that everyone, regardless of income, has access to the legal system, all of which derive from the bar's fundamental mission of protecting and serving the public.

Current Rule 32(a)(1) would make considerably more sense if the rule began with a statement that the SBA's core mission is protecting and serving the public. The other substantive elements of the rule become more focused and meaningful when preceded by a straightforward acknowledgement of that purpose. The Task Force therefore recommends amending Rule 32(a) to clearly express the SBA's core mission.² The Task Force also recommends restyling and reorganizing Rule 32(a) to make it easier to read and understand.³

B. **An integrated bar.** Attorneys understand that an "integrated" state bar (also referred to as a "unified" or a "mandatory" bar) is one a person must join in order to practice law in that state. Less understood are the reasons for having an integrated bar. Simply put, the bar is integrated with, and an integral part of, the

² The SBA has adopted a concise mission statement that includes in its first eight words an emphasis on this core mission:

The State Bar of Arizona serves the public and enhances the legal profession by promoting the competency, ethics, and professionalism of its members and enhancing the administration of and access to justice.

³ The proposed restyling of Rule 32(a) makes changes to paragraph 1 of the current rule, entitled "establishment of state bar," but omits in its entirety paragraph 2 of this rule, which is entitled "precedence of rules." The Task Force believes that paragraph 2 should either be deleted from the rule as unnecessary or moved to the rules concerning admission to the bar.

Supreme Court. The functions of an integrated bar relate to, and assist in, the administration of the judicial branch of government. See *Bridegroom vs. State Bar*, 27 Ariz. App. 47, 550 P.2d 1089 (1976).

An integrated bar benefits not only the Court and the bar, but the public as well. The Court has adopted ethical rules for the protection of the public, and the bar's regulatory function assists the Court in enforcing those rules. But what is equally important is that the bar works proactively to assure that its attorney members comply with the rules. The bar educates its members on professionalism and ethics and provides an ethics hotline so that attorneys may receive advice on specific ethics questions. It assists attorneys with trust account regulations and law office management. It promotes the competence of its members by establishing sections in specific areas of practice and by educating members in substantive matters of law. The bar is not required to provide these services to fulfill its regulatory function, yet these services promote attorney competence, and they therefore play an important role in consumer protection and serving the public interest.

A review of current Supreme Court Rule 32(a) confirms the bar's functions and duties. The rule directs the SBA to "advance the administration of justice," to "aid the courts in carrying on the administration of justice," to foster "high ideals of integrity, learning, and competence" and to encourage "practices that will advance and improve the honor and dignity of the legal profession." The SBA's convention, committees, and sections, as well as other programs, further these objectives. While the members of the legal profession benefit from these programs, those activities also serve the broader needs of society.

The above-mentioned concepts in Rule 32(a) have a direct link with the Arizona Rules of Professional Conduct, the Supreme Court's ethics rules that every attorney must follow. The preamble to those rules recognizes that "a lawyer . . . [is] a public citizen having special responsibility for the quality of justice." The preamble continues,

As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority.

The SBA's responsibilities set forth in Rule 32 go hand-in-hand with lawyers' duties under the ethical rules. The bar is the organization that effectuates those duties for its members. An integrated bar has intrinsic value. It includes a vision that lawyers do not practice in isolation. Rather, every individual attorney has a relationship with the bar and the judicial system and is a partner in fulfilling the worthy objectives described above.

The integrated bar provides an essential connection between its members, the courts, and the community. A voluntary bar operates independently of the Supreme Court, and without court supervision. It lacks a critical connection with the court. By contrast, an integrated bar is interdependent with the court; they function as the hand and the glove. For example, the SBA was instrumental in proposing recent changes to the attorney discipline system to make it more efficient and fair, which the Court adopted. An integrated bar brings technical expertise and real-world experience in the practice of law to the governance and regulation of attorneys. It is a catalyst for an effective system of justice, and a keystone in the rule of law.

Arizona has had an integrated bar since the SBA was established in 1933, but recent legislative efforts have attempted to change this arrangement. In 2013, a bill was introduced to make membership in the State Bar of Arizona optional. That bill quickly died, but HB 2629, introduced in the First Regular Session of 2015, had a similar objective, and unlike the 2013 bill, HB 2629 advanced out of a House committee. HB 2629 eventually failed, but the full House vote that defeated the bill was a close one.

These recent bills perceive the SBA as a union or a labor organization with mandatory membership, and contrary to Arizona's constitutional declaration that Arizona is a right-to-work state.⁴ These bills misconstrue the nature, purpose, and

⁴ See Ariz. Const. art. 25 (Right to Work). Nonetheless, the United States Supreme Court has upheld the validity of integrated state bar associations. See, e.g., *Keller v. State Bar of Calif.*, 496 U.S. 1, 4 (1990) ("We agree that lawyers admitted to practice in the State may be required to join and pay dues to the State Bar, but disagree as to the scope of permissible dues-financed activities in which the State Bar may engage."). With a few specified exceptions, dues-financed political or ideological activities are expressly prohibited by Article XIII of the SBA's bylaws. The SBA's bylaws also provide a process for challenging speech or activities perceived to be impermissible. The process involves arbitration and, if a challenge is upheld, it requires a refund of improperly spent bar dues. By comparison, a

function of the SBA. Labor organizations exist primarily to bargain with employers for their members' benefit, for such things as compensation, working conditions, vacations, hours, leave time, overtime, and pensions. But the SBA does not bargain with law firms or the public for any of these employment-related benefits. Rather, the SBA serves the public by upholding and enforcing attorneys' responsibilities to the public and advancing our system of justice. It is *sui generis*, a unique thing, and comparisons with other professional boards or vocational unions attempt to liken apples to carrots.

The most common complaint from attorneys about a mandatory bar is that they pay for services that may not benefit them individually or that they may not use.⁵ It is true that an Arizona attorney does not need to utilize any non-regulatory bar services; those services are optional. That is, attorneys can forego reading the monthly magazine or decline to attend SBA continuing legal education programs or the annual bar convention (although the foregoing services are self-supporting and do not require the expenditure of dues). But other services—such as the client protection fund, the member assistance and law office management programs, and the conservatorship program—require the financial support of every attorney to be effective. The duty to protect the public is not owed just by the attorneys who become disabled, who mismanage a law office, or who cheat a client. All attorneys bear a responsibility to protect the public. An integrated bar assures that every attorney—not just half or even ninety percent of attorneys, but every attorney—shares the cost of that responsibility. These invaluable services will cease to exist with the demise of the integrated bar because no voluntary bar in Arizona offers them.

Most states have integrated bars. A minority of states use other models, which Task Force members have discussed. Arizona has had an integrated bar for more than eighty years. Although like any institution the SBA can be improved, the Task Force believes the integrated model well serves the courts, attorneys, and people of Arizona. The Task Force therefore recommends that the SBA continue to be an integrated bar association.

voluntary bar, one in which membership is not required to practice law, is free to engage in political and ideological activities.

⁵ States that have voluntary bar associations by and large do not have lower overall bar dues. They charge both a mandatory regulatory assessment and separate voluntary bar dues, which together often exceed the annual membership fee in the State Bar of Arizona. An integrated bar benefits from economies of scale (for example, in human resources, technology, office expenses, and rent) that might require duplication if there were separate regulatory and voluntary entities.