

Hon. Ann A. Scott Timmer, Chair
Attorney Regulation Advisory Committee
1501 W. Washington St.
Phoenix, AZ 85007

**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:)
) Supreme Court No. R-19-0011
PETITION TO AMEND RULES)
38 and 39 and ABROGATE RULE)
40, RULES OF THE)
ARIZONA SUPREME COURT)
) Supplement to Petition
_____)

Justice Ann A. Scott Timmer, Chair of the Attorney Regulation Advisory Committee, respectfully submits this supplement to the Petition to Amend Rules 38 and 39 and abrogate Rule 40, Rules of the Arizona Supreme Court.

This supplement proposes conforming amendments to other Rules of the Arizona Supreme Court that contain cross-references to Rules 38 or 39. The Supplement also proposes amendments to Rule 32(c)(4), providing that inactive members may be certified to provide pro bono legal services pursuant to Rule 38(d). *See* Attachment.

RESPECTFULLY SUBMITTED this 12th day of June, 2019.

By _____ /S/
Justice Ann. A. Scott Timmer
Chair, Attorney Regulation Advisory
Committee
1501 W. Washington St.
Phoenix, AZ 85007

Attachment

CONFORMING CHANGES TO OTHER RULES¹

RULES OF THE ARIZONA SUPREME COURT

Rule 32. Organization of State Bar of Arizona

(a) through (b) [No change in text.]

(c) Membership.

1. through 3. [No change in text.]

4. *Inactive Members.* Inactive members shall be those who have, as provided in these rules, been transferred to inactive status. An active member who is not engaged in practice in Arizona may be transferred to inactive status upon written request to the executive director. Inactive members shall not practice law in Arizona, or hold office in the State Bar or vote in State Bar elections. Inactive members may be certified to provide volunteer legal services to approved legal services organizations as provided in Rule 38(d) of these rules. On application and payment of the membership fee and any delinquent fees that may be due under Rule 45(d), they may become active members. Inactive members shall have such other privileges, not inconsistent with these rules, as the Board may provide. Incapacitated members may be transferred to disability inactive status and returned to active status as provided in these rules.

5. *Retired Members.* Retired members shall be those who have, as provided in these rules, been transferred to retired status. An active, inactive or judicial member who is not engaged in active practice in any state, district, or territory of the United States may be transferred to retired status upon written request to the executive director. Retired members shall not hold State Bar office or vote in State Bar elections. Retired members shall not practice law in any state, district, or territory of the United States. Retired members may be certified to provide volunteer legal services to approved legal services organizations as defined provided in Rule 38(e)(d) of these rules, except that ~~retired members need not have engaged in the active practice of law within the last five years as required in Rule 38(e)(2)(B)(1) or Rule 38(e)(3)(A).~~

¹ Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

Retired members may return to active status subject to the requirements imposed on inactive members who return to active status, as set forth in subsection (c)(4) of this rule. Retired members shall have other privileges, not inconsistent with these rules, as the Board may provide. Incapacitated members may be transferred to disability inactive status and return to active status as provided in these rules.

[No change in remaining text.]

Rule 33. Committees; Practice

(a) through (b) [No change in text.]

(c) Practice in Courts. No person shall practice law in the State of Arizona without being admitted to the bar by compliance with the following rules, provided that an attorney practicing in another state or territory or insular possession of the United States or the District of Columbia may be permitted by any court to appear in a matter pro hac vice, in accordance with the procedures set forth in Rule ~~38~~39(a).

Rule 34. Application for Admission

(a) through (e) [No change in text.]

(f) Admission on Motion.

1. [No change in text.]

2. For the purposes of this rule, the “active practice of law” shall include the following activities, if performed in a jurisdiction in which the applicant is admitted, or if performed in a jurisdiction that permits such activity by a lawyer not admitted to practice; however, in no event shall any activities that were performed in advance of bar admission in some state, territory or the District of Columbia be accepted toward the duration requirement:

A. through F. [No change in text.]

G. service as corporate counsel in Arizona before January 1, 2009 or while registered pursuant to Rule ~~38(h)~~(a). Active practice performed within Arizona pursuant to Rule ~~38(h)~~(a) may be applied to meet active practice requirements found in Rule 34(f)(1)(A)(ii) provided all other requirements of Rule 34(f) are met.

[No change in remaining text.]

* * *

Rule 42. Arizona Rules of Professional Conduct

ER 5.5. Unauthorized Practice of Law; Multijurisdictional Practice of Law

(a) through (f) [No change in text.]

(g) Attorneys not admitted to practice in Arizona, who are admitted to practice law in any other jurisdiction in the United States and who appear in any court of record or before any administrative hearing officer in Arizona, must also comply with Rules of the Supreme Court of Arizona governing *pro hac vice* admission. *See* Rule 39(a).

* * *

Rule 45. Mandatory Continuing Legal Education

(a) Continuing Legal Education Requirements.

1. through 3. [No change in text.]

4. An active member of the bar, not exempted, who provides pro bono service to the poor or near poor through an approved legal services organization, as defined in Rule 38(e)(d), is eligible for one hour of continuing legal education credit for every five hours of pro bono service provided, up to a maximum of five hours per educational year of continuing legal education credit. Such credit shall be included in the maximum number of hours allowed for self-study and shall be reported in the attorney's annual affidavit of compliance.

[No change in remaining text.]

Rule 46. Jurisdiction in Discipline and Disability matters; Definitions

(a) [No change in text.]

(b) **Non-members.** A non-member engaged in the practice of law in the State of Arizona or specially admitted to practice for a particular proceeding before any court in the State of Arizona, a non-lawyer permitted to appear in such capacity, a foreign legal consultant as defined in Rule 38(b), or in-house counsel as defined in, and registered pursuant to, Rule 38(i)(a), submits himself or herself to the disciplinary and disability jurisdiction of this court in accordance with these rules.

[No change in remaining text.]