

**Scharf-Norton Center for Constitutional Litigation
at the GOLDWATER INSTITUTE**

Jonathan Riches (025712)
Timothy Sandefur (033670)
Scott Day Freeman (019784)
Stacy Skankey (035589)
500 E. Coronado Rd.
Phoenix, AZ 85004
(602) 462-5000
litigation@goldwaterinstitute.org

**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:

PETITION TO AMEND SUPREME
COURT RULES 32(b) AND (c)

Supreme Court
No.

**PETITION TO AMEND RULES
32(b) AND (c), RULES OF THE
SUPREME COURT**

Pursuant to Ariz. S. Ct. R. 28, Jonathan Riches, Scott Freeman, Timothy Sandefur, and Stacy Skankey, individually and on behalf of the Goldwater Institute,¹ respectfully petition this Court to adopt amendments to Rules 32(b) and (c) Rules of the Supreme Court (“Rule 32”), governing membership in the State Bar of Arizona (“State Bar”), as proposed herein. The proposed amendments maintain the current mandatory membership requirement for all lawyers but eliminate membership dues for non-regulatory functions. A redlined draft Rule 32,

¹ Pursuant to Ariz. S. Ct. R. 28(a)(4)(A)(iv), the Goldwater Institute previously petitioned this Court to Amend Rule 32. *See* Timothy Sandefur, *R-19-0005 Petition to Amend Rules 32(c) and (d), Rules of the Supreme Court*, COURT RULES FORUM (Jan. 09, 2019, 9:27 AM), <https://www.azcourts.gov/Rules-Forum/aft/938>.

as proposed herein, is attached as Appendix A. A clean draft of Rule 32, as proposed herein, is attached as Appendix B. A proposed order, as proposed herein, is attached as Appendix C.

I. Background and Purpose of the Proposed Rule Amendments

The proposed amendments modify Rule 32 to maintain the mandate of membership in the State Bar for anyone practicing law in Arizona, but remove rules whereby the Bar uses membership fees to fund non-regulatory functions, including lobbying. The proposed amendment is modest and designed to bring Rule 32 in compliance with First Amendment precedent including *Janus v. AFSCME*, 138 S. Ct. 2448 (2018), *Harris v. Quinn*, 573 U.S. 616 (2014), *Knox v. SEIU, Local 1000*, 567 U.S. 298 (2012), and *Keller v. State Bar of California*, 496 U.S. 1 (1990).

Many states that compel attorneys to join a state bar—and about twenty do not²—have already separated their bars’ regulatory functions and non-regulatory political functions in response to these decisions, thereby protecting attorneys’ First Amendment right not to be forced to subsidize political speech and activities with which they disagree. Those states that have not yet done so are likely to be required to, soon.³

² See Ralph H. Brock, “An Aliquot Portion of Their Dues”: A Survey of Unified Bar Compliance with *Hudson and Keller*, 1 Tex. Tech. Admin. L.J. 23, 24 (2000).

³ See Thomas J. Freeman, *et al.*, *The Roberts Court and Compulsory Collective Bargaining: Reading the Tea Leaves After Janus*, 21 Geo. J.L. & Pub. Pol’y 187, 214–15 (2023).

The proposed amendment also comports with decisions in federal courts regarding these First Amendment issues. *See Boudreaux v. La. State Bar Ass'n*, 86 F.4th 620 (5th Cir. 2023) (holding compulsory bar membership is unconstitutional if a bar's speech is not germane to regulating lawyers), *McDonald v. Longley*, 4 F.4th 229 (5th Cir. 2021) (same), *Schell v. Chief Just. & Justs. of Okla. Sup. Ct.*, 11 F.4th 1178, 1193–95 (10th Cir. 2021) (allowing plaintiff to state freedom of association claim against bar that spent dues on non-germane activities); *Crowe v. Or. State Bar*, 989 F.3d 714, 727–29 (9th Cir. 2021) (same). Given that the Arizona Constitution provides stronger protections for freedoms of expression and association than the First Amendment does, this Court should accord greater attention to the free speech issues addressed in those federal cases. *See Brush & Nib Studio, LC v. City of Phoenix*, 247 Ariz. 269, 282 ¶ 46 (2019). Moreover, Arizona's Constitution specifically prohibits forcing people to join private organizations as a condition of employment. *See Ariz. Const. art. 25*. Laws that force attorneys to join the Arizona State Bar as a condition of earning their living violate this fundamental state guarantee.

A. Reasons for Change

There has been a statewide bar association in Arizona since 1895, when Arizona was a territory.⁴ But it was not until 1933 that a mandatory membership organization was established. *Id.* In 1973, the Arizona Supreme Court drafted what is now known as Rule 32 to create joint oversight over the State Bar by the Court

⁴ *History*, State Bar of Arizona, <https://www.azbar.org/about-us/about-the-organization/history/>.

and the legislature. *Id.* In 1985, that joint oversight ended, and the State Bar was left under the Court’s sole oversight. *Id.* The State Bar has grown from 654 attorneys in 1933 to approximately 24,000 attorneys today—largely because attorneys are forced to join. *Id.*

Both the state and federal constitutions protect every individual’s freedom to associate or not to associate, and the right not to be compelled to fund speech they oppose as the price of earning a living. *See Janus*, 138 S. Ct. at 2463; *Harris*, 573 U.S. at 648; *Knox*, 567 U.S. at 309; *Brush & Nib Studio*, 247 Ariz. at 282 ¶ 48. Despite these protections, the State Bar of Arizona forces lawyers to join and to subsidize the State Bar’s speech through their membership dues. Compelling membership violates these rights of speech and association—as do laws that force attorneys to subsidize the State Bar’s speech on matters unrelated to regulation of the practice of law.

In addition, the Arizona Constitution protects an individual’s right to choose whether to join a labor organization or professional association, by forbidding either the state or private employers from requiring such membership as a condition of employment. Ariz. Const. art. 25. This constitutional provision is reinforced by Arizona’s “right to work” statutes, which provide that “[n]o person shall be denied the opportunity to obtain or retain employment because of nonmembership in a labor organization.” A.R.S. § 23-1302. Yet, every person licensed by the Arizona Supreme Court to engage in the practice of law *must* join

the State Bar in order to practice law. Ariz. Sup. Ct. R. 32(a)(1). Any person declining to join the State Bar would be unemployable as an attorney.

This stands in notable contrast to the way Arizona regulates other professions. Under state law, licenses are required for many professions and occupations—yet members of these professions are not forced to join a trade association or a professional organization in order to practice their professions. For example, the Arizona Medical Board licenses medical doctors in Arizona, but physicians are not required to join the Arizona Medical Association or American Medical Association in order to practice medicine. Engineers are required to obtain licenses and are regulated by the Arizona Board of Technical Registration, but they are not required to join the Arizona Society of Professional Engineers or to subsidize its lobbying activities in order to practice engineering.

According to its Mission Statement, the State Bar “exists to serve and protect the public with respect to the provision of legal services and access to justice. Consistent with these goals, the State Bar of Arizona seeks to improve the administration of justice and the competency, ethics, and professionalism of lawyers practicing in Arizona.”⁵ Rather than focusing on regulating the practice of law, the State Bar liberally construes its purpose to act as an interest group or trade association rather than an administering body for the regulation of lawyers. The

⁵ *Mission Statement*, State Bar of Arizona, <https://www.azbar.org/about-us/mission-vision-core-values/>.

State Bar leadership, by its own account, does “far more than” regulating the practice of law.⁶

The State Bar going beyond its regulatory warrant infringes the First Amendment rights of its members. Where there is an infringement on First Amendment rights, the imposition must pass exacting scrutiny. *Harris*, 573 U.S. at 648–49. This requires a compelling state interest that cannot be achieved “through means significantly less restrictive of associational freedoms.” *Id.* Yet, it is possible to protect the public in a significantly less restrictive manner than forced membership of a bar association that funds non-regulatory activities. Thus, this Petition proposes that the mandatory membership fee of the State Bar be narrowed to only permit membership fees to be used for regulatory activities. This would still achieve the goal of regulating the practice of law without adding the unjust and unconstitutional burden of compulsory association.

One potential justification for the State Bar to engage in activities beyond those necessary to regulate the practice of law is because the State Bar’s activities ostensibly improve the quality of legal services and promote access to justice. But this argument is unpersuasive because at best, these activities may have some indirect benefit to lawyers. That does not make them germane to the practice of law. The Bar may not fund non-germane activities. *Keller*, 496 U.S. at 14. The challenged expenditures must be “necessarily or reasonably incurred for the purpose of regulating the legal profession or ‘improving the quality of legal

⁶ Roberta Tepper, *Engaging*, Ariz. Atty, Nov. 2023, at 12.

service[s].” *Id.* (citation omitted). Certain State Bar services, like art competitions, certainly do not regulate the practice of law or improve the quality of legal services.

Other activities of the State Bar, such as networking activities or health and wellness recommendations, are already available from other organizations and resources in and outside the legal profession. There is no evidence that the State Bar better facilitates providing these resources to its members than voluntary organizations, or that by doing so, the State Bar has improved legal services or access to justice.⁷ These services do not sufficiently relate to the legal practice or legal profession and fail the germaneness test of *Keller*. *See Boudreaux*, 86 F.4th at 632.⁸

Perhaps most importantly, it is unreasonable to assume that one single mandatory organization speaks for all 24,000+ attorneys both inside and outside of Arizona. Obviously, lawyers have diverse beliefs, interests, and political views. These views change rapidly and constantly. The State Bar practically cannot and lawfully may not be in the business of trying to speak for the entirety of its compulsory membership.

