

REPORT FROM RULE OF LAW TASK FORCE

(December 13, 2024)

The Preamble to the Rules of Professional Conduct provides that “a lawyer should further the public’s understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority.”

The Rule of Law Task Force was created by State Bar President, Ted A. Schmidt, whose core mission as President is to explore meaningful and actionable ways the State Bar and its members can protect and promote the Rule of Law. The Task Force consists of the following Members:

Michael Murphy	(Ret) Chief Justice Tom Zlaket
Chief Justice Ann A. Scott Timmer	Dean Marc Miller
Ron Barber	Dean Stacy Leeds
Michael Mick Rusing	Joseph A. Kanefield
Daisy Jenkins	Jessica Sanchez
Hon. David B. Gass	(Ret) Judge Philip E. Toci

In accordance with President Schmidt’s directive, the Task Force focused on meaningful and actionable ways that lawyers can further the public’s understanding of and confidence in the rule of law and the justice system. The report sets forth those recommendations for the State Bar of Arizona Board of Governor’s consideration.

Since our inception, the Task Force has held bi-monthly meetings, starting in September of 2024, and the last meeting occurring in mid-December 2024.

The State Bar of Arizona is not the first Bar Association to address Rule of Law issues. We have been guided by similar efforts from the American Bar Association, the World Justice Project, the National Conference of Bar Presidents and others. *See Appendix A.*

In addition to receiving references to the work of other Bar Associations, as the State Bar of Arizona is a mandatory Bar, the Task Force was counseled by State Bar General Counsel, Lisa Panahi, as to the importance of adhering to the mandates of *Keller v. The State Bar of California*, 110 Sup.Ct. 2228 (1990). The U.S. Supreme Court ultimately held that:

The State Bar's use of petitioners' compulsory dues to finance political and ideological activities with which petitioners disagree violates their First Amendment right of free speech when such expenditures are not necessarily or reasonably incurred for the purpose of regulating the legal profession or improving the quality of legal services.

The Task Force has endeavored to adhere to the two-prong criteria for appropriate Bar activities for a mandatory Bar.

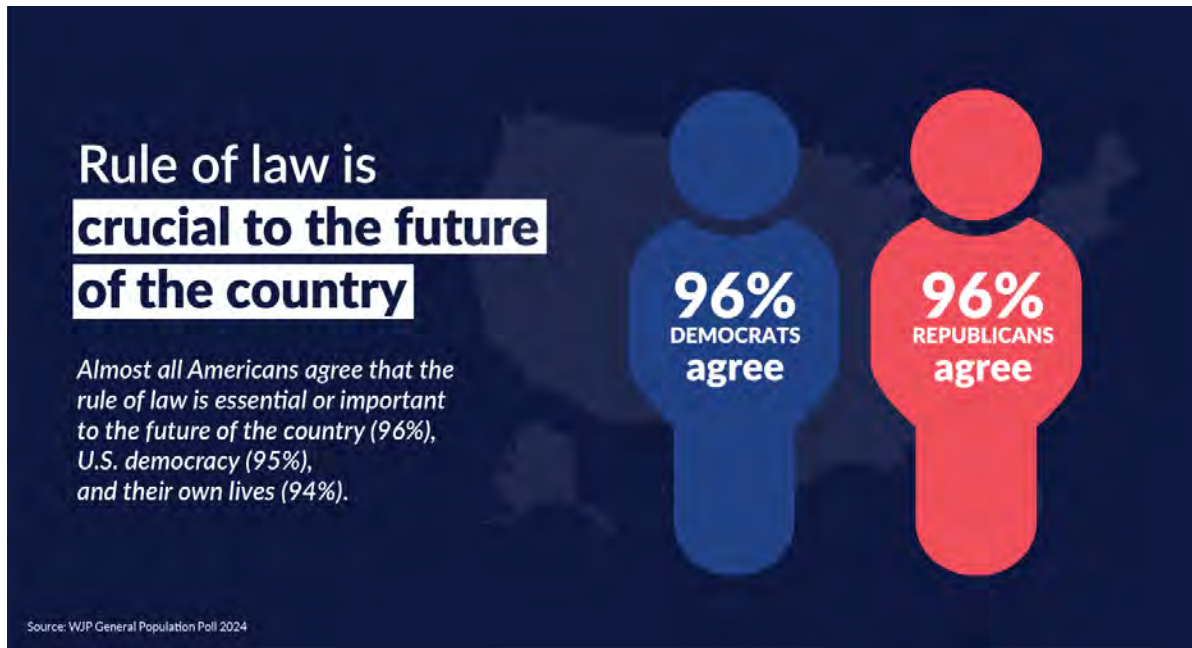
The World Justice Project is an independent, multi-disciplinary organization, working to create knowledge, awareness and to stimulate activities to advance the Rule of Law worldwide. It was created in 2006 as an initiative of the American Bar Association and joined by strategic partners. The World Justice Project defines the Rule of Law as follows:

The rule of law is a durable system of laws, institutions, norms, and community commitment that delivers four universal principles: accountability, just law, open government, and accessible and impartial justice.

- **Accountability** The government as well as private actors are accountable under the law.
- **Just Law** The law is clear, publicized, and stable and is applied evenly. It ensures human rights as well as property, contract, and procedural rights.
- **Open Government** The processes by which the law is adopted, administered, adjudicated, and enforced are accessible, fair, and efficient.
- **Accessible and Impartial Justice** Justice is delivered timely by competent, ethical, and independent representatives and neutrals who are accessible, have adequate resources, and reflect the makeup of the communities they serve.

