

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