⁷ Leslie C. Levin, *The End of Mandatory State Bars?*, 109 Geo. L.J. Online 1, 18–19 (2020).

⁸ Indeed, there is simply no germane purpose to social media posts like “Thank God It’s Friday”—yet such communications are done by the State Bar, utilizing State Bar resources and member dues. *See generally* <https://www.facebook.com/statebaraz/>.

B. General Description of Proposed Amendments

Currently all attorneys seeking to practice law in Arizona must join the State Bar and pay an annual membership fee. Ariz. S. Ct. R. 32(c)(4). The annual fee varies based on the category to which the member belongs, from \$100 for retired members after 35+ years of Arizona membership, to \$505 for active members.⁹ This fee, except for voluntary sections and certified specialist fees, funds all regulatory aspects of lawyer licensing and discipline, *and* all other areas of the State Bar's activities, including its lobbying activities, social media communications, art competitions, and a panoply of other activities. This proposal would instead limit mandatory bar membership to only those items necessary to regulate the profession.

The proposed amendment keeps lawyer regulation as-is. Lawyers would still be required to pay dues and submit to regulation and discipline activities performed by the State Bar. But the State Bar would *only* be acting as a regulator, and would only be permitted to use membership dues to engage in traditional regulatory functions, such as admissions testing, character and fitness, specialty certification, minimum requirements for and oversight of continuing legal education, and attorney discipline. These regulatory functions would remain under the oversight of the Court and funded by compulsory membership fees sufficient to pay for them and the client protection fund. Stated simply, the State Bar would be funded by mandatory membership fees to regulate the practice of law.

⁹ Ariz. S. Ct. Admin. Order Nos. 2022-115 and 2016-52 at 2–3.

C. Arguments for Mandatory Bar Fees to Only Regulate the Practice of Law

In *Keller*, the Supreme Court identified only two legitimate government interests that might justify compelling attorneys to join and fund a state bar as a condition of practicing law (assuming such a mandate also satisfies the tailoring analysis of exacting scrutiny). Those two interests are: regulating the practice of law and improving the quality of legal services. 496 U.S. at 13–14. The *Keller* Court made particularly clear that bar associations *cannot* engage in non-germane speech—that is, speech that does not advance the two foregoing interests—with mandatory dues. *Id.*; see also *May v. McNally*, 203 Ariz. 425, 428 ¶ 13 (2002) (“[where] membership is a condition of employment, [a bar organization] may use funds generated from mandatory membership fees for activities ‘germane’ to the organization”). Thus, for example, “[c]ompulsory dues may not be expended to endorse or advance a gun control or nuclear weapons freeze initiative.” *Keller*, 496 U.S. at 16.

But Arizona’s State Bar regularly engages in non-germane political and ideological speech. It engages in activities similar to those of a trade association—including lobbying activities and activities completely irrelevant to the legal profession, such as public communications including Bob Dylan quotes reminding its compelled members to breathe,¹⁰ and to practice “mindfulness” and “self-kindness.”¹¹ And it does all of this with dues attorneys are forced to pay.

¹⁰ *Breathe*, Ariz. Atty, Oct. 2023, at 76.

¹¹ *Take Time to Care for Yourself*, Ariz. Atty, Feb. 2023, at 6.

The State Bar appears to have no difficulty separating its regulatory functions from its other activities. In its financial and budget statements, the State Bar identifies program services into regulatory, compliance, professional development, and several other categories.¹² This proposed amendment would simply declare that annual membership dues shall be spent only for regulatory activities. If an expense is for the regulation of the profession, then the presumption is that the expenditure is germane.¹³

The State Bar leadership has consistently opposed efforts to change the structure of the State Bar—and, fittingly enough, has done so with funding taken from attorneys in violation of their First Amendment rights. During the 2016 legislative session, for example, the State Bar leadership advocated against HB2221, which would have provided for a mandatory bar for regulatory functions and voluntary membership for non-regulatory functions. *See* Video of Public Statements of John F. Phelps, State Bar CEO/Executive Director, House Judiciary Committee Hearing at 6:45–34:17 (Feb. 10, 2016).¹⁴ In 2019, the State Bar even

¹² *Financial Statements*, State Bar of Arizona, <https://www.azbar.org/about-us/financial-statements/>.

¹³ If an activity is challenged as non-germane, it will continue to be guided under existing case law to determine if the activity survives exacting scrutiny. *See, e.g., Boudreaux*, 86 F.4th at 626 (holding when a bar engages in non-germane speech, then forced membership is subject to exacting scrutiny, which it fails); *McDonald*, 4 F.4th at 246 (quoting *Knox*, 567 U.S. at 310) (“In its freedom-of-association cases, the Court has generally applied ‘exacting ... scrutiny,’ under which ‘mandatory associations are permissible only when they serve a ‘compelling state interest that cannot be achieved through means significantly less restrictive of associational freedoms.’”).

¹⁴ House Judiciary Committee, Arizona State Legislature (Feb. 10, 2016, 9:00 AM), <https://www.azleg.gov/videoplayer/?eventID=2016021430>.

filed amicus briefs in lawsuits in jurisdictions where other mandatory state bars were challenged, to argue in defense of the unconstitutional status quo.¹⁵ It is remarkable that compulsory membership dues—that attorneys *must* pay to practice law—were used to fund the efforts against voluntary membership to a bar that many attorneys *support*.¹⁶

The proposed amendments to Rule 32 would not negatively affect the State Bar’s primary function of regulating the practice of law. The State Bar’s current regulation of the practice of law would continue with the Court’s oversight. Under the proposed amendment, the State Bar may continue mandatory bar membership for the sole purpose of regulating lawyers and necessary activities to regulate the profession.¹⁷

D. Arguments Against Non-Regulatory Activities

Where mandatory bar associations engage in non-germane activities, Supreme Court precedent requires them to maintain procedures that allow members to seek a refund of their dues for non-germane activities to which they

¹⁵ See, e.g., Brief of the State Bar of Arizona as Amicus Curiae Supporting Appellee State Bar of Oregon, *Gruber v. Oregon State Bar*, No. 3:18-cv-1591-JR, 2019 WL 2251282 (D. Or. May 24, 2019) (identical briefs filed in cases *Crowe v. Oregon State Bar*, No. 19-35463 (9th Cir. filed May 29, 2019) and *Gruber v. Oregon State Bar*, No. 19-35470 (9th Cir. filed May 31, 2019) challenging the Oregon State Bar) and Brief of the Integrated State Bars of Alaska, Arizona, Kentucky, Michigan, West Virginia, and Wyoming as Amicus Curiae Supporting Appellees and Affirmance, *Fleck v. Wetch*, 937 F.3d 1112 (8th Cir. 2019).

¹⁶ While members may seek a refund from the State Bar’s lobbying activities, members cannot opt-out from all efforts the State Bar takes when opposing mandatory state bars—like filing amicus briefs.

¹⁷ Annual membership fees must necessarily be reduced as they currently fund non-regulatory activities.

object. See *Chicago Teachers Union, v. Hudson*, 475 U.S. 292 (1986) (describing “opt-out” procedures). But opt-out methods do not adequately protect First Amendment rights. This method forces the lawyer to affirmatively act to obtain a refund after their dues have already been spent on speech or issues they oppose. Additionally, it is nearly impossible to be aware of all the activities the State Bar engages in, as it does far more than regulate the profession. More recent precedent requires that members must consent *before* their dues are used to subsidize objectionable, non-germane activities, not after. See *Janus*, 138 S. Ct. at 2486.

Rule 32 was recently modified in an attempt to comply with *Keller*, but the opt-out procedure it creates is still deficient. *Keller* prohibits mandatory bar fees from being used for political or ideological activities. However, the State Bar admits that while it *generally* does not use member dues to fund political or ideological activities, “[t]his does not mean that a mandatory bar in the United States cannot take a position on an issue outside those areas, only that it may be required to refund the portion of fees spent lobbying on those issues that do not meet the *Keller* standard.”¹⁸ This is an erroneous interpretation of *Keller*—the State Bar cannot fund non-germane activities or those of an ideological nature, period. The State Bar also uses mandatory dues to review and analyze pending legislation, and provide “content-neutral” assistance to legislators.¹⁹

¹⁸ *Lobbying Expense Refund*, State Bar of Arizona, <https://www.azbar.org/about-us/government-relations/lobbying-expense-refund/>.

¹⁹ Brock, *supra* note 2 at 55–56. This article identifies thirty-two states with a mandatory bar association since its publication, however, California has adopted a bifurcated system under which lawyers pay only for purely regulatory activities and are not forced to fund the bar association’s political or ideological speech,

The State Bar’s solution when it does violate *Keller* is to require the member to challenge the member’s regulating entity and seek a refund of a portion of membership dues used. This places the burden on the member to identify and timely challenge the activity, so that the State Bar or an arbitrator can determine whether there has been a *Keller* violation. But the U.S. Supreme Court has now squarely rejected precedent that places the burden of proof on the objector, noting that it is “anomal[ous],” because it violates the longstanding principle that “[c]ourts ‘do not presume acquiescence in the loss of fundamental rights,’” and “creates a risk that the fees paid by nonmembers will be used to further political and ideological ends with which they do not agree.” *Knox*, 567 U.S. at 311–12 (citation omitted). It is for that reason that *Janus* requires an opt-in rule, where consent is given *before* money is taken. 138 S. Ct. at 2486.

