

Law Office Of

ERIC A. THOMSON
*Admitted in California
*Admitted in Arizona

ERIC A. THOMSON
7440 N. Oracle Rd., Bldg 5
Tucson, Arizona. 85704
e-mail: thomsonesq@msn.com

Telephone: (520) 297-6444
Facsimile: (520) 797-1491

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Arizona Supreme Court

Dear Justices of the Arizona Supreme Court:

This is to express my strong opposition to the proposal to amend the Ethical Rules and remove ER 5.4. There are two provisions of this rule that particularly protect the interests of the public at large and the elimination of which will gut that protection.

Specifically, ER 5.4 (d)(3) disallows the practice of law in a professional corporation if a nonlawyer could direct or control the judgment of the lawyer. If this is eliminated, nonlawyers will assuredly control the judgment of lawyers in their practice. The State Bar goes to great lengths to protect the public and ensure that those who practice law are capable, both professionally and morally, to act as legal advocates and guardians. Once nonlawyers can direct the actions of their employee-attorneys, this protection will be eroded.

ER 5.4(b) prevents a lawyer from forming a partnership with a nonlawyer if they practice law. This provision also protects the public and ensures the persons who practice law have been screened by the State Bar for moral fitness and academic capability. The elimination of this requirement would subject clients to the judgment of those who have not faced such scrutiny.

The current system provides for professionals who have been evaluated for their fitness and places all attorneys in competition with each other in the private market, which means the public can gain access to the legal system in a fair and open manner. ER 5.4 should be preserved.

Very truly yours,

/s/ Eric A Thomson

Eric A Thomson
Arizona Bar No.: 017518