This Task Force strongly believes that the understanding, respect for, and adherence to the Rule of Law is fundamental to our democracy and to our way of life in Arizona and in the United State of America. To achieve these goals, lawyers must play a key role in furthering the public's understanding of and confidence in the Rule of Law.

In 2024, the World Justice Project conducted a poll as follows:



Indisputably, the importance of the Rule of Law is not a political issue.

Judge Don R. Willett of the Fifth Circuit Court of Appeals wrote an article entitled “Civic Illiteracy and the Rule of Law.” His article is found in the International Society of Barristers Quarterly Journal, Volume 54, #4 https://www.isob.com/files/COVER_54-4_Full%20Volume.pdf and cites the abysmal civics IQ for our Country. He concludes (p.73):

America boasts the oldest written national constitution on earth. What an extravagant blessing! But preserving that inheritance requires a culture that prizes liberty and public-spirited virtue. For now, We the People are the world’s oldest constitutional republic.

If we can keep it.

This Task Force encourages the Board of Governors to make adherence to, respect for and understanding of the importance of the Rule of Law priority goals for Arizona lawyers.

Why?:

- A. Lawyers, because of their education and experience, are in a unique position to champion this endeavor.
- B. It is part of every lawyers Oath of Admission and our ethical duty and obligation. Every lawyer in Arizona has an absolute ethical obligation “to

support the Constitution and the laws of the United States and the State of Arizona”. This is not an aspirational goal. It is a directive contained in both our Oath of Admission and in the dictates of Rule 41, Ariz. R. Sup. Ct.

- C. The Rule of Law is fundamental to the work that each of us does daily. We need a system that encourages adherence to the Law, respect for the independence of the judiciary and predictability in dealing with the complex problems of society. Thus, lawyers working to promote this system are vital to improving the quality of legal services.

RECOMMENDATION #1: To accomplish this goal and firmly establish and advance the State Bar of Arizona’s commitment to promoting the Rule of Law, the Task Force recommends the State Bar of Arizona Board of Governors file a rule petition with the Arizona Supreme Court seeking to amend Rule 32(a)(2), which sets forth the State Bar’s mission, as follows:

The State Bar of Arizona exists to serve and protect the public with respect to the provision of legal services ~~and~~, access to justice, AND PROMOTING CONFIDENCE IN THE RULE OF LAW.

To clarify, the mission statement applies to the State Bar of Arizona and does not impose obligations on individual lawyers. If amended, Rule 32(a) would read in its entirety as follows:

(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, access to justice, and promoting confidence in the rule of law. 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.

Education:

The Task Force believes that a key to understanding and respect for the Rule of Law is public education. The Task Force feels that the State Bar does not need to “reinvent the wheel” when it comes to public education. The Task Force heard from representatives of the Arizona Bar Foundation, who outlined their efforts in providing civic education for Arizona’s youth. Among other programs, the Arizona Bar Foundation has programs on Constitution Week, Arizona High School Mediation Tournament, We the People Citizen and Constitution, Mock Trial High School Competition, and Project Citizens’ Showcase. More information on the Bar Foundation’s programs can be found at <https://www.azbf.org/>.

The Task Force also heard from representatives of the Sandra Day O’Connor Institute for American Democracy. This organization was founded by Arizona’s own U.S. Supreme Court Justice Sandra Day O’Connor and was designed to advance American democracy through multi-generational civics education, civil discourse and civic engagement. Their core values are civil, collaborative, fact-based, inclusive, non-partisan and objective. More information on the O’Connor Institute may be found at

<https://oconnorinstitute.org/>, and Members of the Board of Governors are especially encouraged to review the Institute’s program entitled “Civics 101.” These many lessons, lasting approximately 10 minutes each, can be watched online and free of charge.

Finally, the State Bar of Arizona has a “Speaker’s Bureau,” which makes lawyers available for public speaking. This is a free service aimed at helping people learn about our legal system and addresses numerous topics, including the judicial system.

It is respectfully submitted that Members of the Bar should be encouraged to take part in and support the work of these groups. The Task Force asks that the Board of Governors (or its designee) consider securing limited CLE credit for those lawyers who participate in the activities outlined above, much like what is currently given to lawyers who speak at seminars.

The Task Force discussed in detail the need for civility. It is vital that lawyers not only maintain civility within the profession, but serve as examples to the public on how to discuss complex and emotional topics in a civil, respectful, and productive manner. Excellent examples of “civility” can be found in the PBS Special “Deadlock: an election story” <https://www.pbs.org/video/an-election-story-biv4jx/> and the YouTube presentation from the Virginia State Bar entitled “Civility and Professionalism in a Successful Litigation Practice . . .” <youtu.be/6os5bMt22Gs?feature=shared>.