In any event, the better solution is to not violate free expression and association protections in the first instance. This proposal removes possible constitutional violations by eliminating the use of compelled dues for non-regulatory activities. In short, it does not matter how many non-germane activities are paid for with mandatory bar dues because what matters for purposes of freedom of association, is whether “*some*” of the State Bar’s activities are not germane. *McDonald*, 4 F.4th at 248 (emphasis in original).

eliminating most if not all First Amendment programs. See Marilyn Cavicchia, *Newly Formed California Lawyers Association Excited to Step Forward*, ABA J. (Apr. 30, 2018), available at <http://bit.ly/2LEYNg0>.

In addition to lobbying, the State Bar uses compulsory bar dues to pay for activities that are not germane to the practice of law. The germaneness standard requires an “inherent connection to the practice of law,” not a mere “connection to a personal matter that might impact a person who is practicing law.” *Boudreaux*, 86 F.4th at 633. A few examples of the State Bar’s activities include, but are not limited to:

- *Arizona Attorney Arts Competition*. The State Bar hosts an annual Creative Arts Competition²⁰ and dedicates an entire issue of *Arizona Attorney Magazine* to its competition winners.²¹
- *Task Forces*. In 2022, the State Bar’s Taskforce on Social Justice, Bias, and Inclusion issued a 2022 Diversity and Inclusion Report making assumptions about the experiences of the entire Arizona legal community based upon less than 7% of the active State Bar membership responses to the survey (*e.g.* that almost 40% of women and 46% of people of color experienced discrimination).²² Task Forces are placed in the State Bar’s budget under the broad umbrella of “professional development” in what appears to be a catchall for non-germane activities.²³

²⁰ *Arts Competition Rules*, State Bar of Arizona, <https://www.azbar.org/news-publications/arizona-attorney-magazine/arts-competition-rules/>.

²¹ *Pigments of the Imagination*, *Ariz. Atty*, May 2023.

²² Ellen Carroll, *et al.*, *2022 Report on the Workplace Diversity & Inclusion Experiences of Arizona State Bar Members*, State Bar of Arizona (2023), https://www.azbar.org/media/yi1jjmff/sba-2022-di-report_final.pdf.

²³ *Financial Statements*, State Bar of Arizona, <https://www.azbar.org/about-us/financial-statements/>.

- *Social Media*. The State Bar actively posts anywhere from 2–5 posts a day on Facebook and X concerning: weekly #TuesdayTrivia; general historical information, such as a November 23, 1963 press release by H. Louis Nichols, President of the Dallas Bar Association, visiting Lee Harvey Oswald in jail to ensure he had legal representation after John F. Kennedy’s assassination; “fun facts,” (e.g., cranberry sauce was invented by a lawyer); self-care tips; plots of legal films; coloring pages; International Coffee Day; custom digital imagery to wish members a happy Halloween; legal jokes and memes; weekly reminders to be thankful it is Friday; etc.²⁴
- *Advertising*. In 2022, the State Bar participated in a movie theater advertising campaign to “raise awareness of the State Bar of Arizona.”²⁵
- *eNewsletters*. eLegal, eLegal Solo and eLegal Tech News write about everything “to do with Arizona’ legal universe” and provide “a daily dose of stuff that’ll keep you headlining at the water cooler.”²⁶ Daily 5 “is your morning water-cooler” that contains news stories digestible to non-lawyers. Daily 5 admits it has “broad purview,” but by its own self-determination “everything [is] germane.”²⁷

²⁴ See generally <https://www.facebook.com/statebaraz/>.

²⁵ See *2022 Annual Report*, State Bar of Arizona, <https://www.azbar.org/media/rekexnt0/2022-state-bar-annual-report.pdf>.

²⁶ *eLegal Newsletters*, State Bar of Arizona, <https://www.azbar.org/news-publications/enewsletters/elegal-newsletters/>; *eNewsletters*, State Bar of Arizona, <https://www.azbar.org/news-publications/enewsletters/>.

²⁷ *Daily 5*, State Bar of Arizona, <https://www.azbar.org/news-publications/enewsletters/daily-5/>; *Court to Louisiana Bar: Stick to Law Practice Topics*, Arizona Attorney Daily 5, (Nov. 15, 2023), <https://www.icontact->

- *Arizona Attorney Magazine*. The *Arizona Attorney Magazine* is a monthly publication “providing a window into Arizona’s legal community with a global viewpoint.”²⁸ The articles are wide-ranging, and in many cases widely non-germane, including tips for general wellness in each issue and issues dedicated entirely to paid advertisements²⁹ and for art competitions.³⁰
- *Young Lawyers Division*. The YLD is a group of recent and young State Bar members that hold networking events, mixers, trivia nights, movie clubs, and picnics.³¹
- *Strategic Priorities*. The State Bar includes in its strategic priorities additional activities outside the regulation of lawyers, including supporting member “wellness,”³² and members’ “satisfaction in the practice of law.”³³ The State Bar has also made Diversity, Equity and Inclusion a priority for the State Bar and the legal profession. *Id.*
- *News Releases*. Occasionally, the State Bar will issue a News Release making statements on behalf of the State Bar and its leadership. Notably, the

[archive.com/archive?c=1742698&f=26253&s=28058&m=213264&t=c9c74c6f5347cc6b6b4bb59ea0d170e861908b8b9b683493bf612b8949ee29e2](https://www.archive.com/archive?c=1742698&f=26253&s=28058&m=213264&t=c9c74c6f5347cc6b6b4bb59ea0d170e861908b8b9b683493bf612b8949ee29e2).

²⁸ *Arizona Attorney Magazine*, State Bar of Arizona, <https://www.azbar.org/news-publications/arizona-attorney-magazine/>.

²⁹ *See Expert Witness Guide 2023*, Ariz. Atty, March 2023.

³⁰ *Pigments of the Imagination*, Ariz. Atty, May 2023.

³¹ *Young Lawyers Division*, State Bar of Arizona, <https://www.azbar.org/for-lawyers/communities/young-lawyers-division/>.

³² “If a bar association provides advice, that advice must inherently relate to the legal profession or the practice of law. Advice is not germane just because, in the association’s view, it improves ‘wellness’ and therefore the practice of law indirectly.” *Boudreaux*, 86 F.4th at 633.

³³ *State Bar of Arizona Strategic Plan 2024–2026*, State Bar of Arizona, <https://www.azbar.org/about-us/mission-vision-core-values/strategic-plan/>.

State Bar timely issued a news release about George Floyd and its position on diversity.³⁴ In contrast, the State Bar has not issued a news release concerning (to cite just one example) the October 7, 2023, Hamas attacks in Israel, or denounced antisemitism in Arizona.

- *Awards.* The State Bar gives out annual awards for a variety of reasons including a Member of the Year award—an award presented to a member who renders extraordinary contributions to the programs and activities of the State Bar. This is curiously different from the other awards that focus on the members legal advocacy, furthering access to justice, or contributions to diversity.

These examples, which are only a small sampling of the activities the State Bar engages in, are not germane to regulating the practice of law.

The State Bar may have a general interest in allocating expenses to improving the quality of life of lawyers, but this is not a compelling interest in having “all licensed attorneys engage as a group in other, non-germane activities.” *McDonald*, 4 F.4th at 246. Lawyers seeking opportunities for things like networking, water-cooler hot topics, trivia about cranberry sauce, or pro bono opportunities can turn to the myriad other organizations and voluntary bar associations that offer these common activities—and can do so *voluntarily*.

³⁴ See, e.g., the State Bar’s News Release on George Floyd and position of diversity. *Statement by the State Bar of Arizona Board of Governors in Response to Killing of George Floyd*, State Bar of Arizona (June 10, 2023, 12:00 AM), <https://www.azbar.org/news-publications/news-releases-articles/state-bar-response-to-killing-of-george-floyd/>.

Arizona already has several voluntary bar associations at the county and city levels, alongside many voluntary specialty bar associations. The most obvious example of a voluntary bar association is the ABA, which actively lobbies and provides educational activities. The ABA has a large membership of lawyers who freely associate themselves with its purposes—as is their right. The ABA is well known for its services and efforts in the legal community, and its mission does not appear to have been hindered by its voluntary nature. There is no reason to believe eliminating compulsion would render the Arizona State Bar any less effective, either.

II. Contents of the Proposed Amendment

The subsections to which amendments are proposed are set forth here in redline form:

(b) Definitions. Unless the context otherwise requires, the following definitions shall apply to the interpretation of these rules relating to admission, discipline, disability and reinstatement of lawyers, ABSs, and legal paraprofessionals:

...

9. “Regulatory activities” means the administration and enforcement of these rules relating to membership, mandatory continuing legal education, discipline, disability, and reinstatement of lawyers, including the membership, mandatory continuing legal education and disability of legal paraprofessionals.

...

(c) Membership.

...

9. *Computation of Fee.* The annual membership fee shall be composed of an amount for the ~~operation of the~~ regulatory activities of the State Bar and an amount for funding the Client Protection Fund, each of which amounts shall be stated and accounted for separately. Each active and inactive member, who is not exempt, and each affiliate member shall pay the annual Fund assessment set by the Court, to the State Bar together with the annual membership fee, and the State Bar shall transfer the fund assessment to the trust established for the administration of the Client Protection Fund. The State Bar shall not conduct any lobbying activities—~~in compliance with *Keller v. State Bar of California*, 496 U.S. 1 (1990), nor any other~~ activities that do not pertain to the regulation of lawyers with the annual membership fee. Additionally, a member who objects to particular State Bar ~~lobbying~~ activities that do not pertain to the regulation of lawyers may request a refund of the portion of the annual fee allocable to those activities at the end of the membership year.

