Nuts & Bolts of New Rule 38
Ariz. R. Sup. Ct. 38
as amended through December 15, 2020

Rule 38 - Certifications and Limited Admissions to Practice Law

a. In House Counsel
b. Foreign Legal Consultant
c. Law Professors
d. Approved Legal Services Organizations & Certification of Pro Bono Counsel

Rule 38(d)
Approved Legal Services Organizations (Pro Bono Programs)

• R. 38(d)(1) Approved Legal Service Organizations.
  • An “approved legal services organization” is a:
    – non-profit legal entity
    – that has as one of its primary purposes
    – the provision of free civil legal assistance
    – to low income individuals.
• R. 38(d)(1)(C) Annual Notice to Court.
  • By 2/1 annually, the organization must file a notice with the Clerk and with the State Bar:
    • listing all volunteer lawyers certified under this rule
    • certifying that the organization has provided, and will insure that volunteer pro bono lawyers providing services pursuant to this rule have been offered
    • appropriate training and continuing legal education
    • as it relates to the pro bono work being performed under the auspices of the organization
Eligible Retired Attorneys
Rule 38(d)(1)(B)(i)

- Attorney actively licensed or retired, admitted to practice in Arizona
- Has practiced law for 5 years
- Is now on inactive or retired status
- Member in good standing of all jurisdictions where admitted to practice
- No professional misconduct discipline for last 5 years
- No pending disciplinary or disability proceedings
- Limits their practice to pro bono counsel with LSO
- Takes and expects no compensation or direct or indirect pecuniary gain for legal services given

Eligible Out of State Attorneys
Rule 38(d)(1)(B)(ii)

- Attorney actively licensed, inactive, or equivalent status in another jurisdiction
- Domiciled in Arizona
- Not admitted to practice in Arizona
- Has been licensed to practice (does not say practiced) law for 5 years
- Member in good standing of all jurisdictions where admitted to practice
- No professional misconduct discipline for last 5 years
- No pending disciplinary or disability proceedings
- Has taken the course on Arizona law under Rule 34(j) – 6-hour course online
- Has read and agrees to abide by Arizona Rules of Prof. Conduct
- Limits their practice to pro bono counsel with LSO
- Takes and expects no compensation or direct or indirect pecuniary gain for legal services given
Miscellany

• **R. 38(d)(2)(A) "Pro bono services"** are
  – civil legal services
  – provided without charge
  – to low income clients.

• **In house counsel** registered under Rule 38(a) in Arizona can provide pro bono services with an LSO under Rule 38(d)(1), R. 38(d)(1)(B)(iv)

• **Full time and parttime employees** of LSOs can provide pro bono services once certified under Rule 38(d)(1)(B)(iii)

---

Rule 38 Certification Process

• Obtain certificates of good standing from all your jurisdictions of admission
• Obtain disciplinary history from all your jurisdictions of admission
• Sign affidavit and pleading provided to you by LSO
• LSO files petition with Arizona Supreme Court
• Wait about 3 weeks
• Receive notice from LSO that your certification is approved via an Arizona Supreme Court Order
• Keep a copy of that Order
• Use your new Certification # (not old bar #) on all pleadings filed in courts
• Make your annual dues statement filing by 2/1 to avoid de-licensure/de-certification
• Only work with that LSO and only provide pro bono civil services