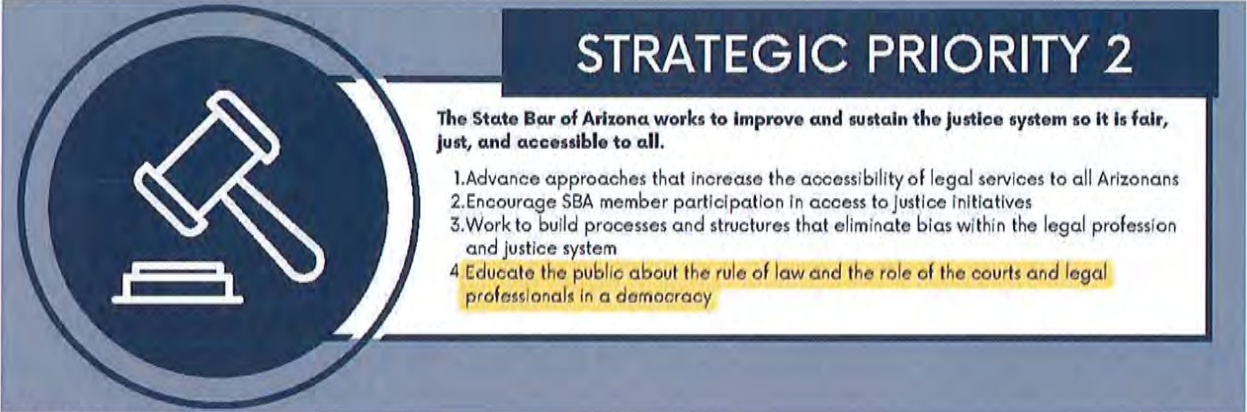
Finally, the American College of Trial Lawyers has a “Code of Pretrial and Trial Conduct”, which has been adopted by many courts in Arizona. The Task Force finds its suggestions worthy and consistent with all Arizona lawyers’ ethical obligations. (*see Appendix B*)

RECOMMENDATION #2: The Task Force recommends that the Board of Governors encourage efforts promoting civility within the profession and perhaps, again, consider formal CLE credit for those lawyers who present approved programs on the subject.

The Task Force learned that many American law schools teach students to uphold the highest standards of professionalism, which include a duty to support our constitutional democracy and to further the public’s understanding of and confidence in the Rule of Law and the justice system. The Task Force’s membership included the Deans of Arizona’s two Law Schools. We learned of the many efforts our two Law Schools make in teaching and supporting the Rule of Law in a constitutional democracy. The efforts of both Schools should be supported and encouraged by the State Bar of Arizona.

Finally, the Task Force considered the need for an independent judiciary. Members of our Task Force included a retired Judge from the Arizona Court of Appeals, a retired Chief Justice from the Arizona Supreme Court, a sitting Arizona Appellate Judge and the

current Chief Justice from the Arizona Supreme Court. We learned about efforts being made by the judiciary to educate the public about the role of the judiciary in our three separate, but equal branches of government. This is also part of the State Bar of Arizona's Strategic Plan for 2024-2026. (See **Appendix C**)



STRATEGIC PRIORITY 2

The State Bar of Arizona works to improve and sustain the justice system so it is fair, just, and accessible to all.

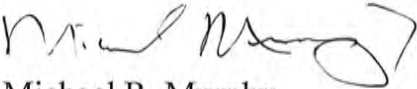
1. Advance approaches that increase the accessibility of legal services to all Arizonans
2. Encourage SBA member participation in access to justice initiatives
3. Work to build processes and structures that eliminate bias within the legal profession and justice system
4. Educate the public about the rule of law and the role of the courts and legal professionals in a democracy

(Emphasis added.)

RECOMMENDATION #3: Lawyers need to be reminded that they are officers of the Court and, again, that every lawyer's day-to-day work depends on an honest, competent, and trusted judiciary. Lawyers are encouraged to make every effort to support the independence of our judiciary.

In summary, the Task Force believes that the need for understanding, respect for and adherence to the Rule of Law cannot be overstated. We lawyers have professional and ethical obligations to support the Rule of Law and our respective livelihoods and those who we represent depend on it. Education of the public is the key to this effort and all lawyers should be encouraged to do their part, whether it is in formal speaking through the programs outlined above or just discussions among those people with whom each lawyer has a sphere of influence.

Respectfully submitted,



Michael R. Murphy
On behalf of the Rule of Law Task Force

APPENDIX A

From the ABA

--Rule of Law [Rule of Law \(americanbar.org\)](https://www.americanbar.org)

--Task Force for American Democracy

https://www.americanbar.org/groups/public_interest/election_law/american-democracy//

--Listening Tours [Listening tour events kick off in Georgia \(americanbar.org\)](https://www.americanbar.org)

From Lawyers Defending American Democracy

[How State Bars Can Defend Democracy – LDAD](https://www.ladad.org)

From the World Justice Project

--About the World Justice Project [About Us | World Justice Project](https://www.worldjusticeproject.org)

--The Global Rule of Law Recession Continues [WJP Rule of Law Index \(worldjusticeproject.org\)](https://www.worldjusticeproject.org)

From National Conference of Bar Presidents

--PowerPoint deck: [PowerPoint Presentation \(ymaws.com\)](https://www.ncbap.org)

--Resource Page: [Updated NCBP June 20th 21st .pdf \(ymaws.com\)](https://www.ncbap.org)

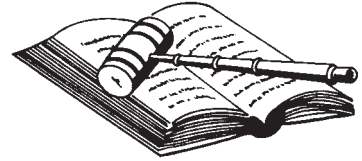
From The Ohio State University's Moritz College of Law & Mershon Center for International Security Studies

--Speaking Out to Strengthen the Guardrails of Democracy

<https://moritzlaw.osu.edu/sites/default/files/2023-07/Speaking%20Out%20.pdf>

APPENDIX B

AMERICAN COLLEGE OF TRIAL LAWYERS



CODE OF PRETRIAL AND TRIAL CONDUCT

Approved by the Board of Regents, June 2009

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Forward

The Legal Ethics and Professionalism Committee of the American College of Trial Lawyers (the “College”) is charged with the following mandate:

To advance, improve, and promote ethical standards and professionalism in the trial bar in all its aspects in both the United States and Canada as well as to engage in such other activities as may be directed by the Board of Regents.