This petition is also accompanied by a proposed order of the Court, as proposed herein and attached as Appendix C. The proposed order states that the amendments to Rule 32 will not take effect until July 1, 2025, to allow the Court and the State Bar sufficient time to implement the proposed rule changes. Additionally, the proposed order directs the appointment of a study committee to assist the State Bar in separating its regulatory functions supported by mandatory annual membership fees from its other activities supported by voluntary membership dues.

The study committee may propose additional changes to these rules consistent with the amendments proposed in this petition.

III. Conclusion

Petitioners request that this Court adopt amendments to Rules 32(b) and (c) as proposed herein.

Respectfully submitted January 10, 2024 by:

/s/ Stacy Skankey
Jonathan Riches (025712)
Timothy Sandefur (033670)
Scott Day Freeman (019784)
Stacy Skankey (035589)
**Scharf-Norton Center for Constitutional
Litigation at the
GOLDWATER INSTITUTE**

APPENDIX A

Rule 32. Organization of State Bar of Arizona

(a) State Bar of Arizona. The Supreme Court of Arizona maintains under its direction and control a corporate organization known as the State Bar of Arizona.

1. *Practice of law.* Every person licensed by this Court to engage in the practice of law must be a member of the State Bar of Arizona in accordance with these rules.

2. *Mission.* The State Bar of Arizona exists to serve and protect the public with respect to the provision of legal services and access to justice. Consistent with these goals, the State Bar of Arizona seeks to improve the administration of justice and the competency, ethics, and professionalism of lawyers and those engaged in the authorized practice of law in Arizona. This Court empowers the State Bar of Arizona, under the Court's supervision, to:

A. organize and promote activities that fulfill the responsibilities of the legal profession and its members to the public;

B. promote access to justice for those who live, work, and do business in this state;

C. aid the courts in the administration of justice;

D. assist this Court with the regulation and discipline of persons engaged in the practice of law; assist the Court with the regulation and discipline of alternative business structures (ABS) and legal paraprofessionals; foster on the part of those engaged in the practice of law ideals of integrity, learning, competence, public service, and high standards of conduct; serve the professional needs of its members; and encourage practices that uphold the honor and dignity of the legal profession;

E. conduct educational programs regarding substantive law, best practices, procedure, and ethics; provide forums for the discussion of subjects pertaining to the administration of justice, the practice of law, and the science of jurisprudence; and report its recommendations to this Court concerning these subjects.

(b) Definitions. Unless the context otherwise requires, the following definitions shall apply to the interpretation of these rules relating to admission, discipline, disability and reinstatement of lawyers, ABSs, and legal paraprofessionals:

1. “Board” means Board of Governors of the State Bar of Arizona.
2. “Court” means Supreme Court of Arizona.
3. “Discipline” means those sanctions and limitations on members and others and the practice of law provided in these rules. Discipline is distinct from diversion or disability inactive status, but the term may include that status where the context so requires. Discipline includes sanctions and limitations on ABSs as provided in these rules and ACJA § 7-209 and legal paraprofessionals as provided in these rules and ACJA § 7-210.
4. “Discipline proceeding” and “disability proceeding” mean any action involving a respondent pursuant to the rules relating thereto. Further definitions applying to such proceedings are stated in the rule on disciplinary jurisdiction.
5. “Member” means member of the state bar, the classifications of which shall be as set forth in this rule.
6. “Non-member” means a person licensed to practice law in a state or possession of the United States or a non-lawyer permitted to appear in such capacity, but who is not a member of the state bar.
7. “Respondent” means any person, ABS, or legal paraprofessional subject to the jurisdiction of the court against whom a charge is received for violation of these rules, ACJA § 7-209 or ACJA § 7-210.
8. “State bar” means the State Bar of Arizona created by rule of this court.

9. “Regulatory activities” means the administration and enforcement of these rules relating to membership, mandatory continuing legal education, discipline, disability, and reinstatement of lawyers, including the membership, mandatory continuing legal education and disability of legal paraprofessionals.

(c) Membership.

1. *Classes of Members.* Members of the state bar shall be divided into six classes: active, inactive, retired, suspended, judicial, and affiliate. Disbarred or resigned persons are not members of the bar.

2. *Active Members.* Every person licensed to practice law in this state is an active member except for persons who are inactive, retired, suspended, judicial, or affiliate members.

3. *Affiliate Members.* Legal paraprofessionals are affiliate members for purposes of regulation and discipline under these rules.

4. *Admission, Licensure and Fees.* Upon admission to the state bar or licensure as a legal paraprofessional, a person:

(i) shall pay a fee as required by the supreme court, which shall include the annual membership fee for members of the state bar. If a person is admitted or licensed on or after July 1 in any year, the annual membership fee shall be reduced by one half.

(ii) Upon admission to the state bar, a lawyer applicant shall also, in open court, take and subscribe an oath to support the constitution of the United States and the constitution and laws of the State of Arizona in the form provided by the supreme court.

(iii) All members shall provide to the state bar office a current street address, e-mail address, telephone number, any other post office address the member may use, and the name of the bar of any other jurisdiction to which the member may be

admitted. Any change in this information shall be reported to the state bar within thirty days of its effective date. The state bar office shall forward to the court, on a quarterly basis, a current list of membership of the bar.

5. *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.

6. *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 request¹ 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 provided in Rule 38(d) of these rules. 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.

7. *Judicial Members.* Judicial members shall be justices of the Supreme Court of Arizona, judges of the Court of Appeals and Superior Court of Arizona and of the United States District Court for the District of Arizona, and retired justices and judges who are eligible for temporary judicial assignment and are not engaged in the practice of law. Judicial membership status shall likewise be accorded to members of the State Bar who are full-time commissioners, city or municipal court judges, tribal court judges, judges pro tempore or justices of the peace in the state of Arizona

not engaged in the practice of law, or justices or judges of other courts of record of the United States or of the several states. Judicial members shall hold such classification only so long as they hold the offices or occupations entitling them to such membership or are retired from the offices or occupations entitling them to such membership, are eligible for temporary judicial assignment, and are not engaged in the practice of law. Judicial members shall be entitled to vote but shall not be entitled to hold office. Judicial members shall have such privileges, not inconsistent with the rules of this court, as the board provides. A judicial member who retires or resigns from the bench and seeks to engage in the practice of law must become an active member subject to all provisions of these rules.

8. *Membership Fees.* An annual membership fee for active members, inactive members, retired members, judicial members, and affiliate members shall be established by the board with the consent of this court and shall be payable on or before February 1 of each year. No annual fee shall be established for, or assessed to, active members who have been admitted to practice in Arizona before January 1, 2009, and have attained the age of 70 before that date. The annual fee shall be waived for members on disability inactive status pursuant to Rule 63. Upon application, the Chief Executive Officer/Executive Director may waive all or part of the dues of any other member for reasons of personal hardship. Both the grant or denial of an application shall be reported to the board. Denial of a personal hardship waiver shall be reviewed by the board. The board should take all steps necessary to protect private information relating to the application.

9. *Computation of Fee.* The annual membership fee shall be composed of an amount for the ~~operation of the~~ regulatory activities of the State Bar and an amount for funding the Client Protection Fund, each of which amounts shall be stated and accounted for separately. Each active and inactive member, who is not exempt, and each affiliate member shall pay the annual Fund assessment set by the Court, to the State Bar together with the annual membership fee, and the State Bar shall transfer the fund assessment to the trust established for the administration of the Client Protection Fund. The State Bar shall not conduct any lobbying activities ~~in compliance with Keller v. State Bar of California, 496 U.S. 1 (1990), nor any other activities that do not pertain to the regulation of lawyers with the annual membership fee.~~ Additionally, a member who objects to particular State Bar ~~lobbying~~ activities that do not pertain to the regulation of lawyers may request a refund of the portion of the annual fee allocable to those activities at the end of the membership year.

10. *Allocation of Fee.* Upon payment of the membership fee, each individual lawyer member shall receive a bar card and each legal paraprofessional shall receive a certificate of licensure, issued by the board evidencing payment. All fees shall be paid into the treasury of the state bar and, except that portion of the fees representing the amount for the funding of the Client Protection Fund shall be paid into the trust established for the administration of the Client Protection Fund.

11. *Delinquent Fees.* A fee not paid by the time it becomes due shall be deemed delinquent. An annual delinquency fee for active members, inactive members, retired members, judicial members, and affiliate members shall be established by the board with the consent of this court and shall be paid in addition to the annual membership fee if such fee is not paid on or before February 1. A member who fails to pay a fee within two months after written notice of delinquency shall be summarily suspended by the board from membership to the state bar, upon motion of the state bar pursuant to Rule 62, but may be reinstated in accordance with these rules.

12. *Resignation.*

A. Members in good standing who wish to resign from membership in the state bar may do so, and such resignation shall become effective when filed in the office of the state bar, accepted by the board, and approved by this court. After the resignation is approved by this court, such person's status shall be changed to "resigned in good standing."

B. Such resignation shall not be a bar to institution of subsequent discipline proceedings for any conduct of the resigned person occurring prior to the resignation. In the event such resigned person thereafter is disbarred, suspended or reprimanded, the resigned person's status shall be changed from "resigned in good standing" to that of a person so disciplined. Such resignation shall not be accepted if there is a disciplinary charge or complaint pending against the member.

