



Supreme Court

STATE OF ARIZONA

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September 6, 2007

RE: RULES 43, 44, 46-48, 53-58, et al, ARIZ.R.SUP.CT.
Arizona Supreme Court No. R-06-0035

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on August 27, 2007, in regard to the above-referenced cause:

ORDERED: Petition to Amend Rules 43, 44, 46-48, 53-58, 60, 61, 64, 70-72, 75 [Rules of the Supreme Court] = ADOPTED in part as modified and CONTINUED in part. Amendments to Rules 44(c), 46(a), and 57(i) shall be effective January 1, 2008.

Rachelle M Resnick, Clerk

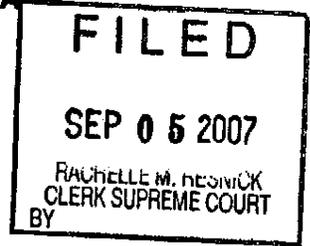
TO:

Robert B Van Wyck, Chief Counsel, State Bar of Arizona
J Conrad Baran, Navajo County Public Defender's Office
Joseph C Kreamer, President, Arizona Foundation for Legal Services
and Education

Mark I Harrison, Osborn Maledon PA
H Theodore Werner Jr
Final Rule Distribution List
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IN THE SUPREME COURT OF THE STATE OF ARIZONA

Supreme Court No. R-06-0035

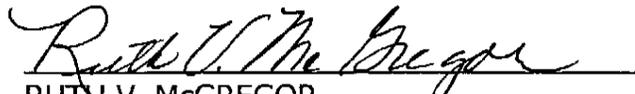


ORDER AMENDING
RULES 44(c), 46(a), and 57(i), RULES OF THE SUPREME COURT

IT IS ORDERED that Rules 44(c), 46(a), and 57(i)(2), Rules of the Supreme Court, be amended in accordance with the attachment hereto,* effective as of January 1, 2008.

DATED in the City of Phoenix, Arizona at the Arizona Courts Building, this 5th day of September, 2007.

For the Court:


RUTH V. MCGREGOR
Chief Justice

* Changes or additions in text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

RULES OF THE SUPREME COURT

* * *

Rule 44. Trust Accounts; Interest Thereon

(a)-(b) [No change in text.]

(c) **Trust Accounts.** Any trust account required by this rule shall be maintained in accordance with this rule. Lawyers admitted to practice in Arizona who also practice in other jurisdictions shall maintain trust accounts in accordance with this rule for deposit of all client funds received in Arizona or received in connection with representation of clients in Arizona.

1. [No change in text.]

2. A lawyer or law firm receiving client funds shall maintain a pooled interest-bearing or dividend-earning trust account for deposit of client funds ~~where the interest or dividends reasonably expected to be earned on each client's funds are nominal in amount unless the funds are expected to earn net income for the client in excess of the costs incurred to secure such income.~~ The interest or dividends accruing on this account, net of any reasonable service or other charges or fees imposed by the financial institution or investment company in connection with the account, shall be paid by the financial institution or investment company to the Arizona Foundation for Legal Services and Education, and shall be used solely for the following purposes: to pay the actual administrative costs of this interest or earnings on lawyers' trust accounts (IOLTA) program; to fund programs designed to assist in the delivery of legal services to the poor; to support law-related education programs designed to teach young people, educators and other adults about the law, the legal process and the legal system; to fund studies or programs designed to improve the administration of justice; and to maintain a reasonable reserve therefor.

3. [No change in text.]

4. In determining whether to use an account as specified in subsection 2 or an account as specified in subsection 3, a lawyer or law firm shall take into consideration the following factors:

~~A. The amount of interest or dividends which the funds would~~

~~reasonably be expected to earn during the period they are to be deposited or invested;~~

~~B. The cost of establishing and administering the account, including the cost of the lawyer's services; and~~

~~C. The capability of financial institutions or investment companies reasonably available for deposit or investment of client funds to calculate and pay interest or dividends to individual clients.~~

A. the amount of the funds to be deposited;

B. the expected duration of the deposit, including the likelihood of delay in the matter for which the funds are held;

C. the rates of interest or yield at financial institutions where the funds are to be deposited;

D. the cost of establishing and administering a separate non-IOLTA account for the client's benefit, including service charges, the costs of the lawyer's services, and the costs of preparing any tax reports required for income accruing to the client's benefit;

E. the capability of financial institutions to calculate and pay income to individual clients; and

F. any other circumstances that affect the ability of the client's funds to earn a net return for the client.

No disciplinary matter shall be pursued by the state bar against any lawyer or law firm solely by reason of the making of a good faith determination of the appropriate account in which to deposit or invest client funds.

5. [No change in text.]

* * *

Rule 46. Jurisdiction in Discipline and Disability matters; Definitions

(a) Lawyers Admitted to Practice. Any lawyer admitted to practice law in this state is subject to the disciplinary and disability jurisdiction of this court and the state bar. Any false statement or misrepresentation made by an applicant for

admission to the practice of law which is not discovered until after the applicant is admitted may serve as an independent ground for the imposition of discipline under these rules and as an aggravating factor in any disciplinary proceeding based on other conduct. The discipline imposed may include revocation of the member's admission to the state bar.

(b)-(f) [No change in text.]

* * *

Rule 57. Formal proceedings

(a)-(h) [No change in text.]

(i) Hearing.

1. [No change in text.]

2. Designation as Complex Case.

A. Definition. A "complex" case is one that, in the interests of justice, cannot be heard within one hundred fifty (150) days of the filing of the complaint.

B. Procedure for Requesting Designation. At any time prior to the initial case management conference, either the state bar or the respondent may file a motion requesting he chair of the commission or designee to designate the case as a complex case.

C. Factors. In considering such a motion, the commission may consider the following:

i. the number of counts in the formal complaint;

ii. the existence of difficult or novel legal issues that will be time-consuming to resolve;

iii. the presence in the case of inherently complex legal issues;

iv. the number of witnesses and the amount of documentary evidence to be presented;

v. whether the case would benefit from assignment to a hearing officer who has acquired a substantial body of knowledge in a specific area of law that is involved;

vi. whether there are factors justifying the expeditious resolution of an otherwise complex dispute; and

vii. whether there are any other factors that, in the interests of justice, warrant designating the case as complex.

D. Initial Case Management Conference. Within fifteen (15) days following the date on which the commission designates a case as a complex case, the assigned hearing officer shall contact the parties and conduct a case management conference for purposes of scheduling the hearing on the merits and all other prehearing conferences, and for consideration of any other orders necessary to ensure that the hearing proceeds on the date scheduled for a hearing on the merits.

3.-4. [No change in text.]

(j)-(k) [No change in text.]

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