All jurisdictions have codes of conduct that prescribe minimum standards for disciplinary purposes. There is no need here to duplicate such standards. This ACTL Code represents an attempt by the College to set down aspirational, rather than minimal, guidelines for trial lawyers and judges. The problem in trial practice today is not that lawyers violate the ethical rules, although some lawyers do. Most lawyers know the rules and try to comply. The real problem is the gradual corrosion of the profession’s traditional aspirations, which are:

- Honor for values such as honesty, respect and courtesy toward litigants, opposing advocates and the court;
- A distaste for meanness, sharp practice, and unnecessarily aggressive behavior;
- Engagement in public service;
- A focus on the efficient, fair preparation and trial of cases; and
- A role as agent for counseling and for the resolution of disputes.

Despite what the profession says, the profession often acts as if these values are inconsistent with effective advocacy in an adversary system of justice. The College is uniquely positioned to lead the way in changing these attitudes because it strives to offer Fellowship only to those lawyers who embody the skill and values to which they and the profession should aspire. The College cannot lead by focusing on the lowest floor of acceptable behavior.

The College sees the new code as one that can be endorsed by courts, that can be profitably used in training programs by law schools and bar organizations, and that describes the values that the Fellows of the American College of Trial Lawyers endorse and practice daily.

The new Code of Pretrial and Trial Conduct is a product that the College believes can be endorsed by courts and the profession as articulating the level of conduct to which all members of our profession should aspire. If trial lawyers practice these principles the profession will begin a process of change that benefits lawyers, litigants, and our system of justice.

Preamble

Admission to the Bar is a high honor, and those lawyers who devote their lives to presenting cases in the courts are truly privileged. Trial lawyers are officers of the court. They are entrusted with a central role in the administration of justice in our society necessary to democracy. Lawyers who engage in trial work have a special responsibility to strive for prompt, efficient, ethical, fair and just disposition of litigation. The American College of Trial Lawyers believes that, as officers of the court, trial lawyers must conduct themselves in a manner that reflects the dignity, fairness, and seriousness of purpose of the system of justice they serve. They must be role models of skill, honesty, respect, courtesy, and fairness consistent with their obligations to the client and the court.

Trial lawyers have a duty to conduct themselves so as to preserve the right to a fair trial, one of the most basic of all constitutional guarantees, while courageously, vigorously and diligently representing their clients and applying the relevant legal principles to the facts as found. Without courtesy, fairness, candor, and order in the pretrial process and in the courtroom, reason cannot prevail and constitutional rights to justice, liberty, freedom and equality under law will be jeopardized. The dignity, decorum and courtesy that have traditionally characterized the courts are not empty formalities. They are essential to an atmosphere in which justice can be done.

No client, corporate or individual, however powerful, nor any cause, civil, criminal or political, however important, is entitled to receive, nor should any lawyer render, any service or advice encouraging or inviting disrespect of the law or of the judicial office. No lawyer may sanction or invite corruption of any person exercising a public office or private trust. No lawyer may condone in any way deception or betrayal of the court, fellow members of the Bar, or the public. A lawyer advances the honor of the profession and the best interests of the client when a lawyer embodies and encourages an honest and proper respect for the law, its institutions and officers. Above all, a lawyer finds the highest honor in a deserved reputation as an officer for justice, faithful to private trust and to public duty, and as an honest person.

This Code of Pretrial and Trial Conduct (“the Code”) is not intended to supplant any local rules, procedural rules, or rules of professional conduct. This Code aims to provide aspirational guidance for trial lawyers. It sets forth a standard above the ethical minimum – a standard of conduct worthy of the privileges and responsibilities conferred on those who have sworn to serve our system of justice.

This Code is intended to provide guidance for a lawyer’s professional conduct except insofar as the applicable law, code or rules of professional conduct in a particular jurisdiction require otherwise. It is an aspirational guide for trial lawyers and should not give rise to a cause of action or sanction, create a presumption that a legal duty has been breached or form the basis for disciplinary proceedings not created under the applicable law, court rules or rules of professional conduct.

CODE OF PRETRIAL AND TRIAL CONDUCT

Qualities of a Trial Lawyer

Trial lawyers are officers of the court. They are entrusted with a central role in the administration of justice in our society. Lawyers who engage in trial work have a special responsibility to strive for prompt, efficient, ethical, fair and just disposition of litigation.

Honesty, Competence and Diligence

- (a) A lawyer must in all professional conduct be honest, candid and fair.
- (b) A lawyer must possess and apply the legal knowledge, skill, thoroughness and preparation necessary for excellent representation.
- (c) A lawyer must diligently, punctually and efficiently discharge the duties required by the representation in a manner consistent with the legitimate interests of the client.

Obligations to Clients

A lawyer must provide a client undivided allegiance, good counsel and candor; the utmost application of the lawyer's learning, skill and industry; and the employment of all appropriate means within the law to protect and enforce legitimate interests of a client. A lawyer may never be influenced directly or indirectly by any consideration of self-interest. A lawyer has an obligation to undertake unpopular causes if necessary to ensure justice. A lawyer must maintain an appropriate professional distance in advising his or her client, in order to provide the greatest wisdom.