C. Resigned persons in good standing may be reinstated to membership in the same manner as members summarily suspended under Rule 62 of these rules. Reinstatement of resigned persons shall be governed by the procedures set forth in Rule 64(f) and shall require:

- i. payment of fees, assessments, and administrative costs the resigned person would have been required to pay;
- ii. proof of completion of any hours of continuing legal education activity the resigned person would have been required to take, had the applicant remained a member; and
- iii. proof that the resigned person possesses the character and fitness to resume practicing law in this jurisdiction.

D. A member wishing to resign shall apply on a form approved by the board and shall furnish such information as is required upon such form and shall make such allegations, under oath, as are required on such form.

13. *Insurance Disclosure.*

A. Each active and affiliate member of the State Bar of Arizona shall certify to the State Bar on the annual dues statement or in such other form as may be prescribed by the State Bar on or before February 1 of each year: (1) whether the lawyer or legal paraprofessional is engaged in the private practice of law; and (2) if engaged in the private practice of law, whether the lawyer or legal paraprofessional is currently covered by professional liability insurance. Each active and affiliate member who reports being covered by professional liability insurance shall notify the State Bar of Arizona in writing within 30 days if the insurance policy providing coverage lapses, is no longer in effect, or terminates for any reason. A lawyer or legal paraprofessional who acquires insurance after filing the annual dues statement or such other prescribed disclosure document with the State Bar of Arizona may advise the Bar as to the change of this status in coverage.

B. The State Bar of Arizona shall make the information submitted by active and affiliate members pursuant to this rule available to the public on its website as soon as practicable after receiving the information.

C. Any active or affiliate member of the State Bar of Arizona who fails to comply with this rule in a timely fashion may, on motion of the State Bar pursuant to Rule 62, be summarily suspended from the practice of law until such time as the lawyer or legal paraprofessional complies. Supplying false information in complying with the requirements of this rule shall subject the lawyer or legal paraprofessional to appropriate disciplinary action.

(d) Powers of Board. The State Bar shall be governed by the Board of Governors, which shall have the powers and duties prescribed by this Court. The board shall:

1. Fix and collect, as provided in these rules, fees approved by the Supreme Court, which shall be paid into the treasury of the State Bar.
2. Promote and aid in the advancement of the science of jurisprudence, the education of legal professionals and the improvement of the administration of justice.
3. Approve budgets and make appropriations and disbursements from funds of the State Bar to pay expenses necessary for carrying out its functions.
4. Formulate and declare rules and regulations not inconsistent with Supreme Court Rules that are necessary or expedient to enforce these rules, and by rule fix the time and place of State Bar meetings and the manner of calling special meetings thereof, and determine what number shall constitute a quorum of the State Bar.
5. Appoint a Chief Executive Officer/Executive Director to manage the State Bar's day-to-day operations.
6. Appoint from time to time one or more executive committees composed of members of the board and vest in the executive committees any powers and duties granted to the board as the board may determine.
7. Prepare an annual statement showing receipts and expenditures of the State Bar for the twelve preceding months. The statement shall be promptly certified by the

secretary-treasurer and a certified public accountant, and transmitted to the Chief Justice of this Court.

8. Create and maintain the Client Protection Fund, as required by this court and authorized by the membership of the State Bar on April 9, 1960, said fund to exist and be maintained as a separate entity from the State Bar in the form of the Declaration of Trust established January 7, 1961, as subsequently amended and as it may be further amended from time to time by the board. The trust shall be governed by a Board of Trustees appointed by the Board of Governors in accordance with the terms of the trust and the trustees shall govern and administer the Fund pursuant to the provisions of the trust as amended from time to time by the board and in accordance with such other procedural rules as may be approved by the Board of Governors.

9. Implement and administer mandatory continuing legal education in accordance with Rule 45.

10. Administer a Board of Legal Specialization to certify specialists in specified areas of practice in accordance with Rule 44.

11. Establish, maintain, and fund the administration of a voluntary member assistance program to assist lawyers whose performance may be impaired by a mental, emotional, or behavioral condition, including use of alcohol or other drugs.

(e) Composition of the Board of Governors. The board is composed of sixteen elected governors and ten appointed governors, as provided by this Rule. Only governors elected or appointed under this Rule are empowered to vote at board meetings.

1. *Implementation.* The State Bar shall implement this Rule in a manner that provides for the election and appointment of approximately one-third of the board each year.

2. *Elected Governors.*

A. Districts: Governors are elected from eight districts, as follows:

- i. Bar District One (Mohave, Navajo, Coconino and Apache counties): one governor
- ii. Bar District Two (Yavapai county): one governor
- iii. Bar District Three (Gila, Graham and Greenlee counties): one governor
- iv. Bar District Four (Cochise county): one governor
- v. Bar District Five (Pima and Santa Cruz counties): two governors
- vi. Bar District Six (Maricopa county): seven governors
- vii. Bar District Seven (La Paz and Yuma counties): one governor
- viii. Bar District Eight (Pinal county): one governor

B. Qualifications. Each elected governor must be an active member of the State Bar of Arizona throughout the elected term. For five years prior to election to the board, each elected governor must have been an active State Bar member and have had no record of disciplinary sanctions under Rule 60.

C. Nominations. Nominations for elected governor shall be by petition signed by at least five active State Bar members. Each candidate named in a petition and all members signing a petition must have their main offices in the district in which the candidate seeks to be elected.

D. Elections. Election of governors will be by ballot. Active and judicial members are entitled to vote for the elected governor or governors in the district in which a member has his or her principal place of business, as shown in the records of the

State Bar. Active out-of-state members may vote in the district of their most recent Arizona residence or place of business or, if none, in Bar District Six. The State Bar will send ballots electronically to each member entitled to vote, at the address shown in the records of the State Bar, at least two weeks prior to the date of canvassing the ballots. Members will return their ballots through electronic voting means, and the State Bar will announce the results at the ensuing annual meeting. The State Bar's bylaws will direct other details of the election process.

E. Terms of service. Each elected governor shall serve a three-year term. An elected governor will serve on the board until a successor is elected and takes office at the annual meeting. If the board receives notice that an elected governor's principal place of business has moved from the district in which the governor was elected, or that the governor has died, become disabled, or is otherwise unable to serve, that governor's seat is deemed vacant, and the other elected and appointed governors will choose a successor by a majority vote.

F. Term limits. An elected governor may serve three consecutive terms, but may not be a candidate for a fourth term until three years have passed after the person's last year of service. Election or succession to a partial term of less than three years will not be included in calculating a member's term limit.

3. *Young Lawyers Division President.* In addition to those governors elected under Rule 32(e)(2), the elected president of the Young Lawyers Division will serve as a voting member of the board of governors. The election of the Young Lawyers Division president will be conducted as provided by Rule 32(e)(2)(C), except that only members of the Young Lawyers Division are entitled to vote in that election. The Young Lawyers Division president will serve a one-year term on the board.

4. *Appointed Governors.* The Supreme Court will appoint public, at-large, and district governors, collectively referred to as "appointed governors," to serve on the board.

A. Public governors. Four governors of the board are designated as "public" governors. The public governors must not be members of the State Bar and must not have, other than as consumers of legal services, a financial interest in the practice of law. Public governors are nominated by the board and appointed by the

Supreme Court for terms of three years and begin board service at a time designated by the Court. The Court may decline to appoint any board nominee and may appoint as a public governor a person who was not nominated by the board. No more than two public governors may be from the same district. No individual may serve more than two terms as a public governor. The Court may fill a vacancy in an uncompleted term of a public governor, but appointment of a public member to a term of less than three years will not be included in a calculation of the member's term limit.

B. At-large governors. Three governors on the board are designated as "at-large" governors. At-large governors, who may be former elected, public, or district governors, are appointed by the Supreme Court for terms of three years and begin board service at a time designated by the Court. The Supreme Court may appoint at-large governors to successive terms. The Court may fill a vacancy in an uncompleted term of an at-large governor.

C. District governors. Three governors on the board are designated as "district" governors. District governors must be members of the State Bar, have their main office in the district of appointment, and meet the qualifications set out in Rule 32(e)(2)(B). District governors are appointed by the Supreme Court for terms of three years and begin board service at a time designated by the Court. The Court must appoint one district governor from Bar District Five and two district governors from Bar District Six. No individual may serve more than two terms as a district governor. The Court may fill a vacancy in an uncompleted term of a district governor, but appointment to a term of less than three years will not be included in a calculation of the member's term limit.

5. *Oath of Governors.* Upon commencing service, each governor, whether elected or appointed, must take an oath to faithfully and impartially discharge the duties of a governor.

6. *Removal of a Governor.* A governor of the board may be removed for good cause by a vote of two-thirds or more of the governors cast in favor of removal. Good cause may include, but is not limited to, conviction of a felony or a crime involving moral turpitude, imposition of a discipline sanction under Rule 60, repeatedly ignoring the duties of a governor, or disorderly activity during a board meeting. A board governor so removed may, within thirty days of the board's action, file a

petition pursuant to Rule 23 of the Arizona Rules of Civil Appellate Procedure requesting that the Supreme Court review the board's determination of good cause. The Court will expedite consideration of the petition.

7. *Recusal of an Attorney Governor.* An attorney board member who is the subject of either a probable cause order issued pursuant to Rule 55(c)(1)(E) or an agreement for discipline by consent filed under Rule 57(a) must recuse him- or herself from serving on the board pending disposition of the matter.

