

Arizona Supreme Court  
1501 West Washington Street  
Phoenix, AZ 85007

April 22, 2020

Subject: R-20-0034 Petition to Restyle and Amend Supreme Court Rule 31; Adopt New Rule 33.1; and Amend Rules 32, 41, 42 (Various ERs from 1.0 to 5.7), 46-51, 54-58, 60, and 75-76

Dear Arizona Judicial Council:

Axiom Global Inc. (Axiom) writes to comment on Arizona Task Force on the Delivery of Legal Services recommendations.

Axiom believes in and applauds the Task Force's objective to promote access to justice and the efficacy of legal services. We write in support of the Task Force's recommendations along with the efforts of regulators in California and Utah.

On recommendation 1, Axiom agrees with the Task Force's recommendation to eliminate ER 5.4 and 5.7 and amend ERs 1.0-5.3 to enable new forms of partnership between lawyers and nonlawyers. We respectfully offer our perspective as a company that has spearheaded the transformation of the legal industry for almost twenty years: access to financial resources spurs competition and innovation, which in turn makes us better—it creates better outcomes for clients, gives lawyers more opportunity, and moves the profession forward.

Axiom's founding in 2000 predates similar regulatory change in New South Wales, Australia and the U.K. Axiom was founded on the fundamental belief that the legal industry was broken; that the winners of the traditional law firm model and the billable hour are law firm partners at the cost of associates and clients. Traditional law firms and law firm partners are hardly villains; they are merely products of an incentive structure. New models are needed, and Axiom agrees with the Task Force's statement that ABA Model Rule 5.4 "was not rooted in protecting the public but in economic protectionism."

The ethical issue of ownership by other professionals and fee sharing is a red herring. Ethical choices sit with the individual lawyers, who should be entrusted with holding up the ethical standards of their professions. Doctors work for privately owned hospitals yet uphold their oaths and provide the right medical care; lawyers are not any different. Since the 1980s, general counsels have had major roles in corporations that have very rarely impacted their professional judgment. Participation or investment in legal services by professionals who are not lawyers will not undermine the professional responsibility of licensed lawyers. It will continue to be necessary to uphold these standards to be successful and alternative business structures (ABS) and other structures enable the extension of ethical standards to other professionals. The ethical concern argument is one that generates unfounded fear and hides the protectionist nature of the argument.

The exclusion of all but lawyers from the ownership of law firms is an antiquated blocker to the necessary access to capital for the legal industry. Opening up ownership will allow the industry to provide the incentives that are available elsewhere. It will help with recruitment of the best talent with new skills and new perspectives that the industry needs. Beyond our belief that competition and innovation spur client

and lawyer satisfaction, today, delivery of legal services requires more than just knowledge of the law. The elimination of ER 5.4 will encourage other professionals from disciplines like technology, operations, and business management to collaborate with lawyers, enhancing efficiency of delivery of legal services and value to clients.

In the United Kingdom, where ABS are permissible, top law firms are motivated to create alternative legal service lines and talent networks. They seek to improve options and work-life balance for attorneys. They are investing in legal technology to a degree that cannot be said of their American counterparts. Notably, one major U.S.-based law firm in the U.K. has converted to ABS. There has been no deluge of ethics complaints since ABS were instituted and fear of erosion of legal ethics proved unfounded.

In markets that permit ABS, we also see a proliferation of legal technology innovation and communities dedicated to its development: e.g., Legal Geek; Barclay's Eagle Lab and the Future of Law Innovation Program in Singapore. We also see robust regulatory frameworks designed to properly regulate ABS, as is the case with the Solicitors Regulation Authority in the U.K. It is in these jurisdictions that lawyers will be able to experiment with different models and offerings to land on what works best for their clients and their profession while ensuring high standards of professional ethics. Additionally, allowing lawyers to benefit from external investment by investors who are not lawyers may enable greater gender and ethnic diversity in law firm ownership that may otherwise be out of reach.

In full transparency, Axiom is not an ABS and Axiom serves corporate clients, not the individuals that access to justice efforts target. Axiom strongly supports those efforts. We fundamentally believe that whether solving the increasing demands and novel problems of corporate clients or the access to justice problem for individuals in a society, solutions are not going to be found by carrying on as we have always done. Complacency is what has led us to the current situation.

In summary, Axiom supports and agrees with the Task Force's recommendations to eliminate ER 5.4 and 5.7 of Arizona's Rules of Professional Conduct. Economic forces are clearly at work in the transformation of legal services. The industry must evolve with its clients to meet their needs and embrace the opportunities technological advances offer to provide better legal services to both individual and business clients. Antiquated regulations of ownership structures should not get in the way. The old rules – and their defence today – are more about protection of privileges than protection of ethics of the profession that we, as lawyers, are more than ever committed to upholding. Opponents of re-regulation do a disservice to regulators who are working to ensure that citizens in need of civil legal services can obtain them and afford them. We must not let the red herring masquerading as ethics concerns deter us from trying new ways to solve modern problems.

Thank you for your consideration. We believe this issue is of utmost importance and invite future dialogue.

Sincerely,



Catherine Kemnitz  
Global Head of Legal