Employment and Withdrawal

- (a) It is the right of a lawyer to accept employment in any civil case unless such employment is or would likely result in a violation of the rules of professional responsibility, a rule of court or applicable law. It is the lawyer's right and duty to take all proper actions and steps to preserve and protect the legal merits of the client's position and claims, and the lawyer should not decline employment in a case on the basis of the unpopularity of the client's cause or position.
- (b) The right of a person accused of a crime to be represented by competent counsel is essential to our system of justice. A lawyer should not decline such representation because of the lawyer's personal or the community's opinion of the guilt of the accused or heinousness of the crime. A lawyer must raise all defenses and arguments that should be asserted on the client's behalf.

Fidelity to the Client's Interests

A lawyer must not permit considerations of personal or organizational advancement, financial gain, favor with other persons, or other improper considerations to influence the representation of the client.

Obligations to Colleagues

A lawyer should be straightforward and courteous with colleagues. A lawyer should be cooperative with other counsel while zealously representing the client. A lawyer must be scrupulous in observing agreements with other lawyers.

Relations with Other Counsel

- (a) A lawyer must be courteous and honest when dealing with opposing counsel.
- (b) A lawyer should not make disparaging personal remarks or display acrimony toward opposing counsel, and must avoid demeaning or humiliating words in written and oral communication with adversaries.
- (c) When practicable and consistent with the client's legitimate interests and local custom, lawyers should agree to reasonable requests to waive procedural formalities.
- (d) The lawyer, and not the client, has the discretion to determine the customary accommodations to be granted opposing counsel in all matters not directly affecting the merits of the cause or prejudicing the client's rights.
- (e) A lawyer must adhere strictly to all written or oral promises to and agreements with opposing counsel, and should adhere in good faith to all agreements implied by the circumstances or by appropriate local custom.
- (f) Written communications with opposing counsel may record and confirm agreements and understandings, but must not be written to ascribe to any person a position that he or she has not taken or to create a record of events that have not occurred.

Obligations to the Court

Judges and lawyers each have obligations to the court they serve. A lawyer must be respectful, diligent, candid and punctual in all dealings with the judiciary. A lawyer has a duty to promote the dignity and independence of the judiciary, and protect it against unjust and improper criticism and attack. A judge has a corresponding obligation to respect the dignity and independence of the lawyer, who is also an officer of the court.

Communication with the Court

- (a) A lawyer must always show courtesy to and respect for a presiding judge. While a lawyer may be cordial in communicating with a presiding judge in court or in chambers, the lawyer should never exhibit inappropriate familiarity. In social relations with members of the judiciary, a lawyer should take care to avoid any impropriety or appearance of impropriety. In making any communication about a judge, a lawyer should not express or imply that the lawyer has a special relationship or influence with the judge.
- (b) A lawyer should never make any attempt to obtain an advantage through improper ex parte communication with a judge or the staff in the judge's chambers. A lawyer must make every effort to avoid such communication on any substantive matter and any matter that could reasonably

be perceived as substantive, except as addressed in subpart (c) below. When a lawyer informally communicates with a court, the highest degree of professionalism is required.

(c) If ex parte communication with the court is permitted by applicable rules of ethics and procedure, a lawyer must diligently attempt to notify opposing parties, through their counsel if known, unless genuine circumstances exist that would likely prejudice the client's rights if notice were given. When giving such notice, the lawyer should advise the opponent of the basis for seeking immediate relief and should make reasonable efforts to accommodate the opponent's schedule so that the party affected may be represented.

(d) When possible, a lawyer's communications with the court related to a pending case should be in writing, and copies should be provided promptly to opposing counsel. When circumstances require oral communication with the court, a lawyer must notify opposing counsel of all such communications promptly.

Independence and Impartiality of Judicial Officers and Neutrals

(a) Judges, arbitrators, mediators and other neutrals must maintain their independence and impartiality. They must not allow professional or personal relationships, employment prospects or other improper considerations to influence or appear to influence the discharge of their duties.

(b) A judge must promote the dignity and proper discharge of the duties of the lawyer, who is also an officer of the court entitled to respect and courtesy.

Obligations to the System Of Justice

A lawyer has an obligation to promote the resolution of cases with fairness, efficiency, courtesy, and justice. As an officer of the court and as an advocate in the court, a lawyer should strive to improve the system of justice and to maintain and to develop in others the highest standards of professional behavior.

Devotion to the System of Public Justice

A lawyer must strive at all times to uphold the honor and dignity of the profession. Every lawyer should contribute to the improvement of the system of justice and support those measures that enhance the efficiency, fairness and quality of justice dispensed by the courts. A lawyer should never manifest, or act upon, bias or prejudice toward any person based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status.

Pro Bono Publico

A lawyer should personally render public interest legal service and support organizations that provide legal services to persons of limited means by contributing time and resources.

Settlement and Alternative Dispute Resolution

A lawyer must never be reluctant to take a meritorious case to trial if the dispute cannot otherwise be satisfactorily resolved. However, a lawyer must provide the client with alternatives to trial when to do so would be consistent with the client's best interests. A lawyer should educate clients early in the legal

process about various methods of resolving disputes without trial, including mediation, arbitration, and neutral case evaluation.