8. *Board Advisor.* The immediate past president of the board will serve a one-year term as an advisor to the board. The advisor may participate in board discussions but has no vote at board meetings, except an immediate past president may continue to vote if his or her term as an elected board member has not expired. The board advisor, with the assistance of two or more governors chosen by the president, will lead a committee to recruit, recommend, and nominate candidates for the offices of president-elect, vice-president, and secretary-treasurer.

9. *Ex Officio Members.* The dean of each ABA-accredited law school in Arizona will serve as an ex officio member of the board. An ex officio member may participate in board discussions but may not vote at board meetings.

(f) Officers of the State Bar.

1. *Officers.* The board will elect its officers. The officers are a president, a president-elect, a vice-president, and a secretary-treasurer. An elected, at-large, or district governor may serve as an officer.

2. Terms of Office.

A. *President.* The term of the president will expire at the conclusion of the annual meeting. The president-elect whose term expired at the same annual meeting will then automatically become, and assume the duties of, president at that time.

B. President-elect, vice-president, and secretary-treasurer. The board must elect a new president-elect, a new vice-president, and a new secretary-treasurer at each annual meeting. Those newly elected officers will assume their respective offices at the conclusion of the annual meeting at which they are elected, and they will continue to hold their offices until the conclusion of the subsequent annual meeting at which their successors are elected.

C. Length of term. Each officer will serve a one-year term.

D. Successive terms. A governor may not be elected to a second term for any office that the governor has held during the preceding nine or fewer consecutive years of service on the board. However, a governor may serve a partial term under Rule 32(f)(5), either before or after service of one full term.

E. Limitations. The term of a governor chosen as president or president-elect automatically extends until completion of a term as president if his or her term as a governor expires in the interim without their reelection or reappointment to the board, or if the term is limited under Rule 32(e)(2)(F). In either of these events, there shall not be an election or appointment of a new governor for the seat held by the president or president-elect until the person has completed his or her term as president, and then the election or appointment of a successor governor shall be for a partial term that otherwise remains in the regular three-year cycle under Rule 32(e)(1).

3. *Duties of Officers.* The president will preside at all meetings of the State Bar and of the board of governors, and if absent or unable to act, the president-elect will preside. Additional duties of the president, president-elect, vice-president, and secretary-treasurer may be prescribed by the board or set forth in the State Bar bylaws.

4. *Removal from Office.* An officer may be removed from office, with or without good cause, by a vote of two-thirds or more of the members of the board of governors cast in favor of removal.

5. *Vacancy in Office.* A vacancy in any office before expiration of a term may be filled by the board of governors at a meeting called for that purpose.

(g) Annual Meeting. Annual meetings of the state bar shall be held at times and places designated by the board. At the annual meeting reports of the proceedings of the board since the last annual meeting, reports of other officers and committees and recommendations of the board shall be received. Matters of interest pertaining to the state bar and the administration of justice may be considered and acted upon. Special meetings of the state bar may be held at such times and places as provided by the board.

(h) Administration of Rules. Examination and admission of lawyer members shall be administered by the committee on examinations and the committee on character and fitness, as provided in these rules. Examination and licensure of legal paraprofessionals shall be administered by the Administrative Office of Courts as provided in ACJA § 7-210. Licensure of alternative business structures shall be by the Committee on Alternative Business Structures, as provided in these rules and ACJA § 7-209. Discipline, disability, and reinstatement matters shall be administered by the presiding disciplinary judge, as provided in these rules. All matters not otherwise specifically provided for shall be administered by the board.

(i) Filings Made. Papers required to be filed with the state bar under these rules shall be filed at the office of the state bar in Phoenix, except as is otherwise set forth in these rules.

(j) Formal Requirements of Filings. All verbatim records and all copies of recommendations, documents, papers, pleadings, reports and records required or permitted by any provision of these rules relating to admission, discipline, disability, and reinstatement may be either typewritten, electronically prepared, or copied by a process that is clear, legible, or audible. An original is not required.

(k) Payment of Fees and Costs. The payment of all fees, costs and expenses required under the provision of these rules related to membership, mandatory continuing legal education, discipline, reinstatement, and unauthorized practice of law shall be made to the State Bar. The payment of all fees, costs and expenses

required under the application for admission to the practice of law, examinations and admission shall be made to the finance office of the administrative office of courts.

(l) Expenses of Administration and Enforcement. The state bar shall pay all expenses incident to the administration and enforcement of these rules relating to membership, mandatory continuing legal education, discipline, disability, and reinstatement of lawyers, including the membership, mandatory continuing legal education and disability of legal paraprofessionals, except that costs and expenses shall be taxed against a respondent or applicant for readmission, as provided in these rules. The Administrative Office of the Courts shall pay all expenses incident to administration and enforcement of these rules relating to application for admission to the practice of law, examinations and admission, including expenses related to application for licensure and examination of legal paraprofessionals. The State Bar and the Administrative Office of Courts may recoup extraordinary costs beyond the schedule of fees adopted by the Court relating to an alternative business structure application for licensure or administration and enforcement of these rules against an alternative business structure.

(m) Meetings and Records. The State Bar will conduct meetings and maintain records under public access policies adopted by the Supreme Court.

APPENDIX B

Rule 32. Organization of State Bar of Arizona

(a) State Bar of Arizona. The Supreme Court of Arizona maintains under its direction and control a corporate organization known as the State Bar of Arizona.

1. *Practice of law.* Every person licensed by this Court to engage in the practice of law must be a member of the State Bar of Arizona in accordance with these rules.

2. *Mission.* The State Bar of Arizona exists to serve and protect the public with respect to the provision of legal services and access to justice. Consistent with these goals, the State Bar of Arizona seeks to improve the administration of justice and the competency, ethics, and professionalism of lawyers and those engaged in the authorized practice of law in Arizona. This Court empowers the State Bar of Arizona, under the Court's supervision, to:

A. organize and promote activities that fulfill the responsibilities of the legal profession and its members to the public;

B. promote access to justice for those who live, work, and do business in this state;

C. aid the courts in the administration of justice;

D. assist this Court with the regulation and discipline of persons engaged in the practice of law; assist the Court with the regulation and discipline of alternative business structures (ABS) and legal paraprofessionals; foster on the part of those engaged in the practice of law ideals of integrity, learning, competence, public service, and high standards of conduct; serve the professional needs of its members; and encourage practices that uphold the honor and dignity of the legal profession;

E. conduct educational programs regarding substantive law, best practices, procedure, and ethics; provide forums for the discussion of subjects pertaining to the administration of justice, the practice of law, and the science of jurisprudence; and report its recommendations to this Court concerning these subjects.

(b) Definitions. Unless the context otherwise requires, the following definitions shall apply to the interpretation of these rules relating to admission, discipline, disability and reinstatement of lawyers, ABSs, and legal paraprofessionals:

1. “Board” means Board of Governors of the State Bar of Arizona.
2. “Court” means Supreme Court of Arizona.
3. “Discipline” means those sanctions and limitations on members and others and the practice of law provided in these rules. Discipline is distinct from diversion or disability inactive status, but the term may include that status where the context so requires. Discipline includes sanctions and limitations on ABSs as provided in these rules and ACJA § 7-209 and legal paraprofessionals as provided in these rules and ACJA § 7-210.
4. “Discipline proceeding” and “disability proceeding” mean any action involving a respondent pursuant to the rules relating thereto. Further definitions applying to such proceedings are stated in the rule on disciplinary jurisdiction.
5. “Member” means member of the state bar, the classifications of which shall be as set forth in this rule.
6. “Non-member” means a person licensed to practice law in a state or possession of the United States or a non-lawyer permitted to appear in such capacity, but who is not a member of the state bar.
7. “Respondent” means any person, ABS, or legal paraprofessional subject to the jurisdiction of the court against whom a charge is received for violation of these rules, ACJA § 7-209 or ACJA § 7-210.
8. “State bar” means the State Bar of Arizona created by rule of this court.

9. “Regulatory activities” means the administration and enforcement of these rules relating to membership, mandatory continuing legal education, discipline, disability, and reinstatement of lawyers, including the membership, mandatory continuing legal education and disability of legal paraprofessionals.

(c) Membership.

1. *Classes of Members.* Members of the state bar shall be divided into six classes: active, inactive, retired, suspended, judicial, and affiliate. Disbarred or resigned persons are not members of the bar.

2. *Active Members.* Every person licensed to practice law in this state is an active member except for persons who are inactive, retired, suspended, judicial, or affiliate members.

3. *Affiliate Members.* Legal paraprofessionals are affiliate members for purposes of regulation and discipline under these rules.

4. *Admission, Licensure and Fees.* Upon admission to the state bar or licensure as a legal paraprofessional, a person:

(i) shall pay a fee as required by the supreme court, which shall include the annual membership fee for members of the state bar. If a person is admitted or licensed on or after July 1 in any year, the annual membership fee shall be reduced by one half.

(ii) Upon admission to the state bar, a lawyer applicant shall also, in open court, take and subscribe an oath to support the constitution of the United States and the constitution and laws of the State of Arizona in the form provided by the supreme court.

(iii) All members shall provide to the state bar office a current street address, e-mail address, telephone number, any other post office address the member may use, and the name of the bar of any other jurisdiction to which the member may be

admitted. Any change in this information shall be reported to the state bar within thirty days of its effective date. The state bar office shall forward to the court, on a quarterly basis, a current list of membership of the bar.

5. *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.

6. *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 request¹ 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 provided in Rule 38(d) of these rules. 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.

