

July 9, 2008

Rachelle M Resnick  
Clerk of the Court  
Arizona Supreme Court  
402 Arizona State Courts Building  
1501 W Washington Street  
Phoenix Arizona 85007-3231

Re. R-06-0023 Petition to Amend R 38(d)(3) Rules of the Supreme Court

Dear Ms. Resnick:

The State Bar of Arizona Board of Governors provides the following information regarding R-06-0023 on behalf of its Legal Services Committee.

Since September 5, 2007 when the Arizona Supreme Court amended Arizona Supreme Court Rule 38(d)(3) creating a pilot program that allowed law students to expand their volunteer activities the following has occurred:

1. The University of Arizona College of Law and Southern Arizona Legal Aid utilized the services of six law students under this experimental rule in a guardianship program. This was the program that initially motivated SALA to seek passage of this rule and had the skeletal system in place to take advantage of the pilot program. SALA and UA report no difficulties with the program and foresee expansion with adoption of a permanent rule.
2. Arizona State University College of Law is in process of developing programs to use this model. Under consideration are programs for law students to join VLP in "lawyers helping homeowners," the Children's Law Center for guardianships, and Wills for Heroes. Note that ASU has an extensive externship program for which students already qualify for Rule 38 certification.
3. The Phoenix School of Law also has an externship program under Rule 38(e). This past year they have had one student involved in intake for the homeowners initiative with the Volunteer Lawyers Program but at this time VLP is not planning for her to be attorney of record and appear in court on behalf of clients.

The Committee wished to highlight that the rule does not identify what legal service providers are approved. Rule 38(d)(3)(f) and (d)(6)(b) both refer to a "volunteer legal services program" with the latter rule continuing with "managed by an approved legal services organization . . ." Further down in Rule 38(e)(2)(c) and (f)(1), the "legal service

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organization” is defined and criteria is listed for which an organization may be an approved legal services organization through the court.

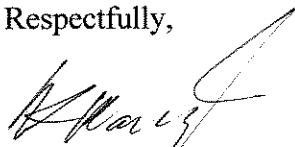
Each of these two rules specifies “for the purpose of this rule . . .” It appears the pilot program intends to encompass more legal aid providers than what would be captured under the other rules and/or allow for more expedited processing of student applications especially considering the inclusion of public defender offices and the state when discussing law student compensation. For purposes of pro bono work by students, it is foreseeable students partnering with governmental entities and non-profit organizations whose primary goal is the provision of legal services, but who may not require income verification, i.e. Wills for Heroes.

The pilot program leaves allowance for students to be certified at any point during law school. This requires each law school to develop policies and procedures for managing the program. However, the current law schools already have community relationships in place and administrators that oversee pro bono activities as well as a model structure for externships. This is an issue for the individual law schools to address and develop a workable system. Once developed for an initial program, the system will be applicable for expanded activities.

The pilot program saw results even if it was only in effect for less than a year. Should the rule be approved programs will be developed, expanded, or adapted to utilize the services of volunteer law students. Pro Bono is a growing area in law schools and in law student education. One of the frequent complaints of law students is that the pro bono opportunities do not allow for the hands-on experience they desire. This rule can help change that.

The Committee thanks the Supreme Court of Arizona for the opportunity to review this pilot program and offer recommendations. Seeing the beginnings of efforts over the past few months gives us great hope of what can happen under this rule. The Committee recommends adopting this rule as written as a permanent rule, with clarification that “volunteer legal services programs” will be defined in a broad manner while maintaining the integrity of service *pro bono publico*. Our suggestion would be to qualify volunteer lawyer services programs as those who are “non-profit entities serving the legal needs people in Arizona.”

Respectfully,



Robert Van Wyck  
Chief Bar Counsel  
State Bar of Arizona

cc. Ellen Crowley, Staff Attorneys Office