Motions and Pretrial Procedure

A lawyer has an obligation to cooperate with opposing counsel as a colleague in the preparation of the case for trial. Zealous representation of the client is not inconsistent with a collegial relationship with opposing counsel in service to the court. Motions and pretrial practice are often sources of friction among lawyers, which contributes to unnecessary cost and lack of collegiality in litigation. The absence of respect, cooperation, and collegiality displayed by one lawyer toward another too often breeds more of the same in a downward spiral. Lawyers have an obligation to avoid such conduct and to promote a respectful, collegial relationship with opposing counsel.

Scheduling and Granting Extensions for Pretrial Events

(a) A lawyer should schedule pretrial events cooperatively with other counsel as soon as the event can reasonably be anticipated. Lawyers scheduling an event should respect the legitimate obligations of colleagues and avoid disputes about the timing, location and manner of conducting the event.

(b) A lawyer should seek to reschedule an event only if there is a legitimate reason for doing so and not for improper tactical reasons. A lawyer receiving a reasonable request to reschedule an event should make a sincere effort to accommodate the request unless the client's legitimate interests would be adversely affected.

(c) Scheduling pretrial events and granting requests for extensions of time are properly within the discretion of the lawyer unless the client's interests would be adversely affected. A lawyer should counsel the client that cooperation among lawyers on scheduling is an important part of the pretrial process and expected by the court. A lawyer should not use the client's decision on scheduling as justification for the lawyer's position unless the client's legitimate interests are affected.

Service of Process, Pleadings and Proposed Orders

(a) The timing, manner, and place of filing, electronic filing or serving papers should never be calculated to delay, embarrass or improperly disadvantage the party being served.

(b) Unless exigent circumstances require otherwise, papers filed in a court must be promptly served upon or made available to opposing parties or counsel.

(c) Papers should not be served in a manner deliberately designed to unfairly shorten an opponent's time for response or to take other unfair advantage of an opponent.

(d) Service must be made in a manner that affords an opposing party a fair and timely opportunity to respond, unless exigent circumstances legitimately require or applicable rules permit an ex parte application to the court or an abbreviated time for response.

Motion Practice and Other Written Submissions to the Court

(a) Before filing pretrial motions, lawyers should work together to resolve issues and to

identify matters not in dispute. When motions are necessary, lawyers should cooperate to facilitate the filing, service, and hearing of the motion. Orders submitted to the court must fairly and accurately reflect the requested or actual ruling of the court.

(b) In written submissions and oral presentations, a lawyer should neither engage in ridicule nor sarcasm. Neither should a lawyer ever disparage the integrity, intelligence, morals, ethics, or personal behavior of an opposing party or counsel unless such matters are directly relevant under controlling law.

(c) When documents or data are presented to the court, they must be furnished to opposing counsel in exactly the same format, including identical highlighting or other emphasis.

Pretrial Conferences

(a) A lawyer should seek to reach agreement with opposing counsel to limit the issues to be addressed before and during trial.

(b) A lawyer should determine in advance of a pretrial conference the trial judge's custom and practices in conducting such conferences.

(c) A lawyer should satisfy all directives of the court set forth in the order setting a pretrial conference and should consult and comply with all local rules and with any specific requirements of the trial judge unless properly challenged when based upon a belief of unfair prejudice to the client.

(d) Before a pretrial conference, a lawyer should ascertain the willingness of the client (and the carrier if an insurer is involved) to participate in alternative dispute resolution.

(e) Unless unavoidable circumstances prevent it, a lawyer representing a party at a pretrial conference must be thoroughly familiar with each aspect of the case, including the pleadings, the evidence, and all potential procedural and evidentiary issues.

(f) A lawyer should alert the court as soon as practicable to scheduling conflicts of clients, experts, and witnesses.

(g) If stipulations are possible for uncontested matters, a lawyer should propose specific stipulations and work with opposing counsel to obtain an agreement in advance of the pretrial conference.

(h) In advance of a final pretrial conference, discovery should be completed, discovery responses should be supplemented, evidentiary depositions should be concluded, and settlement should be explored.

(i) Unless unavoidable circumstances prevent it, the final pretrial conference should be attended by a lawyer who will actually try the case, and, in any event, by a lawyer who is familiar with the case.

(j) At or before a final pretrial conference, a lawyer should alert the court to the need for any pretrial rulings, hearings on motions or other matters requiring action by the court in advance of trial.

(k) At the final pretrial conference, a lawyer should be prepared to advise the court of the status of settlement negotiations and the likelihood of settlement before trial.

Discovery

A lawyer must conduct discovery as a focused, efficient, and principled procedure to gather and preserve evidence in the pursuit of justice. Discourtesy, obfuscation, and gamesmanship have no proper place in this process.