7. *Judicial Members.* Judicial members shall be justices of the Supreme Court of Arizona, judges of the Court of Appeals and Superior Court of Arizona and of the United States District Court for the District of Arizona, and retired justices and judges who are eligible for temporary judicial assignment and are not engaged in the practice of law. Judicial membership status shall likewise be accorded to members of the State Bar who are full-time commissioners, city or municipal court judges, tribal court judges, judges pro tempore or justices of the peace in the state of Arizona

not engaged in the practice of law, or justices or judges of other courts of record of the United States or of the several states. Judicial members shall hold such classification only so long as they hold the offices or occupations entitling them to such membership or are retired from the offices or occupations entitling them to such membership, are eligible for temporary judicial assignment, and are not engaged in the practice of law. Judicial members shall be entitled to vote but shall not be entitled to hold office. Judicial members shall have such privileges, not inconsistent with the rules of this court, as the board provides. A judicial member who retires or resigns from the bench and seeks to engage in the practice of law must become an active member subject to all provisions of these rules.

8. *Membership Fees.* An annual membership fee for active members, inactive members, retired members, judicial members, and affiliate members shall be established by the board with the consent of this court and shall be payable on or before February 1 of each year. No annual fee shall be established for, or assessed to, active members who have been admitted to practice in Arizona before January 1, 2009, and have attained the age of 70 before that date. The annual fee shall be waived for members on disability inactive status pursuant to Rule 63. Upon application, the Chief Executive Officer/Executive Director may waive all or part of the dues of any other member for reasons of personal hardship. Both the grant or denial of an application shall be reported to the board. Denial of a personal hardship waiver shall be reviewed by the board. The board should take all steps necessary to protect private information relating to the application.

9. *Computation of Fee.* The annual membership fee shall be composed of an amount for the regulatory activities of the State Bar and an amount for funding the Client Protection Fund, each of which amounts shall be stated and accounted for separately. Each active and inactive member, who is not exempt, and each affiliate member shall pay the annual Fund assessment set by the Court, to the State Bar together with the annual membership fee, and the State Bar shall transfer the fund assessment to the trust established for the administration of the Client Protection Fund. The State Bar shall not conduct any lobbying activities, nor any other activities that do not pertain to the regulation of lawyers with the annual membership fee. Additionally, a member who objects to particular State Bar-activities that do not pertain to the regulation of lawyers may request a refund of the portion of the annual fee allocable to those activities at the end of the membership year.

10. *Allocation of Fee.* Upon payment of the membership fee, each individual lawyer member shall receive a bar card and each legal paraprofessional shall receive a certificate of licensure, issued by the board evidencing payment. All fees shall be paid into the treasury of the state bar and, except that portion of the fees representing the amount for the funding of the Client Protection Fund shall be paid into the trust established for the administration of the Client Protection Fund.

11. *Delinquent Fees.* A fee not paid by the time it becomes due shall be deemed delinquent. An annual delinquency fee for active members, inactive members, retired members, judicial members, and affiliate members shall be established by the board with the consent of this court and shall be paid in addition to the annual membership fee if such fee is not paid on or before February 1. A member who fails to pay a fee within two months after written notice of delinquency shall be summarily suspended by the board from membership to the state bar, upon motion of the state bar pursuant to Rule 62, but may be reinstated in accordance with these rules.

12. *Resignation.*

A. Members in good standing who wish to resign from membership in the state bar may do so, and such resignation shall become effective when filed in the office of the state bar, accepted by the board, and approved by this court. After the resignation is approved by this court, such person's status shall be changed to "resigned in good standing."

B. Such resignation shall not be a bar to institution of subsequent discipline proceedings for any conduct of the resigned person occurring prior to the resignation. In the event such resigned person thereafter is disbarred, suspended or reprimanded, the resigned person's status shall be changed from "resigned in good standing" to that of a person so disciplined. Such resignation shall not be accepted if there is a disciplinary charge or complaint pending against the member.

C. Resigned persons in good standing may be reinstated to membership in the same manner as members summarily suspended under Rule 62 of these rules. Reinstatement of resigned persons shall be governed by the procedures set forth in Rule 64(f) and shall require:

- i. payment of fees, assessments, and administrative costs the resigned person would have been required to pay;
- ii. proof of completion of any hours of continuing legal education activity the resigned person would have been required to take, had the applicant remained a member; and
- iii. proof that the resigned person possesses the character and fitness to resume practicing law in this jurisdiction.

D. A member wishing to resign shall apply on a form approved by the board and shall furnish such information as is required upon such form and shall make such allegations, under oath, as are required on such form.

13. *Insurance Disclosure.*

A. Each active and affiliate member of the State Bar of Arizona shall certify to the State Bar on the annual dues statement or in such other form as may be prescribed by the State Bar on or before February 1 of each year: (1) whether the lawyer or legal paraprofessional is engaged in the private practice of law; and (2) if engaged in the private practice of law, whether the lawyer or legal paraprofessional is currently covered by professional liability insurance. Each active and affiliate member who reports being covered by professional liability insurance shall notify the State Bar of Arizona in writing within 30 days if the insurance policy providing coverage lapses, is no longer in effect, or terminates for any reason. A lawyer or legal paraprofessional who acquires insurance after filing the annual dues statement or such other prescribed disclosure document with the State Bar of Arizona may advise the Bar as to the change of this status in coverage.

B. The State Bar of Arizona shall make the information submitted by active and affiliate members pursuant to this rule available to the public on its website as soon as practicable after receiving the information.

C. Any active or affiliate member of the State Bar of Arizona who fails to comply with this rule in a timely fashion may, on motion of the State Bar pursuant to Rule 62, be summarily suspended from the practice of law until such time as the lawyer or legal paraprofessional complies. Supplying false information in complying with the requirements of this rule shall subject the lawyer or legal paraprofessional to appropriate disciplinary action.

(d) Powers of Board. The State Bar shall be governed by the Board of Governors, which shall have the powers and duties prescribed by this Court. The board shall:

1. Fix and collect, as provided in these rules, fees approved by the Supreme Court, which shall be paid into the treasury of the State Bar.
2. Promote and aid in the advancement of the science of jurisprudence, the education of legal professionals and the improvement of the administration of justice.
3. Approve budgets and make appropriations and disbursements from funds of the State Bar to pay expenses necessary for carrying out its functions.
4. Formulate and declare rules and regulations not inconsistent with Supreme Court Rules that are necessary or expedient to enforce these rules, and by rule fix the time and place of State Bar meetings and the manner of calling special meetings thereof, and determine what number shall constitute a quorum of the State Bar.
5. Appoint a Chief Executive Officer/Executive Director to manage the State Bar's day-to-day operations.
6. Appoint from time to time one or more executive committees composed of members of the board and vest in the executive committees any powers and duties granted to the board as the board may determine.
7. Prepare an annual statement showing receipts and expenditures of the State Bar for the twelve preceding months. The statement shall be promptly certified by the

secretary-treasurer and a certified public accountant, and transmitted to the Chief Justice of this Court.

8. Create and maintain the Client Protection Fund, as required by this court and authorized by the membership of the State Bar on April 9, 1960, said fund to exist and be maintained as a separate entity from the State Bar in the form of the Declaration of Trust established January 7, 1961, as subsequently amended and as it may be further amended from time to time by the board. The trust shall be governed by a Board of Trustees appointed by the Board of Governors in accordance with the terms of the trust and the trustees shall govern and administer the Fund pursuant to the provisions of the trust as amended from time to time by the board and in accordance with such other procedural rules as may be approved by the Board of Governors.

9. Implement and administer mandatory continuing legal education in accordance with Rule 45.

10. Administer a Board of Legal Specialization to certify specialists in specified areas of practice in accordance with Rule 44.

11. Establish, maintain, and fund the administration of a voluntary member assistance program to assist lawyers whose performance may be impaired by a mental, emotional, or behavioral condition, including use of alcohol or other drugs.

(e) Composition of the Board of Governors. The board is composed of sixteen elected governors and ten appointed governors, as provided by this Rule. Only governors elected or appointed under this Rule are empowered to vote at board meetings.

1. *Implementation.* The State Bar shall implement this Rule in a manner that provides for the election and appointment of approximately one-third of the board each year.

2. *Elected Governors.*

A. Districts: Governors are elected from eight districts, as follows:

- i. Bar District One (Mohave, Navajo, Coconino and Apache counties): one governor
- ii. Bar District Two (Yavapai county): one governor
- iii. Bar District Three (Gila, Graham and Greenlee counties): one governor
- iv. Bar District Four (Cochise county): one governor
- v. Bar District Five (Pima and Santa Cruz counties): two governors
- vi. Bar District Six (Maricopa county): seven governors
- vii. Bar District Seven (La Paz and Yuma counties): one governor
- viii. Bar District Eight (Pinal county): one governor

B. Qualifications. Each elected governor must be an active member of the State Bar of Arizona throughout the elected term. For five years prior to election to the board, each elected governor must have been an active State Bar member and have had no record of disciplinary sanctions under Rule 60.

C. Nominations. Nominations for elected governor shall be by petition signed by at least five active State Bar members. Each candidate named in a petition and all members signing a petition must have their main offices in the district in which the candidate seeks to be elected.

