



***UPL ADVISORY OPINION***  
***UPL 07-01***  
***(April 2007)***

**Contingent Fee by Certified Legal Document Preparer**

This is an Advisory Opinion regarding Rule 31 of the Rules of the Supreme Court of Arizona interpreting provisions of Rule 31 of the Rules of the Supreme Court of Arizona, and § 7-208 of the Arizona Code of Judicial Administration, applicable to Certified Legal Document Preparers.<sup>1</sup>

**Issues:**

1. May a Certified Legal Document Preparer charge a contingent fee? No. A Certified Legal Document Preparer may not be compensated on the basis of a contingent fee. Such basis for compensation is explicitly prohibited by Arizona Code of Judicial Administration, § 7-208, Legal Document Preparer, Code of Conduct, Standard 3, Fees and Services, subsection c.1.

**Facts:**

A Certified Legal Document Preparer proposes to charge a contingent fee for services performed as a document preparer, that is, for documents prepared by the document preparer which contribute to the document preparer's client's recovery or generation of some amount of revenue.

**Relevant Authority:**

Arizona Supreme Court Rule 31; Arizona Code of Judicial Administration, § 7-208, Legal Document Preparer, Section F., Role and Responsibilities of Certificate Holders, subsection 1.; Arizona Code of Judicial Administration, § 7-208, Legal Document Preparer, Appendix A, Code of Conduct, Preamble, Standard 3, Fees and Services, subsection c.1.

**Rule 31. Regulation of the Practice of Law**

**(a) Supreme Court Jurisdiction Over the Practice of Law**

1. *Jurisdiction.* Any person or entity engaged in the practice of law or unauthorized practice of law in this state, as defined by these rules, is subject to this court's jurisdiction.

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<sup>1</sup> Opinions of the Committee are advisory in nature only and are not binding in any disciplinary or other legal proceedings. © State Bar of Arizona 2006

2. *Definitions.*

A. "Practice of law" means providing legal advice or services to or for another by:

- (1) preparing any document in any medium intended to affect or secure legal rights for a specific person or entity;
- (2) preparing or expressing legal opinions;
- (3) representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process such as arbitration and mediation;
- (4) preparing any document through any medium for filing in any court, administrative agency or tribunal for a specific person or entity; or
- (5) negotiating legal rights or responsibilities for a specific person or entity.

B. "Unauthorized practice of law" includes but is not limited to:

- (1) engaging in the practice of law by persons or entities not authorized to practice pursuant to paragraphs (b) or (c) or specially admitted to practice pursuant to Rule 33(d); or
- (2) using the designations "lawyer," "attorney at law," "counselor at law," "law," "law office," "J.D.," "Esq.," or other equivalent words by any person or entity who is not authorized to practice law in this state pursuant to paragraphs (b) or (c) or specially admitted to practice pursuant to Rule 33(d), the use of which is reasonably likely to induce others to believe that the person or entity is authorized to engage in the practice of law in this state.

C. "Legal assistant/paralegal" means a person qualified by education and training who performs substantive legal work requiring a sufficient knowledge of and expertise in legal concepts and procedures, who is supervised by an active member of the State Bar of Arizona, and for whom an active member of the state bar is responsible, unless otherwise authorized by supreme court rule.

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**(b) Authority to Practice.** Except as hereinafter provided in section (c), no person shall practice law in this state or represent in any way that he or she may practice law in this state unless the person is an active member of the state bar, and no members shall practice law in this state or represent in any way that he or she may practice law in this state, while suspended, disbarred, or on disability inactive status.

**(c) Exemptions.** Notwithstanding the provisions of section (b):

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23. Nothing in these rules shall prohibit a certified legal document preparer from performing services in compliance with Arizona Code of Judicial Administration, Part 7, Chapter 2, § 7-208.

**Section 7-208: Legal Document Preparer**

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## **F. Role and Responsibilities of Certificate Holders.**

1. Authorized Services. A certified legal document preparer may:
  - a. Prepare or provide legal documents, without the supervision of an attorney, for an entity or a member of the public in any legal matter when that entity or person is not represented by an attorney;
  - b. Provide general legal information, but may not provide any kind of specific advice, opinion or recommendation to a consumer about possible legal rights, remedies, defenses, options or strategies;
  - c. Provide general factual information pertaining to legal rights, procedures, or options available to a person in a legal matter when that person is not represented by an attorney;
  - d. Make legal forms and documents available to a person who is not represented by an attorney; and
  - e. File and arrange for service of legal forms and documents for a person in a legal matter when that person is not represented by an attorney.

### **§ 7-208 Legal Document Preparers, Appendix A, Code of Conduct**

**Preamble.** This code of conduct is adopted by the Supreme Court to apply to all certified legal document preparers in the state of Arizona. The purpose of this code is to establish minimum standards for performance by certified legal document preparers.

#### **Standard 3. Fees and Services.**

c. A legal document preparer shall at all times be aware of and avoid impropriety or the appearance of impropriety, which may include, but is not limited to:

- (1) Establishing contingent fees as a basis of compensation.

## **Discussion:**

### **May a Certified Legal Document Preparer charge a contingent fee? No**

The Arizona Supreme Court has expressly determined in Standard 3. c. of the Code of Conduct, § 7-208 of the Code of Judicial Administration, providing for the certification of legal document preparers, that the services certified legal document preparers are authorized to perform, which are delimited by subsection F.1. of § 7-208 of the Code of Judicial Administration, cannot be compensated on the basis of any contingency, that is, some outcome associated with the services performed.