Discovery Practice

- (a) In discovery, as in all other professional matters, a lawyer's conduct must be honest, courteous, and fair.
- (1) A lawyer should conduct discovery efficiently to elicit relevant facts and evidence and not for an improper purpose, such as to harass, intimidate, unduly burden another party or a witness or to introduce unnecessary delay. Overly broad document requests should be avoided by focusing on clear materiality and a sense of cost/benefit.
 - (2) A lawyer should respond to written discovery in a reasonable manner and should not interpret requests in a strained or unduly restrictive way in an effort to avoid responding or to conceal relevant, nonprivileged information.
 - (3) Objections to interrogatories, requests for production, and requests for admissions must be made in good faith and must be adequately explained and limited in a manner that fairly apprises the adversary of the material in dispute and the bona fide grounds on which it is being withheld.
 - (4) When a discovery dispute arises, opposing lawyers must attempt to resolve the dispute by working cooperatively together. Lawyers should refrain from filing motions to compel or for court intervention unless they have genuinely tried, but failed, to resolve the dispute through all reasonable avenues of compromise and resolution.
 - (5) Lawyers should claim a privilege only in appropriate circumstances. They must not assert a privilege in an effort to withhold or to suppress unprivileged information or to limit or delay a response.
 - (6) Requests for additional time to respond to discovery should be made as far in advance of the due date as reasonably possible and should not be used for tactical or strategic reasons.
 - (7) Unless there are compelling reasons to deny a request for additional time to respond to discovery, an opposing lawyer should grant the request without necessitating court intervention. Compelling reasons to deny such a request exist only if the client's legitimate interests would be materially prejudiced by the proposed delay.
- (b) Depositions should be dignified, respectful proceedings for the discovery and preservation of evidence.
- (1) A lawyer should limit depositions to those that are necessary to develop the claims or defenses in the pending case or to perpetuate relevant testimony.
 - (2) A lawyer should conduct a deposition with courtesy and decorum and must

never verbally abuse or harass the witness, engage in extended or discourteous colloquies with opposing counsel or unnecessarily prolong the deposition.

(3) During a deposition, a lawyer must assert an objection only for a legitimate purpose. Objections must never be used to obstruct questioning, to communicate improperly with the witness, to intimidate, to harass the questioner or to disrupt the search for facts or evidence germane to the case.

Relationships with Witnesses and Litigants

A lawyer must treat all persons involved in a case with candor, courtesy and respect for their role and rights in the legal process.

Communicating with Nonparty Fact Witnesses

(a) A lawyer must carefully comply with all laws and rules of professional responsibility governing communications with persons and organizations with whom the lawyer does not have an attorney-client relationship. A lawyer must be especially circumspect in communications with nonparty fact witnesses who have a relationship to another party.

(b) In dealing with a nonparty who is a fact witness or a potential fact witness, a lawyer must:

(1) disclose the lawyer's interest or role in the pending matter and avoid misleading the witness about the lawyer's purpose or interest in the communication;

(2) be truthful about the material facts and the applicable law;

(3) if the nonparty has no counsel, correct any misunderstanding expressed by the nonparty;

(4) treat the nonparty courteously; and

(5) avoid unnecessarily embarrassing, inconveniencing or burdening the nonparty.

(c) If a lawyer is informed that a nonparty fact witness is represented by counsel in the pending matter, the lawyer must not communicate with the witness concerning the pending litigation without permission from that counsel.

(d) If communicating with a nonparty fact witness, the lawyer should be careful to avoid fostering any impression that the lawyer also represents that witness unless the lawyer does, in fact, represent the witness in compliance with the applicable rules of professional responsibility.

(e) A lawyer should not obstruct another party's access to a nonparty fact witness or induce a nonparty fact witness to evade or ignore process.

(f) A lawyer should not issue a subpoena to a nonparty fact witness except to compel, for a proper purpose, the witness's appearance at a deposition, hearing, or trial or to obtain necessary documents in the witness's possession.

Access to Fact Witnesses and Evidence

(a) Subject to the applicable law and ethical principles, and to constitutional requirements in criminal matters, a lawyer may properly interview any person who is not a retained expert, because a fact witness does not “belong” to any party. A lawyer should avoid any suggestion calculated to induce any witness to suppress evidence or to deviate from the truth. However, without counseling the witness to refrain from cooperating with opposing counsel, a lawyer may advise any witness that he or she does not have a legal duty to submit to an interview or to answer questions propounded by opposing counsel, unless required to do so by judicial or legal process.

(b) A lawyer may never suppress any evidence that the lawyer or the client has a legal obligation to reveal or to produce. In the absence of such an obligation, however, it is not a lawyer’s duty to disclose any work product, evidence or the identity of any witness.

(c) A lawyer must not advise or cause a person to secrete himself or herself or to leave the jurisdiction of a tribunal for the purpose of becoming unavailable as a witness.

(d) Except as provided in subparagraphs (1) and (2) below, a lawyer should not pay, offer to pay or acquiesce in the payment of compensation to a fact witness and may never offer or give any witness anything of value contingent upon the content of the witnesses’ testimony or the outcome of the case. To the extent permitted by the applicable rules of professional responsibility, a lawyer may advance, guarantee or acquiesce in the payment of:

- (1) expenses reasonably incurred by a witness in attending or testifying; and
- (2) reasonable compensation to a witness for the witness’s loss of time in attending or testifying;

(e) A lawyer may solicit witnesses to a particular event or transaction but not to testify to a particular version of the facts.

Relations with Consultants and Expert Witnesses

(a) In retaining an expert witness, a lawyer should respect the integrity, professional practices and procedures in the expert’s field and must never ask or encourage the expert to compromise the integrity of those practices and procedures for purposes of the particular matter for which the expert has been retained.

(b) A retained expert should be fairly and promptly compensated for all work on behalf of the client. A lawyer must never make compensation contingent in any way upon the substance of the expert’s opinions or written report or upon the outcome of the matter for which the expert has been retained.

(c) Other than as expressly permitted by governing law, a lawyer should not communicate with, or seek to communicate with, an expert witness concerning the pending litigation whom the lawyer knows to have been retained by another party, unless express permission is granted by counsel for the retaining party.