D. Elections. Election of governors will be by ballot. Active and judicial members are entitled to vote for the elected governor or governors in the district in which a member has his or her principal place of business, as shown in the records of the

State Bar. Active out-of-state members may vote in the district of their most recent Arizona residence or place of business or, if none, in Bar District Six. The State Bar will send ballots electronically to each member entitled to vote, at the address shown in the records of the State Bar, at least two weeks prior to the date of canvassing the ballots. Members will return their ballots through electronic voting means, and the State Bar will announce the results at the ensuing annual meeting. The State Bar's bylaws will direct other details of the election process.

E. Terms of service. Each elected governor shall serve a three-year term. An elected governor will serve on the board until a successor is elected and takes office at the annual meeting. If the board receives notice that an elected governor's principal place of business has moved from the district in which the governor was elected, or that the governor has died, become disabled, or is otherwise unable to serve, that governor's seat is deemed vacant, and the other elected and appointed governors will choose a successor by a majority vote.

F. Term limits. An elected governor may serve three consecutive terms, but may not be a candidate for a fourth term until three years have passed after the person's last year of service. Election or succession to a partial term of less than three years will not be included in calculating a member's term limit.

3. *Young Lawyers Division President.* In addition to those governors elected under Rule 32(e)(2), the elected president of the Young Lawyers Division will serve as a voting member of the board of governors. The election of the Young Lawyers Division president will be conducted as provided by Rule 32(e)(2)(C), except that only members of the Young Lawyers Division are entitled to vote in that election. The Young Lawyers Division president will serve a one-year term on the board.

4. *Appointed Governors.* The Supreme Court will appoint public, at-large, and district governors, collectively referred to as "appointed governors," to serve on the board.

A. Public governors. Four governors of the board are designated as "public" governors. The public governors must not be members of the State Bar and must not have, other than as consumers of legal services, a financial interest in the practice of law. Public governors are nominated by the board and appointed by the

Supreme Court for terms of three years and begin board service at a time designated by the Court. The Court may decline to appoint any board nominee and may appoint as a public governor a person who was not nominated by the board. No more than two public governors may be from the same district. No individual may serve more than two terms as a public governor. The Court may fill a vacancy in an uncompleted term of a public governor, but appointment of a public member to a term of less than three years will not be included in a calculation of the member's term limit.

B. At-large governors. Three governors on the board are designated as "at-large" governors. At-large governors, who may be former elected, public, or district governors, are appointed by the Supreme Court for terms of three years and begin board service at a time designated by the Court. The Supreme Court may appoint at-large governors to successive terms. The Court may fill a vacancy in an uncompleted term of an at-large governor.

C. District governors. Three governors on the board are designated as "district" governors. District governors must be members of the State Bar, have their main office in the district of appointment, and meet the qualifications set out in Rule 32(e)(2)(B). District governors are appointed by the Supreme Court for terms of three years and begin board service at a time designated by the Court. The Court must appoint one district governor from Bar District Five and two district governors from Bar District Six. No individual may serve more than two terms as a district governor. The Court may fill a vacancy in an uncompleted term of a district governor, but appointment to a term of less than three years will not be included in a calculation of the member's term limit.

5. *Oath of Governors*. Upon commencing service, each governor, whether elected or appointed, must take an oath to faithfully and impartially discharge the duties of a governor.

6. *Removal of a Governor*. A governor of the board may be removed for good cause by a vote of two-thirds or more of the governors cast in favor of removal. Good cause may include, but is not limited to, conviction of a felony or a crime involving moral turpitude, imposition of a discipline sanction under Rule 60, repeatedly ignoring the duties of a governor, or disorderly activity during a board meeting. A board governor so removed may, within thirty days of the board's action, file a

petition pursuant to Rule 23 of the Arizona Rules of Civil Appellate Procedure requesting that the Supreme Court review the board's determination of good cause. The Court will expedite consideration of the petition.

7. *Recusal of an Attorney Governor.* An attorney board member who is the subject of either a probable cause order issued pursuant to Rule 55(c)(1)(E) or an agreement for discipline by consent filed under Rule 57(a) must recuse him- or herself from serving on the board pending disposition of the matter.

8. *Board Advisor.* The immediate past president of the board will serve a one-year term as an advisor to the board. The advisor may participate in board discussions but has no vote at board meetings, except an immediate past president may continue to vote if his or her term as an elected board member has not expired. The board advisor, with the assistance of two or more governors chosen by the president, will lead a committee to recruit, recommend, and nominate candidates for the offices of president-elect, vice-president, and secretary-treasurer.

9. *Ex Officio Members.* The dean of each ABA-accredited law school in Arizona will serve as an ex officio member of the board. An ex officio member may participate in board discussions but may not vote at board meetings.

(f) Officers of the State Bar.

1. *Officers.* The board will elect its officers. The officers are a president, a president-elect, a vice-president, and a secretary-treasurer. An elected, at-large, or district governor may serve as an officer.

2. Terms of Office.

A. *President.* The term of the president will expire at the conclusion of the annual meeting. The president-elect whose term expired at the same annual meeting will then automatically become, and assume the duties of, president at that time.

B. President-elect, vice-president, and secretary-treasurer. The board must elect a new president-elect, a new vice-president, and a new secretary-treasurer at each annual meeting. Those newly elected officers will assume their respective offices at the conclusion of the annual meeting at which they are elected, and they will continue to hold their offices until the conclusion of the subsequent annual meeting at which their successors are elected.

C. Length of term. Each officer will serve a one-year term.

D. Successive terms. A governor may not be elected to a second term for any office that the governor has held during the preceding nine or fewer consecutive years of service on the board. However, a governor may serve a partial term under Rule 32(f)(5), either before or after service of one full term.

E. Limitations. The term of a governor chosen as president or president-elect automatically extends until completion of a term as president if his or her term as a governor expires in the interim without their reelection or reappointment to the board, or if the term is limited under Rule 32(e)(2)(F). In either of these events, there shall not be an election or appointment of a new governor for the seat held by the president or president-elect until the person has completed his or her term as president, and then the election or appointment of a successor governor shall be for a partial term that otherwise remains in the regular three-year cycle under Rule 32(e)(1).

3. *Duties of Officers.* The president will preside at all meetings of the State Bar and of the board of governors, and if absent or unable to act, the president-elect will preside. Additional duties of the president, president-elect, vice-president, and secretary-treasurer may be prescribed by the board or set forth in the State Bar bylaws.

4. *Removal from Office.* An officer may be removed from office, with or without good cause, by a vote of two-thirds or more of the members of the board of governors cast in favor of removal.

5. *Vacancy in Office.* A vacancy in any office before expiration of a term may be filled by the board of governors at a meeting called for that purpose.

(g) Annual Meeting. Annual meetings of the state bar shall be held at times and places designated by the board. At the annual meeting reports of the proceedings of the board since the last annual meeting, reports of other officers and committees and recommendations of the board shall be received. Matters of interest pertaining to the state bar and the administration of justice may be considered and acted upon. Special meetings of the state bar may be held at such times and places as provided by the board.

(h) Administration of Rules. Examination and admission of lawyer members shall be administered by the committee on examinations and the committee on character and fitness, as provided in these rules. Examination and licensure of legal paraprofessionals shall be administered by the Administrative Office of Courts as provided in ACJA § 7-210. Licensure of alternative business structures shall be by the Committee on Alternative Business Structures, as provided in these rules and ACJA § 7-209. Discipline, disability, and reinstatement matters shall be administered by the presiding disciplinary judge, as provided in these rules. All matters not otherwise specifically provided for shall be administered by the board.

(i) Filings Made. Papers required to be filed with the state bar under these rules shall be filed at the office of the state bar in Phoenix, except as is otherwise set forth in these rules.

(j) Formal Requirements of Filings. All verbatim records and all copies of recommendations, documents, papers, pleadings, reports and records required or permitted by any provision of these rules relating to admission, discipline, disability, and reinstatement may be either typewritten, electronically prepared, or copied by a process that is clear, legible, or audible. An original is not required.

(k) Payment of Fees and Costs. The payment of all fees, costs and expenses required under the provision of these rules related to membership, mandatory continuing legal education, discipline, reinstatement, and unauthorized practice of law shall be made to the State Bar. The payment of all fees, costs and expenses

required under the application for admission to the practice of law, examinations and admission shall be made to the finance office of the administrative office of courts.

(l) Expenses of Administration and Enforcement. The state bar shall pay all expenses incident to the administration and enforcement of these rules relating to membership, mandatory continuing legal education, discipline, disability, and reinstatement of lawyers, including the membership, mandatory continuing legal education and disability of legal paraprofessionals, except that costs and expenses shall be taxed against a respondent or applicant for readmission, as provided in these rules. The Administrative Office of the Courts shall pay all expenses incident to administration and enforcement of these rules relating to application for admission to the practice of law, examinations and admission, including expenses related to application for licensure and examination of legal paraprofessionals. The State Bar and the Administrative Office of Courts may recoup extraordinary costs beyond the schedule of fees adopted by the Court relating to an alternative business structure application for licensure or administration and enforcement of these rules against an alternative business structure.

(m) Meetings and Records. The State Bar will conduct meetings and maintain records under public access policies adopted by the Supreme Court.

APPENDIX C

PROPOSED ORDER

RE: PETITION TO AMEND RULES 32(B) AND (C), RULES OF THE SUPREME COURT

ORDERED: The petition is GRANTED and the proposed amendments shall take effect on July 1, 2025.

FURTHER ORDERED: The Supreme Court will appoint a study committee to assist the State Bar in separating its regulatory functions supported by mandatory annual membership fees from its other activities supported by voluntary membership dues. The study committee may propose additional changes to these rules consistent with the amendments approved here.