Trial

A lawyer must conduct himself or herself in trial so as to promote respect for the court and preserve the right to a fair trial. A lawyer should avoid any conduct that would undermine the fairness and impartiality of the administration of justice, and seek to preserve the dignity, decorum, justness and courtesy of the trial process.

Relations with Jurors

Lawyers and judges should be respectful of the privacy of jurors during voir dire and after a verdict. A lawyer should abstain from all acts, comments and attitudes calculated to inappropriately curry favor with any juror, such as fawning, flattery, solicitude for the juror's comfort or convenience or the like.

Courtroom Decorum

(a) Proper decorum in the courtroom is not an empty formality. It is indispensable to the pursuit of justice at trial.

(b) In court, a lawyer should always display a courteous, dignified and respectful attitude toward the judge presiding and should promote respect for and confidence in the judicial office. The judge should be courteous and respectful to the lawyer, who is also an officer of the court.

(c) A lawyer should never engage in discourteous or acrimonious comments or exchanges with opposing counsel. Objections, requests and observations must be addressed to the court.

(d) A lawyer should advise the client and witnesses appearing in the courtroom of the kind of behavior expected and counsel them against engaging in any disrespectful, discourteous or disruptive behavior in the courtroom.

Trial Conduct

(a) A lawyer has the professional obligation to represent every client courageously, vigorously, diligently and with all the skill and knowledge the lawyer possesses. The conduct of a lawyer before the court and with other lawyers should at all times be characterized by civility. A lawyer should present all proper arguments against rulings the lawyer deems erroneous or prejudicial and ensure that a complete and accurate case record is made. In doing so, the lawyer should not be deterred by any fear of judicial displeasure.

(b) In appearing in a professional capacity before a tribunal, a lawyer must not:

(1) improperly obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value; nor should a lawyer counsel, permit or assist another person to do any such act;

(2) falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law; or

(3) allude to any matter that the lawyer does not reasonably believe is relevant or will not be supported by admissible evidence, assert personal knowledge of facts in issue except when

testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused.

(c) A lawyer should not interrupt or interfere with an examination or argument by opposing counsel, except to present a proper objection to the court.

(d) When a court has made an evidentiary ruling, a lawyer should not improperly circumvent that ruling, although a lawyer may seek to make a record of the excluded evidence or a review of the ruling.

(e) A lawyer must not attempt to introduce evidence or to make any argument that the lawyer knows is improper. If a lawyer has doubt about the propriety or prejudicial effect of any disclosure to the jury, the lawyer should request a ruling out of the jury's hearing.

(f) A lawyer should never engage in acrimonious conversations or exchanges with opposing counsel in the presence of the judge or jury.

(g) Examination of jurors and of witnesses should be conducted from a suitable distance, except when handling evidence or circumstances otherwise require.

(h) Unless local custom dictates otherwise, a lawyer should rise when addressing or being addressed by the judge, except when making brief objections or incidental comments. A lawyer should be attired in a proper and dignified manner in the courtroom.

(i) A lawyer should not in argument assert as a fact any matter that is not supported by evidence.

(j) A lawyer must never knowingly misquote or mischaracterize the contents of documentary evidence, the testimony of a witness, the statements or argument of opposing counsel, or the language of a judicial decision.

(k) A lawyer should not propose a stipulation in the jury's presence unless the lawyer knows or has reason to believe the opposing lawyer will accept it.

(l) A lawyer who receives information clearly establishing that the client has, during the representation, perpetrated a fraud on the court should immediately take the actions required by the appropriate procedural and ethical rules.

Public Statements about Pending Litigation

A case should be tried in the courtroom and not in the media. A lawyer should follow all rules and orders of the court concerning publicity. In the absence of a specific rule or order, a lawyer should not make any extrajudicial statement that may prejudice an adjudicative proceeding.

APPENDIX C

STRATEGIC PLAN 2024-2026



STRATEGIC PRIORITY 1

The State Bar of Arizona promotes the highest standards of member ethics, competence and professionalism, and fosters a legal profession equipped to serve the community's legal needs.

1. Promote the highest ethical standards to maintain a self-regulated profession
2. Adapt professional rules to promote innovation and the efficient delivery of legal services
3. Support the diversity and inclusion of the legal profession to better reflect the community it serves



STRATEGIC PRIORITY 2

The State Bar of Arizona works to improve and sustain the justice system so it is fair, just, and accessible to all.

1. Advance approaches that increase the accessibility of legal services to all Arizonans
2. Encourage SBA member participation in access to justice initiatives
3. Work to build processes and structures that eliminate bias within the legal profession and justice system
4. Educate the public about the rule of law and the role of the courts and legal professionals in a democracy



STRATEGIC PRIORITY 3

The State Bar of Arizona serves and protects the public by supporting members' professional growth, development, and satisfaction in the practice of law.

1. Equip members to adapt to the changing legal landscape, such as AI
2. Create an inclusive, welcoming atmosphere that fosters civility and professionalism
3. Support member wellness
4. Support member competency and continuing professional development



STRATEGIC PRIORITY 4

The State Bar of Arizona sustains a culture of organizational excellence to advance its mission and the strategic plan.

1. Encourage institutional procedures that support the wellbeing, efficiency and business continuity of members and staff
2. Support inclusion, diversity and equity in bar governance, organizations and staff
3. Utilize resources wisely to maintain a solid financial position in support of its mission